

Between Maqāṣid al-Sharī'ah and CEDAW: Comparing Islamic Family Law and Indonesian National Law in the Protection of Women's Rights

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ABSTRAK

Perdebatan mengenai hak perempuan dalam hukum keluarga Muslim sering bergerak di antara normativitas agama dan tuntutan perlindungan hukum nasional serta internasional. Artikel ini mengomparasikan hukum keluarga Islam, hukum nasional Indonesia, dan CEDAW melalui perspektif maqāṣid al-syarī'ah untuk menganalisis perlindungan hak perempuan dalam otoritas perkawinan, poligami, perceraian, hak ekonomi pascaperceraian, kekerasan dalam rumah tangga, dan pluralisme hukum. Penelitian ini menggunakan metode hukum normatif dengan pendekatan konseptual, perundang-undangan, dan komparatif. Data bersumber dari CEDAW, instrumen hukum nasional Indonesia, diskursus hukum Islam, serta 27 artikel jurnal terakreditasi yang diterbitkan pada 2023-2026. Data dianalisis melalui analisis isi dan interpretasi komparatif-kritis dengan memetakan prinsip nondiskriminasi, pencegahan kemudharatan, martabat, kesalingan, dan keadilan substantif. Hasil penelitian menunjukkan tiga temuan. Pertama, maqāṣid al-syarī'ah, CEDAW, dan hukum nasional Indonesia memiliki titik temu dalam perlindungan martabat, jiwa, kemaslahatan keluarga, keamanan ekonomi, dan akses keadilan. Kedua, ketegangan masih muncul dalam penafsiran qiwāmah, poligami, mediasi perceraian, eksekusi hak ekonomi, kekerasan psikologis, serta patriarki adat dan digital. Ketiga, perlindungan hukum menjadi efektif hanya apabila norma formal diterjemahkan ke dalam sensitivitas kelembagaan, keberdayaan peradilan, dan transformasi sosial. Artikel ini menawarkan model komparatif-integratif yang menempatkan CEDAW sebagai kerangka diagnosis diskriminasi, hukum nasional sebagai instrumen regulasi, dan maqāṣid al-syarī'ah sebagai kerangka evaluatif internal Islam untuk mencegah mudarat dan mewujudkan keadilan substantif.

ABSTRACT

Debates on women's rights in Muslim family law often move between religious normativity and the demands of national and international legal protection. This article compares Islamic family law, Indonesian national law, and CEDAW through the lens of maqāṣid al-sharī'ah to examine the protection of women's rights in marital authority, polygamy, divorce, post-divorce economic entitlements, domestic violence, and legal pluralism. This study employs normative legal research with conceptual,

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*substantive justice;
women's agency.*

statutory, and comparative approaches. The data consist of CEDAW, Indonesian legal instruments, Islamic legal discourse, and 27 accredited journal articles published between 2023 and 2026. The materials are analyzed through content analysis and critical-comparative interpretation by mapping the principles of non-discrimination, harm prevention, dignity, reciprocity, and substantive justice. The findings show three patterns. First, *maqāṣid al-sharī'ah*, CEDAW, and Indonesian national law converge in the protection of dignity, life, family welfare, economic security, and access to justice. Second, tensions persist in the interpretation of *qiwāmah*, polygamy, divorce mediation, economic execution, psychological violence, and customary or digital patriarchies. Third, legal protection becomes effective only when formal norms are translated into institutional sensitivity, judicial enforceability, and social transformation. This article proposes an integrative-comparative model that positions CEDAW as a diagnostic framework for discrimination, national law as a regulatory instrument, and *maqāṣid al-sharī'ah* as an internal Islamic evaluative framework for preventing harm and realizing substantive justice.

INTRODUCTION

The protection of women's rights within the family has become one of the most significant issues in the contemporary development of Islamic law and Indonesian national law. The issue concerns not only formal equality between men and women, but also the capacity of law to respond to women's concrete experiences in marriage, divorce, polygamy, domestic violence, economic entitlement, and access to courts. In Indonesia, the discussion unfolds within a plural legal field in which *fiqh*, the Compilation of Islamic Law, national statutes, religious courts, customary norms, human rights instruments, and the state's international commitment to CEDAW interact. Consequently, the protection of women's rights cannot be assessed merely by comparing normative texts. It must be evaluated by examining how norms operate, whose interests they serve, who remains vulnerable, and whether the objectives of human protection are substantively realized.

Indonesia ratified CEDAW through Law No. 7 of 1984, thereby incorporating the elimination of discrimination against women into the state's legal commitment. In the field of family law, marriage is regulated through Law No. 1 of 1974, later amended by Law No. 16 of 2019, especially by equalizing the minimum age of marriage at nineteen years for both men and women. The Compilation of Islamic Law was disseminated through Presidential Instruction No. 1 of 1991 and has become a central reference for Muslim family law practice, particularly in matters of marriage, inheritance, and *waqf*. On violence, Law No. 23 of 2004 on the Elimination of Domestic Violence and Law No. 12 of 2022 on Sexual Violence Crimes expand the framework of protection for women as victims. These instruments show that Indonesian national law has developed a broad protective apparatus, yet its effectiveness depends on interpretation, institutional practice, and women's real access to justice.

Within Islamic legal discourse, the protection of women's rights is often debated through the concepts of *qiwāmah*, maintenance, obedience, polygamy, divorce, mediation, and family welfare. Some readings emphasize hierarchical roles within marriage, while others stress reciprocity, deliberation, responsibility, and the prevention of harm. Yasmar show that women's representation in the Qur'an may be read through a rhetorical-legal hermeneutic that opens space for understanding *qiwāmah* as contextual responsibility rather than absolute authority (Yasmar et al., 2025). Zumrotun similarly reveal that Muslim diaspora families negotiate marital authority through diverse relational patterns, ranging from hierarchy to partnership. These studies indicate that Islamic law should not be treated as a static normative block, because its interpretive resources allow reform and contextualization (Zumrotun et al., 2026).

Nevertheless, the gap between formal norms and women's lived experiences remains evident. In post-divorce cases, Fadil demonstrate that the recognition of women's economic rights does not always lead to effective fulfillment. Obstacles include limited legal literacy, social

pressure, economic vulnerability, and weak execution of judgments ([Fadil et al., 2024](#)). In mediation, Yazid finds that Islamic court mediators frequently stand between the aspiration for reconciliation and the demand for gender justice; reconciliation may become problematic when it ignores unequal power relations and women's vulnerability ([Yazid, 2023](#)). In polygamy cases, Abdul Aziz underline the importance of assessing *ḍarar shar'ī*, or legally relevant harm, to wives and children before permission is granted ([Aziz et al., 2025](#)). Yazid's study of YouTube sermons also demonstrates that digital polygamy narratives often emphasize permissibility while neglecting requirements, consequences, and women's rights. The central problem, therefore, is not simply whether rules exist, but whether law has the courage to assess their substantive effects ([Yazid, 2023](#)).

Violence against women further demonstrates the urgency of connecting Islamic law, national law, and CEDAW. Nasyiah argues that domestic psychological violence is often insufficiently recognized, even though threats, humiliation, control, and neglect can damage women's dignity and mental health ([Nasyiah, 2024](#)). Thahir show that the protection of wives at risk of contracting HIV/AIDS from spouses must be read as part of Islamic law's responsibility to protect life and dignity ([Thahir & Al-Fatih, 2024](#)). Wiarti assess Indonesian sexual violence regulation from the perspective of CEDAW and argue that it must be directed toward prevention, handling, protection, and recovery for victims. This orientation is consistent with *maqāṣid al-sharī'ah* because the protection of life, dignity, reason, lineage, and property cannot be achieved when women are left in relationships that threaten their safety ([July Wiarti et al., 2025](#)).

The state of the art of recent scholarship can be mapped into four tendencies. First, studies on the harmonization of Islamic law and human rights show that the binary between theocentrism and anthropocentrism is not always productive, because *maqāṣid* can connect obedience to God with the protection of human welfare ([Insani et al., 2024](#); [Salam et al., 2024](#)). Second, research on religious court practice highlights polygamy, divorce, mediation, broken marriage, and women's economic rights ([Aini & Hidayati, 2025](#); [Aziz et al., 2025](#); [Fadil et al., 2024](#); [Farabi, 2025](#); [Wirdyaningsih et al., 2026](#); [Yazid, 2023](#)). Third, studies on violence and women's protection discuss legal awareness, psychological violence, health, and sexual violence regulation ([Cholil et al., 2025](#); [July Wiarti et al., 2025](#); [Nasyiah, 2024](#); [Thahir & Al-Fatih, 2024](#)). Fourth, studies on culture and social authority reveal that custom, media, digital *da'wah*, and religious piety discourse may either reinforce or negotiate women's positions ([Aristeus et al., 2025](#); [Armi & Azhari, 2025](#); [Falah & Riyanta, 2025](#); [Jafar et al., 2024](#); [Putri & Poerwandari, 2024](#); [Syamsiyatun, 2023](#)).

Although these studies are rich, three research gaps remain. First, Islamic law, CEDAW, and Indonesian national law are often discussed separately, leaving insufficient explanation of the comparative pattern among the three within one analytical framework. Second, family-law studies often stop at normative differences, whereas women's experiences show that injustice also emerges in interpretation, mediation, execution, and social culture. Third, *maqāṣid al-sharī'ah* is frequently used as normative legitimation, but it is not always operationalized as an evaluative instrument for testing whether a rule truly prevents harm and protects vulnerable parties. This article fills these gaps by developing a critical comparison among Islamic family law, Indonesian national law, and CEDAW through the parameters of non-discrimination, human dignity, prevention of *ḍarar*, reciprocity, and substantive justice.

The novelty of this article lies in the formulation of an integrative-comparative model for protecting women's rights. The model positions CEDAW as a diagnostic framework for discrimination, Indonesian national law as an instrument of regulation and enforcement, and *maqāṣid al-sharī'ah* as an internal Islamic evaluative framework. In this model, comparative law is not used to declare one legal system superior to another. Rather, it is used to identify protective mechanisms capable of connecting religious legitimacy, state responsibility, and women's experiences. Specifically, the article answers three questions: how do Islamic family law,

Indonesian national law, and CEDAW converge in the protection of women's rights; where do normative and practical tensions appear in marriage, polygamy, divorce, violence, and economic rights; and how can a maqāṣid-based integrative-comparative model strengthen the protection of women in contemporary family law?

METHODS

This study uses normative legal research with a comparative literature-review design. This method is appropriate because the research does not measure respondents' behavior, but analyzes the relationship between norms, principles, and legal practices in the protection of women's rights. Three approaches are used in an integrated manner. First, the conceptual approach examines maqāṣid al-sharī'ah, non-discrimination, dignity, reciprocity, and substantive justice. Second, the statutory approach reads CEDAW, Indonesian marriage law, the Compilation of Islamic Law, the Domestic Violence Law, and the Sexual Violence Crimes Law. Third, the comparative approach compares Islamic family law, Indonesian national law, and CEDAW through specific family-law issues.

The data consist of three groups. The first group is international and national legal instruments, especially CEDAW, Law No. 7 of 1984, Law No. 1 of 1974, Law No. 16 of 2019, Presidential Instruction No. 1 of 1991 on the dissemination of the Compilation of Islamic Law, Law No. 23 of 2004, and Law No. 12 of 2022. The second group is Islamic legal discourse related to maqāṣid, qiwāmah, ḍarar, polygamy, divorce, maintenance, and family protection. The third group consists of 27 accredited and reputable journal articles published between 2023 and 2026 that discuss Islamic family law, gender, CEDAW, religious courts, custom, diaspora, violence, and women's agency.

The 27 articles were selected according to four criteria. First, they have direct relevance to family law, women's protection, gender relations, or contemporary Islamic legal practice. Second, they were published in accredited or reputable journals and contain traceable DOI information. Third, they provide empirical findings, normative analysis, or conceptual arguments that can support legal comparison. Fourth, they were published within the last six years, making them suitable for capturing recent developments in Islamic Studies and family-law scholarship.

Analysis was conducted in four stages. The first stage was normative inventory, which mapped CEDAW principles, Indonesian statutory provisions, and Islamic legal concepts related to women's protection. The second stage was issue coding, covering marital authority, polygamy, divorce, mediation, economic rights, violence, custom, and women's agency. The third stage was critical-comparative analysis to identify points of convergence, difference, and tension among the three normative systems. The fourth stage was conceptual synthesis to formulate an integrative-comparative model based on maqāṣid al-sharī'ah and CEDAW. Analytical validity was maintained through source triangulation, cross-issue reading, and examination of findings that reveal both harmonization potential and risks of injustice.

RESULTS AND DISCUSSION

Results

1. Convergence of maqāṣid, CEDAW, and national law in protecting dignity and preventing harm

The first finding shows that Islamic family law, CEDAW, and Indonesian national law converge around the protection of dignity, the prevention of harm, and access to justice for women. CEDAW defines discrimination as any distinction, exclusion, or restriction that impairs women's equal enjoyment of rights. In the language of maqāṣid, this principle is closely related to the duty to prevent ḍarar and to preserve life, dignity, family welfare, reason, and property. Indonesian national law attempts to translate these protective commitments through marriage regulation, marriage registration, minimum-age reform, victim protection, and judicial

mechanisms.

This convergence is visible in the protection of women's economic rights. Islamic law recognizes mahr, maintenance, mut'ah, iddah maintenance, and post-divorce entitlements. Indonesian national law provides procedural space for claiming these rights before religious courts. However, Fadil show that normative recognition must be followed by effective mechanisms of enforcement ([Fadil et al., 2024](#)). Aini and Hidayati add that the division of joint property after divorce becomes a complex site of negotiation, especially among migrant-worker families. Thus, women's economic protection cannot stop at written norms; it requires institutional instruments that ensure rights are actually received ([Aini & Hidayati, 2025](#)).

Convergence is also evident in the protection of women from violence. The Domestic Violence Law and the Sexual Violence Crimes Law broaden the recognition of victims and recovery. In Islamic law, the prevention of violence may be read through hifz al-nafs and the prohibition of harm. Nasyiah emphasizes the need to recognize psychological violence ([Nasyiah, 2024](#)), while Cholil show that maqāṣid al-usrah-based family-corner interventions can increase women's legal awareness ([Cholil et al., 2025](#)). Wiarti further demonstrate that CEDAW requires sexual-violence regulation to protect women's human rights, not merely to punish offenders. These studies show that Islamic law and national law can meet around the protection of victims as vulnerable parties ([July Wiarti et al., 2025](#)).

A further point of convergence is the understanding of the family as a space of shared responsibility. Wibowo and Fathiyaturrahmah, through their study of women and Qur'anic transmission, reveal that women's religious authority cannot be reduced to the domestic sphere ([Wibowo & Fathiyaturrahmah, 2025](#)). Putri and Poerwandari show women's agency in constructing piety and social position within religious discourse ([Putri & Poerwandari, 2024](#)). Syamsiyatun illustrates how 'Aisyiah's middle-path feminism connects piety, education, and social advocacy. These findings expand the meaning of protection: women are not merely objects of protection but also subjects capable of interpreting, negotiating, and transforming social structures ([Syamsiyatun, 2023](#)).

2. Persistent tensions in marital authority, polygamy, divorce, violence, and legal pluralism

The second finding shows that tensions between Islamic family law, CEDAW, and Indonesian national law do not always arise from irreconcilable substantive values. They often arise from how norms are interpreted and institutionalized. In marital relations, qiwāmah is a central point of debate. If qiwāmah is understood as unilateral male authority, it risks contradicting equality and deliberation. Yet Yasmar show that rhetorical-legal interpretation can shift qiwāmah toward ethical responsibility, protection, and partnership ([Yasmar et al., 2025](#)). Zumrotun demonstrate that Indonesian Muslim families in diaspora negotiate family authority flexibly according to social context. The tension, therefore, lies not in the term qiwāmah itself but in whether it is used to protect or dominate ([Zumrotun et al., 2026](#)).

The tension is more visible in polygamy. Indonesian national law allows polygamy under certain conditions and court permission, while CEDAW requires the elimination of practices that have discriminatory effects. Classical Islamic law recognizes the permissibility of polygamy but also requires justice and the prevention of harm. Abdul Aziz show that the concept of ḍarar shar'ī in polygamy applications lacks sufficiently precise guidelines in Malaysia and Indonesia ([Aziz et al., 2025](#)). Armi and Azhari reveal that polygamy in the Minangkabau matrilineal system involves a dialectic among custom, religion, and women's experiences ([Armi & Azhari, 2025](#)). Yazid finds that digital sermons on polygamy often neglect state-law requirements and wives' experiences. These studies indicate that the effects of polygamy on wives and children must be assessed as a substantive legal condition, not merely an administrative consideration ([Yazid, 2023](#)).

Divorce and mediation also produce tensions among reconciliation, family preservation,

and gender justice. Indonesian law and religious courts place mediation at the center of dispute resolution. However, Yazid shows that an overemphasis on peace may limit women's protection if mediators lack gender sensitivity ([Yazid, 2023](#)). Wirdyaningsih propose a fusion approach in Indonesian Islamic courts by combining Islamic principles and Asian family-mediation practices, but its effectiveness depends on whether mediation avoids pressuring women to remain in harmful relationships ([Wirdyaningsih et al., 2026](#)). Al Farabi highlights the development of broken marriage as a divorce ground, showing the court's autonomy in responding to marital realities that can no longer be preserved. Within a maqāṣid framework, reconciliation that conceals violence or inequality cannot be regarded as maslahah ([Farabi, 2025](#)).

Another tension emerges in the interaction between Islamic law and custom. Jafar show that the Bajapuik tradition in Minangkabau can be read as a bridge between local wisdom, human rights, and Islamic law ([Jafar et al., 2024](#)). Aristeus demonstrate that Marapu norms in Sumba may conflict with international standards when they affect women's position ([Aristeus et al., 2025](#)). Muchimah remind us that cultural pluralism and Islamic legal ethics also appear in interreligious marriage practices in Banyumas. These cases show that national law and Islamic law should engage custom selectively: custom may be maintained when it strengthens dignity and welfare, but it must be criticized when it produces discrimination ([Muchimah et al., 2026](#)).

Digital space expands these tensions. Falah and Riyanta identify digital patriarchy in YouTube fatwas, particularly when preachers construct gender asymmetry through narratives of obedience, sexuality, and domestic roles ([Falah & Riyanta, 2025](#)). Nugroho find that the media representation of female royal leadership in Yogyakarta remains shaped by gender politics and sharia interpretation ([Nugroho et al., 2025](#)). Duereh, by contrast, show that Muslim women in Thailand's southern border provinces can become mediators within traditions that appear masculine. These studies demonstrate that religious authority, media, custom, and legal institutions are not neutral spaces; each may weaken or strengthen women's [protection \(Duereh et al., 2026\)](#).

3. An integrative-comparative model for women's rights protection

The third finding formulates an integrative-comparative model for women's rights protection. The model avoids two extremes: subordinating Islamic law entirely to international instruments, or rejecting CEDAW as foreign to Islamic normativity. Instead, CEDAW is used to detect discrimination, Indonesian national law is used as a binding legal instrument, and maqāṣid al-sharī'ah is used as an internal Islamic evaluative tool. Through this arrangement, women's protection gains not only state legitimacy but also religious and social legitimacy.

The model operates through four parameters. The first is non-discrimination, which tests whether a norm or practice prevents women from enjoying rights equally. The second is ḍarar, which tests whether a norm or practice creates physical, psychological, economic, or social harm. The third is reciprocity, which tests whether family relations are organized through deliberation and shared responsibility. The fourth is legal enforceability, which tests whether formal rights can be executed by gender-sensitive institutions. These parameters allow Islamic law and national law to be read productively rather than antagonistically.

In this model, maqāṣid al-sharī'ah must be shifted from rhetoric of legitimation to an instrument of critique. Every family-law norm should be assessed according to its consequences for life, dignity, reason, property, lineage, and family sustainability. CEDAW helps reveal forms of discrimination that may be hidden behind religious or customary language, while national law provides regulatory mechanisms, courts, protection orders, sanctions, and legal aid. The synergy among the three can support a reform of Indonesian Islamic family law that remains rooted in Islamic values while being responsive to women's experiences.

Discussion

The findings confirm that the comparison between Islamic family law and Indonesian national law cannot be reduced to a binary opposition between religion and human rights. The first finding shows that the three frameworks share a protective orientation: CEDAW demands substantive equality, Indonesian national law provides formal mechanisms, and *maqāṣid al-sharī'ah* requires the prevention of harm and the protection of human welfare. This convergence is important because it allows the language of rights and the language of Islamic legal objectives to meet on the same practical concern: the protection of women who experience vulnerability in family relations.

The first finding also clarifies that women's protection should be measured not by textual recognition alone, but by the extent to which rights are practically enjoyed. The recognition of *mahr*, maintenance, *mut'ah*, *iddah* maintenance, and joint-property rights can be considered protective only when women can claim and execute them. Fadil and Aini and Hidayati demonstrate that post-divorce economic rights are vulnerable to weak enforcement, family pressure, and social complexity. Therefore, the *maqāṣid* principle of preserving property and dignity requires judges and legal-aid institutions to treat economic enforcement as an integral part of justice rather than a secondary administrative matter ([Aini & Hidayati, 2025](#); [Fadil et al., 2024](#)).

The second finding demonstrates that tension is largely interpretive and institutional. *Qiwāmah*, polygamy, mediation, and custom become discriminatory when interpreted hierarchically and separated from women's experiences. However, they may be reinterpreted toward responsibility, prevention of harm, and family welfare. Yasmar and Zumrotun support this argument by showing that Islamic legal authority is not monolithic. The implication is that reform does not necessarily require rejecting Islamic concepts; it requires applying a *maqāṣid* test to examine whether the concept protects the vulnerable, prevents *ḍarar*, and supports reciprocal relations ([Yasmar et al., 2025](#); [Zumrotun et al., 2026](#)).

The same reasoning applies to polygamy. The problem is not merely that polygamy is regulated differently by Islamic law, national law, and CEDAW. The deeper problem is whether the legal process evaluates the lived consequences for wives and children. Abdul Aziz, Armi and Azhari, and Yazid show that the absence of a strong harm-assessment mechanism allows polygamy to be discussed as permissibility rather than protection. A finding-based discussion therefore requires a shift from formal permission to substantive scrutiny. Court permission should examine psychological harm, economic capacity, children's welfare, the wife's legal awareness, and the possibility of coercion or social pressure ([Armi & Azhari, 2025](#); [Aziz et al., 2025](#); [Yazid, 2023](#)).

The second finding further shows that mediation is not automatically just. In family-law discourse, reconciliation is often treated as inherently positive, yet Yazid demonstrates that peace may reproduce inequality when gender sensitivity is absent ([Yazid, 2023](#)). Wirdyaningsih offer a promising fusion approach, but such an approach must be evaluated through the same *maqāṣid* and CEDAW parameters. Mediation is protective only when it secures safety, informed consent, economic rights, and access to remedies. Reconciliation that pressures women to return to violent or exploitative relationships cannot be considered *maslahah*, even if it reduces the number of divorce cases ([Wirdyaningsih et al., 2026](#)).

The third finding contributes an operational model that transforms comparative law into a diagnostic and evaluative method. CEDAW asks whether a rule produces direct or indirect discrimination. *Maqāṣid* asks whether the rule preserves life, dignity, reason, family welfare, and property. National law asks whether the rule can be enforced through courts, sanctions, services, and protection mechanisms. When these three questions are combined, a family-law norm can be tested more rigorously. A norm is not sufficiently protective merely because it has Islamic legitimacy, statutory validity, or rights-based vocabulary. It is protective only when it prevents

harm, avoids discrimination, recognizes reciprocity, and can be enforced.

This model also explains why legal reform must involve religious education and public discourse. Falah and Riyanta, and Nugroho show that digital religious narratives and media representations influence how society understands women's authority, obedience, leadership, and marital roles. If public religious discourse neglects national legal requirements and women's experiences, it can weaken the effectiveness of reform (Falah & Riyanta, 2025; Nugroho et al., 2025). Conversely, as Syamsiyatun, Putri and Poerwandari, Wibowo and Fathiyaturrahmah, and Duereh show, women's agency can become a resource for Islamic legal renewal. Islamic Studies should therefore not merely preserve texts, but also examine social consequences and strengthen interpretive justice (Duereh et al., 2026; Putri & Poerwandari, 2024; Syamsiyatun, 2023; Wibowo & Fathiyaturrahmah, 2025).

The integrative model recognizes that formal law has limitations. National statutes may prohibit violence and regulate marriage, but women may still face stigma, family pressure, economic dependence, and lack of information. Zakiyah show that the wives of terrorist convicts may experience unequal family dynamics that are not fully visible in formal legal categories (Zakiyah et al., 2025). Hanapi similarly connect wife-initiated divorce to broader gender imbalance and family responsibility. These findings indicate that substantive protection requires legal literacy, economic empowerment, psychosocial support, and institutional courage. Law becomes meaningful only when it reaches women's lived realities (Hanapi et al., 2025).

Thus, the main contribution of this study is not limited to identifying similarities and differences among legal systems. It formulates an operational framework for assessing protection. A norm is protective when it satisfies four tests: it does not discriminate, it prevents harm, it recognizes reciprocity, and it can be enforced by responsive institutions. If one element is absent, protection remains partial. If all elements are present, Islamic family law, Indonesian national law, and CEDAW can work together to strengthen substantive justice for women in contemporary Indonesian family law.

Table 3. Operational parameters of the integrative-comparative model

Parameter	Diagnostic question	CEDAW function	Maqāṣid function	National-law function
Non-discrimination	Does the norm limit women's equal enjoyment of rights?	Identifies direct and indirect discrimination	Assesses whether inequality violates dignity and justice	Provides regulatory prohibition and remedies
Prevention of harm	Does the practice create physical, psychological, economic, or social harm?	Requires state responsibility to protect women	Activates the principle of preventing <i>darar</i>	Provides protection orders, sanctions, and victim services
Reciprocity	Are spouses treated as moral partners?	Challenges gender stereotypes in family roles	Reinterprets <i>qiwāmah</i> as responsibility and welfare	Supports consent, rights, and obligations in marriage
Enforceability	Can women actually access and enjoy their rights?	Demands effective equality and access to justice	Treats enforcement as part of <i>maslahah</i>	Requires judicial sensitivity, execution, and legal aid

LIMITATIONS AND FUTURE RESEARCH

This study has several limitations. First, it is based on normative and literature-based analysis; therefore, it does not directly measure how judges, mediators, lawyers, or women litigants apply the proposed model in concrete cases. Second, although the article uses 27 recent journal articles, the scope remains limited to themes most closely related to gender, family law, Islamic courts, and women's rights. Third, the comparison focuses on Indonesia and does not examine in detail how other Muslim-majority countries institutionalize CEDAW and *maqāṣid* in family-law reform.

Future research may test the proposed model through empirical studies in religious courts, legal-aid institutions, and women's community organizations. Further studies may compare Indonesia with Malaysia, Tunisia, Morocco, or other Muslim-majority contexts to

examine how maqāsid, statutory reform, and CEDAW interact in different legal cultures. Quantitative research may also develop indicators for measuring substantive protection in polygamy, divorce, mediation, and post-divorce rights.

CONCLUSION

This article concludes that Islamic family law, Indonesian national law, and CEDAW share important normative convergences in protecting women's dignity, preventing harm, ensuring economic security, and strengthening access to justice. The apparent tension among these frameworks does not always arise from opposing values. It often emerges from patriarchal interpretation, weak enforcement, limited gender sensitivity, and social practices that normalize women's vulnerability. Maqāsid al-sharī'ah provides an internal Islamic foundation for evaluating family norms through the protection of life, dignity, property, lineage, reason, and welfare, while CEDAW offers a diagnostic tool for detecting discrimination that may be hidden behind formal neutrality.

The comparison also shows that the most difficult issues are not merely textual but institutional and social. Polygamy requires a substantive assessment of *ḍarar*; divorce mediation must not sacrifice women's rights for formal peace; post-divorce economic rights require enforceable judgments; psychological and sexual violence must be recognized as harm; and religious discourse in digital spaces must be aligned with legal literacy and women's experiences. In all these areas, law becomes meaningful only when it protects vulnerable parties in practice, not merely in principle.

The article proposes an integrative-comparative model that combines three functions: CEDAW as a framework for diagnosing discrimination, national law as a regulatory and enforcement mechanism, and maqāsid al-sharī'ah as a normative-evaluative instrument within Islamic legal reasoning. This model contributes to Islamic Studies by demonstrating that fidelity to Islamic normativity and commitment to women's human rights need not be contradictory. Both can be brought into a critical dialogue aimed at realizing substantive justice, preventing harm, and strengthening the protection of women in contemporary Indonesian family law.

AUTHOR CONTRIBUTIONS

Author 1 contributed to conceptualization, theoretical-framework development, Islamic legal analysis, and drafting of the initial manuscript. Author 2 contributed to literature tracing, mapping of Indonesian national law, and strengthening of CEDAW analysis. Author 3 contributed to academic editing, reference validation, and finalization of the manuscript. All authors read and approved the final manuscript.

DECLARATION OF AI-ASSISTED WRITING

During the preparation of this manuscript, the authors used ChatGPT developed by OpenAI in a limited manner to assist with language refinement, readability, article structure, and format consistency. All outputs were reviewed, verified, and edited by the authors. The authors take full responsibility for the accuracy, originality, scientific integrity, and overall content of this manuscript.

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