

From *Nafs Wāḥidah* to *Hifẓ al-Nafs*: Ontological Equality in the Qur'an as the Foundation for Anti-Femicide Legislation and Legal Reform in Indonesia

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Abstract

This study synthesizes a progressive reading of *nafs wāḥidah* with an expanded interpretation of *ḥifẓ al-nafs* to develop a contextual framework for legislative reform. Employing a qualitative normative-theological approach, it examines Qur'anic verses concerning human equality and the protection of life, classical and contemporary exegetical works, and national and comparative legal instruments. The analysis combines thematic exegesis (*tafsīr mawḍū'ī*), Amina Wadud's hermeneutics, and normative evaluation through *maqāṣid al-sharī'ah*, particularly *ḥifẓ al-nafs* and *ḥifẓ al-karāmah*. The findings indicate that *nafs wāḥidah* establishes ontological equality between women and men, undermining theological justifications for gender subordination and violence. This equality requires an inclusive understanding of *ḥifẓ al-nafs* that extends beyond prohibiting killing to preventing structural, psychological, and cultural violence that threatens women's lives and dignity. Drawing on this synthesis, the study proposes a legislative model integrating four dimensions: retributive measures through explicit criminal definitions and sanctions; integrated protection and support services; responsive partnerships with civil society and religious authorities; and contextual adaptation to Indonesia's social and legal diversity. It recommends reforming the Criminal Code and the

Law on Domestic Violence to recognize femicide as a distinct gender-based offense and strengthen preventive protection. The study contributes a theological and ethical foundation for translating *maqāṣid* principles into legislation that recognizes women as full and equal legal subjects. As a conceptual proposal, the model requires empirical evaluation to assess its implementation, institutional feasibility, and effectiveness in preventing femicide across diverse local settings.

Keywords: *Nafs Wahidah*; *Hifz al-Nafs*; Ontological Equality; Anti-Femicide; Legal Reform; Indonesia

Introduction

Femicide, or the gender-based killing of women, has become a global humanitarian crisis that undermines the most basic protections for life.¹ In Indonesia, this phenomenon not only reflects an escalation of domestic violence,² but also reveals systemic failures in ensuring safe spaces for women, even in the private sphere, which should be their first place of refuge.³ Data from the National Commission on Violence Against Women (Komnas Perempuan) show a significant increase in cases of femicide in the last five years, with 290 cases recorded in the 2023-2024 period,⁴ the second highest number after the peak of 307 cases of femicide in 2022. This finding is reinforced by research from Jakarta Feminist, which reveals that 43% of femicides stem from unaddressed violence in intimate relationships, an alarming increase from 37% in the previous year.⁵ Tragic cases such as the serial murders of three young women in West Sumatra from early 2024 to mid-2025, which were accompanied by mutilation and confessions by the perpetrator, are not just criminal statistics, but clear evidence of a continuum of violence that leads to systematic loss of life.⁶

More than just ordinary criminal acts, femicide is an extreme manifestation of structured gender inequality. As Diana H. Russell states, the

¹ Komnas Perempuan, *Kajian Awal & Kertas Kerja Femisida Tidak Dikenal: Pengabaian Terhadap Hak Atas Hidup Dan Hak Atas Keadilan Perempuan Dan Anak Perempuan* (Komisi Nasional Anti kekerasan Terhadap Perempuan, 2021), 2.

² United Nations Office on Drugs and Crime and UN Women, *Gender-Related Killings of Women and Girls (Femicide/Feminicide): Global Estimates of Female Intimate Partner/Family-Related Homicides in 2022* (New York, 2023).

³ UN Women, "Facts and Figures: Ending Violence Against Women," 2024. Diakses pada 20 Juli 2025; WHO, "Violence Against Women," 2024. Diakses pada 19 Juli 2025.

⁴ Komnas Perempuan, "Siaran Pers Komnas Perempuan Tentang Peluncuran Pemantauan Femisida 2024," 2024. Diakses pada 15 September 2024.

⁵ Sonya Hellen Sinombor, "Ruang Aman Kian Menipis, Makin Banyak Perempuan Dibunuh Secara Keji," Kompas.Id, 2025. Diakses pada 19 Juli 2025.

⁶ Oyuk Ivani Siagian, "Pembunuhan Berantai Di Padang Pariaman, Salah Satu Korban Pacar Pelaku," Tempo, 2025. Diakses pada 26 Juni 2025.

murder of women because of their gender identity reveals structural misogyny and the impunity that surrounds it.⁷ Gender-based violence, ranging from physical and emotional to sexual violence, is often rooted in biased gender norms and stereotypes.⁸ This explains why, as S. Swemmer points out, women in the sex industry or those who oppose patriarchy are often targets of fatal violence.⁹ The 2023 UNODC report confirms that the home is the epicenter of vulnerability, with approximately 51,100 women and girls losing their lives due to violence committed by partners or family members.¹⁰ This not only reflects individual acts of violence, but also reveals the inequality embedded in social and cultural structures that discriminate against women. This reality is exacerbated by the gap between religious values that oppose violence and prevailing socio-legal practices. The core issue addressed in this article can be formulated as follows: Indonesian positive law does not yet recognize femicide as a distinct criminal category, while the Islamic legal tradition which normatively possesses instruments for the protection of life (*hiż al-naḥī*) has never been systematically elaborated to fill this gap. As a result, gender-based killings of women occur in a double blind spot: beyond the scope of positive law and untouched by the actualization of maqāṣid. Closing this double gap is the central issue of this study, which calls for a reinterpretation of the verses that humanize women as well as their translation into concrete actions to prevent gender-based violence.

So far, studies on femicide have been conducted through various approaches and typologies. These studies can be divided into three main categories: general studies on femicide, studies on honor killings, and studies that highlight gender justice from a theological and legal perspective. General studies have examined femicide as an intersectional and multilayered global phenomenon, as illustrated by Sabrina Knap's study using micro-meso-macro analysis, and the study by Li Eriksson et al.¹¹, which highlights the experiences of victims through a qualitative approach. Studies reveal that victims often experience physical violence and coercive control, but are reluctant to refer to it as “deviant behavior.” A study by Antory Royan Adyan et al. also argues that it is time for the state to pay special attention to the phenomenon of femicide by

⁷ Diana E. H. Russell, “The Origin and Importance of the Term Femicide,” 2011. Diakses pada 01 Januari 2025

⁸ Fatma Mohamed Hassan et al., “Investigating Causes of Femicide in Egypt: Review,” *Egyptian Journal of Forensic Sciences* 14, no. 23 (2024): 1–9, <https://doi.org/10.1186/s41935-024-00397-y>.

⁹ S. Swemmer, “Femicide and the Continuum of Gender Based Violence,” *Encyclopedia of the UN Sustainable Development Goals*, ahead of print, 2019, https://doi.org/https://doi.org/10.1007/978-3-319-70060-1_44-1.

¹⁰ UNODC and UN Women, *Femicides in 2023: Global Estimates of Intimate Partner/Family Member Femicides* (New York, 2024).

¹¹ Li Eriksson Paul Mazerolle Samara McPhedran, “Giving Voice to the Silenced Victims: A Qualitative Study of Intimate Partner Femicide,” *Trends and Issues in Crime and Criminal Justice*, no. 645 (2022): 1–12, <https://doi.org/https://doi.org/10.52922/ti78498>.

emphasizing the importance of protecting life.¹² Meanwhile, specific studies on honor killings include work by Naelin Najihah, who explores how the Qur'an addresses this practice,¹³ and research by Johannes Beller et al.¹⁴ and Recep Doğan,¹⁵ who examine the link between religious interpretation, fundamentalism, and the legitimization of honor-based violence.

On the other hand, studies on gender justice within the framework of Islamic law and theology have also been conducted extensively. Rustina emphasizes the importance of women's role as the primary agents of socialization within the family in transforming gender values,¹⁶ while Tri Astuti Handayani examines the urgency of legal protection for women based on Pancasila values.¹⁷ Several other studies, such as those by Bambang Tri Bawono et al. and Wardah Nuroniyah et al., have broadened the understanding of *ḥifẓ al-nafs* beyond physical safety to include psychological, social, and emotional protection, while encouraging contextual reinterpretation in Islamic law. However, these studies remain fragmented: hermeneutic works assert the ontological equality of women without translating this into categories of criminal law, while emerging legal studies on femicide—particularly Adyan and Anditya's analysis of the new Criminal Code— discuss legislative reform without grounding it in a *maqāṣid*-based theory of protection. What is still missing is a study that treats *nafs wāhidah* not merely as a claim of equality, but as a generative premise from which an expanded, gender-oriented reading of *ḥifẓ al-nafs* can be derived and then operationalized into a concrete legislative framework. This article effectively fills that gap by weaving together ontological, axiological, and legislative dimensions into a single analytical framework.

¹² Antory Royan Adyan and Ariesta Wibisono Anditya, "Legal Reforms on Femicide in Indonesia: The New Criminal Code, Victim Protection, and the Role of Islamic Law," *Journal of Law and Legal Reform* 6, no. 2 (2025): 617–58, <https://doi.org/10.15294/jllr.v6i2.18939>.

¹³ Bannan Naelin Najihah, "Pembunuhan Perempuan: Langkah al-Qur'an Menghadapi Praktik Budaya Femisida Honour Killing," *Konferensi Nasional Studi Islam*, 2022, 1–17.

¹⁴ Johannes Beller et al., "Disentangling Honor-Based Violence and Religion: The Differential Influence of Individual and Social Religious Practices and Fundamentalism on Support for Honor Killings in a Cross-National Sample of Muslims," *Journal of Interpersonal Violence* 36, nos. 19–20 (2019): 9770–89, <https://doi.org/10.1177/0886260519869071>.

¹⁵ RECEP DOĞAN, "Is Honor Killing a 'Muslim Phenomenon'? Textual Interpretations and Cultural Representations," *Journal of Muslim Minority Affairs* 31, no. 3 (2011): 423–40.

¹⁶ Rustina Rustina, "Implementasi Keadilan dan Keadilan Gender dalam Keluarga," *Musawa: Journal for Gender Studies* 9, no. 2 (2017): 283–308, <https://doi.org/10.24239/msw.v9i2.253>.

¹⁷ Tri Astuti Handayani, "Mewujudkan Keadilan Gender Melalui Perlindungan Hukum Terhadap Perempuan," *Jurnal Rechtsstaat Nieuw* 1, nos. 1–29 (2016); Juliani Syafitri and Siti Mariam Ulfah, "Ecocentrism as Reconciliation of The Exploitation of Women and Nature by Capitalist Anthropocentrism: A Review of The Interpretation of Al-Tahrir Wa Al-Tanwir," *Al-'Allamah: Journal of Scriptures and Ulama Studies* 1, no. 1 (2024): 1–20, <https://doi.org/10.70017/al-allmah.v1i1.1>.

Therefore, this study aims to fill this gap by offering an inclusive and transformative theological reading, while providing a solid conceptual foundation for legislation that is responsive to the reality of gender-based violence in Indonesia. This is because combating femicide requires a holistic approach, in which women are valued as individuals with dignity and the right to protection. Filling this gap has become increasingly urgent due to three concurrent developments: first, the new Criminal Code (Law No. 1/2023) and the TPKS Law (2022) have, for the first time, opened up legislative space for the formulation of special criminal offenses; second, the maturation of contemporary *maqāṣid* theory particularly the recognition of *ḥifẓ al-karāmah* as an independent *maqāṣid* provides an analytical framework that was previously unavailable; and third, the strengthening of the authority of fatwas and religious organizations in the protection of women provides a sociological foundation for integrating theological legitimacy with positive law reform. It is this convergence that makes the synthesis of *nafs wāḥidah*, *ḥifẓ al-nafs*, and legislative reform both a timely and feasible agenda.

This qualitative normative-theological study focuses on harmonizing theological texts with state legislation. In examining the relevant Qur'anic texts, a thematic interpretation (*tafsīr maḥḍū'i*) approach is employed to systematically trace verses related to ontological equality and the protection of human life. The study utilizes three primary data sources. The first consists of Qur'anic verses directly related to creation, the prohibition of murder, and the protection of life, particularly those affirming women's dignity; the key verses analyzed include QS. an-Nisā': 1 (on *nafs wāḥidah* as the foundation of ontological equality), QS. al-Mā'idah: 32 and al-Isrā': 33 (on the absolute prohibition of murder and *ḥifẓ al-nafs*), and QS. at-Takwīr: 8-9 and an-Nahl: 58-59 (on the condemnation of female infanticide and dehumanization). The second comprises exegetical works ranging from classical to contemporary (al-Ṭabarī, al-Rāzī, al-Qurṭubī, Ibn Kaṭīr, al-Ālūsī, and Quraish Shihab) to trace historical interpretations and identify potential patriarchal biases. The third consists of national and comparative legal instruments, including the Criminal Code (KUHP), the Law on Domestic Violence (UU PKDRT), and relevant international frameworks. The analysis was conducted through thematic *tafsīr maḥḍū'i* reinforced by Amina Wadud's hermeneutics to deconstruct patriarchal biases in classical exegesis, and was evaluated normatively using the *maqāṣid al-sharī'ah* framework, particularly the principles of *ḥifẓ al-nafs* and *ḥifẓ al-karāmah*.

This approach is reinforced by the application of Amina Wadud's hermeneutics as a reinterpretative instrument, particularly in dismantling the patriarchal constructs inherent in some classical interpretations. The analytical framework used is integrative, combining interpretive methods with normative legal analysis to evaluate the relevance of theological findings to the prevailing legal structure. Within this framework, the principles of *maqāṣid al-sharī'ah* serve

as an axiological foundation, with a focus on *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-karāmah* (protection of dignity) as the two main pillars in constructing arguments for legal reform. Through this approach, the study aims not only to propose a new reading of the text, but also to formulate concrete recommendations for a more just and inclusive legislative framework for women in national law. The analysis was conducted in an integrative manner in three stages: (1) theological reconstruction through thematic exegesis (*tafsīr maḥdūʿi*) and Wadud's *tanḥīdī hermeneutics*; (2) a normative evaluation using the *maqāṣid al-sharīʿah* framework, specifically *ḥifẓ al-nafs* and *ḥifẓ al-karāmah*; and (3) a prescriptive formulation grounded in a comparative analysis of anti-femicide legislation in Latin American countries, Spain, Malaysia, and Indonesia, from which a four-dimensional model (retributive, integrative, responsive, contextual) is inductively derived.

Discussion

From Text to Ethics: The Theological Foundations of Equality and the Axiological Imperative in *maqāṣid al-sharīʿah*

Wadud challenges the exegetical assumption that *nafs* in QS. an-Nisā':1 refers to Adam as a male progenitor. She observes that *nafs* is grammatically feminine and that the Qur'an never explicitly identifies this "single soul" as male; the identification of *nafs* with Adam derives from Isrā'īlīyyat narratives rather than from the text itself. For Wadud, the term *nafs* denotes a gender-neutral human essence, while *ṣaḥāb* (spouse) is conceptually neutral, used in the Qur'an for plants and animals as well as humans.¹⁸ Read through her hermeneutics of *tanḥīd*, which holds that any claim of inherent superiority of one gender over another contradicts the principle of God's exclusive transcendence, the verse affirms the ontological equality of all human beings, regardless of gender. Thus, Wadud concludes that the text, when freed from patriarchal interpretive filters, supports not hierarchy but fundamental human equality.¹⁹ This reading aligns with Nur Rofiah's broader project of women's *ḥaqīqī* justice, which critiques patriarchal interpretations and affirms women's full humanity on the basis of their equal ontological status.²⁰

¹⁸ Exegetes who hold this view include Jalaluddin As-Suyuthi, Al-Qurṭhubi, Al-Biqā'i, Abu As-Su'ūd, and others. Even At-Tabarsi, a Shi'ite exegete (6th century AH), stated in his exegesis that all exegetes agree that the word refers to Adam. See, M. Quraish Shihab, *Wawasan Al-Qur'an* (Mizan, 1997).

¹⁹ Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, 2nd ed. (Oxford University Press, 1999).

²⁰ Nur Rofiah, Nalar Kritis Muslimah: Refleksi Atas Keperempuan, Kemanusiaan, Dan Keislaman, Cetakan ke-3, Februari 2021, ed. Achmad Fathurrohman Rustandi (Afkaruna, 2021).

This interpretation invalidates the theological legitimacy of gender subordination and conceptually rejects all forms of gender-based violence. Furthermore, verses prohibiting murder (such as QS. al-Mā'idah: 32) are reinterpreted in light of the principle of *ḥifẓ al-nafs*, not merely as a general prohibition but as specifically protecting women's lives. More specifically, verses such as QS. at-Takwīr: 8-9, which explicitly condemn the killing of female children (*al-maw'ūdah*), provide strong textual evidence of the Qur'an's concern with early forms of femicide. A comparative analysis of interpretations shows that although classical interpretations tend to discuss these verses in the historical context of pre-Islamic Arab society, the *mawḍū'ī* and contextual approaches open up space to interpret them as an eternal prohibition against all forms of gender-based murder. The findings of this textual analysis provide an indisputable doctrinal basis for the next step: linking these findings to the ethical-normative framework of *maqāṣid al-sharī'ah*.

Before establishing a Qur'anic counter-vision, it is necessary to name the structure it seeks to replace. Feminist philosophy has described this structure with particular precision: the construction of women as a derivative "Other" is not simply a neutral categorical distinction, but rather a systematic ontological hierarchy that positions women as inferior, dependent, and non-essential beings. Beauvoir shows that the othering of women is qualitatively different from other forms of othering because of its universal and persistent nature: women are "the eternal Other" who have never succeeded in achieving full subject status in the history of human civilization.²¹ This process of othering operates through various mutually reinforcing mechanisms: through language that constructs masculinity as the norm and femininity as deviation, through symbolic systems that associate masculinity with rationality and transcendence while associating femininity with emotionality and immanence, through social structures that limit women's access to resources, and through the co-optation of religious authority to justify and perpetuate gender hierarchy.²²

The Qur'an responds to this systemic dehumanization with the revolutionary concept of "nafs wāḥidah" (the one soul) as stated in QS. An-Nisa'/4:1. This concept of nafs wāḥidah becomes the theological foundation for the ontological equality of humans that cannot be shaken by any social construct. Linguistic analysis shows that at the most fundamental level, humanity is not defined by binary gender categories. The primordial essence of humanity

²¹ See, Zeynep Direk, "Immanence and Abjection in Simone De Beauvoir," *The Southern Journal of Philosophy* 49, no. 1 (2011): 49–72, <https://doi.org/10.1111/j.2041-6962.2010.00044.x>; Ursula Tidd, *Simone de Beauvoir* (Routledge, 2004), <https://doi.org/10.4324/9780203634431>.

²² Alicia Valdés, "The Violence of Exclusion: A Psychoanalytical Approach Toward Intersectionality, Identity, and Hegemony," *Studies in Gender and Sexuality* 24, no. 4 (2023): 231–43, <https://doi.org/10.1080/15240657.2023.2274794>.

transcends and precedes gender distinctions, leaving claims of the inherent superiority of one gender over another without a theological basis.²³

Murtadha Muthahhari argues that Islam regulates gender relations through a flexible and contextual approach, applying the principle of substantial equality (*musâwâh*) based on proportional justice, rather than absolute equality (*tasyabbuh*) in form and number. According to him, this framework recognizes aspects that are similar (*mutashâbih*) and different (*mukhtalif*) between men and women, so that rights, obligations, and sanctions are determined in accordance with the characteristics and needs of each, without neglecting basic equality in human dignity.²⁴ Muthahhari's approach is reinforced by the critical linguistic analysis of Celene Ibrahim and Amina Wadud, particularly in their examination of the preposition *min* in the Qur'an. They highlight its use in constructions such as *ba'dukum min ba'din* (Q. 3:195), which signifies that the relationship between men and women is rooted in common origin and reciprocity, rather than hierarchical derivation.²⁵ Thus, Muthahhari, Amina Wadud, and Ibrahim offer interpretations that emphasize essence-based justice, which avoids uniformity while rejecting gender-based subordination.

The theological reconstruction of equality begins with an exploration of values inherent in Islam, with tawhid serving as a radical epistemological foundation. As developed by Amina Wadud, this principle of the oneness of God transforms gender relations into a matter of faith, where claims of superiority based on gender are a form of practical shirk the attribution of divine authority to humans.²⁶ Contemporary studies on gender relations and religion also support this approach. Asma Barlas asserts that consistent tawhid must deconstruct all claims of patriarchal authority, because all human hierarchies are contextual and open to criticism.²⁷

Ontological equality demands a rational ethic of justice, not merely the application of rigid legal norms.²⁸ The implications of this paradigm are multidimensional: theologically, it rejects gender subordination as a fundamental error; ethically, it condemns gender domination as an injustice contrary to the nature of Allah *al-'Adl*; socially, it dismantles gender hierarchy as a modern idolatrous structure, which, according to Ziba Mir-Hosseini, is often constructed

²³ Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford University Press, 1999).

²⁴ Murtadha Muthahhari, *Nizham Huquq Al-Mar'ah Fil Islam* (Dar al-Kitab al-Islami, 2005).

²⁵ Celene Ibrahim, *Women and Gender in the Qur'an* (Oxford University Press, 2020).

²⁶ Amina Wadud, *Inside the Gender Jihad: Women's Reform in Islam* (Oneworld, 2006).

²⁷ Asma Barlas, *Believing Women" in Islam: Unreading Patriarchal Interpretations of the Qur'an*. (Austin: University of Texas Press, 2002), 129-133.

²⁸ Kecia Ali, *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadith, and Jurisprudence* (Oxford, UK: Oneworld Publications, 2006), 9-12.

through cultural readings that treat texts as absolute; and personally, it criticizes the internalization of inferiority as a false consciousness that alienates humans, both men and women, from their full human potential and their role as caliphs on earth.²⁹ Thus, the reconstruction of a theology of equality based on tawhid offers a coherent and revolutionary framework. Ultimately, it not only dismantles unjust hierarchies, but also paves the way for gender relations that reflect substantive equality (*musāwāh*) and reciprocity (*ba'dhukum min ba'dh*) in the light of divine oneness.

Towards a Transformative Legal Framework: Progressive Interpretation of *ḥifẓ al-nafs* and Integration of Contemporary Law

Ontological equality (*nafs wāḥidah*) is not merely an abstract theological postulate, but carries with it a normative imperative that requires systemic transformation. This imperative manifests itself in the demand for a progressive interpretation of the principle of *ḥifẓ al-nafs* (protection of life) in the context of femicide. This progressive interpretation asserts that the protection of the soul should not be reduced to merely prohibiting physical murder (*al-qatl*), but must be expanded to include protection from all forms of violence that undermine and destroy life, whether psychological, symbolic, or culturally legitimized dehumanization. Thus, threats to women's lives are understood as a continuum that begins with everyday injustices and ends in killings, requiring a legal response that is equally complex and holistic.

A holistic reinterpretation of *ḥifẓ al-nafs* requires resonance in contemporary legal theory. Lon Fuller, in *The Morality of Law*, reminds us that effective and legitimate law is a “moral endeavor” that must be in harmony with the moral principles of society. In other words, law is not merely a collection of commands but represents a moral endeavor that requires internal consistency, practical applicability, and harmony with broader moral principles.³⁰ In the context of Islam, the highest moral principle is reflected in *maqāṣid al-sharīʿah*, where *ḥifẓ al-nafs* occupies a central position. In the context of anti-femicide legislation in Islamic societies, this means that the legal framework must be based on Islamic moral principles of human dignity, justice, and protection.

In line with this, Ronald Dworkin emphasizes that legal interpretation must be an exercise in moral philosophy to seek “integrity” and coherence with the broader principles of justice, equality, and human rights.³¹ Dworkin's approach opens space for Islamic law to incorporate feminist perspectives and

²⁹ Ziba Mir-Hosseini, *Islam and Gender: The Religious Debate in Contemporary Iran* (Princeton: Princeton University Press, 1999), 17-19.

³⁰ Lon L. Fuller, *The Morality of Law* (Yale University Press, 1969).

³¹ Ronald Dworkin, *Law's Empire* (Harvard University Press, 1986).

ensure that legal protections for women are not an aberration, but rather an authentic expression of Islam's commitment to justice (*'adl*) and human dignity (*karāmah*). In Islamic societies, rules of recognition typically include both formal constitutional provisions and informal recognition of religious authority in legal interpretation.³²

Therefore, a progressive interpretation of *ḥifẓ al-naḥs* (defined here as an expansive, context-sensitive reading that extends protection beyond physical murder to include psychological and structural violence) must be understood as a constitutional mandate to create a socio-legal ecosystem that guarantees a safe, dignified, and prosperous life for every individual. This progressive reading resonates with Nur Rofiah's method of reading the Qur'an through women's experiences, which distinguishes between starting points, intermediary stages, and final goals of revelation to uncover its egalitarian ethos.³³ This progressive reading is necessary because the classical understanding of *ḥifẓ al-naḥs*, limited to prohibiting *al-qatl* (physical killing), fails to address the continuum of violence that ultimately leads to femicide. This holistic interpretation derives its epistemological legitimacy from the dynamic framework of *maqāṣid al-sharī'ah*. Ibn 'Asyur emphasizes that the highest goal of Sharia is the realization of benefit and the prevention of harm, whereby *ḥifẓ al-naḥs* positively includes the creation of social conditions for a complete life (*al-'umrān*).³⁴ Jasser Auda reinforces this by highlighting *ḥifẓ al-naḥs* in its network of connections with other *maqāṣid* (including *ḥifẓ al-karāmah*), which together necessitate comprehensive legislation.³⁵

Beyond the framework of the five classical *maqāṣid*, contemporary Islamic legal theory has identified and reinforced additional contextual objectives, particularly relevant to issues of gender and social justice. The protection of dignity (*ḥifẓ al-karāmah*) has emerged as a crucial foundation that transcends and underlies the protection of physical life. This development is advanced by scholars such as Mohammad Hashim Kamali, who explicitly asks whether human dignity (*karāmah*) is one of the *maqāṣid*,³⁶ and Jasser Auda, whose systems approach redefines *maqāṣid* as a dynamic framework aimed at achieving justice and human dignity. Their conclusions are grounded in the

³² H. L. A. Hart, *The Concept of Law* (Oxford University Press, 2012).

³³ Nur Rofiah, "Reading the Qur'an Through Women's Experiences," in *Justice and Beauty in Muslim Marriage: Towards Egalitarian Ethics and Laws*, Ed. Ziba Mir-Hosseini et al (Oneworld Academic, 2022).

³⁴ Muhammad Thahir ibn Asyur, *Maqāṣid Syarī'ah Al-Islāmiyah* (Dar an-Nafa'is, 2021).

³⁵ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2007).

³⁶ Mohammad Hashim Kamali, "Maqasid and Human Dignity," in *Goals and Purposes of Shariah*, 1st ed., by Mohammad Hashim Kamali (Oxford University Press New York, NY, 2025), <https://doi.org/10.1093/9780197786390.003.0022>.

Qur'anic declaration *wa laqad karramnā banī Ādam* (Q. 17:70), which affirms dignity as a universal gift inherent in every human being without gender discrimination, and in the recognition that the classical *maqāṣid* framework must be expanded to address contemporary challenges such as structural violence and gender-based discrimination.³⁷ Mohammad Hashim Kamali's analysis reinforces this position by emphasizing the dynamic and adaptive nature of *maqāṣid al-sharī'ah*, which is capable of responding to new challenges without sacrificing consistency with the fundamental principles of Islam.³⁸ This epistemic flexibility allows for and demands a rereading of authoritative sources (the Qur'an and Sunnah) that substantively support holistic protection, as demonstrated in the preceding discussion. Thus, innovative and effective anti-femicide legislation is the result of an authentic translation (*taṭbīq aṣīl*) of the eternal principles of Islam, namely justice ('adl), benefit (*maṣlaḥah*), and mercy (*raḥmah*), into complex contemporary social realities.

However, a solid theological and *maqāṣid*-based foundation will be meaningless without careful translation into operational legal mechanisms and a responsive judicial system. The integration of Islamic normative imperatives and contemporary legal theory requires institutional designs that can bridge the gap between religious authority, the rule of law, and the realities faced by victims. This translation process must be two-way.³⁹ Contextual *ijtihād* should challenge patriarchal interpretations of religious texts concerning women's protection and the prohibition of violence. This approach involves reassessing the linguistic meanings of *qiwāmah* and *ḍarb* in their historical and contextual settings, examining the *asbāb al-nuzūl* to distinguish universal ethical principles from time-bound cultural practices, and applying a *maqāṣid*-oriented framework that prioritizes justice ('adl) and compassion (*raḥmah*). These principles should then be translated into enforceable legal provisions, including a clear definition of femicide as a gender-based crime that considers motive, relational context, and patterns of prior violence. Gender-sensitive justice requires specialized training for law enforcement, victim-centered interviews, and expert testimony. Protection should also include protective orders, shelters, psychological counseling, economic empowerment, and appropriate sanctions for perpetrators.⁴⁰ This requires careful navigation of Islamic society's "rules of

³⁷ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

³⁸ Mohammad Hashim Kamali, *Shariah Law: An Introduction* (Oneworld Publications, 2008).

³⁹ Mustamam et al., "Reinterpreting Ḥifẓ Al-Naṣl in Contemporary Marriage Contracts: Navigating Islamic Normativity and State Law," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 1258–80, <https://doi.org/10.32332/milrev.v4i2.11158>.

⁴⁰ Fauzan Zenrif and Syabbul Bachri, "Critical Study of Amina Wadud's Thought in the Issue of Inheritance," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 1 (2023): 39–53, <https://doi.org/10.18860/j-fsh.v15i1.22217>.

recognition" to ensure that legislation and law enforcement are not seen as alien secularization, but rather as manifestations of responsible governance (*siyāsah syar'iyah*) aimed at achieving the highest public *maṣlahah*, namely to protect the lives and dignity of all its citizens.

Thus, the synthesis between progressive interpretations of the principles of *ḥifẓ al-nafs* and *ḥifẓ al-karāmah*, a dynamic reading of the *maqāṣid al-shari'ah* framework, and the critical integration of insights from legal theory results in a transformative legal paradigm. This paradigm asserts that the response to femicide in Muslim societies must be constitutive and systemic. It is not merely a patchwork of criminal law, but a moral endeavor committed to creating a socio-legal ecosystem that shapes the conditions for the realization of *al-'umrān* (a holistic and civilized life). In this ecosystem, the law functions as an active instrument to prevent all forms of violence, whether physical, psychological, symbolic, or structural, that undermine the integrity of women's lives. Therefore, holistic and context-sensitive anti-femicide legislation and law enforcement efforts are not only justified but also religious and constitutional imperatives. It is a call to realize Islam's most fundamental promise: to guarantee a safe, dignified, and just life for all.

Comparative Analysis and Contextual Synthesis: Recommendations for a Model for Anti-Femicide Legislation for Indonesia

Before formulating a contextual legal framework for Indonesia, a critical analysis of various models of femicide legislation worldwide is an academic necessity. This comparative study is not intended to be an exercise in blind imitation, but rather to extract effective principles and identify implementation pitfalls, while taking into account local complexities. The evaluation is conducted through the normative lens developed in this article, namely the extent to which these models are in line with the holistic principles of *ḥifẓ al-nafs* (protection of life) and *sadd al-dzari'ah* (closing the door to harm), and are responsive to the diversity of legal systems.

The retribution-centered model promoted by Latin American countries such as Nicaragua, Guatemala, and Mexico offers valuable lessons. This model, which originated from the Belém do Pará Convention and pressure from civil society, explicitly criminalizes femicide with severe criminal sanctions (20-60 years in prison).⁴¹ However, critical analysis through the lens of holistic *ḥifẓ al-nafs* reveals fundamental shortcomings. An excessive focus on punishment after the offense neglects the dimensions of prevention and proactive protection. In Nicaragua, narrowing the definition of gender-based murder (femicide) for the

⁴¹ Pamela Neumann, "‘If It’s Not Femicide, It’s Still Murder’: Contestations Over Femicide in Nicaragua," *Feminist Criminology*, 17, no. 1 (2021): 139–59, <https://doi.org/https://doi.org/10.1177/15570851211037271>, 143.

sake of national reputation has sacrificed victims' access to justice.⁴² Data from Guatemala showing only 127 convictions out of 46,000 cases demonstrate how weak gender-sensitive investigation and prosecution capacities are.⁴³ In other words, this model fails to effectively apply the principle of *sadd al-dzari'ah* (closing the door to harm) to break the chain of violence before it leads to murder. An important lesson for Indonesia is that specific legislation and severe sanctions are necessary but not sufficient. Without an integrated prevention infrastructure and victim support system, criminal law becomes nothing more than a symbol.

Integrated service-based models such as those implemented in Spain and Malaysia provide inspiration that is more in line with the progressive interpretation of *hifz al-nafs*. Spain integrates civil society monitoring on a digital platform called *Feminicidio.net*, a 24-hour national hotline, and accessible protection services.⁴⁴ Malaysia goes further by involving religious institutions, making mosques places of temporary refuge and support for victims, and training officials in an empathetic approach (TELINGA). This model substantively protects women's souls (*nafs*) not only from physical threats, but also from psychological trauma and social vulnerability through comprehensive services. These initiatives are a concrete manifestation of the fight against femicide through early intervention and social safety nets.⁴⁵ For Indonesia, collaboration with Islamic organizations such as Nahdlatul Ulama and Muhammadiyah to develop *Dârul Amân* (sharia safe houses) and programs similar to "Talian Kasih" is not only possible but also strategic for building cultural legitimacy and protection infrastructure.

The responsive civil society model evident in the critical role of the media in Nigeria, the "*Beti Bachao, Beti Padhao*" campaign in India, and the Jakarta Feminist investigation in Indonesia underscores the importance of public pressure. This model functions as an "*alarm*" that forces the state to act and educate the public, which is the beginning of *sadd al-dzar'ah* in the public sphere. However, its weakness lies in its often ad hoc nature and dependence on momentum. The Jakarta Feminist findings reveal a continuum of violence and impunity due to corruption in law enforcement agencies, providing invaluable

⁴² Sydney Bay, "Criminalization Is Not the Only Way: Guatemala's Law Against Femicide and Other Forms of Violence Against Women and the Rates of Femicide in Guatemala," *Washington International Law Journal* 30, no. 2 (2021): 369–96., h. 370.

⁴³ Sydney Bay, "Criminalization Is Not the Only Way: Guatemala's Law Against Femicide and Other Forms of Violence Against Women and the Rates of Femicide in Guatemala."

⁴⁴ *Feminicidio.net*, "Feminicidio," 2018. Diakses pada 06 Juli 2025. Spain also operates a national hotline called the *Servicio telefónico de información*, which provides psychological counseling, legal assistance, and shelter for women. This service is available in multiple languages and is accessible to people with disabilities 24 hours a day.

⁴⁵ Komnas Perempuan, *Lenyap Dalam Senyap: Korban Femisida & Keluarganya Berhak Atas Keadilan* (Komisi Nasional Anti kekerasan Terhadap Perempuan, 2022), 57.

evidence for critical scrutiny. The lesson is that the energy of social movements must be directed towards promoting sustainable structural reform and institutional accountability, not just triggering incidental government responses.⁴⁶

A deep reflection on the Indonesian context shows that the synthesized model must consider three key realities. *First*, systemic structural failure. As revealed by Jakarta Feminist, this is evident from the case of a fugitive rapist who escaped arrest by the authorities and eventually murdered another woman. This case reflects the state's systemic failure in its preventive protection function. Although the TPKS Law has been in effect since 2022, its implementation in femicide prosecutions is minimal (approximately 1%), and impunity due to corruption is a clear denial of the principle of *hifz al-nafs*. *Second*, opportunities from legal pluralism. The interaction between national, customary, and Islamic law provides a laboratory for hybrid approaches.⁴⁷ Religious fatwas (such as the 2022 MUI Fatwa) or organizational guidelines on the prohibition of violence against women and the obligation to protect them can provide strong religious legitimacy for efforts to prevent femicide. Furthermore, the diyat mechanism, which has been formally recognized in the newly enacted Indonesian Criminal Code (Law No. 1/2023) as an alternative sanction that aligns with the restorative justice paradigm, can serve as a strategic instrument to build cultural legitimacy and a system of restorative sanctions within the framework of legal pluralism in Indonesia.

Third, the imperative of localization. The imperative of localization in femicide prevention policies in Indonesia is not merely a pragmatic response to geographical and cultural diversity, but a strategic necessity based on the principles of socio-cultural fiqh. The profound diversity between the communities of Aceh, Papua, and Java, which involves local leadership, demands policy flexibility. Models such as the Women-Friendly and Child-Caring Village program (Desa Ramah Perempuan dan Peduli Anak or DRPPA), a national initiative of the Ministry of Women's Empowerment and Child Protection, provide a proven framework. By 2024, DRPPA had been implemented in 138 pilot villages across 71 districts and 33 provinces, with 1,967 villages committing to its principles.⁴⁸ The program involves collaboration with

⁴⁶ Syifana Ayu Maulida and Nur Khofifah, *Laporan Femisida 2024: Menelusuri Kekerasan Berlapis: Ruang Aman Diabaikan, Ntawu Perempuan Dikorbankan* (Jakarta, 2024), 72.

⁴⁷ Murad H. Elsaidi, "Human Rights and Islamic Law: A Legal Analysis Challenging the Husband's Authority to Punish 'Rebellious' Wives," *Muslim World Journal of Human Rights* 7, no. 2 (2011), <https://doi.org/10.2202/1554-4419.1207>.

⁴⁸ Komdigi, "Perempuan Dan Anak Berdaya Bersama," accessed August 25, 2026, <https://www.komdigi.go.id/berita/masyarakat-digital/detail/perempuan-dan-anak-berdaya-bersama>; Sinta, "Menteri PPPA Harapkan Desa Pulau Sewangi Jadi Model Inklusif DRPPA," *Media Center Provinsi Kalimantan Selatan*, December 5, 2024, <https://diskominfomc.kalselprov.go.id/2024/12/05/menteri-pppa-harapkan-desa-pulau-sewangi-jadi-model-inklusif-drppa/>.

Nasyiatul Aisiyyah (Muhammadiyah's autonomous women's organization) across 4 provinces, 8 districts, and 16 villages,⁴⁹ and has been shown to positively impact the legal protection of women and children from violence.⁵⁰ In Aceh, such initiatives can be institutionalized through the Qanun framework and dayah leadership, as evidenced by studies on Dayah Darul Aman Tungkop which employed interviews with pesantren leaders, teachers, and students to examine women's leadership in pesantren-based protection models.⁵¹ In Papua, adaptation can occur through traditional and church authorities, as seen in the designation of villages like Yoboi-Asei Besar and Manswan as women-friendly villages.⁵² In Java, implementation can be facilitated through pesantren networks and strong civil society structures, including NU and Muhammadiyah's grassroots organizations. In addition, an integrated national database is essential for understanding patterns and trends. Community involvement is key to the sustainability of the program. Community-level programs such as DRPPA or "Violence-Free Neighborhoods" can create protective environments. Involving men as allies through programs such as "Alert Husbands" or "Caring Fathers" is important for transforming masculinity norms. Research on fatwa and gender discourse in Indonesia has documented the views of the leadership of NU, Muhammadiyah, and MUI on violence against women, providing empirical support for the argument that local religious leaders, traditional leaders, and community leaders must take leading roles in promoting change.⁵³

For this reason, legal reconstruction that is responsive to social realities is not only a strategic necessity, but also a moral and theological imperative. Brandts et al. argue that laws that are not adaptive to social change will only

⁴⁹ bandungmu, "Pimpinan Pusat Nasyiatul Aisiyyah Gelar Diseminasi Program DRPPA," *Girimu*, June 27, 2024, <https://girimu.com/?p=30233>; Suara 'Aisiyyah, "Nasyiatul Aisiyyah gelar ToT Fasilitator Desa Ramah Perempuan dan Peduli Anak untuk Tokoh Agama dan Tokoh Masyarakat," *Berita, Majalah Suara 'Aisiyyah*, May 10, 2024, <https://suaraaisiyyah.id/nasyiatul-aisiyyah-gelar-tot-fasilitator-des-ramah-perempuan-dan-peduli-anak-untuk-tokoh-agama-dan-tokoh-masyarakat/>.

⁵⁰ Beatus Tambaip and Alexander Phuk Tjilen, "Dampak Positif Kebijakan Dinas Pemberdayaan Perempuan Dan Perlindungan Anak Dalam Menangani Kasus Kekerasan Seksual Terhadap Anak," *Musamus Journal of Public Administration* 5, no. 2 (2023): 410–20, <https://doi.org/10.35724/mjpa.v6i1.5144>.

⁵¹ Tiara Amalia, "Peran Kepemimpinan Perempuan Dalam Pengelolaan Budaya Pesantren Di Dayah Darul Aman Tungkop Aceh Besar" (Aceh, UIN Ar-Raniry Banda Aceh, 2023), <https://repository.ar-raniry.ac.id/31024/>.

⁵² Setyanavidita livicansera, "Pemkab Jayapura Dorong Kampung Ramah Perempuan Dan Anak | Republika Online," accessed August 25, 2026, <https://news.republika.co.id/berita/s67aiy488/pemkab-jayapura-dorong-kampung-ramah-perempuan-dan-anak>; ANTARA News Agency, "Pemkab Jayapura ajak warga melindungi perempuan dan anak," *Antara News Papua*, November 26, 2025, <https://papua.antaranews.com/berita/756377/pemkab-jayapura-ajak-warga-melindungi-perempuan-dan-anak>.

⁵³ Bunyamin Bunyamin et al., "Reforming Indonesia's Correctional System: The Role of Maqāṣid Al-Syar'ah in Ensuring Justice and Rehabilitation," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025): 52–71, <https://doi.org/10.18860/j-fsh.v17i1.29258>.

become “normative fossils” that have lost their transformative power.⁵⁴ Rigid laws that focus solely on a dynamic preventive-protective framework have, in practice, failed to stop the continuum of violence that leads to femicide. Therefore, an approach that is more oriented towards *maṣlaḥah ḥaqīqīyyah* (substantive and authentic benefit) must be mainstreamed in the interpretation and application of law, namely an approach that is based on social reality, considers future sustainability, and integrates maqāṣid values.

Based on the critical analysis above, Indonesia's anti-femicide legal reform model must be a transformative synthesis. This model needs to be: (1) legislatively bold by adopting strict definitions and sanctions, while learning from implementation challenges in other countries where low conviction rates have shown that legal provisions alone are insufficient without robust investigative capacity, especially given that femicide in Indonesia remains prosecuted under general homicide provisions; (2) holistic in services by emulating integrated approaches that combine systematic risk monitoring, specialized courts, and comprehensive victim support, building on the existing community-based foundation already established through national programs; (3) empowering by positioning civil society and religious authorities as strategic partners, leveraging their existing networks and moral authority to strengthen prevention efforts; and (4) responsive to local contexts by adapting policies to the diverse socio-cultural landscapes of Aceh, Papua, and Java, where existing models of community-based protection have already demonstrated the viability of localization. Only with such a synthesis, grounded in empirical evidence from both global best practices and local initiatives, can the theological foundations of *nafs wāḥidah* and the imperative of *ḥifẓ al-nafs* be translated into operational and contextual policies that recognize women as full and equal subjects of law.

Conclusion

This study affirms that femicide in Indonesia is not merely an ordinary criminal act, but rather the culmination of a systemic failure to recognize women's ontological equality as legal and moral subjects. Through a reinterpretation of the concept of *nafs wāḥidah*, the Qur'an has in fact offered a radical theological foundation for rejecting gender hierarchies and all forms of discrimination and marginalization against women that perpetuate dehumanizing practices within social and religious systems. Within the framework of maqāṣid al-sharī'ah, the principle of *ḥifẓ al-nafs* (protection of life) necessitates a more holistic and inclusive reinterpretation, one that prevents

⁵⁴ Jordi Brandts et al., “Dispelling Misconceptions about Economics,” *Journal of Economic Psychology* 88 (January 2022): 102461, <https://doi.org/10.1016/j.joep.2021.102461>.

not only physical killing but also structural, psychological, and symbolic violence that erode human dignity (*hifẓ al-karāmah*).

The implications of these findings go beyond mere discourse and pave the way for the drafting of anti-femicide legislation that is not merely retributive and symbolic, but rather integrative and transformative. The proposed model is a synthesis of the rigor of positive law (with an explicit definition of femicide and adequate sanctions) and the strengthening of the social ecosystem through the involvement of religious authorities, Islamic boarding schools, Islamic mass organizations, and community structures. In a Muslim-majority country like Indonesia, anti-femicide legislation should not be viewed as a project of secularization, but rather as the most authentic manifestation of Islam's mandate to protect life (*hifẓ al-nafs*) and respect human dignity (*karāmah insāniyyah*) without gender discrimination.

However, this study has limitations, primarily because it is normative-theological in nature and does not empirically test the implementation of the proposed legislative model in the field. Therefore, further research is recommended to empirically test the effectiveness of this model through case studies in regions with high sociocultural diversity, as well as to explore in greater depth the perceptions and roles of key actors, such as judges, law enforcement officials, and religious leaders, in incorporating this theological-ethical paradigm into judicial practice and public policy.

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