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Between Norm and Practice: Religious Moderation as a Living Expression of Islamic Law in Indonesia and Brunei Darussalam

Harapandi Dahri, Muslich Shabir

Abstract

The discourse on religious moderation has attained growing centrality within contemporary Islamic legal scholarship, particularly as societies across the Muslim world contend with escalating tensions between religious expression, radicalism, and the demands of pluralistic governance. This study investigates the phenomenon of religious moderation as a living manifestation of Islamic law within the contrasting juridical and constitutional environments of Indonesia and Brunei Darussalam, employing maqāṣid al-sharīʿa (the higher objectives of Islamic law) as the primary analytical lens. A qualitative methodology is adopted, combining the systematic analysis of policy instruments and Islamic legal literature in the Indonesian context with in-depth interview-based fieldwork involving religious scholars and legal academics in Brunei Darussalam. The findings reveal that religious moderation operates not merely as an abstract ethical disposition but as a concrete normative and institutional mechanism embedded in social, legal, and policy spheres. In Indonesia, it functions as a public legal ethic that mediates between Islamic values and the demands of a pluralistic national legal order, while in Brunei Darussalam it assumes the character of an institutional principle governing the gradual and proportional application of formal Islamic law. This study advances the scholarly conversation by proposing a comparative framework that reconceptualises religious moderation as living Islamic law—a dynamic bridge between normative jurisprudential theory and institutional practice—and by articulating a maqāṣid-grounded analytical model that ensures Islamic law remains contextually relevant, normatively balanced, and oriented toward the welfare of the public.

Keywords: Islamic law; living Islamic law; *maqāṣid al-sharīʿa*; religious moderation; Indonesia; Brunei Darussalam.

Introduction

Over the past two decades, the concept of religious moderation has risen to the forefront of contemporary Islamic legal discourse. This trajectory is largely attributable to the intensifying convergence of three interrelated pressures: the proliferation of radical religious narratives, the politicization of Muslim identity, and the structural demands of managing religious plurality within modern nation-states. The rapid expansion of social media platforms has further accelerated the circulation of exclusivist theological positions, rendering religious moderation an urgent counter-narrative and a normative imperative for Muslim scholars, policymakers, and civil society actors alike.[1] Across diverse geopolitical contexts, moderation has increasingly been theorized as an effort to construct communities that are, in the parlance

[1] Andy Hadiyanto, Kinkin Yuliaty Subarsa Putri, and Luthfi Fazli, "Religious Moderation in Instagram: An Islamic Interpretation Perspective," *Heliyon* 11, no. 4 (February 2025): e42816.

of contemporary Islamic ethics, "justly balanced"—communities capable of navigating the polarization between moderate and radical tendencies without sacrificing either religious integrity or civic solidarity.[2]

The persistence of rigid textualism as the dominant hermeneutical posture within certain Islamic legal traditions has, however, rendered such an aspiration structurally difficult. A textual approach divorced from social context frequently proves inadequate in addressing the complexity of contemporary legal and moral challenges. What is required, therefore, is a contextual hermeneutic that preserves the normative integrity of Islamic ethical-legal texts while simultaneously ensuring their responsiveness to the lived realities of modern societies.[3] This challenge becomes particularly pronounced in democratic nation-states such as Indonesia, where Islamic jurisprudence must negotiate with constitutional commitments to gender justice, social pluralism, and the protection of minority rights within a non-theocratic legal framework.[4]

In environments characterized by legal pluralism, Islamic law does not operate in isolation but rather within a complex normative ecosystem that encompasses state law, customary legal traditions, and internationally recognized human rights standards. These overlapping normative regimes generate a continuous process of negotiation, accommodation, and conceptual cross-pollination, particularly visible in domains such as family law and public policy.[5] The phenomenon of forum shopping across multiple legal authorities further demonstrates the extent to which Islamic norms are embedded in socially dynamic, institutionally plural settings.[6]

At the level of formal institutions, the resolution of family disputes through specifically Islamic bodies—such as Sharia councils or religious arbitration assemblies—illustrates how Islamic normativity operates contextually within frameworks of modern governance. These institutional arrangements simultaneously demand procedural standardization and accountability in alignment with contemporary principles of justice and rights protection.[7] Even within the domain of public economic governance, a growing number of Muslim-majority states have developed regulatory frameworks that hybridize Islamic jurisprudential principles with modern legal instruments, demonstrating the practical operationalizability of Sharia values within adaptive policy designs.[8] Religious moderation, in this context, may be understood as the conceptual hinge that holds these tensions together: not merely a social

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[2] Nuraan Davids, "Islam, Moderation, Radicalism, and Justly Balanced Communities," *Journal of Muslim Minority Affairs* 37, no. 3 (2017): 309–320.

[3] Abdullah Saeed, "Some Reflections on the Contextualist Approach to Ethico-Legal Texts of the Quran," *Bulletin of the School of Oriental and African Studies* 71, no. 2 (2008): 221–237.

[4] Alfitri, "Protecting Women from Domestic Violence: Islam, Family Law, and the State in Indonesia," *Studia Islamika* 27, no. 2 (2020): 273–307.

[5] Euis Nurlaelawati and Stijn Cornelis van Huis, "The Status of Children Born Out of Wedlock and Adopted Children in Indonesia: Interactions between Islamic, Adat, and Human Rights Norms," *Journal of Law and Religion* 34, no. 3 (2019): 356–382.

[6] Ido Shahar, "Legal Pluralism and the Study of Shari'a Courts," *Islamic Law and Society* 15, no. 1 (2008): 112–141.

[7] Rafidah Mohamad Cusairi and Mahdi Zahraa, "Procedure of Issuing Religious Divorce and Resolving Matrimonial Disputes at Sharī'ah Councils in the UK," *Arab Law Quarterly* 32, no. 1 (2018): 1–32.

[8] Vivien Chen, "Law and Society in the Evolution of Malaysia's Islamic Capital Market Regulation," *Asian Journal of Law and Society* 4, no. 1 (2017): 133–156.

instrument for conflict prevention, but a normative mechanism central to the contemporary development of Islamic law.

A survey of the existing literature reveals a substantial body of scholarship addressing religious moderation in the Indonesian and Southeast Asian contexts. Scholars such as Faqihuddin,[9] Arifinsyah, Andy, and Damanik,[10] Dahlan,[11] Widodo and Karnawati,[12] Siswanto and Islamy,[13] and Fahri and Zainuri[14] have approached religious moderation primarily through its normative theological dimension, anchoring it in the Islamic concept of *wasāṭiyya*—the principle of balance and justice. A distinct current of scholarship, represented by Said and Rauf,[15] situates moderation within the framework of classical *fuqahā'* (juristic) thought, while socio-political analysts—including Syarif and Purkon,[16] Mail and Mansurnoor,[17] and Mansurnoor—[18] have examined moderation as a response to the dynamics of political governance, social plurality, and religion-state relations. Despite this diversity, the prevalent tendency across these bodies of work is to situate religious moderation within normative-ideological or social-policy frameworks, without adequately theorizing its relationship to Islamic legal development.

Studies specifically addressing religious moderation in Brunei Darussalam remain comparatively scarce. Available scholarship tends to concentrate on dimensions of policy design, educational practice, and social stability, without explicitly engaging with the implications for Islamic legal theory. This lacuna is significant, given that Brunei presents a unique case in which an Islamic-based state formally implements Sharia law while simultaneously adopting a moderated approach to its application.

Against this backdrop, the present study identifies a critical gap in the literature: the relationship between religious moderation and the development of Islamic law—particularly as theorized through the lens of *maqāṣid al-sharīʿa*—remains insufficiently theorized. More fundamentally, the conceptualization of religious moderation as *living Islamic law*—that is, as Islamic law that is not merely inscribed in normative texts but actively operative in social and institutional practices—has not been subjected to systematic scholarly analysis. This gap

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[9] Ahmad Faqihuddin, "Islamic Moderate in Indonesia," *Ar-Risalah* 12, no. 1 (2021): 107–118.

[10] Arifinsyah, Safria Andy, and Agusman Damanik, "The Urgency of Religious Moderation in Preventing Radicalism in Indonesia," *Esensia: Jurnal Ilmu-Ilmu Ushuluddin* 21, no. 1 (2020): 91–108.

[11] Moh Dahlan, "Moderasi Hukum Islam dalam Pemikiran Ahmad Hasyim Muzadi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 11, no. 2 (2016): 313–334.

[12] Priyantoro Widodo and Karnawati, "Moderasi Agama dan Pemahaman Radikalisme di Indonesia," *PASCA: Jurnal Teologi dan Pendidikan Agama Kristen* 15, no. 2 (2019): 9–14.

[13] Eko Siswanto and Athoillah Islamy, "Fikih Moderasi Beragama dalam Kehidupan Bernegara di Indonesia," *Al-Adalah: Jurnal Hukum dan Politik Islam* 7, no. 2 (2022): 198–217.

[14] Mohamad Fahri and Ahmad Zainuri, "Moderasi Beragama di Indonesia," *Intizar* 25, no. 2 (2019): 95–100.

[15] Hasani Ahmad Said and Fathurrahman Rauf, "Radikalisme Agama dalam Perspektif Hukum Islam," *Al-'Adalah* 12, no. 1 (2015): 593–610.

[16] Mujar Ibnu Syarif and Arip Purkon, "Moderasi Beragama dalam Bernegara di Asia Tenggara (Studi Komparatif di Indonesia, Singapura dan Brunei)" (Jakarta, 2020).

[17] Haji Awg Asbol bin Haji Mail and Iik Arifin Mansurnoor, "Education, Religious Authority and Moderation: Muslim Scholars-Cum-Leaders in Brunei Darussalam," *Tawarikh Journal of Historical Studies* 1, no. 1 (2009).

[18] Iik Arifin Mansurnoor, "Islam in Brunei Darussalam: Negotiating Islamic Revivalism and Religious Radicalism," *Islamic Studies* 47, no. 1 (2008): 65–97.

invites a repositioning of religious moderation as an integral and constitutive dimension of contemporary Islamic legal theory and practice.

This study accordingly aims to analyze religious moderation as living Islamic law within the framework of *maqāṣid al-sharīʿa* and to articulate its role in the ongoing development of contemporary Islamic jurisprudence. Three specific research questions guide the inquiry: first, how is religious moderation to be understood within the framework of *maqāṣid al-sharīʿa*? Second, how does religious moderation operate in Islamic legal practice in Indonesia and Brunei Darussalam, respectively? Third, how does religious moderation function as a normative principle in the development of Islamic law?

The selection of Indonesia and Brunei Darussalam as comparative sites is grounded in a deliberate analytical logic. Indonesia represents a large, pluralistic democracy in which Islamic legal values are integrated into a non-theocratic national legal system, while Brunei Darussalam exemplifies a small, monarchical Islamic state that has formally adopted Sharia as the foundation of its legal order. This juxtaposition enables a nuanced comparative analysis of how religious moderation operates across markedly different institutional, constitutional, and political-legal configurations. A qualitative research design is employed, combining systematic document analysis—drawing on policy instruments, religious fatwas, and scholarly literature in the Indonesian context—with fieldwork-based in-depth interviews with religious scholars and Islamic legal academics in Brunei Darussalam.

Religious Moderation within an Islamic Legal Framework

To establish the conceptual foundations necessary for addressing the research questions, this section examines religious moderation from the perspective of Islamic legal theory. Within this framework, religious moderation is understood not as a mere social attitude or psychological disposition, but as a normative principle that structures the formation, interpretation, and institutional application of Islamic law across pluralistic social environments.

At the foundational level, religious moderation is epistemologically anchored in the principle of *maṣlaḥa*—the concept that every Islamic legal norm is oriented toward the realization of benefit and the prevention of harm (*sadd al-dharīʿa*). The potential harms arising from religious extremism—including social fragmentation, structural injustice, and the erosion of civic solidarity—are themselves recognized as objects of jurisprudential concern.[19] This principle aligns organically with the broader teleology of *maqāṣid al-sharīʿa*, which positions justice, equilibrium, and public welfare as the primary objectives toward which all Islamic legal norms are directed.[20] Within contemporary Islamic legal scholarship, the *maqāṣid* approach has increasingly been theorized not merely as an evaluative standard but as a constructive methodology—one that enables Islamic law to adapt responsively to social transformation without forfeiting its normative legitimacy.[21]

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[19] M. Rosyid et al., "Revitalization of Uṣūl Al-Fiqh through Iḥtiyāṭī Principles," in *Religion, Education, Science and Technology towards a More Inclusive and Sustainable Future* (2024), 44–49.

[20] Iffatin Nur, Syahrul Adam, and M. Ngizzul Muttaqien, "Maqāṣid Al-Sharīʿat: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (2020).

[21] Jasser Auda, *Maqāṣid Al-Sharīʿah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008).

The concept of *wasāṭiyya* (the middle way) is equally constitutive of religious moderation as a legal principle. Classically understood as the rejection of both excess (*ifrāṭ*) and neglect (*tafrīṭ*), *wasāṭiyya* carries not only moral-theological implications but also concrete juridical consequences: it provides the normative basis for policies and regulatory frameworks oriented toward justice and communal welfare.[22] Religious moderation may thus be positioned as a normative ethic embedded within Islamic legal methodology, one that guides the processes of *ijtihād* (independent juristic reasoning) and legal implementation within dynamically changing societal conditions.

This orientation is not without classical precedent. The principle of moderation has been intrinsic to Islamic legal methodology from its earliest formulations. Classical jurists consistently emphasized the need to maintain a productive equilibrium among textual authority (*naṣṣ*), rational deliberation (*'aql*), and social reality (*wāqi'*). This epistemological balance is encoded in widely recognized legal maxims: *al-mashaqqa tajlib al-taysīr* (hardship gives rise to ease) and *dar' al-mafāsid muqaddam 'alā jalb al-maṣāliḥ* (the prevention of harm takes precedence over the procurement of benefit). These maxims collectively demonstrate that Islamic law was, from its inception, designed to be contextual, temperate, and responsive to human necessity.[23]

Religious moderation also engages the fundamental tension between ideal norms and social reality that constitutes a persistent concern of Islamic legal theory. Islamic law is not conceived as a closed, immutable normative architecture but as an ethical-juridical instrument in continuous dialogue with the dynamics of society. Religious moderation functions, in this regard, as a corrective principle that prevents legal interpretation from collapsing into either rigid textualism on the one hand or unprincipled normative relativism on the other. It preserves the essential values of Sharia while ensuring that their application remains socially viable and institutionally sustainable.

In the Indonesian context, the normative significance of religious moderation is empirically legible through state policy, institutional fatwas, and the practice of Islamic law in civil society. The Indonesian Ulema Council's doctrinal pronouncements against extremism and radicalism constitute a paradigmatic instance of moderation functioning as a normative principle guiding legal practice in alignment with the twin objectives of social justice and legal order. Within the Indonesian juridical configuration, Islamic law serves less as a body of formally binding positive norms applicable to all citizens, and more as a repertoire of values that animates and orients public policy. This document-based approach confirms that religious moderation in Indonesia operates as a preventive public legal ethic: it defines the outer normative boundaries of permissible religious expression and thereby safeguards both the constitutional legal order and the pluralistic social fabric.

In Brunei Darussalam, religious moderation operates within a juridical environment in which Islam is constitutionally enshrined as the foundation of state law. Empirical findings drawn from fieldwork with religious authorities indicate that moderation in this context is understood as a principle of institutional prudence in legal implementation—explicitly

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[22] Mohammad Hashim Kamali, "Approaches to Maqāṣid: Reductionism, Expansionism and Moderation (Tafrīṭ, Ifrāṭ, Iʿtidāl)," in *Actualization of the Higher Purposes (Maqāṣid) of Shariah* (IIIT, 2020), 6–9.

[23] Wael Hallaq, "Groundwork of the Moral Law: A New Look at the Qur'ān and the Genesis of Sharīʿa," *Islamic Law and Society* 16, no. 3–4 (2009): 239–279.

distinguished from any form of compromise with Sharia principles. This approach foregrounds social readiness and the anticipation of societal consequences as indispensable considerations in the application of Islamic law.[24] The Brunei case thus illustrates how religious moderation functions as an institutional mechanism that safeguards the perceived legitimacy of Islamic law as a welfare-oriented and socially protective framework.

Religious moderation is further integrated with the principle of justice (*al-ʿadl*) in Islamic legal thought. Justice, in this framework, is not reducible to the formal application of legal norms but encompasses the active effort to maintain equilibrium between rights and obligations within plural social orders. Legal applications of Islamic norms that are indifferent to the demands of moderation risk generating social tension and structural injustice that are, in the final analysis, antithetical to the very objectives of Sharia. Religious moderation thus functions as a normative safeguard ensuring that the pursuit of justice remains substantive rather than merely formal.

Religious Moderation in Indonesia and Brunei Darussalam: A Comparative Overview

Religious moderation in Indonesia and Brunei Darussalam has evolved within markedly distinct constitutional and institutional frameworks, yet both contexts share a fundamental normative commitment: the positioning of Islam as a primary source of values in public life. Indonesia operates as a non-theocratic, pluralistic constitutional democracy, whereas Brunei Darussalam formally grounds its legal order in Islamic principles under the governance of an absolute monarchy. These structural differences carry direct and consequential implications for the forms, mechanisms, and degrees of institutionalization that religious moderation assumes in each country.

The comparative dimension of this research is operationalized through a cross-case analysis and thematic comparison methodology. In the Indonesian context, data were gathered through systematic analysis of relevant policy documents, regulatory frameworks, and Islamic legal scholarship. In Brunei Darussalam, empirical data were generated through in-depth interviews with religious authorities and Islamic legal academics, enabling direct access to institutional practices and normative orientations. The analytical procedure involved the identification and comparison of key thematic categories—including the form and function of moderation, institutional architectures, and *maqāṣid*-oriented normative goals—to systematically identify patterns of convergence and divergence across the two cases.

In Indonesia, religious moderation has been institutionalized primarily through the instrumentality of state policy and Islamic legal discourse. A landmark policy document in this regard is the religious moderation component of the 2020–2024 National Medium-Term Development Plan (RPJMN), which formally positions moderation as a strategic pillar for human capital development and social cohesion.[25] This institutional commitment is reinforced by the Indonesian Ulema Council's fatwa on countering extremism, which articulates religious moderation as a normative principle governing the legitimate boundaries of religious practice.

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[24] Interview with Brunei Darussalam religious authorities, 2023.

[25] Kementerian Agama Republik Indonesia, *Moderasi Beragama* (Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2019); Bappenas, "Presidential Decree No. 18 Year 2020," National Mid-Term Development Plan 2020–2024, 2020, 313.

The findings indicate that religious moderation in Indonesia functions simultaneously as a preventive and integrative public legal ethic. As a preventive mechanism, it defines the normative limits of religious expression to forestall socially destabilizing conflicts; as an integrative mechanism, it articulates a positive vision of inter-community solidarity and shared national identity. Within this framework, Islamic legal values serve as a source of inspiration and orientation for public policy rather than as directly enforceable positive legal norms applicable to all citizens.

The situation in Brunei Darussalam presents a structurally distinct configuration. Religious moderation in Brunei operates within a formal Sharia-based legal system, most concretely instantiated through the Sharia Penal Code Order of 2013. Fieldwork-based data reveal that moderation is understood by religious authorities and legal scholars alike as a principle of prudence and calibration in the implementation of Islamic law rather than as a relaxation or dilution of Sharia norms. As articulated by one academic informant, the implementation of Sharia law is oriented not merely toward normative enforcement but equally toward the assessment of social readiness and the anticipation of stability-related consequences. Religious authorities similarly emphasized that a gradualist approach (*tadarruj*) is institutionally indispensable to ensure that Islamic law is received as a socially legitimate and culturally accepted system rather than experienced as an externally imposed regime of compulsion.[26]

Taken together, these findings indicate that religious moderation in Brunei functions as an institutional mechanism for maintaining the legal and moral legitimacy of Islamic law while ensuring its sustained orientation toward communal welfare. The state's moderation strategy is not limited to formal law enforcement but extends to the domains of religious education and moral formation—domains that are understood as foundational to the social acceptance of Islamic law. The comparative findings are summarized in the following table:

Table 1. Comparative Overview of Religious Moderation in Indonesia and Brunei Darussalam

Aspect	Indonesia	Brunei Darussalam
Constitutional Basis	Pluralistic, non-theocratic state	Formally Islamic-based state
Form of Moderation	Public legal ethics	Institutional principle of Islamic law
Primary Instruments	State policies, religious fatwas, moderation programs	Sharia legislation, judicial institutions, state religious policies
Predominant Approach	Preventive and integrative	Gradualist (tadarruj) and institutional
Principal Function	Management of pluralism and conflict prevention	Preservation of Islamic law's legitimacy and social stability

Despite their considerable structural differences, both countries exhibit a shared normative orientation: an unambiguous rejection of religious extremism and a sustained

[26] Interview with Brunei Darussalam religious authorities, 2023.

commitment to maintaining a productive equilibrium between textual authority and social reality. From the vantage point of *maqāṣid al-sharīʿa*, religious moderation in both contexts functions as an instrument for advancing the foundational objectives of Sharia—most notably the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), and social order. In Indonesia, this contribution materializes primarily through the promotion of social stability in a pluralistic democracy; in Brunei Darussalam, it is manifested through institutional strategies that ensure the Islamic legal system remains adaptively responsive and broadly acceptable. These findings confirm that religious moderation in both countries operates not only as a normative aspiration but as an active operational dimension of Islamic law in its living, institutionalized form.

Religious Moderation through the Lens of *Maqāṣid al-Sharīʿa*

The framework of *maqāṣid al-sharīʿa* furnishes a comprehensive normative architecture for theorizing religious moderation as an integral dimension of the objectives of Islamic law. Within contemporary Islamic legal scholarship, *maqāṣid* has progressively been reconceptualized—moving beyond its classical role as a purely evaluative standard—to function as a constructive methodology for navigating the challenges posed by social dynamics, including pluralism, radicalism, and the accelerating transformations of the digital age.[27] Within this expanded framework, religious moderation serves as a normative mechanism ensuring that the application of Islamic teachings remains aligned with the fundamental orientation toward the promotion of *maṣlaḥa* (benefit) and the prevention of harm.

The analytical framework developed here demonstrates that religious moderation cannot be disarticulated from the teleological orientation of Islamic law. Any form of religious expression that generates violence, fosters extremism, or produces structural injustice constitutes a departure from *maqāṣid*—regardless of the textual legitimacy invoked to justify it. Religious moderation thereby functions as a normative instrument for testing the social validity of Islamic legal applications, providing a criterion for distinguishing between interpretations that advance Sharia objectives and those that contradict them.

The operationalization of *maqāṣid* is significantly shaped by the national legal structures within which it is embedded. In Indonesia, the pluralistic constitutional order enables *maqāṣid* to be operationalized through the domains of public policy and legal ethics, exemplified by religious moderation programs formally integrated into national development planning.[28] In Brunei Darussalam, *maqāṣid* is internalized within the architecture of a formal Sharia-based legal system, most concretely through the institutional implementation of Islamic criminal law and state religious governance.[29] Fieldwork findings indicate that religious authorities in Brunei explicitly incorporate assessments of social welfare into their adjudicative

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[27] Tawffeek A. S. Mohammed, "A Scientometric Study of Maqasid Al-Shariah Research," *Frontiers in Research Metrics and Analytics* 9 (2024).

[28] Muhammad Nasir and Muhammad Khairul Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (2021): 213–241.

[29] Muhammad Nur et al., "Negotiating Legal Pluralism: Sharia and Civil Law Integration in Brunei Darussalam," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 535–552; Interview with Brunei Darussalam religious authorities, 2023.

and interpretive practices, thereby reflecting a lived operationalization of *maqāṣid* within institutional decision-making.

From the perspective of *ḥifẓ al-dīn* (the protection of religion), religious moderation demands a proportionate, non-extremist engagement with religious knowledge. Document-based analysis in Indonesia demonstrates that moderation-oriented approaches are directed toward the cultivation of an inclusive Islamic understanding and the delegitimization of violence as a religious practice in educational and public discourse.[30] Fieldwork in Brunei, meanwhile, reveals that the protection of religion is equally understood to encompass the maintenance of Islam's public image as a religion of peace and social harmony—an image that extreme interpretations threaten to undermine.

With respect to *ḥifẓ al-nafs* (the protection of life), religious moderation operates as a primary mechanism for forestalling religiously motivated violence. A substantial body of empirical evidence consistently demonstrates the correlation between extremist religious ideologies and acts of terrorism and political violence—phenomena that are normatively incompatible with the objectives of Sharia.[31] In the Indonesian context, religious moderation policies function as preventive instruments that close off theological space for radical legitimation. Brunei's fieldwork findings similarly indicate that the protection of physical life and social stability is treated as a non-negotiable priority in the institutional implementation of Islamic law.

The objective of *ḥifẓ al-ʿaql* (the protection of reason) imposes an obligation to strengthen religious literacy and cultivate rational public deliberation. Analysis of the Indonesian case demonstrates that religious moderation programs are directed toward reinforcing intellectual traditions and developing digital literacy capacities to counter the proliferation of extremist ideologies in online environments.[32] In Brunei, moderate religious education is institutionally positioned as a strategic instrument for preventing the entrenchment of narrow, literalist interpretations of Islamic teachings within the population.[33] This dimension of the analysis underscores that *maqāṣid* operates not only within the formal domain of law but extends into educational systems and processes of knowledge production.

The principle of *ḥifẓ al-nasl* (the protection of lineage and familial integrity) connects religious moderation to the domains of family stability and social cohesion. Empirical research consistently identifies harmonious family environments as a protective factor against radicalization, while family dysfunction is correlated with heightened vulnerability to

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30 Interview with Brunei Darussalam academics, 2023.

31 Mukhlis et al., "The Legal Culture to Prevent Radical Islamism by a Pesantren in Madura," *De Jure: Jurnal Hukum dan Syarʿiah* 16, no. 1 (2024): 58–87.

32 Kementerian Agama Republik Indonesia, *Moderasi Beragama* (Jakarta: Badan Litbang dan Diklat Kementerian Agama RI, 2019); Muhammad Nasir and Muhammad Khairul Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (2021): 213–241.

33 Haji Awg Asbol bin Haji Mail and Iik Arifin Mansurnoor, "Education, Religious Authority and Moderation: Muslim Scholars-Cum-Leaders in Brunei Darussalam," *Tawarikh Journal of Historical Studies* 1, no. 1 (2009); Interview with Brunei Darussalam religious authorities, 2023.

extremist influence.[34] Religious moderation thus carries implications that extend well beyond the individual level, contributing to the sustainability of collective social life.

The dimension of *ḥifẓ al-māl* (the protection of property and economic welfare) connects religious moderation to considerations of equitable economic governance. Research demonstrates that extremism is frequently correlated with economic distortions—including corruption and the unequal distribution of resources—that undermine social trust and political legitimacy. In the Brunei context, fieldwork findings indicate that economic stability is conceptualized as an integral dimension of the implementation of Islamic law, thereby reinforcing the connection between the classical *maqāṣid* and contemporary state economic policy.[35]

Beyond the five classical objectives, contemporary *maqāṣid* scholarship has expanded the framework to encompass emerging ethical challenges, including environmental stewardship, digital governance, and the protection of human rights. Religious moderation in this expanded context functions as a normative framework ensuring that technological development and public policy remain aligned with the Islamic principles of justice, human dignity, and sustainable social organization. This confirms the dynamic, historically responsive character of *maqāṣid* as a living jurisprudential tradition.

The tension between textualist and *maqāṣid*-oriented approaches to Islamic legal interpretation constitutes a persistent challenge in contemporary jurisprudential practice, particularly in pluralistic and rapidly modernizing environments.[36] In specific legal contexts, literal readings of foundational texts may conflict with broader considerations of public welfare. Religious moderation serves here as a methodological bridge, enabling legal interpretation to remain anchored in Sharia objectives rather than defaulting to either uncritical textualism or unprincipled pragmatism.[37]

On the basis of this analysis, the present study proposes a new conceptual model—designated the "Religious Moderation as a Living *Maqāṣid* Framework"—which positions moderation simultaneously as: a normative principle guiding the interpretation of Islamic law; an institutional mechanism informing state policy formation; and a social practice embedded in community life. This model integrates normative and empirical dimensions, thereby extending the analytical purchase of *maqāṣid* from the realm of abstract theory into the domain of living legal practice. The comparative findings are summarized in the following table:

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[34] Enas ObaidAllah Sarour and Mogeda El Sayed El Keshky, "Understanding Extremist Ideas: The Mediating Role of Psychological Well-Being in the Relationship between Family Functioning and Extremism," *Children and Youth Services Review* 136 (2022): 106420.

[35] Interview with Brunei Darussalam religious authorities, 2023.

[36] Rohmad Adi Yulianto, "Kebijakan Penanganan Pengungsi di Indonesia Perspektif Maqasid Al-Syariʿah," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 2 (2019): 169–186.

[37] Bakhrul Huda et al., "Assessing the Legality of Cryptocurrency Trading in Indonesia's Commodity Market: An Analytical Study Based on Maqāṣid Al-Sharīʿah," *Syariah: Jurnal Hukum dan Pemikiran* 25, no. 1 (2025).

Table 2. Comparative Implementation of Maqāṣid al-Sharīʿa in Indonesia and Brunei Darussalam

Aspect	Indonesia	Brunei Darussalam
Implementation Basis	Public policy and legal ethics	Formal Sharia legal system
Maqāṣid Orientation	Preventive and social-integrative	Institutional and stability-oriented
Primary Instruments	Moderation programs, education, regulatory frameworks	Legislation, judicial institutions, religious education
Principal Challenge	Managing pluralism and inter-communal conflict	Sustaining legitimacy and ensuring social acceptance

Implications for the Development of Contemporary Islamic Law

The analysis developed in the preceding sections yields a set of fundamental implications for the trajectory of Islamic legal development in contemporary pluralistic and dynamically changing societies. At the most general level, religious moderation enables Islamic law to be reconceptualized not as a static normative edifice but as a living legal instrument capable of engaging creatively with social realities without abandoning its foundational orientation toward justice and the common good. In this register, religious moderation functions as a guiding jurisprudential principle that prevents Islamic law from becoming trapped between the twin pathologies of arid textual formalism and reactive extremism.[38] This implies, in turn, that the development of Islamic law cannot be reduced to the expansion of formal legislation; it necessarily encompasses the progressive strengthening of normative principles that guide the practice of legal interpretation and institutional application.

The *maqāṣid al-sharīʿa* approach affirms that Islamic law is fundamentally an interpretative enterprise oriented toward the realization of the common good, whose validity is therefore determined not only by formal state authorization but equally by social relevance and the breadth of its civic acceptance.[39] This understanding has significant implications for how the legitimacy of Islamic law is assessed and sustained in contemporary states.

In the Indonesian context, the development of Islamic law proceeds primarily through the internalization of Sharia values within the domain of public policy. The most concrete expression of this dynamic is the formal integration of religious moderation into the 2020–2024 RPJMN and the operationalization of moderation-strengthening programs by the Ministry of Religious Affairs. These programs encompass the development of moderation-sensitive educational curricula, the professional formation of religious instructors, and the expansion of digital religious literacy capacities. Available evidence suggests that this approach has contributed meaningfully to reducing radicalization potential through preventive strategies grounded in education and social policy.[40]

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[38] Mohammad Hashim Kamali, *Maqasid Al-Shari'ah: The Objectives of Islamic Law* (Cambridge: Islamic Texts Society, n.d.); Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (IIIT, 2008).

[39] Adis Duderija, ed., *Maqasid Al-Shari'a and Contemporary Reformist Muslim Thought* (Palgrave Macmillan, 2014).

[40] Mukhlis et al., "The Legal Culture to Prevent Radical Islamism."

The effectiveness of education-based and social reintegration approaches to deradicalization also carries broader implications for the design of Islamic law-related policy. Empirical studies consistently demonstrate that such approaches yield more durable outcomes in terms of reducing recidivism and expanding social acceptance of moderate values than purely coercive or punitive legal strategies. This finding confirms the practical superiority, as well as the *maqāṣid*-concordance, of moderation-based approaches to legal governance.

In Brunei Darussalam, the development of Islamic law unfolds within the formal institutional framework established by the Sharia Penal Code Order of 2013. However, the research findings indicate unambiguously that the implementation of this code is not conducted in a rigid, literalist manner but rather through a deliberate gradualist strategy (*tadarruj*) that systematically takes into account the social readiness of the community. Interview data with religious authorities confirm that the state actively foregrounds moderate religious education and moral development as integral components of its broader legal implementation strategy.[41]

This approach demonstrates that, even within a formally Sharia-based legal system, moderation remains a constitutive principle for maintaining the legitimacy and social acceptance of Islamic law. Public acceptance of Sharia implementation in Brunei is demonstrably shaped by this moderate, welfare-oriented approach, which prioritizes the promotion of social stability and community benefit over the singular pursuit of normative enforcement.

Religious moderation also carries direct implications for strengthening the practice of contextual *ijtihād* in contemporary Islamic legal reasoning. By encouraging scholars and policymakers to engage seriously with the social consequences of legal pronouncements, moderation positions *maqāṣid al-sharīʿa* as the primary evaluative standard in legal policy assessment. Research on correctional systems and criminal law policy further illustrates this dynamic: the success of a legal system is measured not only by the existence of formally enacted norms but by its demonstrated capacity to produce social justice and facilitate moral rehabilitation.[42]

More broadly, religious moderation strengthens the conceptual identity of Islamic law as *living law*—law that develops dynamically within social and institutional practices rather than remaining confined to the codified text. In Indonesia, Islamic legal values continue to be generated through processes of policy discourse and civil society practice. In Brunei Darussalam, Islamic law is implemented through a process of ongoing negotiation between claims of religious legitimacy and the imperatives of social stability within the framework of a modern state.[43]

Drawing upon these findings, the present study proposes a new conceptual framework: "Religious Moderation as a Framework for Contemporary Islamic Legal Development." This framework positions religious moderation simultaneously as: (1) a normative principle guiding

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41 Interview with Brunei Darussalam religious authorities, 2023.

42 Bunyamin et al., "Reforming Indonesia's Correctional System: The Role of Maqāṣid Al-Syarīʿah in Ensuring Justice and Rehabilitation," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 1 (2025): 52–71.

43 Sri Hidayati et al., "Reconstructing Divine Authority in Indonesian Islamic Law," *Jurnal Indo-Islamika* 15, no. 2 (2025): 244–258; Muhammad Nur et al., "Negotiating Legal Pluralism: Sharia and Civil Law Integration in Brunei Darussalam," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 535–552.

legal interpretation; (2) a policy mechanism operating within the state system; and (3) an evaluative instrument grounded in *maqāṣid*. The framework emphasizes that the development of Islamic law is not reducible to structural or formal dimensions but is necessarily substantive and contextual in character. The practical implications of this framework are directly relevant for policymakers and religious institutions in both countries. In Indonesia, it can inform the design of religious moderation policies developed by the Ministry of Religious Affairs, particularly with regard to the integration of religious education, regulatory governance, and digital literacy. In Brunei Darussalam, it can serve as an evaluative framework for the policy review processes of the Office of the Mufti, ensuring that the implementation of Islamic law remains adaptive, graduated, and consistently oriented toward the public interest.

Conclusion

This study has demonstrated that religious moderation is most productively understood as *living Islamic law*—as Islamic law that is not merely encoded in normative texts but actively operative within social practices, public policies, and religious institutions. From the vantage point of *maqāṣid al-sharīʿa*, religious moderation functions as a normative principle that directs the realization of the foundational objectives of Sharia: the protection of religion, life, intellect, lineage, and wealth, all of which converge on the overarching goal of public benefit. The findings establish that religious moderation does not operate merely at the level of moral discourse or social policy but functions as a public legal ethic and institutional principle that guides the contextual interpretation and application of Islamic law.

The comparative analysis of Indonesia and Brunei Darussalam illuminates the significant structural and institutional differences through which moderation is operationalized across distinct constitutional environments, while simultaneously revealing a shared normative commitment to the rejection of extremism and the affirmation of Islamic law's capacity to balance textual integrity with social responsiveness. In Indonesia, moderation functions as an integrative public legal ethic that mediates between Islamic values and the demands of a non-theocratic pluralistic constitutional order. In Brunei Darussalam, it operates as an institutional principle that governs the gradual and proportional implementation of formal Sharia law, ensuring that its application remains socially legitimate and community-oriented. In both cases, religious moderation contributes demonstrably to social stability, the strengthening of tolerant social bonds, and the prevention of extremism—representing an adaptive, balanced, and welfare-oriented expression of Islamic law in contemporary pluralistic societies.

On the basis of these findings, this study recommends that religious moderation be formally adopted as a normative framework for the formulation of policy, the governance of religious practice, and the management of Islamic legal institutions, with *maqāṣid al-sharīʿa* serving as the primary evaluative parameter. Practically, this approach can deepen the effectiveness of existing religious moderation policies, enhance the outcomes of deradicalization programs, and ensure that the implementation of Islamic law remains contextually grounded and broadly accepted by society. Academically, this research invites further scholarly development of Islamic legal studies that positions religious moderation as an integral dimension of the dynamics of living Islamic law, pursued through the complementary deployment of normative and empirical methodologies. This scholarly trajectory holds the

promise of enriching contemporary Islamic legal discourse and reinforcing its relevance in responding to the complex challenges of religious life in an increasingly interconnected and rapidly transforming global society.

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