

# Integrating the Maqasid Shariah and Green Constitution Approaches in Addressing Illegal Investment: An Analysis of the Dynamics of National Legal Reform

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## Abstract:

This study examines the integration of Maqashid Shariah and the Green Constitution as a conceptual framework for reforming Indonesia's legal system in response to the growing threat of illicit investment. Utilizing a normative-juridical approach and a descriptive qualitative method, the research is based on primary sources including statutory regulations and constitutional provisions, as well as secondary materials such as Islamic jurisprudence, academic journals, and legal documents. The findings demonstrate that reactive legal enforcement alone is insufficient to combat the complexity of investment-related fraud. The principle of *hifz al-māl* in Maqashid Shariah highlights the ethical imperative to protect wealth proactively, advocating for transparency, equity, and distributive justice in financial regulation. Simultaneously, the Green Constitution anchors environmental sustainability and social justice as constitutional obligations, emphasizing the role of law in safeguarding both present and future generations from systemic economic harm. Together, these two frameworks form a transdisciplinary legal model that transcends legal formalism by incorporating moral, spiritual, and ecological values into investment governance. The study concludes that national legal reform must adopt an integrative approach to ensure not only legal certainty, but also ethical legitimacy and sustainable public welfare. This conceptual synthesis contributes to the evolving global discourse on ethical finance and constitutional justice, offering practical recommendations for policymakers, academics, and regulatory institutions in developing fair and preventive investment laws.

**Keywords:** Accountability; Constitutional Justice; Ethical Investment; Financial Regulation; Green Constitution.

## INTRODUCTION

The increasing prevalence of illicit investment practices in Indonesia underscores a significant issue within the country's legal system and financial sector governance. Despite the authority held by the Financial Services Authority (OJK) to conduct public education, revoke business licenses, and file legal actions against entities conducting unauthorized fundraising (S. D. Ahmad, 2023). The problem persists. Moreover, the rapid advancement of digital technology, which has not been matched by adequate public literacy, has further facilitated illegal investment actors in offering schemes beyond OJK's regulatory oversight. On the other hand, criminal law has been applied to cases of illegal fundraising; however, this reveals that both the preventive and repressive functions of the legal system remain insufficient and need to be strengthened (Rustam et al., 2024). Normatively, the issue of illegal investment is not merely a violation of formal legal provisions, but also reflects the lack of ethical and philosophical foundations in the formulation and implementation of legal policies. Therefore, an integrative approach is needed one that goes beyond legal-formal aspects and incorporates moral, religious, and ecological values in responding to the complexity of this issue. In this context, the approaches of Maqasid Shariah and the Green Constitution become relevant to be integrated as a conceptual framework for formulating transformative and sustainable legal policies and regulations.

Maqasid Shariah represents a normative framework in Islamic law that is oriented toward the protection of five essential objectives (*al-daruriyyat*), namely religion (*al-din*), life (*al-nafs*), intellect (*al-'aql*), lineage (*al-nasl*), and property (*al-mal*). From this perspective, all economic activities, including investment, are required to be grounded in the values of justice, transparency, and the protection of public interest, particularly in safeguarding wealth. Illegal investment practices, which are often characterized by *gharar* (uncertainty), *riba* (exploitative profit), and *zulm* (injustice), are substantially in conflict with the principles of Islamic commercial ethics (*muamalah*). The nature of illegal investments not only violates the principle of *hifz al-mal* (protection of wealth) but also threatens to disrupt the economic order of the Muslim community (Fikriawan, 2023). In terms of regulation, the urgency of transparency and asset protection serves as a fundamental pillar in constructing a Shariah-compliant investment framework (Aini et al., 2024). In line with this asserts that the internalization of Maqasid Shariah principles into economic legal policy is a strategic step toward building an investment system that is just, sustainable, and aligned with Islamic values. Therefore, the integration of Maqasid Shariah into the investment legal system functions not only as an ethical guideline but also as a normative foundation for preventing and enforcing investment practices that deviate from Shariah principles.

On the other hand, the Green Constitution approach offers a constitutional paradigm that emphasizes the importance of environmental protection and sustainable development as fundamental principles within the national legal system. In the Indonesian context, Article 28H paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia reflect the state's commitment to ensuring the right to a good and healthy environment, as well as an economy managed with a focus on justice and sustainability. Illegal investment phenomena often intersect with speculative projects that have adverse environmental impacts, such as illegal mining, unauthorized land reclamation, or unsustainable agribusiness ventures. Therefore, the Green Constitution approach can serve as a foundational basis for formulating investment legal policies that are not only focused on economic efficiency but also attentive to ecological sustainability and social justice. Moreover, the Green Constitution embodies a legal principle that underscores environmental protection and sustainable development within the framework of state law. In Indonesia, the successful implementation of this principle requires a robust legal system, particularly the effectiveness of judicial institutions in optimally and comprehensively enforcing relevant regulations (Novianti, 2024).

The primary motivation of this study is to promote a paradigm shift in national legal reform from a sectoral and fragmentary approach toward one that is holistic and value-based. To date, legal reform agendas in Indonesia have tended to be trapped in bureaucratic and procedural patterns that inadequately address philosophical and contextual dimensions. However, the current legal challenges require normative responses that reflect the complexity of social realities and the substantive needs of society. By integrating the approaches of Maqasid Shariah and the Green Constitution, this study seeks to formulate a legal system model that is not only responsive to factual problems but also rooted in the moral, spiritual, and ecological values inherent in Indonesian society. This integration also aligns with global trends emphasizing the importance of ethics and sustainability in financial governance. Islamic finance, as a Shariah-based financial system, has gained international recognition as a resilient alternative to conventional financial systems by upholding principles of justice, risk-sharing, and the prohibition of exploitative practices. At the same time, the

movement of constitutional environmentalism is increasingly growing in many countries, integrating principles of environmental justice and the right to sustainability into national constitutional frameworks. The convergence of these two approaches demonstrates that the integration of Maqasid Shariah and the Green Constitution holds not only local relevance but also represents part of a progressive global legal discourse.

In the context of Indonesia, a country with a Muslim-majority population and high environmental vulnerability, the formulation of legal policies that integrate Islamic principles and green constitutionalism constitutes an urgent necessity. This study specifically aims to explore how such integration can be realized within investment legal policy as part of the broader dynamics of national legal reform. By emphasizing the principles of wealth and environmental protection, the legal system is expected to ensure investment practices that are not only safe and just but also sustainable and value-conscious. Accordingly, the issue of illegal investment in Indonesia should not be viewed merely as a matter of economic criminal law or administrative regulation, but rather as a symptom of the national legal system's failure to fully absorb fundamental values of justice, sustainability, and public protection. Legal reform efforts that are integrative and value based through the combined approaches of Maqasid Shariah and the Green Constitution represent a strategic step toward developing a legal system that is adaptive to contemporary challenges and oriented toward the interests of the wider society.

Efforts to combat illegal investment within the context of national legal reform increasingly demand an integrative approach that combines religious values with the principles of constitutional sustainability. Within this framework, the Maqāṣid Shariah and Green Constitution approaches can serve as both normative and strategic foundations in responding to the growing complexity and legal risks of investment activities. The maqāṣid approach, particularly the dimension of *ḥifẓ al-māl* (protection of wealth), is especially relevant considering that one of the root causes of widespread illegal investment practices is the weak regulation of speculative, non-transparent, and fraudulent forms of wealth management. A study by Syahril Fadhlurrahman highlights how digital assets such as cryptocurrency exhibit characteristics inconsistent with the concept of *māl mutaqaawwam*, as they contain elements of *gharar* and *maisir*, and currently lack sufficient legal legitimacy and protection within the national legal system (Fadhlurrahman, 2024). Furthermore, Suharsono et al. emphasize in their research that conventional investment activities, as long as they avoid elements of *maisir* (gambling) and *gharar* (excessive uncertainty), can still be examined through the lens of *maqāṣid al-sharī'ah*. They demonstrate that the integration of financial system transparency with the principles of Shariah justice can strengthen the legal framework in mitigating potential legal violations, particularly in the investment sector. In this context, *maqāṣid* serves not only as a set of spiritual values, but also as an ethical and juridical framework that supports legal reform toward a financial system that is inclusive, just, and secure (Aini et al., 2024).

Meanwhile, the study by Khalilurrahman and Husni Mubarrak on retail green sukuk demonstrates that the principles of *maqāṣid* can serve as a foundation for designing investment instruments that are not only shariah-compliant but also contribute to environmental sustainability and social development. Instruments such as green sukuk are considered to support the objectives of *maqāṣid* through the protection of life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʿaql*), and wealth (*ḥifẓ al-māl*), while simultaneously reinforcing national legal policies toward the integration of Green Constitution principles that prioritize environmental preservation and public welfare. This research affirms that national legal reform in the investment sector must encourage the strengthening of regulations on sustainable investment products that are free from illegal practices and aligned with *maqāṣid* principles (Mubarrak & Husni, 2022). Based on the aforementioned studies, it can be concluded that the integration of *maqāṣid al-sharī'ah* and the Green Constitution is not only conceptually ideal but also practically urgent in establishing a legal system that is responsive to the challenges of illegal investment. National legal reform is therefore required to go beyond merely tightening formal legal aspects, by also reinforcing value-based dimensions rooted in the protection of public interest and long-term sustainability

## METHOD

This study adopts a normative juridical approach using a descriptive qualitative method. This approach is intended to examine in depth the existing legal norms and normative religious concepts related to legal protection in the context of illegal investment. The primary legal sources include national laws and regulations governing investment, consumer protection, and economic crimes, as well as classical and contemporary Islamic literature relevant to the principles of *Maqāṣid Syarī'ah*, particularly *ḥifẓ al-māl*, and the *Green Constitution* paradigm (Hamzani et al., 2023).

In addition to primary data, this study draws on secondary sources such as reputable academic journals, scholarly publications, and legal documents to strengthen the validity of the analysis. The data analysis is conducted through a qualitative process involving three main stages: (1) data reduction to identify and extract relevant information; (2) thematic narrative presentation to construct systematic conceptual linkages; and (3) inductive-deductive reasoning to develop an integrative and applicable conceptual framework.

The primary objective of this research is to formulate an integrative conceptual framework that combines the values of protection and justice found in *Maqāṣid Shari'ah* with a focus on the principle of *ḥifẓ al-māl* with the values promoted by the *Green Constitution*, such as sustainability, social justice, and accountable governance. By integrating these two approaches, the study aims to offer a theoretical foundation and policy alternative in national legal reform that addresses illegal investment not only preventively and repressively, but also through a value-based lens that promotes sustainability and justice from moral, legal, and social perspectives. This method is expected to make a concrete contribution to the development of a national legal system that is not only formally valid but also ethically grounded and responsive to the evolving threats of economic crime.

## RESULTS AND DISCUSSION

### **Maqāṣid al-Sharī'ah as a Framework for Preventive Legal Safeguards**

One of the key contributions of this study is the demonstration that *Maqāṣid al-Sharī'ah*, especially its principle of *ḥifẓ al-māl* (protection of wealth), offers a compelling, ethically substantive foundation to prevent and regulate illegal investment practices. Within Islamic jurisprudence, wealth protection is one of the five essential objectives (alongside protection of religion, life, intellect, and lineage). But beyond mere normative categorization, *ḥifẓ al-māl* demands proactive mechanisms: legal structures that identify and preempt exploitative schemes like Ponzi operations, fraudulent investment clubs, or pseudo-investments targeted at financially vulnerable groups (Dusuki & Bouheraoua, 2011).

(Dusuki & Bouheraoua, 2011) explain that wealth preservation within *Maqāṣid* encompasses five elements: ownership protection, acquisition, development, harm prevention, circulation, and the maintenance of value (i.e. avoiding inflation, speculation, hoarding). These dimensions translate directly into legal safeguards against financial wrongdoing. For example, effective policies must ensure transparency, fair access, and equitable distribution, while preventing misappropriation via deception (*ghishsh*), coercion, or manipulation practices commonly observed in illegal investment schemes.

From the *maqāṣid* vantage point, prevention is central. Traditional statutory frameworks typically react *after* misconduct occurs and often only when it visibly breaches narrow technical statutory definitions. In contrast, *Maqāṣid* urges anticipatory legal intervention. It asserts that law must intervene where potential harm is likely even before formal criteria of illegality have been met. This shifts regulatory approach from a reactive enforcement model to a proactive, values-driven model: laws should be sensitive to societal harm (*mafsadah*), not just textual violations.

(Ali & Hassan, 2022) has similarly argued that *maqāṣid* help shift the legal-financial discourse from bare formal legality ("Is it permitted under technical rules?") to substantive ethical compliance: "*maqāṣid* possess the capacity to shape a legal and financial framework that is not only formally legalistic but also ethically substantive" (Emerald). In short, the presence of formal legality is insufficient; legality must be rooted in wider social justice and distributive fairness. Islamic legal thought mandates that financial institutions uphold collective welfare, guard against harmful accumulation, and protect the less literate or financially marginalized from sophisticated scams.

This ethical paradigm proves essential in contexts where illegal investment schemes exploit a legal grey zone operations that while not overtly unlawful under current laws, cause widespread harm (Tajti, 2022). Such schemes often thrive in the spaces left by outdated financial statutes, weak oversight, or ambiguous regulatory language. Victims may lack recourse because the scheme technically doesn't violate specific provisions even though its structure is clear deception. *Maqāṣid* fills this gap by safeguarding objectives such as *ḥifẓ al-naḥs* (preservation of life) and *ḥifẓ al-'aql* (preservation of intellect), alongside *ḥifẓ al-māl* (preservation of wealth), which enables the detection of substantive harm even when technical illegality is absent.

Hence, *Maqāṣid al-Sharī'ah* functions as an ethical-normative bridge between formal legalism and substantive justice. It affirms that investment products which inflict collective injury even if structured within



a technical loophole can be identified as violations of Islamic legal purpose and public interest. The core notion of *maṣlaḥah* (public welfare) and *mafsadah* (public harm) becomes the lens through which law should assess legitimacy not just compliance with procedural rules. This broadens legal interpretation to include moral and social considerations. (Dusuki & Abdullah, 2007) frames exactly this as a strategy: using *maqāṣid* to harmonize legal form with justice content, resulting in a legal system that is both adaptive and justice-oriented.

Consider practical dimensions: regulations could, under a *maqāṣid* framework, proactively ban or scrutinize investment offerings that promise unrealistic returns, obscure risk profiles, or use high-pressure recruitment tactics especially when they disproportionately affect low-income or financially vulnerable communities (Radzi, 2024). This would not rely solely on after-the-fact enforcement (fraud charges after collapse), but would monitor structural indicators of misguidance, deception, excessive asymmetry of information, and potential harm in advance.

Furthermore, *maqāṣid* encourages distributive justice in finance. Wealth protection extends beyond individual property to include equitable circulation (*rawāj*) ensuring that capital flows support collective welfare and avoid excessive centralization. Scholars such as Ibn Bayyah elaborate that micro-objectives like avoiding hoarding (*ihtikhār*), ensuring mutual consent (*tarāḍī*), preventing transgression (*man' al-i'tidā'*), and guaranteeing transparency (*wuḍūh*) are essential building blocks of *ḥifẓ al-māl* Emerald. Therefore, a *maqāṣid*-oriented regulatory framework would require transparent information disclosure, risk-sharing mechanisms, fair participation conditions, and prevention of exploitative accumulation elements that formal regulations often undervalue (Jaradat & Oudat, 2025).

In addition, the principle of *ḥifẓ al-'aql* reinforces regulation of financial literacy, ensuring that individuals are not deceived due to cognitive limitations (Isnaini et al., 2024). Educational obligations, mandatory disclosures in plain language, and banning of overly complex jargon all align with safeguarding intellect (Zafar et al., 2025). Simultaneously, *ḥifẓ al-nafs* ensures that schemes likely to impoverish or traumatize victims are recognized as dangerous triggering preventive state or community interventions.

By weaving these objectives together, *Maqāṣid* becomes a multi-dimensional legal compass: grounding law in morality, protecting individuals and communities, promoting sustainable financial structures, and preventing exploitation (I. Ahmad & Islam, 2024). It empowers regulatory bodies to evaluate new financial innovations not just for compliance, but for alignment with justice, welfare, and public interest.

Recent scholarship supports this conceptual shift. For instance, (Khandakar et al., 2025) note that although theoretical engagement with *maqāṣid* has grown, practical integration into financial policy remains scattered largely due to formalistic legalism and lack of institutional adaptation. Similarly, broader reviews suggest that *maqāṣid*-based legal reasoning can rectify methodological weaknesses in Islamic finance regulation, particularly where Sharia supervisory boards rely on profit-driven *maṣlaḥah* justifications without grounding in scriptural objectives or distributive ethics (Al-Mansouri, 2025).

By embedding *Maqāṣid al-Sharī'ah* into national legal reform, lawmakers can thus transform the legal system: from one that reacts to wrongdoing, to one that actively shapes ethical financial governance (Batool, 2025). For example, regulation could mandate screening criteria: any investment scheme that promises returns exceeding realistic benchmarks, lacks independent risk audit, or uses recruitment incentives typical of multi-level marketing would trigger a *maqāṣid*-aligned investigation. Enforcement would involve preventive shutdowns, consumer education campaigns, and restorative justice measures aligned with social welfare objectives (Long et al., 2022).

Moreover, integrating *maqāṣid* helps institutions prioritize social justice over mere formality. Legal decisions would no longer hinge solely on statutory loopholes, but on whether an activity furthers or undermines key *maqāṣid* especially the protection of wealth and public welfare (Khodadadi, 2025). This ethical legal mindset would deter bad actors who rely on legal technicalities to legitimize harmful schemes and empower regulators to act before widespread damage occurs.

Another practical implication is the incorporation of risk-sharing and mutual benefit models in regulated investment sectors echoing Islamic finance contracts like *mudharabah* or *takaful*. These contractual forms distribute profit and loss equitably, enhancing transparency and discouraging exploitative returns-only models (Fahn & Zanarone, 2022). Such structures support *maqāṣid* objectives of encouraging productive investment while preventing risk-externalization that harms participants.

### **Green Constitution as the Foundation of Social Justice and Sustainability**

The Green Constitution is a growing paradigm in constitutional legal theory that integrates sustainability, environmental protection, and social justice as core principles of the state's foundational legal framework (Satria, 2025). In Indonesia, this perspective is reflected in two key constitutional articles: Article 28H paragraph (1) of the 1945 Constitution, which guarantees the right to a good and healthy environment, and Article 33 paragraph (4), which asserts that national economic development must be carried out based on principles of democracy, equity, sustainability, environmental insight, and the unity of the national economy (Ranjani & Setiawan, 2024). These provisions mark a constitutional shift, embedding environmental and social concerns into the heart of national policymaking including in financial and investment domains.

However, the Green Constitution is not simply about including environmental terminology in constitutional texts. As emphasized by scholars such as (Cordonier Segger & Khalfan, 2004), it involves the integration of sustainability values into economic, legal, and social systems. This approach demands coherence between the state's legal apparatus and its ethical commitments to the common good. It calls for a deep normative transformation where sustainability becomes a binding constitutional value, shaping not only environmental policy but also economic governance, including legal frameworks that regulate investments and financial conduct (Bantekas & Akestoridi, 2022).

In the Indonesian context, the relevance of this approach is particularly urgent in light of the widespread phenomenon of illegal investments. These practices do not merely result in financial losses at the individual level. More critically, they disrupt social stability, widen the economic gap between citizens, and erode public trust in state institutions, particularly in the financial and legal sectors (Zhou et al., 2024). Illegal investment schemes often prey on financially vulnerable communities, using promises of quick returns to lure victims into exploitative contracts or Ponzi-style arrangements. The cumulative impact of such practices is systemic, undermining national resilience and social cohesion (Henry, 2009).

The Green Constitution, therefore, provides a robust constitutional mandate to treat these threats not merely as sectoral crimes, but as violations of fundamental rights (Warnock & Preston, 2023). It expands the role of law from a narrow instrument of norm enforcement to a broader tool for realizing social justice and collective well-being (Devereux & McGregor, 2014). In this view, the prevention of illegal investments is not the sole responsibility of financial regulators or law enforcement bodies; it is part of the state's constitutional duty to safeguard its citizens' rights to economic security, environmental safety, and dignified living.

This broader interpretation is particularly evident in Article 33(4) of the Constitution, which links economic growth with sustainability and justice (Jeffords, 2021). Investment policies that endanger the financial and social integrity of vulnerable populations are in direct contradiction to this mandate (Wilson, 2012). Hence, legal measures against illegal investments should be understood as constitutional imperatives. They are not only responses to technical crimes, but expressions of the state's commitment to protect its people from systemic harm.

A Green Constitutional approach encourages preventive legal structures. Rather than waiting for financial crises or public scandals, lawmakers and regulators are urged to design anticipatory mechanisms: legal safeguards that identify potentially harmful schemes before damage occurs (Krambia-Kapardis, 2016). These mechanisms might include stricter transparency requirements, investor protection clauses, rigorous audits for new financial instruments, and sanctions for misleading advertising or unregulated high-risk investment products.

Moreover, the principle of intergenerational equity a core tenet of the sustainability paradigm compels legislators to consider the long-term consequences of today's legal frameworks (Cheong, 2025). Investment regulations crafted under the Green Constitution should account not only for immediate market stability but for the enduring economic and moral welfare of future generations (Abdelhadi & Ammar, 2025). This is particularly important in preventing the emergence of cycles of financial exploitation that, once normalized, become difficult to dismantle and have lasting consequences on social trust and economic mobility.

The Green Constitution also supports the expansion of legal standing and legal interpretation in cases related to economic injustice (Schapper, 2021). For example, financial schemes that technically comply with procedural regulations but disproportionately harm lower-income communities may still be challenged under a Green Constitutional framework for violating broader principles of justice, equity, and sustainability. This provides a legal opening to recognize structural harm a concept not always visible in traditional legal interpretation (Sebyar, 2023).

By emphasizing the systemic nature of harm, the Green Constitution reframes the legal response to economic crimes (Taylor, 2021). It moves beyond a fragmented, case-by-case enforcement model to a more structural and holistic paradigm. Illegal investments, in this view, are not isolated events, but symptoms of broader regulatory failures that the Constitution itself seeks to address through its commitment to social welfare, fairness, and environmental integrity (Richardson, 2013).

Practically, this means that institutions tasked with legal oversight such as financial regulatory agencies, courts, and ombudsman offices must incorporate constitutional values into their operational frameworks (Castro Barriga, 2019). Financial laws must be read in harmony with constitutional articles that safeguard the environment and ensure sustainable development (Satria, 2025). Investments that are speculative, opaque, or excessively extractive must be scrutinized not only through technical legal criteria but also through their compliance with constitutional values (Kelly, 2023).

To support this paradigm, scholars have argued for the creation of specialized legal instruments or authorities that monitor financial activity from a sustainability and justice lens (Pomaza-Ponomarenko et al., 2024). These may include "green financial watchdogs," independent auditing institutions with constitutional backing, or integrated legal units that assess the long-term socio-economic risks of investment projects.

Furthermore, the Green Constitution implies a transformative role for education and public engagement. Public legal awareness must be raised not just about financial rights and fraud prevention, but also about constitutional values such as equity, sustainability, and collective responsibility (Fathima, 2024). Informed citizens are more resilient to financial exploitation and more likely to demand accountability from both public and private financial actors.

Unfortunately, the operationalization of the Green Constitution in Indonesia still faces serious challenges. As pointed out by scholars like (Everard et al., 2016), implementation has lagged behind its normative potential. Regulatory inertia, political pressure, and a lack of institutional clarity have limited the application of constitutional environmental and social rights in financial policymaking. Nevertheless, recent judicial decisions such as those by the Constitutional Court have started to articulate these rights more clearly, setting important precedents for broader adoption.

To conclude, the Green Constitution offers a powerful legal-ethical foundation for reforming national legal frameworks in ways that address economic crime and promote long-term justice (Giacomini & Fratto Rosi Grippaudo, 2025). It mandates that investment laws be evaluated not only for legal sufficiency but for their contributions to sustainable development, equity, and the protection of fundamental rights. It demands an integrated approach that connects legal formalism with moral substance, regulatory enforcement with constitutional purpose.

In the face of growing financial risks and deepening socio-economic divides, the Green Constitution is not just a theoretical ideal it is a practical necessity (Hariram et al., 2023). By adopting this paradigm, Indonesia can strengthen its legal institutions, protect its people from organized economic exploitation, and align its economic ambitions with the moral and constitutional imperative of sustainability and justice.

## **The Convergence of Maqāṣid Sharia and the Green Constitution as an Integration of Values in the Legal System**

One of the central conceptual contributions of this study lies in the identification and elaboration of a convergence between two normative-legal frameworks: Maqāṣid al-Sharī'ah and the Green Constitution. Although these frameworks emerge from distinct intellectual traditions Islamic legal philosophy and modern constitutional environmentalism, respectively they both promote a shared commitment to protecting society, ensuring distributive justice, and safeguarding long-term human and ecological welfare (Ahmed, 2025). The integration of these two paradigms forms a value-based legal architecture capable of addressing contemporary socio-economic challenges, including the persistent problem of illegal investment schemes that exploit regulatory gaps, financial illiteracy, and institutional weaknesses.

From the Maqāṣid al-Sharī'ah perspective, the protection of wealth (ḥifẓ al-māl) is one of the five essential objectives of Islamic law. This principle is grounded in the ethical imperative to preserve economic stability, prevent exploitation, and promote the equitable distribution of resources. As (Arif, 2023) notes, this goal is not merely theoretical or theological; it is a dynamic legal ideal that compels the development of proactive regulatory systems to prevent harm (mafsadah) and uphold collective benefit (maṣlaḥah). In particular, Islamic legal thinking encourages preemptive action to mitigate systemic financial abuse, which includes but is not limited to fraudulent investments, Ponzi schemes, and exploitative contracts (Janahi, 2022). These forms of

economic misconduct violate the ethical and legal norms of Shariah by concentrating wealth in unjust ways and destabilizing community welfare.

In parallel, the Green Constitution embeds the values of sustainability, ecological protection, and intergenerational equity into the heart of constitutional law. It asserts that law is not a neutral tool, but a vehicle through which states fulfill their moral obligations to protect both present and future citizens from ecological and socio-economic harm. As (Supriatna, 2023) highlights, the Green Constitution demands that all policy domains including investment and finance be aligned with the constitutional values of social justice, environmental stewardship, and human dignity. This includes policies that protect citizens from systemic risks such as illegal financial schemes, environmental degradation, and economic marginalization.

The convergence of Maqāṣid and Green Constitutionalism is especially relevant in contexts where regulatory oversight is weak, legal protections are inadequate, and public legal awareness is limited. In many developing societies, the legal system tends to be reactive responding to harm after it occurs rather than preventive and educative. As (Putri & Firmansyah, 2023) points out, this creates a governance gap that allows financial crimes to flourish, disproportionately affecting those who are economically and legally vulnerable. Within this context, the integration of Maqāṣid al-Sharī'ah and the Green Constitution offers a normative bridge that connects legal enforcement with ethical responsibility, positioning the law not only as a punitive instrument but also as a vehicle for social empowerment and justice (Batool, 2025).

This integrative model demands a shift from legal formalism which emphasizes technical compliance with legal rules to a framework grounded in substantive justice (Kalverkämper, 2023). Under this model, the illegality of an investment scheme is not judged solely on the basis of statutory infractions but on its real-world impact on justice, human dignity, and sustainability. If a financial operation leads to the exploitation of the poor, generates ecological damage, or widens social inequality, it must be considered a violation not only of specific statutes but of the broader constitutional and ethical principles that underpin the legal order.

Moreover, the convergence between Maqāṣid and the Green Constitution is aligned with the transformative theory of law, which sees law as a tool for structural change, not merely as a mechanism for maintaining order. This approach has been echoed by legal theorists who advocate for a responsive legal system one that evolves in response to emerging socio-economic realities and integrates moral, cultural, and environmental concerns into its normative framework. (Hakim, 2022) argues that law must evolve beyond its coercive function to become a constructive force in society, capable of educating citizens, reshaping behavior, and protecting vulnerable groups from systemic abuse.

The application of this integrative approach to illegal investment practices is particularly compelling. These schemes often operate in legal gray zones technically avoiding criminal classifications while producing widespread harm. A purely positivistic legal framework may be ill-equipped to deal with such phenomena. However, by drawing from Maqāṣid al-Sharī'ah's emphasis on preventing harm (*dar' al-mafāsid*) and the Green Constitution's mandate for justice and sustainability, the law can be interpreted in a more holistic manner assessing not just legality, but legitimacy, ethicality, and long-term impact (Juškevičiūtė-Vilienė, 2024).

In this sense, the law must be reconceptualized as both a reactive and proactive mechanism: one that can respond to legal violations, but also foresee and prevent structural injustices (Saliternik & Agon, 2023). For example, regulatory reforms informed by this model might include: mandatory ethical screening of financial products, public financial education initiatives grounded in moral reasoning, and the establishment of oversight bodies that evaluate economic activities based on sustainability and justice metrics not only compliance checklists.

The convergence also introduces a compelling epistemological shift: it validates plural sources of legal knowledge. By recognizing Maqāṣid al-Sharī'ah as a legitimate moral-legal framework and integrating it with constitutional principles, this approach moves beyond the binary of secular versus religious law (Mansor, 2016). It affirms the idea that modern legal systems can and should draw on diverse traditions of ethical thought particularly when such traditions offer valuable insights for protecting human dignity, preventing harm, and promoting justice (Wacks, 2021). In a global legal environment increasingly shaped by crises of inequality, ecological collapse, and public distrust, this value pluralism can help restore the social legitimacy of law.

Finally, the integration of Maqāṣid al-Sharī'ah and the Green Constitution strengthens the role of law as an instrument of social reconstruction (Ichwan, 2024). Rather than being limited to the administration of existing rules, the law becomes a transformative force, shaping norms, guiding behavior, and redefining public expectations. This view echoes the broader post-positivist theory of law, which emphasizes the



interdependence of law, ethics, and society. Under this model, legal institutions are not neutral arbiters, but active participants in the construction of a just and sustainable society.

The convergence of *Maqāṣid al-Sharī'ah* and the Green Constitution offers a rich and innovative framework for legal reform in the context of contemporary challenges such as illegal investment practices (Billah, 2024). This integration moves beyond narrow legalism to embrace a value-based paradigm that foregrounds justice, sustainability, and human dignity. It contributes to the development of a legal system that is not only procedurally sound, but ethically grounded, socially responsive, and future-oriented. By institutionalizing this convergence, the legal system can better fulfill its constitutional and moral responsibilities protecting society from economic exploitation, fostering inclusive development, and safeguarding the rights and welfare of both present and future generations.

## CONCLUSION

The integration of *Maqashid Sharia* and the Green Constitution approaches in addressing illegal investment practices underscores the urgency of implementing a legal system that is not merely legal-formal, but also grounded in the values of justice, protection, and sustainability. The principle of *hifz al-mal* in *Maqashid Sharia* emphasizes the importance of preventive protection of public wealth, offering a normative response to the limitations of positive law, which often remains reactive in dealing with the evolving modes of illegal investment schemes. Meanwhile, the Green Constitution approach provides a strong constitutional framework for ensuring social justice and sustainable welfare, as affirmed in Articles 28H and 33 of the 1945 Constitution of the Republic of Indonesia, and further reinforced by the provisions of Law Number 6 of 2023 on Job Creation, which emphasizes the acceleration of investment facilitation while upholding principles of prudence and legal protection. The intersection of these two paradigms demonstrates the potential for building a legal system that not only prosecutes economic crimes but also prevents them through ethical, educational, and constitutional approaches grounded in the values of public interest (*maslahah*) and the protection of future generations.

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