

## DISHARMONY OF REGULATION IN THE SOCIAL FUNCTION OF ISLAMIC BANKING IN INDONESIA



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### Abstract

Islamic banking regulations in Indonesia have so far displayed a paradox between positive legal legitimacy and the ideals of sharia maqashid. This study examines the disharmony between positive regulation of Islamic banking and the principle of sharia maqashid in the implementation of the social function of Islamic banks in Indonesia. This study is motivated by the phenomenon of policy orientation that emphasizes administrative compliance and financial stability, while the aspects of equity and distributive justice receive less normative space. Using a historical–juridical approach and normative–interpretive analysis, this study examines the synchronization between Law No. 21 of 2008, OJK regulations, and Bank Indonesia's policies with sharia maqashid values. The results of the study show that the existing regulatory framework is not fully maqashid–compatible because it is still technocratically oriented and has not measured the social impact substantively. This study recommends the reconstruction of social function regulations based on the principles of maqashid compliance, the integration of social justice indicators into supervision instruments, and the strengthening of maqashid literacy as the foundation for the renewal of national sharia economic law.

### Abstrak

Regulasi perbankan syariah di Indonesia sejauh ini menunjukkan suatu paradoks antara legitimasi hukum positif dan maqashid syariah. Studi ini mengkaji ketidakharmonisan antara pengaturan positif perbankan syariah dan prinsip maqashid syariah dalam pelaksanaan fungsi sosial bank syariah di Indonesia. Penelitian ini dilatarbelakangi oleh fenomena orientasi kebijakan yang lebih menekankan pada kepatuhan administratif dan stabilitas keuangan, sementara aspek keadilan dan keadilan distributif memperoleh ruang normatif yang lebih terbatas. Dengan menggunakan pendekatan historis-yuridis dan analisis normatif-interpretatif, penelitian ini menelaah sinkronisasi antara Undang-Undang Nomor 21 Tahun 2008, regulasi Otoritas Jasa Keuangan (OJK), serta kebijakan Bank Indonesia dengan nilai-nilai maqashid syariah. Hasil penelitian menunjukkan bahwa kerangka regulasi yang ada belum sepenuhnya kompatibel dengan maqashid, karena masih berorientasi teknokratis dan belum mengukur dampak sosial secara substantif. Oleh karena itu, penelitian ini merekomendasikan rekonstruksi pengaturan fungsi sosial berbasis prinsip kepatuhan maqashid, integrasi indikator keadilan sosial ke dalam instrumen pengawasan, serta penguatan literasi maqashid sebagai landasan pembaruan hukum ekonomi syariah nasional.

## INTRDUCTION

Islamic banking in Indonesia not only functions as a financial intermediation institution, but also carries out social responsibility derived from the principles of justice and benefit as contained in the sharia maqashid.<sup>1</sup> This social function is explicitly affirmed in Article 4 paragraph (2) of Law Number 21 of 2008 concerning Islamic Banking, which places Islamic banks as an institution that is obliged to require Islamic banks to collect and distribute charitable funds.<sup>2</sup> The implementation of this social function has not been fully integrated in the regulatory and governance system of the national Islamic finance industry. Local studies do affirm the normative role of Islamic banks in social functions but on the other hand also show limitations in industrial practices.<sup>3</sup>

A number of previous studies have highlighted the gap between the normative foundation and the empirical reality of the social function of Islamic banking. The orientation of Islamic banking policy still emphasizes more on administrative compliance and financial stability, while the aspect of economic equity in the community has not been a priority.<sup>4</sup> Other research also assesses that the Financial Services Authority (OJK) regulations still tend to adopt the *prudential principle* which is technocratic, without placing the sharia maqashid as an evaluative parameter of policy.<sup>5</sup> As a result, the social function of Islamic banking tends to be symbolic and does not have a significant impact on poverty alleviation and improvement of welfare.<sup>6</sup>

This phenomenon shows that there is a *regulative disharmony* between positive law and the basic values of sharia maqashid. Normatively, Indonesian Islamic banking law has adopted sharia terminology, but it has not substantively reflected the true purpose of sharia, which is to realize justice and benefits (*tahqiq al-'adl wa al-maslahah*).<sup>7</sup> Islamic banks are required to operate according to sharia principles, on the other hand, the regulations that govern them are still in a conventional pattern. This condition invites fundamental questions about the extent to which the national legal system is able to accommodate maqashid as a source of value in the implementation of Islamic banking regulations.

Previous studies of Islamic banking in Indonesia have generally stopped at normative analyses of social functions and sharia compliance without showing how the values of sharia maqashid interact systematically with the construction of positive

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<sup>1</sup> Prehantoro Prehantoro, "Social Function of Sharia Banks," *Perspective* 15, no. 2 (2020): 139, <https://doi.org/10.30742/perspektif.v15i2.49>.

<sup>2</sup> Republic of Indonesia. "Law Number 21 of 2008 concerning Sharia Banking," Statute Book of the Republic of Indonesia Number 94 of 2008.

<sup>3</sup> Prehantoro, "The Social Function of Sharia Banks," *Perspective*, no. 2 (2020)

<sup>4</sup> Eko Nur Cahyo and Resi Handayani, "The Role of the Ombudsman Institution in the Dispute Resolution of Sharia Financial Institutions based on Maslahah Mursalah (Case Study of the Ombudsman of the Special Region of Yogyakarta, 2018)" 2, no. 2 (2019): 104.

<sup>5</sup> Ahmad Agus Hidayat, Elissa Qathrunnada, and Andriani Samsuri, "Measuring the Performance of Sharia Banking Using the Sharia Maqashid Index and RGEK: Islamic Banking of Malaysia and Indonesia," *Dialectics : Journal of Economics and Social Sciences* 8, no. 2 (2023): 281.

<sup>6</sup> Puji Astuti and Surya Raharja, "Islamic Social Reporting, Intellectual Capital, and the Influence of Corporate Governance on Sharia Performance of Maqashid: A Case Study of Sharia Banks in Indonesia and Malaysia (2017–2022)," *Maksipreneur Journal: Management, Co-operatives, and Entrepreneurship* 13, no. 2 (2024): 393.

<sup>7</sup> Umer Chapra, *The Future of the Economy: An Islamic Perspective* (Leicester: Islamic Foundation, 2016).

regulations.<sup>8</sup> The applicable legal framework is still fragmented and tends to be adaptive to the conventional system. There have not been many studies that have critically examined the disharmony between positive legal regimes (UU and POJK) with the purpose of maqashid.

In contrast to previous research that generally stops at the normative analysis of social functions, this study seeks to fill this gap by offering a conceptual synthesis model called "*Maqashid Based Regulatory Reorientation Framework*", which is an integrative approach that combines juridical–historical and maqashidi analysis to reformulate the social function of Islamic banks. Academically, this research contributes to expanding the paradigm of Islamic economic law from mere procedural compliance to the orientation of substantive benefits. The results of this study are expected to provide a basis for OJK and DSN–MUI in developing supervisory mechanisms and policy instruments that are more in line with the values of social justice and the welfare of the people.

## METHODS

This study uses a normative juridical approach combined with historical analysis and sharia maqashid.<sup>9</sup> A normative juridical approach is applied to examine the positive legal norms that govern Islamic banking. Especially Law Number 21 of 2008 concerning Sharia Banking, Financial Services Authority (OJK) Regulations, and fatwa of the National Sharia Council–Indonesian Ulema Council (DSN–MUI) related to the social function of Islamic banks. Through this approach, the research assesses the extent to which the substance of the law reflects the values of sharia maqashid in banking institutional practice. A historical approach is used to trace the dynamics of the development of Islamic banking regulations in Indonesia. Starting from the initial phase of legal recognition to its transformation into a modern financial system. Historical analysis provides a contextual understanding of the process of the birth of various policies and explains the root of the disharmony between the objectives of sharia and the applicable legal products. The data used in this study consists of primary and secondary legal data. Primary legal data includes laws and regulations such as Law Number 21 of 2008, OJK regulations related to Islamic banking, as well as DSN–MUI fatwa regarding social financing such as qardhul hasan and productive waqf.<sup>10</sup> Secondary legal data is obtained from scientific journals, books, research results, financial authority reports, and recent academic publications relevant to the research theme.

Data collection is carried out through library research by examining legal documents, academic literature, and official publications of related institutions.<sup>11</sup> The data collected was analyzed using content analysis (content analysis) of legal documents and academic literature.<sup>12</sup> The analysis process is carried out systematically through three stages: reduction, interpretation, and verification. The reduction stage is carried out by selecting

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<sup>8</sup> Nur Hidayah et al., *Islam and the State: The Evolution of Sharia Banking Regulations in Indonesia* Syarif Hidayatullah State Islamic University Jakarta Abstract *The Interaction of Social, Economic, and Political Dynamics Affecting the Legal Development of Sharia Banking Regulations*, vol. 23, (2024).

<sup>9</sup> Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2016).

<sup>10</sup> Law Number 21 of 2008 concerning Islamic Banking; Financial Services Authority Regulation Number 12/POJK.03/2020 concerning Sharia Commercial Banks; DSN–MUI Fatwa Number 19/DSN–MUI/IV/2001 concerning *Qardhul Hasan*; and DSN–MUI Fatwa Number 106/DSN–MUI/X/2016 concerning Money Waqf.

<sup>11</sup> Soerjono Soekanto, *Introduction to Legal Research* (Jakarta: UI Press, 2006).

<sup>12</sup> Marzuki, *Legal Research*.(2016):35

legal materials that are relevant to the issue of disharmony between regulations and sharia maqashid. The interpretation stage is used to interpret positive legal provisions within the framework of maqashidi. Meanwhile, the verification stage aims to test the consistency of the analysis results with the research objectives through conceptual triangulation between the normative analysis results and the values of maqashid. The data validation technique is carried out analytically, namely by comparing the results of norm interpretation with Islamic legal theory and the maqashid framework as stated by Jasser Auda.<sup>13</sup> Validation is carried out not through empirical tests, but through logical consistency and argumentative coherence between legal sources and theories used. In this way, the research maintains academic validity while ensuring the connection between normative analysis and research objectives. This method is designed to produce a comprehensive understanding of the forms of disharmony between positive regulation and sharia maqashid. The results are expected to provide normative recommendations that can strengthen the implementation of the social function of Islamic banking in Indonesia.

## RESULT AND DISCUSSION

### RESULT

#### The Social Function Regulation of Islamic Banks

The social function of Islamic banking is an aspect that confirms the existence of Islamic banks not only as financial intermediation institutions, but also as an instrument for equitable distribution of welfare.<sup>14</sup> Article 4 paragraph (2) of Law Number 21 of 2008 concerning Sharia Banking provides a legal basis for the implementation of social functions through the establishment of the Baitul Mal Institution which is authorized to manage zakat funds, infaq, alms, and other social resources.<sup>15</sup> These provisions show the orientation of the Islamic financial system based on the principle of fame. These social functions have direct relevance to the goals of maqashid sharia, especially in the dimensions of *hifz al mal* (protection of property) and *tahqiq al-mashlahah al-'ammah* (fulfillment of general fame).

Authoritative regulations issued by the Financial Services Authority (OJK) strengthen this social mandate. OJK Regulation Number 12/POJK.03/2020 concerning Sharia Commercial Banks stipulates that Islamic banks can distribute Welfare funds, provide financing without compensation (*qardhul hasan*), and carry out social activities that support community development.<sup>16</sup> The provision presents a prudential regulatory approach that seeks to strike a balance between financial stability and compliance with sharia principles.<sup>17</sup> The position of social function is still placed as a complementary activity, not as the core of the business strategy of Islamic banks.<sup>18</sup> This condition raises

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<sup>13</sup> Jasser Auda, *Maqasid Al-Shariah as a Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2010).

<sup>14</sup> Mahmud Yusuf et al., "The Role of Sharia Banks in Indonesia: A Review of Systematic Literature," *Al-Mashrafiyah: Journal of Sharia Economics, Finance, and Banking* 7, no. 1 (2023): 16.

<sup>15</sup> Law Number 21 of 2008 concerning Islamic Banking.

<sup>16</sup> Financial Services Authority Regulation Number 12/POJK.03/2020 concerning Sharia Commercial Banks.

<sup>17</sup> Aam Slamet Rusydiana and Mohammad Mahbubi Ali, "The Application of Sharia Maqasid in the Banking Industry," *Maqasid Al-Syariah Review* 1, No. 1 (2022), <https://doi.org/10.58968/msr.v1i1.261>.

<sup>18</sup> Chara Pratami Tidespania Tubarad, Nor Farizal Mohammed, and Maslinawati Mohamad, "Conceptualization of the Maqasid Sharia Performance Index: Examples from Malaysia and

questions about the extent to which positive regulations are able to internalize the values of sharia maqashid which are teleological.

The fatwa of the National Sharia Council – Indonesian Ulema Council (DSN – MUI) strengthens the legitimacy of the implementation of social functions through a more specific basis of fiqh. Fatwa No. 19/DSN – MUI/IV/2001 on Qardhul Hasan and Fatwa No. 106/DSN – MUI/X/2016 on Money Waqf provide guidelines for banks in distributing non – commercial financing.<sup>19</sup> The fatwa emphasizes that the management of social funds must be directed to the public interest and must not cause financial benefits for the management institution. Synchronization between religious fatwas and financial regulation is crucial because they both present two different forms of authority. Fatwas are normative – spiritual, while regulations emphasize administrative and prudent aspects. The disharmony between the two has the potential to hinder the optimization of the social role of Islamic banks. This gap shows the need for normative reform so that the principles of sharia maqashid are not only an ethical framework, but also integrated into national banking regulatory policies.

### **The Reality of the Implementation of Social Functions in Islamic Financial Institutions**

The implementation of the social function of Islamic banking in Indonesia shows the ongoing tension between normative ideals and empirical reality. Regulations through Law Number 21 of 2008 have emphasized that Islamic banks have a mandate to carry out social activities, including the management of zakat funds, infaq, alms, and the distribution of *qard al-hasan*.<sup>20</sup> These provisions are conceptually oriented towards the protection and equitable distribution of property (hifz al – mal) and the maintenance of the public benefit (mashlahah al – ‘ammah). However, the results of empirical studies show that this social function has not yet become mainstream in the institutional practice of Islamic banks.

Data from the Financial Services Authority in 2023 shows that more than 70% of Islamic banks' financing portfolios are still dominated by *murabahah contracts*, while profit – sharing – based contracts such as *mudharabah* and *musharakah* have stagnated.<sup>21</sup> This trend signals a preference for low – risk, profit – oriented business models, which in many cases more closely resemble conventional banking practices.<sup>22</sup> Regulatively, this tendency is strengthened by the *prudential banking* approach regulated through POJK No. 16/POJK.03/2014 and POJK No. 29/POJK.03/2019, where social is not the main indicator of institutional success.<sup>23</sup> This situation illustrates the reduction of the value of distributive justice and the weakening of the function of equitable distribution of wealth in the Islamic economic system.

The contribution of Islamic banks to the micro sector and MSMEs is still limited, both in terms of financing volume and service accessibility. *The qard al-hasan program*

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Indonesia," *International Journal of Academic Research in Business and Social Sciences* 12, no. 12 (2022): 1146.

<sup>19</sup> DSN – MUI Fatwa No. 19/DSN – MUI/IV/2001 concerning *Qardhul Hasan* and DSN – MUI Fatwa No. 106/DSN – MUI/X/2016 concerning Money Waqf.

<sup>20</sup> Law Number 21 of 2008 concerning Sharia Banking, Article 4 paragraph (2).

<sup>21</sup> Financial Services Authority (FSA). *Sharia Banking Statistics 2023*. Jakarta: OJK, 2024.

<sup>22</sup> Nabila Putri, "Evaluation of Maqasid Sharia's Performance on Sharia Bank Operations in the Digitalization Era," *Squirrelly* (2025): 186.

<sup>23</sup> Ummi Kalsum, "Sharia Banking Supervisory Authority in Indonesia," *Li Falah: Journal of Islamic Economic and Business Studies* 3, no. 2 (2018): 50, <https://doi.org/10.31332/lifalah.v3i2.1196>.



and productive funds tend to be symbolic and have not yet become a strategic priority of financial institutions. Some initiatives such as *micro waqf banks* in Aceh show the potential for integration between financial institutions and social empowerment, although their implementation is still limited to an experimental scale.<sup>24</sup> This condition strengthens the finding that the social aspect of Islamic banks is still peripheral, not an integral part of the maqashid – oriented business model.

The dominance of the murabahah contract has implications for increasing short – term profitability, but weakens the contribution to the economic equity of the people.<sup>25</sup> This pattern is reinforced by regulations that place national financial stability as a top priority. Another fact states that the OJK's digitalization policy is still biased towards financial efficiency rather than social justice.<sup>26</sup> Thus, the orientation of maqashid has not been systematically internalized in the evaluation of the performance of Islamic banks.

The DSN – MUI fatwa is indeed the normative basis for every Islamic bank product, but its effectiveness is limited because it does not have executive power.<sup>27</sup> The implementation of DSN – MUI fatwa on financing products is often only administrative and does not have a significant effect on the bank's internal policies.<sup>28</sup> This condition shows that there is an *implementation gap* between sharia norms and the implementation of a positive legal system. Where Islamic banks are more strongly subject to the OJK than the substantive principle of maqashid.

Weak social functions are also closely related to the sharia financial literacy factor of the community. The low public understanding of the principle of profit sharing and business risks has caused a preference for products based on buying and selling to decline rapidly.<sup>29</sup> The low awareness of maqashid at the customer level also strengthens pragmatic market behavior, thereby narrowing the space for social innovation of Islamic banks.<sup>30</sup> This understanding gap is a challenge that hinders the transformation of maqashid values in the Indonesian Islamic finance ecosystem.

The low literacy of Islamic economics shows that the policies and regulations of the social function of Islamic banking have not effectively encouraged public awareness of the values of Islamic economic justice. As a result, it has direct implications for low public participation in economic activities based on sharia maqashid. To strengthen these findings, the following is presented empirical data from the results of the 2023 Bank Indonesia survey on the profile of sharia economic literacy respondents in Indonesia.

<sup>24</sup> Syawal Harianto, Muhammad Ramadhan, and Andri Soemitra, "Micro Waqf Bank Innovation Model in Aceh," *Source: Journal of Islamic Economics and Finance* 13, No. 1 (2024): 1, <https://doi.org/10.22373/share.v13i1.19718>.

<sup>25</sup> Citra Intan Purnama Sari and Sulaeman Sulaeman, "The Influence of Murabahah Financing, Mudharabah Financing and Musyarakah Financing on Profitability," *Al Maal: Journal of Islamic Economics and Banking* 2, No. 2 (2021): 160, <https://doi.org/10.31000/almaal.v2i2.3111>.

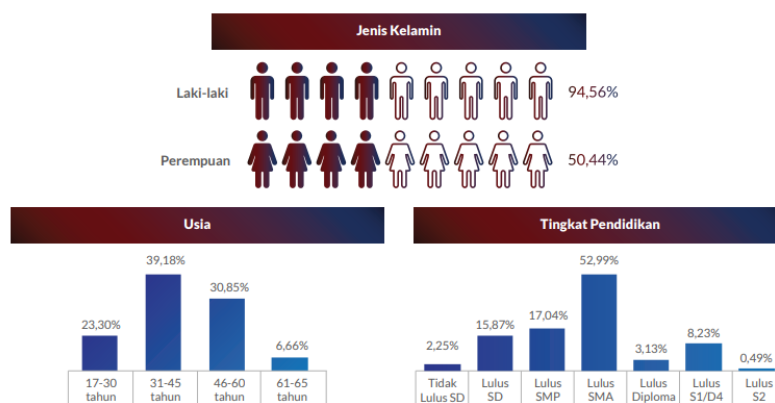
<sup>26</sup> N Hasanah, M N Sayuti, and ..., "Optimization of Islamic Banking Regulation by Bank Indonesia and Financial Services Authorities in Accelerating Digital Transformation," ... *Applied and Finance* 13, no. 03 (2024): 709, <https://online-journal.unja.ac.id/mankeu/article/view/36621>

<sup>27</sup> Khotibul Umam and Vina Berliana Kimberly, "The Role of Kpjks in Fatwa Legislation of Dsn – MUI in the Field of Sharia Financial Regulation," *Legal Issues* 50, No. 1 (2021): 94.

<sup>28</sup> Miftah Rosiana Dewi, "The Effectiveness of the Implementation of the DSN – MUI Fatwa on Sanctions for Problematic Financing Customers on BSI OTO Products" 4, no. 2 (2024).

<sup>29</sup> Rita Kusumadewi, H Ayus Ahmad Yusuf, and Wartoyo, *Sharia Financial Literacy Among Islamic Boarding Schools*, (2019).

<sup>30</sup> Dhidhin Noer Ady Rahmanto et al., "Bank Islam: A Study of Financial Literacy, Digital Marketing, Accessibility, Age, and Education," *JIEFeS: Journal of Islamic Economic and Financial Studies* 4, no. 1 (2023): 66.



**Figure 1.** Profile of Respondents to the 2023 Indonesian Sharia Economic Literacy Survey

Source: Bank Indonesia, *Indonesian Sharia Economic and Financial Review 2023*, pp. 151–152

The data in Figure 1 shows that the level of sharia economic literacy is still concentrated in the productive age group with secondary education, while the participation of women and the elderly group is still very limited. This condition shows that there is a gap between the normative goals of the social function of Islamic banking and its sociological reality. Regulations that focus on formal financial stability without a strong literacy strategy have resulted in inequality in access to knowledge and community participation. This is a form of failure in achieving *Tahqiq al-'adl* (equitable distribution of justice) and *Jalb al-Maṣlahah* (creation of the public good). The harmonization of regulations on the social functions of Islamic banks needs to be directed at strengthening public literacy so that the value of Islamic economic justice does not stop at the conceptual level, but is truly implemented in the socio – economic life of the community.<sup>31</sup>

The need for indicators of achievement of sharia maqashid in the supervision system of Islamic financial institutions is increasingly urgent. The application of the *maqashid sharia Index* in Indonesian sharia banks shows that the achievement of aspects of individual education (*tahdib al-fard*), justice (*iqamat al-adlah*) and the public benefit (*jalb al-maslahah*) is still very limited. Dominant monitoring based on financial ratios such as *Return on Assets* (ROA), *Capital Adequacy Ratio* (CAR), and *Non-Performing Financing* (NPF) shows that the evaluation mechanism has not included social – benefit variables as the main indicators.<sup>32</sup> This condition confirms that the application of *prudential banking* principles has not been balanced by legal instruments that assess social impact and distributive justice. Therefore, synchronization between banking policies and maqashid needs to be directed at the formation of *maqashid compliance indicators* as a normative measuring tool that assesses the extent to which regulations function in realizing public welfare.

These limitations demand a more integrative reconstruction of the regulatory paradigm. A maqashid – oriented Islamic financial system must make social welfare a *core*

<sup>31</sup> Bank Indonesia, *Indonesian Sharia Economics and Finance Study 2023* (Jakarta: Bank Indonesia, 2024), 151 – 152. [https://www.bi.go.id/id/publikasi/laporan/Pages/KEKSI\\_2023.aspx](https://www.bi.go.id/id/publikasi/laporan/Pages/KEKSI_2023.aspx)

<sup>32</sup> Adinda Lia Analia, Mohammad Bakti, and Hendrie Anto, "Measuring the Performance of Islamic Banking in Indonesia Using the Maqashid Sharia Index Method," *Proceedings of the Conference on Islamic Management, Accounting, and Economics* 2, No. 1 (2019): 235, <https://journal.uui.ac.id/CIMAE/article/view/12924>

*objective*, not an additional consequence.<sup>33</sup> Efforts to integrate zakat and *microfinance* instruments into the framework of Islamic banks need to be regulated through special regulations that establish social indicators as part of the sharia compliance report. Thus, the social function of Islamic banks can move from mere normative rhetoric to measurable and equitable empirical implementation.

### Analysis of Normative Disharmony and Sharia Maqashid

The regulatory framework for Islamic banking in Indonesia shows that there is a conceptual distance between positive legal norms and the ideals of Islamic law that are oriented towards maqashid. The national legal system emphasizes the stability of the financial industry through technocratic instruments such as *prudential regulation* and capital efficiency. Islamic banks in Indonesia have not systematically adopted maqashid achievement indicators in performance measurement.<sup>34</sup> Meanwhile, the survey revealed that supervision and reporting are still dominated by the ratio of profitability and capital, not the variable of social benefits.<sup>35</sup>

The OJK and Bank Indonesia regulations on Islamic banking, for example, which focus on capital adequacy, risk management, and profitability ratios, do not provide a measurable assessment of maqashid achievement. As explained in the study on *the Maqashid Shariah Index of* Islamic banking, the focus of supervision in Indonesia is still oriented towards the conventional profitability aspect and has not assessed the extent to which bank activities contribute to social welfare.<sup>36</sup> Several local studies that apply the *Maqashid Shariah Index* have found that social indicators still lack weight in the evaluation of the performance of Islamic banks in Indonesia.<sup>37</sup> Thus, maqashid exists only as a normative discourse that has not been institutionalized in regulatory governance.

The provisions in Article 4 paragraph (2) of Law Number 21 of 2008 have actually provided a legal basis for the implementation of the social functions of Islamic banks through the management of Welfare funds.<sup>38</sup> However, subsequent articles such as Article 35 and Article 36 focus on *the prudential banking* aspect.<sup>39</sup> The absence of social indicators in these two articles shows a structural bias in the formulation of regulations that are financially oriented, not maqashidi. This condition violates the principles of *hifz al-mal* (protection of property) and *tahqiq al-adl* (realization of justice), because the

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<sup>33</sup> Abdul Qoyum, "The Maqasid Ash – Syariah Framework and the Development of Islamic Financial Products: The Case of Indonesia," *Tazkia Islamic Finance and Business Review* 12, no. 2 (2018): 169.

<sup>34</sup> Y H Adisasmita and A Zaky, "Measurement of Sharia Bank Performance Based on Maqashid Syariah Perspective of Abdul Majid Najjar," *Journal of Islamic Banking* (2025): 19, <http://ejournal.iainutuban.ac.id/index.php/JIB/article/view/1113%0Ahttp://ejournal.iainutuban.ac.id/index.php/JIB/article/download/1113/615>

<sup>35</sup> Nurmahadi Nurmahadi and Christina Tri Setyorini, "Maqasid Syariah in Measuring the Performance of Islamic Financial Institutions in Indonesia," *JAS (Sharia Accounting Journal)* 2, No. 1 (2018): 29 – 55, <https://ejournal.stiesyariahbangkalis.ac.id/index.php/jas/article/view/130>.

<sup>36</sup> Analia, Bekti, and Anto, "Measurement of Sharia Banking Performance in Indonesia Using the Maqashid Sharia Index Method." *Proceedings of the Conference on Islamic Management, Accounting, and Economics* (2019):235 – 244

<sup>37</sup> Surayya Fadhilah Nasution, "The Performance of Islamic Rural Banks: The Maqashid Sharia Index," *JPS (Sharia Banking Journal)*, Vol 6, no. 1 (2025): 132.

<sup>38</sup> Law Number 21 of 2008 concerning Sharia Banking, Article 4 paragraph (2).

<sup>39</sup> Ibid., pp. 35 – 36.



protection of property in Islam does not stop at financial security, but also includes fair distribution and social benefits.<sup>40</sup>

Disharmony is also seen in POJK Number 12/POJK.03/2020 concerning Sharia Commercial Banks, where social functions are placed only as *complementary activities*.<sup>41</sup> Ideally, social functions should be part of the core regulatory objective, parallel to the stability of the financial system. Within the framework of maqashid, regulations that do not contain social evaluation instruments mean that they fail to present the true purpose of sharia, namely *tahqiq al-'adl wa al-mashlahah*.<sup>42</sup>

Thus, the regulatory disharmony between Law No. 21 of 2008 and POJK No. 12/2020 is not only textual, but also paradigmatic. Regulations focus on administrative legitimacy, while maqashid demands the substance of social justice and equity<sup>43</sup>. This shows that the positive legal system of Indonesian Islamic banking is still at the level of legal formalism, has not reached the level of value – based regulation as idealized by the sharia maqashid.

The Islamic financial system cannot be separated from its social goals, because the Islamic economy is built on the principles of sustainability and equity, not just the achievement of material profits.<sup>44</sup> When Islamic banking law follows a capitalistic paradigm and views maqashid as an additional value, then Islamic social goals lose their binding force on the national legal structure.

Another criticism said that Islamic banks have not made maqashid a *key performance indicator* in sharia compliance reports.<sup>45</sup> His analysis confirms that the low performance of maqashid is mainly influenced by regulations that do not provide measurable social indicators. Similar results were found in an empirical study of Bank Syariah Indonesia, where social welfare indicators were only treated as corporate social responsibility (CSR) activities, not part of the maqashid assessment.<sup>46</sup> This shows how the technocratic logic of public policy dominates the legal structure of national Islamic banking, so that maqashid is reduced to an ethical symbol without juridical consequences.

This normative disharmony is rooted in the insynchronization between the source of national law based on positivism and the character of Islamic law based on values. Sharia economic law has a philosophical dimension that places the benefit of society as the ultimate goal of establishing norms.<sup>47</sup> Every banking policy should not only imitate the conventional legal structure, but also adjust to the principles of maqashid so that there is no contradiction between legality and morality.

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<sup>40</sup> Auda, *Maqasid Al-Shariah as a Philosophy of Islamic Law: A Systems Approach*. (2010)

<sup>41</sup> Financial Services Authority Regulation Number 12/POJK.03/2020 concerning Sharia Commercial Banks, Article 2 paragraph (3).

<sup>42</sup> Hidayat, Qathrunnada, and Samsuri, "Measuring Sharia Banking Performance Using the Maqashid Sharia Index and RGEC: Islamic Banking Malaysia and Indonesia." *Dialectics : Journal of Economics and Social Sciences*, 8 (2023) : 281.

<sup>43</sup> Analia, Bekti, and Anto, "Measurement of Sharia Banking Performance in Indonesia Using the Maqashid Sharia Index Method." *Proceedings of the Conference on Islamic Management, Accounting, and Economics*, 2 (2019).

<sup>44</sup> Chapra, *The Future of the Economy: An Islamic Perspective*. (2016)

<sup>45</sup> Rahman Hidayat, "The Realization of the Maqasid Concept of Sharia Index Sharia Banking in Indonesia," *ECO BANKERS: Journal of Economics and Banking*, vol 6 (2025).

<sup>46</sup> N Nadia and M Muflih, "Determinants of the Sharia Bank Maqashid Index: Implications for Social and Environmental Sustainability," *SHARIA ECONOMICS: Journal ...* (2025), <https://ejournal.uinbukittinggi.ac.id/index.php/febi/article/view/9286%0Ahttps://ejournal.uinbukittinggi.ac.id/index.php/febi/article/download/9286/2448>

<sup>47</sup> Lina Pusvisasari, Hasan Bisri, and Ija Suntana, "Analysis of Sharia Economic Law Philosophy and Theory in the Context of Islamic Banking," *Major Economic Journal* 2, no. 3 (2023): 269.

Analysis of practices in the field shows that Islamic banks that implement *maqashid* –based business strategies tend to have a wider social impact. Measuring bank performance using the *maqashid Index* can improve productive sector financing and microfinance inclusion.<sup>48</sup> These findings indicate that the integration of *maqashid* in the evaluation instrument not only strengthens the legitimacy of sharia, but also makes a real contribution to economic stability and community welfare.

As a reinforcement of the above normative analysis, empirical data is needed to show the extent to which the implementation of the social function of Islamic banking is reflected in institutional practices. Based on *Sharia Banking Statistics* published by the Financial Services Authority (OJK) in the 2020–2024 period, it can be seen that the distribution of social funds and other charitable funds is still far below the proportion of commercial financing run by Islamic commercial banks. This phenomenon illustrates that the social function is still complementary, not yet the main focus of Islamic banking policy as mandated by Article 4 paragraph (2) of Law Number 21 of 2008 concerning Islamic Banking.

**Table 1.** Comparison of Social Funds and Commercial Financing of Sharia Commercial Banks (2020–2024)

Year	Social Fund (ZISWAF, CSR)	Commercial Financing	Ratio of Social Funds to Total Financing
2020	IDR 156 Billion	IDR 431 Trillion	0,036%
2021	IDR 189 Billion	IDR 502 Trillion	0,037%
2022	IDR 202 Billion	IDR 590 Trillion	0,034%
2023	IDR 225 Billion	IDR 671 Trillion	0,033%
2024	IDR 243 Billion	IDR 730 Trillion	0,033%

Source: Financial Services Authority, "Islamic Banking Statistics 2020–2024"

The data in Table 1 shows that the proportion of social funds managed by Islamic commercial banks in the last five years only ranges from 0.03%–0.04% of total financing. Although the absolute value is increasing, the growth ratio tends to be stagnant. This condition indicates that the social function of Islamic banking has not been prioritized in operational policies.

This fact confirms the disharmony between legal norms and sharia goals. Regulations such as Law No. 21 of 2008 and POJK No. 12/POJK.03/2020 emphasize the *prudential principle* and financial stability, but do not yet have a supervisory instrument or special indicator to measure the social contribution of Islamic banks. In other words, the current positive legal system is still oriented towards *legal formalism*. Assess the success of Islamic banks in terms of administrative compliance, not the extent to which the institution contributes to economic justice and public welfare. This means that the goal of *jalb al-maṣlaḥah* (realizing benefits) has not been structurally realized.<sup>49</sup>

<sup>48</sup> Novi Riswanti and Titik Agus Setyaningsih, "Evaluating the Performance of Indonesian Sharia Banks Using the Sharia Maqashid Index" 4, no. 1 (2025): 31.

<sup>49</sup> The Financial Services Authority, *Sharia Banking Statistics 2020–2024*, accessed 24 October 2025, <https://www.ojk.go.id/id/kanal/syariah/data-dan-statistik/Pages/Statistik-Perbankan-Syariah.aspx>

Regulatory reform based on maqashid requires institutional steps through the integration of social indicators into the supervision mechanisms of the OJK and BI. This emphasizes the importance of including maqashid as *a regulatory benchmark* in Islamic financial product innovation.<sup>50</sup> The harmonization between positive norms and maqashid is not only a moral imperative, but also a structural necessity to ensure the relevance of Islamic law in Indonesia's modern financial system.

## DISCUSSION

The integration of the values of maqashid sharia into the framework of Islamic banking regulations is an urgent need so that the Islamic financial system does not stop at the formal legal aspect. Regulations that only emphasize procedural compliance have the potential to move away from the substance of maqashid. The measure of success of Islamic financial institutions should not be limited to financial stability, but needs to include the dimensions of equity and economic empowerment.<sup>51</sup> The integration of maqashid into public policy essentially expands the scope of positive law so as not to stop at efficiency, but also to reflect the value of substantive justice.

The application of *the maqashid based regulation approach* requires methodological reform in the financial supervision system. A number of empirical studies show that the application of *the Maqashid Shariah Index (MSI)* can change the orientation of performance measurement from just a profit ratio to a welfare instrument.<sup>52</sup> MSI serves as a moderation mechanism between financial performance and sharia governance, which promotes transparency and equitable distribution of economic benefits.<sup>53</sup> The use of this index is not optimal, because it has not been used as an official reference by the OJK or Bank Indonesia in periodic supervision. In fact, the merger between MSI and the prudential principle can result in a supervisory paradigm that balances profitability and social sustainability.

This approach also demands a paradigm shift in regulatory institutions. The evolution of Islamic banking regulations in Indonesia is still adaptive to the conventional system and has not yet emphasized maqashid as a policy parameter.<sup>54</sup> Thus, the regulatory orientation still emphasizes more on industrial stability than on protecting the public interest. An alternative model could refer to the *Sharia Governance Framework* in Malaysia, which not only mandates compliance with Sharia Council fatwas, but also assesses the social impact of financial policies.<sup>55</sup> The implementation of similar policies

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<sup>50</sup> Qoyum, "The Framework of Maqasid Ash—Syariah and the Development of Islamic Financial Products: The Case of Indonesia." *Tazkia Islamic Finance and Business Review*, 12 (2018): 169–188.

<sup>51</sup> Adisasmita and Zaky, "Measurement of Sharia Bank Performance Based on Maqashid Syariah Perspective of Abdul Majid Najjar." *Journal of Islamic Banking* (2025): 19–26.

<sup>52</sup> Ahmad Dahlan Malik et al., "Analysis of the Performance of Indonesian Islamic Banking Using the Sharia Maqasid Index and Simple Additive Weighting Rating," *Muqtasid: Journal of Sharia Economics and Banking* 15, no. 1 (2024): 68.

<sup>53</sup> Satrio Hadibowono and Agus Munandar, "The Impact of Maqasid Sharia Index Mediation on Financial Performance and Governance and Profitability of Sharia Commercial Banks in Indonesia," *Journal of Finance and Banking* 27, No. 1 (2023): 157.

<sup>54</sup> Hidayah et al., *Islam and the State: The Evolution of Sharia Banking Regulations in Indonesia* Syarif Hidayatullah State Islamic University Jakarta Abstract *The Interaction of Social, Economic, and Political Dynamics Affecting the Legal Development of Sharia Banking Regulations*, vol. 23, (2024).

<sup>55</sup> Mohd Sollehudin Bin Shuib and Faizi, "Sharia Governance in Islamic Financial Institutions: A Comparative Review of Malaysia and Indonesia," *EL DINAR: Journal of Islamic Finance and Banking* 12, no. 1 (2024): 89–107.

in Indonesia can strengthen the position of Islamic law as a foundation of value in the national financial system.

The DSN–MUI fatwa institution also plays a strategic role in ensuring the integration of maqashid runs effectively. The weak position of fatwa is due to the absence of a sanction system and coordination between DSN – MUI and the financial authorities.<sup>56</sup> For this reason, there needs to be a legal mechanism that allows fatwas to be translated into binding operational guidelines.

In terms of institutions, innovations in social products such as *micro waqf banks* and *qard al-hasan financing* need to be developed as a concrete form of the implementation of maqashid. Previous research has proven that *micro waqf banks* can expand access to financing for low–income people without sacrificing the sustainability of financial institutions.<sup>57</sup> The application of maqashid in the profit–sharing system encourages justice and reduces inequality between banks and customers.<sup>58</sup> This shows that the principle of maqashid does not hinder economic efficiency, but rather strengthens the moral legitimacy and social stability of Islamic financial institutions.

The maqashid dimension has a mediating effect between the bank's financial performance and sharia governance.<sup>59</sup> This means that the achievement of maqashid has a positive effect on profitability while improving the reputation of the institution. The Islamic economic system will only function in its entirety when social welfare is the main measure of economic success.<sup>60</sup> The integration of maqashid into regulatory instruments, such as compliance reports and social audits, is a prerequisite for the realization of a fair and sustainable financial legal system.

Positive regulations in Law No. 21 of 2008 and POJK 12/POJK.03/2020 have provided a legal basis for the social function of Islamic banks, but their implementation is still trapped in narrow financial logic. Theoretical analysis through sharia maqashid actually emphasizes the need for a repositioning of regulations from simply "sharia compliant" to "functional maslahat". Therefore, the integration of maqashid is not merely a methodological choice, but a logical consequence of the Islamic legal system that places the public interest at the top of sharia goals (*ghayah al-shari'ah*). Regulatory reforms based on the value of maqashid will ensure that Islamic banking in Indonesia is not only legally legal, but also socially meaningful and substantively just.

Efforts to integrate positive law and sharia maqashid values require a reorientation of the regulatory paradigm from a formal compliance approach to a *value-based regulation* approach. One model that can be used as a reference is the *Shariah Governance Framework* in Malaysia, which not only requires compliance with the Sharia Council's fatwa, but also assesses the social impact of Islamic financial policies.<sup>61</sup> The

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<sup>56</sup> Umam and Kimberly, "The Role of Kpjks in the Legislation of Fatwa Dsn – MUI in the Field of Sharia Financial Regulation."

<sup>57</sup> Harianto, Ramadhan, and Soemitra, "Innovation Model of Micro Waqf Banks in Aceh." *Legal Issues*, vol 50 (2021): 94.

<sup>58</sup> Baiq Ismiati, "The Implementation of Maqashid Al–Syariah in the Sharia Banking Profit Distribution System in Indonesia," *Citizen : Indonesian Multidisciplinary Scientific Journal* 5, no. 3 (2025): 735–46, <https://doi.org/10.53866/jimi.v5i3.841>.

<sup>59</sup> Hadibowono and Munandar, "The Impact of Maqasid Sharia Index Mediation on Financial Performance and Governance and Profitability of Sharia Commercial Banks in Indonesia." *International Journal of Islamic Thought and Humanities*, vol. 4 (2025): 354.

<sup>60</sup> Chapra, *The Future of the Economy: An Islamic Perspective*.

<sup>61</sup> Securities Commission of Malaysia, *Maqasid al-Shariah Guidelines: Malaysia's Islamic Capital Market* (Kuala Lumpur: SC Malaysia, 2023).

implementation of similar principles in Indonesia can strengthen the legitimacy of Islamic law as an ethical and regulatory foundation in the national financial system. This approach is in line with the idea of sharia maqashid which emphasizes the need for an adaptive and interconnected legal system for the benefit of the public.<sup>62</sup> Thus, the social function of Islamic banking can develop from just a philanthropic activity to a legal instrument that has real socio – economic transformation power.<sup>63</sup>

## CONCLUSION

This research confirms that the social function of Islamic banking in Indonesia has not been effectively integrated into the existing regulatory and supervisory framework. An analysis of the legal system, from Law Number 21 of 2008 to POJK 12/POJK.03/2020, reveals that regulations still primarily focus on financial stability and procedural compliance. Empirically, the social dimension of Islamic banking has not yet been prioritized in the evaluation and reporting mechanisms of financial institutions. The theory of maqashid sharia offers a normative foundation to reassess the development of the Islamic financial system. Key maqashid principles, such as *hifz al-mal* and *tahqiq al-'adl*, should direct Islamic banking to prioritize public benefit over mere economic efficiency. The research emphasizes the urgent need to shift the regulatory framework from a "prudential banking" paradigm to one of "socially responsible sharia banking," with maqashid serving as an evaluative framework in national financial policy. The disharmony between regulation and maqashid in the social function of Islamic banking arises from two main issues: the regulatory focus on administrative compliance and financial stability, and the lack of a legal mechanism to assess the achievement of social functions through maqashid indicators.

This research provides three main contributions. First, it introduces the Maqashid – Based Regulatory Reorientation Framework, offering an integrative approach between positive regulation and maqashid values. Second, it highlights the weak implementation of social functions through OJK data analysis (2020 – 2024) and public literacy based on Bank Indonesia KESN (2023). Third, it recommends that OJK, Bank Indonesia, and DSN – MUI develop maqashid compliance indicators to measure the social impact of Islamic banking. The scientific contribution lies in its application of juridical historical analysis alongside the theory of sharia maqashid, expanding the discourse of Islamic economic law. The study suggests three strategic steps: establishing maqashid indicators in OJK supervision, strengthening the role of DSN – MUI as a semi – regulatory body, and developing social financial instruments such as micro waqf banks and qard al – hasan financing. This research affirms the relevance of Islamic law in modern finance, asserting that the integration of maqashid into regulation is not just idealistic but necessary for ensuring Islamic finance is not only "legally halal" but also "socially just." It calls for further studies on the integration of maqashid into national legal and financial policies, potentially exploring the Maqashid Shariah Index (MSI) and comparing regulatory frameworks in countries like Malaysia and Bahrain to inform the development of a contextual Sharia Governance Framework in Indonesia.

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<sup>62</sup> Sollehudin Bin Shuib and Faizi, "Sharia Governance in Islamic Financial Institutions: A Comparative Review of Malaysia and Indonesia." *EL DINAR: Journal of Sharia Finance and Banking*, vol. 12 (2024): 89"

<sup>63</sup> Indri Kartika, Kiryanto Kiryanto, and Rahayu Nur Cahyaningtyas, "Maqasid Sharia – Based Performance Improvement Model: A Case Study in Sharia Banks in Indonesia," *International Journal of Islamic Business Ethics* 7, No. 1 (2022): 16, <https://doi.org/10.30659/ijibe.7.1.16> – 29.



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