

Harmonizing Islamic Law and National Law in Indonesia: Legal Pluralism, *Maqāṣid al-sharī'ah*, and the Pursuit of Substantive Justice

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ABSTRAK

Hubungan antara hukum Islam dan hukum nasional di Indonesia tidak dapat dijelaskan secara memadai melalui oposisi biner antara norma agama dan hukum negara. Hubungan tersebut lebih tepat dipahami sebagai proses negosiasi yang terus berlangsung dalam tatanan hukum yang plural, diatur secara konstitusional, dan memiliki keragaman sosial. Artikel ini mengkaji kembali prospek harmonisasi hukum Islam dan hukum nasional dengan mengintegrasikan perspektif pluralisme hukum, *maqāṣid al-sharī'ah*, serta teori hukum responsif dan hukum progresif. Dengan menggunakan penelitian hukum normatif melalui pendekatan perundang-undangan, konseptual, historis, dan komparatif, penelitian ini mengkaji ketentuan konstitusional, peraturan perundang-undangan, sejumlah perkembangan yudisial, serta kajian sosio-legal mutakhir mengenai pengintegrasian norma-norma Islam ke dalam hukum Indonesia. Hasil analisis menunjukkan bahwa harmonisasi tidak seharusnya dimaknai sebagai formalisasi hukum Islam menjadi suatu kodifikasi negara yang seragam, maupun sebagai marginalisasi norma-norma agama dari perkembangan hukum nasional. Sebaliknya, harmonisasi harus berlangsung sebagai proses konstitusional untuk menerjemahkan nilai-nilai Islam yang memiliki legitimasi normatif—terutama keadilan, kemaslahatan, kesetaraan, martabat manusia, serta perlindungan terhadap jiwa, akal, keluarga, dan harta—ke dalam aturan hukum yang selaras dengan Pancasila, hak-hak konstitusional, dan proses pembentukan hukum yang demokratis. Artikel ini selanjutnya berpendapat bahwa harmonisasi yang efektif memerlukan perhatian secara simultan terhadap substansi hukum, struktur kelembagaan, dan budaya hukum. Perkembangan hukum di Aceh dalam beberapa tahun terakhir menunjukkan sekaligus kemungkinan dan keterbatasan pluralisme hukum, khususnya ketika regulasi Islam di tingkat daerah berinteraksi dengan peraturan perundang-undangan nasional dan jaminan hak asasi manusia. Artikel ini menawarkan model harmonisasi yang dialogis dan berorientasi pada *maqāṣid al-sharī'ah*, yang diarahkan pada pencapaian keadilan substantif, bukan sekadar konsistensi regulasi secara formal.

Kata kunci: hukum Islam; hukum nasional; pluralisme hukum; *maqāṣid al-sharī'ah*; konstitusionalisme; Indonesia.

ABSTRACT

The relationship between Islamic law and national law in Indonesia cannot be adequately explained through a binary opposition between religious norms and state law. It is better understood as a continuing process of negotiation within a legally plural, constitutionally regulated, and socially diverse order. This article re-examines the prospects for harmonizing Islamic law and national law by integrating legal pluralism, *maqāṣid al-sharī'ah*, and theories of responsive and progressive law. Using normative legal research with statutory, conceptual,

historical, and comparative approaches, the study examines constitutional provisions, legislation, selected judicial developments, and recent socio-legal scholarship on the incorporation of Islamic norms into Indonesian law. The analysis demonstrates that harmonization should not mean the formalization of Islamic law as a uniform state code, nor the marginalization of religious norms from national legal development. Rather, it should operate as a constitutional process of translating normatively legitimate Islamic values—especially justice, public benefit, equality, dignity, and protection of life, intellect, family, and property—into rules that are compatible with Pancasila, constitutional rights, and democratic lawmaking. The article further argues that effective harmonization requires simultaneous attention to legal substance, institutional structure, and legal culture. Recent developments in Aceh illustrate both the possibilities and limits of legal pluralism, particularly when regional Islamic regulations interact with national legislation and human-rights guarantees. The article proposes a dialogical and *maqāsid*-oriented model of harmonization aimed at substantive justice rather than merely formal regulatory consistency.

Keywords: Islamic law; national law; legal pluralism; *maqāsid al-shari'ah*; constitutionalism; Indonesia

Introduction

The Indonesian legal order is constitutionally unified but normatively plural. Its contemporary structure has developed through the interaction of state legislation, Islamic norms, customary law, colonial legal legacies, judicial institutions, and social practices. This plurality is not an accidental feature that can simply be eliminated through legislative standardization. It is a historical and sociological condition of Indonesian law. Scholarship on legal pluralism has long emphasized that state law coexists with other normative orders, and that the practical operation of law often depends on interactions among them rather than on the exclusive authority of formal legislation (Griffiths, 1986; Tamanaha, 2021). In Indonesia, the interaction is especially visible in the fields of family law, Islamic finance, waqf, halal regulation, religious courts, and, in a distinctive regional form, the implementation of Islamic law in Aceh.

The starting point for the present discussion is therefore not whether Islamic law should replace national law, but how Islamic normative values can participate legitimately in national legal development. The distinction is important. Indonesia is neither a secular legal order that excludes religion from public law nor a theocratic state in which a single interpretation of Islamic law automatically constitutes state law. Instead, the constitutional framework provides space for religious life while simultaneously requiring legislation and public authority to operate within constitutional guarantees, democratic procedures, equality before the law, and protection of fundamental rights. The uploaded manuscript correctly identifies harmonization as a central problem of legal development, emphasizing the need to reconcile Islamic law, customary law, and national law while preserving justice, legal certainty, and social benefit. [filecite?turnofileo?L36-L57](https://ojs.umsida.ac.id/index.php/JISRev/index)

Historically, the position of Islamic law in Indonesia has been shaped by changing relationships between religious authority and political authority. The debate is therefore

not merely doctrinal. It concerns who has the authority to define Islamic norms, through what institutional mechanism those norms acquire legal force, whose interests they protect, and how they are reconciled with the rights of citizens who may hold different religious or legal commitments. Salim (2010) describes Aceh as a particularly revealing case of dynamic legal pluralism, in which sharia courts, state courts, adat institutions, and political authorities have repeatedly negotiated their respective jurisdictions. Siregar (2008a, 2008b) similarly demonstrates that the implementation of Islamic law in Aceh has been inseparable from the national politics of decentralization, legal pluralism, and institutional design.

Contemporary scholarship also shows that the incorporation of Islamic law is not a one-directional process. Islamic norms can be transformed when translated into legislation, while state institutions and national legal categories can themselves be reshaped by Islamic concepts. Feener (2021), for example, demonstrates how Islamic law in Aceh participates in broader processes of social and institutional transformation. Shadiqin and Srimulyani (2022) further show that the production and enforcement of sharia involve competing formal and informal authorities. These findings challenge a simplistic model in which the state merely “adopts” Islamic law. What occurs is better described as institutional translation, negotiation, and selective incorporation.

At the same time, the language of harmonization can become problematic when it is reduced to formal consistency among statutes. A regulation may be internally consistent yet still produce substantive injustice. Conversely, legal plurality can create institutional flexibility but also uncertainty, overlapping jurisdiction, unequal treatment, and difficulties in rights protection. Recent debates on Aceh demonstrate this tension. The coexistence of state, customary, and Islamic norms may accommodate local identity and religious aspirations, but it can also generate conflicts when regional norms diverge from national legislation or constitutional rights (Djawas et al., 2024; Fuad et al., 2022). Thus, harmonization must be evaluated not only by whether norms fit together technically, but also by whether the resulting legal order protects dignity, equality, access to justice, and public welfare.

A second problem concerns the conceptual role of *maqāṣid al-sharīʿah*. In conventional accounts, *maqāṣid* is often reduced to the five necessities: religion, life, intellect, lineage, and property. Such a formulation remains important, but contemporary Islamic legal thought has increasingly treated *maqāṣid* as a methodological orientation toward human welfare, justice, dignity, and the prevention of harm. Auda's systems approach is especially influential because it encourages Islamic legal reasoning to move from isolated rules toward interconnected objectives and social consequences. Recent scholarship likewise argues that *maqāṣid* can provide an adaptive framework for legal reform when it is used carefully rather than as a rhetorical justification for predetermined outcomes (Omdurman & Auda, 2026; Zaprulkhan, 2018).

Against this background, the present article advances a more precise argument: harmonization between Islamic law and national law in Indonesia should be conceptualized as constitutional and dialogical translation rather than formal unification. Islamic law contributes principles and normative resources; constitutional law supplies the binding framework; legislation provides the institutional mechanism of incorporation; and legal culture determines how those norms are understood and practiced. The quality of harmonization therefore depends on the relationship among normative substance, legal institutions, and social legitimacy.

The article asks three questions. First, how should harmonization between Islamic law and national law be conceptually understood within Indonesia's plural legal order? Second, what philosophical, constitutional, and sociological foundations justify the incorporation of Islamic legal values into national law? Third, what institutional and methodological strategies can make that incorporation more responsive to substantive justice, constitutional rights, and social diversity? The article contributes to Islamic legal studies by reframing harmonization as a dynamic process of normative translation and by connecting *maqāṣid al-sharī'ah* to legal pluralism and constitutionalism rather than treating Islamic law as an autonomous legal system standing outside the national order.

Legal pluralism provides the most appropriate starting point for understanding the coexistence of Islamic, customary, and state law. Griffiths (1986) famously challenged the assumption that law is necessarily identical with the commands of the state, emphasizing the empirical reality of multiple normative orders operating within a social field. Tamanaha (2000, 2021) later developed a more flexible approach that avoids treating legal systems as fixed and internally homogeneous entities. For contemporary Indonesia, this perspective is useful because Islamic law itself is internally plural: it includes fiqh traditions, fatwas, religious institutions, judicial reasoning, legislation, and everyday religious practices.

The Indonesian experience also demonstrates that legal pluralism is dynamic rather than static. Salim (2010) shows that the relationship among sharia, adat, and state law in Aceh has changed across colonial, post-independence, New Order, and post-Reformasi periods. The current configuration is therefore the result of political negotiations and institutional redesign rather than the survival of an unchanged Islamic legal system. This insight is reinforced by Djawas et al. (2024), who describe Aceh as a field in which state law, customary law, and Islamic law have been institutionally accommodated while continuing to negotiate their respective authority.

Legal pluralism, however, should not be romanticized. Multiple normative orders can enhance access to justice and cultural recognition, but they can also create uncertainty and unequal power relations. Tamanaha (2011) warns that plural legal arrangements may either support or obstruct the rule of law depending on institutional conditions. The relevant question is therefore not whether Indonesia should have legal

pluralism, because it already does, but how pluralism can be constitutionally managed so that diversity does not undermine equality, predictability, and rights protection.

Maqāṣid al-sharī'ah offers a bridge between Islamic normativity and contemporary constitutional concerns because it directs attention to the purposes and consequences of law. The classical formulation identifies the protection of religion, life, intellect, lineage, and property as core necessities. Contemporary *maqāṣid* scholarship, however, increasingly emphasizes human dignity, justice, welfare, development, and institutional responsibility. The methodological value of *maqāṣid* lies precisely in its ability to distinguish enduring objectives from historically contingent legal forms.

Auda's systems approach is particularly relevant because it discourages atomistic reasoning. Islamic legal rules are not evaluated in isolation but in relation to broader systems, contexts, interdependencies, and outcomes. Zaprul Khan (2018) similarly explains that contemporary *maqāṣid* discourse requires methodological reconstruction capable of responding to changing social realities. More recent work by Omdurman and Auda (2026) explicitly links *maqāṣid*-oriented legal reform to human welfare, dignity, social justice, and emerging contemporary problems.

In the context of national law, *maqāṣid* should not be treated as a mechanism for bypassing constitutional procedures. Its stronger function is interpretive and normative: it can supply ethical criteria for assessing whether proposed legislation advances justice, prevents harm, protects vulnerable groups, and serves public welfare. This makes *maqāṣid* compatible with a constitutional model in which religious values enter public law through democratic legislation, judicial interpretation, policy design, and rights-sensitive institutional practice.

The third theoretical pillar is responsive and progressive law. Pound's classic conception of law as social engineering remains useful because it emphasizes the capacity of law to mediate competing interests and guide social transformation. In contemporary settings, however, the instrumental use of law must be constrained by constitutional rights and institutional accountability. The objective is not simply to engineer society according to the preferences of the dominant group, but to create legal arrangements capable of negotiating competing claims fairly.

Friedman's legal-system perspective adds an institutional dimension. A legal norm becomes effective only when legal substance, legal structure, and legal culture operate together. This insight is especially important for Islamic law. The enactment of an Islamic legal principle in legislation does not automatically ensure its implementation. Courts, administrative agencies, religious authorities, local institutions, and citizens must understand their respective roles. Where institutional capacity is weak or legal culture is polarized, formal harmonization may remain symbolic.

Progressive legal thought similarly places human beings and substantive justice at the center of legal development. In the Indonesian context, the value of this approach lies in preventing legal formalism from becoming an end in itself. Harmonization should

therefore be judged by its capacity to protect people and resolve social problems, not merely by the elegance of its legislative drafting.

Existing scholarship has made three important contributions but leaves room for a more integrated framework. First, legal-pluralist studies explain the coexistence and contestation of state, Islamic, and customary law, particularly in Aceh (Griffiths, 1986; Salim, 2010; Djawas et al., 2024). Second, studies of Islamic legal reform emphasize *maqāṣid* and contextual interpretation as mechanisms for adapting Islamic law to contemporary conditions (Zaprul Khan, 2018; Omdurman & Auda, 2026). Third, constitutional and socio-legal studies examine specific fields—such as criminal law, family law, or the position of non-Muslims—where Islamic norms interact with national law (Halim, 2022; Fuad et al., 2022). What remains comparatively underdeveloped is an integrated account of harmonization that connects these three dimensions: plural legal orders, *maqāṣid*-oriented norm translation, and constitutional institutionalization. This article addresses that gap by proposing harmonization as a dialogical process in which Islamic values are selectively translated into national law through constitutional procedures, tested against rights and public welfare, and sustained through institutional and cultural mechanisms.

3. Methodology

This article employs normative legal research (doctrinal legal research) with four complementary approaches: statutory, conceptual, historical, and comparative. The statutory approach examines the constitutional and legislative framework governing the relationship between religion and state law in Indonesia. Particular attention is given to the 1945 Constitution, Law No. 12 of 2011 on the Formation of Laws and Regulations as amended by Law No. 13 of 2022, Law No. 1 of 1974 on Marriage as amended by Law No. 16 of 2019, Law No. 3 of 2006 concerning Religious Courts, Law No. 41 of 2004 on Waqf, Law No. 21 of 2008 on Islamic Banking, Law No. 11 of 2006 on the Government of Aceh, and related regulations.

The conceptual approach is used to clarify harmonization, legal pluralism, *maqāṣid al-sharī'ah*, constitutionalism, and substantive justice. The historical approach traces the changing relationship between Islamic legal authority and national legal institutions, particularly in Aceh. The comparative dimension is limited to comparing different modes of incorporation, general national legislation, specialized religious institutions, and asymmetric regional regulation, rather than comparing Indonesia with another national legal system.

Primary legal materials consist of constitutional provisions, statutes, regional regulations, and selected judicial materials. Secondary materials consist of peer-reviewed journal articles, scholarly books, and recent academic studies with particular emphasis on DOI-bearing publications and research published in internationally visible journals. The materials were analyzed through qualitative doctrinal analysis: identification of legal norms, classification of their normative objectives, comparison of potentially overlapping

rules, and interpretation of the institutional mechanisms through which Islamic values acquire legal force. The analysis does not claim to measure public attitudes or empirical implementation outcomes. Where socio-legal studies are cited, they are used to contextualize doctrinal findings rather than to present primary empirical data generated by this study.

Results and Discussion

Harmonization as Constitutional Translation, Not Legal Uniformity

The central finding of this study is that harmonization should be understood as constitutional translation. This formulation is preferable to 'integration' when integration is understood as absorption or uniformity. Constitutional translation recognizes that an Islamic norm may enter national law without retaining precisely the same institutional form it has in classical fiqh. Conversely, a national legal rule may incorporate an Islamic ethical objective without being labeled 'Islamic law.' What matters is the substantive relationship among norm, procedure, institutional authority, and public purpose.

Such an approach avoids two opposite errors. The first is legal exclusivism, which assumes that only formally enacted state law can be legitimate and therefore treats religious norms as legally irrelevant. The second is formalist religious incorporation, which assumes that a rule derived from a particular interpretation of Islamic jurisprudence should become binding state law without further constitutional scrutiny. Both positions are inadequate in a plural constitutional democracy. The former ignores living normative traditions; the latter risks transforming intra-Islamic interpretive diversity into coercive state uniformity.

Indonesian legislation demonstrates that Islamic values have already entered national law through differentiated mechanisms. Family law, religious courts, waqf, Islamic banking, and halal regulation are examples of institutionalized accommodation. These fields show that Islamic law becomes part of national law not simply because it is religious, but because its principles are translated through legislation and recognized institutions. The legal question is therefore one of legitimate institutionalization rather than theological supremacy.

This distinction is consistent with Siregar's (2008a) analysis of Aceh, where the implementation of sharia occurred within a national legal system and generated questions concerning jurisdiction, institutional competence, and the boundaries of regional autonomy. It is also consistent with Salim's (2010) account of dynamic legal pluralism: the relevant legal orders are not sealed compartments but interacting systems whose boundaries are continuously negotiated.

Philosophical Foundation: Justice, Public Benefit, and Human Dignity

At the philosophical level, harmonization requires a shared normative vocabulary. Pancasila provides the constitutional-philosophical foundation of the Indonesian state,

while Islamic legal thought offers concepts such as al-‘adl (justice), maṣlaḥah (public benefit), al-musāwāh (equality), and the maqāṣid of protecting fundamental human interests. These concepts should not be treated as identical, but they can enter into constructive dialogue.

The most productive point of convergence is substantive justice. Justice in this context is more than equal treatment in the abstract. It includes protection against arbitrary power, meaningful access to legal remedies, protection of vulnerable groups, and proportionality between public objectives and individual burdens. A maqāṣid-oriented perspective strengthens this conception by asking whether legal rules actually protect life, dignity, intellect, family, property, and social welfare.

This approach also changes how legal conflict should be evaluated. When an Islamic norm and a national rule appear to diverge, the analysis should not stop at asking which rule is formally superior. It should also ask what interests each rule protects, whether the difference is essential or contextual, whether a less restrictive interpretation is available, and whether the competing rule can be reconstructed through a maqāṣid-oriented reading. This does not abolish hierarchy of laws; rather, it adds substantive reasoning to formal hierarchy.

Recent research on Aceh reinforces the importance of this approach. Halim (2022), for example, demonstrates that non-Muslim citizens may interact with sharia institutions for practical reasons, complicating assumptions that the operation of Islamic law is simply a matter of religious imposition. Such findings underscore the need to distinguish the symbolic identity of a legal institution from the concrete functions it performs. Legal evaluation should therefore consider access, efficiency, fairness, and rights protection simultaneously.

Juridical Foundation: Constitutionalism and Legislative Procedure

The juridical foundation of harmonization lies in the constitutional character of the Indonesian state. Article 1(3) of the 1945 Constitution establishes Indonesia as a state based on law. The Constitution also protects religious freedom and contains extensive guarantees concerning equality, human dignity, and fundamental rights. Consequently, the incorporation of Islamic norms into legislation must occur through constitutionally legitimate institutions and procedures.

Law No. 12 of 2011, as amended by Law No. 13 of 2022, is particularly significant because legislative formation is expected to undergo harmonization, conceptual consolidation, and stabilization. Harmonization in this procedural sense is primarily technical and juridical: it seeks consistency among laws and regulations. Yet a contemporary understanding should extend this process to substantive constitutional review. A regulation should not be considered harmonized merely because it does not contradict another statute. It should also be assessed for compatibility with constitutional rights, equality, proportionality, and the protection of vulnerable citizens.

The constitutionalization of Islamic values therefore requires institutional mediation. Parliament, ministries, courts, religious institutions, and civil society each perform different functions. Islamic scholars contribute interpretive resources, but they do not automatically possess legislative authority. Legislators translate normative aspirations into generally binding rules. Courts review the application and constitutionality of those rules. Administrative agencies implement them. Civil society evaluates their social consequences. Harmonization is strongest when these functions are differentiated but dialogically connected.

Aceh offers a particularly important illustration because its special autonomy creates a formal space for Islamic legislation while maintaining its position within the Indonesian constitutional order. The literature shows that this arrangement has produced both accommodation and tension. Siregar (2008b) identifies the institutional and political complexities surrounding sharia criminal law, while Fuad et al. (2022) demonstrate that Qanun Jinayat continues to face constitutional, social, and legal challenges. More recent scholarship similarly identifies tensions between regional sharia legislation and national legal unity, especially in relation to the new Criminal Code and constitutional rights (Hasani et al., 2026).

Sociological Foundation: Living Law and Legal Culture

Legal harmonization cannot succeed solely through statutory drafting because law operates within social practices. Indonesia's Islamic legal norms are embedded in family relations, economic transactions, religious institutions, community dispute resolution, and everyday ethical practices. This sociological dimension explains why formal law that ignores living norms may experience weak legitimacy, while informal norms that operate without institutional safeguards may produce inconsistent or discriminatory outcomes.

Friedman's distinction among legal substance, legal structure, and legal culture is therefore particularly useful. Legal substance concerns the rules themselves; legal structure concerns institutions; legal culture concerns the values and expectations that shape compliance. Applied to Islamic law, the framework reveals why harmonization is incomplete when a statute is enacted without strengthening judicial competence, administrative capacity, public legal literacy, and mechanisms for rights protection.

The problem is especially visible in plural settings such as Aceh. Sharia institutions do not operate in isolation from adat institutions, civil courts, police, prosecutors, local government, religious authorities, and community leaders. Shadiqin and Srimulyani (2022) show that authority in Aceh is contested among formal and informal actors. This means that harmonization must address not only competing rules but also competing claims to interpretive authority.

Accordingly, legal culture should be treated as a site of dialogue rather than as an obstacle to formal law. Islamic legal education, judicial training, public consultation, and

civic literacy can help transform legal pluralism from a source of conflict into a mechanism of negotiated legitimacy. The goal is not to make citizens legally homogeneous but to enable them to navigate plurality within a predictable constitutional framework.

***Maqāṣid al-sharī'ah* as a Bridge between Islamic Normativity and Constitutional Rights**

The strongest contribution of *maqāṣid* to harmonization lies in its capacity to shift the discussion from the formal origin of a rule to its normative purpose and social consequence. The five classical necessities—religion, life, intellect, lineage, and property—can be read as a framework of fundamental interests. Contemporary *maqāṣid* approaches expand the discussion toward dignity, justice, social development, equality, and institutional accountability. This expansion does not require abandoning classical jurisprudence; it requires distinguishing objectives from historically contingent formulations.

In a constitutional setting, *maqāṣid* can function as a dialogical framework. For example, *hiḏ al-naḑs* (protection of life) can be placed in conversation with constitutional protection of life and security; *hiḏ al-‘aql* (protection of intellect) can be connected with education and freedom from harmful coercion; *hiḏ al-naṑl* (protection of lineage/family) can inform family and child protection; and *hiḏ al-māl* (protection of property) can contribute to debates on economic justice and Islamic finance. These parallels should not be overstated as perfect equivalences, but they demonstrate conceptual compatibility.

The methodological danger, however, is instrumentalism. *Maqāṣid* can be misused if scholars simply declare that a preferred policy is 'in accordance with *maqāṣid*' without demonstrating the relevant textual, historical, social, and institutional reasoning. A robust *maqāṣid* analysis should therefore specify: (1) the objective being protected; (2) the harm or benefit at stake; (3) the evidentiary basis for the interpretation; (4) the affected groups; (5) alternative regulatory options; and (6) the proportionality of the chosen rule.

This approach can make Islamic legal reasoning more transparent in public law. It also makes dialogue with constitutional law possible because both frameworks can ask structured questions about rights, harms, benefits, institutional authority, and proportionality. Omdurman and Auda (2026) provide a recent example of this direction by presenting systemic *maqāṣid* as a framework for legal reform oriented toward welfare, dignity, and social transformation.

Aceh as a Test Case of Harmonization

Aceh is not simply an exceptional province; it is a critical test case for the limits of legal pluralism within a unitary constitutional state. Its special autonomy allows a more extensive institutionalization of Islamic law than is found in other provinces. At the same time, Aceh remains subject to the national constitution, national legislation, judicial review, and broader human-rights commitments. The resulting legal environment makes visible the tensions that are often less obvious elsewhere.

Salim (2010) conceptualizes Aceh's legal order as dynamic because jurisdictional claims among sharia courts, state courts, and customary institutions have shifted over time. Siregar (2008a, 2008b) similarly highlights the constitutional and institutional complexity of implementing sharia within a national legal system. Recent scholarship confirms that the issue remains dynamic. Djawas et al. (2024) argue that state, customary, and Islamic law can operate in a harmonized relationship, while Fuad et al. (2022) show that Qanun Jinayat continues to face legal and social challenges. Hasani et al. (2026) further frame the contemporary problem as one of constitutional equilibrium between regional autonomy and national rights guarantees.

The Aceh experience therefore suggests that harmonization is not equivalent to eliminating legal difference. Difference can be constitutionally accommodated, but accommodation requires boundaries. The first boundary is constitutional supremacy. The second is protection of fundamental rights. The third is institutional competence. The fourth is proportionality. The fifth is access to remedies. Within these boundaries, regional Islamic law can serve as an expression of local identity and legal experimentation without becoming a parallel constitutional order.

The lesson is also relevant beyond Aceh. National law can learn from regional Islamic legal experimentation, while regional regulations can benefit from national constitutional standards. Harmonization is thus bidirectional: it is not only the process by which the center disciplines the periphery, but also the process by which local legal experience informs national legal development.

Toward a Dialogical Model of Harmonization

The analysis supports a five-stage model of harmonization. The model combines the insights of legal pluralism, *maqāṣid al-sharī'ah*, constitutionalism, and legal-system theory.

Table 1. Stage Core Question Primary Actors Maqāṣid Dimension Constitutional Safeguard

Stage	Core Question	Primary Actors	Maqāṣid Dimension	Constitutional Safeguard
Mapping	What legal orders and interests are operating?	Legislators, scholars, courts, communities	Identify protected interests and possible harms	Recognition of legal plurality
Translation	Which Islamic values can be translated into general legal norms?	Islamic scholars, legislators, experts	Justice, welfare, dignity, protection	Compatibility with constitutional principles
Institutionalization	Which institution should enact, interpret, and implement the	Parliament, ministries, courts, local authorities	Institutional responsibility and accountability	Legality and separation of powers

	rule?			
Review	Does the rule protect rights and produce proportionate benefits?	Courts, oversight bodies, civil society	Benefit–harm and vulnerability assessment	Equality, proportionality, judicial review
Evaluation	Does implementation achieve substantive justice?	State institutions and society	Actual welfare and harm reduction	Access to remedy and policy revision

Stage one recognizes plurality rather than pretending that one legal order is the only source of normativity. Stage two translates Islamic values into publicly accessible legal principles. Stage three institutionalizes those principles through legitimate state mechanisms. Stage four subjects the resulting rules to constitutional and rights-based review. Stage five evaluates whether implementation actually produces justice and welfare. The model is intentionally non-linear: judicial decisions, social resistance, new legislation, or changing social conditions may return the process to an earlier stage.

This model also clarifies the role of religious authority. Ulama and Islamic scholars remain important because the legitimacy of Islamic values depends partly on sound interpretation. Yet scholarly authority should be connected to, rather than substituted for, constitutional institutions. Similarly, state institutions cannot claim exclusive interpretive competence over Islamic norms without engaging the intellectual traditions that give those norms meaning. Harmonization is strongest when both forms of expertise are institutionally connected.

The model further accommodates legal pluralism without accepting legal fragmentation. Pluralism becomes constitutionally sustainable when the legal order provides clear jurisdictional boundaries, transparent procedures, mechanisms of review, and effective remedies. In this sense, harmonization is a governance technology for plurality: it manages difference through dialogue, translation, institutional differentiation, and rights-based evaluation.

Strategic Implications for Indonesian Legal Development

First, legislative harmonization should move beyond technical synchronization toward substantive constitutional assessment. Draft regulations containing Islamic norms should be evaluated not only for consistency with higher legislation but also for their implications for equality, dignity, vulnerable groups, and access to justice.

Second, Islamic legal reasoning should be strengthened through maqāṣid-oriented methodologies. Legal education in Islamic universities and professional training should equip scholars and judges to distinguish immutable principles from historically contingent applications. This would reduce the risk of treating a single fiqh position as the only possible expression of Islamic law.

Third, institutional coordination should be strengthened. Where religious courts, civil courts, local governments, customary institutions, and religious authorities interact, jurisdictional boundaries should be explicit. Overlapping authority can otherwise create forum shopping, inconsistent decisions, or uncertainty about applicable law.

Fourth, public participation should become a central component of harmonization. A regulation may be religiously inspired yet socially ineffective if affected communities are excluded from its formulation. Consultation with women, children, minority communities, legal practitioners, and civil-society organizations is therefore not external to Islamic legal development; it is part of testing whether the law actually realizes *maṣlaḥah*.

Fifth, evaluation mechanisms should be institutionalized. Harmonization should not end when a regulation is enacted. Periodic review should assess implementation data, judicial interpretation, rights impacts, and unintended consequences. This is particularly important for regional Islamic regulations because their interaction with national law may change as national legislation evolves.

Conclusion

This article has argued that harmonization between Islamic law and national law in Indonesia should be understood as a constitutional, dialogical, and *maqāṣid*-oriented process rather than as the unification of two supposedly separate legal systems. Indonesia's legal order is inherently plural, and Islamic law has historically participated in that plurality through religious institutions, customary practices, judicial mechanisms, legislation, and social norms. The central challenge is therefore not whether Islamic law has a place in the national legal order, but how its values are translated into generally binding rules without undermining constitutional rights, legal certainty, equality, or Indonesia's social diversity.

The analysis shows that legal pluralism explains the coexistence and contestation of different normative orders; *maqāṣid al-shari'ah* supplies a purposive vocabulary for evaluating justice and public welfare; and legal-system and progressive-law perspectives explain why institutional structure and legal culture are as important as statutory substance. These approaches are mutually reinforcing. Together, they demonstrate that successful harmonization requires more than legislative accommodation.

Aceh illustrates both the potential and the limits of this approach. Its experience shows that Islamic law can be institutionally recognized within a unitary state, but also that regional autonomy creates continuing questions concerning jurisdiction, constitutional rights, institutional authority, and national legal coherence. The appropriate response is neither legal centralism that erases local religious identity nor unrestricted legal particularism. What is required is constitutional equilibrium: space for religious and local legal expression within clear boundaries of rights, proportionality, institutional accountability, and judicial review.

The proposed five-stage model—mapping, translation, institutionalization, review, and evaluation—offers a practical framework for future legal development. It positions Islamic law not as an alternative to constitutionalism but as a normative resource that can enrich constitutional lawmaking when translated through democratic and rights-sensitive institutions. In this model, *maqāṣid al-sharī'ah* is especially valuable because it can connect Islamic legal reasoning to universal concerns for dignity, justice, welfare, and protection from harm.

Ultimately, the legitimacy of harmonization should be measured by its consequences for human beings. A legally harmonized system is not necessarily a just system if it reproduces discrimination, weakens access to justice, or privileges formal consistency over substantive welfare. The more defensible model for Indonesia is therefore one in which Islamic values, constitutional principles, and living social norms enter into structured dialogue. Such an approach can preserve religious authenticity while strengthening the rule of law, allowing Indonesia's plural legal order to evolve toward a more adaptive, inclusive, and substantively just legal system.

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