

Protection of Families with Disabilities; A Juridical and *Maqashid Shariah* Analysis

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Abstract:

A disparity in service delivery persists for individuals and family with disabilities, hindering their equal access to rights under the law. Observational data from the 2024 elections reveals that many individuals with disabilities were disenfranchised due to factors such as inaccessible voting facilities, inadequate support from officials, and familial perceptions of them as a burden. This situation is at odds with existing legislation, which should prioritize family protection beyond mere formal recognition of human rights. This study examines legal protection for individuals with disabilities through the lens of *Maqashid Shariah*, utilizing a qualitative library research approach that analyzes relevant legislation, human rights principles, and *Maqashid Shariah* frameworks. The research findings highlight that Law Number 8 of 2016 provides legal safeguards for families with disabilities, guaranteeing fundamental rights such as life, education, and employment. These protections align with the five essential objectives of *Maqashid Shariah*, underscoring their relevance to both national and religious goals.

Keywords:

Protection, Family, Disability, Juridical, *Maqashid Sharia*

Abstrak:

Terdapat kesenjangan pelayanan yang dialami oleh keluarga disabilitas dalam memperoleh hak yang sama di dalam hukum. Misalnya berdasarkan data observasi pada pemilu tahun 2024 masih banyak disabilitas yang tidak menjadi pemilih, karena beberapa hal diantaranya akses yang tidak memadai, petugas yang kurang aktif membantu atau keluarga yang menyatakan

bahwa disabilitas adalah beban keluarga. Sehingga, hal ini bertentangan dengan peraturan Perundang-Undangan. Seharusnya Undang-Undang melindungi keluarga bukan hanya sebagai administrasi formalitas keberadaan hak asasi manusia saja. Berdasarkan hal itu penulis melihat adanya perlindungan hukum perspektif *maqashid syariah*. Penelitian ini menggunakan jenis penelitian kepustakaan dengan metode pendekatan kualitatif dengan analisa *maqashid syariah* dan peraturan Perundang-Undangan serta Hak Asasi Manusia. Hasil penelitian ini menyatakan bahwa perlindungan hukum khususnya bagi keluarga disabilitas tertuang dalam Undang-Undang Nomor 8 Tahun 2016. Dalam peraturan tersebut terdapat perlindungan hukum berupa jaminan hak hidup, pendidikan, pekerjaan dimana hal tersebut merupakan wujud kesamaan hak bagi manusia. Dalam konteks *adh-dhuhuriyyah al-khams maqashid syariah*, perlindungan hukum tersebut sangat relevan dengan tujuan negara maupun agama.

Kata Kunci:

Perlindungan, Keluarga, Disabilitas, Yuridis, *Maqashid Shariah*

Introduction

The Republic of Indonesia is a constitutional state founded on the rule of law, as enshrined in Article 1, paragraph 3 of the Constitution. This signifies that Indonesia is a nation that upholds the law as a cornerstone of its governance. As a Rechtsstaat, Indonesia's legal framework incorporates essential elements of protection for the fundamental rights of children. Historically, Indonesia's independence has been predicated on its sovereignty as a nation. The formation of a state, as posited by jurists, requires the presence of several key elements, as outlined in the Montevideo Convention: a permanent population, a defined territory, a government, and the capacity to engage in international relations. The population is a vital component in the establishment of a state, and consequently, the Constitution dedicates Article 26 to the concept of citizenship. Following the formation of a state, effective governance becomes a pressing concern. In this regard, the involvement of various stakeholders, including citizens, is indispensable to the administration of government.

Sovereignty is contingent upon a state's ability to uphold fundamental human rights. The constitution provides a comprehensive framework for these rights in Chapter XA, encompassing Articles 28A to 28J. These articles guarantee a range of essential rights, including the right to life, freedom of religion, education, and protection of individuals and their families. Furthermore, the constitution mandates that individuals respect the rights of others and comply with legally prescribed limitations. The principle of *jus soli*, which ties nationality to place of birth, underscores the inherent nature of human rights for those born within Indonesia's territory. This concept is reinforced by divine wisdom, as articulated in the Quran, Al-Baqarah (2): 30, which highlights humanity's role as a steward on earth, tasked with maintaining harmony and preventing harm. It is therefore incumbent upon the state to prioritize the protection of human rights through dedicated measures.¹

Human rights are subject to ongoing development and challenges, including the right to freedom of expression and the right to advocate for fair and equitable treatment. This is particularly relevant in the context of individuals born with varying circumstances, including those with disabilities. Persons with disabilities may be born with congenital conditions or acquire disabilities due to external factors, highlighting the need for inclusive and equitable treatment. The rights and dignity of persons with disabilities warrant special consideration and protection.

Research findings suggest that persons with disabilities are often subject to marginalization, characterized by inadequate fulfillment of their rights, insufficient legal protection, and social exclusion. A study by Nurul Azizah, focusing on the *fiqh* perspective on disability and the political rights of persons with disabilities, highlights that individuals with disabilities are vulnerable voters who are frequently overlooked. During voter registration processes, families may hide family members with

¹ Maulana Abul A'la Maududi, *Human Rights in Islam* (Jakarta: Bumi Aksara, 2014).

disabilities, deeming their political rights inconsequential. The study also reveals that only 8 out of 12 individuals with disabilities exercised their voting rights, as others were categorized as legally incompetent. Persons with disabilities are often neglected in the development of laws and participation in legal frameworks, underscoring the need for greater inclusivity and protection.

Disability is a condition Where somebody experiences limitations in function physical, intellectual, mental, and or sensory in term long time, so experience obstacles in participating fully and effectively in society. Based on the principle of justice in principles of general good governance, all citizens have equal rights and equal portions. In various matters experience development and adjustment are also mean principles justice This for disability, so that in sector government for example in opportunity work is also given a portion by need government and adjusted with his expertise. So with the existence of equality, every citizen, both non-disabled and disabled entitled to get rights same basis.

Based on E- Disability data East Java Province as of May 2024 recorded amount sufferer disabilities spread across districts/cities in East Java as many as 16,798 people. Variety of disabilities including physical (physical, ex leprosy), mental (ex-mental, autism), sensory (deaf, speech, low vision, total blind), intellectual (slow learning, mental, down syndrome), and disability double. BPBD Java East hopes There is attention and role active all parties in the protection of disability. With large number of facilities in Education also still limited there are 318 schools SLB level located in East Java Province, which consists of 63 (19.81%) SLB-owned government (State) and 255 (80.19%) SLB-owned by the private sector. The facts are there other There are child disabilities who are neglected by their parents, discriminated against, ostracized, not get love from Darling which makes them more prone to again. Based on the existing

facts No one can denied that race disability based on perspective right basic man should get adequate protection.²

The year 2030 has predicted that the Indonesian state will experience improvement in one of the demographic bonuses namely Indonesian citizens are at the top age productive so capable of welcoming realizing the golden Indonesia 2045. Based on 2016 data from the Ministry of Manpower Still, Lot of very racially difficult disability are accepted in matter jobs. As for the population, age work that the bearer disability as many as 22,563,392 forces work that is experienced disturbance as many as 11,680,469 people consisting of from school as many as 196,646 people, taking care of House ladder as many as 6,677,983 people and others as many as 4,805,840 people as well there is unemployment as many as 335,469 people. For That Already should also be disabled get various the same rights. This is also what then makes the writer interested in study about protection law for family disability in glass eye maqashid asy syariah according to Islam.

Maqashid syariah is the soul of Islamic law emphasizes justice, humanity, and balance. *Maqashid asy -sharia* according to Imam Asy-Syatibi has 5 core things , namely³: 1) *Hifdzu Ad-Diin* (حفظ Allah) or Maintaining Religion 2) *Hifdzu An- Nafs* (حفظ) (and) Maintaining the Soul 3) *Hifdzu Aql* (The truth) and Maintaining Reason 4) *Hifdzu An Nasl* (حفظ Allah) or Guard Descendants 5) *Hifdzu Al Maal* (حفظ) (O Lord) or Guard Property . Ash-Syatibi come with One of his very popular works is the book *Al-Muwafaqat*.

The foregoing discussion underscores the imperative need for enhanced legal protection for individuals with disabilities, rooted in the principle of equality that entitles them to equal

² Muryatini et Al, "Legal Protection for Children with Disabilities Who Are Abandoned by Their Parents," *Journal of Advocacy* 1 (9AD).

³ Asafri Jaya Bakri, *The Concept of Maqashid Syariah According to Imam Ash-Syatibi* (Jakarta, 2016).

rights and protections under the law. Despite the existence of relevant regulations, various challenges remain, notably the inadequate implementation of these laws. The issue is not merely the prevalence of discrimination⁴ against individuals with disabilities, but rather the fundamental human rights that are universally applicable. The effective implementation of legal protection for workers with disabilities is hindered by several factors, including the capacity of the legal enforcement apparatus and societal attitudes

This study seeks to address several key questions regarding human rights for individuals with disabilities, the role of *Maqashid Shariah* as a foundational framework for Islamic law in providing a nuanced perspective, and the *Maqashid Shariah's* approach to issues pertaining to disabilities. Through an examination of existing legislation, this paper aims to elucidate the implicit legal protections afforded to individuals with disabilities and analyze these rights within the *Maqashid Shariah* framework. The integration of interdisciplinary knowledge is essential for informing more effective and meaningful policies.

Method

This research undertakes a comprehensive analysis within the academic domain, adopting a normative research methodology to derive and articulate legal arguments through a detailed examination of the core issues. The study relies on a literature review to gather legal materials. A statutory approach is employed to examine the existing legal framework governing the protection of individuals with disabilities, with a particular focus on the *Maqashid Shariah* perspective. *Maqashid Shariah* is utilized as a guiding framework for determining legal principles

⁴ A. Pawestri, "Ham Internasional Dan Ham Nasional," *Era Hukum*, 2, no. 1 (2017): 162-64.

and serves as the foundation for the implementation of laws that promote the well-being of Muslims.⁵

Result and Discussion

Human Rights for People with Disabilities

Every man is born with free will but turmoil politics in Indonesia says that man is restricted in various types of things. Humans certainly have rights based on their lives and rights based. In addition, the rights are acknowledged universally. Rights are known as a Human Right Human Rights (HAM). With the existence of human rights, then every man has protection morally and legally, so that man can protected from various types of regulation and clear and codified legislation. Rights are the basics that humans have is more known as a Human Right. Although every man Already has human rights, between one human being with a man another must guard the life of society, nation and state.

According to Sudika Mangku, human rights are an inherent set of rights⁶ that are fundamental to human existence as creations of the Almighty, and are a divine gift that demands respect, protection, and upholding by the state, legal system, government, and all individuals to safeguard human dignity. The concept of rights implies that every individual is entitled to equal shares, opportunities, and treatment. Human rights are universal and apply equally to all individuals, regardless of their physical attributes or social status. The essence of human rights lies in recognizing the fundamental equality of all individuals, including equal access to rights, equal entitlement to exercise the

⁵ Hakim Suhaimi, Rezi, M., "Maqāṣid Al-Sharī'ah: Teori Dan Implementasi," *Sahaja: Journal Shariah And Humanities*, 1 (2AD): 162-66.

⁶ Sudika Mangku, "Legal Protection for Children with Disabilities Related to the Right to Education in Buleleng Regency.," *Udayana Master Law Journal* 9, no. 2 (2020): 353, <https://doi.org/https://doi.org/10.24843/jmhu.2020.v09.i02.p11>.

rights enshrined in the constitution (Articles 28A to 28J), and equal access to opportunities and resources.

Constitutional rights refer to the fundamental entitlements that are guaranteed and safeguarded by the Constitution. These rights are explicitly stipulated in Law Number 8 of 2016 on Persons with Disabilities, which underscores the state's commitment to ensuring the well-being of all citizens, including those with disabilities. Individuals with disabilities are characterized by physical, intellectual, mental, or sensory impairments that persist over time, thereby hindering their interaction with the environment. In the context of disability law, equality is a fundamental principle that necessitates equal opportunities and access for persons with disabilities to realize their potential in all spheres of governance and society. This principle is clearly articulated in Article 1, paragraphs 1 and 2 of the Disability Law, emphasizing the importance of inclusivity and equal access.

The Disability Law also provides for the establishment of a non-structural institution, namely the National Commission on Disability (KND), which operates independently. This demonstrates the government's commitment to creating a dedicated platform for individuals with disabilities. Nevertheless, in practice, persons with disabilities often face stigma and marginalization, with some families choosing to conceal their disabled relatives due to feelings of shame. This issue is particularly evident during electoral processes, such as voter registration. The perception of disability as a source of shame that should be hidden can lead to exclusion from social participation. Therefore, the government not only needs to ensure legal protection through legislation but also to promote social awareness and education to change the mindset of families

and the broader community, fostering a more inclusive and supportive environment for individuals with disabilities.⁷

It is also essential to acknowledge the diverse nature of disabilities, which includes physical, intellectual, mental, and sensory disabilities. Individuals with disabilities are disproportionately susceptible to sexual violence, underscoring the need for targeted support and protection mechanisms.

Article 5 of the Disability Law enumerates the fundamental rights of persons with disabilities, which encompass a broad range of entitlements, including: the right to life; freedom from stigma; privacy; justice and legal protection; education; employment; entrepreneurship and cooperative participation; health; political participation; freedom of religion; sports; cultural and tourism activities; social welfare; accessibility; public services; protection from disasters; habilitation and rehabilitation; and concessions. Furthermore, persons with disabilities are entitled to data collection; independent living and community inclusion; freedom of expression, communication, and access to information; freedom of movement and citizenship; and protection from discriminatory practices, abandonment, torture, and exploitation.

The provisions outlined in the article underscore the principle of equal access to opportunities for individuals with disabilities, aligning with Indonesia's commitment to upholding the rule of law. The realization of the rights of persons with disabilities has garnered significant attention from the community⁸. Legal certainty plays a crucial role in facilitating effective governance and protecting human rights. As a nation governed by the rule of law, Indonesia is obligated to safeguard the rights of persons with disabilities. This imperative is

⁷ K. G Rompis, "Perlindungan Hukum Terhadap Penyandang Disabilitas Dalam Perspektif Hukum Hak Asasi Manusia," *Lex Administratum* 4, no. 2 (2016).

⁸ Noer Yasin, "Implementasi Kebijakan Pemenuhan Hak Beragama Penyandang Disabilitas Oleh Negara Perspektif Maqashid Syariah," *De Jure: Jurnal Hukum Dan Syar'iah*, 2021, <https://doi.org/10.18860/j-fsh.v13i2.14462>.

reinforced not only by international human rights frameworks but also by the principles of Islamic teachings, which emphasize the importance of protecting human dignity and promoting inclusivity.

Maqashid Shariah: Principles of Equality and Justice

The complexities of human life will continue to intensify in the face of global transformations, requiring Islamic scholarship to evolve in tandem with these changes while preserving the fundamental principles of Islamic teachings. It is imperative to adopt a comprehensive, inclusive, and adaptive approach to address the multifaceted challenges of the modern era, as rigid and apologetic stances can be detrimental. The concept of *ijtihad* in Islamic jurisprudence offers a framework for innovative thinking and contextualized solutions to contemporary problems. This perspective is echoed in Zaprul Khan's seminal work, "Reconstruction of the *Maqashid Shariah* Paradigm,"⁹ which advocates for the development of Islamic thought in response to the demands of a rapidly changing world.

Islamic law and jurisprudence¹⁰ are intricately linked with the complexities of modern life, as they directly pertain to the daily realities of human existence. Human rights remain a pressing concern, with several global issues persisting without satisfactory solutions. Two critical challenges that warrant attention are: Firstly, the concept of human dignity, where despite recognizing human rights, Indonesia continues to grapple with issues of inequality and often compromises on the principle of equality before the law, treating human rights as

⁹ Zaprul Khan, *Rekonstruksi Paradigma Maqashid Asy-Syariah* (Yogyakarta: IRCiSoD, 2020).

¹⁰ Nirwan Nazaruddin and Farhan Kamilullah, "MAQASHID AS-SYARIAH TERHADAP HUKUM ISLAM MENURUT IMAM AS-SYATIBI DALAM AL-MUWAFQAT," *Jurnal Asy-Syukriyyah*, 2020, <https://doi.org/10.36769/asy.v21i1.101>.

mere administrative formalities. Secondly, ensuring equitable access to quality education, including religious education, is paramount. In today's rapidly changing world, a strong foundation in religious teachings is essential for individuals to navigate the complexities of modern life. Furthermore, addressing disparities in education is crucial to prevent discriminatory practices within society, while also emphasizing the importance of quality education as a cornerstone for national development and progress.

This study seeks to explore the *Maqashid Shariah* perspective as a framework for achieving happiness in both this world and the hereafter through a life of dignity and respect, with a particular emphasis on addressing the human rights challenges faced by persons with disabilities¹¹. The protection and promotion of human rights are essential in ensuring that a country provides equal opportunities, space, and time for all its citizens, without distinction or discrimination, in accordance with the principles enshrined in the relevant legislation.

Legal Protection for Disability Perspective *Maqashid Sharia*

As creations of the Divine, human beings are endowed with inherent rights from the moment of their birth, which are considered an integral part of their existence. These natural rights are complemented by recognition from the state, which provides a formal framework for their protection. The place of birth plays a crucial role in establishing concrete evidence of this recognition, thereby conferring fundamental rights upon the individual. Nevertheless, the concept of human rights is often subject to debate, with differing perspectives on whether these rights are inherent or derived from state recognition.

¹¹ Siti Amaroh, "Tanggung Jawab Sosial Bank Syariah Terhadap Stakeholder Dalam Perspektif Maqâshid Syari'ah," *AHKAM: Jurnal Ilmu Syariah*, 2016, <https://doi.org/10.15408/ajis.v16i1.2894>.

Human rights are fundamental entitlements inherent to every individual by virtue of their humanity, divinely ordained, and integral to human dignity. The state is obligated to respect, protect, and fulfill these rights, which form the bedrock of human rights discourse. Humans are also endowed with rationality and free will, enabling them to act in accordance with universal moral principles.¹² In this regard, the author concurs that humans, as creations of the Divine, possess inherent prerogatives that warrant respect for their autonomy. It is also acknowledged that humans are born with diverse capacities and limitations, which do not detract from their fundamental rights and dignity. This recognition underscores the coexistence of individuals with varying abilities, including those with disabilities, within the human community.

The notion of human rights is inherently universal, applying equally to all individuals regardless of their abilities or disabilities. Consequently, the state is obligated to ensure that persons with disabilities are afforded the same rights as others, as guaranteed by Articles 28A to 28J of the Constitution. The promulgation of the Disability Law, specifically Law Number 8 of 2016, serves to underscore and operationalize this commitment to equality and inclusivity.

As a state governed by the rule of law, Indonesia is duty-bound to ensure legal certainty for all its citizens. This commitment is reflected in the Constitution and further codified in the Disability Law, which provides a clear definition of persons with disabilities as individuals with long-term physical, intellectual, mental, or sensory impairments that may impede their full participation in society on an equal footing with others. Despite the existence of this law, the rights of persons with

¹² Nazaruddin and Kamilullah, "MAQASHID AS-SYARIAH TERHADAP HUKUM ISLAM MENURUT IMAM AS-SYATIBI DALAM AL-MUWAFAQAT."

disabilities, as stipulated therein, have yet to be fully realized in practice.¹³

The rights of persons with disabilities are explicitly recognized in Article 5, paragraph 1, which guarantees their right to life, privacy, education, justice, legal protection, access to public services, and freedom from discrimination. Nevertheless, persons with disabilities continue to face discriminatory practices and significant barriers, particularly in the realm of education. The scarcity of special schools (SLB) and the considerable distances between them exemplify the challenges that persons with disabilities encounter. From a constitutional law perspective, legal protection encompasses both preventive and repressive measures. Preventive protection entails proactive measures to forestall violations of the rights of persons with disabilities, necessitating a thorough identification of potential risks. The ensuing section outlines the specific laws and regulations that govern the human rights of persons with disabilities:

No	Legislation	Information
1.	Law Number 8 of 2016 concerning Persons with Disabilities	Article 5 to 24
2.	Law Number 39 of 1999 concerning Human Rights	Article 3 paragraph 2 and article 41 to 43
3.	Law Number 11 of 2005 concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR)	Guaranteeing basic rights such as: Education, Employment, Health, and Decent standard of living Including for people with disabilities in a non-discriminatory manner.

¹³ Rompis, "Perlindungan Hukum Terhadap Penyandang Disabilitas Dalam Perspektif Hukum Hak Asasi Manusia."

4.	Law Number 19 of 2011 concerning Ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD)	CRPD is an international human rights document specifically for people with disabilities that has been ratified by Indonesia.
5.	PP Number 70 of 2019 concerning Planning, Implementation, Evaluation of Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities.	Implementing regulations
6.	Regulation of the Minister of Law and Human Rights No. 70 of 2016 concerning Procedures for Respecting and Protecting Human Rights for Persons with Disabilities in the Legal System.	Implementing regulations

The existing legal framework unequivocally demonstrates that the Government of Indonesia has discharged its duty to provide legal protection and certainty in the domain of human rights, with specific emphasis on the rights of persons with disabilities. The scope of these regulations encompasses all categories of disabilities, including mental, physical, sensory, and intellectual disabilities, whether temporary or permanent in duration.¹⁴ Temporary disabilities may arise from circumstances such as prolonged domestic violence or trauma resulting from natural disasters. In contrast, permanent disabilities may include developmental disorders or special needs in children, commonly referred to as children with special needs or individuals with internal barriers to development.

A further demonstration of the state's commitment to equality is evident in its efforts to ensure equal access to

¹⁴ Al, "Legal Protection for Children with Disabilities Who Are Abandoned by Their Parents."

information for persons with disabilities. To this end, the government has deployed reporters who translate information into sign language tailored to the needs of individuals with disabilities. Moreover, the government has taken concrete steps to promote inclusive employment by conducting specialized recruitment examinations for civil servants that are specifically designed for persons with disabilities. These initiatives underscore the government's dedication to fostering equality and providing opportunities for persons with disabilities.

Notwithstanding the explicit recognition of the rights of persons with disabilities in the Disability Law, several obstacles persist, notably in the sphere of political participation. Article 13 of the Law specifically guarantees the right to "choose and be chosen for public¹⁵ office" (point a). Nevertheless, the aspiration for persons with disabilities to participate in electoral processes, such as general elections or regional elections, as candidates remains an unfulfilled promise. This disparity highlights a pressing concern for political parties and underscores the need for further action to address this challenge in our country.

In the context of *Maqashid Shariah*, the principle of equality and equal rights, particularly for persons with disabilities, is underpinned by five fundamental objectives, referred to as *Adh-Dharuriyyah Al-Khams*. These essential objectives comprise the preservation of faith, life, intellect, progeny, and property, which are deemed indispensable for human well-being and dignity.

The preservation of religion is a fundamental aspect of human dignity. According to Article 12,¹⁶ "Persons with disabilities are entitled to practice their faith and religion in accordance with their convictions, free from coercion and

¹⁵ A. Bawamenewi, *Implementasi Hak Politik Warga Negara* (Medan: Universitas Dharmawangsa, 2019), 47.

¹⁶ "Law Number 8 of 2016 Concerning Persons with Disabilities" (2016).

discrimination."¹⁷ This provision is consistent with Islamic teachings, which emphasize the importance of freedom of religion and the need for tolerance and respect in the practice of worship. In the context of *Maqashid Shariah*, the preservation of religion entails the right of persons with disabilities to choose their faith without external pressure and to practice their religion in accordance with its precepts. This principle underscores the importance of equality and non-discrimination, ensuring that persons with disabilities are treated with dignity and respect in matters of faith. Furthermore, it highlights the need for collaboration between the government and families to provide support and education, enabling individuals with disabilities to practice their faith in a meaningful and fulfilling way.

The second fundamental objective is the preservation of life. Article 11 of the relevant legislation stipulates that persons with disabilities are entitled to high-quality health services, encompassing mental health care, psychosocial rehabilitation, psychological and psychiatric services, as well as access to information and education on mental health. In the context of *Maqashid Shariah*, the preservation of life is a fundamental principle that prohibits individuals from taking actions that may harm their own life or the life of others. This principle is particularly relevant for individuals with mental disabilities or temporary disabilities, who may require specialized support and care to ensure their well-being. In order to uphold the principle of preserving life, as enshrined in *Maqashid Shariah*, it is essential to provide persons with disabilities with adequate assistance and support, thereby preventing potential harm to themselves or others.¹⁸

¹⁷ A. D. Wiraputra, "Perlindungan Hukum Terhadap Pekerja Penyandang Disabilitas," *Dharmasisya*, 1, no. 1 (2021): 34–35.

¹⁸ Hamdi Jasim, "Perlindungan Hukum Terhadap Disabilitas Dalam Memenuhi Hak Mendapatkan Pendidikan Dan Pekerjaan.," *Jurnal Hukum Ius Quia Iustum* 23, no. 4 (2016).

The government has established a framework for providing mental health treatment to persons with disabilities, with the ultimate goals of upholding the principles of *Maqashid Shariah* in preserving human life. This entails promoting awareness among individuals about the sanctity of life and the prohibition of harming oneself or others. Given the complexities involved, this area requires continued special attention and support.

The third fundamental objective is the preservation of intellect, which is intricately linked to ensuring access to comprehensive healthcare, including mental and psychological support, for individuals with disabilities. The government has demonstrated its commitment to this objective by providing equal access to intellectual care through psychosocial health services, mental rehabilitation, and prevention of intellectual dysfunction, as outlined in Articles 4 and 5 of Law No. 18 of 2014 on Mental Health. In the context of *Maqashid Shariah*, the preservation of intellect is fostered through the pursuit of knowledge and intellectual development. This principle is echoed in Article 10 of the Disability Law, which guarantees the right to education for persons with disabilities in an inclusive and specialized setting. While special schools (SLB) have been established to cater to the needs of individuals with disabilities, their limited number underscores the need for further expansion and development. The fourth fundamental objective is the preservation of progeny, which is enshrined in Article 9 of the relevant legislation. This article stipulates that persons with disabilities have the right to form a family and have children through a legitimate marriage, based on the full and free consent of both parties. This provision aligns with the principles of *Maqashid Shariah*, which emphasizes the importance of preserving the well-being of offspring through legitimate relationships and proper care. In the context of Islamic values, this entails ensuring that children are born and raised in a legitimate and nurturing environment. Persons with disabilities

are entitled to the same rights and opportunities in marriage and family formation, with a focus on providing adequate care and nutrition for their children, thereby ensuring their overall well-being.

The fifth fundamental objective is the preservation of property, which is facilitated by the right to employment. Article 11 of the relevant legislation guarantees that persons with disabilities¹⁹ have the right to work, engage in business, and secure a decent livelihood based on the principle of equality. Furthermore, Article 53 mandates that government agencies, state-owned enterprises, and regionally owned enterprises must employ a minimum of 2% of persons with disabilities, while private companies are required to employ at least 1% of persons with disabilities. This regulatory framework aims to promote equal opportunities for persons with disabilities in the workforce, recognizing the need for mutual accommodation between individuals with disabilities and employers.

In the context of *Maqashid Shariah*, the preservation of property encompasses its utilization as a means of facilitating acts of worship. The provision of employment opportunities tailored to persons with disabilities serves as means to achieve this objective, enabling individuals to acquire and manage property in a manner that aligns with the principles of *Adh-Dharuriyyah*, a fundamental aspect of *Maqashid Shariah*.

The analysis above underscores the notion that the divine gift of humanity is universally bestowed, thereby establishing a robust foundation for the recognition and protection of human rights. Human rights, by their very nature, are inherent and inalienable, and their application should be free from discriminatory distinctions or limitations. In this context, human rights empower individuals to exercise their agency in

¹⁹ A. A. I Ari Atu Dewi, "Aspek Yuridis Perlindungan Hukum Dan Pemenuhan Hak Penyandang Disabilitas," *Pandecta: Research Law Journal* 13, no. 1 (2028).

conformity with their faith and in compliance with the law. The government has enacted specific laws and regulations to safeguard the rights of persons with disabilities. In instances where these laws do not explicitly address the needs of persons with disabilities, it is essential to recognize that these individuals are entitled to equal rights and opportunities without any form of discrimination. Given their vulnerability, persons with disabilities require robust protection and enforcement of the principle of equality before the law. By ensuring the alignment of human rights regulations with the principles of *Maqashid Shariah*, the government can promote a more inclusive and equitable society. While government regulations implicitly conform to the principles of *Maqashid Shariah*, encompassing the preservation of faith, intellect, progeny, life, and property, ongoing oversight and evaluation are crucial to ensure the effective implementation of human rights for persons with disabilities.

Conclusion

The foregoing discussion highlights that human rights for families with disabilities are explicitly codified in various legislative instruments, encompassing both specific and general provisions. The legal framework for protecting persons with disabilities is grounded in the 1945 Constitution of the Republic of Indonesia, specifically Articles 28A to J, and further detailed in Articles 5 to 24 of Law No. 8 of 2016 on Persons with Disabilities, supplemented by other relevant regulations. *Maqashid Shariah*, a foundational principle of Islamic jurisprudence, offers a comprehensive framework for addressing contemporary challenges, including the protection of human rights for persons with disabilities. By emphasizing the preservation of faith, life, intellect, progeny, and property, *Maqashid Shariah* provides a robust structure for tackling social disparities, human rights abuses, and issues of legal awareness, particularly among vulnerable populations such as persons with disabilities. The alignment between *Maqashid Shariah's* five essential objectives

(*Adh-Dharuriyyah Al-Khams*) and the government's regulatory framework for persons with disabilities underscores the shared objective of upholding divine commands and avoiding prohibitions through governance and Islamic teachings. While the legal protections for persons with disabilities are well-established, effective implementation necessitates ongoing oversight to ensure conformity with national and state objectives.

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