

**Author:**

<sup>1\*</sup>Arpangi, <sup>2</sup>Gunarto, <sup>3</sup>Nanang  
Sri Darmadi, <sup>4</sup>Trubus Wahyudi

**Affiliation:**

<sup>1,2,3,4</sup>Sultan Agung Islamic  
University, Indonesia

**Corresponding author:**

\*arpangi@unissula.ac.id

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## Outsourcing and Labour Justice in Indonesia: Integrating Contemporary Islamic Legal Principles With The National Regulatory Framework

**Abstract:** This study examines the practice of outsourcing labour in Indonesia by integrating contemporary Islamic legal principles with national labour regulatory frameworks. Using a qualitative approach with field study methods, data were collected through in-depth interviews with outsourced workers, entrepreneurs, labour activists, and Islamic law experts in several industrial areas. The findings indicate that although national laws and regulations, particularly Law Number 13 of 2003 on Manpower and its amendments, formally regulate outsourcing mechanisms, their practical implementation often fails to ensure substantive justice for workers. Many outsourced employees continue to face significant challenges, including job insecurity, unpaid wages, and limited access to social security, which collectively undermine their welfare and dignity. From the perspective of Islamic law, especially when viewed through the framework of *maqāṣid al-sharīʿah*, the protection of workers' rights and dignity is an integral objective of the shari'a, which emphasises justice, public benefit, and the safeguarding of vulnerable groups. This perspective highlights that the ethical and humane treatment of workers is not only a legal responsibility but also a moral imperative grounded in religious principles. By examining the intersection between Islamic legal norms and positive labour law, this study proposes a more ethical and contextual model of employment justice that responds to both regulatory shortcomings and socio-economic realities. The findings contribute to the development of more equitable and sustainable labour policies in Indonesia. Academically, this research enriches the discourse on Islamic law and labour studies by bridging normative theory with empirical realities and offering a framework for future comparative studies on outsourcing practices in Muslim-majority countries.

**Keywords:** Contemporary Islamic Law, Employment Justice, *Maqāṣid Al-Sharīʿah*, Outsourcing.

## INTRODUCTION

Outsourcing has become an integral part of the employment system in Indonesia, especially since the enactment of Law Number 13 of 2003 concerning Manpower.<sup>1</sup> Outsourcing is considered a strategy of cost efficiency and labour flexibility, particularly in the industrial, service, and manufacturing sectors.<sup>2</sup> However, outsourcing raises various complex labour problems that are behind the expected efficiency. Many outsourced workers experience job status uncertainty, lack complete social security, have lower wages than permanent workers, and have limited access to legal protection. This situation shows a gap between legal regulation and the reality of implementation.<sup>3</sup> The government has revised regulations through the Omnibus Law and Regulation No. 35 of 2021.

Although some adjustments have been made, the substance of protection for outsourced workers remains a matter of debate. Procedural legal protections have not fully addressed workers' need for substantive justice. In this context, employment justice is not only about legal certainty, but also about the dignity, welfare, and fair treatment of workers as the main subjects in industrial relations.<sup>4</sup> Various previous studies have discussed outsourcing problems from a legal and employment perspective. Nafila et al (2017) emphasised that outsourcing creates unequal employment relationships and obscures employers' responsibilities.<sup>5</sup> Rafi Bagas Riyadi (2025) highlights the ineffective functioning of government supervision in ensuring company compliance with the rights of outsourcing workers.

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<sup>1</sup> Solechan Solechan, "Pengawasan Pelaksanaan Sistem Outsourcing yang Berbasis Pada Hak Asasi Manusia," *Administrative Law and Governance Journal* 2, no. 2 (2019): 337-48, <https://doi.org/10.14710/alj.v2i2.337-348>.

<sup>2</sup> Glenn Heski Obilga Hutagalung dan Sonhaji, "Tinjauan Yuridis Terhadap Sistem Outsourcing Berdasarkan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan," *Diponegoro Law Journal* 6, no. 1 (2017), <https://doi.org/10.14710/dlj.2017.15547>.

<sup>3</sup> Al Fath dkk., "Tinjauan Yuridis atas Kebijakan Outsourcing di Indonesia dan Implikasinya terhadap Kesejahteraan Pekerja," *Jurnal Hukum Statuta* 3, no. 2 (2024): 63-73, <https://doi.org/10.35586/jhs.v3i2.9027>.

<sup>4</sup> Khairani Khairani, "Analisis Permasalahan Outsourcing dari Perspektif Hukum dan Penerapannya," *Kanun Jurnal Ilmu Hukum* 14, no. 1 (2012): 1.

<sup>5</sup> Nafila Nafila dkk., "Perlindungan Hak-Hak Buruh Pada Praktik Sistem Outsourcing: Sebuah Kesenjangan Penerimaan," *Jurnal Hukum Novelty* 8, no. 2 (2017): 2, <https://doi.org/10.26555/novelty.v8i2.a5552>.

Meanwhile, the study of Islamic law, as conducted by Nasution and Siregar (2025), analyzes outsourcing in terms of its benefits and mafsadat.<sup>6</sup> However, research that directly links the principles of contemporary Islamic law to outsourcing practices in Indonesia through a field approach is still minimal. This represents a significant gap in the previous study. This research exists to fill this gap by integrating the principles of contemporary Islamic law, especially the *maqāṣid al-sharīʿah* approach, into an analysis of the national legal framework governing outsourcing. *Maqāṣid al-sharīʿah*, as an ethical-normative approach, emphasizes the protection of the soul, intellect, property, descent, and religion. In the context of employment, this can be translated as the protection of the right to a decent life, job security, and social justice. This approach can potentially foster a more ethical, equitable, and contextually relevant protection model that aligns with local values by directly linking it to the realities of outsourcing workers on the ground. The main question posed in this study is: How can contemporary Islamic legal principles be integrated with the national legal framework to realise justice for outsourced workers in Indonesia?

This research has both theoretical and practical significance. Theoretically, this research expands the scope of interpretation of Islamic law in employment with a contextual approach relevant to modern issues. This also contributes to the development of Islamic law that is responsive to social realities. Practically, the results of this research can serve as input for policymakers, business actors, and labour organisations in developing an outsourcing system that is not only legally formal but also fair and grounded in Islamic ethical values. Integrating national law and Islamic values can be a viable alternative solution in developing a more humane and equitable regulatory model amid Indonesia's rapidly evolving economic dynamics.

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<sup>6</sup> Muhammad Arsad Nasution dan Rosnani Siregar, "Outsourcing Tenaga Kerja: Analisis Terhadap Maslahat Dan Mafsadat Yang Ditimbulkan Menurut Hukum Islam," *Tasyri' : Journal of Islamic Law* 4, no. 1 (2025): 1, <https://doi.org/10.53038/tsyr.v4i1.256>.

## METHOD

This research employs a qualitative approach, utilizing field research methods, to explore outsourcing practices and labour justice issues within the context of national law and contemporary Islamic legal principles. This approach was chosen as it enables researchers to understand social realities in a contextual and interpretive manner, particularly regarding the direct experiences of outsourcing workers and stakeholder responses. The research sites were purposively selected in industrial estates that represent the core of outsourcing practices in Indonesia, including Bekasi, Karawang, and Surabaya. The informants consisted of four main groups: outsourcing workers, corporate HR leaders, trade union activists, and Islamic law experts. They were selected through purposive and snowball sampling techniques, considering the depth and relevance of the information they could provide.

Data were collected through in-depth interviews using semi-structured guides, direct observation of working conditions and industrial relations, and documentation of labour regulations as well as relevant Islamic legal sources. Thematic analysis was employed for data analysis, involving coding, categorisation, and interpretation within the framework of *maqāṣid al-sharī'ah* and the theory of labour justice. To enhance validity and reliability, triangulation of sources, methods, and theories was applied. Furthermore, rigorous ethical research procedures were strictly adhered to, including obtaining informed consent, maintaining the confidentiality of participants' identities, and upholding professional and responsible conduct throughout the research process.

## RESULTS AND DISCUSSION

### Empirical Portrait of Outsourcing Practices in Indonesia

The practice of outsourcing has become a significant aspect of the Indonesia workforce. Many manufacturing, service, logistics, and hospitality companies use this system to fill positions such as security officers, cleaning staff, production operators, and

administrative personnel.<sup>7</sup> In general, companies view outsourcing as a solution for achieving cost efficiency and flexibility in HR management. "If everything is managed by yourself, the administrative burden and responsibility are heavy. Through outsourcing, we can focus on the core business," said Farhan, HR staff of a retail company in Jakarta.<sup>8</sup> Outsourcing also provides some workers with faster job opportunities, especially for those with minimal experience or recent graduates. The recruitment process is relatively more open and less complicated than the process of selecting permanent employees. "I just graduated from high school, so I can register to work immediately through outsourcing. Instead of being unemployed, I take it first," said Dini (22), a customer service staff member at one of the state-owned enterprises held by a third party.<sup>9</sup> For some individuals, outsourcing jobs serves as a steppingstone to entering the workforce and gaining valuable experience.

On the other hand, outsourcing practices also create numerous problems, particularly regarding labour justice and the protection of labour rights. Many outsourced workers complain of low wages, uncertain employment status, and minimal work facilities. Rani (28), a worker at a food factory in Karawang, said, "I work full-time like a permanent employee, but because I am from outsourcing, the salary is smaller, and the facilities are not the same."<sup>10</sup> Discrimination in terms of benefits, leave, and social security is a standard practice. Another problem arises in the form of job uncertainty. Outsourced workers are generally contracted for 3 to 6 months, and contract extensions are highly dependent on the vendor's unilateral evaluation and the service user company's approval. Darto (34), an outsourced security guard, said, "My contract is always 6 months. Every time I want to run

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<sup>7</sup> Chairunnisa Ramadhani Putri Nursalim dan Leli Joko Suryono, "Perlindungan Hukum Tenaga Kerja Pada Perjanjian Kerja Outsourcing," *Media of Law and Sharia* 2, no. 1 (2020): 1, <https://doi.org/10.18196/mls.v2i1.11478>.

<sup>8</sup> Farhan, "Personal Interview," 2024.

<sup>9</sup> Dini, "Personal Interview," 2024.

<sup>10</sup> Rani, "Personal Interview," 2024.

out, I am afraid it will not be extended."<sup>11</sup> This situation creates high psychological pressure because there is no guarantee of work continuity or a clear career path.<sup>12</sup>

Regarding regulations, the existing rules limit the types of work that can be outsourced. However, practice in the field often diverges from this. Many of the company's core jobs are illegally transferred to third parties for efficiency reasons. "I am part of core production, but I am listed as a support worker, so that it can be outsourced," said Rosi, an automotive factory worker in Cikarang.<sup>13</sup> This fact shows the weakness of labour supervision and regulatory loopholes that companies exploit.<sup>14</sup> Furthermore, legal protection for outsourcing workers remains weak. Many workers do not understand the contract's content, are unsure of whom to complain to if there is a violation and tend to be afraid to speak out for fear of not being renewed. Sari (29), a worker at a garment factory, said, "I just attended a union meeting, but I was not immediately called to work next week."<sup>15</sup> This phenomenon often leaves many outsourcing workers feeling trapped in an unfair system.

However, not all stories about outsourcing end badly. Some workers claim to have gained valuable work experience, and some have even been promoted to permanent employees after performing well. "I worked for two years through outsourcing, then was immediately drawn to become a permanent staff member," said Heri (31), a technician at a telecommunications company.<sup>16</sup> This demonstrates that outsourcing can still be a viable path to career advancement if managed effectively. From this portrait, it can be seen that outsourcing practices in Indonesia have two sides: on the one hand, they open up access to work and provide flexibility for companies, but on the other hand, they also hold the

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<sup>11</sup> Darto, "Personal Interview," 2024.

<sup>12</sup> Edi Mulyono dan Mahmoud Mohamed Ali Mahmoud Edris, "From Jurisprudence to Algorithms: The Role of Artificial Intelligence in Contemporary Sharia Financial Decision-Making," *NUSANTARA: Journal Of Law Studies* 4, no. 2 (2025): 129-142, <https://doi.org/10.5281/zenodo.17341980>.

<sup>13</sup> Rosi, "Personal Interview," 2024.

<sup>14</sup> Amir dkk., "The Contemporary Politics of Welfare and Anxiety: A Fiqh Siyasah Review of Indonesia's 2045 Vision," *NUSANTARA: Journal Of Law Studies* 4, no. 01 (2025): 29-43, <https://doi.org/10.5281/zenodo.17353871>.

<sup>15</sup> Sari, "Personal Interview," 2024.

<sup>16</sup> Heri, "Personal Interview," 2024.

potential for inequality and injustice for workers. This data can be seen in the following table,

Table 1: Empirical Portrait of Outsourcing Practices in Indonesia

| Aspects                                  | Empirical Description                                                                                                                                  | Source/Employee Expression/HR                                                                                         |
|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Types of Jobs Outsourced                 | Security, cleaning service, production operator, administrative staff, customer service                                                                | Farhan. (HR staff) "We can focus on the core business."                                                               |
| Reasons for Companies to Use Outsourcing | Cost efficiency, HR flexibility, and reduced administrative burden                                                                                     | Farhan. (HR staff) "If everything is managed by yourself, the administrative burden and responsibility are heavy."    |
| Benefits for Workers (Positive Side)     | Quick job access, an uncomplicated recruitment process, and a stepping stone for new graduates                                                         | Dini (22): "Just graduated from high school, I can apply through outsourcing to work right away."                     |
| Wage and Facility Inequality             | Lower salaries than permanent employees, unequal perks and benefits                                                                                    | Rani (28): "Full-time work is like a permanent employee, but the salary is smaller and the facilities are different." |
| Uncertain Employment Status              | Short contract (3–6 months), no certainty of extension, high psychological stress                                                                      | Darto (34): "My contract is always 6 months... I am afraid it will not be extended."                                  |
| Regulatory Irregularities                | Core jobs are illegally outsourced, and job classifications are manipulated for outsourcing legalization.                                              | Rosi (Labour): "I am part of the core production but listed as a support worker."                                     |
| Weak Legal Protection                    | Lack of understanding of contracts, fear of unionization, and not knowing where to complain                                                            | Sari (29): "I just attended a trade union meeting and was not immediately called to work."                            |
| Career Opportunities (Positive Side)     | Increased work experience, potential to be appointed as a permanent employee after good performance                                                    | Heri (31): "Worked for two years through outsourcing, then was immediately withdrawn to become permanent staff."      |
| Supervision Issues and Legal Loopholes   | Weak supervision and legal loopholes are used to outsource basic work.                                                                                 | -                                                                                                                     |
| Challenges and Solutions                 | The system is unfair, but still needed → a system rearrangement is needed to ensure protection, welfare, and clarity of employment status for workers. | The general narrative: "Not abolition or abandonment, but a reorganization of the outsourcing system."                |

Source: Author's Interpretation

Table 1 illustrates the complex reality of outsourcing practices in Indonesia, which shows the existence of two sides: on the one hand, this system provides quick job

opportunities for new graduates and helps companies manage HR efficiently; But on the other hand, many workers face injustices such as low wages, uncertain contracts, benefit discrimination, and weak legal protections. Testimonials from workers and HR actors corroborate that while outsourcing can be a career steppingstone, it also opens up room for exploitation if not fairly regulated and supervised. Therefore, stricter regulatory supervision is needed to ensure that work flexibility does not compromise the justice and welfare of workers.

### **Juridical Review of the National Legal Framework on Outsourcing**

The practice of outsourcing in Indonesia is recognised and regulated within the framework of national law, primarily through Law No. 13 of 2003 concerning Manpower, which was later amended by Law No. 11 of 2020 concerning Job Creation, and further detailed in Government Regulation No. 35 of 2021. This regulation enables companies to subcontract part of their work implementation to other companies through outsourcing or the provision of labor services. The goal is to provide flexibility for business actors in managing the workforce and reducing operational costs.<sup>17</sup>

According to Law No. 13 of 2003, Articles 64–66 stipulate that work that can be outsourced must be indirect, not part of the main activity, and support the production process. Outsourced workers must also be granted the same rights and protections as permanent workers, in accordance with applicable laws and regulations. However, since the issuance of the Job Creation Law, the regulation has undergone fundamental changes. Some of the restrictive provisions that previously strengthened the position of workers were removed or simplified, thus opening more space for business actors to outsource even core work.<sup>18</sup>

Government Regulation No. 35 of 2021, which implements the Job Creation Law, clarifies employment relations in outsourcing, specifically regarding the use of a fixed-time

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<sup>17</sup> Suyoko Suyoko dan Mohammad Ghufron Az, “Tinjauan Yuridis Terhadap Sistem Alih Daya (Outsourcing) Pada Pekerja Di Indonesia,” *Jurnal Cakrawala Hukum* 12, no. 1 (2021): 99–109, <https://doi.org/10.26905/idjch.v12i1.5780>.

<sup>18</sup> Anri Darmawan, “PENGATURAN HUKUM TERHADAP PEKERJA OUTSOURCING DITINJAU DARI UNDANG-UNDANG KETENAGAKERJAAN DAN UNDANG-UNDANG CIPTA KERJA,” *VARIA HUKUM* 3, no. 2 (2021): 2, <https://doi.org/10.15575/vh.v3i2.12607>.

work agreement (PKWT) or an indefinite-time work agreement (PKWTT).<sup>19</sup> However, this PP does not explicitly describe the types of work that can be outsourced, which is different from the previous provisions, which were stricter. This creates a legal loophole that companies often use to avoid normative employment obligations, such as severance pay, fixed benefits, or permanent employment status.<sup>20</sup> Problems do not just stop at the normative level. Implementation in the field is still weak. Many outsourced workers do not receive written employment contracts, are not registered with social security, and are unable to complain about violations. In various field findings, outsourced workers often face short-term contracts that are constantly extended, uncertainty of employment status, and discriminatory treatment. Due to limited resources or structural barriers, labour supervisors often struggle to enforce compliance.

In terms of legal responsibility, outsourcing creates a tripartite relationship among workers, vendors (or labour providers), and users (or service users). Formally, the working relationship occurs between workers and vendors. However, in practice, workers are under daily supervision and instruction from users. Unfortunately, many user companies are exempt from legal responsibility for the rights of outsourced workers, even though they are the ones who determine the rhythm and workload the most. This often makes it difficult for workers to demand justice because their legal position is weak.<sup>21</sup>

Government Regulation No. 35 of 2021, Articles 18 and 19, states that outsourced workers are entitled to the same treatment regarding minimum wage protection, working hours, social security, and other normative rights. However, because the employment contract is between the vendor and the worker, the user's responsibility becomes blurred. If the vendor is negligent, it will be challenging for workers to assert their rights directly against the service user company. The absence of a strict joint liability mechanism between

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<sup>19</sup> Hari Agus Santoso, "Efektifitas Undang-Undang Cipta Kerja Terhadap Peningkatan Investasi," *Jurnal Hukum Positum* 6, no. 2 (2021): 2.

<sup>20</sup> Idul Rishan, "Evaluasi Performa Legislasi Dalam Pembentukan Omnibus Law Cipta Kerja: Kajian Legisprudensi," *Undang: Jurnal Hukum* 5, no. 1 (2022): 1, <https://doi.org/10.22437/ujh.5.1.43-67>.

<sup>21</sup> Anak Agung Prabhaputra dkk., "Sistem Outsourcing Dalam Hubungan Industrial Di Indonesia (Outsourcing System In Industrial Relation In Indonesia)," *Jurnal Analogi Hukum* 1, no. 1 (2019): 22-27, <https://doi.org/10.22225/ah.1.1.2019.22-27>.

users and vendors in the event of violations of workers' rights is a significant juridical weakness.<sup>22</sup> From the perspective of labour law in favor of social justice, this situation is contrary to the spirit of the Constitution, especially Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution, which guarantees the right of every citizen to work and fair treatment in employment relations. Regulations that are too loose on outsourcing without strong controls open up space for exploitation of workers and create uneven industrial relations. The state should foster a favourable business climate and protect workers' fundamental rights through legal means.<sup>23</sup>

Thus, the national legal framework on outsourcing still has several problems regarding its legal substance and application. More comprehensive legal reforms are needed to tighten the limits on the types of work that can be outsourced, clarify legal responsibilities between vendors and users, and strengthen labour supervision. Without these changes, the outsourcing system risks continuing to be a tool of unilateral flexibility that harms workers and weakens the spirit of justice in industrial relations in Indonesia.<sup>24</sup> The following is a juridical summary table of the national legal framework related to outsourcing practices in Indonesia, based on the narrative you provided:

Table 2: Juridical Review of the National Legal Framework on Outsourcing

| Aspects                   | Contents of the Provisions / Findings                                                                                                                                              | Juridical Record/Impact                                                                                                           |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Key Regulations           | - Law No. 13 of 2003 (Articles 64–66) - Law No. 11 of 2020 (Job Creation) - Government Regulation No. 35 of 2021 (Implementation of PKWT, outsourcing, layoffs, and working hours) | Provide a legal basis for outsourcing practices, particularly in light of significant changes introduced by the Job Creation Law. |
| Types of Outsourcing Jobs | Law 13/2003 limited only indirect and supporting work. After the Job Creation Law, this restriction became looser.                                                                 | Opening up outsourcing space for core work increases the potential for abuse.                                                     |

<sup>22</sup> Asep Ahmad Saefuloh, "Kebijakan Outsourcing di Indonesia: Perkembangan dan Permasalahan," *Jurnal Ekonomi dan Kebijakan Publik* 2, no. 1 (2011): 1, <https://doi.org/10.22212/jekp.v2i1.162>.

<sup>23</sup> Dean Fadhurohman Hafizh dkk., "Analisis Praktik Outsourcing Dalam Perspektif Undang-Undang Cipta Kerja," *Jurnal Lemhannas RI* 10, no. 3 (2022): 3, <https://doi.org/10.55960/jlri.v10i3.298>.

<sup>24</sup> Nugroho Habibi dkk., "Memperkuat Perlindungan Pekerja Outsourcing: Analisis Implementasi Kebijakan," *Journal of Social Movements* 1, no. 1 (2024): 1, <https://doi.org/10.62491/jsm.v1i1.2024.5>.

|                                |                                                                                                                                         |                                                                                                              |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| Forms of Employment Relations  | PP 35/2021 allows PKWT (contract) and PKWTT (fixed) in outsourcing schemes                                                              | Formal legality is recognized, but high flexibility tends to favor employers.                                |
| Rights of Outsourced Workers   | PP 35/2021 Articles 18–19: Right to equal treatment related to minimum wage, working hours, social security, and other normative rights | Many workers do not receive these rights due to inadequate oversight and unclear contractual agreements.     |
| Tripartite Legal Relations     | Formal relationship: Vendor worker ↔ Daily practice: Worker works directly under the user                                               | Users often waive their legal liability, leaving workers' positions vulnerable and not optimally protected.  |
| Legal Loopholes and Deviations | No explicit list of jobs can be outsourced in PP 35/2021. Loopholes are used to outsource core jobs with disguised classifications      | Deviations from labor justice principles and the Labor Law's initial spirit.                                 |
| Implementation in the Field    | Many workers lack written employment contracts, are not registered with BPJS, and are hesitant to unionize.                             | Weak labour supervision and limited resources for field-based legal supervisors.                             |
| Weaknesses of Legal Liability  | There is no strict joint liability provision between the user and the vendor.                                                           | Workers often struggle to claim their rights when vendors are negligent; the user is ultimately responsible. |
| Conflict with the Constitution | Articles 27(2) and 28D(2) of the 1945 Constitution: Right to employment and fair treatment                                              | Exploitative outsourcing practices are contrary to the basic principles of justice in the Constitution.      |
| Juridical Recommendations      | Reorganization of the types of work that can be outsourced, strengthening of user responsibilities, and reform of labour supervision    | It needs legal reform based on worker protection and the principles of industrial justice.                   |

Source: Author's Interpretation

The table above summarizes a juridical review of national regulations on outsourcing in Indonesia, which reveals that although outsourcing practices are legally recognized through Law No. 13 of 2003, the Job Creation Law, and Government Regulation No. 35 of 2021, they leave numerous gaps and weaknesses in their implementation. The post-Job Creation Law changes open up a more expansive space for outsourcing practices, even in core jobs, without clarity on the types of jobs allowed. The tripartite legal relationship between workers, vendors, and users actually weakens the workers' position because users' legal responsibility is not strictly regulated. As a result, many outsourced workers face discrimination, contract uncertainty, and difficulties in asserting their rights. This situation highlights the importance of labour law reform, which

would be more equitable, strengthen protections, and close the legal loopholes that companies have exploited.

### **Principles of Justice in Contemporary Islamic Law**

In the treasures of Islamic law, justice (*al-'adl*) is a fundamental principle that animates all aspects of the sharia. One of the primary instruments in achieving justice is the framework of *maqāṣid al-sharī'ah*, or the purposes of Islamic law, developed by scholars such as al-Ghazālī and al-Shāṭibī. In its classical formulation, *maqāṣid* includes five main aspects: religious protection (*ḥifẓ al-dīn*), the soul (*ḥifẓ al-nafs*), the intellect (*ḥifẓ al-'aql*), heredity (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). In industrial relations, *maqāṣid* can serve as an ethical and normative foundation for assessing whether a work system meets the essential standards of justice.<sup>25</sup>

One of the most relevant principles in worker protection is *ḥifẓ al-nafs*, which prioritizes the protection of human life and safety. In the world of work, this principle demands that every individual be treated with respect, protected from exploitation, and provided with guarantees of physical and mental safety. The outsourcing system that causes job uncertainty, overload, and psychic stress contradicts the spirit of soul protection in *maqāṣid*. Workers should not be treated solely as a commodity of production, but as human beings with the right to dignity. The principle of *ḥifẓ al-māl*, or the protection of property, is also fundamental in assessing the fairness of the employment relationship. Islamic law promotes the equitable distribution of wealth, transparency in contracts, and the prohibition of fraudulent or unjust practices in economic transactions. If an outsourced worker receives substandard wages, does not receive social security, and has no certainty over his economic future, this violates the principle of *ḥifẓ al-māl*. In the view of *maqāṣid*, a

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<sup>25</sup> Suparman Kholil, "Etika Produksi Islami Berbasis Maqashid Al-Shariah: Pilar Kesejahteraan Sosial Dan Ekonomi," *Equality: Journal of Islamic Law (EJIL)* 3, no. 1 (2025): 1, <https://doi.org/10.15575/ejil.v3i1.1220>.

work system that fails to protect individuals' economic well-being should be criticized both morally and legally.<sup>26</sup>

In addition, the principle of *ḥifẓ al-'ird*, or the protection of human dignity and honour—developed in modern *maqāṣid*—further reinforces the argument for the importance of labour justice. In a discriminatory outsourcing system, employees are often structurally underrecognized, underinvolved in decision-making, and treated as less than permanent employees. This hurts the value of *karāmat al-insān* (human dignity), a universal principle in Islamic teachings. Regardless of their employment status, every worker must be treated equally in terms of their rights and dignity.<sup>27</sup>

Contemporary scholars, such as Yusuf al-Qaradawi, Taha Jabir al-'Alwani, and al-Siddiq al-Darir, have attempted to develop *maqāṣid* not only in the worship space but also in social issues, including employment, the distribution of justice, and economic governance. They emphasized the importance of *ta'ādul* (balance) and *rahmah* (compassion) in the social system, including industrial relations. According to them, justice is not only a legal formality but must include the substance of structural justice that prevents exploitation and social inequality in the world of work. This approach is particularly relevant in discussing outsourcing practices that create unequal employment relationships between user companies, labour vendors, and outsourced workers. When a company focuses only on cost efficiency without considering job security and worker welfare, it is contrary to *maqāṣid*. From the perspective of contemporary Islam, a fair labour system does not impoverish the working, and does not disproportionately enrich the powerful.<sup>28</sup>

Furthermore, *maqāṣid al-sharī'ah* provides a moral basis for correcting labour policies that are weak in protection. In the context of outsourcing, *maqāṣid* can serve as a

<sup>26</sup> Andi Marwah dkk., "Integrating Maqashid al-Shariah into Islamic Economic Practices: A Contemporary Analytical Framework and Its Applications," *Elkahfi | Journal of Islamic Economics* 6, no. 01 (2025): 01, <https://doi.org/10.58958/elkahfi.v6i01.456>.

<sup>27</sup> Naelul Azmi dkk., "Maqasid Al-Shariah: Foundation for Sustainable Sharia Economic Development," *Al-Tijarah* 1, no. 1 (2024): 1.

<sup>28</sup> Mostafa Seraji dan Kamal Halili Hassan, "Freedom of Association in Labour Relations in the Context of the Maqasid-al-Shari'ah Principles," *European Journal of Law and Economics* 45, no. 2 (2018): 377–395, <https://doi.org/10.1007/s10657-013-9393-0>.

guide to encourage regulatory reform, affirm corporate responsibility for all workers (both permanent and temporary), and uphold the principle of protecting fundamental rights, such as living wages, social security, and humane working conditions. With this approach, Islamic law becomes both a static normative system and a dynamic, relevant source of value for social change.<sup>29</sup> Thus, the principles of justice in contemporary Islamic law—which are contained in *maqāṣid al-sharī'ah*—have become an essential foundation for assessing modern work systems, such as outsourcing. When the system causes uncertainty, discrimination, and welfare inequality, it can be ethically and juridically considered not in line with the values of Islamic justice. Therefore, restructuring the outsourcing system must consider not only the formal legal aspects, but also the Islamic moral values that place human beings as subjects that must be protected in their entirety.

### **Integration of *Maqāṣid al-sharī'ah* into the National Labour Regulation**

Integrating *maqāṣid al-sharī'ah* into national labour regulations is a strategic step to bridge Islamic ethical values with the needs of Indonesia's pluralistic society and its positive laws. *Maqāṣid*, as the main value framework in Islamic law, aims to safeguard and develop the five basic human needs: religion (*ḥifẓ al-dīn*), soul (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), property (*ḥifẓ al-māl*), and offspring or dignity (*ḥifẓ al-nasl / al-'ird*). In employment, three directly relate to protecting workers' lives, property, and dignity. This is a strong basis for making *maqāṣid* a substantive ethics in labour law reform in Indonesia.<sup>30</sup>

In the national labour law, principles such as job security, protection of normative rights, social security, and fair industrial relations have been listed in Law No. 13 of 2003 and the Job Creation Law.<sup>31</sup> However, the practice often does not reflect social justice as the Constitution requires. This is where *maqāṣid al-sharī'ah* can provide a deeper ethical

<sup>29</sup> Bismi Nursyamsia Maryam and M. Thahir Maloko, "Job Safety in The Perspective Of Maqashid Al Shariah," *Siyasatuna: Scientific Journal Of Siyasaḥ Syar'iyah* Students 3, no. 2 (May 29, 2022): 233–428.

<sup>30</sup> Achmad Syawal Nurhidayatullah dan Oman Fathurohman Sw, "Maqashid Syariah Sebagai Kerangka Kerja Untuk Inovasi Produk Keuangan Non Bank Dalam Era Digital," *Jurnal Masharif Al-Syariah: Jurnal Ekonomi Dan Perbankan Syariah* 9, no. 5 (2024): 5, <https://doi.org/10.30651/jms.v9i5.24835>.

<sup>31</sup> Wiwin Budi Pratiwi dan Devi Andani, "Perlindungan Hukum Tenaga Kerja Dengan Sistem Outsourcing Di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 29, no. 3 (2022): 3, <https://doi.org/10.20885/iustum.vol29.iss3.art9>.

dimension. For example, *ḥifẓ al-nafs* can be actualized through the protection of workers' occupational safety and mental health, while *ḥifẓ al-māl* promotes the certainty of a decent and fair income. *ḥifẓ al-'ird* demanded the recognition of the dignity of workers as the whole subject of law.

An integrative strategy between *maqāṣid* and labour regulation can begin by reinterpreting value-based, positive legal norms. This includes a reinterpretation of provisions that have often created exploitative conditions, such as flexibility in outsourcing or short-term contracts that are frequently extended without guarantees. With the *maqāṣid* approach, regulations should not simply follow the labour market mechanism but should be oriented towards protecting workers' human rights as part of the value of Islamic justice.<sup>32</sup> The reinterpretation of *maqāṣid*-based law also opens up space to design labour policies that are not only legal-formal, but also responsive to workers' social context and needs. For example, in the case of outsourcing, labour law can be used to affirm collective responsibility between vendors and users, ensuring that outsourced workers do not lose their social security and the right to equal treatment. This is in line with the principles of *ta'ādul* (balance) and *'adālah* (distributive justice) in *maqāṣid*.

In reforming regulations, it is necessary to formulate Islamic ethical principles as the foundation of values. For example, the principles of *amanah* (social responsibility), *iḥsān* (best treatment), *'adl* (justice), and *maslahah* (common good) can be used as a moral framework that animates the national labour system. These principles are both religious and universal, allowing them to be integrated into a plural and inclusive system of national legal values.<sup>33</sup> The strengthening of the principle of *maslahah 'āmmah* in labour policy can also justify state intervention in regulating industrial relations so that it is not dominated

<sup>32</sup> Karunia Romadhani dkk., "Pengaruh Maqashid Syariah Dan Efektivitas Program Mec Terhadap Kesejahteraan Mustahik Melalui Produktivitas Kerja," *Jurnal Ekonomika dan Bisnis Islam* 7, no. 2 (2024): 1–17, <https://doi.org/10.26740/jekobi.v7n2.p1-17>.

<sup>33</sup> Novita Andriana dan Ari Prasetyo, "Implementasi Komponen Maqashid Syariah Terhadap Kesejahteraan Pada Karyawan Yayasan Nurul Hayat Surabaya," *Jurnal Ekonomi Syariah Teori Dan Terapan* 6, no. 3 (2019): 3, <https://doi.org/10.20473/vol6iss20193pp428-445>.

by market forces alone.<sup>34</sup> From the perspective of *maqāṣid*, the state plays the role of the keeper of balance and the protector of the weaker group, including workers or vulnerable workers in the outsourcing system. In other words, labour regulations should reflect alignment with human values, not just economic efficiency.

At the institutional level, the integration of *maqāṣid* into labour law can be realized through public policy instruments such as derivative regulations, labour supervision guidelines, and company evaluation systems that accommodate the principles of social responsibility based on Islamic justice. This is in line with the approach of social fiqh (fiqh al-mujtama') developed by modern scholars, which is to place Islamic law as part of a social transformative movement.<sup>35</sup> In addition, *maqāṣid*-based legal reform should be accompanied by holistic employment law education, especially among regulators, employers, and workers. The understanding of *maqāṣid* should not be limited to the theoretical level, but should be translated into policy narratives, social dialogue, and collective consciousness. Awareness that the law works to protect the weak and promote the common good is key to the sustainability of a just legal system.

Integrating *maqāṣid* also supports a paradigm shift from transactional working relationships to work relationships based on *ukhuwah* and collaboration. In this context, workers are not seen simply as productive resources but as partners with rights, roles, and values. In this spirit, the state and society are challenged to build an inclusive work system and ensure common welfare, without leaving even the most vulnerable groups of workers behind.<sup>36</sup> Thus, integrating *maqāṣid al-sharī'ah* into national labour regulations is not merely a normative idealism, but an ethical-structural approach to strengthen the principle of

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<sup>34</sup> Muhammad Ali Adriansyah dkk., "Enhancing Employability in the Digital Era: A Case Study of Online Workers Through the Lens of Contemporary Islamic Economic Law," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 1, <https://doi.org/10.32332/milrev.v4i1.10223>.

<sup>35</sup> Ma'ruf Hidayat, "Analisis Kebijakan Ekonomi Dan Kesejahteraan Sosial Perspektif Maqashid Asy-Syariah (Studi Pasal 88 UU Nomor 11 Tahun 2020)," *Jurnal Penelitian Agama* 22, no. 1 (2021): 49-64, <https://doi.org/10.24090/jpa.v22i1.2021.pp49-64>.

<sup>36</sup> Rohma Vihana Enggardini dan Moh Qudsi Fauzy, "Kesejahteraan Karyawan Perspektif Maqashid Syariah Pada Pusat Penelitian Kopi Dan Kakao," *Jurnal Ekonomi Syariah Teori Dan Terapan* 4, no. 8 (2017): 8, <https://doi.org/10.20473/vol4iss20178pp599-612>.

justice in national law.<sup>37</sup> Within this framework, the law serves not only as a tool for regulating the technical aspects of labour relations, but also as a means of realizing the values of humanity, solidarity, and welfare, which are the primary objectives of the sharia. This is the face of labour law that is not only legally, but also morally and spiritually dignified.

## CONCLUSION

The practice of outsourcing in Indonesia continues to pose significant challenges, particularly regarding fairness for workers. Behind the flexibility and efficiency, it offers companies, workers face hidden vulnerabilities, including low wages, insecure employment contracts, and limited access to social security. Although outsourcing is formally regulated under Law No. 13 of 2003, the Job Creation Law, and Government Regulation No. 35 of 2021, its implementation has not fully safeguarded workers' fundamental rights. To address these shortcomings, contemporary Islamic legal perspectives—primarily through the concept of *maqāṣid al-sharī'ah*—offer ethical foundations that reinforce the protection of workers. Core values such as the protection of life (*ḥifẓ al-nafs*), property (*ḥifẓ al-māl*), and human dignity (*ḥifẓ al-ʿirḍ*) emphasise that employment relations should extend beyond transactional interests, ensuring justice, humanity, and the livelihoods of workers. Integrating *maqāṣid* principles into national labour policies can provide a moral framework for reforming regulations that often privilege corporate interests. This effort does not seek to replace existing laws but to infuse them with a spirit of justice and impartiality toward marginalized groups. Positive law and *maqāṣid* values are not contradictory; rather, they can complement each other in shaping a more just and humane legal order. Thus, protecting outsourcing workers should not be reduced to a technical matter of employment relations but understood as a moral, social, and humanitarian imperative. When labour law is guided by the spirit of justice embodied in *maqāṣid al-sharī'ah*, regulations will gain firmer grounding—not only in legal texts but also in social practices that advance workers' welfare.

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<sup>37</sup> Nasfi Nasfi dan Sabri Sabri, "Maqashid Syariah Sebagai Basis Pengembangan Ekonomi Islam," *Elkahfi | Journal of Islamic Economics* 3, no. 01 (2022): 01, <https://doi.org/10.58958/elkahfi.v3i01.81>.

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## AUTHOR CONTRIBUTIONS

Arpangi contributes to the formulation of research ideas, the development of theoretical frameworks, and the writing of initial article drafts. Gunarto is involved in the juridical review and analysis of national labour regulations and co-editing the methodology and results section. Nanang Sri Darmadi made significant contributions to field data collection, the interpretation of findings, and the empirical validation of outsourcing cases. Trubus Wahyudi was responsible for integrating the *maqāṣid al-sharī'ah* approach, preparing normative arguments, and final editing and aligning the manuscript as a whole. All authors have read and approved the final manuscript.

## CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this paper. All analyses, interpretations, and conclusions presented are based solely on academic objectivity and are free from any financial, institutional, or personal influences that could affect the integrity of the research.

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