

## Religious Moderation as Living Islamic Law: A *Maqāṣid* Perspective in Indonesia and Brunei Darussalam

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### Abstract:

Religious moderation has become an important discourse in contemporary Islamic legal studies, particularly in responding to extremism and the dynamics of religiosity in pluralistic societies. This study aims to analyze religious moderation as living Islamic law in Indonesia and Brunei Darussalam using the perspective of *maqāṣid al-sharīʿa* as an analytical framework. This study uses a qualitative approach through analysis of policy documents and Islamic legal literature in Indonesia as well as in-depth interviews with religious authorities and academics in Brunei Darussalam. The results show that religious moderation operates as a normative and institutional practice in the social, legal, and policy spheres. In Indonesia, religious moderation functions as a public legal ethic that integrates Islamic values within a pluralistic national legal system, while in Brunei Darussalam, religious moderation acts as an institutional principle that guides the gradual and proportional implementation of Islamic law. This research offers a novelty in the form of a comparative perspective that positions religious moderation as a living Islamic law that bridges normative Islamic legal theory with institutional practice, while also proposing a *maqāṣid*-based framework that ensures Islamic law remains contextual, balanced, and oriented towards public welfare.

### Keywords:

Islamic law; living Islamic law; *maqāṣid al-sharīʿa*; religious moderation

### How to cite:

Shabir, Muslich, Maskur Rosyid, Harapandi Dahri, Mustla Sofyan Tasfiq. "Religious Moderation as Living Islamic Law: A *Maqāṣid* Perspective in Indonesia and Brunei Darussalam" *Al-Ahkam* 36, no. 1 (April, 2026): 21-46. <https://doi.org/10.21580/ahkam.2026.36.1.31446>.

## Introduction

In the past two decades, religious moderation has become a central issue in contemporary Islamic legal discourse, as tensions between religious expression, radicalism, and the demands of a pluralistic modern society increase. The development of social media, the politicization of religious identity, and the strengthening of exclusive religious discourses have fueled the emergence of various forms of radicalism, positioning religious moderation as a strategic counter-narrative.<sup>1</sup> This phenomenon is not unique to Indonesia but has also attracted global attention, where moderation is understood as an effort to build "justly balanced communities" amidst the polarization between moderate and radical groups within Muslim societies.<sup>2</sup>

At the same time, a rigid textual approach to Islamic teachings is often inadequate to address the complexity of contemporary social issues. Therefore, a contextual approach is needed to understand Islamic ethical-legal texts to maintain their relevance to the dynamics of modern society.<sup>3</sup> In the context of modern nation-states, including Indonesia, this challenge becomes even more apparent when Islamic law must confront demands for the protection of social rights, gender justice, and the principle of pluralism within the national legal framework.<sup>4</sup> Thus, religious moderation cannot be understood solely as an individual moral stance, but as a normative issue directly related to the direction of the development and implementation of Islamic law.

In practice, Islamic law operates within a landscape of legal pluralism that brings together various normative regimes, such as state law, customary law, and human rights principles. This interaction encourages negotiation and the adoption of external concepts in the development of Islamic law, particularly in

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<sup>1</sup> Andy Hadiyanto, Kinkin Yuliaty Subarsa Putri, and Luthfi Fazli, "Religious Moderation in Instagram: An Islamic Interpretation Perspective," *Heliyon* 11, no. 4 (February 2025): e42816, <https://doi.org/10.1016/j.heliyon.2025.e42816>.

<sup>2</sup> Nuraan Davids, "Islam, Moderation, Radicalism, and Justly Balanced Communities," *Journal of Muslim Minority Affairs* 37, no. 3 (July 3, 2017): 309–20, <https://doi.org/10.1080/13602004.2017.1384672>.

<sup>3</sup> Abdullah Saeed, "Some Reflections on the Contextualist Approach to Ethico-Legal Texts of the Quran," *Bulletin of the School of Oriental and African Studies* 71, no. 2 (June 19, 2008): 221–37, <https://doi.org/10.1017/S0041977X08000517>.

<sup>4</sup> Alfitri Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (August 3, 2020): 273–307, <https://doi.org/10.36712/sdi.v27i2.9408>.

family law and state regulations.<sup>5</sup> This situation demonstrates that Islamic law does not exist in isolation but interacts with various legal forums and social mechanisms, including the practice of forum shopping in pluralistic societies.<sup>6</sup>

At the institutional level, the practice of resolving family disputes through religious forums, such as Sharia councils or assemblies, demonstrates how Islamic norms operate contextually within modern governance, while simultaneously demanding standardization of procedures and accountability to align with the principles of justice and rights protection.<sup>7</sup> Even in the realm of public policy and economic regulation, a number of countries have developed hybrid frameworks that integrate Sharia principles with modern legal instruments, demonstrating that Islamic values can be operationalized through adaptive policy design.<sup>8</sup> In this context, religious moderation can be understood as a key concept bridging these tensions, not only as a social instrument but also as a normative mechanism in the development of Islamic law.

Several previous studies have shown that religious moderation is not a new issue in contemporary Islamic studies. Faqihuddin,<sup>9</sup> Arifinsyah, Andy, and

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<sup>5</sup> Euis Nurlaelawati and Stijn Cornelis van Huis, "The Status of Children Born Out of Wedlock and Adopted Children in Indonesia: Interactions between Islamic, Adat, and Human Rights Norms," *Journal of Law and Religion* 34, no. 3 (December 24, 2019): 356–82, <https://doi.org/10.1017/jlr.2019.41>.

<sup>6</sup> Ido Shahaar, "Legal Pluralism and the Study of Shari'a Courts," *Islamic Law and Society* 15, no. 1 (2008): 112–41, <https://doi.org/10.1163/156851908X287280>.

<sup>7</sup> Rafidah Mohamad Cusairi and Mahdi Zahraa, "Procedure of Issuing Religious Divorce and Resolving Matrimonial Disputes at Shari'ah Councils in the UK," *Arab Law Quarterly* 32, no. 1 (December 26, 2018): 1–32, <https://doi.org/10.1163/15730255-12321043>.

<sup>8</sup> Vivien Chen, "Law and Society in the Evolution of Malaysia's Islamic Capital Market Regulation," *Asian Journal of Law and Society* 4, no. 1 (May 27, 2017): 133–56, <https://doi.org/10.1017/als.2016.20>.

<sup>9</sup> Ahmad Faqihuddin, "Islamic Moderate in Indonesia," *Ar-Risalah* 12, no. 1 (2021): 107–18, <https://uia.e-journal.id/alrisalah/article/view/1238>.

Damanik,<sup>10</sup> Dahlan,<sup>11</sup> Widodo and Karnawati,<sup>12</sup> Siswanto and Islamy,<sup>13</sup> and Fahri and Zainuri,<sup>14</sup> position religious moderation normatively as an expression of the Islamic concept of *wasatiyya*, which emphasizes balance and justice. Meanwhile, Said and Rauf examine religious moderation within the framework of *fuqahā'* thought.<sup>15</sup> In a socio-political context, Marzuki,<sup>16</sup> Zuhraeni,<sup>17</sup> Asy'ari,<sup>18</sup> Zuhri,<sup>19</sup> Yunus and Hanafiah,<sup>20</sup> and Irham, Ruslan, and Syahputra<sup>21</sup> view moderation as a response to political dynamics, plurality, and religion-state relations. Despite their diversity, these studies tend to place religious moderation within normative, ideological, or social policy frameworks.

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<sup>10</sup> Arifinsyah Arifinsyah, Safria Andy, and Agusman Damanik, "The Urgency of Religious Moderation in Preventing Radicalism in Indonesia," *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 21, no. 1 (April 27, 2020): 91–108, <https://doi.org/10.14421/ESENSIA.V21I1.2199>.

<sup>11</sup> Moh Dahlan, "Moderasi Hukum Islam Dalam Pemikiran Ahmad Hasyim Muzadi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 11, no. 2 (January 2, 2016): 313–34, <https://doi.org/10.19105/AL-IHKAM.V11I2.1039>.

<sup>12</sup> Priyantoro Widodo and Karnawati Karnawati, "Moderasi Agama Dan Pemahaman Radikalisme Di Indonesia," *PASCA: Jurnal Teologi dan Pendidikan Agama Kristen* 15, no. 2 (November 29, 2019): 9–14, <https://doi.org/10.46494/psc.v15i2.61>.

<sup>13</sup> Eko Siswanto and Athoillah Islamy, "Fikih Moderasi Beragama Dalam Kehidupan Bernegara Di Indonesia," *Al-Adalah: Jurnal Hukum dan Politik Islam* 7, no. 2 (2022): 198–217, <https://doi.org/10.35673/ajmpi.v7i2.2802>.

<sup>14</sup> Mohamad Fahri and Ahmad Zainuri, "Moderasi Beragama di Indonesia," *Intizar* 25, no. 2 (2019): 95–100, <https://doi.org/10.19109/intizar.v25i2.5640>.

<sup>15</sup> Hasani Ahmad Said and Fathurrahman Rauf, "Radikalisme Agama dalam Perspektif Hukum Islam," *Al-Adalah* 12, no. 1 (2015): 593–610, <https://doi.org/10.24042/ADALAH.V12I1.238>.

<sup>16</sup> Muhamad Marzuki, "Moderasi Islam sebagai Pintu Demokrasi Keberagamaan di Indonesia," *Al-Ittisholi: Jurnal Komunikasi Islam* 1, no. 1 (February 20, 2022): 64–79, <https://jurnal.iainhwpancor.ac.id/index.php/alittisholi/article/view/561>.

<sup>17</sup> Zuhraeni Zuhraeni, "Islam: Negara, Demokrasi, Hukum dan Politik," *Analisis: Jurnal Studi Keislaman* 14, no. 1 (2014): 29–58, <https://doi.org/10.24042/AJSK.V14I1.639>.

<sup>18</sup> Hasyim Asy'ari, "Politik Hukum Kebebasan Beragama di Indonesia," *Pandecta* 6, no. 1 (2011): 1–14.

<sup>19</sup> Syaifudin Zuhri, "Regimented Islamophobia: Islam, State, and Governmentality in Indonesia," *QJIS (Qudus International Journal of Islamic Studies)* 9, no. 2 (December 26, 2021): 387, <https://doi.org/10.21043/qjis.v9i2.8249>.

<sup>20</sup> A R Yunus and T Hanafiah, "The State Policy Epistemology Related to Religious Moderation: A Comparative Study of Indonesia and Australia," *Ekspose: Jurnal Penelitian Hukum dan Pendidikan* 19, no. 2 (2020): 1065–74, <https://www.jurnal.iain-bone.ac.id/index.php/ekspose/article/view/1140>.

<sup>21</sup> Muhammad Aqil Irham, Idrus Ruslan, and Muhammad Candra Syahputra, "The Idea of Religious Moderation in Indonesian New Order and the Reform Era," *Ilmu Ushuluddin* 8, no. 1 (August 18, 2021): 1–22, <https://doi.org/10.15408/IU.V8I1.19618>.

Studies on religious moderation in Brunei Darussalam are relatively limited and generally focus on policy, education, and social stability. Syarif and Purqon<sup>22</sup> examine religious moderation policies in Indonesia, Singapore, and Brunei Darussalam from a juridical-normative perspective. Mail and Mansurnoor<sup>23</sup> suggest that the educational background of ulama in Brunei contributes to the reduction of radicalism, while Mansurnoor emphasizes the role of moderate Islamic traditions in maintaining social harmony.<sup>24</sup> Yousif demonstrates Brunei's success in developing a modern Islamic culture without neglecting religious freedom,<sup>25</sup> while Ridho et al. highlight the role of digital media in promoting moderation.<sup>26</sup> However, these studies have not specifically examined religious moderation within the framework of Islamic legal development.

Although studies on religious moderation have developed, most still place it within a normative-ideological or socio-political policy framework. The link between religious moderation and the development of Islamic law, particularly from the perspective of the *maqāṣid al-sharī'a* (objectives of Islamic law), remains relatively limited. Furthermore, the concept of religious moderation as living Islamic law—that is, Islamic law that is alive and operating in social and institutional practices—has not been systematically studied. This gap indicates the need to reposition religious moderation as an integral part of contemporary Islamic legal theory and practice.

This study aims to analyze religious moderation as living Islamic law from the perspective of the *maqāṣid al-sharī'a* and explain its role in the development

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<sup>22</sup> Mujar Ibnu Syarif and Arip Purkon, "Moderasi Beragama dalam Bernegara di Asia Tenggara (Studi Komparatif di Indonesia, Singapura dan Brunei)" (Jakarta, 2020).

<sup>23</sup> Haji Awg Asbol bin Haji Mail and Iik Arifin Mansurnoor, "Education, Religious Authority and Moderation: Muslim Scholars-Cum-Leaders in Brunei Darussalam," *Tawarikh Journal of Historical Studies* 1, no. 1 (2009), <https://doi.org/10.2121/TAWARIKH.V1I1.366>.

<sup>24</sup> Iik Arifin Mansurnoor, "Islam in Brunei Darussalam: Negotiating Islamic Revivalism and Religious Radicalism," *Islamic Studies* 47, no. 1 (2008): 65–97, <https://www.jstor.org/stable/20839106>.

<sup>25</sup> Ahmad F Yousif, "'Global Peace' in Higher Educational Institutions in Southeast Asia: A Study on Moderation in Brunei Darussalam," in *Religions of the World*, ed. Gordon J Melton and Marin Baumann, 2nd ed. (Santa Barbara: ABC-Clio, 2010), <http://www.abc-clio.com/http://www.depd.gov.bn/SitePages/Population.aspx>.

<sup>26</sup> Kholis Ridho et al., "Online Media and Muslim Religiosity Behavior Experience of Indonesia, Malaysia, and Brunei Darussalam," *Dialog* 42, no. 1 (June 2019): 49–60, <https://doi.org/10.47655/dialogv42i1.320>.

of contemporary Islamic law. Specifically, this study answers three questions: first, how is religious moderation understood within the framework of the *maqāṣid al-sharī'a*? Second, how does religious moderation operate in Islamic legal practice in Indonesia and Brunei Darussalam? Third, how does religious moderation function as a normative principle in the development of Islamic law?

The selection of Indonesia and Brunei Darussalam is based on strategic comparative considerations. Indonesia represents a country with a pluralistic legal system and evolving practices of moderation within a democratic context, while Brunei Darussalam exemplifies a country with a legal system more integrated with Sharia. This comparison allows for a more comprehensive analysis of how religious moderation operates within different institutional and political-legal contexts.

This research employs a qualitative approach, combining document analysis and empirical findings. In the Indonesian context, the research was conducted through an analysis of relevant Islamic legal policies, regulations, and literature. Meanwhile, in the Brunei Darussalam context, the research was supported by in-depth interviews with religious authorities and Islamic legal scholars to capture the institutional practices of religious moderation. This approach allows for a more comprehensive understanding of religious moderation as both a normative concept and a legal practice embedded in social reality.

## **Religious Moderation from an Islamic Legal Perspective**

This section examines religious moderation from an Islamic legal perspective as a conceptual foundation for answering the research problem formulation, specifically regarding how religious moderation functions as living Islamic law in the context of Indonesia and Brunei Darussalam. Within this framework, religious moderation is not understood simply as a social attitude, but as a normative principle that guides the formation, interpretation, and implementation of Islamic law in the reality of a pluralistic society.

From an Islamic legal perspective, the concept of religious moderation is rooted in the principle of *maṣlaḥa*, which asserts that every Islamic legal norm aims to realize benefits and prevent harm (*sadd al-dharī'a*), including the

potential harm arising from extreme attitudes that lead to injustice.<sup>27</sup> This principle aligns with the *maqāṣid al-sharī'a*, which places justice, balance, and benefits as the primary objectives of Islamic law.<sup>28</sup> In the development of contemporary Islamic legal studies, the *maqāṣid* approach is increasingly understood as a methodological framework that allows Islamic law to adapt to social change without losing its normative legitimacy.

Furthermore, the concept of religious moderation is closely related to the principle of *wasatīyya*, which rejects both excessive behavior (*ifrāt*) and neglect of teachings (*tafrīt*).<sup>29</sup> This principle is not only moral-theological but also has legal implications as it forms the basis for the formation of policies and regulations oriented toward justice and the welfare of the people.<sup>30</sup> Thus, religious moderation can be positioned as a normative ethic within Islamic law that guides the process of *ijtihād* and the implementation of law in a dynamic society.

In the classical Islamic legal tradition, the principle of moderation has been an inherent part of the methodology for establishing law (*istinbāt al-aḥkām*). The jurists emphasized the balance between text (*naṣṣ*), rationality (*'aql*), and social reality (*wāqī'*). This is reflected in *fiqh* maxims such as *al-mashaqqā tajlib al-taysīr* (hardship leads to ease) and *dar' al-mafāsīd muqaddam 'alā jalb al-*

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<sup>27</sup> M. Rosyid et al., "Revitalization of Uṣūl Al-Fiqh through Iḥtiyāṭī Principles," in *Religion, Education, Science and Technology towards a More Inclusive and Sustainable Future*, 2024, 44–49, <https://doi.org/10.1201/9781003322054>; Said Syaripuddin, "Maslahat as Considerations of Islamic Law in View Imam Malik," *Samarah* 4, no. 1 (2020): 85–106, <https://doi.org/10.22373/sjhk.v4i1.6754>.

<sup>28</sup> Iffatin Nur, Syahrul Adam, and M. Ngizzul Muttaqien, "Maqāṣid Al-Sharī'at: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (December 30, 2020), <https://doi.org/10.15408/ajis.v20i2.18333>; Jasser Auda, *Maqāṣid Al-Sharī'ah as Philosophy of Islamic Law A Systems Approach* (London: The International Institute of Islamic Thought, 2008), <https://doi.org/978-1-56564-424-3>; Mohammad Hashim Kamali, "Definition and Meaning of Maqāṣid," in *Actualization (Tafīl) of the Higher Purposes (Maqāṣid) of Shariah* (International Institute of Islamic Thought (IIIT), 2020), 5–6, <https://doi.org/10.2307/j.ctv19pr6v5>.

<sup>29</sup> Mohammad Hashim Kamali, "Approaches to Maqāṣid: Reductionism, Expansionism and Moderation (Tafīrī, Ifrāt, I'tidāl)," in *Actualization (Tafīl) of the Higher Purposes (Maqāṣid) of Shariah* (International Institute of Islamic Thought (IIIT), 2020), 6–9.

<sup>30</sup> Nasrulloh Nasrulloh, "Maqasid Shari'ah sebagai Pendekatan Sistem dalam Hukum Islam," *De Jure: Jurnal Hukum dan Syariah* 2, no. 2 (December 30, 2010), <https://doi.org/10.18860/j-fsh.v2i2.2970>; Wael Hallaq, "Groundwork of the Moral Law: A New Look at the Qur'an and the Genesis of Sharī'a," *Islamic Law and Society* 16, no. 3–4 (2009): 239–79, <https://doi.org/10.1163/092893809X12547479392108>.

*maṣāliḥ* (repelling harm takes precedence over achieving benefit). This framework demonstrates that from the outset, Islamic law was designed to be contextual, moderate, and responsive to human needs.

Religious moderation also relates to the relationship between ideal norms and social reality. Islamic law does not stand as a rigid normative system, but rather as an ethical-juridical instrument that must interact with the dynamics of society. In this context, religious moderation serves as a corrective principle that prevents the application of law from falling into extremes—either in the form of textual rigidity or relativism that ignores the fundamental values of Sharia.

Furthermore, religious moderation reflects the gradual and flexible character of Islamic law.<sup>31</sup> The application of law does not always demand uniformity, but rather adapts to the social, cultural, and institutional conditions of society. Thus, religious moderation is not a compromise with Sharia principles, but rather a normative strategy to ensure that Islamic law can be implemented effectively and socially accepted.

In the Indonesian context, religious moderation can be seen through state policies, religious fatwas, and the practice of Islamic law in society. One concrete example is the Indonesian Ulema Council's fatwa on countering extremism and radicalism, which emphasizes the importance of a moderate approach to understanding and practicing Islamic teachings. This fatwa demonstrates that religious moderation serves as a normative principle that guides the practice of Islamic law so that it remains aligned with the principles of social justice and legal order. In the Indonesian legal system, Islamic law serves as a source of values that inspires public policy without always having to be formalized as positive law binding on all citizens.

This document-based approach demonstrates that religious moderation in Indonesia functions as a preventative public legal ethic. Moderation ensures that religious expression does not exceed limits that could disrupt legal order and social justice. Thus, religious moderation is a crucial instrument in maintaining a balance between Islamic values, the state constitution, and the reality of societal plurality.

Meanwhile, in Brunei Darussalam, religious moderation operates within a state framework that explicitly bases Islam on law. This practice can be seen, for

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<sup>31</sup> Kamali, "Approaches to Maqāṣid: Reductionism, Expansionism and Moderation (Tafriṭ, Ifrāṭ, I'tidāl)."

example, in the rulings of the Brunei Darussalam Sharia Court, which considers the welfare and social stability aspects in the application of Islamic law. Interview data with religious authorities indicates that moderation is understood as a principle of prudence in legal implementation, not as a compromise with Sharia. This approach emphasizes that the implementation of Islamic law must consider social preparedness and its potential impacts.<sup>32</sup>

These findings indicate that religious moderation in Brunei serves as an institutional mechanism that maintains the image of Islamic law as a protective and welfare-oriented system. Religious actors assert that extreme approaches have the potential to undermine the legitimacy of Islamic law in public policy.

From an Islamic legal perspective, religious moderation is also closely related to the principle of justice (*al-'adl*). Justice is not merely defined as the formal application of norms, but also as an effort to maintain a balance between rights and obligations in a pluralistic society. The application of Islamic law that ignores moderation has the potential to create social tension and structural injustice, ultimately contradicting the objectives of Sharia itself.

Thus, religious moderation from an Islamic legal perspective can be understood as a normative principle that guides the interpretation, application, and development of law to maintain alignment with the *maqāṣid al-sharī'a*. Document analysis in Indonesia and empirical findings in Brunei Darussalam demonstrate that religious moderation functions not only at the normative level but also as an institutional mechanism in legal practice. Therefore, this section emphasizes that religious moderation serves as a conceptual foundation for subsequent analysis, which will examine in more detail how this principle operates within the dynamics of contemporary Islamic law as living Islamic law.

## Religious Moderation in Indonesia and Brunei Darussalam

Religious moderation in Indonesia and Brunei Darussalam developed in different constitutional contexts, but both position Islam as the source of normative values in public life. Indonesia is a non-theocratic state with a pluralistic legal system, while Brunei Darussalam formally utilizes Islam as the basis of state law. This difference has direct implications for the forms, mechanisms, and institutionalization of religious moderation in each country.

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<sup>32</sup> Interview with Brunei Darussalam religious authorities, 2023.

This research uses a comparative approach using cross-case analysis and thematic comparison methods. Data were obtained through analysis of policy documents in Indonesia and in-depth interviews with religious authorities and academics in Brunei Darussalam. The analysis process was conducted by identifying key themes, such as the function of moderation, institutional forms, and orientations of the *maqāṣid al-sharī'a*, then comparing them to systematically identify patterns of similarities and differences.

In the Indonesian context, religious moderation is institutionalized through state policy and Islamic legal discourse. One key document is the religious moderation policy in the 2020–2024 National Medium-Term Development Plan (RPJMN), which positions moderation as a strategy for strengthening human resources and social cohesion.<sup>33</sup> Furthermore, the Indonesian Ulema Council's fatwa on countering extremism indicates that religious moderation functions as a normative principle in guiding religious practice.

Findings indicate that religious moderation in Indonesia functions as a preventative and integrative public legal ethic. Moderation is used to manage plurality, limit potentially conflicting religious expressions, and maintain social stability. Within this framework, Islamic law is not always formalized as positive law, but rather serves as a source of values that influence social policy and practice.

In contrast, in Brunei Darussalam, religious moderation operates within a state framework that formally implements Islamic law through the Sharia Penal Code Order of 2013. Based on interview data in this study, moderation is understood as a principle of prudence in the implementation of Islamic law. An Islamic law academic in Brunei stated that the implementation of Sharia law is not only oriented towards enforcing norms, but also considers social readiness and the impact on societal stability. Meanwhile, informants from religious authorities emphasized that a gradual approach (*tadarruj*) is necessary to ensure Islamic law is accepted by society and does not spark social resistance.

These findings indicate that religious moderation in Brunei functions as an institutional mechanism that maintains the legitimacy of Islamic law while ensuring its orientation toward the welfare of the community. The state

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<sup>33</sup> Kementerian Agama Republik Indonesia, *Moderasi Beragama* (Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2019); National Development Planning Agency (Bappenas), "Presidential Decree No. 18 Year 2020," *National Mid-Term Development Plan 2020-2024*, 2020, 313, <https://www.bappenas.go.id/id/data-dan...dan.../rpjmn-2015-2019/>.

emphasizes not only law enforcement but also education and moral development of the community as part of its moderation strategy.

To clarify the comparison, the results of the analysis can be summarized as follows:

Table 1  
Comparison of Religious Moderation in Indonesia and Brunei Darussalam

Aspect	Indonesia	Brunei Darussalam
Constitutional Basis	A pluralistic, non-theocratic state	An Islamic-based state
Form of Moderation	Public legal ethics	Institutional principles of Sharia law
Instrument	State policies, religious edicts ( <i>fatwas</i> ), and moderation programs	Sharia legislation, judicial institutions, and state policies
Approach	Preventive and integrative	Gradual ( <i>tadarruj</i> ) and institutional
Function	Management of pluralism and conflict	Preservation of the legitimacy and stability of Islamic law

Despite differences in structure and mechanisms, both countries demonstrate a similar normative orientation, namely a rejection of extremism and an emphasis on balancing texts and social reality. These differences reflect varying strategies for realizing public welfare according to their respective contexts.

From the perspective of *maqāṣid al-sharī'a*, religious moderation in both contexts serves as an instrument for realizing the goals of Sharia, particularly in safeguarding religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), and social order. In Indonesia, religious moderation contributes to social stability in a pluralistic society, while in Brunei Darussalam, moderation ensures that the implementation of Islamic law remains adaptive and socially acceptable. Thus, religious moderation in both countries is not only normative but also operational in legal and institutional practice.

This finding confirms that religious moderation is a concrete form of living Islamic law, that is, Islamic law that exists not only in normative texts but also functions in social and institutional practices. This also demonstrates that the *maqāṣid al-sharī'a* serves not only as a theoretical framework but also as an operational basis for the development of contemporary Islamic law.

## Religious moderation from the Perspective of *Maqāṣid al-sharī'a*

The *maqāṣid al-sharī'a* approach provides a comprehensive normative framework for understanding religious moderation as an integral part of the objectives of Islamic law. In the development of contemporary Islamic legal studies, *maqāṣid* serves not only as an evaluative framework but also as a constructive methodology for responding to social dynamics, including issues of pluralism, radicalism, and digital transformation.<sup>34</sup> Within this framework, religious moderation serves as a normative mechanism that ensures that the application of Islamic teachings remains oriented toward the benefit of God and the prevention of harm.<sup>35</sup>

This analysis demonstrates that religious moderation cannot be separated from the teleological orientation of Islamic law. Any religious expression that gives rise to violence, extremism, or injustice can be viewed as a deviation from *maqāṣid*, even if it claims textual legitimacy. Thus, religious moderation serves as a normative instrument for testing the social validity of the application of Islamic law.

In the context of Indonesia and Brunei Darussalam, the implementation of *maqāṣid* is heavily influenced by national legal structures. In Indonesia, the pluralistic legal system allows *maqāṣid* to be operationalized through public policy and legal ethics, such as religious moderation programs integrated into national policy.<sup>36</sup> Meanwhile, in Brunei Darussalam, *maqāṣid* is internalized

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<sup>34</sup> Tawffeeq A. S. Mohammed, "A Scientometric Study of Maqasid Al-Shariah Research: Trending Issues, Hotspot Research, and Co-Citation Analysis," *Frontiers in Research Metrics and Analytics* 9 (November 27, 2024), <https://doi.org/10.3389/frma.2024.1439407>; Felicitas Opwis, "Maṣlaḥa and The Purpose of The Law: Islamic Discourse of Legal Change from The 4th/10th to 18th/14th Century," in *Studies in Islamic Law and Society*, ed. Bernard Weiss (Leiden: Brill, 2010), <https://doi.org/10.1163/ej.9789004184169.i-370>; Jasser Auda, *Maqasid Al-Shari'ah as Philosophy of Islamic Law: A Systems Approach* (Herndon: The International Institute of Islamic Thought, 2010); Zaprukh Khan Zaprukh Khan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda," *Walisongo: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (December 3, 2018): 445, <https://doi.org/10.21580/ws.26.2.3231>.

<sup>35</sup> Edi Kurniawan et al., "Early Marriage, Human Rights, and the Living Fiqh: A Maqasid Al-Shari'a Review," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 20, no. 1 (May 28, 2020): 1–15, <https://doi.org/10.30631/alrisalah.v20i1.565>; Nasrullah Nasrullah et al., "Reconstructing Mining Governance through Maqasid Al-Sharia: Towards Natural Resource Management Public Welfare Oriented," *Syariah Jurnal Hukum dan Pemikiran* 25, no. 1 (2025): 97–116, <https://doi.org/10.18592/sjhp.v25i1.18046>.

<sup>36</sup> Muhammad Nasir and Muhammad Khairul Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (December 8, 2021): 213–41, <https://doi.org/10.18326/>

within the formal Sharia-based legal system, particularly through the implementation of Islamic criminal law and state religious policies.<sup>37</sup> Field findings indicate that religious authorities in Brunei explicitly consider aspects of social welfare in implementing the law, reflecting the operationalization of *maqāṣid* within the institutional context.

From the perspective of *ḥifẓ al-dīn*, religious moderation demands a proportional and non-extremist understanding of religion. Studies in Indonesia show that a moderation approach aims to build an inclusive understanding of Islam and reject the legitimacy of violence in religious education and practice.<sup>38</sup> Meanwhile, interview data in Brunei indicates that safeguarding religion also means maintaining Islam's image as a religion of peace and social stability.<sup>39</sup>

In terms of the principle of self-determination, religious moderation serves as a primary mechanism for preventing religion-based violence. Various studies indicate that extremism is correlated with acts of terrorism and violence that are normatively contrary to the goals of Sharia.<sup>40</sup> In the Indonesian context, religious moderation policies serve as a preventative instrument, closing the space for theological legitimacy for radicalism. In Brunei, field findings indicate that social stability is a top priority in the implementation of Islamic law, which directly reflects the *maqāṣid* orientation toward protecting life.

The protection of reason (*ḥifẓ al-'aql*) requires strengthening religious literacy and public rationality. Analysis in Indonesia shows that religious moderation is directed at strengthening intellectual traditions and digital

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ijims.v11i2.213-241; Gatot Prasetyo, Yanuar Rizki Fauziah, and Ahmad Syafii, "From Policy to Pedagogy: Religious Moderation as a Counter-Radicalization Strategy in Islamic Education — A Systematic Literature Review," *Jurnal Pendidikan Islam* 14, no. 2 (October 10, 2025): 233–51, <https://doi.org/10.14421/jpi.2025.142.233-251>.

<sup>37</sup> Interview with Brunei Darussalam religious authorities, 2023.

<sup>38</sup> Nasir and Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia"; Prasetyo, Fauziah, and Syafii, "From Policy to Pedagogy: Religious Moderation as a Counter-Radicalization Strategy in Islamic Education — A Systematic Literature Review."

<sup>39</sup> Interview with Brunei Darussalam religious authorities, 2023.

<sup>40</sup> Mukhlis Mukhlis et al., "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (June 24, 2024): 58–87, <https://doi.org/10.18860/j-fsh.v16i1.26216>; Ahmad Kamaludin and Iskandar Iskandar, "Islamic Fanatism and Terrorism Cases in Indonesia the Perspective of Islamic Criminal Law," *El-Mashlahah* 12, no. 2 (December 31, 2022): 153–63, <https://doi.org/10.23971/el-mashlahah.v12i2.4397>.

literacy to prevent the spread of extremist ideologies.<sup>41</sup> Meanwhile, in Brunei, moderate religious education is positioned as a strategic instrument in preventing narrow interpretations of Islamic teachings.<sup>42</sup> This demonstrates that *maqāṣid* operates not only in the normative realm, but also within the education system and knowledge production.

In the context of *ḥifẓ al-nasl*, religious moderation contributes to family stability and social cohesion. Empirical studies show that harmonious families serve as a protective factor against radicalization, while family dysfunction increases the risk of extremism.<sup>43</sup> Thus, religious moderation impacts not only individuals but also collective social sustainability.

Meanwhile, the Islamic jurisprudence emphasizes the importance of fair and transparent economic governance. Research shows that extremism is often correlated with economic distortions, such as corruption and unequal distribution of resources.<sup>44</sup> In the Brunei context, interview findings indicate that economic stability is viewed as an integral part of the implementation of Islamic law, strengthening the link between the *maqāṣid* and state economic policy.<sup>45</sup>

In addition to the five classical objectives, the *maqāṣid al-sharī'a* in the contemporary context also encompasses new issues, such as environmental

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<sup>41</sup> Riska Fauziah Hayati, "Transmisi Hukum Ekonomi Syariah di Ruang Digital (Kajian terhadap Akun Instagram @Muamalah\_Daily)," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 1 (June 21, 2021): 19, <https://doi.org/10.31958/juris.v20i1.2903>; Fitri Meliya Sari, Ahmad Tamrin Sikumbang, and Rubino Rubino, "Teungku Inong and Digital Da'wah in Aceh Balancing Social Media, Career, and Family through an Islamic Communication Perspective," *El-Usrah: Jurnal Hukum Keluarga* 8, no. 1 (2025), <https://doi.org/10.22373/gn56dh46>; Deri Rizal et al., "Portrait of Regional Regulations for Public Order and Tranquility in a Tolerant and Inclusive Society in West Sumatra," *El-Mashlahah* 15, no. 2 (November 8, 2025): 213–30, <https://doi.org/10.23971/el-mashlahah.v15i2.7826>.

<sup>42</sup> Interview with Brunei Darussalam Academics, 2023

<sup>43</sup> Enas ObaidAllah Sarour and Mogeda El Sayed El Keshky, "Understanding Extremist Ideas: The Mediating Role of Psychological Well-Being in the Relationship between Family Functioning and Extremism," *Children and Youth Services Review* 136 (May 2022): 106420, <https://doi.org/10.1016/j.childyouth.2022.106420>; Izabela Zych and Elena Nasaescu, "Is Radicalization a Family Issue? A Systematic Review of Family-Related Risk and Protective Factors, Consequences, and Interventions Against Radicalization," *Campbell Systematic Reviews* 18, no. 3 (September 20, 2022), <https://doi.org/10.1002/cl2.1266>.

<sup>44</sup> P. Mauro, "Corruption and Growth," *The Quarterly Journal of Economics* 110, no. 3 (August 1, 1995): 681–712, <https://doi.org/10.2307/2946696>; Daniel Meierrieks and Thomas Gries, "Causality between Terrorism and Economic Growth," *Journal of Peace Research* 50, no. 1 (January 1, 2013): 91–104, <https://doi.org/10.1177/0022343312445650>.

<sup>45</sup> Interview with Brunei Darussalam religious authorities, 2023.

protection, digital technology, and human rights. Religious moderation in this context serves as a normative framework to ensure that technological developments and public policy remain aligned with the principles of justice, humanity, and sustainability. This demonstrates that the *maqāṣid* are dynamic and able to respond to the challenges of modernity.

However, the implementation of the *maqāṣid* is not without challenges. The tension between the textual and *maqāṣid* approaches frequently arises in Islamic legal practice, particularly in the context of pluralism and modernity. In some cases, literal interpretations of texts can conflict with broader goals of public welfare.<sup>46</sup> Therefore, religious moderation serves as a methodological bridge, ensuring that legal interpretation remains within the framework of Sharia objectives.<sup>47</sup>

Based on this analysis, this study proposes a new conceptual model, "Religious Moderation as a Living *Maqāṣid* Framework," which positions moderation as: a normative principle in the interpretation of Islamic law, an institutional mechanism in state policy, and a social practice in community life. This model integrates normative and empirical dimensions, thus expanding the understanding of *maqāṣid* from mere theory to living legal practice.

The practical implications of this model are highly relevant for policymakers and religious institutions. In Indonesia, this model can strengthen the religious moderation program developed by the Ministry of Religious Affairs of the Republic of Indonesia by providing a theoretical foundation based on *maqāṣid*. In Brunei Darussalam, this model can serve as an evaluative framework for policies developed by the Office of the Mufti of Brunei Darussalam to ensure that the implementation of Islamic law remains adaptive and oriented toward the public interest.

To clarify the comparison of the implementation of the *maqāṣid*, the findings can be summarized as follows:

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<sup>46</sup> Rohmad Adi Yulianto, "Kebijakan Penanganan Pengungsi Di Indonesia Perspektif Maqasid Al-Syari'ah," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 2 (November 28, 2019): 169–86, <https://doi.org/10.24090/mnh.v13i2.2460>.

<sup>47</sup> Bakhrul Huda et al., "Assessing the Legality of Cryptocurrency Trading in Indonesia's Commodity Market: An Analytical Study Based on Maqāṣid Al-Sharī'ah," *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 1 (2025), <https://doi.org/10.18592/sjhp.v25i1.16759>.

Table 2.

Comparison of *Maqāṣid* Implementation between Indonesia and Brunei

Aspect	Indonesia	Brunei Darussalam
Implementation Basis	Public policy and legal ethics	Formal Sharia Law
Maqāṣid Orientation	Preventive and social	Institutional and stability-oriented
Instrument	Religious moderation initiatives, education, and regulatory frameworks	Legislation, judicial institutions, and religious education
Challenge	Pluralism and social conflict	Legitimacy and social acceptance

Thus, religious moderation from the perspective of *maqāṣid al-sharī'a* can be understood as an integrative instrument that bridges Sharia norms and social reality. This finding confirms that *maqāṣid* serves not only as a theoretical framework but also as an operational basis for the development of contemporary Islamic law as living Islamic law.

### Implications of Religious Moderation for the Development of Contemporary Islamic Law

Religious moderation has fundamental implications for the direction of contemporary Islamic legal development, particularly in responding to the complexities of modern, pluralistic and dynamic societies. Religious moderation allows Islamic law to be understood not as a static normative system, but as a legal instrument capable of interacting with social realities without losing its orientation toward justice and the common good. In this context, religious moderation serves as a guiding principle that prevents Islamic law from becoming trapped in textual formalism or extreme responses to social change.<sup>48</sup> This implication demonstrates that the development of Islamic law is not always synonymous with formal legislation, but also occurs through the strengthening of normative principles that guide legal interpretation and practice. The *maqāṣid al-sharī'a* approach asserts that Islamic law is an interpretative process

<sup>48</sup> Mohammad Hashim Kamali, *Maqasid Al-Shari'ah: The Objectives of Islamic Law* (Cambridge: Islamic Texts Society, n.d.); Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (06.International Institute of Islamic Thought, 2008); Andrew F. March, "Islamic Foundations for a Social Contract in Non-Muslim Liberal Democracies," *American Political Science Review* 101, no. 2 (May 21, 2007): 235–52, <https://doi.org/10.1017/S0003055407070128>.

oriented toward the common good, so that its validity is determined not only by state formalization but also by social relevance and societal acceptance.<sup>49</sup>

In the Indonesian context, the development of Islamic law occurs through the internalization of Sharia values in public policy. One concrete example is the integration of religious moderation into the 2020–2024 National Medium-Term Development Plan (RPJMN) and the moderation strengthening program implemented by the Ministry of Religious Affairs of the Republic of Indonesia. This program includes strengthening the moderation education curriculum, training religious instructors, and developing digital religious literacy. Data shows that this approach contributes to reducing the potential for radicalism through a preventive approach based on education and social policy.<sup>50</sup>

Furthermore, various deradicalization and social rehabilitation programs developed by the state demonstrate that a religious moderation approach is more effective than a purely repressive approach. Empirical studies indicate that an education-based approach and social reintegration have a significant impact on reducing terrorism recidivism and increasing social acceptance of moderate values. In contrast, in Brunei Darussalam, the development of Islamic law takes place within an institutional framework that formally implements Sharia through the Sharia Penal Code Order of 2013. However, research findings indicate that the implementation of this law is not carried out rigidly, but rather through a gradual approach (*tadarruj*) that takes into account the community's social readiness. Interviews with religious authorities indicate that the state actively integrates moderate religious education and moral development as part of its legal implementation strategy.<sup>51</sup>

This approach demonstrates that even within the formal legal system, moderation remains a key principle in maintaining the legitimacy of Islamic law. Public acceptance of the implementation of Sharia law in Brunei is also influenced by this moderate approach, which prioritizes social stability and public welfare, rather than simply normative enforcement.

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<sup>49</sup> Adis Duderija, ed., *Maqasid Al-Shari'ah and Contemporary Reformist Muslim Thought* (Palgrave Macmillan, 2014), <https://doi.org/10.1057/9781137319418>; Hallaq, "Groundwork of the Moral Law: A New Look at the Qur'an and the Genesis of Sharī'a."

<sup>50</sup> Mukhlis et al., "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura."

<sup>51</sup> Interview with Brunei Darussalam religious authorities, 2023.

Religious moderation also has direct implications for strengthening the practice of contextual *ijtihad* in contemporary Islamic law. Moderation encourages scholars and policymakers to consider the social impact of every legal product, thus making the *maqāṣid al-sharī'a* as the primary standard in policy evaluation. Studies on correctional systems and legal policy show that the success of law is measured not only by the existence of norms, but also by its ability to produce social justice and moral rehabilitation.<sup>52</sup>

Furthermore, religious moderation strengthens Islamic law's position as a living law, that is, law that lives and develops within social and institutional practices. In Indonesia, Islamic legal values continue to be produced through policy discourse and social practice, while in Brunei Darussalam, Islamic law is implemented through negotiations between religious legitimacy and social stability within a modern state system.<sup>53</sup>

Based on these findings, this study proposes a new conceptual framework, namely "Religious Moderation as a Framework for Contemporary Islamic Legal Development," which positions moderation as: (1) a normative principle in legal interpretation, (2) a policy mechanism in the state system, and (3) an evaluative instrument based on *maqāṣid*. This framework shows that the development of Islamic law is not only structural, but also substantive and contextual.

The practical implications of this framework are highly relevant for policymakers and religious institutions. In Indonesia, this framework can strengthen the design of religious moderation policies developed by the Ministry of Religious Affairs of the Republic of Indonesia, particularly in the integration of religious education, regulation, and digital literacy. In Brunei Darussalam, this framework can serve as a basis for policy evaluation by the

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<sup>52</sup> Bunyamin Bunyamin et al., "Reforming Indonesia's Correctional System: The Role of Maqāṣid Al-Syarī'ah in Ensuring Justice and Rehabilitation," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 1 (April 1, 2025): 52–71, <https://doi.org/10.18860/j-fsh.v17i1.29258>; Yusrizal Hasbi et al., "Criminalising Women, Silencing Victims: Human Rights and Sharia Enforcement in Aceh," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 1 (June 6, 2025): 175–203, <https://doi.org/10.18860/j-fsh.v17i1.29635>.

<sup>53</sup> Sri Hidayati et al., "Reconstructing Divine Authority in Indonesian Islamic Law: A Critical-Maqāṣid Epistemology and the Reinterpretation of Wasiat Wājibah for Non-Muslim Heirs," *Jurnal Indo-Islamika* 15, no. 2 (December 26, 2025): 244–58, <https://doi.org/10.15408/jii.v15i2.49045>; Muhammad Nur et al., "Negotiating Legal Pluralism: Sharia and Civil Law Integration in Brunei Darussalam," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (September 27, 2025): 535–52, <https://doi.org/10.22219/ljih.v33i2.40916>; Siti Nurzanah Haji Dullah and Shaikh Abdul Mabud, "Promoting Islamic Education in Brunei Society Following the Implementation of the Shariah Law in 2013," *Dinamika Ilmu* 24, no. 2 (December 1, 2024): 149–75, <https://doi.org/10.21093/div24i2.8408>.

Office of the Mufti of Brunei Darussalam to ensure that the implementation of Islamic law remains adaptive, gradual, and oriented toward the public interest.

Thus, religious moderation serves as a conceptual bridge between Sharia norms and social realities in the development of contemporary Islamic law. The differences in development trajectories between Indonesia and Brunei Darussalam demonstrate that moderation allows for strategic flexibility without altering the fundamental objectives of Sharia. This confirms that religious moderation is a key element in maintaining the relevance, legitimacy, and sustainability of Islamic law as a living Islamic law oriented toward the public interest.

## Conclusion

This article asserts that religious moderation can be understood as living Islamic law, that is, Islamic law that is alive and operational in social practices, public policies, and religious institutions. From the perspective of the *maqāṣid al-sharī'a*, religious moderation functions as a normative principle guiding the realization of the primary objectives of Sharia—protection of religion, life, intellect, descendants, and property—which ultimately lead to public benefit. The research findings demonstrate that religious moderation does not stop at the level of moral discourse or social policy, but operates as a public legal ethic and institutional principle that guides the interpretation and application of Islamic law contextually. In practice, religious moderation significantly contributes to social stability, strengthening tolerance, and preventing extremism, thus representing an adaptive, balanced, and welfare-oriented face of Islamic law in a modern, pluralistic society.

Based on these findings, this study recommends that religious moderation be used as a normative framework in the formulation of policies, religious practices, and the management of Islamic legal institutions, with *maqāṣid al-sharī'a* as the primary evaluative parameter. Practically, this approach can strengthen religious moderation policies, increase the effectiveness of deradicalization programs, and ensure that the implementation of Islamic law remains contextual and accepted by society. Academically, this research encourages the development of Islamic legal studies that place religious moderation as an integral part of the dynamics of living Islamic law through normative and empirical approaches. This approach is expected to enrich contemporary Islamic legal discourse and strengthen its relevance in

addressing the challenges of religiosity in an increasingly complex and dynamic global society.[a]

### **Acknowledgment**

The author would like to express sincere gratitude to Universitas Islam Negeri Walisongo Semarang, particularly the Faculty of Sharia and Law, for its support through the 2023 International Collaborative Research Grant as stipulated in the Rector/KPA Decree Number 4195/Un.10.1/D/HK.02.02/06/2023 dated June 21, 2023, which made this research possible. The author also extends appreciation to all parties involved in the research collaboration, as well as to the Indonesia Bangkit Scholarship–Education Fund Management Institute (BIB–LPDP) under the Ministry of Religious Affairs of the Republic of Indonesia for their support and contribution to the development of this research.

### **Author Contribution Statement**

**Muslich Shabir:** Conceptualization; Formal Analysis; Investigation; Methodology; Project Administration; Resources; Validation; Visualization; Writing Original Draft; Writing, Review & Editing.

**Maskur Rosyid:** Conceptualization; Data Curation; Formal Analysis; Methodology; Project Administration; Resources; Visualization; Writing, Review & Editing.

**Harapandi Dahri:** Project Administration; Validation; Visualization; Writing, Review & Editing.

**Mustla Sofyan Tasfiq:** Data Curation; Funding Acquisition; Resources; Validation; Writing, Review & Editing.

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