

Women's Leadership in Contemporary Islamic Law: A Maqashid al-Shari'ah and Religious Moderation Approach

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Abstract: Debates on women's leadership in contemporary Islamic law involve competing interpretations of religious texts, historical contexts, and the normative principles governing public authority. Rather than reducing the issue to a binary opposition between permissibility and prohibition, this article examines how *maqāṣid al-shari'ah* and religious moderation can provide an analytical framework for evaluating women's leadership in contemporary Muslim societies, particularly Indonesia. This study employs normative legal research based on library materials, using textual, contextual, conceptual, and statutory approaches. Its primary materials include relevant Qur'anic verses, prophetic traditions concerning leadership, classical and contemporary Islamic legal scholarship, and Indonesian legislation governing political participation. The analysis focuses on the interpretive scope of the relevant texts, the relationship between classical jurisprudential doctrines and modern political institutions, and the implications of Islamic legal objectives for leadership eligibility. This article argues that the legal assessment of women's leadership requires a distinction between specific historical forms of political authority and contemporary public offices operating within constitutional and institutional systems. It proposes a maqāṣid-oriented evaluative framework comprising four interconnected criteria: competence, procedural justice, public welfare, and accountability. Religious moderation complements this framework by promoting fair engagement with jurisprudential disagreement without erasing substantive differences or legitimizing discrimination. The proposed framework does not claim to eliminate classical juristic disagreement; rather, it offers a systematic method for assessing

leadership in light of scriptural interpretation, institutional context, and the objectives of Islamic law. The article contributes a normative-conceptual model for discussing women's leadership that connects Islamic legal reasoning with contemporary public governance.

Keywords: women's leadership; contemporary Islamic law; *maqāṣid al-sharī'ah*; religious moderation; political participation.

Introduction

Women's leadership remains a contested issue in contemporary Islamic law, particularly where classical jurisprudential interpretations intersect with modern political institutions, constitutional principles, and changing social realities. The debate concerns more than the permissibility of women occupying public office. It also raises fundamental questions about the interpretation of religious texts, the historical formation of juristic doctrines, the relationship between legal rules and their underlying purposes, and the criteria by which public authority should be exercised. In contemporary Muslim societies, these questions have become increasingly significant as women participate in legislative institutions, executive government, educational leadership, and other forms of public administration. Nevertheless, women's participation in leadership continues to encounter theological objections, patriarchal social expectations, and institutional barriers. The persistence of these challenges indicates that the issue cannot be adequately resolved through a simple opposition between traditional prohibition and modern permission. It requires a more systematic examination of Islamic legal reasoning, the objectives of the Sharī'ah, and the ethical principles governing public life.¹

Within classical Islamic jurisprudence, discussions of women's leadership developed through interpretations of Qur'anic verses, Prophetic traditions, and the political assumptions underlying the institution of *imāmah* or supreme political authority. Certain classical jurists restricted women's eligibility for particular offices, especially the highest position of political authority, on the basis of their readings of

¹ Yasni Efyanti et al., "WOMEN LEADERSHIP IN ISLAMIC POLITICAL AND LEGAL PERSPECTIVES," *Raheema* 7, no. 2 (2020): 17–29, <https://doi.org/10.24260/raheema.v7i2.1591>; Fatmawati et al., "The Women's Leadership: Orientation from a Legal and Islamic Sharia Perspective," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 2 (2024): 345–56, <https://doi.org/10.29303/ius.v12i2.1345>.

relevant scriptural evidence and their understanding of the responsibilities associated with governance. These positions constitute an important part of the Islamic legal tradition and must be examined with due attention to their jurisprudential reasoning. However, the existence of a classical legal opinion does not eliminate the need to investigate its scope, the assumptions on which it rests, and its applicability to institutions whose structures differ from those in which the opinion was formulated. Contemporary constitutional systems, for example, distribute governmental authority among legislative, executive, and judicial institutions and establish procedures for election, supervision, and accountability. Consequently, the legal assessment of women's leadership requires careful differentiation between the historical construction of particular political offices and the broader normative principles governing public responsibility.²

A central difficulty in this debate is the tendency to treat gender as the decisive criterion of leadership eligibility without giving equivalent analytical attention to competence, justice, integrity, and the ability to protect the public interest. Such an approach risks overlooking the broader ethical orientation of Islamic teachings concerning social responsibility. Qur'an 9:71 describes believing men and women as allies who encourage what is right and discourage what is wrong. Although this verse does not directly determine the legal status of every political office, it establishes a significant normative basis for understanding women and men as participants in collective moral responsibility. Similarly, the narrative of the Queen of Sheba in Qur'an 27:23–44 presents a female ruler who consults her advisers, considers the consequences of political decisions, and ultimately exercises independent judgment. The narrative should not be treated as a conclusive legal ruling that automatically authorizes every form of female leadership. Nevertheless, it provides relevant material for examining the Qur'anic representation of female political agency, deliberation, and decision-making.³

² For the historical and methodological relationship between Islamic legal doctrine and contemporary legal contexts, see Mohammad Hashim Kamali, "Shariah And Civil Law: Towards A Methodology Of Harmonization," *Islamic Law and Society*, ahead of print, 2007, <https://doi.org/10.1163/156851907782792508>; Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2008).

³ Qur'an 9:71 and 27:23–44. For a contemporary study connecting women's leadership, Islamic law, and the Indonesian constitutional context, see Erwin Syahrudin and Adi Nur Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law," *Al-Ma'qabib*:

The debate also involves the Prophetic tradition narrated by Abū Bakrah concerning the Persian people who entrusted their affairs to a woman. Recorded in *Ṣaḥīḥ al-Bukhārī*, the report is commonly invoked as a principal textual argument for restricting women's eligibility for supreme political authority.⁴ A rigorous legal analysis must therefore engage with this tradition rather than disregard it in favor of a predetermined conclusion. Relevant questions include the circumstances in which the statement was reported, the scope of its wording, its interpretation within classical jurisprudence, and its relationship to other scriptural principles concerning justice, consultation, responsibility, and public welfare. Equally important is the distinction between the authentication of a hadith and the juristic determination of the legal scope of its implications. Acceptance of a report as authentic does not, by itself, resolve every question concerning its application to different offices and institutional arrangements. Conversely, contextual interpretation must not become an arbitrary means of dismissing inconvenient textual evidence. A defensible contemporary position must demonstrate how its conclusions emerge from a coherent methodology of Islamic legal interpretation.

The Indonesian context makes this discussion particularly relevant because women's political participation is situated within both a constitutional framework and a society in which Islamic legal reasoning remains influential. The 1945 Constitution of the Republic of Indonesia establishes equality before the law and guarantees citizens equal opportunities in government. Law No. 39 of 1999 concerning Human Rights further provides a national legal framework for the protection of human rights, while Law No. 7 of 2017 concerning General Elections regulates, among other matters, women's representation in legislative candidacy.⁵ These legal instruments demonstrate that women's participation in public institutions is an established component of Indonesia's constitutional order. Nevertheless, formal legal recognition does not automatically eliminate social resistance, discriminatory

Jurnal Perbandingan Hukum 13, no. 1 (2025): 98–113, <https://doi.org/10.14421/al-mazaahib.v13i1.4189>.

⁴ Muḥammad ibn Ismā'īl al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī* (n.d.), number 4425. narration of Abū Bakrah. Hadith numbering may differ across editions and digital databases.

⁵ Republic of Indonesia, *The 1945 Constitution of the Republic of Indonesia*, arts. 27(1) and 28D(3); Republic of Indonesia, Law No. 39 of 1999 concerning Human Rights; Republic of Indonesia, Law No. 7 of 2017 concerning General Elections, art. 245.

practices, or religious arguments used to question women's leadership. The central challenge is therefore to examine how Islamic legal reasoning can engage critically with contemporary constitutional institutions without conflating religious jurisprudence with positive law or assuming that the two operate through identical sources and methods.

In this regard, *maqāṣid al-sharī'ah* provides an important analytical framework for evaluating legal questions in light of the purposes and normative orientation of Islamic law. Classical *maqāṣid* theory, particularly the work of Abū Ishāq al-Shāṭibī, emphasizes the protection of essential human interests through the preservation of religion, life, intellect, lineage, and property.⁶ Contemporary scholarship has developed this framework by examining how the objectives of Islamic law relate to justice, human dignity, rights, social welfare, and institutional change. Jasser Auda's systems approach, for instance, emphasizes the importance of examining legal questions holistically rather than reducing them to isolated textual propositions.⁷ Applied to women's leadership, this approach requires consideration of the relevant scriptural evidence, the nature of the office in question, the qualifications required to exercise its authority, the institutional mechanisms of accountability, and the consequences of leadership decisions for society. The purpose is not to replace revealed texts with an unrestricted appeal to public benefit. Rather, *maqāṣid al-sharī'ah* provides a methodological framework for examining how scriptural norms and juristic interpretations should be understood and applied in concrete circumstances.

A *maqāṣid*-oriented assessment also requires methodological discipline. Public benefit cannot be invoked as an abstract justification for any preferred political outcome, just as a single textual argument should not automatically be extended to every institution without examining its legal and contextual relevance. The analysis must distinguish between the objectives of the *Sharī'ah*, the evidentiary status of particular texts, the interpretations developed by jurists, and the institutional circumstances in which a legal conclusion is applied. This distinction is especially important because contemporary political leadership does not necessarily reproduce the legal and institutional characteristics of the classical *imāmah al-ʿuẓmā*. Different offices possess different powers, responsibilities, appointment procedures, and accountability mechanisms.

⁶ Abū Ishāq As-Syatibi, *Al-Muwafaqat Fi Usul al-Shariah*, vol. 1 (Dar al-Kutub al-Ilmiyyah, 1997).

⁷ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

Consequently, the legal evaluation of a woman's eligibility for a particular office should identify the nature of that office before determining which juristic arguments and legal principles are relevant.⁸

The framework of *maqāṣid al-sharī'ah* can be complemented by the concept of religious moderation, or *moderasi beragama*, as developed in Indonesian religious policy and public discourse. The Ministry of Religious Affairs' publication *Moderasi Beragama* presents moderation as an approach to religious life that emphasizes balanced religious understanding, tolerance, rejection of violence, and commitment to national life.⁹ In the context of women's leadership, moderation should not be interpreted as an instruction to eliminate substantive disagreement among Islamic jurists. Nor should it function as a rhetorical label that automatically legitimizes one interpretation while discrediting another. Its analytical value lies instead in encouraging responsible engagement with disagreement, preventing the stigmatization of women on the basis of gender, and promoting a public discussion grounded in evidence, ethical conduct, and respect for constitutional rights. A position that permits women's leadership must still address relevant scriptural and jurisprudential arguments; a position that restricts particular offices must likewise explain its reasoning without relying on unsupported assumptions about women's intellectual or moral capacities.

Recent Indonesian scholarship has examined women's leadership through several related perspectives. Yasni Efyanti, Doli Witro, and Ike Yulisa discuss women's leadership through Islamic political and legal perspectives, emphasizing the relationship between normative legitimacy and the continuing obstacles encountered by women in political life.¹⁰ Research by Fatmawati and colleagues examines the legal and Islamic Sharia dimensions of women's political leadership in Indonesia and identifies legal culture and collective understanding as significant factors affecting women's access to political positions.¹¹ Fajar and Andi Sugirman connect women's leadership with human rights and *maqāṣid al-sharī'ah*, bringing textual interpretation into conversation with social realities and

⁸ Kamali, "Sharī'ah And Civil Law."

⁹ Ministry of Religious Affairs of the Republic of Indonesia, *Moderasi Beragama* (Badan Litbang dan Diklat Kementerian Agama Republik Indonesia, 2019).

¹⁰ Efyanti et al., "WOMEN LEADERSHIP IN ISLAMIC POLITICAL AND LEGAL PERSPECTIVES."

¹¹ Fatmawati et al., "The Women's Leadership."

the principles of public welfare.¹² More recently, Erwin Syahrudin and Adi Nur Rohman have examined women's leadership within Indonesia's constitutional system and Islamic law, highlighting the relationship between public leadership, legal regulation, and Islamic legal discourse.¹³ Together, these studies demonstrate that women's leadership is not merely a question of abstract theological permissibility; it is also a question of legal interpretation, political participation, social recognition, and the practical conditions under which public authority is exercised.

Despite these contributions, further conceptual clarification is needed regarding how scriptural interpretation, *maqāṣid al-sharī'ah*, and religious moderation can be integrated into a single evaluative framework. The existence of research on women's leadership and the existence of research on *maqāṣid* do not, by themselves, establish that these approaches have been systematically connected through explicit criteria for assessing particular public offices. The present study therefore does not claim that earlier scholarship has ignored justice, public welfare, or contemporary legal contexts. Rather, it addresses the need to translate these considerations into a more structured analytical model. Without explicit criteria, the invocation of public benefit may remain general, while religious moderation may be reduced to a call for tolerance without clarifying how competing legal arguments should be evaluated. A more systematic framework can help distinguish the normative foundations of a legal position from its contextual application and identify the standards relevant to evaluating leadership in contemporary institutions.

Accordingly, this study addresses three research questions. First, how have Islamic legal arguments concerning women's leadership been constructed through interpretations of relevant Qur'anic verses and Prophetic traditions? Second, how can *maqāṣid al-sharī'ah* provide a framework for evaluating women's leadership with reference to competence, procedural justice, public welfare, and accountability? Third, how can religious moderation complement *maqāṣid*-based legal reasoning in addressing interpretive disagreement and evaluating women's participation in public leadership in Indonesia?

¹² Fajar and Andi Sugirman, "KEPEMIMPINAN PEREMPUAN DALAM ISLAM PERSPEKTIF HAK ASASI MANUSIA DAN MAQASHID SYARIAH," *Qaumiyah: Jurnal Hukum Tata Negara* 5, no. 1 (2024): 79–108, <https://doi.org/10.24239/qaumiyah.v5i1.142>.

¹³ Syahrudin and Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law."

This study aims to analyze the principal normative arguments concerning women's leadership, develop a maqāṣid-oriented framework for evaluating leadership eligibility, and explain the contribution of religious moderation to a more responsible contemporary Islamic legal discourse. It employs normative legal research based on library materials, using textual, contextual, conceptual, and statutory approaches. Primary materials include relevant Qur'anic verses, Prophetic traditions, classical works of Islamic jurisprudence and legal theory, and Indonesian legislation concerning human rights and political participation. Secondary materials comprise contemporary scholarly books and peer-reviewed journal articles on women's leadership, maqāṣid theory, Islamic legal interpretation, constitutional governance, and religious moderation. The materials are examined qualitatively through comparative and argumentative analysis, with particular attention to the distinction between scriptural evidence, juristic interpretation, and the application of legal principles to contemporary institutions.

The principal contribution of this article is a proposed four-part evaluative framework comprising competence, procedural justice, public welfare, and accountability. Competence concerns the knowledge, skills, integrity, and practical capacity required to exercise a particular office. Procedural justice concerns fair access to leadership, non-discriminatory selection, and the legitimacy of decision-making procedures. Public welfare concerns the consequences of leadership and public policy for the community, especially the protection of rights and the prevention of harm. Accountability concerns the mechanisms through which leaders are answerable to law, institutions, and the people affected by their decisions. These criteria are proposed as analytical instruments rather than as a substitute for scriptural evidence or a claim that all classical juristic disagreements have been resolved. Religious moderation complements the framework by encouraging fair engagement with divergent interpretations and discouraging discriminatory or coercive uses of religious authority.

The article's argument is therefore that the legal assessment of women's leadership in contemporary Islamic law should not rest exclusively on gender-based assumptions or on the unexamined extension of a particular juristic opinion to every form of public office. It should proceed through responsible interpretation of the relevant texts, careful examination of the institutional character of the office, and a structured assessment of competence, justice, public welfare, and accountability. By

connecting these elements with religious moderation, the study seeks to contribute a normative-conceptual framework for evaluating women's leadership in Indonesia while preserving the seriousness of Islamic legal disagreement and the importance of methodological rigor.

Reserch Method

This study employs normative legal research using textual, contextual, conceptual, and statutory approaches. Primary materials consist of relevant Qur'anic verses, Prophetic traditions, classical works of Islamic jurisprudence and *uṣūl al-fiqh*, and Indonesian legislation governing human rights and political participation. Secondary materials include scholarly books and peer-reviewed journal articles on women's leadership, *maqāṣid al-sharī'ah*, Islamic legal interpretation, and religious moderation. The materials are analyzed qualitatively through comparative and normative-argumentative analysis to distinguish scriptural evidence, juristic interpretation, and the application of legal principles to contemporary public institutions. The analysis then develops a four-part evaluative framework—competence, procedural justice, public welfare, and accountability—to examine women's eligibility for leadership without assuming that all public offices possess identical legal characteristics.

Result and Discussion

Scriptural Foundations and the Juristic Debate on Women's Leadership

The legal debate on women's leadership in Islam requires a distinction between the authority of scriptural sources and the interpretive processes through which jurists derive legal conclusions from them. The Qur'an and Sunnah provide the primary normative foundations of Islamic law, but determining the implications of particular texts for contemporary political institutions requires linguistic analysis, consideration of context, comparison with other relevant evidence, and the application of established principles of legal interpretation. This distinction is especially important because the principal texts invoked in debates about women's leadership do not all address the same subject. Some concern family responsibilities, others describe collective moral obligations, and another is commonly cited in relation to political

authority. Treating these texts as if they addressed an identical legal question risks obscuring their respective contexts and the reasoning required to connect them to particular public offices.

Qur'an 4:34 is frequently invoked to argue that men possess a superior position of authority over women. The verse describes men as *qawwāmūn* in relation to women and connects this responsibility with, among other things, financial expenditure. Classical exegetical and juristic discussions have interpreted this passage in different ways, particularly regarding the relationship between authority, responsibility, and the structure of family life. The central methodological question is whether a rule derived from this familial context can be extended automatically to all forms of public leadership. Such an extension requires a reasoned legal argument establishing the connection between the verse's subject matter and the institutional responsibilities of political office. The meaning of *qiwāmah* cannot simply be assumed to establish a universal prohibition on women's leadership without addressing the verse's context, its legal implications, and its relationship to other scriptural evidence.¹⁴

This issue should not be framed as a choice between accepting the Qur'an and adopting contemporary notions of equality. The more precise question concerns how the verse should be interpreted and how far its legal implications extend. A contextual reading does not necessarily invalidate classical interpretations, just as the existence of a classical interpretation does not establish that every contemporary application is self-evident. The methodological responsibility of the researcher is to distinguish what a text explicitly states from the conclusions that require additional jurisprudential reasoning. In particular, the responsibilities associated with family maintenance should not be equated without further argument with the qualifications required for political, judicial, administrative, or educational leadership. Different institutions exercise different powers and are governed by different legal and accountability structures.

¹⁴ Qur'an 4:34. For a contemporary historical and hermeneutical analysis of the debate over women's leadership and the relevant hadith, see

Syamsul Bakri, "WOMENS LEADERSHIP IN ISLAM: A HISTORICAL PERSPECTIVE OF A HADITH," *Indonesian Journal of Islamic Literature and Muslim Society* 5, no. 2 (2020): 219–34, <https://doi.org/10.22515/islimus.v5i2.3276>.

Qur'an 9:71 provides a complementary basis for examining women's participation in social life. It describes believing men and women as *awliya'* of one another, sharing responsibilities in promoting what is right and preventing what is wrong. This verse does not expressly determine the eligibility requirements for every political office. Nevertheless, it recognizes women as participants in collective moral responsibility rather than as individuals whose social role is necessarily confined to the private sphere. Similarly, the account of the Queen of Sheba in Qur'an 27:23–44 presents a female ruler who consults her advisers, evaluates political risks, and makes consequential decisions. The narrative should not be treated as a direct legal ruling authorizing every form of female leadership. Its significance is that it provides Qur'anic material relevant to the discussion of female political agency, deliberation, and the exercise of judgment.¹⁵

The strongest textual argument for restricting women's political leadership is the hadith narrated by Abū Bakrah concerning the Persian people who appointed the daughter of Kisrā as their ruler. Recorded in *Ṣaḥīḥ al-Bukhārī*, the report is commonly cited in classical and contemporary discussions of the eligibility of women for supreme political authority.¹⁶ The hadith must be taken seriously as part of the Prophetic tradition and should not be dismissed merely because its implications are disputed. At the same time, the authenticity of a report and the precise legal scope of its application are separate questions. A hadith may be accepted as authentic while jurists continue to debate whether its wording establishes a universal rule, concerns a particular category of authority, or requires interpretation in conjunction with other legal evidence.

Syamsul Bakri's historical study of the hadith illustrates the continuing importance of contextual and hermeneutical analysis in this debate. His research examines how the report has been interpreted and argues that historical circumstances and the narrator's interpretive setting are relevant to understanding the tradition's reception.¹⁷ Such analysis opens a legitimate field of inquiry, although it does not by itself settle the question of the hadith's legal force. A historically informed interpretation

¹⁵ Qur'an 9:71 and 27:23–44. See also Syahrudin and Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law."

¹⁶ Muḥammad ibn Ismā'īl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī*, no. 4425.

¹⁷ Bakri, "WOMENS LEADERSHIP IN ISLAM."

must still demonstrate its conclusions through sound reasoning, just as a restrictive interpretation must establish why the report applies to the office under consideration and how its scope is determined.

A further difficulty arises when the classical category of supreme political authority is equated with every position of public leadership. Contemporary constitutional government distributes authority among different institutions and subjects officeholders to electoral procedures, legal limits, institutional oversight, and public accountability. A head of government, legislator, minister, judge, regional executive, and university administrator does not necessarily exercise the same type or degree of authority. These distinctions cannot independently invalidate a juristic restriction, but they require the researcher to identify the actual object of the legal judgment before applying a general proposition to it. Contemporary scholarship on women's leadership in Indonesia similarly demonstrates that the issue involves the interaction of Islamic legal interpretation, constitutional arrangements, and social practices rather than a single question of textual permissibility.¹⁸

The appropriate conclusion is therefore methodological rather than predetermined. Qur'anic verses and Prophetic traditions must remain central to Islamic legal reasoning, but their application requires attention to meaning, scope, and institutional context. A defensible position should specify whether it addresses supreme political authority or another form of leadership, explain the legal reasoning connecting the relevant texts to that office, and consider the implications of other pertinent principles of Islamic law. This approach neither assumes that every classical restriction must remain unchanged nor claims that contemporary conditions automatically eliminate the relevance of classical jurisprudence. It establishes a more rigorous basis for evaluating the competing positions.

Maqāṣid al-Sharī'ah and the Reassessment of Women's Leadership

The framework of *maqāṣid al-sharī'ah* enables the debate to move beyond the simple classification of opinions as permissive or restrictive. It directs attention to the purposes of Islamic law and the relationship

¹⁸ Syahrudin and Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law."

between particular legal rulings and the protection of human interests. In the classical tradition, al-Shāṭibī developed a systematic account of the objectives of the Shari‘ah, particularly the protection of essential interests commonly identified as religion, life, intellect, lineage, and property.¹⁹ These objectives do not independently provide an automatic ruling on women’s eligibility for political office. Their significance lies in supplying a normative framework for evaluating how legal interpretations relate to justice, responsibility, the prevention of harm, and the welfare of the community.

A maqāṣid-oriented approach must not be reduced to an unrestricted appeal to public benefit. If *maṣlaḥah* is invoked without reference to scriptural evidence, jurisprudential principles, or the actual circumstances of a case, it risks becoming a subjective justification for a preferred conclusion. Conversely, if the objectives of Islamic law are excluded from legal reasoning, the application of particular texts may become detached from the broader purposes they are intended to serve. The challenge is to maintain a disciplined relationship between textual evidence, juristic interpretation, and the evaluation of consequences. Auda’s systems approach is useful in this regard because it treats Islamic legal reasoning as an interconnected process and emphasizes the importance of examining legal questions holistically rather than isolating individual propositions from the wider legal system.²⁰

Applied to women’s leadership, this approach requires at least three levels of analysis. The first concerns the relevant scriptural evidence and the range of juristic interpretations that have developed from it. The second concerns the character of the office, including its powers, responsibilities, qualifications, and mechanisms of accountability. The third concerns the likely consequences of the relevant legal position for individuals and society. These levels should not be collapsed into one another. A favorable social outcome cannot automatically override a clear and applicable legal rule, while a legal interpretation should not be applied to an institution without establishing that its underlying reasoning is relevant to that institution. Maqāṣid reasoning therefore functions as a method of disciplined evaluation rather than a substitute for the sources of Islamic law.

¹⁹ As-Syatibi, *Al-Muwafaqat Fi Usul al-Shariah*, vol. 1.

²⁰ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*, pp. 192-245.

Recent scholarship in Indonesia has increasingly brought women's leadership into conversation with *maqāṣid*, human rights, and contemporary political institutions. Fajar and Andi Sugirman, for example, analyze women's leadership through Islamic legal sources, human rights, social reality, and the objectives of Islamic law.²¹ Their study illustrates how the legal debate can be examined through both textual and contextual reasoning. Research by Erwin Syahrudin and Adi Nur Rohman likewise situates women's public leadership within the relationship between Indonesia's constitutional system and Islamic law, emphasizing the importance of the political and legal context in which participation takes place.²² These studies provide a basis for further conceptual development, although the legal conclusions of each study must still be evaluated according to its evidence and methodology.

For the purposes of this article, the practical relevance of *maqāṣid* is developed through four criteria: competence, procedural justice, public welfare, and accountability. These criteria are not proposed as replacements for the classical objectives of the *Sharī'ah*. Rather, they translate central normative concerns into questions that can be examined when assessing a specific leadership position. Competence asks whether a person possesses the knowledge, integrity, judgment, and skills required for the office. Procedural justice asks whether the process of selection and exercise of authority complies with applicable legal standards and avoids unjust discrimination. Public welfare asks whether leadership decisions protect legitimate community interests and prevent harm. Accountability asks whether the exercise of authority is subject to effective legal, institutional, and public oversight.

Competence is particularly important because leadership is a responsibility involving decisions that affect other people. The relevant qualifications should be identified according to the duties of the position rather than presumed from the candidate's sex. Political leadership may require policy judgment, administrative ability, ethical integrity, and the capacity to respond to competing public interests. Judicial leadership requires legal expertise and impartial assessment, while institutional administration may demand professional knowledge and organizational skills. A *maqāṣid*-oriented analysis should therefore assess the actual

²¹ Fajar and Sugirman, "KEPEMIMPINAN PEREMPUAN DALAM ISLAM PERSPEKTIF HAK ASASI MANUSIA DAN MAQASHID SYARIAH."

²² Syahrudin and Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law."

requirements of an office and the candidate's ability to fulfil them. It should not assume that every woman is qualified merely because gender should not automatically disqualify her; nor should it presume that men possess leadership competence by virtue of their sex.

Procedural justice concerns the fairness and legality of the process through which authority is obtained and exercised. In a constitutional system, this includes compliance with eligibility requirements, fair access to candidacy, transparent selection, and protection against unlawful discrimination. This criterion does not erase religious disagreement over the interpretation of particular texts. Rather, it distinguishes the question of whether a candidate meets the lawful requirements for a position from the separate question of how Islamic jurists interpret the religious sources concerning that position. The distinction is important in Indonesia, where constitutional law regulates political participation while Islamic legal debate continues regarding the implications of women's leadership.

Public welfare addresses the substantive consequences of leadership. The legitimacy of public administration cannot be assessed solely by formal eligibility if the exercise of authority produces injustice, neglects essential needs, or causes preventable harm. From a maqāṣid perspective, relevant questions include whether leadership protects life and property, supports access to essential services, respects human dignity, and contributes to the fair administration of public resources. These considerations should be evaluated through evidence and criteria appropriate to the institution. Public welfare must not be used as an abstract slogan to justify a predetermined position; it should be demonstrated through reasoned analysis of the responsibilities and consequences of the office.²³

Accountability connects authority with responsibility. Public leadership is not an unlimited personal entitlement but an exercise of power constrained by law, ethical obligations, and institutional oversight. Elections, legislative supervision, judicial review, audits, administrative review, and other accountability mechanisms can help prevent the arbitrary exercise of authority. From a maqāṣid perspective, such mechanisms are relevant because they protect the public interest and reduce the risk of harm. Their existence also reinforces the need to distinguish contemporary institutional leadership from historical forms of

²³ Ibn 'Ashur, *Treatise on Maqasid Al-Shariah*, Trans. Mohamed El-Tahir El-Mesawi (IIIT, 2006), h. 215-228.

authority that operated under different structures. The legal assessment of women's leadership should therefore consider not only who may hold an office but also how that office is constituted, limited, supervised, and evaluated.

The four criteria provide a structured framework for evaluating leadership without treating gender as the sole determinant of eligibility or assuming that competence alone resolves every religious question. Their application requires identifying the relevant texts, examining the juristic arguments, defining the nature of the office, and evaluating its qualification requirements and accountability structures. The framework thus preserves the central role of Islamic legal sources while making explicit the practical considerations that arise when legal doctrines are applied to contemporary institutions. Its contribution is not to claim that classical disagreement has disappeared, but to establish a transparent method through which competing interpretations can be assessed in relation to a defined legal and institutional problem.

Religious Moderation, Constitutional Equality, and Women's Political Participation in Indonesia

The Indonesian context illustrates the need to distinguish religious interpretation, constitutional rights, and social practices while examining their interaction. Indonesia's constitutional framework recognizes equality before the law and equal opportunities in government, while national legislation provides a legal basis for the protection of human rights and regulates political participation. The constitutional and statutory framework does not eliminate Islamic legal disagreement, but it establishes the legal environment within which public office and political candidacy are regulated. Consequently, the question of women's leadership in Indonesia cannot be analyzed exclusively as an abstract dispute in classical jurisprudence; it must also be considered in relation to the positive law governing contemporary public institutions.²⁴

Law No. 39 of 1999 concerning Human Rights and Law No. 7 of 2017 concerning General Elections are relevant to this discussion. Article 245 of the General Elections Law provides for the inclusion of at least 30

²⁴ Republic of Indonesia, *The 1945 Constitution of the Republic of Indonesia*, arts. 27(1) and 28D(3); Republic of Indonesia, Law No. 39 of 1999 concerning Human Rights.

percent women in the candidate lists of political parties for elections to the national and regional legislatures.²⁷ Such provisions demonstrate a legal commitment to expanding women's political representation. However, formal rules concerning representation do not guarantee equal political influence or eliminate social and institutional barriers. Women may still face discriminatory expectations, unequal access to political networks, and public judgments shaped by gender stereotypes. The analysis must therefore distinguish between legal eligibility, actual representation, and the conditions necessary for meaningful participation.

Religious moderation provides a complementary framework for addressing the social and interpretive dimensions of the debate. The Indonesian Ministry of Religious Affairs presents *moderasi beragama* as an approach that emphasizes balanced religious understanding, tolerance, rejection of violence, and commitment to national life.²⁵ Scholarly research on religious moderation in Indonesia likewise identifies tolerance, national commitment, and opposition to violence as important dimensions of moderate religious practice.²⁶ In the context of women's leadership, moderation should not be interpreted as requiring all jurists to reach the same legal conclusion. Nor should it be used as a rhetorical instrument to dismiss traditional scholarship or automatically validate every contemporary argument. Its value lies in encouraging reasoned disagreement, discouraging stigmatization, and ensuring that religious arguments are advanced responsibly in a plural and constitutional society.²⁷

This understanding of moderation requires intellectual fairness in both directions. Those who restrict women's eligibility for particular offices should explain the scriptural and jurisprudential grounds for their position and identify the scope of the offices to which their reasoning applies. They should not treat assumptions about women's intellectual capacity or moral character as if those assumptions were themselves established legal evidence. Conversely, those who support women's leadership should address the relevant texts and classical arguments

²⁵ Ministry of Religious Affairs of the Republic of Indonesia, *Moderasi Beragama*.

²⁶ Syaifudin Zuhri, "RELIGIOUS MODERATION IN AN EASTERN JAVANESE TOWN: A Survey Report," *Epistémé: Jurnal Pengembangan Ilmu Keislaman* 17, no. 2 (2022): 143–66, <https://doi.org/10.21274/epis.2022.17.2.143-166>.

²⁷ Wiwiek Astuti et al., "AKTUALISASI AYAT MODERASI BERAGAMA SEBAGAI JALAN PERSATUAN INDONESIA," *Mafatih* 5, no. 1 (2025), <https://doi.org/10.24260/mafatih.v5i1.6502>.

directly rather than dismissing them solely as products of historical patriarchy. Research on the Indonesian Congress of Women Islamic Scholars (Kongres Ulama Perempuan Indonesia, KUPI) demonstrates how women scholars can participate in the production and reinterpretation of Islamic legal authority through arguments concerning justice and gender equality.²⁸ A serious scholarly discussion must therefore distinguish criticism of a particular interpretation from rejection of the religious tradition as a whole. This approach permits disagreement while maintaining the standards of evidence and argument necessary for academic inquiry.

Religious moderation also has a practical dimension. When disagreement over women's leadership becomes a basis for excluding women from public participation, the debate extends beyond jurisprudential interpretation to questions of social justice and institutional practice. Studies of women's religious scholarship and leadership in Indonesia show that women's participation can contribute to the development of more inclusive religious discourse and the reconsideration of gender-related legal assumptions.²⁹ Moderation can help create conditions in which religious disagreement does not become a justification for intimidation, humiliation, or unlawful discrimination. At the same time, moderation must not be reduced to a general call for harmony that leaves substantive questions unexamined. It should encourage participants to identify the grounds of their legal positions, acknowledge the limits of their arguments, and distinguish matters of religious interpretation from the legal obligations imposed by the constitutional order.³⁰

The relationship between *maqāṣid* and constitutional equality is therefore complementary but not identical. Constitutional law establishes enforceable rules governing public institutions and citizens' rights, whereas *maqāṣid* provides a framework within Islamic legal reasoning for

²⁸ Zainul Mun'im et al., "Revisioning Official Islam in Indonesia: The Role of Women Ulama Congress in Reproducing Female Authority in Islamic Law," *AHKAM: Jurnal Ilmu Syariah* 24, no. 1 (2024): 135–52, <https://doi.org/10.15408/ajis.v24i1.34744>.

²⁹ Ibi Satibi et al., "Women's Ulama Movement in Building Moderation of Islam Indonesia," *Musāwa Jurnal Studi Gender Dan Islam* 22, no. 1 (2023): 25–39, <https://doi.org/10.14421/musawa.2023.2201.25-39>.

³⁰ Syahrudin and Rohman, "Women's Leadership in the Indonesian Constitutional System and Islamic Law."

evaluating the purposes and consequences of legal positions.³¹ Religious moderation offers an ethical orientation for managing disagreement in public life.³² These frameworks can inform one another, but they should not be conflated. A constitutional provision should be cited and interpreted as positive law; a maqāṣid argument should be established through Islamic legal reasoning; and a claim about religious moderation should be assessed according to its stated principles and practical implications.

The Indonesian case consequently demonstrates why a contemporary legal assessment should proceed on more than one analytical level. It must identify the positive-law requirements governing an office, examine the relevant Islamic legal arguments, and consider whether the social practices surrounding access to leadership are consistent with fairness and responsible disagreement.³³ This approach avoids the mistaken assumption that the existence of constitutional equality automatically resolves every religious question. It also avoids the opposite assumption that a disputed juristic position necessarily determines the requirements of the modern constitutional system.³⁴ The result is a more precise framework for analyzing women's participation in public leadership while recognizing the distinct authority and function of religious jurisprudence positive law, and ethical discourse.³⁵

Maqāṣid-Based Model for Evaluating Women's Leadership in Contemporary Islamic Law

The preceding analysis suggests that debates over women's leadership require a framework that connects scriptural interpretation and juristic reasoning to the actual responsibilities of public office.

³¹ Masykuri Abdillah, "Equality from The Perspective of Islamic Constitutional Law Al-Musāwah & Legal Equality in Islamic Constitutional Frameworks," *AHKAM : Jurnal Ilmu Syariah* 25, no. 2 (2025): 267–84, <https://doi.org/10.15408/ajis.v25i2.46563>.

³² Bartolomeus Samho et al., "Religious Moderation and the Limits of Tolerance in a Plural Society in Indonesia," *FOCUS* 7, no. 1 (2026): 39–54, <https://doi.org/10.26593/5457mq16>.

³³ Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, arts. 27(1) and 28D(1)–(3); Republik Indonesia, Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia, arts. 3 and 43. These legal provisions provide a positive-law basis for examining equality before the law, nondiscrimination, and citizens' opportunities to participate in government.

³⁴ Abdillah, "Equality from The Perspective of Islamic Constitutional Law Al-Musāwah & Legal Equality in Islamic Constitutional Frameworks."

³⁵ Mun'im et al., "Revisioning Official Islam in Indonesia."

Drawing on the purposive approach to Islamic legal reasoning developed in the works of al-Shāṭibī and Jasser Auda, this article proposes an original four-criterion model comprising competence, procedural justice, public welfare, and accountability.³⁶ The model is intended as a normative and analytical tool rather than as a claim that all classical juristic disagreements can be resolved through a single formula. Its purpose is to make legal reasoning more transparent by identifying the questions that must be addressed when evaluating a particular office and the arguments used to determine eligibility.

The first criterion, competence, requires an assessment of whether a candidate possesses the knowledge, skills, integrity, and judgment relevant to the position. This assessment should be based on the actual duties and responsibilities of the office rather than on general assumptions about gender. The Qur'anic emphasis on strength and trustworthiness in the assignment of responsibility provides a relevant ethical foundation for this consideration. The second criterion, procedural justice, examines whether access to leadership is governed by fair and lawful procedures, including the consistent application of eligibility requirements and respect for equal treatment under the law. These two criteria concern the relationship between the individual candidate and the institutional requirements of the office. They do not replace the interpretation of scriptural sources or classical juristic arguments; rather, they clarify the factual and legal circumstances to which a particular interpretation is applied.

The third criterion, public welfare, evaluates whether leadership decisions are directed toward legitimate public interests and the prevention of harm. The concept of *maṣlaḥah* and the broader objectives of the Shari'ah provide a basis for examining the consequences of legal and institutional decisions.³⁷ In the context of public leadership, this assessment includes the protection of rights, the delivery of public services, the responsible management of resources, and the treatment of vulnerable groups. The fourth criterion, accountability, examines whether the exercise of authority is subject to legal obligations, institutional oversight, and mechanisms for addressing misconduct.³⁸ Public welfare and accountability thus connect the qualifications of an individual leader

³⁶ As-Syatibi, *Al-Muwafaqat Fi Usul al-Shariah*, vol. 1.; Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

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

³⁸ Al-Mawardi, *Al-Ahkam al-Sultaniyyah* (Dar al-Kutub al-'Ilmiyyah, 1989).

to the consequences of governance and the institutional constraints placed on the exercise of power. The four criteria should be considered together: competence without accountability may facilitate abuse, procedural fairness without adequate competence may fail to protect public interests, and claims of public welfare unsupported by evidence may become instruments of political justification. This integrated relationship is a synthesis proposed by this article, rather than a formula attributed verbatim to any single classical or contemporary scholar.

The model can be applied through a sequence of legal questions. First, the researcher identifies the office and defines its powers, duties, appointment procedures, and accountability mechanisms. Second, the relevant scriptural texts and juristic positions are identified, with attention to the scope of the legal arguments and the distinctions among different forms of leadership. Third, the qualification requirements of the office are assessed in relation to competence and procedural justice. Fourth, the likely consequences for public welfare and the effectiveness of accountability mechanisms are examined. Finally, the analysis explains how its conclusion relates to the relevant Islamic legal arguments and the applicable constitutional and statutory framework.³⁹ In Indonesia, for example, constitutional guarantees of equality before the law and equal opportunities in government provide relevant positive-law considerations, while the applicable statutory rules must be examined in relation to the particular office under review.⁴⁰ This sequence does not predetermine the result; it establishes a method for making the reasoning explicit, transparent, and open to scholarly evaluation.

The model also has limits. The four criteria cannot independently override an applicable legal text, and they should not be used to conceal unresolved disagreements about the interpretation of a hadith or a classical juristic position. Their application depends on a defensible account of the sources, the legal nature of the office, and the facts relevant to the case. Where jurists disagree about the scope or implications of a text, that disagreement must be acknowledged and analyzed rather than erased by an appeal to competence or public welfare. Likewise, where a positive-law rule governs eligibility, the analysis must distinguish the enforceable legal requirement from a

³⁹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*.

⁴⁰ Constitution of the Republic of Indonesia of 1945, arts. 27(1) and 28D(1)–(3); Republic of Indonesia, Law No. 39 of 1999 concerning Human Rights.

normative argument advanced within Islamic jurisprudence.⁴¹ The model therefore functions as an evaluative framework for organizing legal reasoning, not as a substitute for textual interpretation, juristic analysis, or the application of positive law.

The model's contribution is methodological. It provides a structured connection between scriptural and juristic analysis, the objectives of the Shari'ah, and the institutional realities of contemporary governance. By making competence, procedural justice, public welfare, and accountability explicit, it enables researchers to explain why a particular legal conclusion is relevant to a defined office and how that conclusion relates to the broader objectives of Islamic law. Religious moderation complements this approach by encouraging fair engagement with differing interpretations and discouraging the use of disagreement as a basis for stigmatization or coercion. Research on women's religious authority in Indonesia, particularly the role of the Indonesian Congress of Women Islamic Scholars (*Kongres Ulama Perempuan Indonesia*, KUPI), illustrates how women scholars participate in the production and reconsideration of Islamic legal arguments concerning gender and justice.⁴² In the Indonesian context, integrating these perspectives offers a framework for discussing women's leadership that takes the Islamic legal tradition seriously while recognizing the distinct requirements of constitutional government.

The central argument is not that gender is irrelevant to every historical juristic discussion, nor that all classical restrictions have been conclusively disproved. Rather, contemporary legal assessments should establish the scope of the relevant texts, identify the actual nature of the office, and explain the relationship between the legal reasoning and the institutional circumstances under consideration. A *maqāṣid*-based model, complemented by religious moderation, provides a disciplined means of undertaking that assessment without assuming that one general proposition automatically determines the eligibility requirements for every form of leadership. The proposed four-criterion framework therefore constitutes a conceptual contribution to contemporary Islamic legal scholarship while preserving room for rigorous disagreement over the interpretation and application of the sources.

⁴¹ As-Syatibi, *Al-Muwafaqat Fi Usul al-Shariah*, vol. 1.

⁴² Mun'im et al., "Revisioning Official Islam in Indonesia."

Conclusion

This study has examined women's leadership in contemporary Islamic law through the relationship between scriptural interpretation, *maqāṣid al-sharī'ah*, religious moderation, and Indonesia's constitutional framework. The analysis demonstrates that the legal debate cannot be adequately resolved by treating women's leadership as a single, undifferentiated category. Qur'anic verses concerning family responsibilities, collective moral obligations, and political agency address different contexts, while the hadith narrated by Abū Bakrah requires careful consideration of its interpretation and legal scope. The distinction between the authenticity of a textual source and the juristic determination of its application is therefore essential. A responsible assessment must acknowledge classical legal arguments while examining whether their reasoning applies to the particular form of leadership under consideration.

The study further argues that *maqāṣid al-sharī'ah* provides a framework for evaluating the relationship between legal interpretation and the purposes of Islamic law. Its contribution is not to replace scriptural evidence with an unrestricted appeal to public welfare, but to ensure that legal reasoning considers the relevant texts, the character of the institution, and the consequences of exercising authority. On this basis, the article proposes a four-criterion model comprising competence, procedural justice, public welfare, and accountability. Competence concerns the qualifications required to perform the duties of a particular office; procedural justice concerns fair and lawful access to leadership; public welfare concerns the protection of legitimate community interests and the prevention of harm; and accountability concerns the legal and institutional mechanisms through which authority is supervised. These criteria provide an analytical structure for evaluating leadership without assuming that gender alone determines an individual's capacity to fulfil public responsibilities.

Religious moderation complements this framework by encouraging fair engagement with competing interpretations and preventing jurisprudential disagreement from becoming a justification for stigmatization or coercion. In Indonesia, the constitutional framework and legislation governing political participation provide a distinct legal context within which these questions must be assessed. Positive law, Islamic jurisprudence, and religious moderation should not be conflated,

because each operates through different sources and functions. Nevertheless, they can contribute to a more rigorous discussion of women's participation in public leadership when their respective roles are clearly identified. The article's central contribution is therefore a normative-conceptual framework that connects Islamic legal interpretation with institutional analysis and the objectives of justice and public welfare. The framework does not claim to eliminate classical juristic disagreement; rather, it offers a transparent method for assessing the relevance of competing arguments to contemporary public offices. Further empirical research may examine how these criteria operate in specific institutions and how legal rules, religious discourse, and social practices influence women's actual opportunities to exercise leadership.

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