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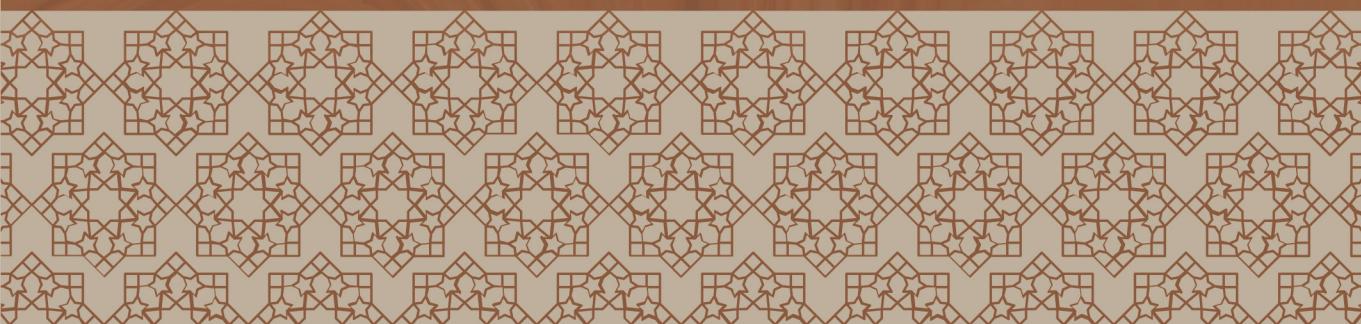
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## RELIGIOSITY AS A PILLAR OF HOUSEHOLD INTEGRITY

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### Abstract

This article aims to analyze the Family Resilience Bill (RUU KK) through the maqasid al-shari'ah approach, focusing on the three main pillars in building a harmonious household: love (mahabbah), religiosity (taqwa), and humanity (karāmah insāniyyah). This research employs a normative-qualitative method, utilizing a content analysis approach to analyze the text of the KK Bill, as well as academic documents and sources from classical and contemporary Islamic literature. The analysis is carried out by interpreting the provisions in the Bill in accordance with the five main principles of maqasid al-shariah: hifz al-din, hifz al-nafs, hifz al-aql, hifz al-nasl, and hifz al-mal. The results of the study show that, although the KK Bill initially aims to strengthen the family institution, many of its provisions are not in line with the principles of maqasid. The rigid and normative division of roles between husband and wife still strengthens the patriarchal structure and ignores the dynamics of reciprocal relations in the household. The protection of women and children does not fully reflect distributive justice, and the value of love as a spiritual basis in the family has little space. In addition, the legalistic-repressive approach in several articles has the potential to ignore the rehabilitative and affectionate aspects as the main characteristics of maqasid in the context of Islamic family law. This research is important as an academic contribution to the development of family regulations that are more humane, inclusive, and in accordance with substantive Islamic values. Thus, future family legislation is expected to bring love-based justice, liberating religiosity, and respect for the dignity of all family members.

**Keywords:** *Maqasid al-Shariah, Family Resilience, Love, Religiosity, Humanity.*

### Abstrak

Artikel ini bertujuan untuk menganalisis Rancangan Undang-Undang Ketahanan Keluarga (RUU KK) melalui pendekatan maqasid al-syariah, dengan fokus pada tiga pilar utama dalam membangun rumah tangga yang harmonis, yaitu cinta kasih (*mahabbah*), religiusitas (*taqwa*), dan kemanusiaan (*karāmah insāniyyah*). Penelitian ini menggunakan metode normatif-kualitatif



dengan pendekatan analisis isi terhadap teks RUU KK, dokumen akademik pendukung, dan sumber literatur Islam klasik dan kontemporer. Analisis dilakukan dengan menafsirkan ketentuan-ketentuan dalam RUU tersebut sesuai dengan lima prinsip utama *maqasid al-syariah*: *hifz al-din*, *hifz al-nafs*, *hifz al-'aql*, *hifz al-nasl*, dan *hifz al-mal*. Hasil penelitian menunjukkan bahwa meskipun RUU KK memiliki semangat awal untuk memperkuat institusi keluarga, banyak ketentuan di dalamnya yang tidak sejalan dengan prinsip-prinsip maqasid. Pembagian peran yang kaku dan normatif antara suami dan istri masih memperkuat struktur patriarki dan mengabaikan dinamika hubungan timbal balik dalam rumah tangga. Perlindungan terhadap perempuan dan anak belum sepenuhnya mencerminkan keadilan distributif, dan nilai kasih sayang sebagai landasan spiritual dalam keluarga kurang mendapat tempat. Selain itu, pendekatan legalistik-represif dalam beberapa pasal berpotensi mengabaikan aspek rehabilitatif dan afeksi sebagai ciri utama maqasid dalam konteks hukum keluarga Islam. Penelitian ini penting sebagai kontribusi akademis bagi pengembangan regulasi keluarga yang lebih humanis, inklusif, dan sesuai dengan nilai-nilai Islam yang substantif. Dengan demikian, legislasi keluarga ke depan diharapkan mampu menghadirkan keadilan berbasis kasih sayang, religiusitas yang memerdekaan, dan penghormatan terhadap martabat seluruh anggota keluarga.

**Kata Kunci:** Maqasid al-Syariah, Ketahanan Keluarga, Kasih Sayang, Religiusitas, Kemanusiaan.

## INTRODUCTION

The household is the most fundamental social institution, playing a vital role in shaping individual character and the overall resilience of society.<sup>1</sup> In Islam, the family is viewed as a miniature society that is healthy and harmonious only if it is founded on moral and spiritual values. The integrity of the household is not only the result of a legal marriage contract, but also the fruit of an emotional relationship based on love (mahabbah), obedience to religious values (taqwa), and respect for humanity (karāmah insāniyyah).<sup>2</sup> These three elements align with the principles of maqasid al-sharia, which not only emphasize the legalistic aspect but also the dimension of benefiting human life as a whole.

The current social conditions in Indonesia show various challenges to the integrity of the household. Data from the Central Statistics Agency (BPS) shows a significant increase in the divorce rate in the past decade. Some of the triggering factors include domestic violence, gender role inequality, lack of emotional communication, and weak spiritual foundations. This phenomenon has triggered concerns about the fading of family resilience as a social pillar of the nation. Therefore, the government responded by drafting the Family Resilience Bill (RUU) as a legislative effort to strengthen the Indonesian family system.<sup>3</sup>

<sup>1</sup> Dear Dear Friend, *Conservatism of Family Fiqh (A Study of Popular Books of Islamic Households)*, Uin Sunan Kalijaga, 2017.

<sup>2</sup> Feni Arifiani, "Family Resilience from the Perspective of Maslahah Mursalah and Marriage Law in Indonesia," *Title: Journal of Social and Cultural Studies*, 8, No. 2 (2021): 533–54, <Https://Doi.Org/10.15408/Sjsbs.V8i2.20213>.

<sup>3</sup> Ahmad Rifai and Nofa Nur Rahmah Susilawati, "The Foundation of Family Resilience in an Islamic Perspective in the Era of Globalization," *Al-Ihkam Journal of Family Law Department Ahwal Al-Syakhsiyah*, Faculty of Sharia Iain Mataram 15, No. 2 (2023): 145–65, <Https://Doi.Org/10.20414/Alihkam.V15i2.9750>.

The existence of the bill has caused controversy among the public and academics. Some parties consider the bill to intervene too much in the private sphere and to be patriarchal. Some of these articles are considered to reinforce gender stereotypes, limit the role of women, and do not adequately accommodate the complexity of modern family problems. The bill is considered to prioritize a structural and formalistic approach rather than an affective and spiritual one.<sup>4</sup>

It is in this context that it is important to read and study the Family Resilience Bill using the maqasid al-syariah approach. Maqasid al-shari'ah is a fundamental principle in Islamic law that is oriented towards achieving benefits (maslahah) and preventing harm (mafsadah). The five main goals of the classical maqasid are to maintain religion (hifz al-din), the soul (hifz al-nafs), the intellect (hifz al-'aql), heredity (hifz al-nasl), and property (hifz al-mal), which serve as the foundation for building a balanced society.<sup>5</sup>

In the working committee meeting forum between the Legislative Body of the House of Representatives of the Republic of Indonesia, the Ministry of Law and Human Rights, and the Law Drafting Committee of the DPD RI which discussed the preparation of the priority National Legislation Program (Prolegnas) in 2015 and the legislation plan for the 2015-2019 period, the Bill on Family Resilience was agreed as one of the bills that will be submitted as an initiative of the House of Representatives of the Republic of Indonesia. The proposal came from the Prosperous Justice Party (PKS) faction in the House of Representatives and was included in the priority list of legislation for the period.<sup>6</sup>

In a working meeting related to the discussion of the National Legislation Program (Prolegnas), the Family Resilience Bill (RUU) is considered to have strategic urgency as a basis for strengthening national resilience. This aligns with the statement of Jazuli Juwaini, Chairman of the Prosperous Justice Party (PKS) faction in the House of Representatives of the Republic of Indonesia, who emphasized that the PKS faction is committed to promoting laws that benefit the people. Among the three priority bills that are the focus of the PKS Faction's struggle are the Family Resilience Bill, the National Entrepreneurship Bill, and the Price Protection and Basic Needs Bill.<sup>7</sup>

A similar view was conveyed by Hidayat Nur Wahid as the Deputy Chairman of the People's Consultative Assembly of the Republic of Indonesia. According to him, seeing the reality of increasing social problems in the community, such as the rampant drug abuse, promiscuity, sexual deviance, violence between students, prostitution practices,

<sup>4</sup> Arifiani, "Family Resilience from the Perspective of Maslahah Mursalah and Marriage Law in Indonesia."

<sup>5</sup> Fauzi Ahmad et al., "Al-Maslahah al-Syar'iyah as the Source of Islamic Law," *At-Tahdīb: Journal of Islamic Studies and Muamalah* 27, No. 2 (2019): 44–61, <Https://Core.Ac.Uk/Download/Pdf/196255896.Pdf>.

<sup>6</sup> Nur Azizah Ashari, "Tracking the Domestication of Women in the Family Resilience Bill from an Islamic Perspective," *An-Nur" Journal of Islamic Studies* 13, no. 2 (2021): 153–67.

<sup>7</sup> Muthmainnah, "The Family Resilience Bill: Modification of the Law as an Effort to Achieve the Goals of Islamic Law in Raising Offspring," *Sharia Journal* 4, No. July (2016): 29–42.

and corruption, the state needs to be present through strong regulations to protect family institutions from these various destructive influences. Therefore, he emphasized the importance of drafting and passing the Family Resilience Law immediately. Based on these arguments and encouragement, in the Plenary Meeting of the House of Representatives of the Republic of Indonesia on February 9, 2015, the Family Resilience Bill was officially stipulated as part of the House of Representatives' initiative bill for the 2015–2019 National Legislative Assembly.<sup>8</sup>

In the draft of the Family Resilience Bill, no article explicitly emphasizes the importance of love as the basis of family relationships.<sup>9</sup> More emphasis is placed on the division of normative roles, obligations, and functions. As a result, the nuances of affection and spirituality that are at the core of maqasid are removed from the construction of the law.<sup>10</sup>

Contemporary maqasid thought, as developed by Jasser Auda, expands the purpose of sharia to encompass values such as justice, freedom, human dignity, love, and compassion.<sup>11</sup> Therefore, maqasid al-syariah is not only a reference in the realm of fiqh worship or muamalah, but also in formulating public policies and legislation, including in terms of family law.<sup>12</sup>

This article aims to examine the extent to which the Family Resilience Bill incorporates the values of love, religiosity, and humanity within the framework of maqasid al-sharia. These three values were chosen because they form the spiritual and ethical foundation of *a family of sakinah mawaddah wa rahmah*. With a normative-qualitative approach, this paper aims to provide constructive criticism of the bill and offer an ideal framework for building family regulations that are in harmony with substantive Islamic values.

## METHOD

This study employs a normative-qualitative approach, utilizing a content analysis method to examine the text of the Family Resilience Bill. This approach aims to assess and evaluate the content of legal regulations from an Islamic normative perspective,

<sup>8</sup> Aulia Nursyifa, "The Family Resilience Bill in the Perspective of Gender Sociology," *Journal of Civic Education* 7, No. 1 (2020): 55, <Https://Doi.Org/10.32493/Jpkn.V7i1.Y2020.P55-68>.

<sup>9</sup> *Draft Family Resilience Bill*, N.D, <Https://Webcache.Googleusercontent.Com/Search? Q=Cache:Bdsuqohoci4j:Https://Media.Neliti.com/Media/Publications/9138-Id-Perlindungan-Hukum-Terhadap-Anak-Dari-Konten-Berbahaya-Dalam-Media-Cetak-Dan-Ele.pdf+&Cd=3&Hl=Id&Ct=Clnk&Gl=Id>.

<sup>10</sup> Luluk Maftukha, Study Program, and Family Law, "Analysis of Islamic Law and the Defense Bill of Different Religions (in Karangjati Village, Bergas District)," *Thesis*, 2024.

<sup>11</sup> M. Nanda Fanindy, "The Formulation of Maqasid Shariah from the Perspective of Jamaluddin Athiyyah; Case Study of Regional Regulation of the Special Region of Yogyakarta (DIY) No. 7 of 2018 concerning Family Resilience," *Islamic Family Law Journal* 1, No. 1 (2020): 91–107.

<sup>12</sup> Abdul Halim Mushthofa, "Family Law of State Products from the Perspective of Ushul Fiqih," *Family Law* 26, No. 2015 (2015): 83–102.

primarily through the theory of maqasid al-sharia. The focus of the analysis is on articles relevant to the formation of a harmonious family, the protection of family members, and the division of roles within the household.<sup>13</sup>

The primary data source is the draft of the Family Resilience Bill circulating in the community, as well as its accompanying academic manuscript documents. Secondary data sources include classical (al-Ghazali, al-Shatibi) and contemporary (Jasser Auda, Wahbah az-Zuhaili) Islamic literature, family law books, scientific journals, and Qur'anic commentaries that discuss the values of love, religiosity, and humanity. The analysis is conducted by interpreting the bill's text in accordance with the principle of maqasid, then relating it to the verses of the Qur'an, the Prophet's hadith, and the opinions of relevant scholars. Interpretive and hermeneutic techniques are used to examine the substantive meaning of the articles of the Bill and their implications for the integrity of the household.

## THE URGENCY OF FAMILY RESILIENCE REGULATION

The family is the most basic social unit, as well as the first socialization agent experienced by individuals from birth. In the family, moral values, ethics, and character are instilled to form the personality that individuals will bring to society and the state. This role is vital because, in a democratic system that emphasizes the principles of government "of the people, by the people, and for the people," the quality of human resources from the family environment will determine the direction and future of the country. Individuals who have undergone the process of fostering within a family will later hold various important positions in the government, social, economic, and cultural sectors.<sup>14</sup>

The family is also closely related to the existence of state ideology, which is juridically contained in the Staatsfundamentalnorm or basic constitutional norms of a country. These basic norms are dynamic and can evolve in response to the development of community needs. Thus, each individual shaped by their family values will play a role in determining the direction of the country's ideological development, which in turn affects the resilience and sustainability of the country as a whole.<sup>15</sup>

From a sociological perspective, the family is a social institution that plays a crucial role in nation-building. One of the main components of the state is the people, which

<sup>13</sup> Hasan Syahrizal and M. Syahran Jailani, "Types of Research in Quantitative and Qualitative Research," *Qosim Journal Journal of Social Education & Humanities* 1, No. 1 (2023): 13–23, <Https://Doi.Org/10.61104/Jq.V1i1.49>.

<sup>14</sup> Gusti Ayu Agung Riesa Mahendradhani, "Critical Analysis of the Family Resilience Bill Related to Women's Independence," *Vyavahara Duta* 15, No. 1 (2020): 43, <Https://Doi.Org/10.25078/Vd.V15i1.1438>.

<sup>15</sup> Muthmainnah, "The Family Resilience Bill: Legal Modification as an Effort to Achieve the Goals of Islamic Law in Raising Offspring"

consists of the broader community outside the state apparatus. Individuals born into the world generally lack the social capacity; they require a learning process to become familiar with and adapt to society. This process is known as primary or early socialization, which occurs within the family, the closest and most important environment.<sup>16</sup>

This socialization is not uniform, but is greatly influenced by cultural factors, social groups, and values adhered to by the family. Differences in parenting patterns across various families result in a range of character traits in children, including differences in language development, confidence, and social adaptability. Studies have shown that the initial foundations of personal formation, particularly in terms of habits and social values, are largely shaped by the processes that occur within the family environment. Thus, the existence of a strong and healthy family not only has an impact on individual life but also has a significant influence on the sustainability of ideology and the resilience of a country. This is the basis for the urgency of regulating family resilience in the national legal system and policy.<sup>17</sup>

The Family Resilience Bill (RUU KK) has been in the public spotlight since it was included in the 2020–2024 National Legislation Program. Its content sparked controversy because it was considered to contain several articles that were insensitive to gender equality and child protection. One of the most criticized articles is Article 25, which advocates for an unequal division of roles between husband and wife.<sup>18</sup> The husband is responsible for managing public affairs, while the wife is responsible for managing household affairs. This kind of division is considered to revive the patriarchal construction that has been fighting to be abolished.<sup>19</sup>

Such a provision is clearly contrary to the spirit of equality enshrined in the Human Rights Law, especially Article 51, which affirms that husband and wife have equal rights and responsibilities.<sup>20</sup> Unfortunately, although Article 24, paragraph 3 of this bill also affirms the principle of equality in the household, the spirit does not apply consistently. The inequality of the division of roles between men and women in the text of the bill creates fears that women will again be confined to domestic roles, without equal access to public spaces.

On the other hand, this bill also regulates women's reproductive rights. Several articles, such as Articles 29, 95, and 96, protect pregnant and lactating women, including

<sup>16</sup> Muthmainnah.

<sup>17</sup> Wira Kurnia Gazi, Iif Fikriyati Ihsani, "Family Resilience Policy Coherence and Overlapping Mandates in the Implementation of Pre-Marriage Education in Indonesia," 2017, 1–11.

<sup>18</sup> *Draft Family Resilience Bill*.

<sup>19</sup> Ahmad Nawawi, "Protection of Women and Children in the Draft Law on Family Resilience from a Human Rights Perspective," *Sakina: Journal Of Family Studies* 5, No. 1 (2021), <Http://Urj.Uin-Malang.Ac.Id/Index.Php/Jfs/Article/View/562>.

<sup>20</sup> Mahendradhani, "A Critical Analysis of the Family Resilience Bill Related to Women's Independence."

provisions for six months of leave and nutritional support. But unfortunately, this facility is only intended for women who work in government institutions and SOEs/BUMDs. Meanwhile, women working in the private sector do not receive the same protection. This inequality raises new discriminatory problems that actually weaken the protection of women's reproductive rights as a whole.

The Family Resilience Bill also discusses issues that have not been touched much in previous regulations, such as the prohibition of the sale and purchase of ova and the practice of surrogacy.<sup>21</sup> In Articles 31 and 32, the practice is declared prohibited because it is considered contrary to moral, religious, and family values in Indonesian law. This article reinforces that offspring should only be obtained through a valid marriage bond. The practice of surrogacy is considered to have the potential to raise problems of the family's nasab, inheritance, and honor.<sup>22</sup> In the context of a country with a majority Muslim population, this arrangement is considered to be in line with the values embraced by the community.<sup>23</sup>

Regarding child protection, this bill addresses several important aspects, including post-divorce custody. Article 80 states that child custody will be prioritized for the mother. Although it is seen as a form of protection, this article fails to consider the age or readiness of the child to determine their choice of residence. As a result, the child's right to express their opinion may be neglected, even though the principle of children's participation in their life decisions is an important human right to be respected.<sup>24</sup>

However, some articles are quite progressive in terms of parenting. Article 28, for example, emphasizes that husbands and wives have a shared responsibility for educating and nurturing children. This is a form of recognition that education and parenting are not only the duty of mothers, but also of fathers. In addition, the value of being exemplary as part of the parenting process is also emphasized in this article. This provision aligns with the principles of Human Rights Law and reflects the importance of both parents' involvement in their children's growth and development.<sup>25</sup>

This bill also addresses other important aspects, including children of divorce victims and orphans. Articles 79 and 84 stipulate that children in such situations must receive protection from the state, both in the form of educational, health, and psychological support facilities. However, some shortcomings need to be criticized, namely the absence of a guarantee of the child's right to continue to meet his parents after divorce and the

<sup>21</sup> Muslichatun Nur Rahmawati, "Review of the Family Resilience Bill on the Prohibition of Buying and Selling and Donating Sperm or Ovum in the Perspective of Criminal Law," *Journal Of Chemical Information And Modeling* 53, no. 9 (2019): 1689–99.

<sup>22</sup> Nawawi, "Protection of Women and Children in the Family Resilience Bill from a Human Rights Perspective."

<sup>23</sup> *Draft Family Resilience Bill*.

<sup>24</sup> Nawawi, "Protection of Women and Children in the Family Resilience Bill from a Human Rights Perspective."

<sup>25</sup> Nursyifa, "The Family Resilience Bill in the Perspective of Gender Sociology."

absence of explicit provisions related to the right of orphans to get adoptive parents or guardians. In fact, these two aspects are essential for children's growth and emotional balance.<sup>26</sup>

Finally, this bill offers the concept of alternative parenting as a solution if biological parents cannot carry out their responsibilities. This parenting can be done by blood relatives, guardians, or adoptive parents. This idea is a significant contribution that should be appreciated because it has not been widely addressed in previous regulations. However, there needs to be more clarity on alternative forms of parenting so that children's rights are fully protected. Thus, although the Family Resilience Bill has good intentions in strengthening the family, serious studies and revisions are needed to ensure that it does not compromise the principles of justice and equality in the Indonesian family.<sup>27</sup>

The Family Resilience Bill aims to create quality and resilient families as the primary foundation for achieving national resilience, as outlined in the Draft Text of the Family Resilience Bill. This draft law was formulated to address family crises and promote the formation of quality families. The definition of family crisis, based on the Draft of the Family Resilience Bill, is a condition of family life in an unstable, undirected, and dangerous state because it can bring negative changes to the structure and function of the family. Meanwhile, a quality family has an understanding of its condition, which is characterized by being educated, prosperous, healthy, advanced, independent, forward-looking, responsible, harmonious, and having faith in and fear of God Almighty. In the Family Resilience Bill, Article 24, Paragraph (1) lists the functions and roles of each husband and wife.<sup>28</sup>

The article states that "In the implementation of Family Resilience, every husband and wife who are bound in a valid marriage have a noble obligation to uphold the household and foster family harmony. (2) Every husband and wife who are bound in a valid marriage are obliged to love, respect, maintain honor, be loyal, and give each other physical and mental assistance. (3) Every husband and wife bound in a valid marriage shall have a balanced position and rights in domestic life and cohabitation in society in accordance with religious norms, social ethics, and laws and regulations." In the provisions of the article above, it is clear how the balance of roles between husband and wife, as well as the rights and obligations of a wife as a woman, are also guaranteed in the provisions of this article.<sup>29</sup>

<sup>26</sup> Ahmad Muhajir Sinaga, "Efforts to Realize Family Resilience of Tabligh Jama'ah," *Thesis*, 2020.

<sup>27</sup> Rizqon Halal Syah Aji, "Is the idea of Kartini Women's Emancipation still relevant? Review of the Family Resilience Bill," *It is 4*, No. 4 (2020): 1–8, <Https://Doi.Org/10.15408/Adalah.V4i4.15400>.

<sup>28</sup> Nursyifa, "The Family Resilience Bill in the Perspective of Gender Sociology."

<sup>29</sup> Sulaiman Refo Rezha Kalang, "Patterns of Husband and Wife Relationships in the Family Resilience Bill from the Perspective of Islamic Law," *Thesis* (2021).

Article 25, which contains (1) Every husband and wife who are bound by a valid marriage carry out their respective obligations in accordance with religious norms, social ethics, and the provisions of laws and regulations. (2) The husband's obligations as intended in paragraph (1), including: a. As the head of the Family who is responsible for maintaining the integrity and welfare of the Family, providing the needs of domestic life according to his ability, and responsible for the legality of the Family's population; b. protect the family from discrimination, cruelty, crime, persecution, exploitation, sexual deviance, and neglect; c. defend oneself and family from gambling, pornography, promiscuity, as well as the abuse of narcotics, alcohol, psychotropics, and other addictive substances; and d. Conduct deliberations with all family members when addressing family problems. (3) The wife's obligations as intended in paragraph (1), including:

- a. Must manage household affairs as well as possible;
- b. Maintaining the integrity of the family; and
- c. Treat husband and child well, as well as fulfill the rights of husband and child in accordance with religious norms, social ethics, and the provisions of laws and regulations.<sup>30</sup>

In the above provisions, it is clear that the roles and functions of each husband and wife should be respected and understood by each other, so that the integrity of the household can be established. Article 29 (1) The Central Government, Regional Governments, State Institutions, State-Owned Enterprises (SOEs), and Regional-Owned Enterprises (BUMD) are obliged to facilitate wives who work in their respective agencies to obtain:

- a. The right to maternity and breastfeeding leave for 6 (six) months, without losing his right to wages or salaries and his job position;
- b. opportunity to breastfeed, prepare, and store breast milk (ASIP) during working hours;
- c. special facilities for breastfeeding at work and in public facilities; and
- d. safe and comfortable childcare home facilities in the building where they work.

With the above provisions, women's fundamental rights really get attention, so that in the future there will be no more women whose rights are eroded due to women's natural problems.

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<sup>30</sup> *Draft Family Resilience Bill.*

## REVIEW OF THE FAMILY RESILIENCE BILL

After carefully reading the three articles, the following is the analysis. The perspective used is the perspective of feminist law studies.

*First*, in the Family Resilience Bill, Article 24. Based on the Resilience Bill, here are three articles that have sparked controversy regarding the limitations on women's independence within the gender spectrum. Article 24 regarding the unclear indicator of "mutual love" between a husband and wife who are bound in marriage. One of the forms of mutual love, as studied in family theory, is intimacy. According to Erikson (in Valentini & Nisfianoor, 2006), intimacy is the ability to communicate effectively and plays a crucial role in establishing and maintaining intimacy in a romantic relationship. This is supported by the statement of Strong and DeVault (1989), who stated that intimacy and communication are interrelated, and couples who experience communication difficulties are said to have little intimacy in their relationship. According to Sternberg (2006), intimacy is an emotional element in a relationship that involves self-disclosure, resulting in connection, warmth, and trust. Sternberg (2006) also states that intimacy is the closeness felt by two people and the strength that binds them together. Looking at the various types of understanding of experts about intimacy as a form of mutual love. This realm regulates more privacy space than the individual State. Meanwhile, the law also stipulates the freedom of citizens to obtain their rights and determine their opinions. This bill restricts individuals' freedom to express their personal feelings.<sup>31</sup>

*Second*, Article 25 of the Family Resilience Bill divides the roles and functions of husbands and wives based on certain things. In this article, the husband is required to play the role of the family's head, who has the function of meeting the family's needs, while the wife plays the role of a housewife, who has the function of managing household affairs. In this article, women are grouped into figures who do not have power in the household. Gender equality that activists have long put forward will be useless if this bill is finally passed.<sup>32</sup>

Women today are increasingly independent, both intellectually and professionally. Article 25 of the Family Resilience Bill is too restrictive for women to get equal rights in the field of professionalism, such as work, social, and political in society. The role of each family should be determined and carried out according to the conditions and atmosphere of each family. The more developed the era, the role of men and women in forming a family is also getting better. That the role and function of each couple does not have to be determined based on gender. Its implementation has also been carried out by most of the community. In the field of implementing household affairs such as

<sup>31</sup> Mahendradhani, "A Critical Analysis of the Family Resilience Bill Related to Women's Independence."

<sup>32</sup> Aji, "Is the idea of Kartini Women's Emancipation still relevant? Review of the Family Resilience Bill."

cooking, sweeping, and caring for children, it is not only women as the main actors but men also help the role of wives in caring for, and carrying out household affairs.<sup>33</sup>

Togetherness in carrying out all family roles and functions is also carried out by women. Not a few women work to help improve the family economy. Many women are actively working and developing their human resources to improve the standard and quality of life of their families. If the Family Resilience Bill establishes the role and function of women as regulators of household affairs, of course it limits their professional activities in an effort to help husbands improve the economic quality of the family.<sup>34</sup>

*Third*, Article 29 of the Family Resilience Bill regarding the right to maternity leave for 6 months raises the assumption that companies or government agencies will be reluctant to recruit women as professionals seeing the leave period being too long which results in a lack of efficiency in work. This certainly has an impact on women's professionalism in the field of work they undertake.<sup>35</sup>

According to Siagian (in Kurniawan, 2005), professionalism is reliability in the implementation of tasks so that they are carried out with good quality, the right time, carefully and with procedures that are easy to understand and follow by customers or the community. In daily life, professionalism is understood as a way of working professionally, mastering the field of work, creative and innovative to produce high performance. Looking at the definition of professionalism itself and matched with the Family Resilience Bill has a negative impact on women's professionalism in the work environment.

Masculine people will think that women do not have enough capabilities to improve their professionalism in work and are considered to have no skills in many aspects of work. The government also limits women's rights to equality, but also causes indulgence in efforts to protect women. Women are quite able to manage themselves to carry out their roles as wives and mothers and maintain their roles professionally in the work environment.<sup>36</sup>

## **RELIGIOSITY, LOVE, AND HUMANITY IN THE FAMILY RESILIENCE BILL**

Love is the main energy that binds the relationship between husband and wife, parents and children, as well as between other family members. In QS. Ar-Rum: 21, Allah

<sup>33</sup> Aji.

<sup>34</sup> Nursyifa, "The Family Resilience Bill in the Perspective of Gender Sociology."

<sup>35</sup> Gazi, Iif Fikriyati Ihsani, "Coherence of Family Resilience Policy and Overlapping Mandates for the Implementation of Pre-Marriage Education in Indonesia."

<sup>36</sup> Hayatun Sabariah, "Gender Studies in Islam," *Iqtirahaat Journal*, 2021, <Https://Doi.Org/10.56446/Ji.V5i1.24>.

mentions that the purpose of the creation of a life partner is for humans to get peace (sakinah) and Allah instills love (mawaddah) and affection (rahmah) between them.<sup>37</sup>

In fact, in contemporary maqasid, love (al-mahabbah) is part of the purpose of sharia in forming a loving and harmonious society. The bill should be able to affirm the importance of building a household full of love and affection, including regulating the moral obligation of husband and wife to understand each other, comfort, and support each other emotionally.<sup>38</sup>

Religiosity in maqasid al-sharia is reflected in the principle of maintaining religion (hifz al-din). In the context of the family, this means that the family is the first and foremost place in educating its members to become people of faith and piety. The Family Resilience Bill contains provisions on the obligation of parents to educate their children, including in the aspect of religion. However, the wording is still very general and does not explain a spiritual-transformative approach. It is not mentioned how to build a religious atmosphere in the family or build worship together as the foundation of family relations.<sup>39</sup>

Maqasid demands that the family be a living spiritual space, where Islamic values are instilled with love, not just obligations. Religious education is not only the learning of the laws of worship, but also the formation of morals, empathy, and social sensitivity. The principles of safeguarding the soul (hifz al-nafs) and honor (hifz al-'irdh) are part of the maqasid that emphasizes the importance of maintaining human dignity.<sup>40</sup> In the family, this means fair relations, mutual respect, and avoidance of violence, both physical and psychological. However, the Family Resilience Bill has been criticized for tending to strengthen the gender hierarchy. For example, the article that states that the husband is the head of the family and the wife as the housekeeper is rigid and normative, without paying attention to the dynamics and abilities of each couple.<sup>41</sup>

In fact, maqasid al-sharia prioritizes justice and benefit, not the standard form of social role. The division of roles should be flexible and based on a fair agreement. The bill also does not pay enough attention to the protection of women and children from domestic violence, even though it is a violation of the maqasid of safeguarding the soul

<sup>37</sup> Yahya Afandi, "Liberation Theology: The Christian Feminism Movement and Martin Buber's Approach to Dialogue," *Amreta Theological Journal (Issn: 2599-3100)* 1, No. 2 (2021): 89–108, <Https://Doi.Org/10.54345/Jta.V1i2.7>.

<sup>38</sup> Anwaruddin, "The Concept of Sakinah According to Female Judges at the Bantul Religious Court, Yogyakarta," *Al-Abwâl: Journal of Islamic Family Law* 7, No. 1 (2014).

<sup>39</sup> Mohammad Nurun Nada, "The Construction of Maqasid Syariah in the Relationship of Fiqh Reason and Sufism A Study of Abd. Wahab Ash-Sya'rani," 2019, 180, <Https://Digilib.Uin-Suka.Ac.Id/Id/Eprint/37156/>.

<sup>40</sup> Jasser Auda, *Magasid Al-Shariah An Introductory Guide* (Iit, 2008).

<sup>41</sup> Siti Ermawati, "The Dual Role of Career Women (Conflict of Dual Roles of Career Women Reviewed in an Islamic Perspective)," *Edutama Journal* 2, No. 2 (2016): 1–11, <Https://Doi.Org/Http://Dx.Doi.Org/10.30734/Jpe.V2i2.24>.

and honor. The Family Resilience Bill explicitly states that husbands and wives are obliged to love, respect, maintain honor, and help each other physically and mentally as stated in Article 24 paragraph (2). This provision seems to be in line with the values of hifz al-nafs and hifz al-nasl in Maqasid al-Sharia, namely the protection of the soul and posterity. But unfortunately, this is canceled by the inequality in Article 25, which actually stipulates a rigid division of roles, the husband as the head of the family who plays a role in the public space, and the wife as the housekeeper who is in charge of serving the husband and children.<sup>42</sup>

This view not only reduces the function of women, but also hurts the meaning of love which should be an equal relationship between two persons in the sacred bond of marriage. In the framework of Maqasid, love is not domination, but musharakah (partnership) and ta'awun (mutual help). Islam does not deny the role of the head of the family, but in QS. an-Nisa: 34, the role of qawwam is a spiritual responsibility and not just legalistic. So when the law regulates family relations based on the superiority of one party over the other, it is contrary to maqasid which upholds justice, love, and mercy as the pillars of the household.<sup>43</sup>

This bill also highlights the aspect of religiosity as the basis of family values. Some articles contain the spirit of strengthening morality, such as the prohibition of the practice of sperm donation, surrogacy, and deviant sexual relations. From the point of view of maqasid, this arrangement can be understood as an effort to maintain hifz al-din (protection of religion) and hifz al-nasl (protection of posterity). However, the approach tends to be repressive. For example, the obligation to report family members who have deviant sexual orientation to the authorities, without considering rehabilitative and spiritual approaches that are more in line with maqasid.<sup>44</sup>

In Maqasid al-Sharia, hifz al-din does not only mean to take the law literally, but to maintain the essence of religious values such as compassion, repentance, repair, and restoration. So if the approach in the bill is more oriented towards punishment and stigma, then the value of maqasid that is supposed to liberate and heal is not achieved. This is precisely where the humanist principle of religiosity should be emphasized: religion is not a tool of power, but grace for the whole family.<sup>45</sup>

The bill also shows the intention to protect women, such as through articles on maternity leave, nutritional fulfillment of pregnant women, and financial support for

<sup>42</sup> Kalang, "Patterns of Husband and Wife Relationships in the Family Resilience Bill from an Islamic Law Perspective."

<sup>43</sup> Ibnu Radwan, Siddik Turnip Ainul Mardhiyah Khairir, "Gender Partnership in the Concept of Family Resilience from the Khi Perspective and Its Implementation in Muslim Families," *Unes Law Review* 6, No. 1 (2023): 2609–23, <Https://Review-Unes.Com/Https://Creativecommons.Org/Licenses/By/4.0/>.

<sup>44</sup> Arifiani, "Family Resilience from the Perspective of Maslahah Mursalah and Marriage Law in Indonesia."

<sup>45</sup> Auda, *Maqasid Al-Shariah An Introductory Guide*.

underprivileged families (Articles 29, 95, and 96). This policy in principle supports hifz al-nafs, because it seeks the safety of the lives of mothers and children. But unfortunately, this provision is only applied to public sector workers and state-owned enterprises, while private or informal workers are not guaranteed. This shows discrimination against women who are more vulnerable, and is contrary to maqasid which demands distributive justice.<sup>46</sup>

Protection of women's dignity is also still weak. The obligation of wives in Article 25 paragraph (3) to serve their husbands and children without mentioning their rights in the public sphere, shows that women are still positioned as subordinates. Maqasid al-Syariah teaches that women and men have the same karamah insaniyah (glory of humanity). Islam does not deny biological differences, but those differences should not be the basis for structural oppression. When the law still retains gender bias, the values of hifz al-'aql and hifz al-nafs are violated, because women's freedom of thought and personal dignity are reduced.<sup>47</sup>

In the context of child protection, this bill contains important articles related to custody, joint parenting, and the concept of alternative parenting. Article 80 states that custody of children after divorce is given to the mother. However, this provision does not take into account the child's age or ability to make their own choices, thus ignoring the principle of child participation. Within the framework of Maqasid, especially hifz al-nafs and hifz al-'aql, a child must be treated as a legal subject who is entitled to protection, and his opinion heard.<sup>48</sup>

In addition, this bill provides provisions on parenting by relatives, guardians, or adoptive parents when the biological parents are unable to carry out their duties. This provision is positive and fills a legal void in terms of alternative parenting. In maqasid, this reflects concern for hifz al-nasl and the continuity of generations. But unfortunately, there is no specific provision that guarantees the right of a child to continue interacting with both parents after divorce, or the right of orphans to receive full state protection.<sup>49</sup>

In the aspect of the family economy, this bill includes important elements such as entrepreneurship training, subsidies, and educational assistance. This provision basically supports Hifz al-Mal and Hifz al-Nafs, because it guarantees welfare as the foundation

<sup>46</sup> Ibrohim Kholilurrohman, "Strengthening Family Resilience through Marriage Guidance for Brides-to-be (Case Study at the Religious Affairs Office of Kediri City Islamic Boarding School District)," *Journal Of Indonesian Comparative Of Syari'ah Law* 6, No. 1 (2023), <Https://Doi.Org/10.21111/JicL.V6i1.10175>.

<sup>47</sup> Nispul Khoiri, "The Application Of The Al-Mursalah Maslahah To The Construction Of Religious Moderation In The Life Of Students Of Uin Su; Efforts To Earn Religious Moderation In The Region Of North Sumatra," *Russian Law Journal* 11, No. 3 (2023): 132–56, <Https://Doi.Org/10.52783/Rlj.V11i3.972>.

<sup>48</sup> Al Fitri, "Reform of Family Law in Indonesia through a Compilation of Islamic Law," *Campus* 1, No. 2 (2020): 1–21, [Https://Www.Mendeley.Com/Catalogue/Fdd7288b-914e-3485-A75c-C8a0a53999b8/? Utm\\_Source=Desktop&Utm\\_Medium=1.19.8&Utm\\_Campaign=Open\\_Catalog&Userdocumentid=%7b82eec3a6-1471-4252-9ae7-20af050eb9a6%7d](Https://Www.Mendeley.Com/Catalogue/Fdd7288b-914e-3485-A75c-C8a0a53999b8/? Utm_Source=Desktop&Utm_Medium=1.19.8&Utm_Campaign=Open_Catalog&Userdocumentid=%7b82eec3a6-1471-4252-9ae7-20af050eb9a6%7d).

<sup>49</sup> Deni Kamaludin Yusup and Fahadil Amin Al Hasan, "Legal Protection of Children's Rights in Joint Property Disputes," *Judicial Journal* 15, No. 3 (2023): 317, <Https://Doi.Org/10.29123/Jy.V15i3.536>.

of family resilience. However, the implementation of such assistance in the bill is still unclear, and it has not explicitly prioritized marginalized families. Maqasid al-Syariah demands social justice in the true sense, namely the presence of the state as a protector of weak groups and the elimination of structural inequality.<sup>50</sup>

This bill also seems too legalistic in regulating household relations. Many provisions are normative, rigid, and have the potential to control the behavior of citizens without paying attention to the flexibility of social reality. In fact, Maqasid al-Syariah provides murunah (flexibility) space in the law to answer the dynamics of the times and human needs. When the household is treated like a military institution full of orders and prohibitions, then love and humanity in the family can be marginalized.<sup>51</sup>

The weakest part of this bill is the lack of recognition of love as the foundation of the family. In fact, in Islam, love (mawaddah), affection (rahmah), and peace (sakinah) are the core purpose of marriage as mentioned in QS. Ar-Rum: 21. Unfortunately, this bill emphasizes administrative regulation rather than building a healthy emotional and spiritual environment. Love should not be framed in the language of obligation alone, but rather in the frame of feeling, dialogue, and appreciation for the differences and potential of each family member.<sup>52</sup>

Relationships between husband and wife, parents and children, as well as between extended families should be based on mutual trust, mutual trust, and mutual protection. But if the law only regulates the obligations of one party to the other without establishing two-way communication, then the law fails to create a strong family. In maqasid, love is not only an emotion, but also a spiritual and ethical means to create a family as a garden of life (jannatun hayah).<sup>53</sup>

Thus, although the Family Resilience Bill contains good intentions to strengthen the family structure, the approach is still far from the spirit of Maqasid al-Sharia. This bill still leaves a lot of gender inequality, rigid normative approaches, and a lack of space for love, dialogue, and humanity in the family. A regulation born from maqasid should guarantee comprehensive protection and empowerment, liberating religion, unifying love, and humanizing justice.

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<sup>50</sup> Awaliya Safithri, "Registration of Interfaith Marriage (Study on the Protection of Civil Rights and Family Integrity from a Maqasid Syariah Perspective)," N.D., 164–86.

<sup>51</sup> Arifiani, "Family Resilience from the Perspective of Maslahah Mursalah and Marriage Law in Indonesia."

<sup>52</sup> Miftahus Sholehudin, "The Contextualization Of The Sakinah Family Concept: The Struggle For Family Law Ideas In The Interpretation Of The Qur'an," *De Jure: Journal of Law and Sharia* 12, No. 2 (2020), <Https://Doi.Org/10.18860/J-Fsh.V12i2.8790>.

<sup>53</sup> Sifa Mulya Nurani, "The Relationship of Rights and Obligations of Husband and Wife in the Perspective of Islamic Law," *E-Journal Al-Syakhsiyah Journal Of Law And Family Studies* 3 (2021).

## CONCLUSION

Analysis of the Family Resilience Bill with a maqasid al-sharia approach shows that the substance of the Bill is still not optimal in accommodating the values of love, religiosity, and humanity. These three values are the main pillars in building a righteous and resilient family, as idealized in Islamic teachings.

Love as affective energy is not depicted in the more normative and legalistic articles of the bill. Religiosity is displayed in the form of parental responsibility, but not in the spiritual and moral dimensions. Meanwhile, human values have not been fully accommodated, especially in the context of gender justice and the protection of individual dignity in the household.

Therefore, it is necessary to revise the substance of the bill so that it is not only legal-formalistic, but also transcendental and humanistic. The maqasid al-sharia approach that emphasizes benefit, justice, and compassion must be the main reference in formulating a complete family regulation. Thus, the family becomes not only a place to live together, but a spiritual space that forms a person of faith, love, and dignity.

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