



Climate Justice in Maqashid Shariah, Contemporary Fiqh, and Common Responsibility Principle

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Abstract

Climate change is one of the most urgent global challenges, raising fundamental questions about justice, responsibility, and moral obligation. This study examines climate justice through two intersecting frameworks: the principle of Common but Differentiated Responsibilities in international law and the values of maqashid al-shariah and contemporary fiqh in Islamic jurisprudence. Using a normative-doctrinal method with comparative and conceptual approaches, the research analyzes international instruments such as the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement alongside classical and modern Islamic legal thought. The findings show that while the principle of differentiated responsibilities provides a sound normative basis, its implementation remains weak due to geopolitical imbalances and the absence of binding enforcement mechanisms. In contrast, maqashid *al-shariah* particularly the protection of life, lineage, wealth, intellect, and religion—offers a comprehensive moral-spiritual framework that reinforces differentiated responsibilities. Both frameworks converge on principles of capacity-based responsibility, intergenerational justice, the no-harm rule, and global solidarity. The study proposes a *Maqashid*-Based Integrative Climate Justice Model consisting of three pillars: value-grounded differentiated responsibility, expanded subjects of responsibility beyond states, and an equitable mechanism for loss and damage, contributing to stronger international climate governance.

Article Information:

Received August 15, 2025

Revised September 28, 2025

Accepted October 19, 2025

Keywords: *Maqashid shariah, climate justice, differentiated responsibility, global solidarity*

INTRODUCTION

Climate change has emerged as one of the most pressing global challenges, (Efendi, 2024; Hidayat et al., 2024; Mahardhika et al., 2024; Rahman, 2024; Sultana, 2022). raising fundamental questions about justice, responsibility, and moral obligation. This study examines the concept of climate justice through two intersecting frameworks: the principle of Common But Differentiated Responsibilities in international law, and the values of maqashid al-syariah and contemporary fiqh in Islamic law. Using a normative-doctrinal research method with comparative and conceptual approaches, this study analyzes relevant international

How to cite:

Nurjanah, N., Munawaroh, H. (2025). Climate Justice in Maqashid Shariah, Contemporary Fiqh, and Common Responsibility Principle. *Suluah Pasaman*, 3(2), 72-81.

E-ISSN:

xxxx-xxxxx

Published by:

The Institute for Research and Community Service

instruments the United Nations Framework Convention on Climate Change, Kyoto Protocol, and Paris Agreement alongside classical and contemporary Islamic jurisprudence. Findings reveal that while Common But Differentiated Responsibilities establishes normatively sound differentiated responsibility, its implementation remains weak due to geopolitical imbalances and absence of binding enforcement mechanisms. Islamic maqashid al-syariah, particularly hifzh al-nafs, hifzh al-nasl, hifzh al-mal, hifzh al-aql, and hifzh al-din, provides a comprehensive moral-spiritual framework that aligns with and strengthens Common But Differentiated Responsibilities (Kusuma et al., 2024; Prihatiningsih & Setyanigtyas, 2018; Rahman & Mutakin, 2023b; Wijaya, 2024).

Both frameworks share several convergent principles, including differentiated responsibility based on capacity, intergenerational justice, the no-harm principle, and global solidarity. However, these shared principles have not been fully operationalized in existing global climate governance structures. In this context, this study seeks to address the following questions: how the principle of climate justice, particularly Common but Differentiated Responsibilities, can be critically evaluated through a maqashid al-shariah perspective, and how an integrative framework can be developed to strengthen its normative and practical implementation (Fatkhullah & Zen, 2025; Jailani, 2025; Priyatno et al., 2026). Accordingly, this study aims to analyze the convergence between these frameworks and to propose a Maqashid-Based Integrative Climate Justice Model consisting of three core pillars: (i) value-grounded differentiated responsibility, (ii) the expansion of subjects of responsibility beyond states, and (iii) an equitable Loss and Damage mechanism. This model offers a conceptual contribution to enhancing the effectiveness and fairness of international climate governance.

The principle of Common but Differentiated Responsibilities is not merely normative; it also encompasses historical and capacity dimensions that form the basis for burden-sharing among nations. This principle affirms that all countries bear responsibility for climate change, though not to the same degree, due to differences in their respective emission contributions and economic capabilities (Gaol & Gultom, 2025; Lazarus, 2026; Sumartini & Salidja, 2022). In this context, developed countries which have historically been the primary contributors to carbon emissions are expected to play a greater role in climate mitigation and financing, while developing countries are granted more flexible adaptation space. Nevertheless, the implementation of this principle across various international instruments still faces serious challenges. In practice, many developed countries tend to emphasize the aspect of “capacity” over “historical responsibility,” thereby reducing their moral and financial obligations. This leads to inequities in the distribution of global responsibility and weakens the effectiveness of climate policies. Even within the United Nations Framework Convention on Climate Change, this principle often serves merely as a general guideline without strong enforcement mechanisms, making its implementation heavily dependent on the voluntary commitments of the parties (Purnawanto & Munfariqoh, 2024).

On the other hand, the maqashid al-sharia approach offers a more comprehensive perspective because it emphasizes not only distributive justice but also humanity’s moral and spiritual responsibility toward the environment. Concepts such as hifzh al-nafs (protection of life) and hifzh al-nasl (protection of future generations) implicitly demand sustainable ecological justice. Thus, environmental damage caused by climate change can be viewed as a violation of the primary objectives of Sharia, which demand the protection of life and the overall balance of nature.

The integration of the principles of shared yet differentiated responsibility and maqashid al-sharia opens the door to a new paradigm in climate justice that is

grounded not only in positive law but also in ethical and spiritual values. This approach can strengthen the moral legitimacy of global climate policies, particularly in Muslim-majority countries, and encourage more active participation in mitigation and adaptation efforts (Ng, 2022; Tando & Hikmah, 2024; Zahra & Alfajri, 2026). Furthermore, this integration can broaden the scope of responsibility, extending beyond nations to include corporations, communities, and individuals as moral actors in environmental stewardship.

Finally, the development of an Integrative Climate Justice Model Grounded in Maqashid demands a reformulation of global governance that is more inclusive and equitable. This model needs to be implemented through concrete mechanisms, such as equity-based financing, the transfer of environmentally friendly technology, and the strengthening of “loss and damage” instruments for the most affected nations. Thus, climate justice no longer remains at the normative level but can be tangibly realized in sustainable global policies and practices oriented toward the welfare of humanity (Ningsih & Izzatinnisa, 2026; Rusmadi, 2016).

METHODS

This study employs normative-doctrinal legal research, which focuses on the analysis of legal norms, principles, and doctrines rather than empirical data collection. The normative method is appropriate given that the research aims to analyze and compare legal frameworks, international climate law and Islamic jurisprudence to identify their normative content and construct a conceptual model. Four complementary approaches are employed (Jasmin et al., 2025; Nasution, 2026; Nurhayati et al., 2021). The statute approach involves systematic analysis of primary international legal instruments: the United Nations Framework Convention on Climate Change, Kyoto Protocol, Paris Agreement, and relevant Conference of the Parties decisions. The conceptual approach traces the development of climate justice in legal philosophy, maqashid al-syariah, and contemporary fiqh. The comparative approach systematically identifies convergences and divergences between Common but Differentiated Responsibilities and Islamic legal values. The case approach grounds the analysis in concrete examples: the Loss and Damage Fund at Conference of the Parties 27, the Pakistan floods of, and the existential threat to Pacific island nations (Engkizar et al., 2025; Kassymova et al., 2025; Nurjannah, 2017). Primary sources include international legal instruments, the Qur'an, Hadith, classical maqashid literature, and contemporary fatwa documents including Majelis Ulama Indonesia Fatwa No. 74/2014 on Greenhouse Gas Control and the Islamic Declaration on Global Climate Change. Secondary sources include academic journals, The Intergovernmental Panel on Climate Change reports, and policy documents from United Nations Environment Programme, and United Nations Development Programme.

RESULT AND DISCUSSION

The CBDR Principle: Normative Architecture and Implementation Gaps

The evolution of the Common but Differentiated Responsibilities principle reflects an ongoing attempt to institutionalize climate justice within international law. However, its implementation reveals a significant gap between normative commitment and practical realization. This gap can be critically examined through the lens of distributive justice as articulated by John Rawls, particularly the difference principle, which requires that inequalities be structured to benefit the least advantaged. In the context of global climate governance, the continued failure of developed countries to meet emission reduction and financial commitments demonstrates a deviation from this principle, thereby undermining the moral legitimacy of the Common but Differentiated Responsibilities framework (Mista et

al., 2025).

The first through house rules. According to informants, this method is very effective for instilling character values discipline, responsibility and independence towards students. Because to comply with these rules, students must have high discipline, for example, such as coming home no later than a predetermined curfew, not dating, and getting up early at a predetermined hour. This theme was conveyed by informants as excerpts from the below:

Furthermore, as noted by Philippe Sands, Common but Differentiated Responsibilities constitutes a foundational principle of international environmental law, yet its effectiveness is weakened by the absence of binding enforcement mechanisms. This structural weakness is evident in the Paris Agreement's reliance on nationally determined contributions, which shift from a legally binding differentiation to a politically negotiated self-differentiation model. As a result, Common but Differentiated Responsibilities operates more as a normative aspiration than an enforceable legal obligation, reinforcing asymmetrical power relations between developed and developing states.

The United Nations Framework Convention on Climate Change operationalized this principle through its Annex structure. Annex I countries (industrialized nations and economies in transition) committed to returning emissions to 1990 levels. Annex II countries for Organisation for Economic Cooperation and Development members are additionally committed to providing financial resources and facilitating technology transfer to developing nations. Non-Annex I countries faced no binding quantitative commitments. The Kyoto Protocol deepened this architecture by establishing legally binding emission targets exclusively for Annex I parties and an application of Common but Differentiated Responsibilities that, despite its political difficulties, represented its most concrete legal expression.

The Paris Agreement marked a paradigm shift. By requiring all parties developed and develop nationally determined contributions, it moved from a top-down differentiation model to a bottom-up, self-differentiation model. While this expanded participation, it simultaneously weakened the structural differentiation that gave Common but Differentiated Responsibilities its normative force. The absence of a compliance mechanism means that nationally determined contributions function as political commitments rather than legal obligations.

Three structural failures evidence the implementation gap. First, emissions trajectories: current nationally determined contributions commitments are projected to result in 2.5°C of warming by 2100, far exceeding the 1.5°C target. Second, finance: the commitment of developed nations to mobilize USD 100 billion annually by 2020 was not met until 2023, with questions remaining about the quality of the financing provided. Third, loss and damage: the establishment of a Loss and Damage Fund at Conference of the Parties 27 in Sharm el-Sheikh represented a historic acknowledgment of the disproportionate burden borne by vulnerable nations, but its capitalization and distribution mechanisms remain deeply contested (Rogelj et al., 2016).

The case of Pakistan illustrates the justice deficit concretely. The 2022 floods described by United Nations Environment Programme as a climate catastrophe inundated one-third of the country's territory, affected 33 million people, and caused economic losses estimated at USD 30 billion. Pakistan's historical contribution to global emissions is approximately 0.8%. No binding international legal mechanism exists to ensure compensation for losses of this magnitude (Abumoghli, 2025).

Climate Justice in Maqashid Al-Syariah and Contemporary Fiqh

From the perspective of maqashid al-syariah, the climate crisis represents a systemic violation of the fundamental objectives of Islamic law. The destruction caused by climate change directly threatens *hifzh al-nafs* (protection of life) through increased mortality from environmental disasters, as well as *hifzh al-nasl* (protection of future generations) due to the long-term degradation of planetary habitability. As conceptualized by Imam al-Syatibi, any condition that undermines these essential objectives is inherently unjust and must be rectified through legal and moral intervention (Ikhlas et al., 2021).

This framework provides a stronger normative foundation compared to the Common but Differentiated Responsibilities principle, which relies on state consent. Unlike international law, which lacks effective enforcement, maqashid al-syariah introduces an internalized system of accountability grounded in moral and spiritual responsibility (*amanah*). As further developed by Jasser Auda's systems approach, maqashid can be extended to address contemporary global issues, including climate change, by integrating ethical values with legal reasoning. Thus, maqashid not only complements Common but Differentiated Responsibilities but also addresses its normative and enforcement deficiencies. Applying the maqashid al-syariah framework to the climate crisis reveals that all five *dharuriyyat* are systematically threatened. *Hifzh al-nafs* (protection of life) is imperiled by climate-related mortality from heatwaves, floods, famines, and diseases. Intergovernmental Panel on Climate Change projects hundreds of millions of deaths under high-emission scenarios. *Hifzh al-nasl* (protection of progeny) encompasses both immediate threats to children's health and the long-term degradation of the planet's habitability for future generations. The devastation of livelihoods, agricultural systems, and physical infrastructure in climate-vulnerable regions undermines *Hifzh al-mal* (protection of property). *Hifzh al-'aql* (protection of intellect) is threatened by pollution, malnutrition, and the disruption of educational systems caused by climate disasters. *Hifzh al-din* (protection of religion) is implicated by the spiritual and cultural displacement of communities whose sacred lands, indigenous practices, and ways of life are destroyed by rising seas and changing weather patterns.

Contemporary fiqh has produced several important pronouncements on climate responsibility. Majelis Ulama Indonesia Fatwa No. 74/2014 on Greenhouse Gas Control declares that activities causing climate change are haram if they cause significant harm. The Islamic Declaration on Global Climate Change (2015), signed by scholars from over 20 countries in advance of Conference of the Parties 21, called for the complete phase-out of fossil fuels and urged Islamic nations to take a leading role in climate action, grounding this call explicitly in the Qur'anic injunctions against *fasad* (corruption/destruction). Muhammadiyah's *Fikih Transisi Energi* further develops an Islamic jurisprudence of energy transition, framing the shift to renewable energy as a religious obligation under the principle of *la dharar wa la dharar* (no harm shall be inflicted or reciprocated) (Mutakin, 2023; Syafrianto & Ritonga, 2024).

The concept of *fiqh al-bi'ah* (environmental jurisprudence) represents the emergence of a specialized subdiscipline within contemporary Islamic law. Grounded in classical principles *la dharar*, *sad al-dzari'ah* (blocking the means to harm), *maslahah mursalah* (public interest), and *istishlah* this subdiscipline provides the methodological tools to derive specific rulings applicable to contemporary environmental challenges. Critically, *fiqh al-bi'ah* extends the subjects of legal obligation beyond states to individuals, corporations, and communities a scope that transcends the state-centric architecture of international law.

Convergences and Divergences: Toward an Integrative Model

A systematic comparison of Common but Differentiated Responsibilities and maqashid al-syariah reveals four significant convergences and three fundamental divergences. These provide the architecture for a proposed integrative model.

Convergence 1: Differentiated responsibility based on capacity and contribution. Both frameworks recognize that those who have greater capacity and greater causal responsibility must bear greater obligations. The Common but Differentiated Responsibilities grounds this in the historical record of emissions and economic capability. Maqashid grounds it in the principle of 'adl (justice) and the concept of kaffarah (expiation) those who have caused harm must make it right (Abdelhamid & Hassanein, 2025).

Convergence 2: Intergenerational justice. Both frameworks explicitly incorporate the interests of future generations. Paris Agreement Article 2 establishes long-term temperature targets explicitly to protect future generations. Ibn 'Asyur's expansion of hifzh al-nasl encompasses the quality of the inheritance left to future generations, treating the degradation of the natural environment as a violation of the rights of the unborn (Subaki & Abadi, 2025).

Convergence 3: The no-harm principle. The international law no harm rule and the Islamic la dharar wa la dhirar principle are functionally equivalent, both prohibiting actions that cause injury to others. This convergence creates the strongest normative bridge between the two frameworks, providing a common foundation for climate liability claims. **Convergence 4:** Global solidarity. The Common but Differentiated Responsibilities reliance on "global partnership" (Johannesburg Declaration, 2002) and Islamic ta'awun (mutual assistance) and ukhuwwah (brotherhood) both mandate collective action transcending national interest. The Islamic concept extends this solidarity to a spiritual obligation, grounding it in the shared status of all humans as khalifah and all Muslims as a single ummah.

Divergence 1: Source of legitimacy. The Common but Differentiated Responsibilities derives its authority from state consent it is binding only on parties to specific treaties and can be modified or withdrawn through political negotiation. Maqashid al-syariah derives its authority from divine revelation, making it non-negotiable and resistant to political pressure. This divergence explains why Common but Differentiated Responsibilities is vulnerable to defection (the United States' withdrawal from Kyoto Protocol and first withdrawal from Paris Agreement) while Islamic obligations remain constant regardless of political configurations.

Divergence 2: Scope of subjects. The Common but Differentiated Responsibilities binds only states. Islamic law binds individuals, corporations, communities, and states. This divergence is significant because transnational corporations are responsible for a disproportionate share of global emissions, yet fall outside Common but Differentiated Responsibilities direct purview. Fiqh al-bi'ah's broader scope offers a complementary framework for corporate accountability.

Divergence 3: Enforcement mechanisms. The Common But Differentiated Responsibilities lacks effective enforcement there is no international court with compulsory jurisdiction over climate obligations, and the Paris Agreement explicitly excludes liability from its loss and damage provisions. Islamic law's enforcement operates through internal spiritual motivation (taqwa) and the ultimate accountability of the yawm al-hisab (Day of Reckoning), providing an internal compliance mechanism that state-centric international law cannot replicate.

The Maqashid-Based Integrative Climate Justice Model

Based on the preceding analysis, this study proposes a Maqashid-Based Integrative Climate Justice Model consisting of three pillars designed to address the

structural weaknesses of Common but Differentiated Responsibilities while leveraging the normative strengths of maqashid al-syariah.

Pillar One: Value-Grounded Differentiated Responsibility. The Common but Differentiated Responsibilities differentiation should be reinforced not only by positivist legal arguments but by the moral-spiritual legitimacy provided by maqashid al-syariah. Muslim-majority nations which collectively represent some of the world's most climate-vulnerable states should invoke the Islamic framework of fardhu kifayah (collective obligation) to strengthen their demands for proportional responsibility from high-emitting nations. The maqashid argument that failure to act violates the dharuriyyat of vulnerable populations provides a normative claim that transcends the contractual logic of treaty law.

Pillar Two: Expanded Subjects of Responsibility. The model proposes extending climate responsibility beyond states to corporations and individuals, drawing on fiqh al-bi'ah's broader conception of legal subjects. Practically, this would involve advocating for the inclusion of corporate liability provisions in future climate agreements, and developing domestic regulatory frameworks that hold transnational corporations accountable for their contribution to climate change grounded in the Islamic principle of amanah (trusteeship) and the prohibition of fasad.

Pillar Three: A Maqashid-Informed Loss and Damage Mechanism. The Loss and Damage Fund established at Conference of the Parties 27 must be operationalized in a manner consistent with both Common but Differentiated Responsibilities and maqashid principles. Specifically, allocation should prioritize nations most vulnerable and least responsible for climate change a direct application of distributive justice in both Rawlsian and Islamic terms. The Islamic principle of la dharar provides a legal basis for claiming compensation: causing harm even inadvertently creates an obligation of remedy (damman). Muslim-majority nations should deploy this argument in international negotiations to strengthen the normative case for adequate and unconditional loss and damage financing.

The convergence between Common but Differentiated Responsibilities and maqashid al-syariah demonstrates that both frameworks recognize differentiated responsibility and intergenerational justice. However, their divergence reveals a deeper structural issue: while Common but Differentiated Responsibilities is constrained by political negotiation, maqashid operates on a moral-ethical imperative that is resistant to geopolitical compromise. This distinction is critical in understanding why Common but Differentiated Responsibilities often fails in implementation, whereas maqashid retains normative consistency.

CONCLUSION

This study has demonstrated that the principle of climate justice, particularly the Common but Differentiated Responsibilities, has not been fully realized in practice due to its weak enforcement mechanisms and reliance on voluntary state commitments. Through a maqashid al-shariah perspective, it is evident that the current implementation of Common but Differentiated Responsibilities fails to adequately fulfill core principles of justice, particularly in protecting vulnerable populations and ensuring intergenerational equity. Furthermore, this study finds that there is a significant convergence between Common but Differentiated Responsibilities and maqashid al-shariah, particularly in their shared emphasis on justice, responsibility, and collective welfare. However, while Common but Differentiated Responsibilities operates within a state-centric and politically negotiated framework, maqashid provides a more robust ethical foundation grounded in moral accountability and the protection of essential human interests. In response to these findings, this study proposes a Maqashid-Based Integrative Climate Justice Model, consisting of three key pillars: value-grounded differentiated

responsibility, the expansion of responsibility beyond states, and an equitable Loss and Damage mechanism. This model represents a conceptual contribution aimed at strengthening the normative and practical dimensions of international climate governance. Overall, this study contributes to the development of a more holistic and ethically grounded approach to climate justice by integrating international legal principles with Islamic jurisprudential values, thereby offering a more responsive and equitable framework for addressing global climate challenges

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