

ACTUALIZING THE FIFTH PRINCIPLE OF PANCASILA: LEGAL JUSTICE AND JUDICIAL QUALITY FROM AN ISLAMIC PERSPECTIVE

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Abstract

The actualization of the Fifth Principle of Pancasila in judicial practice continues to face serious challenges in the form of disparities in legal treatment across social groups, while studies that integrate Islamic principles through maqasid al-shari'ah with efforts to improve judicial quality remain relatively limited. This study aims to analyze how optimizing judicial quality through merit-based selection reform, education and training that integrate maqasid al-shari'ah, the strengthening of moral exemplarity, improved welfare, and effective supervision and accountability can actualize the Fifth Principle within Indonesia's judicial system, and to formulate an integrative conceptual model and operational policy recommendations. The research employs a qualitative, library-based approach, using thematic content analysis of media reports and court decisions and normative analysis of positive law and Islamic doctrinal literature, accompanied by source triangulation to enhance the credibility of findings. The results identify patterns of unequal legal treatment related to the institutional quality of the judiciary and produce an integrated conceptual model linking selection, education, welfare, moral exemplarity, and supervision of judges to outcomes of substantive justice, access to justice, and judicial legitimacy. The study concludes that optimizing judicial quality has significant potential to strengthen the actualization of the Fifth Principle, although the proposed model requires further empirical testing through national surveys, quantitative analyses of judicial decisions, and in-depth interviews to assess the effectiveness and generalizability of the policy recommendations.

Keywords: Legal Justice, Judicial Quality, Fifth Principle of Pancasila, Maqasid al-shari'ah, Judicial Reform.

Abstrak

Aktualisasi Sila Kelima Pancasila dalam praktik peradilan masih menghadapi tantangan serius berupa disparitas perlakuan hukum antar kelompok sosial. Sementara kajian yang mengintegrasikan prinsip-prinsip Islam melalui maqasid al-shari'ah dengan upaya peningkatan kualitas hakim masih relatif terbatas. Penelitian ini bertujuan menganalisis bagaimana optimalisasi kualitas hakim

melalui reformasi seleksi berbasis merit, pendidikan dan pembinaan yang mengintegrasikan maqasid *al-shari'ah*, penguatan keteladanan moral, peningkatan kesejahteraan, serta supervisi dan akuntabilitas dapat mengaktualisasikan Sila Kelima dalam sistem peradilan Indonesia, sekaligus merumuskan model konseptual dan rekomendasi kebijakan operasional. Penelitian ini menggunakan pendekatan kualitatif berbasis studi kepustakaan dengan analisis isi tematik terhadap pemberitaan dan putusan pengadilan serta analisis normatif terhadap literatur hukum positif dan doktrin Islam, disertai triangulasi sumber untuk meningkatkan kredibilitas temuan. Hasil penelitian menunjukkan adanya pola ketidaksetaraan perlakuan hukum yang berkaitan dengan kualitas institusional peradilan dan menghasilkan model konseptual terintegrasi yang menghubungkan seleksi, pendidikan, kesejahteraan, keteladanan, dan supervisi hakim dengan outcome keadilan substantif, akses keadilan, dan legitimasi peradilan. Penelitian ini menyimpulkan bahwa optimasi kualitas hakim memiliki potensi signifikan untuk memperkuat aktualisasi Sila Kelima, meskipun model yang diusulkan masih memerlukan pengujian empiris lanjutan melalui survei nasional, analisis putusan secara kuantitatif, dan wawancara mendalam guna menguji efektivitas dan generalisasi rekomendasi kebijakan yang dihasilkan.

Kata Kunci: Keadilan Hukum, Kualitas Hakim, Sila Kelima Pancasila, Maqasid *al-shari'ah*; Reformasi Yudisial.

Introduction

In the life of a nation and state, justice is one of its main pillars.¹ If a country lacks justice, whether in the economic, social, or legal spheres, it will be difficult to achieve the welfare of its people.² Social Justice for All Indonesian People is the Fifth Principle that affirms the goals of the state that must be actualized in all aspects of life, including in the legal system. The issue of justice is important because it aims to provide a sense of security for the community in carrying out their lives as citizens and members of the state. Therefore, law enforcers such as judges must be fair to all parties involved in legal matters.

¹ Suko Wiyono, "Empat Pilar Kehidupan Berbangsa dan Bernegara sebagai Panduan dalam Mewujudkan Masyarakat Adil Makmur Berdasarkan Pancasila", *Likhitaprajna*, 15(1), 2019: 37-52, <https://repository.uinjkt.ac.id/dspace/handle/123456789/50829>

² Oman Sukmana, "Konsep dan desain negara kesejahteraan (welfare state)", *Sospol*, 2(1), 2016: 103-122, <https://doi.org/10.22219/sospol.v2i1.4759>

One way to do this is by applying the principle of equality before the law, which is to be neutral without regard to the person involved in the legal matter.³

Article 27 section (1) of the 1945 Constitution, which reads, “*Every citizen shall be equal before the law,*” is a concept of the principle of equality before the law.⁴ In the implementation of law in Indonesia, this article is one of the parameters of justice. Therefore, it is questionable whether the principle of equality before the law is being actualized, as it is certain that there are arbitrary acts by law enforcement officials to fulfill the orders of those in power.⁵

In fact, the implementation of the principle of equality before the law is still far from optimal⁶, especially for those who suffer from social inequality, where those who have wealth and power are always favored, while those who do not have wealth and power are often disadvantaged in legal decisions. Many criminals receive lighter sentences than they should from judges, or even end up with a peaceful settlement, because they are powerful and wealthy. This would be the opposite if the criminals came from poor backgrounds. Various legal disparities are experienced by the lower and upper classes of society, as shown in the table below:

Table 1. Examples of Legal Disparities between the Lower Class and the Upper Class

Lower Class	Upper Class
Grandmother Minah stole three cocoa beans and was imprisoned for one month and 15 days of a three-month probation period	Harvey Moeis was involved in tin mining corruption that caused the state to lose 300 trillion rupiah, but was only sentenced to 6.5 years in prison
Grandmother Asyani stole seven teak logs and was sentenced to five years in prison	Hasto Kristiyanto was involved in a bribery case and received amnesty

³ Eman Sulaiman, “Problematika penegakan hukum di Indonesia”, *Ash-Shahabah: Jurnal Pendidikan Dan Studi Islam*, 2(1), 2016: 63-77.

⁴ Suhendar & Rino Dedi Aringga, “Equality Before the Law in Law Enforcement in Indonesia”, *Sinergi International Journal of Law*, 2(1), 2024: 38-48, <https://doi.org/10.61194/law.v2i1.109>

⁵ Umi Rozah dan Adifyan Rahmat Asga, “Problems of law enforcement in realizing the principle of equality before the law in Indonesia”, *Law Reform: Jurnal Pembaharuan Hukum*, 18(2), 2022: 222-237, <https://doi.org/10.14710/lr.v18i2.47477>

⁶ Salomo Jitmau et al., “Implementation of the Principle of Equality Before the Law in the Dynamics of Indonesian Law”, *JUSTISI*, 11(2), 2025: 441-455, <https://doi.org/10.33506/js.v11i2.4088>

	(remission of sentence) from President Prabowo
Mbah Klijo stole a bunch of bananas and was sentenced to 5 years in prison	Tommy Suharto was involved in a murder case and received a remission (reduction of sentence) from the original 15 years to only 4 years in prison

Based on the legal case examples in the table above, the reality is that the lower classes are victims of legal injustice in Indonesia. For example, the cases involving Minah, Asyani, and Klijo could have been resolved through restorative justice without criminal proceedings. This is not to justify theft, but what they stole was not a large amount. Underprivileged people like them do not steal to enrich themselves, but because they are often forced by economic circumstances to survive by stealing. Therefore, it is inhumane to impose a sentence of up to five years for stealing items of little value.

Compare this with upper-class figures such as Harvey Moeis, who committed corruption amounting to hundreds of trillions of rupiah, yet was only sentenced to 6,5 years in prison. Hasto Kristiyanto, who was also involved in bribery and corruption cases, was only sentenced to 3,5 years, and even worse, received a presidential pardon. Not to mention that people in power often receive remissions or lenient sentences, such as Tommy Suharto, who committed intentional murder and should have received a longer prison sentence, but was only sentenced to 15 years in prison. Strangely enough, he even received a reduction in his prison term, so he was only imprisoned for 4 years. This reality of legal injustice often harms the lower classes and benefits the upper classes. It is no wonder that there is a saying in Indonesia that “the law is sharp towards the bottom and blunt towards the top.” This is because the law can be bought and sold according to who orders it.

In the enforcement of law, it is not uncommon for legal injustice to arise, the cause of which stems from a legal system that is detached from its social context, resulting in justice being rarely achieved for the community.⁷ Often, law enforcement officials only

⁷ Umi Rozah and Adifyan Rahmat Asga, “Problems of law enforcement in realizing the principle of equality before the law in Indonesia”, *Law Reform: Jurnal Pembaharuan Hukum*, 18(2), 2022: 222-237, <https://doi.org/10.14710/lr.v18i2.47477>

see and understand a legal case in a legalistic-positivistic manner (strictly based on the texts of existing laws and regulations), without attempting to understand the case more deeply in its sociological context.⁸ Thus, legal justice in Indonesia still faces many challenges that make the ideals of Pancasila, especially the Fifth Principle, difficult to implement in their entirety.

Seeing the complexity of this issue, the Islamic perspective offers a foundation of values that can be used as a reference to strengthen the implementation of the Fifth Principle. Indonesia, as a country with a Muslim majority, cannot be separated from the influence of Islamic values in social, political, and legal life.⁹ The principle of justice in Islam is not only normative-religious in nature, but also has practical relevance in designing policies and legal governance.¹⁰ In Islam, al-'adl (justice) is seen as one of the main principles in social life. The Qur'an repeatedly emphasizes the importance of upholding justice, even against those who are disliked.¹¹ As stated in al-Mā'idah verse 8, which means, "*O you who believe, be upholders of justice for Allah, and be fair witnesses. And let not your hatred of a people incite you to act unjustly.*" This verse places the principle of justice without discrimination as a moral obligation that must be realized by law enforcement officers, so that theologically it supports efforts to integrate into the design of judicial institutions.

Although the literature separately addresses legal justice, the application of Islamic values in judicial practice, and issues of judicial independence, studies that integrate the framework of the Fifth Principle of Pancasila with the optimization of judicial quality from an Islamic perspective remain relatively limited. Previous studies tend to

⁸ Novia Isro'atul Mutiah, "Legal Injustice in the Perspective of Pancasila: Various Recent Developments in Indonesia", *Indonesian Journal of Pancasila and Global Constitutionalism*, 2(1), 2023: 85-102, <https://doi.org/10.15294/ijpgc.v2i1.65168>

⁹ Trubus Wahyudi, "Islamic Law in National Legal System (Theory of Applicability, Development and Implementation in Indonesia)", *Sultan Agung Notary Law Review*, 6(2), 2024: 77-94, <https://doi.org/10.30659/sanlar.v6i2.42428>

¹⁰ Sudana et al., "Islamic Principles of Justice in Cross-Cultural Business Transactions: A Phenomenological Study in Indonesian Multicultural Business Context", *Kawanua International Journal of Multicultural Studies*, 5(2), 2024: 215-241, <https://doi.org/10.59613/global.v2i8.282>

¹¹ Khairani Makina Dinningrum dan Yeti Dahliana, "The Concept of Social Justice and Integrity in Testimony according to Islam: A Thematic Study of Surah Al-Maidah Verse 8", *Proceeding ISETH (International Summit on Science, Technology, and Humanity)*, 2024: 903-908, <https://doi.org/10.23917/iseth.5479>

focus on normative aspects or single-case analyses without formulating an integrated conceptual model that links judicial selection, education, welfare, supervision, and substantive justice outcomes. Accordingly, this study seeks to fill that gap by (1) mapping empirical evidence of unequal treatment under the law (as exemplified by the cases listed in Table 1), (2) formulating an integrative conceptual model that connects judicial quality to the actualization of the Fifth Principle, and (3) proposing operational policy recommendations grounded in *maqāṣid al-shari'ah* for judicial reform in Indonesia. Considering these empirical and theoretical shortcomings, the study is guided by the following research questions: (a) How do the factors of judicial selection, education, welfare, and supervision contribute to the actualization of legal justice in accordance with the Fifth Principle? (b) Which factor is most decisive in reducing disparities in legal treatment among different socioeconomic groups? (c) How can the principles of *maqāṣid al-shari'ah* be integrated into policies for the selection and professional development of judges to produce more substantively fair decisions?

The novel contributions of this study are: (1) the development of an integrated conceptual model linking judicial quality with substantive justice outcomes within the framework of the Fifth Principle and *maqāṣid al-shari'ah*; (2) the synthesis of empirical evidence of injustice cases (Table 1) into a practical policy foundation for the selection and professional development of judges; and (3) policy recommendations that combine normative Islamic approaches with instruments of positive law to enhance the legitimacy and fairness of the judiciary.

Based on the above description, this study aims to analyze how the Fifth Principle can be actualized in the context of legal justice through the optimization of the quality of judges based on an Islamic perspective. This study also seeks to offer a conceptual model that can be used as a reference in legal reform in Indonesia. Thus, it is hoped that this study will not only contribute to the enrichment of academic literature but also provide practical benefits in the development of a more just and socially equitable legal system in accordance with the ideals of the nation.

Methods

This study is a qualitative, library-based inquiry employing a combined approach: content analysis for news sources and judicial decisions, and normative/theoretical analysis for legal literature and Islamic doctrinal texts. The criteria for source selection are as follows: (1) direct relevance to the topic (legal justice, judicial quality, the Fifth Principle, *maqāṣid al-shari'ah*); (2) variety of source types: (a) legislation and court decisions, (b) peer-reviewed scholarly articles, (c) news reports documenting representative instances of injustice (see, for example, Table 1), and (d) policy documents and official institutional reports; (3) a prioritized publication period of 2000-2025 to capture recent legal and policy developments; and (4) sources in Indonesian and English. Materials that lack factual evidence, unsigned editorials, or duplicate data were excluded.

Analytical techniques. Qualitative data were analyzed using thematic content analysis: (a) mapping principal issues (e.g., sentencing disparities, remission practices), (b) categorizing causal factors (selection, education, welfare, supervision), and (c) triangulating theory (the *maqāṣid al-shari'ah* framework), positive law, and case evidence. In addition, normative analysis was conducted to assess the compatibility of *maqāṣid al-shari'ah* principles with constitutional provisions embodied in the Fifth Principle. The results of these analyses are presented in an adapted conceptual model grounded in prior studies and contextualized within Indonesian empirical realities.

To enhance the credibility of the findings, source triangulation was applied (comparing academic literature, judicial decisions, and media reportage), secondary-source verification (cross-checking references), and, where possible, retrieval of primary documents (e.g., statutory texts and court rulings). The evaluation of news sources considered media credibility, date relevance, and whether reports were supported by official documents. For methodological transparency, an appendix listing primary sources and inclusion–exclusion criteria are provided. Readers are reminded that this approach is qualitative and interpretive; its purpose is to develop a conceptual model and policy recommendations rather than to produce quantitative generalizations.

Discussion

1. The Relevance of Legal Justice in Islam to the Fifth Principle

Islam is not merely a ritualistic religion concerned with the afterlife. Islam also addresses worldly matters to guide its followers. One of Islam's teachings related to worldly matters is justice. Islam defines justice as the act of putting things in their proper place.¹² Justice in Islam must be actualized in every aspect. This is because the enforcement of justice will create a harmonious social order. Justice is not only limited to one aspect of life, but also exists in broader aspects, such as social, economic, political, cultural, and legal aspects. When discussing justice in relation to law, the two are like two sides of a coin that cannot be separated. Justice will be realized if it is supported by the upholding of the rule of law.¹³ Likewise, justice will collapse if the rule of law is not upheld.

The Islamic commandment for every human being to act justly or uphold justice in every action is mentioned in an-Nisā', which means, "*Verily, Allah commands you to convey the trust to its owner. When you judge between people, judge fairly. Indeed, Allah gives you the best instruction. Indeed, Allah is All-Hearing and All-Seeing.*" Based on this verse, justice is essentially an attitude of treating someone according to their rights.¹⁴ Meanwhile, the rights of every person are to be recognized and treated in accordance with their dignity, equality, and the equality between their rights and obligations, without discrimination based on ethnicity, descent, religion, and class.¹⁵ Thus, justice is a form of ideal moral truth regarding something.¹⁶ In Islam, the application of such justice has been

¹² Abbas Mirakhor dan Hossein Askari, *Islam and the Conception of Justice, In Conceptions of Justice from Earliest History to Islam*, (pp, 181-214), (New York: Palgrave Macmillan US, 2019), https://doi.org/10.1057/978-1-137-54303-5_8

¹³ Khudzaifah Dimiyati et al., "Developing Islamic Legal Philosophy-Based Assurance of Justice", *Wisdom*, 4(24), 2022: 193-203, <https://doi.org/10.24234/wisdom.v24i4.808>

¹⁴ Zeynep Yücel, "From Natural Law to Universal Declarations: Implications for International Human Rights Treaties and the Responsibility to Protect", *Journal Of Management And Economics Research*, 21(4), 2023: 54-87, <https://doi.org/10.11611/yeard.1307685>

¹⁵ Krishna, "Protection of Human Rights and Ensuring Social Justice - A United Nations Perspective", *International Journal of Advanced Research*, 2024, <https://doi.org/10.21474/ijar01/19127>

¹⁶ Neil Hibbert, "Human rights and social justice", *Laws*, 6(2), 2017, 7, <https://doi.org/10.3390/LAWS6020007>

exemplified by the most just man, the Prophet Muhammad Saw. The Prophet's fair attitude in deciding a law or case is closely related to the Fifth Principle of Pancasila.

The Prophet's attitude toward justice in legal matters can be seen in the following stories. *First*, there is the story of a woman from the Banu Makhzum tribe who committed theft, where the Quraish community tried to lighten her punishment because of her prestigious social status. They sent Usamah bin Zaid, a companion who was very dear to the Prophet, to ask for leniency. The Prophet rejected the request and emphasized that Allah's law should not be compromised for the sake of personal or group interests. The Prophet's actions prove that the principle of justice in Islam does not discriminate based on position or kinship. From a legal perspective, this shows the supremacy of law that stands above all levels of society. The law must be enforced consistently, regardless of who the perpetrator is. Thus, true justice requires the courage to oppose favoritism, so that justice stands on the principle of equality.

Second, the story of a dispute between two men over land ownership. In dealing with this case, the Prophet asked the plaintiff if he had any evidence to support his claim. When the plaintiff was unable to provide evidence, the Prophet ruled that the defendant could strengthen his position with an oath. From this incident arose an important principle in Islamic law, namely, *al-bayyināt 'alā al-mudda'ī wa al-yamīn 'alā man ankara* (evidence must be provided by the plaintiff and an oath must be taken by the defendant). This principle ensures that legal decisions are not based solely on claims, but on the validity of the evidence presented. This is still relevant today, as modern judicial systems also prioritize evidence as the basis for deciding cases. This is because justice is not merely a moral attitude, but also a procedural system that guarantees order.

Third, there is the story of when a Muslim and a Jew disputed over an item and brought it to the Prophet. After hearing both sides, the Prophet asked the Muslim for proof. Since the Muslim was unable to provide valid proof, the Prophet ruled in favor of the Jew. This decision was monumental because it showed that the law was enforced based on facts and evidence, not religious identity. The Prophet's example showed that religious or ethnic identity should not be the basis for deciding cases, because truth and evidence must be

prioritized. In state practice, legal policies and practices must be initiative-taking in protecting the rights of minority groups, ensuring equality before the law, and building a legal culture that respects the dignity of all people.

The Islamic approach to legal justice has normative and teleological dimensions that are directly relevant to explicit engagement with modern legal theory, particularly the theories of equality before the law, judicial impartiality, and moral reasoning in legal decisionmaking. Rather than being treated as a singular moral doctrine, Islamic principles concerning *al-'adl* (justice) and the evidentiary principle (*al-bayyinah*) can function as normative and procedural premises that enrich discourse on formal equality and substantive equality.¹⁷ Theoretically, formal equality demands equal treatment before the law, whereas substantive equality requires just outcomes and equal access to adjudicative processes. Both aspects are implicitly emphasized in Islamic sources that affirm rights protection and prohibit discrimination. The corpus of literature on justice in the Qur'an and the hadith therefore supplies normative legitimacy for the claim that formal equality should be complemented by corrective mechanisms to address socioeconomic imbalances that affect judicial practice.¹⁸

Prophetic narratives and Qur'anic verses that stress the administration of law irrespective of social status can be reinterpreted within the frameworks of impartiality and judicial independence. The principle of impartiality requires that judges stay uninfluenced by personal relationships, political pressure, or economic interests. This principle aligns with prophetic exemplars that reject preferential treatment for particular individuals or groups.¹⁹ In modern legal theory and governance, these normative demands translate into institutional design features such as merit-based judicial selection, guaranteed welfare, protection against external intervention, and oversight mechanisms that preserve

¹⁷ Abbas Mirakhor dan Hossein Askari, *Islam and the Conception of Justice*, In *Conceptions of Justice from Earliest History to Islam*, (pp, 181-214), (New York: Palgrave Macmillan US, 2019), https://doi.org/10.1057/978-1-137-54303-5_8

¹⁸ Ade Rosadi et al., "THE CONCEPT OF JUSTICE IN QUR'AN AND HADITH", *Asy-Syari'ah*, 23(1), 2021: 179-190, <https://doi.org/10.15575/as.v23i1.9520>

¹⁹ Munir Ahmad Mughal, "Judicial Education and Training: Importance in Islam", In *Proceedings of National Conference of Judicial Academies on Key Issues and Challenges in Judicial Education*, 2012, <https://doi.org/10.2139/SSRN.2102378>

accountability without eroding judicial independence.²⁰ Contemporary empirical studies indicate that judicial integrity and welfare conditions are related to the risk of corruption and the abuse of authority within judicial institutions.

In the domain of legal reasoning, *maqāṣid al-shari'ah* can be understood as a teleological approach that emphasizes the aims of law, such as the protection of religion, life, intellect, lineage, and property. This approach has direct relevance to theories of moral reasoning in law, which assert that legal application should not halt at textual compliance but must consider normative purposes and the social consequences of decisions. From this perspective, *maqāṣid al-shari'ah* serves as an evaluative framework that enables judges to conduct purposive interpretation oriented toward substantive justice. Such an approach dovetails with positions in normative legal theory that conceive of the judge as an interpretive agent charged with harmonizing positive norms with moral values and the social purposes of law.

Linking Islamic sources to theories of equality, judicial impartiality, and moral legal reasoning opens a more productive space for academic dialogue. First, Islamic texts provide normative legitimacy for demands of substantive legal equality. Second, prophetic principles reinforce institutional arguments for the importance of judicial independence and impartiality. Third, *maqāṣid al-shari'ah* offers a teleological framework applicable to the formulation of policies on judicial selection, education, and professional development so that judicial decisions are not only procedurally valid but also substantively just. In an academic context, this hermeneutic should be supported by comparative analysis between Islamic norms and modern legal theories, as well as by empirical studies showing the implications of such integration in judicial practice.

As a methodological note, integrating Islamic principles into discourse on legal justice is not intended to supplant positive law but to enrich normative argumentation within the constitutional framework of the Pancasila state. Therefore, employing *maqāṣid al-shari'ah* as an inspirational source for policy and legal reasoning should remain consistent

²⁰ Ata ur Rehman et al., "The concept of independence of judiciary in Islam", *International Journal of Business and Social Science*, 4(2), 2013: 67-75.

with constitutional principles and international human rights standards. This approach enables constructive dialogue between Islamic legal traditions and modern legal theory in efforts to strengthen the actualization of the Fifth Principle of Pancasila in judicial practice.

2. Optimizing the Quality of Judges Based on an Islamic Perspective

Law is not a set of rules that are free from values, nor is it merely a collection of rules whose benefits or harms depend on how humans use them. On the contrary, law always holds certain values, ideals, and goals that it looks to realize. To achieve its goals, law requires the role of humans, because law is only a set of rules that cannot function on its own. Thus, law enforcement officials such as judges are needed to implement it. Law enforcement is not just about mechanically implementing regulations. More than that, law enforcement means striving to realize the noble values contained in the law. Thus, the law can be a means of creating justice and benefit for society.

The profession of a judge as a law enforcer is not merely a position, but a huge responsibility. Piety in upholding justice is an Islamic requirement that must be fulfilled by a judge.²¹ This is because judges must be moral role models for society. Therefore, integrity and honesty are absolute requirements for a judge.²² It is inappropriate for a judge to perform this noble duty if they do not have good morals. This principle is in line with the principle of the rule of law, which must uphold the morality of public officials. Most judicial weaknesses stem from a lax recruitment process. Therefore, to enforce quality law, it must begin with the selection process of prospective judges. To strengthen the legitimacy of the judiciary in the eyes of the Indonesian people, who are predominantly Muslim, a choice based on Sharia values is necessary. Thus, the reconstruction of national law must be based on the principles of Islamic justice.

²¹ Ade Rosadi et al., "THE CONCEPT OF JUSTICE IN QUR'AN AND HADITH", *Asy-Syari'ah*, 23(1), 2021: 179-190, <https://doi.org/10.15575/as.v23i1.9520>

²² Athraa Shareef Abd Al Mohsen dan Maha Abd Al Rahman Hussein, "Basic conditions for a judge in Islamic law", *VOPROSY ISTORII*, 5(2), 2023: 164-169, <https://doi.org/10.31166/voprosyistorii202305statyi41>

Figure 1. Efforts to Optimize Judge Quality



Conceptual model for the actualization of the Fifth Principle through optimization of judicial quality (selection → education → spiritual exemplarity → welfare → supervision), which affects outcomes: substantive justice, access to justice, and judicial legitimacy. This model is adapted and synthesized from empirical and theoretical studies on judicial reform, judicial education, and the principles of *maqāṣid al-shari'ah* (see the literature section).

The relationship between judges' welfare and corrupt practices is supported by literature linking public officials' economic conditions to the risk of abuse of authority; relevant studies include Mughal (2012) on judicial education and accountability, analyses of welfare and public governance in the welfare-state context,²³ and studies on corruption prevention from an Islamic legal perspective.²⁴ The model indicates that increased remuneration and welfare guarantees can serve as one mitigating factor against corruptibility; however, their effectiveness must be accompanied by robust systems of supervision and ethical enforcement to prevent a weakening of moral accountability (moral hazard).

²³ Oman Sukmana, "Konsep dan desain negara kesejahteraan (welfare state)", *Sospol*, 2(1), 2016: 103-122, <https://doi.org/10.22219/sospol.v2i1.4759>

²⁴ Gaby Agustina Nainggolan et al., "Analisis Strategi Pencegahan Korupsi Menurut Perspektif Hukum Islam Dalam Implementasi Asas Legalitas Tindak Pidana: Hukum Islam dalam konteks Pencegahan Korupsi", *Mandub: Jurnal Politik, Sosial, Hukum dan Humaniora*, 1(4), 2023: 268-279, <https://doi.org/10.59059/mandub.v1i4.646>

To obtain qualified judges, it is necessary to improve strict and *shari'ah*-based standards. Such choice must be transparent to avoid nepotism or political pressure. Through strict selection, only individuals with integrity and high quality who are truly worthy of becoming judges will be chosen. Their abilities and morality are the requirements taught in Islam for selecting judges, not their proximity to those in power.²⁵ The selection instruments can include sharia-based examinations, ethical interviews, and record assessments to prevent individuals who are not actually suitable from entering the judiciary. If the selection process is conducted strictly and carefully, the quality of judicial decisions has the potential to improve significantly, thereby increasing public trust in the law. Thus, strict selection reform is the first step towards a clean and fair judiciary, which is in line with the principle of meritocracy in the context of state administration.

The next stage after the selection process is special education and training for judges. Education for judges is not limited to positive law, but also includes the study of Islamic law.²⁶ Judges need to understand *maqāṣid al-shari'ah*, which are the objectives of Islamic law that emphasize justice, benefit, and protection of basic rights.²⁷ Education and training programs must incorporate discussions on theories of morality and judicial professional ethics, including deontological principles that emphasize duty and adherence to rules, consequentialist approaches that assess the impact of judicial decisions on public welfare, and virtue ethics, which underscores the cultivation of judicial character traits such as integrity, humility, and prudence. Practical instruments such as judicial codes of conduct, guidelines for addressing conflicts of interest, recusal mechanisms (withdrawal from a case when there is a potential for bias), and accountability procedures should also be taught to ensure that theoretical knowledge is effectively integrated into everyday professional practice. This kind of education will create judges who are intellectually

²⁵ Athraa Shareef Abd Al Mohsen and Maha Abd Al Rahman Hussein, "Basic conditions for a judge in Islamic law", *Voprosy Istorii*, 5(2), 2023: 164-169, <https://doi.org/10.31166/voprosyistorii202305statyi41>

²⁶ Euis Nurlaelawati and Abdurrahman Rahim, A, "The training, appointment, and supervision of Islamic judges in Indonesia", *Pac, Rim L, & Pol'y J.*, 21, 2012, 43, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/pacrimlp21&div=8&id=&page>

²⁷ Munir Ahmad Mughal, "Judicial Education and Training: Importance in Islam", *In Proceedings of National Conference of Judicial Academies on Key Issues and Challenges in Judicial Education*, 2012, <https://doi.org/10.2139/SSRN.2102378>

intelligent and morally mature. Meanwhile, coaching for judges can be done through regular training on judicial morality, Islamic law, and legal philosophy. Through such training, judges will be trained to decide cases in a manner that balances formal legal rules with the value of justice, thereby becoming a means of internalizing spiritual values for judges in performing their duties. This is inseparable from the demand that judges not only uphold the law but also help support public morality.²⁸

Judges who do not receive adequate education and training are often vulnerable to political pressure. From the perspective of the principles of Islamic justice, such a condition contradicts the *maqāṣid al-shari'ah*, as one of the primary aims of the *shari'ah* is to preserve social order and to protect religion, life, intellect, property, and honor through the establishment of justice. Judicial independence therefore makes up a prerequisite for the realization of these goals, since without independence judicial decisions risk deviating from the public interest (*maslahah*) and may instead generate social harm. The concept of *'adl* requires judges to act objectively, impartially, and free from political interference, such that justice is understood not merely as the formal application of legal rules, but also as a moral commitment to render decisions proportionately in accordance with substantive truth.²⁹ The principle of *maslahah* further demands that every judicial decision promote the welfare of society and prevent harm, while the protection of fundamental rights, such as the right to justice and equality before the law, can only be ensured when judges are genuinely free from political pressure.³⁰ Accordingly, safeguarding judicial independence is not merely an administrative necessity within the national legal system³¹, but also an ethical and normative imperative derived from the principles of Islamic justice.

²⁸ Naureen Akhtar et al., "Learning of Islamic Law in Contemporary Universities: Case Study of Faculty of Sharī'ah & Law of International Islamic University Islamabad and Islamic Legal Studies Program of Harvard Law School", *Responsible Education, Learning and Teaching in Emerging Economies*, 2(2), 2020: 85-90, <https://doi.org/10.26710/relate.v2i2.1743>

²⁹ Ata ur Rehman et al., "The concept of independence of judiciary in Islam", *International Journal of Business and Social Science*, 4(2), 2013: 67-75.

³⁰ Adinda Zahra Fathya and Rani Santika, "Judicial Independence and Political Influence in Modern Democracies", *Journal of Law and Social Politics*, 3(2), 2025: 57-70, <https://doi.org/10.46799/jlsp.v3i1.60>

³¹ Tomi Agustian et al., "The Issues of Judicial Independence in Indonesia in Contemplation of Islamic Law", *NEGREI: Academic Journal of Law and Governance*, 1(2), 2021: 159-174, <http://doi.org/10.29240/negrei.v1i2.3531>

Spiritual exemplarity forms an essential aspect of the judicial profession, as it serves as a model for those who seek justice. Judges must support proper conduct both inside and outside the courtroom since the public evaluates them not only based on their decisions but also on their personal integrity. When judges show spiritual exemplarity, public trust in the judiciary increases; thus, moral exemplarity is not merely a private matter but a social responsibility that reinforces judicial legitimacy. To make the concept of spiritual exemplarity more concrete, its indicators must be clearly articulated. These include personal virtues such as consistency between words and actions, humility, honesty, and the willingness to acknowledge mistakes; observable professional conduct such as firmness in upholding the law without favoritism, patience in presiding over proceedings, adherence to codes of ethics, and a strict avoidance of corruption or conflicts of interest; as well as measurable institutional indicators, including a low number of complaints and disciplinary violations, active participation in ethics training and spiritual development programs, peer review results or 360-degree evaluations, and levels of public trust as reflected in surveys. By adopting these indicators as reference points, efforts to cultivate spiritual exemplarity can be directed systematically, ensuring that they are not merely rhetorical but are watched and contribute substantively to the legitimacy and quality of the judiciary.

Another aspect that is no less important is the welfare of judges. Judges with good economic conditions have immense potential to reject bribes and gratuities. The state is obliged to provide welfare guarantees for judges in accordance with their great responsibilities, because many studies show that low salaries for judges are directly proportional to high levels of corruption.³² Islam emphasizes that in order for a person to work calmly and optimally, their basic needs must be met. As public officials, this principle also applies to judges. Adequate reward is part of the state's appreciation for the mandate and responsibilities carried by judges. If the welfare of judges is guaranteed, it is possible

³² Moh Thamsir et al., "Islamic Criminal Law Reform in Corruption Cases: Maqasid al-Shariah Perspective", *Jurnal Ius Constituendum*, 10(1), 2025: 16-27, <https://doi.org/10.26623/jic.v10i1.10932>

that their independence will be better kept.³³ Conversely, judges who live in tough economic conditions are highly susceptible to falling into the trap of abuse of authority.

Supervision and accountability must continue to be improved to keep the quality of the judiciary, even though the welfare of judges has been guaranteed. This is done to close all loopholes for abuse of authority. Therefore, the Judicial Commission as a supervisory body must be strengthened.³⁴ Transparency by regularly publishing public reports from the Judicial Commission in supervising the performance of judges must be implemented. This is in line with the concept of hisbah in Islam, which emphasizes that the community has a role in supervising the performance of public officials.³⁵ Therefore, it is not only formal institutions that are tasked with supervision, but the community is also responsible for taking on a supervisory role, so that strong accountability involving the community will increase their trust in the judicial system. In an effort to improve the supervision and accountability of judges' performance, the imposition of severe sanctions and penalties for ethical violations is a crucial instrument to be implemented.³⁶ If we want to maintain the integrity of the judicial institution, then the supervision and accountability system must be implemented consistently.

Efforts to enhance the quality of law enforcement form a moral imperative for the nation. In Islam, justice is regarded not merely as a legal matter but also as a form of worship; so, a strong judiciary is concerned not only with regulatory frameworks but also with the moral quality of law enforcement. In this regard, justice is likewise mandated by the supreme constitutional instrument, namely the 1945 Constitution of the Republic of Indonesia, so that the integration of *shari'ah* values and constitutional principles stands for

³³ Gaby Agustina Nainggolan et al., "Analisis Strategi Pencegahan Korupsi Menurut Perspektif Hukum Islam Dalam Implementasi Asas Legalitas Tindak Pidana: Hukum Islam dalam konteks Pencegahan Korupsi", *Mandub: Jurnal Politik, Sosial, Hukum dan Humaniora*, 1(4), 2023: 268-279, <https://doi.org/10.59059/mandub.v1i4.646>

³⁴ Rohmadi, "Hubungan Kewenangan Antara Mahkamah Agung Dan Komisi Yudisial Terhadap Pengawasan Etika Hakim Dalam Perspektif Hukum Islam", *Al Ijarah: Jurnal Pemerintahan Dan Politik Islam*, 2019.

³⁵ Ahmad Junianto dan Moch Nurcholis Majid, "Ombudsman Dalam Perspektif Fiqh Siyasah: Ombudsman In Fiqh Siyasah Perspective", *AL-AQWAL: Jurnal Kajian Hukum Islam*, 1(2), 2022: 85-96, <https://doi.org/10.53491/alaqwal.v1i2.360>

³⁶ Rohmadi, "Hubungan Kewenangan Antara Mahkamah Agung Dan Komisi Yudisial Terhadap Pengawasan Etika Hakim Dalam Perspektif Hukum Islam", *Al Ijarah: Jurnal Pemerintahan Dan Politik Islam*, 2019.

a strategic solution for judicial reform. Through stages of choice, education, exemplary conduct, welfare provision, and supervision, all of which form concrete measures to realize justice, the reform process must not be viewed merely as an administrative procedure. Within the context of oversight, the duties and functions of the Judicial Commission should be reexamined to ensure both effectiveness and a balance between accountability and judicial independence. Such a review must assess the scope of investigative and sanctioning powers, mechanisms for the selection and supervision of judges, procedural transparency, coordination with other judicial institutions, and measurable performance indicators. Where necessary, regulatory refinement and institutional capacity-building should be undertaken to enable the Commission to prevent politicization, address complaints objectively, and support the development of professional ethics. If these measures are implemented seriously and systematically, the reform will produce judges of high integrity who judge cases fairly, thereby strengthening public trust in the state and advancing the realization of social justice as mandated by Pancasila.

3. Other Instruments for Realizing Legal Justice

Improving the role of law enforcement, especially judges, is indeed important, although it is not the only way to realize legal justice. There are other instruments that are equally crucial in the pursuit of justice, such as regulations and legal policies that favor social justice, a robust legal aid system that will strengthen the rights of marginalized groups, and easy access to the courts. For more details, please see the table and explanation below:

Table 2. Other Instruments and Policy Strategies

Other Instruments	Policy Strategies
Regulations & Legal Policies	<ul style="list-style-type: none"> - Harmonize and simplify regulations; revise or revoke laws/regulations that are duplicative or obsolete. - Form a cross-sectoral team (government-DPR-academics) for periodic evaluation of regulations. - Establish a special agency (e.g., under the President) with a mandate to organize national regulations oriented toward the rule of law.

Legal Aid System & Access to Free Legal Aid	<ul style="list-style-type: none"> - Strengthen the dissemination of the Legal Aid Law (No. 16/2011) to remote areas, for example through mass outreach in villages, local media, and collaboration with non-governmental organizations. - Increase and develop legal aid organizations/paralegals in the regions: BPHN/Ministry of Law and Human Rights can provide incentives for the establishment of new legal aid organizations or collaborate with law schools to set up village legal clinics. - Re-evaluate the legal aid budget ceiling: increase the allocation of the state budget/regional budget so that its coverage meets the real needs of the community (especially non-litigation services). - Standardize training and accreditation of legal aid providers (e.g., through government/ministerial regulations): ensure that assigned advocates understand the rights of aid recipients and court procedures by professional standards.
Simplify Access to the Courts	<ul style="list-style-type: none"> - Expand e-litigation: provide computers/internet connections in the nearest village office/district court and training on the use of e-court applications for residents and village officials. Collaborate with the Ministry of Communication and Information Technology to guarantee network services in 3T (underdeveloped, outermost, and frontier) areas. - Implement mobile courts: particularly in remote areas and indigenous communities, so that people can attend court without having to travel long distances. - Improve inclusive access: follow Government Regulation No. 39/2020 by making physical adjustments, implementing service procedures for persons with disabilities, and training court officials. Launch an ongoing campaign that “inclusive justice is for all” so that persons with disabilities and vulnerable groups no longer hesitate to seek justice.

Another instrument for realizing legal justice is through legal regulations and policies. Currently, Indonesia has overlapping regulations due to an excessive number of regulations. This has led to legal uncertainty. Many regulations are made without coordination between institutions or between the central and regional governments, resulting in duplication of rules.³⁷ This has weakened public trust and made it difficult to enforce the law consistently. Therefore, regulatory reform is needed, including

³⁷ Wicipto Setiadi, “Institutional restructuring to sustain regulatory reform in indonesia”, *Hasanuddin Law Review*, 5(1), 2019: 120-131, <https://doi.org/10.20956/HALREV.V5I1.1699>

harmonization, synchronization, and routine evaluation of each regulation to ensure that it stays relevant and effective. Stakeholders such as the government and the House of Representatives must invite the public and academics to formulate new regulations by utilizing digital technology to accelerate the legislative process and promote the vision of a constitutional state.³⁸ An example of this is a special agency under the President to systematically reform regulations, especially in public services related to law.³⁹

Other instruments such as legal aid will guarantee access to justice for the poor. Law No. 16/2011 guarantees that the poor have the right to free legal aid in criminal, civil, and administrative matters, including litigation and non-litigation.⁴⁰ The government covers the costs until a final and binding decision is reached. However, the lack of public awareness about this issue means that the lower classes are unaware of their rights. This is due to the limited number of Legal Aid Organizations (OBH) in remote areas.⁴¹ In addition, geographical distance and transportation costs further worsen access issues, as lawyers are usually only found in big cities. Therefore, it is difficult for people in remote areas to obtain legal help. In terms of budget, legal aid is still relatively small, while most people seeking justice need non-litigation support such as consultation and mediation.⁴² Other factors such as training and quality control of legal aid providers (lawyers/legal aid organizations/paralegals) are also uneven, resulting in many legal aid services being of

³⁸ Amany Akhyar dan Gusti Ayu Putri Saptawati, "A systematic literature review to address overlapping laws in Indonesia", *Bulletin of Electrical Engineering and Informatics*, 14(3), 2025: 2338-2346, <https://doi.org/10.11591/eei.v14i3.8407>

³⁹ Wicipto Setiadi, "Regulatory Reform in Support of Indonesia Advancement", *Italienisch*, 11(1), 2021: 180-189, <https://doi.org/10.1115/ITALIENISCH.V11I1.83>

⁴⁰ Aurelia Grace Fanni et al., "Access to Legal Aid for Underprivileged People Based on Law No. 16 of 2011 concerning Assistance", *Aurelia: Jurnal Penelitian dan Pengabdian Masyarakat Indonesia*, 4(1), 2024: 1217-1221, <https://doi.org/10.57235/aurelia.v4i1.4753>

⁴¹ La Ode Sarman and Nasrin, "Peranan Lembaga Bantuan Hukum dalam Memberikan Bantuan Hukum Kepada Masyarakat Tidak Mampu Ditinjau dari Putusan Mahkamah Agung Nomor 1 Tahun 2014", *Jurnal Ilmu Hukum Kanturuna Wolio*, 2022: 187-194, <https://doi.org/10.55340/jkw.v3i2.771>

⁴² Anis Mashdurohatun et al., "Factors Affecting Legal Aid for the Poor People in Indonesia", *JL Pol'y & Globalization*, 128, 2023: 29, <https://doi.org/10.7176/jlpg/128-06>

poor quality due to the lack of national standards.⁴³ All of these factors contribute to the obstruction of justice for the lower classes.

Another equally important instrument for realizing legal justice is access to courts, which must be simple, fast, and inexpensive. Therefore, it is very appropriate for the Supreme Court to issue Per-MA e-Court (2018) and e-Litigation (2019) so that case administration and trials can be carried out digitally.⁴⁴ This step has improved the efficiency, accountability, and transparency of the judiciary, enabling the public to file lawsuits online, monitor case files, and attend hearings via video conference without being hindered by distance. Although it has been considered successful, there are still several serious obstacles that need to be addressed. These include technological infrastructure that has not yet reached the wider community and the lack of digital literacy among those seeking justice. Another obstacle is physical access to court buildings in remote/offshore areas, which is often difficult.⁴⁵ The accessibility sector also includes inclusive treatment for persons with disabilities in the judicial process as stipulated in PP No.39/2020.⁴⁶ In other words, courts are required to provide equal services so that persons with disabilities are not discriminated against during court proceedings. Other obstacles that also need to be addressed include adequate lighting, priority queue arrangements, and access to legal information (legal card integrated consultation services).

Conclusion

This study demonstrates that optimizing judicial quality through transparent, merit-based selection reforms; education and training that integrate *maqāṣid al-shari'ah*;

⁴³ Nurani Ajeng Tri Utami et al., "Evaluation of Legal Aid Service Quality and Supervision in Indonesia and Malaysia", *Journal of Human Rights, Culture and Legal System*, 5(1), 2025: 187-216, <https://doi.org/10.53955/jhcls.v5i1.502>

⁴⁴ Ahmad Tholabi Kharlie and Ahmad Cholil, "E-court and e-litigation: The new face of civil court practices in Indonesia", 2020, <https://repository.uinjkt.ac.id/dspace/handle/123456789/50829>

⁴⁵ Ummi Maskanah, "Tantangan dalam Pembaharuan Sistem Peradilan Melalui Perkembangan Teknologi: E-Court dan E-Litigasi sebagai Sarana Menuju Peradilan Moderen di Indonesia", *Jurnal Hukum Mimbar Justitia*, 9(2), 2023: 235-255, <https://doi.org/10.35194/jhmi.v9i2.3776>

⁴⁶ Eti Yusnita dan Muhammad Toriq, "Embracing E-Court Innovation: Advancing Masalah Mursalah in Indonesia's Religious Courts", *Nurani: jurnal kajian syari'ah dan masyarakat*, 24(2), 2024: 506-523, <https://www.semanticscholar.org/paper/Embracing-E-Court-Innovation%3A-Advancing-Masalah-in-Yusnita-Yuswalina/7af184b74c5dc9a22ff8d051c18f6c9f956fb8f5>

the reinforcement of moral exemplarity; improved welfare; and effective supervision and accountability has significant potential to reduce disparities in legal treatment and to align judicial practice more closely with the ideals of the Fifth Principle of Pancasila. The case evidence analyzed, for example table 1, reveals patterns of unequal treatment that can be mitigated if the institutional quality of the judiciary and oversight mechanisms are strengthened.

Theoretically, this study contributes an integrative conceptual model that links internal judicial factors such as competence, integrity, and welfare with substantive justice outcomes within the framework of national values embodied in the Fifth Principle and *maqāṣid al-shari'ah*. This model supplements a body of literature that has previously been fragmented across studies of positive law, Islamic ethics, and bureaucratic reform. Practically, the study recommends several policy measures. *First*, judicial selection should be reformed through transparent and merit-based mechanisms to reduce political intervention. *Second*, judicial education curricula should incorporate *maqāṣid al-shari'ah* alongside ethics training and corruption risk management. *Third*, remuneration and welfare guarantees should be increased as part of a broader framework to protect judicial independence, accompanied by stringent supervisory mechanisms. *Fourth*, oversight institutions such as the Judicial Commission should be strengthened, together with mechanisms for public participation in judicial oversight. The implementation of these policies is expected to enhance judicial legitimacy and improve access to justice for vulnerable groups.

This study is based on library research and qualitative analysis and therefore does not provide quantitative causal evidence regarding the magnitude of each factor's contribution to justice outcomes. Consequently, the proposed conceptual model requires empirical testing through national surveys of judges, quantitative analyses of court decisions, or comparative case studies across regions to assess the generalizability of the findings. Future research is also encouraged to conduct in-depth interviews with judicial stakeholders to strengthen the practical validity of the policy recommendations.

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