

Gender-Responsive *Maqāsid*: Reconstructing Islamic Legal Reasoning on Sexual Violence through KUPI's Collective *Ijtihād*

Amirudin Nurjaman^{1*}, Adang Djumhur Salikin², Achmad Kholiq³, Didi Sukardi⁴ and Souad Ezzerouali⁵

¹UIN Siber Syekh Nurjati Cirebon, Indonesia. E-mail: amarpiab1@gmail.com

²UIN Siber Syekh Nurjati Cirebon, Indonesia. E-mail: adangdjumhursalikin59@gmail.com

³UIN Siber Syekh Nurjati Cirebon, Indonesia. E-mail: achmadkholiq672@gmail.com

⁴UIN Siber Syekh Nurjati Cirebon, Indonesia. E-mail: didisukardimubarrak@uinssc.ac.id

⁵United Arab Emirates University, College of Law, Al Ain, United Arab Emirates. E-mail: sezzerouali@uaeu.ac.ae

Abstract: Contemporary studies on the Indonesian Women Ulama Congress (KUPI) have showed its contribution to women's religious authority, gender-just Islamic interpretation, and the development of *maqāsid cum-mubādalah*. Results have shown that limited attention is given to how these epistemological principles reconstruct classical *maqāsid* reasoning within a specific fatwa on sexual violence. Therefore, this study aims to examine KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 on the protection of women from sexual violence to identify how women's lived experiences are integrated into *maqāsid*-based Islamic legal reasoning. The study used critical hermeneutics and qualitative content analysis of the official fatwa document, supported by relevant classical and contemporary Islamic legal scholarship. The results showed that KUPI reinterpreted sexual violence as a multidimensional violation of *ḥifẓ al-naḥs*, *ḥifẓ al-aql*, *ḥifẓ al-dīn*, and *ḥifẓ al-nasl*. In addition, classical protection-oriented *maqāsid* was extended through *karāmah insāniyyah*, *al-ʿadl*, *al-raḥmah*, *mubādalah*, and women's lived experiences as epistemically relevant considerations. The results also showed that KUPI's collective *ijtihād* constructed a gender-responsive *maqāsid* framework, which moved Islamic legal reasoning from formal protection toward substantive justice, bodily integrity, psychological well-being, and human dignity. This framework contributes to contemporary Islamic legal theory by showing how scriptural authority, ethical objectives, and women's experiential knowledge can interact within a coherent model of gender-just legal reasoning.

Keywords: collective *ijtihād*; gender justice; KUPI; *Maqāsid al-Shari'ah*; sexual violence; women's lived experiences.

1. Introduction

Gender-based violence against women remains a serious legal, social, and ethical problem in contemporary Indonesia. The persistence of sexual violence shows that formal legal protection alone does not necessarily eliminate unequal power relations, victim blaming, social stigma, and structural barriers to justice. This problem is particularly significant in Muslim societies because responses to sexual violence are

* Correspondence

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shaped not only by state law and social norms but also by religious interpretations concerning sexuality, marriage, morality, authority, and gender relations.¹ Consequently, Islamic legal discourse plays an important role in shaping whether religious norms reinforce vulnerability or provide ethical resources for protecting victims and restoring justice.²

The urgency of the issue remains evident in recent Indonesian data. Komnas Perempuan documented 376,529 cases of gender-based violence against women throughout 2025, an increase of 14.07% from the previous year. Among these cases, 337,961 (89.76%) occurred in the personal sphere, showing that households, marriages, and intimate relationships remain particularly vulnerable spaces for women. Komnas Perempuan also reported that sexual violence constituted the most frequently reported form of violence in complaints received directly by the institution.³ These figures show that violence against women cannot be understood merely as isolated individual misconduct. It is closely connected to unequal power relations, social structures, and normative systems that influence how violence and victimhood are interpreted.

Within Islamic legal scholarship, the relationship between gender justice and inherited jurisprudential traditions has generated sustained intellectual debate. Classical jurists formulated legal rulings within particular historical and social contexts, while contemporary Muslim scholars increasingly questioned whether inherited legal formulations could adequately address changing forms of vulnerability, inequality, and violence.⁴ The central issue is therefore not simply whether Islamic law recognises justice as a normative value, but how its interpretive methodology can translate that value into legal reasoning that responds to contemporary experiences of harm.⁵

Maqāṣid al-sharīʿah provides an important framework for addressing this methodological problem. Classical *maqāṣid* theory, particularly as systematised by al-Ghazālī, identifies the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-ʿaql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*) as fundamental necessities for human welfare.⁶ Al-

¹ Sharlene Nagy Hesse-Biber, *Feminist Research Practice: A Primer* (Los Angeles: SAGE Publications, 2014), 36, <https://doi.org/10.4135/9781071909911>.

² Faqihuddin Abdul Kodir, *Qiraʿah Mubadalah: Tafsir Progresif Untuk Keadilan Gender Dalam Islam* (Yogyakarta: IRCiSoD, 2019), 60.

³ Komisi Nasional Anti Kekerasan terhadap Perempuan, “Catatan Tahunan 2025: Memperkuat Data, Mengatasi Kerentanan, Mendesak Negara Bersikap Untuk Keadilan Korban” (Jakarta, 2026), 13.

⁴ Ziba Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (Princeton: Princeton University Press, 1999), 271–72, <https://doi.org/10.2307/j.ctv1h9dgq0>.

⁵ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008), 21–24, <https://books.google.co.id/books?id=5sKQF16gdWgC>.

⁶ Abu Hamid Muhammad ibn Muhammad Al-Ghazali, *Al-Mustafa Min ʿIlm Al-Usul*, ed. al-Salām ʿAbd al-Shāfi (Beirut: Daar al-Kutub al-ʿIlmiyyah, 1993), 174–75.

Shāṭibī subsequently developed the theory of *maqāṣid* within a more systematic structure of necessities, needs, and complementary interests, positioning the preservation of human welfare as a central purpose of the *Shari'ah*.⁷ Contemporary *maqāṣid* scholarship has expanded this framework beyond preserving essential interests to include human development, dignity, rights, justice, and contextual responsiveness. Jasser Auda's systems approach, for example, conceptualises *maqāṣid* as an open, multidimensional, interconnected, and purpose-oriented framework in which legal interpretation must consider complex social realities rather than isolated textual formulations.⁸

This development is particularly relevant to gender justice. Sexual violence produces harms that exceed conventional legal categories. It may damage bodily integrity, psychological well-being, reproductive health, social dignity, religious subjectivity, and the victim's capacity to exercise agency.⁹ Therefore, a *maqāṣid* analysis of sexual violence requires more than assigning particular harms to the classical 5 necessities. It requires examination of how those categories are interpreted when women's embodied, psychological, and social experiences become relevant to Islamic legal reasoning.¹⁰

The Indonesian Women Ulama Congress (Kongres Ulama Perempuan Indonesia, KUPI) provides an important site for examining this development. Since its first congress in Cirebon in 2017, KUPI has produced religious views addressing sexual violence, child marriage, ecological destruction, and other issues affecting women and vulnerable groups.¹¹ Its significance lies not only in the subjects it addresses but also in the epistemological structure through which it produces religious knowledge. KUPI challenges gender-biased religious authority by developing a contextual and gender-inclusive mode of Islamic interpretation.¹² Within this framework, scriptural sources interact with *maqāṣid al-shari'ah*, *mubādalah* (reciprocity), *keadilan hakiki* (substantive justice), and women's lived experiences as relevant considerations in collective religious deliberation.¹³

⁷ Abū Ishāq Ibrāhīm ibn Mūsā Al-Shāṭibī, *Al-Muwāfaqāt Fī Uṣūl Al-Shari'ah*, vol. 2 (Beirut: Dār al-Kutub al-'Ilmiyyah, 2004), 33–39.

⁸ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, 45–46.

⁹ Hesse-Biber, *Feminist Research Practice: A Primer*, 35–36.

¹⁰ Kodir, *Qira'ah Mubadalah: Tafsir Progresif Untuk Keadilan Gender Dalam Islam*.

¹¹ Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I* (Cirebon: Sekretariat KUPI, 2017), 33–39.

¹² Inayah Rohmaniyah, Samia Kotele, and Rr. Siti Kurnia Widiastuti, "Reclaiming an Authority: Women's Ulama Congress Network (KUPI) and a New Trend of Religious Discourse in Indonesia," *Academic Journal of Interdisciplinary Studies* 11, no. 3 (2022): 60–61, <https://doi.org/10.36941/ajis-2022-0068>.

¹³ Faqihuddin Abdul Kodir et al., "Maqasid Mubadalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (2024): 522–23, <https://doi.org/10.19105/al-lhkam.v19i2.16617>.

Recent studies have increasingly examined this intellectual development. Rohmaniyah, Kotele, and Widiastuti show that KUPI reconstructs women's religious authority by challenging patriarchal epistemologies, redefining ulama, and developing gender-inclusive approaches to religious knowledge.¹⁴ Kloos and Ismah situate KUPI within the broader trajectory of Islamic feminism and argue that its importance lies in transforming intellectual challenges and patriarchal authority into a socially embedded religious movement.¹⁵ Studies on KUPI decisions have further shown how women ulama reinterpret inherited jurisprudential concepts through theological, sociological, and juridical arguments while taking seriously the lived experiences of women affected by harmful practices.¹⁶ More recent studies conceptualise KUPI's approach as *maqāṣid cum-mubādalah*, showing how *maqāṣid*, reciprocity, and women's experiential knowledge interact in formulating gender-just *fiqh*.¹⁷

The results represent an important advance in scholarship, establishing that KUPI cannot be understood merely as a women's religious movement or an alternative fatwa-producing institution. However, it constitutes an emerging epistemological project within contemporary Islamic jurisprudence. Existing studies predominantly examine KUPI's religious authority, institutional movement, general methodology, or its legal reasoning across several gender-related issues.¹⁸ Less attention has been devoted to the internal legal logic through which a single KUPI fatwa reconstructs specific classical *maqāṣid* categories in response to the multidimensional harms produced by sexual violence.

Fatwa KUPI No. 02/MK-KUPI-1/IV/2017 on the protection of women from sexual violence provides a particularly important case for addressing this gap. The fatwa categorically rejects sexual violence, refuses the stigmatisation and criminalisation of victims, and emphasises the responsibility of individuals, families, communities,

¹⁴ Rohmaniyah, Kotele, and Widiastuti, "Reclaiming an Authority: Women's Ulama Congress Network (KUPI) and a New Trend of Religious Discourse in Indonesia."

¹⁵ David Kloos and Nor Ismah, "Siting Islamic Feminism: The Indonesian Congress of Women Islamic Scholars and the Challenge of Challenging Patriarchal Authority," *History and Anthropology* 34, no. 5 (2023): 818–24, <https://doi.org/10.1080/02757206.2023.2249495>.

¹⁶ Arifah Millati Agustina and Nor Ismah, "Challenging Traditional Islamic Authority: Indonesian Female Ulama and the Fatwa Against Forced Marriages," *Journal of Islamic Law* 5, no. 1 (2024): 125–46, <https://doi.org/10.24260/jil.v5i1.2319>.

¹⁷ Kodir et al., "Maqasid Mubadalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh," 522–23.

¹⁸ Rohmaniyah, Kotele, and Widiastuti, "Reclaiming an Authority: Women's Ulama Congress Network (KUPI) and a New Trend of Religious Discourse in Indonesia"; Kloos and Ismah, "Siting Islamic Feminism: The Indonesian Congress of Women Islamic Scholars and the Challenge of Challenging Patriarchal Authority"; Kodir et al., "Maqasid Mubadalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh."

religious institutions, and the state to prevent violence and protect victims.¹⁹ Its significance extends beyond prohibiting particular acts. The fatwa raises a deeper jurisprudential question concerning how Islamic legal reasoning conceptualises harm when physical integrity, psychological trauma, reproductive well-being, human dignity, and unequal gender relations intersect within experiences of sexual violence.

The current study argues that KUPI's treatment of sexual violence represents a reconstruction rather than a simple application of classical *maqāṣid al-sharī'ah*. The reconstruction operates through 3 interrelated moves. First, KUPI broadens the substantive meanings of *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, *ḥifẓ al-dīn*, and *ḥifẓ al-nasl* by reading physical, psychological, reproductive, and spiritual harms through women's lived experiences. Second, it places *karāmah insāniyyah*, *al-'adl*, *al-rahmah*, and *mubādalāh* within the ethical structure of legal reasoning, thereby shifting *maqāṣid* from formal preservation toward substantive gender justice.²⁰ Third, KUPI's collective *ijtihād* recognises experiential knowledge as epistemically relevant without displacing scriptural authority. This interaction produces what the current study conceptualises as a gender-responsive *maqāṣid* framework, consistent with contemporary efforts to understand *maqāṣid* as a multidimensional and purpose-oriented system of Islamic legal reasoning.²¹

This study also examines how KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 reconstructs *maqāṣid al-sharī'ah* in response to sexual violence. It specifically investigates how the fatwa interprets the classical objectives of Islamic law, how women's lived experiences enter its legal reasoning, and how principles of dignity, reciprocity, compassion, and substantive justice reshape the relationship between *maqāṣid* and gender justice. By focusing on the internal legal logic of a single fatwa, the results contribute to contemporary Islamic legal scholarship by explaining how scriptural authority, ethical objectives, and experiential knowledge can interact within a gender-responsive model of Islamic jurisprudence.

2. Methods

This study used a qualitative documentary study to examine the reconstruction of *maqāṣid al-sharī'ah* within KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 concerning the protection of women from sexual violence. A documentary study was selected because it focused on the structure of legal reasoning, normative arguments, ethical principles, and epistemological assumptions in an authoritative religious text rather than on

¹⁹ Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I*.

²⁰ Kodir, *Qira'ah Mubadalah: Tafsir Progresif Untuk Keadilan Gender Dalam Islam*, 61.

²¹ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, 193.

measuring public attitudes or the fatwa's social reception.²² Therefore, the fatwa was treated not merely as a collection of legal statements but as a textual construction in which scriptural sources, jurisprudential concepts, social realities, women's experiences, and ethical considerations interacted. This study combined qualitative content analysis and critical hermeneutics to identify both the fatwa's explicit structure and the deeper meanings underlying its *maqāṣid*-based legal reasoning.

The primary source was the official document of the First Indonesian Women Ulama Congress (KUPI I), held in Cirebon in 2017, specifically KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 on protecting women from sexual violence.²³ The analytical corpus was deliberately restricted to this fatwa to maintain consistency among the study's problem, object, unit of analysis, and conclusions. The study used other KUPI decisions only when necessary to clarify the organisation's broader methodological concepts, treating them as supporting documents rather than primary data. Secondary sources included classical works on *maqāṣid al-sharī'ah*, particularly al-Ghazālī's *Al-Mustasfā* and al-Shāṭibī's *Al-Muwāfaqāt*, contemporary *maqāṣid* scholarship represented by Jasser Auda's systems approach,²⁴ as well as recent studies concerning KUPI, *mubādalāh*, women's lived experiences, gender justice, and women's religious authority. When consulted, published interviews, public speeches, institutional publications, and recorded statements by KUPI scholars were treated as documentary materials rather than study team-conducted interviews.

The unit of analysis consists of textual segments containing definitions of sexual violence, scriptural and jurisprudential arguments, statements concerning victims and perpetrators, descriptions of harm and responsibility, and references to protection, justice, dignity, compassion, reciprocity, and women's experiences. Particular attention was given to passages related to *ḥifẓ al-naḥs*, *ḥifẓ al-'aql*, *ḥifẓ al-dīn*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl*. Furthermore, the study used qualitative content analysis to systematically identify, classify, and organise these recurring concepts and patterns of legal reasoning. Content analysis enabled the study teams to draw valid, contextually grounded inferences from textual materials rather than merely summarise their explicit content.²⁵ The analysis also remained open to categories emerging inductively

²² Glenn A Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9, no. 2 (2009): 27–29, <https://doi.org/10.3316/QRJ0902027>.

²³ Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I*.

²⁴ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

²⁵ Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology*, 4th ed. (Los Angeles: SAGE Publications, 2019), 24–29, <https://doi.org/10.4135/9781071878781>.

from the fatwa, particularly *karāmah insāniyyah*, *al-'adl*, *al-rahmah*, *mubādalah*, bodily integrity, psychological harm, victim protection, and collective responsibility.

The analytical procedure followed 4 stages. First, the fatwa was read repeatedly to identify legal propositions, scriptural references, descriptions of harm, normative judgments, and recommendations concerning prevention and victim protection. Second, relevant textual segments were coded using preliminary categories derived from classical *maqāṣid* while allowing additional categories to emerge from the document itself. Third, relationships among the categories were mapped to reconstruct the fatwa's legal logic, particularly the movement from textual evidence and experiences of harm toward ethical evaluation and legal judgment. Fourth, the resulting patterns were compared with classical and contemporary *maqāṣid* frameworks to determine whether KUPI simply applied established categories or reconstructed their substantive meanings in response to sexual violence. This procedure allowed the study to distinguish between what the fatwa explicitly stated and the conceptual interpretation developed through the analytical process.

Critical hermeneutics provided the interpretive framework for examining the relationship among text, social context, and the ethical orientation underlying KUPI's legal reasoning. Ricoeur's hermeneutics emphasised the movement between explanation and understanding and recognised that written discourse opened possibilities of meaning requiring contextual interpretation.²⁶ Accordingly, the analysis operated through 3 interconnected horizons, namely the textual horizon, which examined Qur'anic evidence, prophetic traditions, jurisprudential references, and legal formulations. The contextual horizon, which considered sexual violence and gendered relations of power, addressed the social reality the fatwa addressed, while the ethical-epistemological horizon examined how dignity, justice, compassion, reciprocity, prevention of harm, and women's lived experiences shaped interpretations of *maqāṣid*. Feminist reflexivity was incorporated to ensure that the study teams remained conscious of positionality and interpretive authority when examining gendered experiences and the production of religious knowledge.²⁷

The study strengthened analytical credibility through source comparison, conceptual triangulation, an analytical audit trail, and the study team's reflexivity. Source comparison verified interpretations against the official fatwa and relevant KUPI documents. Meanwhile, conceptual triangulation compared the results with classical *maqāṣid* theory, contemporary *maqāṣid* scholarship, and recent studies of KUPI and

²⁶ Paul Ricoeur, *Interpretation Theory: Discourse and the Surplus of Meaning* (Fort Worth: Texas Christian University Press, 1976), 16–34.

²⁷ Hesse-Biber, *Feminist Research Practice: A Primer*.

gender-just Islamic jurisprudence.²⁸ The audit trail distinguished direct textual statements from analytical coding and higher-level hermeneutic interpretation, thereby reducing the risk of attributing the study team's theoretical assumptions to the fatwa itself.²⁹ The analysis did not seek statistical generalisation or claim to measure the social effectiveness of the KUPI fatwa. Instead, its validity rested on the coherence among the study question, primary document, units of analysis, transparent coding procedures, contextual interpretation, and theoretically grounded comparison.³⁰ This methodological design enabled the study to explain systematically whether and how KUPI reconstructed classical protection-oriented *maqāṣid* into a gender-responsive framework for addressing sexual violence.

3. Results and Discussion

3.1. Results

The analysis of KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 showed that sexual violence was constructed not merely as a prohibited sexual act but as a multidimensional form of injustice that damaged the physical, psychological, spiritual, reproductive, and social integrity of the victim. The fatwa explicitly rejected sexual violence both within and outside marriage and refused interpretations that transferred moral responsibility from perpetrators to victims. Victims must not be blamed, stigmatised, or criminalised as the subjects who experienced injustice and therefore required protection,³¹ recovery, and access to justice.³² This formulation marked the first layer of KUPI's legal reasoning. The legal status of sexual violence was determined not only by the formal characteristics of the act but also by the harm, coercion, unequal power relations, and violation of human dignity experienced by the victim.

The fatwa's coding showed that these harms were interpreted through several interconnected *maqāṣid* categories. Physical injury, threats to bodily safety, coercion, and severe suffering were associated with *ḥifẓ al-naḥs*. Psychological trauma, fear, loss of mental well-being, and prolonged emotional suffering extended the meaning of *ḥifẓ al-*

²⁸ Norman K Denzin, *The Research Act: A Theoretical Introduction to Sociological Methods* (New York: McGraw-Hill, 1978), 291–92, <https://doi.org/10.4324/9781315134543>.

²⁹ Hesse-Biber, *Feminist Research Practice: A Primer*.

³⁰ Krippendorff, *Content Analysis: An Introduction to Its Methodology*.

³¹ Mustamam et al., "Reinterpreting Ḥifẓ Al-Naḥs in Contemporary Marriage Contracts: Navigating Islamic Normativity and State Law," *MILRev: Metro Islamic Law Review* 4, no. 2 (October 2025): 1258–80, <https://doi.org/10.32332/MILREV.V4I2.11158>; Rohmadi et al., "Optimizing Prenuptial Agreements for Asset Protection: A Maqashid Sharia Based Approach," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (2024): 375–98, <https://doi.org/10.29240/JHI.V9I2.11064>.

³² Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I*, 35–38.

'*aql*' beyond the conventional protection of rational capacity. Sexual coercion and the misuse of religious arguments to legitimise violence implicated *ḥifẓ al-dīn* because religion could not legitimately function as an instrument for normalising oppression. Reproductive harm, unwanted pregnancy, damage to sexual and reproductive health, and disruption of family relations were connected to *ḥifẓ al-nasl*.³³ The significance of this mapping lay in the relationship among these categories. Sexual violence did not violate one objective of the *Shari'ah* in isolation. A single act simultaneously threatened life, mental well-being, religious dignity, and reproductive integrity.

The analysis further identified a movement from classical protection categories toward a broader ethical structure. The fatwa's reasoning placed justice, compassion, human dignity, harm prevention, and protection of vulnerable persons at the centre of legal evaluation.³⁴ These values did not replace the classical *maqāṣid* but determined how their substantive meanings were interpreted in the context of sexual violence. Therefore, the analytical pattern could be represented as follows: experience of violence → identification of multidimensional harm → *maqāṣid* classification → ethical evaluation → prohibition and victim protection → collective responsibility. This sequence showed that KUPI's legal reasoning did not begin and end with textual classification. It connected normative sources to the concrete consequences of violence before producing legal and ethical judgments.

A further result concerned the epistemic position of women's experiences. The fatwa's victim-centred orientation required experiences of bodily violation, psychological trauma, coercion, vulnerability, and social stigma to be considered when determining the nature and seriousness of harm. This pattern aligned with KUPI's broader methodology, which placed women's experiences in dialogue with Islamic texts rather than treating them as external to religious knowledge.³⁵ Therefore, the results showed that lived experience functioned as an interpretive input, making the consequences of an act visible and giving established legal categories contextual meaning. This did not displace the Quran, Sunnah, or jurisprudential tradition but helped identify the realities to which those normative sources were applied.

The final analytical pattern concerned responsibility. KUPI did not restrict responsibility for sexual violence to the relationship between perpetrator and victim. Prevention, protection, recovery, legal accountability, and the creation of safe social

³³ Kongres Ulama Perempuan Indonesia (KUPI), 35–38.

³⁴ Nur Rofiah, "Metodologi Mubadalah Sebagai Basis Ijtihad Ulama Perempuan," in *Metodologi Fatwa KUPI* (Jepara: Sekretariat KUPI, 2022), 17–31.

³⁵ Nur Rofiah, "Pengalaman Perempuan Sebagai Basis Epistemologi Keadilan Gender Dalam Islam," in *Metodologi Fatwa KUPI* (Jepara: Sekretariat KUPI, 2022), 33–46.

conditions comprised families, communities, religious institutions, and the state.³⁶ This extended the operation of *maqāṣid* from individual legal conduct toward institutional and social responsibility. Protection of life, dignity, mental well-being, and reproductive integrity required structures capable of preventing violence and responding to victims. The results therefore showed 3 interrelated characteristics of the fatwa: a multidimensional interpretation of harm, the epistemic relevance of women's lived experiences, and the extension of *maqāṣid* from individual protection to collective responsibility.

3.2. Discussion

3.2.1. First Discussion: Reconstructing Maqāṣid through Women's Lived Experiences and Substantive Gender Justice

The central theoretical significance of these results lied in the distinction between the application and reconstruction of *maqāṣid al-sharī'ah*. When the fatwa classified physical violence under *ḥifẓ al-nafs* or reproductive harm under *ḥifẓ al-nasl*, its contribution remained within the conventional application of established *maqāṣid* categories. The results showed a more substantial interpretive movement. KUPI expanded what counted as legally relevant harm by incorporating bodily autonomy, psychological trauma, coercion, stigma, reproductive vulnerability, and unequal gender relations into the interpretation of protection. This movement was consistent with contemporary *maqāṣid* scholarship that sought to move beyond narrowly preservation-oriented formulations toward multidimensional understandings of human welfare, dignity, rights, and development.³⁷

This reconstruction was particularly visible in the interpretation of *ḥifẓ al-nafs* and *ḥifẓ al-'aql*. Classical *maqāṣid* theory placed preservation of life and intellect among the indispensable interests whose destruction threatened human welfare.³⁸ However, in KUPI's reasoning, protection of life was not reduced to preventing death or visible physical injury. Sexual violence attacked bodily integrity, personal security, and the capacity of victims to live free from coercion and fear. Likewise, *ḥifẓ al-'aql* could not be restricted to maintaining rational capacity. Psychological trauma, fear, depression, and prolonged mental suffering showed that protection of intellect also required protection of psychological well-being. The interpretive shift moved from preserving

³⁶ Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I*, 38–39.

³⁷ Jasser Auda, *Maqasid Al Shariah as Philosophy of Islamic Law A Systems Approach* (London: Washington: The International Institute of Islamic Thought, 2007).

³⁸ Abū Ḥāmid Muḥammad ibn Muḥammad Al-Ghazālī, *Al-Mustasfa Min Ilm Al-Usul* (Beirut: Dar al-Fikr, 1997), 286.

biological or rational existence to protecting the conditions necessary for dignified human existence.

A similar reconstruction occurred in *hifz al-din* and *hifz al-nasl*.³⁹ Sexual violence became a religious issue not because the victim violated sexual morality but because coercion, injustice, and the instrumentalisation of religion contradicted the ethical purposes of the *Shari'ah*. This reversed a victim-blaming logic in which women's bodies became the primary objects of moral scrutiny.⁴⁰ Reproductive protection was interpreted from the perspective of the person who experienced reproductive harm rather than solely through preservation of genealogy or family structure. Therefore, the fatwa shifted the analytical centre from maintaining abstract social categories toward protecting concrete human subjects affected by violence.

Women's lived experiences were crucial to this transformation. KUPI's broader epistemology was identified as challenging patriarchal modes of religious knowledge by integrating contextual interpretation, substantive justice, reciprocity, and women's experiences into religious deliberation.⁴¹ More recent scholarship described this approach as *maqāsid cum-mubādalāh*, in which the objectives of Islamic law interact with reciprocity and women's experiential perspectives to formulate gender-just *fiqh*.⁴² This study refined this scholarship by showing how that epistemological principle operated within a specific fatwa. Women's experiences functioned as an epistemic lens for identifying harms that could remain invisible when legal reasoning relied exclusively on abstract textual categories.

This point required an important qualification. Recognising experience as epistemically relevant did not mean replacing revelation with subjective experience. KUPI's model was better understood as a dialogical relationship in which scriptural authority established normative orientation while lived experience clarified the concrete realities in which justice and harm must be evaluated. In this sense, experience

³⁹ Abdillah Afabih et al., "Educational Alimony for Wives: A Study of Jasser Auda's Maqāshid As-Syariah," *International Journal of Islamic Khazanah* 16, no. 1 (March 2026): 1–15, <https://doi.org/10.15575/IJIK.V16I1.44497>; Sapto Hadi Pamungkas, Sangga Aritya Ukkasah, and Mu'adil Faizin, "Integrating Maqasid Al-Shariah into Legal Policies for Hybrid Working: Enhancing Flexibility and Protecting Employee Rights in Indonesia," *Manchester Journal of Transnational Islamic Law and Practice* 20, no. 3 (2024): 287–301.

⁴⁰ Burhanuddin et al., "Reconstructing Gender Justice in Kampung Kuta Ciamis Customary Law: A Patriarchal Culture Review," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 10, no. 1 (2025): 127–45, <https://doi.org/10.22373/petita.v10i1.373>.

⁴¹ Rohmaniyah, Kotele, and Widiastuti, "Reclaiming an Authority: Women's Ulama Congress Network (KUPI) and a New Trend of Religious Discourse in Indonesia."

⁴² Kodir et al., "Maqasid Mubadalah Methodology of KUPI: Centering Women's Experiences in Islamic Law for Gender-Just Fiqh."

answered a different but complementary question: not simply “What does the text say?”, but “What happens to the human subject when a particular interpretation or practice operates in social reality?” The interaction between these questions enabled Islamic legal reasoning to test whether a particular interpretation realised or undermined the ethical purposes attributed to the *Shari‘ah*.

Karāmah insāniyyah provided the ethical centre of this reconstruction. Sexual violence was fundamentally an assault on human dignity because it reduced a person’s body and sexuality to objects of coercive power. This emphasis on dignity enabled *maqāṣid* reasoning to link protection from harm to bodily integrity, autonomy, social recognition, and equal moral worth.⁴³ Justice (*al-‘adl*), compassion (*al-raḥmah*), and reciprocity (*mubādalāh*) reinforced this orientation by preventing legal interpretation from reproducing relationships in which a party possessed unilateral authority over another. Therefore, KUPI’s contribution lied not in adding an entirely new 6th or 7th necessity to the classical 5, but in reorienting the interpretation of the established necessities through dignity and substantive justice.

The result clarified the relationship between Islamic law and contemporary human rights. The protection of bodily integrity, dignity, freedom from violence, and access to justice must not be conceptualised as values externally imposed upon Islamic jurisprudence. Within KUPI’s reasoning, it could be articulated through the internal ethical vocabulary of *maqāṣid*, *karāmah*, justice, compassion, and prevention of harm. Contemporary discussions of gender equality in Islamic law similarly showed that the central challenge concerned how inherited jurisprudential constructions differed from Islam’s broader ethical commitments.⁴⁴ The KUPI fatwa contributed to this debate by showing how gender justice emerged through reinterpretation within Islamic legal reasoning rather than through a simple opposition between Islamic tradition and human rights.

The first discussion established the article’s principal theoretical proposition: gender-responsive *maqāṣid* is not merely using *maqāṣid* to discuss women’s issues, but an interpretive framework in which gendered experiences of harm helped determine the substantive meaning of protection, dignity, and justice. In this study, *ḥifẓ al-naḥs* became responsive to bodily integrity and personal security, *ḥifẓ al-‘aql* to psychological well-being, *ḥifẓ al-dīn* to the ethical integrity of religion, and *ḥifẓ al-nasl* to reproductive dignity and protection from coercion. The result was a movement from formal preservation toward substantive protection of the human person.

⁴³ Siti Ruhaini Dzuhayatin, “Epistemologi Rahmah Dalam Ijtihad Ulama Perempuan,” in *Disiplin Ilmu Dan Kesenitaraan Gender* (Yogyakarta: LKiS, 2021), 85–99.

⁴⁴ Ziba Mir-Hosseini, “Men in Charge?: Rethinking Gender in Islamic Legal Tradition,” *Islamic Law and Society* 17, no. 1 (2010): 1–127.

3.2.2 Second Discussion: KUPI Fatwa as a Model of Contemporary Social *Ijtihād*

The second theoretical contribution concerned the character of KUPI's legal reasoning as collective and socially situated *ijtihād*. KUPI emerged through a deliberative network including women ulama, Islamic scholars, activists, and practitioners rather than through the authority of a single jurist. Existing scholarship showed that this model challenged historically male-dominated structures of religious authority and broadened the actors involved in producing Islamic knowledge.⁴⁵ Therefore, KUPI's significance lay not only in the conclusions of its fatwas but also in how it constructed religious authority.

Collective *ijtihād* was particularly significant for sexual violence because the issue comprised forms of knowledge that no single disciplinary perspective could adequately represent. Scriptural interpretation identified normative foundations, jurisprudence provided legal categories, victims' experiences showed forms of harm, social analysis identified unequal power relations, and legal or institutional perspectives clarified mechanisms of prevention and accountability. Bringing these forms of knowledge into deliberation produced a more complex account of the problem. The resulting legal reasoning became socially informed without relinquishing its religious character.

This epistemological structure shifted women's position within Islamic legal discourse. Women were not treated merely as recipients or objects of legal rulings but as knowledgeable subjects whose experiences and scholarly authority helped produce religious understanding. Rohmaniyah, Kotele, and Widiastuti identified this as part of KUPI's attempt to reclaim women's religious authority and construct a gender-inclusive epistemology.⁴⁶ Kloos and Ismah similarly argued that KUPI extended the Islamic feminist project beyond scholarly critique into a locally embedded social and religious movement.⁴⁷ This analysis added that the Fatwa on Sexual Violence showed the jurisprudential consequence of this shift. When marginalised experiences became visible within deliberation, the substantive meaning of harm, protection, and responsibility could change. The social dimension of KUPI's *ijtihād* was equally evident in how it distributed responsibility. The fatwa did not consider prohibition alone sufficient. Prevention of sexual violence and protection of victims required institutional, educational, legal, religious, and governmental action.⁴⁸ *Maqāṣid* consequently operated at 2 levels. At the

⁴⁵ Rohmaniyah, Kotele, and Widiastuti, "Reclaiming an Authority: Women's Ulama Congress Network (KUPI) and a New Trend of Religious Discourse in Indonesia."

⁴⁶ Rohmaniyah, Kotele, and Widiastuti.

⁴⁷ Kloos and Ismah, "Siting Islamic Feminism: The Indonesian Congress of Women Islamic Scholars and the Challenge of Challenging Patriarchal Authority," 818–20.

⁴⁸ Kongres Ulama Perempuan Indonesia (KUPI), *Hasil Musyawarah Keagamaan Kongres Ulama Perempuan Indonesia I*, 38–39.

individual level, it prohibited acts that violated life, dignity, psychological well-being, and reproductive integrity. At the structural level, it required social arrangements that reduced vulnerability, protected victims, ensured accountability, and prevented the reproduction of violence. This represented a transition from an exclusively individualistic conception of legal obligation toward the social realisation of *maqāṣid*.

This dimension explained why the KUPI fatwa had relevance beyond the specific issue of sexual violence. Its methodology showed how Islamic jurisprudence responded to contemporary social problems without choosing between rigid textualism and unrestricted contextualism. Scriptural sources remained normative, but their interpretation was directed by ethical objectives and informed by empirical human consequences. This structure reflected a broader transformation in contemporary Islamic legal thought, in which *maqāṣid* provided a framework for connecting normative continuity with contextual responsiveness.⁴⁹ KUPI added a distinctive gender dimension by insisting that the experiences of those most affected by a legal problem must be visible within the interpretive process.

The resulting model could be described as gender-responsive collective *ijtihād*. This model contained 4 interconnected elements: normative grounding in Islamic sources, purposive reasoning through *maqāṣid*, experiential knowledge derived from gendered social realities, and collective deliberation involving multiple forms of expertise. These elements allowed Islamic legal reasoning to remain normatively rooted while better identifying structural and experiential dimensions of injustice. The model did not eliminate disagreement within Islamic jurisprudence, nor did a single fatwa establish a universally binding methodology. Its contribution was more precise: it showed a contemporary Indonesian model in which Islamic legal authority integrated text, ethical purpose, lived reality, and collective scholarly deliberation.

The results extended previous scholarship on KUPI in 2 ways. First, while previous studies establish KUPI's gender-inclusive authority and *maqāṣid cum-mubādalāh* methodology, this study showed the internal legal sequence through which those principles operate in the 2017 sexual violence fatwa. Second, the analysis traced a shift from protection as a classical legal objective to protection as a multidimensional social and institutional responsibility. Therefore, KUPI's collective *ijtihād* contributed not only to gender-just interpretation but also to a broader understanding of how *maqāṣid* could function as an ethical, epistemological, and socially transformative framework within contemporary Islamic jurisprudence.

⁴⁹ Auda, *Maqasid Al Shariah as Philosophy of Islamic Law A Systems Approach*.

4. Conclusion

In conclusion, this study shows that KUPI Fatwa No. 02/MK-KUPI-1/IV/2017 does more than apply classical *maqāṣid al-sharī'ah* to the problem of sexual violence. Its legal reasoning reconstructs the substantive meaning of protection by interpreting sexual violence as a multidimensional violation of bodily integrity, psychological well-being, religious dignity, reproductive security, and social justice. Through this reasoning, *ḥifẓ al-naḥs* extends toward bodily integrity and personal security, *ḥifẓ al-'aql* toward psychological well-being, *ḥifẓ al-dīn* toward the ethical integrity of religion, and *ḥifẓ al-nasl* toward reproductive dignity and protection from coercion. *Karāmah insāniyyah*, *al-'adl*, *al-raḥmah*, and *mubādalāh* provide the ethical orientation through which these classical categories are interpreted.

This study further finds that women's lived experiences perform an epistemically relevant role in KUPI's legal reasoning. The experiences do not replace scriptural authority but make visible forms of harm that abstract legal categories may fail to capture. Through collective *ijtihād*, KUPI brings scriptural sources, *maqāṣid* reasoning, ethical principles, social realities, and experiential knowledge into a dialogical process. This article conceptualises the resulting framework as gender-responsive *maqāṣid*, in which the objectives of Islamic law are interpreted through the concrete consequences of legal and social practices for human dignity and substantive justice. KUPI consequently shows that gender justice can be articulated through the internal ethical resources of Islamic jurisprudence rather than treated exclusively as an external normative demand.

The theoretical contribution of this study lies in explaining the internal legal logic through which this reconstruction occurs, namely experience of violence, identification of multidimensional harm, *maqāṣid* classification, ethical evaluation, legal judgment, victim protection, and collective responsibility. This sequence extends existing scholarship on KUPI by showing how *maqāṣid cum-mubādalāh* operates within a specific fatwa rather than discussing KUPI's methodology only at a general level. The study remains limited to textual and hermeneutic analysis of one fatwa and therefore does not establish how the decision is received, implemented, or experienced by victims, religious communities, legal institutions, or state actors. Future study must examine the social reception and institutional implementation of KUPI's sexual violence fatwa and compare its gender-responsive *maqāṣid* reasoning with other contemporary Islamic fatwa institutions in Indonesia and other Muslim societies.

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