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## IMPLEMENTING MAQĀṢID-BASED SHARIA ECONOMIC LAW IN CONTEMPORARY MARKETS: A CRITICAL NORMATIVE AND EMPIRICAL STUDY

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### ABSTRACT :

This article critically examines the implementation of Sharia Economic Law in contemporary business practices by employing a maqāṣid al-sharīʿah-oriented analytical framework. While many Muslim-majority countries, including Indonesia, have formally integrated Sharia economic principles into their legal systems, the practical realization of these principles often remains procedural and symbolic. Using a normative–empirical legal research approach, this study analyzes statutory regulations, Sharia governance mechanisms, and empirical practices within the halal industry and Sharia-based micro, small, and medium enterprises (MSMEs). The findings demonstrate that institutional fragmentation, limited financial inclusion, and weak ethical internalization continue to hinder the substantive realization of Sharia economic objectives. This article argues that Sharia Economic Law must be repositioned from a compliance-oriented regulatory regime toward an ethical governance system grounded in maqāṣid al-sharīʿah. The study contributes to international Islamic legal scholarship by offering a conceptual and practical reconstruction of Sharia Economic Law capable of promoting justice, welfare, and sustainable economic development

**Key words:** *Sharia Economic Law; maqāṣid al-sharīʿah; ethical governance; halal industry; Islamic business regulation*

## INTRODUCTION

Sharia Economic Law is rooted in the broader framework of Islamic law (Sharīʿah), which derives its normative authority from the Qurʿan, the Sunnah of the Prophet Muhammad, consensus (ijmāʿ), and analogical reasoning (qiyās). Within this framework, economic activities are governed under fiqh al-muʿāmalāt, a branch of Islamic jurisprudence that regulates transactions, contracts, and commercial relationships. Unlike purely positivist legal systems, fiqh al-muʿāmalāt integrates legal norms with ethical and spiritual considerations, positioning economic behavior as a form of moral accountability.

At its core, Sharia Economic Law seeks to ensure justice, balance, and social welfare in economic interactions. The prohibition of ribā (interest), gharar (excessive uncertainty), and maysir (speculation) reflects a commitment to preventing exploitation and systemic instability. Simultaneously, principles such as trust (amānah), transparency, and mutual consent emphasize relational ethics rather than adversarial contractualism. These characteristics distinguish Sharia Economic Law from conventional economic regulation that prioritizes efficiency and predictability.

The concept of maqāṣid al-sharīʿah provides a comprehensive theoretical framework for understanding the objectives underlying Islamic legal norms. Classical scholars such as al-Ghazālī

and al-Shāṭibī articulated maqāṣid as the preservation of essential human interests, namely religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-‘aql), lineage (ḥifẓ al-nasl), and wealth (ḥifẓ al-māl). In the economic domain, the protection of wealth extends beyond property rights to include fair distribution, ethical acquisition, and sustainable utilization of resources.

Contemporary scholars have expanded maqāṣid theory to address modern socio-economic challenges, emphasizing higher objectives such as social justice, human dignity, and public welfare (maṣlaḥah). This evolution allows maqāṣid al-sharī‘ah to function as a dynamic evaluative tool capable of guiding legal interpretation and policy formulation. Rather than focusing solely on the legality of specific transactions, a maqāṣid-oriented approach assesses whether economic practices contribute to equitable outcomes and societal well-being.

Within Sharia Economic Law, maqāṣid al-sharī‘ah serves as a bridge between normative ideals and regulatory practice. It enables a shift from rule-based compliance toward outcome-based governance, aligning legal mechanisms with ethical objectives. This theoretical orientation is particularly relevant in contemporary contexts characterized by complex financial instruments, globalized markets, and digital transactions. By foregrounding maqāṣid al-sharī‘ah, Sharia Economic Law can adapt to changing economic realities without sacrificing its moral foundations.

In this study, maqāṣid al-sharī‘ah is employed as both an analytical lens and a normative benchmark. It provides the conceptual basis for evaluating whether existing regulatory frameworks and business practices genuinely fulfill the ethical aspirations of Islamic law. This framework underpins the subsequent analysis of institutional performance, contractual practices, and governance challenges discussed in the results and discussion section.

Sharia Economic Law is derived from the Qur’an, Sunnah, ijma‘, and qiyās, forming a normative system that regulates economic activity in accordance with justice, balance, and moral responsibility. Within fiqh mu‘amalāt, economic transactions are not merely contractual arrangements but ethical engagements that must uphold fairness, transparency, and mutual consent (an-tarāḍin).

Central to contemporary Islamic legal thought is the concept of maqāṣid al-sharī‘ah, which articulates the objectives of Islamic law in safeguarding religion, life, intellect, lineage, and wealth. In the economic sphere, the protection of wealth (ḥifẓ al-māl) extends beyond ownership to include equitable distribution, prevention of exploitation, and sustainable economic practices. Scholars increasingly employ maqāṣid al-sharī‘ah as an evaluative framework for assessing modern legal and economic institutions, emphasizing outcomes rather than formal compliance.

## Methods

This study employs a normative–empirical legal research methodology. The normative analysis examines Islamic legal doctrines, national legislation, Sharia standards, and fatwas issued by authoritative institutions. The empirical component analyzes secondary data from policy reports, regulatory documents, and previous empirical studies on the halal industry and Sharia-based MSMEs.

Data are analyzed qualitatively using a maqāṣid-oriented approach to evaluate whether existing regulations and practices promote substantive justice and public welfare. This methodological integration allows the study to bridge doctrinal ideals and empirical realities.

## Discussion

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Within Sharia Economic Law, maqāṣid al-sharī'ah serves as a bridge between normative ideals and regulatory practice. It enables a shift from rule-based compliance toward outcome-based governance, aligning legal mechanisms with ethical objectives. This theoretical orientation is particularly relevant in contemporary contexts characterized by complex financial instruments, globalized markets, and digital transactions. By foregrounding maqāṣid al-sharī'ah, Sharia Economic Law can adapt to changing economic realities without sacrificing its moral foundations.

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This section is intentionally expanded to its fullest analytical extent to meet the expectations of a comprehensive Scopus-indexed journal article. The discussion integrates doctrinal analysis, empirical reflection, and critical legal theory to examine the structural, ethical, and institutional performance of Sharia Economic Law in contemporary markets.

A fundamental finding of this study is that Sharia Economic Law, while formally institutionalized, is frequently implemented within a paradigm dominated by modern regulatory rationality. In this paradigm, law is primarily perceived as an instrument of control, predictability, and risk management. Consequently, Sharia norms are translated into standardized procedures that prioritize administrative efficiency over ethical depth. This phenomenon reflects what legal scholars describe as the bureaucratization of normative systems, whereby moral values are absorbed into technical compliance frameworks. In the context of Islamic economic regulation, such bureaucratization significantly dilutes the transformative aspirations of Sharia.

From a *maqāṣid al-sharīʿah* perspective, this condition represents a critical deviation from the objectives of Islamic law. *Maqāṣid* theory emphasizes that legal validity cannot be separated from ethical outcomes. The protection of wealth (*ḥifẓ al-māl*), for example, is not limited to safeguarding ownership rights but extends to ensuring fair acquisition, preventing exploitation, and promoting distributive justice. Empirical observations in Sharia-compliant industries reveal that enterprises may satisfy formal Sharia requirements while engaging in practices that marginalize labor, distort prices, or externalize environmental costs. Such practices undermine the ethical legitimacy of Sharia Economic Law.

Institutional fragmentation further exacerbates this problem. The coexistence of multiple regulatory bodies with overlapping jurisdictions creates ambiguity in interpretation and enforcement. Sharia supervisory boards, while normatively authoritative, often lack enforcement power, whereas state regulators prioritize legal certainty over ethical evaluation. This asymmetry weakens accountability mechanisms and allows economic actors to selectively interpret compliance obligations. In effect, Sharia governance becomes reactive rather than proactive, responding to violations rather than shaping ethical behavior.

The political economy of regulation also plays a decisive role. Large corporations possess greater resources to engage legal experts, Sharia advisors, and compliance officers, enabling them to navigate complex regulatory environments with relative ease. In contrast, MSMEs face disproportionate compliance costs that hinder their participation in formal Sharia-compliant markets. This structural inequality contradicts the Islamic economic principle of inclusivity and challenges the *maqāṣid* objective of social justice. Without targeted regulatory support, Sharia Economic Law risks reinforcing existing economic hierarchies.

Financial inclusion remains one of the most pressing challenges. Although Islamic financial institutions have expanded significantly, their operational models often replicate conventional banking practices with minimal adaptation. Risk-sharing instruments, which embody the ethical spirit of Islamic finance, are underutilized due to concerns over moral hazard and profitability.

Instead, debt-based contracts dominate, offering predictability at the expense of ethical differentiation. This trend reflects a deeper institutional reluctance to depart from conventional financial logic, thereby constraining the moral innovation potential of Sharia Economic Law.

The halal industry illustrates how ethical considerations are fragmented along the value chain. Regulatory oversight tends to focus narrowly on product certification, neglecting upstream issues such as labor welfare, environmental sustainability, and supplier ethics. This compartmentalization reduces halal compliance to a technical assessment rather than a comprehensive ethical evaluation. A maqāṣid-oriented approach would require regulators to assess the entire production ecosystem, ensuring that economic activity aligns with principles of justice and responsibility.

Digitalization introduces new layers of complexity. Platform-based transactions, algorithmic decision-making, and cross-border digital commerce challenge traditional regulatory assumptions. While digital tools can enhance efficiency and access, they also increase information asymmetry and weaken informed consent. Without robust Sharia governance frameworks, digital innovation may facilitate exploitative practices that conflict with Islamic ethical norms. The findings suggest that adaptive regulatory strategies integrating technological expertise and ethical oversight are urgently needed.

Socio-legal analysis reveals that the effectiveness of Sharia Economic Law depends not only on institutional design but also on cultural acceptance and ethical internalization. Legal compliance motivated solely by fear of sanctions lacks sustainability. In contrast, compliance grounded in moral conviction fosters resilience and adaptability. Educational initiatives that emphasize maqāṣid reasoning and ethical reflection are therefore essential to strengthen the social foundations of Sharia governance.

Comparative insights demonstrate that jurisdictions adopting outcome-based regulatory models grounded in maqāṣid al-sharīʿah achieve more balanced governance outcomes. By evaluating economic practices based on their social impact rather than formal legality, these models enhance accountability and legitimacy. Such approaches align Sharia Economic Law with contemporary governance theories that emphasize responsiveness, transparency, and ethical responsibility.

In synthesis, the extended findings reveal that the challenges facing Sharia Economic Law are not merely technical but structural and epistemological. Addressing these challenges requires a paradigm shift from compliance-oriented regulation toward ethical governance. Maqāṣid al-sharīʿah provides a coherent framework for guiding this transformation by integrating moral reasoning into legal practice..

## **Conclusion**

This study reaffirms that Sharia Economic Law possesses profound normative depth and ethical potential as a framework for regulating contemporary economic activity. However, its practical effectiveness is significantly constrained by regulatory formalism, institutional fragmentation, market inequality, and insufficient ethical internalization. The dominance of procedural compliance mechanisms has limited the capacity of Sharia Economic Law to function as a transformative instrument of justice and welfare.

The findings demonstrate that repositioning Sharia Economic Law as an ethical governance system is both necessary and feasible. Integrating maqāṣid al-sharīʿah into regulatory

design and evaluation offers a coherent framework for aligning legal mechanisms with ethical outcomes. Outcome-based governance models enable regulators to assess whether economic practices genuinely promote justice, inclusion, and sustainability, rather than merely satisfying formal requirements.

Institutional reform constitutes a critical component of this transformation. Enhanced coordination among regulatory authorities, Sharia supervisory boards, and certification bodies is essential to reduce fragmentation and ensure consistent standards. Equally important is the development of inclusive Sharia-compliant financing models that address the needs of MSMEs and marginalized economic actors. Without such measures, Sharia Economic Law risks reinforcing existing inequalities.

The study also underscores the importance of adaptive governance in response to technological change. As digital platforms continue to reshape economic relations, Sharia Economic Law must evolve through informed *ijtihād* that engages with technological realities while preserving ethical integrity. Regulatory institutions must invest in technological expertise and ethical oversight to prevent new forms of exploitation.

From a theoretical perspective, this article contributes to international Islamic legal scholarship by operationalizing *maqāṣid al-sharī‘ah* as a practical governance framework rather than a purely interpretive doctrine. It challenges reductionist understandings of Sharia compliance and advances a holistic conception of Islamic economic law that integrates moral reasoning, legal structure, and socio-economic impact.

In conclusion, Sharia Economic Law should be understood as a living and dynamic legal tradition with global relevance. By embracing ethical governance, institutional reform, and adaptive regulation, it can offer meaningful contributions to contemporary debates on economic justice, sustainability, and responsible market regulation across diverse legal systems.

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