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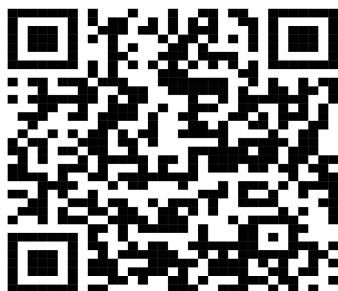
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Reconciliation of Human Rights, Positive Law, and *Siyasah Syar'iyah*: An Innovative Approach to Addressing Human Rights Issues in the Contemporary Era

Abstract: This study explores the reconciliation of Human Rights, positive law, and *siyasah syar'iyah* as an innovative approach to addressing contemporary human rights challenges. The tension between the universal norms of human rights and Islamic law often becomes a focal point in global discourse, particularly in countries with Muslim-majority populations. Using a qualitative-descriptive approach and normative analysis, this research examines the convergence and potential integration points among these three pillars. The goal is to develop a legal framework that is more holistic, just, and contextually grounded. The findings reveal that through epistemological dialogue and the contextual reinterpretation of religious texts, *siyasah syar'iyah* can bridge the principles of Sharia and modern human rights values. Meanwhile, positive law—as a state instrument—can accommodate transcendent values of justice, provided it is formulated with sensitivity to society's social, cultural, and religious dynamics. This study recommends an inclusive legislative model and a humanistic approach to interpreting religious texts to strengthen legal legitimacy and the protection of human rights. The academic contribution of this research lies in developing an integrative approach that systematically unites three bodies of knowledge: human rights theory, modern legal theory, and the thought of *siyasah syar'iyah*. The conceptual framework is a normative and practical model for inclusive and just legal policymaking.

Keywords: Contemporary Era, Human Rights, Positive Law, *Siyasah Syar'iyah*

INTRODUCTION

Human Rights issues are one of the central themes in contemporary global discourse, especially in countries undergoing democratic transitions and legal reforms. Human rights are often considered universal standards that should apply across cultures and belief systems.¹ However, using human rights principles frequently clashes with local values, religious laws, and cultural norms, especially in Muslim society.² This creates an epistemological tension between secular human rights concepts and Islamic law derived from revelation and classical scientific traditions. One manifestation of Islamic law in state governance is *siyasah shar'iyah*, which contains the principles of justice, benefit, and protection of public rights within the Sharia framework. On the other hand, positive law as a formal legal framework of the modern state is often an arena of attraction between international demands for the fulfilment of human rights and the state's obligation to defend the ideological identity and values of the majority of society.

Disharmony between these domains—human rights, positive law, and *siyasah syar'iyah*—can lead to legal ambiguity, regulatory uncertainty, and even social conflict. Therefore, a new approach is needed that is not only normative-legalistic but also able to bridge paradigm differences and open up space for reconciliation conceptually and practically. Human Rights issues in the context of Muslim-majority countries often face challenges in the form of tensions between universal norms of human rights and Islamic law, especially in the implementation of positive law and the concept of *siyasah syar'iyah*.³ Several previous studies have discussed the relationship between Islamic law and human

¹ Fadli Andi Natsif, “Perlindungan Hak Asasi Manusia Dalam Perspektif Negara Hukum Indonesia (Human Rights Protection in Perspective Indonesian State Law),” *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*, 12 Agustus 2019, 148–158, <https://doi.org/10.24252/al-risalah.v19i1.9975>.

² Ahmad Tholabi Kharlie, “Human Rights in Indonesian Constitutional Amendments,” *Jurnal Cita Hukum* 1, no. 1 (7 Juni 2013), <https://doi.org/10.15408/jch.v1i1.2987>.

³ Siti Rohmah, Moh Anas Kholish, dan Andi Muhammad Galib, “Human Rights and Islamic Law Discourse: The Epistemological Construction of Abul A’la Al-Maududi, Abdullahi Ahmed An-Naim, and Mashood A. Baderin,” *Justicia Islamica* 19, no. 1 (1 Juli 2022): 153–170, <https://doi.org/10.21154/justicia.v19i1.3282>.

rights, such as a study by Maskuri Abdillah that explored the convergence and conflict between the two.⁴ In addition, Akhmad Muzakki highlighted the potential of Islamic law studies in formulating public policies following Islamic principles in the contemporary era *Islamic Views on the Status of Human Rights for Non-Muslims: A Political Fiqh Approach*.⁵ One of the crucial aspects discussed is Islam's view on the position of human rights for non-Muslims. Through the political fiqh approach, Muzakki emphasized that Islam has a normative framework that allows respect for the human dignity of non-Muslims as long as it does not go beyond the limits set by the sharia. Thus, this study seeks to bridge the gap between universal human rights principles and Islamic legal authority in the context of inclusive and equitable public policy.

The research gap concerning this study is the lack of studies that specifically seek conceptual and practical integration between the three legal domains in one systematic and applicable analytical framework. This research offers an integrative approach combining these three elements with a focus on the contextual reinterpretation of religious texts and applying the principles of *Maqasid al-Syari'ah* to bridge paradigm differences. Most previous studies have addressed them separately or comparatively without touching on the deep normative and epistemological aspects of reconciliation. The need for a cross-disciplinary approach that can bridge these paradigm differences is increasingly urgent amid the complexity of today's global challenges.

The novelty of this research lies in submitting a conceptual model of reconciliation between human rights, positive law, and *siyasah shari'iyah* that is theoretical and can also be used as a basis for legal and public policy reform in Muslim countries. The approach is integrative, based on *Maqasid al-Syari'ah* (sharia goals), and considers local dynamics and universal human rights principles. Thus, this research contributes to expanding the

⁴ Masykuri Abdillah, "Islam Dan Hak Asasi Manusia: Penegakan Dan Problem HAM Di Indonesia," *MIQOT: Jurnal Ilmu-Ilmu Keislaman* 38, no. 2 (9 Desember 2014), <https://doi.org/10.30821/miqot.v38i2.68>.

⁵ Akhmad Muzakki, "Pandangan Islam tentang Kedudukan HAM bagi Non-Muslim: Pendekatan Fiqh Politik," *el Harakah: Jurnal Budaya Islam* 2, no. 1 (2000): 31-33, <https://doi.org/10.18860/el.v2i1.4727>.

discourse of contemporary Islamic law and offering an alternative solution to the tensions between religious norms and human rights values. The research question of this research is how can the normative and epistemological tensions between human rights, positive law, and *siyasah syar'iyah* be reconciled through an integrative and innovative approach that identifies their points of convergence and formulates a unified, applicable, and contextually grounded legal framework.

This research answers this need by offering an integrative approach reconciling the three legal entities dialogically and contextually. By referring to the theory of legal reconstruction, the *maqashid sharia* approach, and contemporary human rights principles, this research seeks to build a conceptual framework that can accommodate social, religious, and political dynamics in a coherent and applicable legal thought unit. Through this approach, it is hoped that a middle way can be found that allows the realization of substantive justice without sacrificing society's normative identity and noble values.

METHOD

This study employs a qualitative approach⁶ to explore and analyze the normative concepts related to human rights, positive law, and *siyasah syar'iyah*. This approach is appropriate given the conceptual and normative nature of the issues examined, which require a thorough understanding of primary sources such as the Qur'an, Hadith, classical Islamic scholarship (particularly in the field of *siyasah syar'iyah*), international human rights instruments (such as the Universal Declaration of Human Rights and related covenants), and national legal frameworks. In addition to primary sources, the research draws on secondary literature, including scholarly articles from the past five years, academic books, and relevant prior studies. These resources support arguments and identify research gaps not widely addressed in existing literature.

⁶ Matthew B Miles dan A. Michael Huberman, *Analisis data kualitatif: buku sumber tentang metode metode baru* (Jakarta: Universitas Indonesia Press, 2014).

Data analysis is conducted using a combination of descriptive-analytical and contextual-hermeneutic methods. The descriptive aspect maps the distinctive features of each legal system—human rights, positive law, and *siyasah syar'iyah*—while the analytical component examines the relationships and epistemological tensions among them. The hermeneutic approach helps interpret religious texts within their evolving socio-cultural contexts, enabling the reinterpretation of sharia values to align with contemporary standards of justice. This analysis is further supported by the *Maqasid al-Shari'ah* framework, which serves as a tool to evaluate the objectives and ethical foundations of Islamic law in light of universal human rights norms. To ensure the validity of the findings, the study applies literature triangulation and engages critically with theoretical perspectives from Islamic legal studies, constitutional law, and international human rights.

RESULTS AND DISCUSSION

The Epistemological Tension between Human Rights, Positive Law, and *Siyasah Syar'iyah*

The root of the tension between Human Rights, positive law, and *siyasah syar'iyah* lies in the epistemological differences and basic orientation of the three. Modern human rights are rooted in post-Enlightenment Western philosophy, which places the individual at the centre of values. Freedom of speech, equality, and personal autonomy are natural rights that should not be compromised.⁷ In this construction, human beings are autonomous subjects who have the right to determine their fate without the intervention of external authorities, including religion. In contrast, *siyasah shari'iyah* comes from the theocentric tradition of Islamic law, which places God as the primary source of law and morality. In this paradigm, rights and obligations are seen in the relationship between

⁷ Farid Sufian Shuaib, "Administration of Islamic Law and Human Rights: The Basis and Its Trajectory in Malaysia," *AlJami'ah: Journal of Islamic Studies* 56, no. 2 (6 Desember 2018): 281-304, <https://doi.org/10.14421/ajis.2018.562.281-304>.

humans and the vertical relationship between humans and God.⁸ The main goal of *siyasah syar'iyah* is not solely individual freedom but the realization of justice and mutual benefit (*al-maslahah al'ammah*) within the framework of *Maqasid al-Syari'ah*. Therefore, the concept of "rights" in this framework is often positioned as part of social and spiritual responsibility rather than individual freedom.

Positive law, especially in the context of Muslim countries such as Indonesia, becomes a space for contestation between the two poles of thought. As a legal system structured rationally and codifyingly, positive law is often expected to be a neutral bridge between universal human rights values and people's religious values. However, positive law is actually a field of attraction between opposing ideological forces. The country must face a significant challenge in balancing the fulfilment of international obligations related to protecting human rights and maintaining social harmony based on local values firmly rooted in religious teachings.

This tension is very real in several legal and public policy issues. For example, in the issue of freedom of expression, human rights emphasize the right of every individual to express their views without fear of being criminalized. However, within the framework of *siyasah syar'iyah*, certain expressions that are considered to harass religious values or damage society's moral order can be restricted to maintain *hifz al-din* (protection of religion). Similarly, the issue of gender equality is often a source of debate, as specific interpretations of religious texts still maintain a hierarchical structure of social relations between men and women. Another issue arises in the protection of the rights of minority groups, especially spiritual and sexual minorities.⁹

⁸ Tolhah Toha Nawawi, "Protection Of Human Rights According To Islamic Law," *Jurnal Scientia* 13, no. 04 (3 September 2024): 1273-1279.

⁹ Sefriani Sefriani dkk., "The Conundrum to Wear Religious Uniform in Indonesia: International Human Rights Law and Islamic Law Perspective," *Journal of Indonesian Legal Studies* 9, no. 1 (8 Mei 2024): 31-62, <https://doi.org/10.15294/jils.vol9i1.4532>.

On the one hand, human rights require non-discrimination and recognition of the identity of each individual as a form of respect for human dignity. On the other hand, many religious circles view the recognition as contrary to Islamic moral principles. This tension is theoretical and political, as it is often used as a campaign or mobilization of support in the public sphere, especially ahead of elections or debates on bills.¹⁰ In this context, an integrative approach is essential. Serious efforts are needed to find common ground between universal human rights values and the principles of *siyasah syar'iyah* based on transcendental values. This effort is only possible if an honest and open epistemological dialogue exists between stakeholders, academics, scholars, policymakers, and civil society. This dialogue must go beyond the secular vs. religious dichotomy and focus on justice, benefit, and respect for human dignity.¹¹

In addition, it is essential to strengthen the hermeneutic approach in reading spiritual texts¹² so that the interpretation of Islamic law is not static and exclusive. Concepts such as *Maqasid al-Syari'ah* and *ijtihad maqasidī* can be a methodological bridge in reconstructing Islamic law more inclusive of human rights values.¹³ In this way, *siyasah syar'iyah* does not need to be positioned as an antithesis to human rights but rather as a normative approach with the same ethical goal, namely the protection and glorification of human beings.

Finally, the biggest challenge lies not in epistemological differences alone but in the political and intellectual will to build a fair and sustainable legal system. The tension between human rights, positive law, and *siyasah syar'iyah* should be seen not as a threat but

¹⁰ Saipul Hamdi, "Pilkada Rasa Pilpres : Al-Maidah 51 Dan Politisasi Simbol Agama Dalam Kontestasi Politik Di Pilkada DKI Jakarta," *Indonesian Journal of Social Sciences and Humanities* 2, no. 1 (1 Maret 2021): 9-22.

¹¹ Suud Sarim Karimullah, "Humanity and Justice: Exploring Human Rights in the Context of Islamic Law," *Tajdid* 30, no. 2 (2023), <https://riset-iaid.net/index.php/tajdid/article/view/1497>.

¹² Arip Purkon, "Pendekatan Hermeneutika Dalam Kajian Hukum Islam," *AHKAM : Jurnal Ilmu Syariah* 13, no. 2 (7 Agustus 2013), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/930>.

¹³ Tamyiz Mukharrom dan Supriyanto Abdi, "Harmonizing Islam and Human Rights Through the Reconstruction of Classical Islamic Tradition," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (31 Maret 2023): 40-57, <https://doi.org/10.22373/sjhk.v7i1.16436>.

as an opportunity to enrich contextual and transformative legal discourse. By prioritizing the spirit of collaboration, not confrontation, reconciliation between the three systems is not impossible to achieve.

Table 1. The Epistemological Tension between Human Rights, Positive Law, and Siyasa Syar'iyah

Epistemological Aspects	Human Rights (Human Rights)	Positive Law	Siyasa Syar'iyah	Key Tensions
Source of Value	Rationalism, humanism, modern Western philosophy (post-Enlightenment)	Formal social, political, and legal consensus.	Revelation (Qur'an and Sunnah), <i>Maqasid al-Syari'ah</i> , fiqh traditions.	The difference in orientation between ethnocentrism and anthropocentrism.
Basic Orientation	Individualistic and personal autonomy.	Neutral, pragmatist, coding.	Communalistic, social responsibility, and divine morality.	The tension between individual rights vs. collective/spiritual obligations.
Concept of Rights	The inherent right from birth cannot be reduced.	It is determined by legislation and legal mechanisms.	The sharia limits rights as a divine mandate.	The difference between natural rights vs. normative-transcendental rights.
Freedom of Expression	It should not be restricted except for the sake of public safety.	Legally restricted by specific rules.	It may be restricted if it violates the religious or moral values of the public (<i>hifz aldin</i>).	The controversy is the boundary between criticism and blasphemy.
Gender Equality	Equality of rights without gender discrimination.	It is governed by the principle of nondiscrimination in national law.	Gender relations are based on hierarchical socio-religious roles in several interpretations.	The tension of textual interpretation vs. the value of modern equality.

Minority Rights (Religious/ Sexual)	Protection of all identities and self-expression.	The dilemma between legal protection and the social norms of the majority.	It is often rejected in mainstream religious narratives.	The clash between the principle of nondiscrimination vs. the norms of the religious majority.
Functions of the State	Guarantee and protect the rights of every citizen.	Maintaining order, legal justice, and social integration.	Upholding sharia and creating public benefits.	An interesting tug of war between the supremacy of universal law vs. local-religious particularism.
Dialogue Room	Universal, global, based on international human rights.	National, bound by the constitution and political law.	Normative-transcendental, based on Islamic values.	Epistemological mediation is needed to bridge the language of values.
Integration Potential	Emphasizing human dignity as the centre of value.	It serves as an arena for compromise and reconciliation.	Prioritizing justice and the benefit of the people.	A contextual approach of maqasid and ijtihaad is needed as a methodological bridge.

Source: author's interpretation

This table presents an epistemological comparison between three systems of thought or normative frameworks: Human Rights, Positive Law, and *Siyasah Syar'iyah*. Each column outlines how each approach understands the state's values, rights, freedoms, and role. The last column shows "Major Tension", a conflict or challenge arising when the three interact.

The Meeting Point and Potential for Integration between Human Rights, Positive Law, and *Siyasah Syar'iyah*

Although there are fundamental differences between Human Rights, positive law, and *siyasah syari'iyah*, it does not mean that there is no room for reconciliation. In a deeper study, several conceptual meeting points allow integration between the three. The basic principles of human rights, such as the protection of life, individual freedom, and human honour, align with the core values of *Maqasid al-Syari'ah*, which is the primary foundation

of *siyasah syar'iyah*. This means that not all human rights values contradict Islam, and in many ways, they fight for similar goals within different frameworks.¹⁴ *Maqasid al-Syari'ah*, as a theory of the purpose of the shari'a, emphasizes the importance of safeguarding five main things: religion (*hifz al-din*), soul (*hifz al-nafs*), intellect (*hifz al-'aql*), heredity (*hifz al-nasl*), and wealth (*hifz al-mal*).¹⁵ This is particularly relevant to basic human rights principles such as the right to life, freedom of religion, education, family protection, and private property.¹⁶ Classical scholars such as Al-Ghazali and Al-Shatibi, as well as contemporary figures such as Yusuf al-Qaradawi, affirm that the sharia was revealed to guarantee the well-being of humanity, not only to regulate the ritual aspect but also to create social justice.

In a modern legal country like Indonesia, positive law has a strategic role as a space for articulating various values, including human rights and religious values. Positive laws drafted democratically and constitutionally open up opportunities to accommodate a plural society's social and cultural dynamics. If designed with an inclusive and participatory approach, positive law can be a practical meeting point between two value systems considered to be opposite. This is where it is essential to open up a space for legal interpretation that is responsive and contextual to the religious values that live in society.¹⁷ Several examples of legislation in Indonesia show the potential for such integration. Law Number 23 of 2004 concerning the Elimination of Domestic Violence (PKDRT Law) is not only based on human rights norms but also accommodates moral values and religious

¹⁴ Febri Hijroh Mukhis, "International Human Right and Islamic Law: Sebuah Upaya Menuntaskan Wacana-Wacana Kemanusiaan," *Muslim Heritage* 2, no. 1 (16 Agustus 2017): 1-18, <https://doi.org/10.21154/muslimheritage.v2i1.1043>.

¹⁵ Yusefri, M. Faizin, dan W.A. Jafar, "Protecting Child Labor Rights: Maqasid Sharia Framework and Policy Recommendations," *Samarah* 8, no. 2 (2024): 1187-1215, <https://doi.org/10.22373/sjhk.v8i2.24559>.

¹⁶ Robby Kurniawan, "Maqasid Syariah Dan Pembangunan Hak Asasi Manusia," *AlMazaahib: Jurnal Perbandingan Hukum* 6, no. 2 (1 Desember 2018): 227-2251, <https://doi.org/10.14421/al-mazaahib.v6i2.1539>.

¹⁷ Iskandar A. Gani, "Compatibility Of Law Enforcement And Human Rights Within Islamic Law In Aceh Province, Indonesia," *Kanun Jurnal Ilmu Hukum* 26, no. 1 (1 April 2024): 176-195, <https://doi.org/10.24815/kanun.v26i1.36815>.

ethics that reject violence as a form of betrayal of family values in Islam.¹⁸ Similarly, Law Number 18 of 2019 concerning Islamic Boarding Schools recognizes and provides space for the traditional Islamic education system while guaranteeing the constitutional right to equal education.¹⁹ These two laws exemplify how human rights values and *siyasah syar'iyah* can be met in an inclusive, positive legal product.²⁰

Furthermore, the dynamic approach of *Maqasid al-Syari'ah* allows Islamic law to develop according to the context of the times.²¹ In this framework, human rights principles should not be seen as a threat to the Sharia but rather as an opportunity to expand the *maslahat (al-maslahah)* scope. This requires *ijtihad* courage and epistemological openness among Muslim scholars and scholars to dialogue Islamic values with universally agreed principles. It is also important to emphasize that this reconciliation does not mean the subordination of one system over another. Instead, integration must be built based on mutual recognition and reinforcement. Human rights can enrich Islamic law with a more explicit dimension of individual rights, while *siyasah syar'iyah* can provide moral and ethical direction for implementing human rights in a religious society. In this way, positive law becomes a legal-formal tool and an instrument of social transformation rooted in substantive values.²²

¹⁸ W.A. Jafar dkk., "Philosophical Foundations and Human Rights in the Bajapuk Tradition: Bridging Local Wisdom and Islamic Law in Minangkabau Marriage Practices," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (2024): 212–233, <https://doi.org/10.18860/j-fsh.v16i1.27681>.

¹⁹ Ali Masykur Fathurrahman dkk., "Perlindungan Hak-Hak Anak Pada Santri: Studi Pada Pondok Pesantren Darul 'Ulum Jombang," *Prima Abdika: Jurnal Pengabdian Masyarakat* 3, no. 3 (21 Agustus 2023): 245–252, <https://doi.org/10.37478/abdika.v3i3.3050>.

²⁰ A. Mufrod Teguh Mulyo, A. Dardiri Hasyim, dan Darsinah Darsinah, "Hak Asasi Manusia Dalam Undang-Undang No. 18 Tahun 2019 Tentang Pesantren," *Wahana Akademika: Jurnal Studi Islam Dan Sosial* 8, no. 2 (1 November 2021): 113–123, <https://doi.org/10.21580/wa.v8i2.9501>.

²¹ A. Malthuf Siroj, Ismail Marzuki, dan Elkhairati Elkhairati, "Transformation and Future Challenges of Islamic Law in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (16 Mei 2023): 95–116, <https://doi.org/10.29240/jhi.v8i1.6618>.

²² Zumiyati Sanu Ibrahim dkk., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (26 November 2024): 431–448, <https://doi.org/10.19109/nurani.v24i2.19595>.

Of course, this integration process is not easy. Epistemological and political prerequisites are needed, ranging from strengthening legal literacy and human rights in Islamic boarding schools and religious institutions to the commitment of the state not to politicize religion in lawmaking. More than that, there needs to be dialogue forums that bring together legal experts, scholars, human rights activists, and policymakers to build a constructive and sustainable understanding. In the long run, the development of this integrative legal theory and practice could give birth to a new model of the legal system that is typical of the Muslim world, which is responsive to global demands and faithful to the cultural and spiritual roots of its people.²³

As a country with the largest Muslim population and a pluralistic legal system, Indonesia has an excellent opportunity to become a laboratory for integration between human rights, positive law, and *siyasah syar'iyah*. Indonesia's experience can contribute to the world's legal civilization. Thus, the meeting point between human rights, positive law, and *siyasah syar'iyah* is not a utopia. It is an inevitability that can be realized if all parties are willing to get out of the dichotomous barriers. This cross-cultural collaboration will strengthen the foundations of fair, humane, and civilized law—which are not only locally relevant but also meaningful in an ever-changing global landscape.

Table 2. The Meeting Point and Potential for Integration between Human Rights, Positive Law, and *Siyasah Syar'iyah*

Aspects	Human Rights (HAM)	Positive Law	Siyasa Siar'	Meeting Points and Integration Potential
Protection of Life and Dignity	The right to life, the prohibition of torture, and protection from violence.	The Law on Child Protection, the Law on Child Protection.	<i>Maqasid: hifz al-nafs.</i>	The three agreed to protect lives and reject violence as a form of violation of fundamental human values.

²³ Muhamad Sofian, "Penegakan Hukum Ham Ditinjau Dari Perspektif Hukum Maqashid Syariah," *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia* 2, no. 1 (5 September 2023): 29-46, <https://doi.org/10.37631/jrkhm.v2i1.16>.

Freedom of Religion and Belief	The right to choose and practice religion without coercion.	Constitution and the Religious Freedom Law.	<i>Maqasid: hifz al-din</i> ; tolerance in classical Islam.	Human rights and <i>maqasid</i> both guarantee religious rights, which can be channelled through inclusive regulations in positive law.
Education and Intellectual Development	The right to education and freedom of thought.	UU Sisdiknas, UU Pesantren.	<i>Maqasid: hifz al-'aql</i> .	Education is the integration knot between individual rights, the role of the state, and Islamic teachings.
Social and Economic Justice	The right to work, distributive justice, and social protection.	Labor and Social Security Regulations.	<i>Siyasah</i> is a means of distributing public benefits.	Positive law can absorb the values of <i>siyasah</i> and realize distributive justice that is in line with human rights.
Family Ownership and Resilience	Private property rights, protection of the family.	Agrarian Law, PKDRT Law.	<i>Maqasid: hifz al-nasl and hifz al-mal</i> .	The synergy between human rights and <i>maqasid</i> can encourage the protection of assets and family harmony in national law.
Legal Methodology	Based on international agreements and universal moral principles.	Constitutional, juridical-formal.	<i>Ijtihad, maqasid, expediency</i> .	A contextual hermeneutic approach is needed so that law can be read simultaneously through the lens of universal and local justice.
Legal Functions	Safeguarding the freedom and dignity of the individual.	Social engineering tools and community organizers.	Instruments of public ethics and benefit policies.	The three can work together to form procedurally and substantively fair laws.
Practice of Legislation in Indonesia	Adopted through international norms.	The product of the law discussed by the House of Representatives and the public.	Accommodated in the religious and customary bill.	Concrete examples: the Islamic Boarding School Law and the PKDRT Law. Inclusive legal products open space

				for articulating human rights and Islamic values.
Indonesia's Strategic Role	Active actors in human rights diplomacy.	Pluralistic legal system.	A democratic Muslim country.	Indonesia has the potential to become a global model for the integration of Islamic law and human rights in the context of modern countries.

Source: author's interpretation

Table 2 illustrates the alignment of the fundamental values of the three systems and their integrative potential in the context of Indonesian law: Reconciliation between Human Rights (HAM), positive law, and *siyasah syar'iyah* finds its momentum in various fundamental aspects of life. The three show harmony of views in the aspect of soul protection and dignity. Human rights uphold the right to life and the prohibition of all forms of torture; positive law has been formulated in the Law on the Elimination of Domestic Violence (PKDRT Law) and child protection. Meanwhile, in *Maqasid al-Syari'ah*, the principle of *hifz al-nafs* is known to protect the soul. Thus, the three affirm the universal value of life protection as a moral and legal foundation.

Formulation of Integrative Approaches: Innovative Reconciliation Models between Human Rights, Positive Law, and *Siyasah Syar'iyah*

Based on the results of a multidisciplinary study and a review of the normative and empirical literature, this study proposes an integrative approach model that is innovative and applicative. This model is structured based on three main principles: *Maqasid al-Syari'ah*, contextual hermeneutics, and the principle of substantive justice in positive law. This approach aims to align the values between Human Rights, positive law, and *siyasah shari'iyah* and build a transformative and contextual legal framework. This model departs from the realization that epistemological conflicts between such legal systems do not necessarily end in dichotomy or conflict but can be reconciled within a broader value framework. The first principle, *Maqasid al-Syari'ah*, serves as a normative meeting point that

bridges sharia values and human rights principles. Maqasid regulates aspects of religious rituals and reaches the social, political, and human rights spheres. Protection of soul (*hifz al-nafs*), intellect (*hifz al'aql*), religion (*hifz al-din*), heredity (*hifz al-nasl*), and property (*hifz al-mal*) are five points that are very intersecting with the contemporary human rights agenda.²⁴ Therefore, by making maqasid the basis of ethics and law, the Sharia system can significantly contribute to developing national and global law that is just and oriented towards human welfare.²⁵

The second principle, contextual hermeneutics, is used as a methodological approach to re-reading religious texts in the light of contemporary reality. This approach avoids a literal understanding of the Nash and opens up space for creative *ijtihad* that considers modern society's social, political, and cultural context. This hermeneutics does not obscure the text's original meaning but rather actualizes it to remain relevant to the challenges of the times. Thus, Islamic law does not become a static and exclusive system but a dynamic, inclusive, and always-connected system with universal values. The third principle is substantive justice, which is a principle that assesses the validity and fairness of a legal policy not only based on procedural conformity or normative formalism but also on the extent to which the law is in favour of humanity and social justice. In this context, positive law is not enough to carry out legalistic principles but must be responsive to the needs of society and evolving moral values. By integrating substantive justice, this model encourages the formation of more empathetic laws that favor vulnerable groups, as is the main spirit of Islam and human rights.²⁶

²⁴ Abdurrahman Kasdi, "Maqashid Syari'ah Dan Hak Asasi Manusia (Implementasi Ham Dalam Pemikiran Islam)," *JURNAL PENELITIAN* 8, no. 2 (27 Maret 2016), <https://doi.org/10.21043/jupe.v8i2.836>.

²⁵ Rooza Meilia Anggraini, Muh Maksum, dan Arlinta Prasetya Dewi, "Perspektif HAM Dan Maqashid Syari'ah Dalam Meninjau Kebijakan Hukuman Mati Dalam Undang Undang No. 1 Tahun 2023 Tentang KUHP," *El-Dusturie* 3, no. 2 (2024): 164-182.

²⁶ Lailatul Fitria, Muhammad Faisol, dan Badrut Tamam, "Tafsir Hak Asasi Manusia Dalam Putusan Mahkamah Konstitusi Tentang Politik Dinasti Perspektif Fiqh Siyasa," *Rechtenstudent* 3, no. 3 (2022): 372-384, <https://doi.org/10.35719/rch.v3i3.185>.

In this framework, *siyasaḥ syar'iyah* is no longer understood rigidly as a form of government subject to normative texts but as an adaptive and morally responsible political and legal instrument. This concept requires leaders and policymakers to act on the principles of justice and benefit, not simply follow the literal form of sharia law. *Siyasaḥ* is an ethical praxis in managing power and law to realize a just, prosperous, and dignified social order.²⁷ Similarly, positive law is not positioned as a sterile secular entity of religious values but as an articulatory vehicle that integrates spiritual values in a modern legal format. In this case, positive law becomes a strategic space for dialogue between the aspirations of religious communities and the demands of a democratic legal state.²⁸ Thus, the legal products born from this approach will have dual legitimacy: formally constitutional and morally-culturally. This is important in a pluralistic society like Indonesia, where laws insensitive to local values will lose their effectiveness and social legitimacy.²⁹ This model does not stop at theoretical discourse but has direct implications for public policy design. Policies formulated with this approach will be more inclusive, responsive, and rooted in human values and spirituality. For example, in issues such as gender justice, child protection, religious freedom, or minority rights, this integrative approach can offer legal solutions that are sharia-just, legally logical, positive, and humane within the human rights framework. Thus, reconciliation is possible and can be transformed into a practical solution.³⁰

For the implementation of this model, interdisciplinary and inter-institutional collaboration is needed. Academics, scholars, human rights activists, and policymakers

²⁷ Fariz Ulul Abshar dkk., "Islam and Human Rights: Friend or Foe?," *Addin* 15, no. 2 (1 Oktober 2022): 229-258, <https://doi.org/10.21043/addin.v15i2.14868>.

²⁸ Mukmin Muhammad, "Hak Asasi Manusia Dalam Hukum Positif Dengan Konsep Constitutional Importance," *Meraja Journal* 1, no. 2 (Juni 2018): 31-38, <https://doi.org/10.33080/mrj.v1i2.10>.

²⁹ Sundus Serhan Ahmed, "The Evolving Role of Sustainable Development in Shaping Political Progress: A Contemporary Islamic Perspective on Human Rights and Civil Institution," *MILRev: Metro Islamic Law Review* 4, no. 1 (27 Maret 2025): 1-30, <https://doi.org/10.32332/milrev.v4i1.10128>.

³⁰ Tomi Saputra, "Reconstruction Of The Concept Of Human Rights In Islam: A Study According To The Thoughts Of Sheikh Yusuf Al-Qaradawi," *Ilmuna: Jurnal Studi Pendidikan Agama Islam* 6, no. 1 (7 Mei 2024): 81-97, <https://doi.org/10.54437/ilmuna.v6i1.1580>.

must sit together in dialogue forums that are not antagonistic debates but constructive discussions. Educational institutions also need to develop an integrative curriculum that teaches students to think across legal traditions and appreciate the diversity of epistemology. The government must also provide institutional space for the emergence of innovative policies born from the synergy between religion and human rights. With this integrative approach model, reconciliation between human rights, positive law, and *siyashah* Syariah is an ideal discourse and a roadmap to a more just, humanistic, and contextual legal system.³¹ This model offers hope for the future of a legal system that can unite modern law's spiritual values and rationality within the framework of a democratic and civilized state.³² As the largest Muslim country with a pluralistic legal system, Indonesia has an excellent opportunity to pioneer in developing this innovative model of reconciliation at the global level.

Table. 3 Formulation of Integrative Approaches: Innovative Reconciliation Models

Principle	Conceptual Essence	Reconciliation Function	Legal Application & Policy	Strategic Impact
<i>Maqasid al-Syari'ah</i>	The purposes of Sharia are to protect religion, soul, intellect, descendants, and property.	Provide an ethical basis and universal values that align with human rights.	It becomes a normative foundation in legislation and policies favoring the general welfare.	Realizing inclusive and progressive Islamic law is relevant to the challenges of the times.
Contextual Hermeneutics	Methodology of interpretation of religious texts based on contemporary social realities.	Avoid rigid textual-literal approaches, opening up space for reinterpretation of religious values.	Encourage the formulation of Islamic law that is dynamic, adaptive, and applicative.	Producing fatwas and regulations that can answer social challenges without losing

³¹ Zamzami Zamzami, "Elemen-Elemen Ham dan Hukum Islam dalam Konstitusi Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 1, no. 1 (4 Februari 2014), <https://doi.org/10.29300/mzn.v1i1.47>.

³² Busman Edyar, Ilda Hayati, dan Muslih Kondang, "Human Rights and Democracy in Islamic Perspective," *AJIS: Academic Journal of Islamic Studies* 7, no. 2 (24 Desember 2022): 237-260, <https://doi.org/10.29240/ajis.v7i2.5500>.

				their religious base.
Substantive Justice	The principle of justice assesses the content and impact of the law, not just a formal procedure.	Uniting legal (positive law) and moral (spiritual values) aspects in assessing justice.	It is used to design laws responsive to vulnerable groups and human values.	Improving the quality and legitimacy of the law through an empathetic and humanistic approach.
Siyasah Syar'iyah (Reconstructive)	A public policy instrument based on benefits and ethics of justice.	Positioning power as a service tool for social justice, not domination.	It becomes an ethical framework in the formulation and implementation of state policies.	Strengthening political leadership that is accountable and oriented towards the public good.
Positive Law (Religious-Inclusive)	The country's legal system is open to spiritual and religious values.	To become a legal platform for articulating sharia values in a democratic format.	Legitimize legal products with two sources: the Constitution and religious culture.	Fostering social stability and legal certainty in a pluralistic society.
Systemic Output	Integration between spiritual values, human rights ethics, and legal rationality.	Reduce epistemological conflicts and expand collaborative spaces between legal systems.	Produce regulations that balance religious people's aspirations and international commitments.	Establish a hybrid legal system that is locally relevant and globally credible.
Policy Implementation	Synergy of actors across disciplines: academics, scholars, human rights activists, and policymakers.	Produce legal formulations that depart from dialogue, not the dominance of one system.	It applies to gender justice, religious freedom, and minority rights.	Avoid legal alienation and strengthen social cohesion in a pluralistic society.
Legal Education & Literacy	The law and religion curriculum is integrative and multidisciplinary.	Form a generation that can think across legal traditions and appreciate diverse values.	Higher education in law and Islam is directed at contextual and inclusive understanding.	Build a long-term foundation for an adaptive and humane legal system.
Global Potential (Value Diplomacy)	Indonesia is a model of a democratic	To make a conceptual and practical	It can be adopted as a best practice for other	

Muslim country with a plural legal system.	contribution to the discourse of global Islamic law.	countries experiencing sharia-human rights tensions.
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Source: author's interpretation

Table 3 illustrates an integrative approach to reconciliation between human rights, positive law, and the principle of *siyasah syar'iyah* can be formulated through nine main interrelated pillars. These pillars include *Maqasid al-Syari'ah* as a universal ethical basis, contextual hermeneutics for dynamic religious interpretations, substantive justice that prioritizes legal content, and reconstructive sharia *siyasah* as a benefit-based policy instrument. Other pillars include religious-inclusive positive laws that combine spiritual and constitutional values; systemic integration between spirituality, human rights ethics, and legal rationality; and synergy-based implementation between academics, scholars, human rights activists, and policymakers. This approach encourages integrative and multidisciplinary legal education. It unlocks the potential for diplomacy of global value by making Indonesia a model of a democratic Muslim state that can constructively bridge the tension between Sharia and human rights.

CONCLUSION

This study finds that the tension between human rights, positive law, and *siyasah syar'iyah* is not absolute and does not need to result in dichotomy or polarization. Although these three frameworks emerge from different historical and epistemological foundations, they possess strong potential for complementarity when approached through an integrative paradigm. Utilizing the *Maqasid al-Shari'ah* framework, this study demonstrates that core human rights values—such as protecting human dignity, religious freedom, and social justice—align with the fundamental objectives of Islamic law. This opens a path toward developing national laws that are not only legally sound but also morally and socially relevant within religiously rooted societies like Indonesia. Theoretically, this research advances the reconciliation discourse between Islamic law and human rights by positioning *Maqasid al-Shari'ah* as an alternative conceptual framework. In contrast to earlier studies

that often reinforce a dichotomy between sharia and human rights, this research proposes a middle ground through contextual hermeneutics and *maslahah*-based reasoning. Practically, the findings guide policymakers, academics, and religious institutions in formulating public policies that harmonize universal human rights with spiritual values. The reconciliation model presented can inform legal drafting, Islamic legal education, and the professional development of judges and legislators. However, the study acknowledges its limitations in empirical application and recommends further research, including case studies and comparative analyses among Muslim-majority countries. Interdisciplinary collaboration across law, Islamic studies, political science, and philosophy is essential to building a more comprehensive and effective response to contemporary human rights challenges.

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AUTHOR CONTRIBUTIONS STATEMENT

The Author Contributions Statement can be up to several sentences long and should briefly describe the tasks of individual authors. Please list only 2 initials for each author, without full stops, but separated by commas (e.g. JC, JS). For two authors with the same initials, please use their middle initial to differentiate between them (e.g., REW, RSW). The Author Contributions Statement should be included at the end of the manuscript before the References.

CONFLICT OF INTEREST

The authors declare that no conflict of interest could have influenced the results, interpretation, or conclusions presented in this article. The entire process of research, data analysis, writing, and manuscript preparation was conducted independently, without any

pressure, influence, or involvement from parties with personal, institutional, or commercial interests related to the content of this article. This declaration is made to ensure the objectivity and scientific integrity of the work presented.

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