

Legal Effectiveness and Gaps in ODGJ Protection: Rights and Maqāsid Analysis

*Dinda Zilfattisa Kusnan^a, Zamroni Abdussamad^a, Fitran Amrain^a, Akmal Hidayah Halim^b

^a Universitas Negeri Gorontalo, Indonesia

^b Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia, Malaysia

* Corresponding author: zilfatisaadinda@gmail.com

Received: 01/04/2026 Revised: 05/05/2026 Accepted: 06/05/2026 Available Online: 06/05/2026 Published: 06/05/2026

Abstract

This study aims to analyze the disharmony between normative regulation and the implementation of the protection of Persons with Mental Disorders (ODGJ) in Indonesia, especially at the regional level, by integrating the perspectives of national law, human rights, and Islamic law. The method used is normative legal research (doctrinal legal research) enriched with a socio-legal approach. The research approach includes the statute approach, conceptual approach, and case approach, with theoretical frameworks in the form of legal functionalization theory, legal protection theory, and maqāsid al-syarī'ah which emphasizes the protection of the soul (ḥifz al-nafs) and the principle of non-discrimination. The results of the study show that the failure of ODGJ protection does not stem from weaknesses in legal norms, but from structural failures in implementation. The disharmony of regulations is reflected in weak coordination between agencies, limited resources for mental health workers, and the lack of operational and applicable regional regulations. In addition, the legal culture of the community that is still full of stigma and discrimination exacerbates the ineffectiveness of legal protection for ODGJ. This study concludes that the effectiveness of ODGJ protection requires an integrative model that incorporates a human rights approach and the values of maqāsid al-syarī'ah in an implemented manner. The main findings confirm that the main problem lies in structural and cultural aspects, not normative; Therefore, it is recommended to strengthen implementing regional regulations, increase institutional capacity and mental health services, and social interventions based on public education to remove stigma, in order to realize an inclusive, effective, and equitable ODGJ protection system.

Keywords: Legal Protection, ODGJ, Legal Functionalization, Human Rights, Maqāsid Al-Syarī'Ah (Obligatory Principles Of Islamic Law), Non-Discrimination.

Abstrak

Penelitian ini bertujuan menganalisis disharmoni antara pengaturan normatif dan implementasi perlindungan Orang Dengan Gangguan Jiwa (ODGJ) di Indonesia, khususnya pada level daerah, dengan mengintegrasikan perspektif hukum nasional, hak asasi manusia, dan hukum Islam. Metode yang digunakan adalah penelitian hukum normatif (doctrinal legal research) yang diperkaya dengan pendekatan socio-legal. Pendekatan penelitian meliputi statute approach, conceptual approach, dan case approach, dengan kerangka teoritik berupa teori fungsionalisasi hukum, teori perlindungan hukum, serta maqāsid al-syarī'ah yang menekankan perlindungan jiwa (ḥifz al-nafs) dan prinsip non-diskriminasi. Hasil penelitian menunjukkan bahwa kegagalan perlindungan ODGJ tidak bersumber pada kelemahan norma hukum, melainkan pada kegagalan struktural dalam implementasi. Disharmoni regulasi tercermin dalam lemahnya koordinasi antarinstansi, keterbatasan sumber daya tenaga kesehatan jiwa, serta belum tersedianya regulasi daerah yang operasional dan aplikatif. Selain itu, budaya hukum masyarakat yang masih sarat



Copyrights © Author(s). This work is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions.

stigma dan diskriminasi memperparah ketidakefektifan perlindungan hukum bagi ODGJ. Penelitian ini menyimpulkan bahwa efektivitas perlindungan ODGJ mensyaratkan model integratif yang menggabungkan pendekatan hak asasi manusia dan nilai maqāsid al-syarī'ah secara implementatif. Temuan utama menegaskan bahwa problem utama terletak pada aspek struktural dan kultural, bukan normatif; oleh karena itu, direkomendasikan penguatan regulasi daerah yang implementatif, peningkatan kapasitas kelembagaan dan layanan kesehatan jiwa, serta intervensi sosial berbasis edukasi publik untuk menghapus stigma, guna mewujudkan sistem perlindungan ODGJ yang inklusif, efektif, dan berkeadilan.

Kata Kunci: Perlindungan Hukum, ODGJ, Fungsionalisasi Hukum, Hak Asasi Manusia, *Maqāsid al-Syarī'ah*, Non-Diskriminasi.

INTRODUCTION

The protection arrangements for people with mental disorders in Indonesia are built on a layered legal framework. The 1945 Constitution of the Republic of Indonesia serves as the main constitutional foundation, which was later strengthened through Law Number 18 of 2014 concerning Mental Health. The provision affirms that individuals with mental disorders have the right to adequate health services, protection from all forms of violence, and guarantees of the fulfillment of basic rights. Furthermore, normative reinforcement is also provided through Law Number 17 of 2023 concerning Health and Law Number 39 of 1999 concerning Human Rights which affirms the protection of these rights in community life. At the regional level, this commitment is also reflected in Gorontalo City Regional Regulation Number 3 of 2023 concerning the Protection and Respect of the Rights of Persons with Disabilities.

Based on the provisions of Article 1 of Law Number 18 of 2014 concerning Mental Health, mental health is defined as a condition that allows individuals to develop optimally in physical, mental, emotional, and social aspects. In these conditions, individuals have the capacity to recognize their potential, manage life pressures adaptively, carry out activities productively, and make constructive contributions to society.¹

The term People with Mental Disorders (ODGJ) refers to individuals who experience impairments in cognitive, behavioral, and emotional aspects. This condition is generally characterized by behavioral changes or the appearance of certain significant symptoms, so that it can cause discomfort and obstacles in carrying out daily activities. Mental health disorders are universal and can be experienced by any individual regardless of age, whether in children, adolescents, or adults, although in certain conditions the prevalence can be more dominant in certain age groups.

Regulations regarding protection efforts for individuals with mental health disorders are based on various provisions of laws and regulations that are the basis for the implementation of mental health services. In this case, the government bears the responsibility to formulate policies, coordinate implementation, and ensure the sustainability of mental health efforts as mandated in Article 33 of Law Number 18 of 2014 concerning Mental Health. This provision affirms the state's obligation to build an integrated, sustainable, and integrated mental health service system, in order to ensure the fulfillment of the right to health for individuals with mental health disorders.²

¹ Law Number 18 of 2014 concerning Mental Health Article 1.

² Law Number 18 of 2014 concerning Mental Health Article 33.

The government is obliged to form and develop a structured and comprehensive mental health system as a foundation for the implementation of mental health efforts. The mental health service system as referred to includes basic mental health services and referral services in the field of mental health which are organized in stages and integrated.

Law Number 39 of 1999 concerning Human Rights stipulates guarantees for the protection of the basic rights of every individual, including the elderly and persons with disabilities in obtaining access to health services. The provisions of Article 42 affirm that every elderly person and individuals with physical and/or mental disabilities have the right to receive health services. In this context, People with Mental Disorders (ODGJ) are included in the group whose rights to health services that are worthy of being guaranteed by the state. Therefore, health service providers have a responsibility to provide holistic services, including mental health support, to support the recovery process and enable individuals to return to function and participate optimally in community life.

Based on data obtained from the Gorontalo City Health Office, the number of People with Mental Disorders (ODGJ) who receive mental health services shows fluctuating dynamics from year to year during the 2020–2024 period. The data indicates a variation in the number of severe ODGJ who receive services, with the highest achievement recorded in 2024 as many as 223 individuals. This shows that mental health services have been implemented, although the level of achievement is still inconsistent. The data obtained by the researcher has not fully represented the condition of ODGJ in the community comprehensively. In practice, there are still ODGJ who have not been optimally identified and have not received adequate mental health services. This condition reflects that the implementation of data collection and the implementation of mental health services still faces various obstacles in the field.

This condition is influenced by various factors, including the limited number of professionals in the field of mental health, lack of support from families, low levels of public concern, and lack of optimal coordination between authorized agencies in handling ODGJ. The issue of ODGJ in Gorontalo City is not only related to health aspects, but also includes social and institutional dimensions. A more in-depth study is needed on the role and effectiveness of the implementation of the functions of related agencies in efforts to handle and protect the law against ODGJ.

From the perspective of Islamic law, the state's responsibility to ODGJ is in line with the principle of protection of basic human rights (*hifz al-nafs*) as well as the government's obligation to realize the public benefit (*maslahah 'ammah*). *Hifz al-Nafs* emphasizes the protection of the soul which includes the importance of maintaining balance in life, avoiding destructive behaviors, and maintaining a healthy relationship with God and fellow humans.³

The fulfillment of the right to health, social protection, and empowerment of ODGJ is an integral part of moral and sharia obligations in maintaining human dignity and dignity. The role of local governments is not only limited to the implementation of positive legal provisions, but also reflects the mandate of sharia to ensure that every individual has access to fair and sustainable services.⁴

³ Aceng Zakaria et al., "Tafsir Maqashid: Islamic Solutions to Generation Z's Mental Health Challenges," *ZAD Al-Mufassirin* 7, no. 1 (2025): 36., <https://doi.org/10.55759/zam.v7i1.252>.

⁴ Widya Nengsih and Indra Afrita, "Implementation of the Responsibility of the Meranti Islands Regional Government for ODGJ in Independent Efforts Based on Government Regulation 28/2024 and Law 17/2023 on Health and Islamic Law Perspectives," *Journal for Islamic Studies* 8, no. 3 (2025): 1243.

The values brought by Islam are not only applicable at the personal level, but are also implemented in a social structure that demands the realization of distributive justice, social empathy, and respect for diversity. The aspect of humanity (*al-insaniyah*) is the main pillar in the interpretation of Islam as *rahmatan lil 'alamin*. Islam recognizes that human beings are creatures who have honor (*karamah*) and inherent rights from birth. All Islamic teachings are always directed to maintain, protect, and glorify human dignity as a whole.⁵

According to Soerjono Soekanto, the functionalization of law is influenced by the balance between the legal structure, legal content, and legal culture in society.⁶ Legal functionalization basically demands a balance between the structure, content, and culture of the law so that rules do not stop as texts, but actually run and have an impact on society. The law must function as a means of realizing justice and social welfare. Protection for ODGJ means ensuring that regulations, regional policies, and the role of related institutions are carried out effectively, humanely, and fairly, so that protection is not only normative, but is real.

Legal protection is provided especially when government actions have the potential to cause harm to the community, so they must be implemented appropriately in accordance with applicable rules, including the principles of good governance. Conceptually, legal protection is rooted in the idea that the law must be based on universal justice values, not just the will of the ruler. Therefore, the law is understood as a rational means to ensure human welfare and protect the rights of citizens in a fair manner.⁷

Studies on legal protection for ODGJ have been carried out in various perspectives. One of the studies examined the handling of ODGJ from legal, psychological, and medical perspectives. The results of the study show that ODGJ has the same position as legal subjects and has the right to receive protection, mental health services, and humane treatment. In addition, handling ODGJ requires an integrated approach involving legal aspects, psychological support, and medical interventions to support the recovery and social reintegration process.⁸

In contrast to previous research, this study places the effectiveness of the law as the main focus by examining the extent to which the norms of protection for ODGJ are implemented in practice, especially in Gorontalo City. The research also integrates a rights-based approach with the perspective of *Maqāsid al-Sharī'ah*, especially in the context of the protection of the soul (*hifz al-nafs*) and the principle of non-discrimination. Thus, this study not only fills the gap in the aspect of implementive analysis, but also offers a more comprehensive approach in understanding legal protection for ODGJ.

In its implementation, legal protection for legal subjects and entities can be classified into two main forms, namely preventive and repressive. Preventive protection is directed to prevent violations of the law before the incident occurs, while repressive protection aims to enforce the law by providing sanctions for violations that have

⁵ Achmad Napis Qurtubi, "An Analysis of Karamah Insaniyah in Qs. al-Isra' and its Relevance to Contemporary Life," *Proverbs of the Qur'an: Journal of the Qur'an and Hadith* 2, no. 2 (2025): 322., <https://ejournal.yayasanbhj.org/index.php/amsal/article/view/374/219>.

⁶ Soekanto Soerjono, *Factors Affecting Law Enforcement* (PT. Raja Grafindo Persada, 2019), pp. 5-10.

⁷ Darji Darmodiharjo, Shidarta, *What Are The Principles Of Legal Philosophy And How Is Indonesian Legal Philosophy*. (Gramedia Pustaka Utama, 2004), p. 105.

⁸ Hudy Yusuf Prasya Putri Ramadhani, *Implications of Handling People with Mental Disorders (ODGJ) in a Legal, Psychological & Medical Perspective*, Indonesian Legal Media (MHI), August 7, 2025, <https://doi.org/10.5281/ZENODO.16760870>.

occurred. These two forms of protection reflect the role of law in maintaining social order while ensuring legal certainty and justice in social life.⁹

There is a significant gap between the power of normative regulation and the reality of implementation in the protection of Persons with Mental Disorders (ODGJ), which suggests that the law has not fully functioned effectively as an instrument of substantive protection. On the other hand, academic studies that integrate human rights-based legal protection approaches with Islamic law perspectives are still relatively limited. In addition, there have not been many studies that comprehensively examine the empirical condition of ODGJ protection in Gorontalo City. This gap is the basis for the urgency of conducting this research.

This phenomenon indicates that existing regulations have not been implemented optimally in accordance with the purpose of their formation. Therefore, efforts to functionalize the law are needed to ensure that the norms and regulations that have been set can run effectively in social life. In this case, legal functionalization is understood as a strategic step to optimize the implementation of norms, improve the performance of legal institutions, and strengthen coordination between agencies appropriately and efficiently, so that it is in line with the legal goals, which are to realize justice, legal certainty, and benefits for the community.

Based on this description, this study aims to analyze the disharmony between national regulations and the implementation of regional policies in the protection of ODGJ in Gorontalo City, examine the factors that cause the non-optimal functionalization of the law based on aspects of legal structure, substance, and culture, analyze the protection of ODGJ from the perspective of Islamic law through the Maqasid al-Sharia approach with an emphasis on the protection of life and the principle of non-discrimination, and formulate an ideal model of legal protection that integrates national law, Islamic law, and human rights to realize fair, comprehensive, and sustainable protection.

RESEARCH METHODS

This research is a normative legal research with a *doctrinal legal research* type that focuses on the study of legal norms, principles, and doctrines related to the protection of People with Mental Disorders. This research aims to find relevant rules, principles, and legal constructions as a basis for answering the legal issues studied. Within this framework, normative legal research is carried out through literature studies by examining various legal materials as the main source of analysis.¹⁰

The approaches used include a *statute approach* to analyze the suitability between national laws and regulations and their implementation at the regional level, a *conceptual approach* to examine the concept of legal protection and legal functionalization, and a *case approach* to examine the practice of ODGJ protection in Gorontalo City as a concrete form of applying legal norms. In addition, this research is also enriched with a *socio-legal approach* to understand the relationship between legal norms and social reality, especially related to stigma, discrimination, and access to health services for ODGJ.¹¹

⁹ *Ibid.*, p. 54.

¹⁰ Zefanya Theodore Joseph Tuerah, *Legal Protection of Persons with Mental Disorders (ODGJ) in Tomohon City in terms of Health Services by the Government*, 13, no. 4 (2025), <https://ejournal.unsrat.ac.id>.

¹¹ Denny Indriawan et al., "Legal Protection for People with Mental Disorders to Get Health Services in Indonesia," *Journal of Law, Humanities and Politics* 5, no. 4 (2025): 3159–73, <https://doi.org/10.38035/jihhp.v5i4.4322>.

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include relevant laws and regulations, while secondary legal materials include books, scientific journals, research results, and other documents that support the analysis. The data collection technique is carried out through library *research*, while the data analysis uses a qualitative method with a descriptive-analytical approach, namely by studying, interpreting, and connecting various legal materials to produce systematic and comprehensive arguments in answering research problems.¹²

RESULTS AND DISCUSSION

Disharmony of National Regulations and Regional Implementation in the Protection of ODGJ in Gorontalo City

The 1945 Constitution of the Republic of Indonesia as the highest legal norm functions as the main source of law that serves as a reference for all laws and regulations, including those related to the protection of Persons with Mental Disorders (ODGJ). Although the regulation on mental disability is not explicitly formulated, the substance of such protection is implicitly reflected in the provisions on human rights, state responsibility, and the principles of the rule of law and the welfare state.¹³

As a manifestation of the guarantee of human rights in the constitution, Article 28H paragraph (1) emphasizes that everyone has the right to receive health services. This provision is the constitutional basis for the fulfillment of the right to health for ODGJ, including access to decent, sustainable, and dignified mental health services without discrimination. In addition, Article 28I paragraph (2) emphasizes that everyone has the right to be free from all forms of discriminatory treatment, thereby strengthening the guarantee of equality for vulnerable groups.

People with mental disorders are a vulnerable group that requires special attention, both in medical, social, and spiritual aspects. In their vulnerable positions, they have the right to equal treatment before the law and in relations with the government, including access to health services, legal protection, and social security.¹⁴

Every individual has the right to protection and enforcement of human rights without discrimination, so that they can live in security and peace. In this case, the government is obliged to ensure the fulfillment of these rights as well as enforce the law against any violations that occur. In addition, the government must also ensure equal protection for all citizens in various aspects of life without discriminatory treatment.

More specific regulations regarding mental health in Indonesia are regulated in Law Number 18 of 2014 concerning Mental Health, which is the legal basis for the implementation of treatment and protection for individuals with mental disorders. The implementation of this law reflects the state's responsibility to ensure the availability of quality, safe, and affordable mental health services, while upholding human rights principles. Furthermore, the strengthening of the government's role in fulfilling the rights of ODGJ is affirmed in Article 81, which regulates the obligation of the state and local governments to provide rehabilitation services for individuals with mental disorders who

¹² Peter Mahmud Marzuki, *Legal Research Revised Edition* (PT. Kencana Prenada Media Group, 2013), p. 93.

¹³ Jerimas Pelokilla, "The 1945 Constitution as a Constitutional Foundation for the Protection of the Rights of Indonesian Citizens," *JOCER: Journal of Civic Education Research* 1, no. 1 (2023): p. 25., <https://doi.org/10.60153/jocer.v1i1.11>.

¹⁴ Siti Elut Kuraesin and Yahdinil Firda Nadhirah, "The Role of Social Services in Handling People with Mental Disorders (Odgj) Who Have Mental Disorders in Rangkasbitung, 23, No. 04 (N.D.): p. 38.

are abandoned or homeless, especially those who have the potential to endanger themselves, others, and public order.

In line with these provisions, Law Number 17 of 2023 concerning Health further emphasizes the position of mental health as an integral element in the national health service system. This regulation complements and strengthens the provisions in Law Number 18 of 2014 by providing a more comprehensive legal basis for the government in protecting the right to health, legal rights, and welfare of individuals with mental disorders.

The strengthening of this legal aspect shows that the protection of ODGJ is not solely a health issue, but also an integral part of the fulfillment and enforcement of human rights. A legal system is needed that is able to guarantee the protection of the dignity, rights, and basic freedoms of individuals with mental disorders as subjects of law, as affirmed in Law Number 39 of 1999 concerning Human Rights.

The provisions of Article 4 of the law affirm the existence of fundamental rights that are non-derogable, namely rights that cannot be reduced under any circumstances, including the right to life, the right to be free from cruel treatment or torture, and the right to be recognized as a subject of law. This provision also affirms the prohibition against all forms of violence, torture, restraint, and inhumane treatment, whether carried out by individuals, families, or authorized authorities.¹⁵

In accordance with the provisions of Article 71 of Law Number 39 of 1999 concerning Human Rights, the state, especially the government, has an obligation to respect, protect, uphold, and advance human rights. This provision affirms the responsibility of central and local governments to ensure that all policies and practices relating to individuals with mental disorders are in line with human rights principles, including the prevention of discrimination, the fulfillment of the right to health, and the provision of adequate legal protection.

In Gorontalo City, the local government's commitment to respecting and upholding human rights is reflected in local policies that target vulnerable groups, including individuals with mental disabilities (ODGJ). Although there is no regional regulation that specifically regulates ODGJ, the local government has stipulated Gorontalo City Regional Regulation Number 3 of 2023 concerning the Protection and Respect of the Rights of Persons with Disabilities, which can be used as a normative legal basis in providing protection for ODGJ.¹⁶

In the regional regulation, the provisions of Article 5 and Article 6 affirm the rights of persons with disabilities and the obligation of local governments to guarantee and protect these rights, including the right to health services, protection from discrimination, and access to social services. Although not explicitly regulated, this provision implicitly includes people with mental disabilities as part of the disability group, thus providing a normative basis for local governments in formulating policies and protection programs.

Although Gorontalo City Regional Regulation Number 3 of 2023 has regulated the rights of persons with disabilities and the obligations of local governments, there is still a legal vacuum in the protection of ODGJ. This is due to the nature of the arrangement that is still general and has not accommodated specific technical and operational aspects. Existing norms tend to be declarative without being accompanied by implementing mechanisms, such as handling procedures, mental health service standards, and

¹⁵ See Statute Book of Law No. 39 of 1999, p. 3

¹⁶ Regional Regulation Number 3 of 2023 concerning the Protection and Fulfillment of the Rights of Persons with Disabilities Articles 5-6.

interagency coordination patterns. In addition, the absence of special arrangements that explicitly accommodate the characteristics of ODGJ and the absence of derivative regulations further emphasizes the gap between norms and practices. This condition has implications for the implementation of legal protection for ODGJ in the field is not optimal.

Failure of Legal Functionalization in the Protection of ODGJ in Gorontalo City

According to Soerjono Soekanto, law enforcement is a process to harmonize the relationship between the values contained in legal norms and the reality of behavior in society, as the final stage of the elaboration of values that aim to create, maintain, and maintain social order and peace. Law enforcement is not only interpreted as the formal application of rules, but also as a concrete effort to realize the values of justice, legal certainty, and usefulness in real life. He emphasized that the effectiveness of law enforcement is influenced by three main elements, namely the legal structure, the substance of the law, and the legal culture.¹⁷

Legal structure refers to institutions and law enforcement officials, such as the police, prosecutor's office, courts, and correctional institutions, which have the authority to implement and enforce the law. The substance of the law includes all norms, laws and regulations, and decisions that serve as guidelines in law enforcement practices, which must be clear, fair, and adaptive to the development of society.¹⁸

Meanwhile, legal culture is related to values, attitudes, awareness, and patterns of people's behavior towards the law. Legal culture reflects the level of acceptance and compliance of society with applicable legal norms.¹⁹ Public legal awareness is a crucial factor, because no matter how strong the structure and how good the substance of the law, without being supported by a conducive legal culture, law enforcement will not run optimally. Thus, the three elements are closely related and must run in a balanced manner. A balance between the structure, substance, and culture of law is the main prerequisite in realizing the goals of law enforcement, namely the achievement of justice, legal certainty, and benefits for society.

The failure of legal functionalization in the protection of Persons with Mental Disorders (ODGJ) in Gorontalo City can be analyzed through the theoretical framework of Soerjono Soekanto which emphasizes the importance of balance between legal structure, legal substance, and legal culture. In terms of legal structure, failure is reflected in the lack of optimal performance and coordination between related agencies, accompanied by the limitation of professionals in the field of mental health, so that services to ODGJ have not been carried out optimally. In terms of legal substance, regulations at the regional level are still general and have not yet regulated in detail the mechanism for handling ODGJ, which has implications for the vacuum of operational norms and unclear implementation in the field.

Meanwhile, in the aspect of legal culture, the low level of public awareness and concern, the still strong negative stigma against ODGJ, and the tendency of neglect by the family are the main inhibiting factors in the effectiveness of legal protection. The imbalance between the three elements shows that the law has not functioned optimally as

¹⁷ Jericho Firliansyah and Faisal Yahya, "Law Enforcement Against Narcotics Trafficking Crimes in Tapaktuan (Research Study at the South Aceh Police)," *Teunuleh Scientific Journal The International Journal of Social Sciences* 6 (2025), <https://doi.org/teunuleh.v6i4.218>.

¹⁸ *Ibid.*

¹⁹ Derita Prapti Rahayu et al., "Law Enforcement in the Context of Legal Culture in Society," *LAW REFORM* 16, no. 2 (2020): 276–89, <https://doi.org/10.14710/lr.v16i2.33780>.

a protection instrument, so that the goals of law enforcement in the form of justice, legal certainty, and benefits have not been fully achieved as an effective, humane, and equitable protection effort for ODGJ.

Protection of People with Mental Disorders in the Perspective of Maqāṣid Al-Syarī'Ah

Etymologically, the term *Maqāṣid al-Sarī'ah* is derived from the Arabic word *maqāṣid* (مقاصد), the plural form of *maqṣad* (مقصد), which means purpose, purpose, or goal. In the study of Arabic linguistics, the term also has a connotative meaning as "middle way" or "balance," which at the same time reflects the principle of moderation (*wasatiyyah*) in Islamic teachings.²⁰

Terminologically, *Maqāṣid al-Syarī'ah* is interpreted as an effort to realize benefits (*jalb al-maṣāliḥ*) and prevent damage (*daḥ' al-mafāṣid*) in order to achieve the welfare of human life in this world and the hereafter. This goal is realized through the protection of the five basic needs (*al-darūriyyāt al-khams*), namely maintaining religion (*ḥifẓ al-dīn*), safeguarding the soul (*ḥifẓ al-nafs*), safeguarding the intellect (*ḥifẓ al-'aql*), safeguarding one's offspring (*ḥifẓ al-nasl*), and safeguarding property (*ḥifẓ al-māl*). Furthermore, Abd al-Majīd al-Najjār developed the classification of *maqāṣid al-syarī'ah* through the concept of *maqāṣid al-syarī'ah 'alā dawā'ir al-ḥayāh al-insāniyyah*, which divided *maqāṣid* into several aspects of human life. One of them is *al-maqāṣid fī ḥifẓ qīmah al-ḥayāh al-insāniyyah*, which is the purpose of the sharia in maintaining the value of human life, which includes the protection of religion (*ḥifẓ al-dīn*) and humanity (*ḥifẓ insāniyyah al-insān*). In this context, there is also the concept of *ḥifẓ al-fiṭrah bi al-ishbā'*, which is to maintain human nature through the fulfillment and perfection of basic needs.²¹

Maqāṣid al-Syarī'ah is understood as a set of fundamental goals that Islamic sharia wants to realize in regulating human life, with the main orientation on achieving benefits in this world as well as happiness in the hereafter.²² From the perspective of Islamic law, the principles of *maqāṣid sharia* emphasize that protecting the soul and mind must be a top priority, thus requiring a preventive, rehabilitative, and humanistic approach in its implementation.²³

In the perspective of *Maqāṣid al-Syarī'ah*, the protection of people with mental disorders is not only oriented towards the aspect of the preservation of the soul (*ḥifẓ al-nafs*), but also includes the principles of justice and the prohibition of discrimination. Every individual, without exception, has an equal right to legal protection, health services, and humane treatment. Any form of treatment that discriminates, excludes, or degrades the dignity of people with mental disorders is contrary to the fundamental values of Islamic law.

In social practice, people diagnosed with mental disorders often face stigma and discrimination from the community and family. This condition is generally influenced by

²⁰ Dahlan, M., Bustami, M. R., Makmur, & Mas'ulah, S., "The Islamic Principle of Ḥifẓ Al-Nafs (Protection of Life) and COVID-19 in Indonesia: A Case Study of Nurul Iman Mosque of Bengkulu City.," *Heliyon* 7, no. 7 (2021), <https://doi.org/e07541.%2520https://doi.org/10.1016/j.heliyon.2021.e07541>.

²¹ Faishal Agil Al Munawar, "Abd Al-Majīd Al-Najjār's Perspective On Maqāṣid Al-Sharī'ah," *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 209, <https://doi.org/10.31958/juris.v20i2.4281>.

²² Chindya Pratisti Puspa Devi, "Maqāṣid Al-Syarī'Ah as the Basis for Women's Protection from Violence," *Sangaji: Journal of Sharia and Legal Thought* 9, no. 2 (2025), <https://doi.org/10.52266/sangaji.v9i2.5357>.

²³ Fachrul Maula et al., "Attachment and Tendency of Schizophrenia Sufferers to Crime in the Study of Criminology and Islamic Law," *Lifescifi Akademia Utama* 6, no. 1 (2026), <https://doi.org/10.54518/rh.6.1.2026.999>.

a low level of knowledge, misunderstanding of information, and improper beliefs, such as the assumption that mental disorders are a family disgrace, curses, witchcraft, or due to violations of certain norms. This stigma has a serious impact, including hindering access to treatment, reducing the quality of life, reducing job opportunities, making it difficult to get a decent place to live, and reducing the self-esteem of sufferers.²⁴

In fact, in some cases, families choose to hide, isolate, isolate, take them to shamans or psychics, and even commit adultery. This situation is clearly contrary to *the principle of ḥifẓ al-nafs* and the prohibition of discrimination, as it not only ignores the right to health and protection of life, but also deprives people of the human dignity of people with mental disorders.²⁵

CONCLUSION

This study confirms that the protection of Persons with Mental Disorders (ODGJ) in Indonesia normatively has a strong legal basis, both in the framework of national law, human rights, and Islamic law. In the perspective of *Maqāṣid al-Syarī'ah*, such protection is in line with the goal of safeguarding the soul (*ḥifẓ al-nafs*) as well as the principle of non-discrimination and respect for human dignity. Theoretically, this research contributes to the development of an integrative concept of legal protection by combining the perspectives of national law, human rights, and Islamic law to produce a more holistic and humanist protection framework.

However, this study found that there is a disharmony between normative regulation and implementation at the regional level, especially in Gorontalo City. The gap is caused by the lack of optimal legal functionalization which is influenced by aspects of legal structure (limited manpower and weak coordination), legal substance (regulations that are not yet operational), and legal culture (stigma and discrimination that is still strong in society). This condition results in legal protection for ODGJ not being run effectively and not fully guaranteeing the fulfillment of rights in a fair and dignified manner.

Based on these findings, it is necessary to establish more specific and operational regional regulations, strengthen coordination between agencies, increase the capacity of mental health workers, and educate the public to reduce stigma and discrimination. In addition, further research is recommended to conduct a broader empirical study related to the effectiveness of policy implementation in various regions and develop a community-based protection model that is integrated with *the values of Maqāṣid al-Syarī'ah* in order to realize an inclusive, equitable, and sustainable protection system.

²⁴ Firmansyah Danukusumah et al., "Community Stigma Against People with Mental Disorders (ODGJ)," *Journal of Public Health Sciences* 11, no. 03 (2022): 205–12, <https://doi.org/10.33221/jikm.v11i03.1403>.

²⁵ Roudlotul Jannah and Titik Sumiatin, "Empowerment Of Family In Treating Odgj (Persons With Mental Disorders) At Home Through Psychoeducation And Assistance As An Effort Relapse Prevention: Empowerment Of The Family In Treating Odgj (People With Mental Disorders) At Home Through Psychoeducation And Mentoring As An Effort Relapse Prevention," *Journal of Health Community Service* 8, no. 3 (2022): 204–13, <https://doi.org/10.33023/jpm.v8i3.1236>.

BIBLIOGRAPHY

- Akreditasi Ioi, Konvensi Hiv Dan Penanggulangannya “Medika Jurnal Kedokteran Indonesia,” Jakarta Pusat, PT. Medika Media Mandiri.
- Al Munawar, Faishal Agil. ““ABD AL-MAJĪD AL-NAJJĀR’S PERSPECTIVE ON MAQĀSĪD AL-SHARĪ’AH.” *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 209. <https://doi.org/10.31958/juris.v20i2.4281>.
- Dahlan, M., Bustami, M. R., Makmur, & Mas’ulah, S. “The Islamic Principle of Ḥifz Al-Nafs (Protection of Life) and COVID-19 in Indonesia: A Case Study of Nurul Iman Mosque of Bengkulu City.” *Heliyon* 7, no. 7 (2021). <https://doi.org/e07541.%2520https://doi.org/10.1016/j.heliyon.2021.e07541>.
- Danukusumah, Firmansyah, Suryani Suryani, and Iwan Shalahuddin. “Stigma Masyarakat Terhadap Orang Dengan Gangguan Jiwa (ODGJ).” *Jurnal Ilmu Kesehatan Masyarakat* 11, no. 03 (2022): 205–12. <https://doi.org/10.33221/jikm.v11i03.1403>.
- Darji Darmodiharjo, Shidarta, *Pokok-Pokok Filsafat Hukum Apa Dan Bagaimana Filsafat Hukum Indonesia*. Gramedia Pustaka Utama, 2004.
- Devi, Chindya Pratisti Puspa. “MAQĀSĪD AL-SYARĪ’AH SEBAGAI BASIS PERLINDUNGAN PEREMPUAN DARI KEKERASAN.” *Sangaji: Jurnal Pemikiran Syariah dan Hukum* 9, no. 2 (2025). <https://doi.org/10.52266/sangaji.v9i2.5357>.
- Firliansyah, Jericho, and Faisal Yahya. “Law Enforcement Against Narcotics Trafficking Crimes in Tapaktuan (Research Study at the South Aceh Police).” *Teunuleh Scientific Journal The International Journal of Social Sciences* 6 (2025). <https://doi.org/teunuleh.v6i4.218>.
- Fitzgerald Dalam Sutjipto Raharjo, Ilmu Hukum*. PT. Citra Aditya Bakti, 2000.
- Indriawan, Denny, Setya Wahyudi, and Sri Wahyu Handayani. “Perlindungan Hukum Bagi Orang Dengan Gangguan Jiwa Untuk Mendapatkan Pelayanan Kesehatan Di Indonesia: PERLINDUNGAN HUKUM BAGI ORANG DENGAN GANGGUAN JIWA UNTUK MENDAPATKAN PELAYANAN KESEHATAN DI INDONESIA.” *Jurnal Ilmu Hukum, Humaniora dan Politik* 5, no. 4 (2025): 3159–73. <https://doi.org/10.38035/jihhp.v5i4.4322>.
- Jannah, Roudlotul, and Titik Sumiatin. “Empowerment Of Family In Treating Odgj (Persons With Mental Disorders) At Home Through Psychoeducation And Assistance As An Effort Relapse Prevention: Pemberdayaan Keluarga Dalam Merawat Odgj (Orang Dengan Gangguan Jiwa) Di Rumah Melalui Psikoedukasi Dan Pendampingan Sebagai Upaya Relapse Prevention.” *Jurnal Pengabdian Masyarakat Kesehatan* 8, no. 3 (2022): 204–13. <https://doi.org/10.33023/jpm.v8i3.1236>.
- Jerimas Pelokilla. “UUD 1945 Sebagai Landasan Konstitusional Terhadap Perlindungan Hak Warga Negara Indonesia.” *JOCER: Journal of Civic Education Research* 1, no. 1 (2023): 24–28. <https://doi.org/10.60153/jocer.v1i1.11>.
- Kuraesin, Siti Elut, and Yahdinil Firda Nadhirah. *PERAN DINAS SOSIAL DALAM PENANGANAN ORANG DENGAN GANGGUAN JIWA (ODGJ) YANG MENGALAMI GANGGUAN MENTAL DI RANGKASBITUNG*. 23, no. 04 (n.d.).
- Mahmud Marzuki, Peter. *Penelitian Hukum Edisi Revisi*. PT. Kencana Prenada Media Group, 2013.
- Maula, Fachrul, Soraya Devy, and Azmil Umur. “Attachment and Tendency of Schizophrenia Sufferers to Crime in the Study of Criminology and Islamic Law.”

- Lifescifi Akademia Utama* 6, no. 1 (2026).
<https://doi.org/10.54518/rh.6.1.2026.999>.
- Nengsih, Widya, and Indra Afrita. "Implementasi Tanggung Jawab Pemda Kepulauan Meranti terhadap ODGJ dalam Upaya Mandiri Berdasarkan PP 28/2024 dan UU 17/2023 tentang Kesehatan dan Perspektif Hukum Islam." *Journal for Islamic Studies* 8, no. 3 (2025).
- Prasya Putri Ramadhani, Hudy Yusuf. *Implikasi Penanganan Orang Dalam Gangguan Jiwa (Odgj) Dalam Perspektif Hukum, Psikologis & Medis*. August 7, 2025. <https://doi.org/10.5281/ZENODO.16760870>.
- Qurtubi, Achmad Napis. "ANALISIS KARAMAH INSANIYAH DALAM QS. AL-ISRA' DAN RELEVANSINYA TERHADAP KEHIDUPAN KONTEMPORER." *Amsal Al-Qur'an: Jurnal Al-Qur'an dan Hadis* 2, no. 2 (2025). <https://ejournal.yayasanbhz.org/index.php/Amsal/article/view/374/219>.
- Rahayu, Derita Prapti, Faisal Faisal, Rafiqqa Sari, and Ndaru Satrio. "Law Enforcement in the Context of Legal Culture in Society." *LAW REFORM* 16, no. 2 (2020): 276–89. <https://doi.org/10.14710/lr.v16i2.33780>.
- Soerjono, Soekanto. *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*. PT. Raja Grafindo Persada, 2019.
- Tuerah, Zefanya Theodore Joseph. *PERLINDUNGAN HUKUM TERHADAP ORANG DENGAN GANGGUAN JIWA (ODGJ) DI KOTA TOMOHON DALAM HAL PELAYANAN KESEHATAN OLEH PEMERINTAH*. 13, no. 4 (2025). <https://ejournal.unsrat.ac.id>.
- Zakaria, Aceng, Budi Setiawan, Solahudin, and Sitinoramalina Sitinoramalina. "Tafsir Maqashid: Islamic Solutions to Generation Z's Mental Health Challenges." *ZAD Al-Mufassirin* 7, no. 1 (2025): 28–53. <https://doi.org/10.55759/zam.v7i1.252>.