THE CONSTRUCTION OF CONTEMPORARY MAQASID: A PARADIGM SHIFT FROM TEXTUAL TO CONTEXTUAL APPROACHES

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Abstract

This study examines the epistemological reconstruction of *maqashid al-sharī'ah* as a contemporary methodological framework for Islamic legal derivation in response to the increasing complexity of modern socio-legal realities. While classical Islamic jurisprudence traditionally relied on scriptural texts (*naṣṣ*) and analogical reasoning (*qiyās*), the rapid transformation of social, political, economic, and technological structures necessitates a more adaptive and purposive approach to legal reasoning. Through qualitative library research supported by normative and conceptual analysis, this study explores the historical evolution of *maqashid al-sharī'ah*, beginning with its classical formulation by figures such as al-Juwaynī, al-Ghazālī, and al-Shāṭibī, and its subsequent reformulation by contemporary scholars including Jasser Auda, Ibn Bayyah, and Yusuf al-Qarḍāwī. The findings reveal a paradigmatic shift from an essentialist and text-oriented interpretation of *maqashid* toward a contextual, systemic, and value-oriented framework that integrates inductive–deductive reasoning, social analysis, and public welfare considerations. This contemporary *maqashid* paradigm not only expands the *al-kulliyyāt al-khamsah* but also incorporates broader dimensions such as human rights, gender justice, environmental sustainability, and good governance. As a methodological tool, contemporary *maqashid* strengthens the relevance of Islamic law in addressing modern legal challenges by harmonizing the relationship between text, context, and legal purpose. The study concludes that reconstructing *maqashid* into a dynamic legal methodology provides an effective means to bridge the tension between immutable scriptural principles and evolving human realities, thereby enabling Islamic law to function as an ethical, justice-oriented, and welfare-driven system aligned with the universal spirit of a mercy for all creation (raḥmatan lil 'ālamīn).

Keywords: contemporary ijtihād, contextual, legal derivation, maqashid al-sharī'ah, paradigm shift

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A. Introduction

Law serves as an instrument to realize certainty, order, and justice within social life. These three functions can only be achieved if the law is applied proportionally, both in its normative dimension and in the enforcement of the values of justice that constitute its ultimate objective (Friedrich, 2004). However, in reality, the pursuit of legal justice is

far from simple. It is a dynamic and continuous process, constantly evolving in response to social change. In practice, law cannot be separated from the influence of social and political forces that seek to assert particular interpretations of legal norms in accordance with their respective ideological interests. Thus, law never exists in a neutral space; rather, it continuously interacts with the surrounding social structures and systems of power that shape its function and meaning.

Philosophically, the notion of justice has long been a central theme that has inspired extensive debate among legal scholars and philosophers throughout history. Some perspectives regard justice as an absolute concept, ideal and metaphysical in nature. In this view, justice represents the highest value, whose full essence cannot be completely grasped through human experience but rather understood through profound philosophical reflection. Conversely, other perspectives interpret justice as a product of social, cultural, and religious constructions that vary from one society to another. This latter view emphasizes that justice is always rooted in the value systems and beliefs that exist within a particular community. Hence, justice is not universal in a singular form but instead possesses a contextual dimension shaped by the social and cultural background of the society in which the law operates. From the perspective of Islamic law, justice constitutes a fundamental principle derived directly from divine revelation, namely, the Qur'an and the Sunnah. These two primary sources serve as the main references in the process of the derivation of Islamic legal rulings (*istinbāṭ al-aḥkām*). Nevertheless, Muslim scholars (*ulamā*) and jurists (*fuqahā*') have long faced a fundamental challenge: the limited number of scriptural texts (*naṣṣ*) available to address the ever-growing complexity of human problems. While the Qur'anic and prophetic texts are fixed (*thābit*), human social realities are dynamic and constantly changing *(mutaghayyir)*. The tension between the permanence of revelation and the fluidity of social reality necessitates the development of legal methodologies capable of actualizing the values of sharī'ah so that they remain relevant within the context of contemporary life (Wahyudi, 2015).

In response to these challenges, Muslim scholars (*ulamā*) developed a variety of *ijtihād* methods and approaches within the discipline of *uṣūl al-fiqh* to derive new legal rulings from limited textual sources. One of the most significant approaches in the intellectual tradition of Islamic law is the concept of *maqashid al-sharī'ah*, an approach that focuses on understanding the overarching objectives that Islamic law seeks to

achieve. Linguistically, *maqashid* means "purposes" or "objectives," while sharī'ah refers to Islamic law or divine guidance. Thus, *maqashid al-sharī'ah* can be understood as the ultimate aims of Islamic law, which center on realizing human welfare (*maṣlaḥah*).

Historically, discussions on *maqashid* date back to the classical period and were systematically elaborated by prominent scholars such as al-Juwaynī, al-Ghazālī, al-Shāṭibī, and Ibn 'Āshūr. They collectively agreed that the entirety of Islamic legal rulings is directed toward the preservation of five fundamental aspects of human life, known as *al-kulliyyāt al-khamsah*: the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). These five foundational principles represent the manifestation of justice and welfare, which constitute the core of Islamic teachings. Therefore, *maqashid al-sharī'ah* serves not only as a theoretical foundation for legal formulation but also as a moral and social criterion for evaluating the extent to which a law truly embodies genuine justice (Rizqi, 2021; Toriquddin, 2013).

In the contemporary era, the Muslim community faces profound transformations in social, economic, and political structures, as well as rapid advancements in science and technology. These developments necessitate a renewal in the approach to Islamic law so that it remains relevant to the needs of modern society. Within this context, the idea of reconstructing *maqashid al-sharī'ah* in a more contextual and applicative manner has emerged. The concept of contemporary maqashid represents an effort to transform *maqashid al-sharī'ah* from a purely theoretical framework for understanding the law into a methodological paradigm for formulating legal rulings that are responsive to the dynamics of modernity. Contemporary Muslim thinkers such as Jasser Auda, Abdullah Ibn Bayyah, and Yusuf al-Qardhawi have made significant contributions to the development of modern maqashid thought. They argue that the classical approach to *maqashid* must be expanded to address the complex humanitarian and global issues of the present era (Alias et al., 2025; Nashrullah et al., 2014; Sidiq, 2017). This renewed approach seeks not only to preserve the fundamental values identified by earlier scholars but also to encompass broader dimensions such as the protection of human rights, gender justice, environmental sustainability, good governance, and social ethics within the global community.

Within the framework of contemporary *maqashid*, Islamic law is understood as a flexible and adaptive system, one that not only preserves its normative values but also

provides practical solutions to the challenges of modern life. This approach emphasizes the importance of interpreting shar'ī texts contextually, taking into account the underlying objectives (*maqashid*) of the sharī'ah behind specific legal rulings. Consequently, law is not merely viewed as a rigid set of rules but as an ethical and social instrument designed to promote justice, welfare, and the common good.

Furthermore, the construction of contemporary maqashid has significant implications for the methodology of legal derivation (*istinbāṭ*). It encourages jurists (*fuqahā*) to move beyond exclusive reliance on scriptural texts (*naṣṣ*) and analogical reasoning (*qiyās*), by also considering social realities (*al-wāqi'*) and the impact of public welfare (*al-maṣlaḥah al-'āmmah*) in every legal determination. Through this approach, Islamic law avoids being confined by textual formalism and instead becomes oriented toward achieving more substantive objectives that are relevant to human needs across different times and contexts. Therefore, the study of contemporary maqashid holds crucial importance in the development of modern Islamic legal methodology. It creates opportunities for integrating the universal values of the sharī'ah with the demands of a pluralistic and dynamic modern society. This approach enables Islamic law to play an active role in addressing diverse global humanitarian challenges while maintaining its normative identity rooted in the Qur'an and the Sunnah.

By understanding *maqashid al-sharī'ah* in a contextual manner, Islamic law can function optimally as a social instrument that promotes substantive justice and public welfare. This approach transforms the perception of law from being merely a set of normative texts into a living value system, one that evolves and interacts dynamically with societal changes. Islamic law is thus no longer seen as a static legacy of the past, but as an ethical and justice-oriented system that remains adaptable to the transformations of the modern age. Ultimately, it can be concluded that the construction of contemporary maqashid represents a strategic effort to bridge the tension between the immutable sharī'ah texts and the ever-changing realities of human society. Through this paradigm, Islamic law is expected to serve as a moral and social force that fosters justice, balance, and universal welfare, in accordance with the spirit of Islam as a mercy for all creation (*rahmatan lil-'ālamīn*) (Muhaki & Aziz, 2024).

Based on the foregoing discussion, several fundamental questions arise that warrant exploration in this study. First, how has the concept of maqashid evolved from a

classical paradigm to a contemporary one in responding to the challenges of social transformation and modern legal developments? Second, how can the construction of contemporary maqashid function as a methodological framework in the process of Islamic legal derivation (*istinbāṭ al-ḥukm*) that is responsive to present-day contexts?. This inquiry is essential because, in essence, Islamic law serves not only as a normative system governing human behavior but also as a value-based system oriented toward achieving welfare and social justice. Accordingly, a deeper understanding is required of how maqashid can be reconstructed into a more contextual, adaptive, and time-relevant method of legal reasoning. Furthermore, this study seeks to address an epistemological issue within Islamic legal scholarship, namely, how the relationship between text, context, and legal purpose can be harmoniously established. In this regard, contemporary maqashid offers a new paradigm that enables Islamic law to remain continuously relevant across different times and places, while preserving its theological foundations.

B. Methods

This study employs a qualitative approach through a library research design, with a primary focus on the conceptual and methodological analysis of the construction of contemporary maqashid as a method for Islamic legal derivation. The library-based inquiry utilizes both normative and conceptual approaches in examining the foundational Islamic legal texts that constitute the normative basis of the maqashid concept. It also explores the theoretical ideas and constructions developed by both classical and contemporary Islamic legal scholars, aiming to establish an epistemological framework for maqashid as a method of legal reasoning. Data analysis is conducted through a content analysis approach, which serves to identify, interpret, and understand the meanings embedded within the selected texts and documents. This approach enables to construct a deeper comprehension of *maqashid* values and their implications for the process of Islamic legal reasoning and derivation (*istinbāṭ al-ḥukm*).

C. Results and Discussion

1. Understanding the term of Maqashid

The term *maqashid* denotes "intentions" or "objectives." It is the plural form of maqsūd, derived from the root word *qaṣada*, which means "to intend" or "to aim." Hence, *maqashid* refers to the things that are intended or aimed at (Qorib, 1997). Its linguistic

equivalents include *telos* (Greek), *finalité* (French), and *Zweck* (German) (Auda, 2015). Meanwhile, the word sharī'ah, in its linguistic sense, literally means "the path to a water source," which metaphorically represents "the path to the source of life." Terminologically, *maqashid al-sharī'ah* has not been explicitly defined by scholars *of uṣūl al-fiqh*; this may be because the concept was already implicitly understood among them. Even Al-Shāṭibī himself did not provide a formal definition. Instead, he described sharī'ah and its function for humanity, as found in his *al-Muwāfaqāt*: "Indeed, the sharī'ah has been established to realize the welfare (*maṣlaḥah*) of humankind in this world and the hereafter," and "The laws have been enacted for the benefit of God's servants" (Asy-Syathibi, n.d.; Bakri, 1996). From these statements, it is evident that Al-Shāṭibī did not define *maqashid al-sharī'a*h comprehensively; rather, he emphasized that its essence lies in a single doctrine, *maṣlaḥah*, or the well-being and prosperity of humankind in both worldly and spiritual dimensions.

This interpretive stance was later clarified by his student al-Raysūnī, who argued that when Al-Shāṭibī composed his treatise on *maqashid al-sharī'ah*, he deliberately refrained from offering an explicit definition, perhaps assuming that the concept was self-evident among scholars. Moreover, al-Raysūnī suggested that the discourse on *maqashid* in *al-Muwāfaqāt* was not intended for the general public but rather for scholarly circles (Hamsin, 2012). According to Hashim Kamali, the notion of *maqashid al-sharī'ah* was first articulated by Imām al-Shāfi'ī and later developed by al-Qarāfī, a 13th-century jurist from the Mālikī school, in his classical work *Nafā'is al-Uṣūl fī Sharḥ al-Maḥṣūl*. However, at that time, the concept had not yet achieved a mature formulation until Imām al-Juwaynī, known as Imām al-Ḥaramayn, reconstructed and systematized it. The concept was then further elaborated by Imām al-Ghazālī and subsequently developed into a comprehensive framework by Mālikī jurist Abū Isḥāq Al-Shāṭibī (d. 790 H/1388 CE) in his work *al-Muwāfaqāt fī Uṣūl al-Aḥkām*, particularly in the section entitled *Kitāb al-Maqashid* (Saifuddeen et al., 2014; Wahyudi, 2015).

In its early phase, *maqashid* thought appeared in diverse forms and interpretations, though these differences were largely complementary developments. Generally, scholars agreed that the ultimate aim of sharī'ah is to realize *maṣlaḥah* (benefit) and to prevent *mafsadah* (harm), *jalb al-maṣlaḥah wa daf'u al-mafsadah*. To achieve this, they classified *maqashid al-sharī'ah* into three hierarchical levels: *al-ḍarūriyyāt* (essentials), *al-ḥājiyyāt*

(needs), and *al-taḥsīniyyāt* (embellishments or perfections). According to al-Juwaynī, *maqashid* are based on five principles: *first,* Rationally comprehensible objectives (*ma'qūl al-ma'nā*), which represent essential necessities (*ḍarūriyyāt*), such as the prescription of retaliation (*qiṣāṣ*) to prevent the continuous shedding of blood; *Second,* Public needs (*al-ḥājah al-'āmmah*), which do not reach the level of necessity but address social welfare, such as the legality of leasing (*ijārah*) for those unable to afford ownership; *Third*, Virtuous acts (*al-makrūmāt*), which are not tied to necessities or general needs but lead to moral excellence, such as performing ablution and maintaining cleanliness; *Fourth*, Recommended acts (*al-mandūbāt*), which serve as supplementary actions enhancing other objectives; and *Fifth,* Unintelligible or unexplained rulings, whose purposes remain hidden and known only to God (Al-Juwaini, 1979).

Al-Ghazālī's elaboration on *maqashid* was largely consistent with that of al-Juwaynī, though he refined the classification of the three hierarchical levels (*al-ḍarūriyyāt, al-ḥājiyyāt, and al-taḥsīniyyāt*). He further asserted that lower levels of *maqashid* function as complements (*mukammilāt*) to higher levels, thus, *al-ḥājiyyāt* complete *al-ḍarūriyyāt*, and *al-taḥsīniyyāt* complete *al-ḥājiyyāt*. These levels, he emphasized, are hierarchically ordered and cannot be interchanged. Meanwhile, ʿIzz al-Dīn Ibn ʿAbd al-Salām provided a more practical elaboration on the concept of *maṣlaḥah*, focusing on the dual aims of averting harm (*dafʿ al-mafsadah*) and attaining benefit (*jalb al-maṣlaḥah*). He categorized worldly *maṣlaḥah* into three degrees of priority, *ḍarūriyyāt, ḥājiyyāt,* and *tatimmat*, and maintained that all divine commands (*taklīf*) ultimately aim at realizing human welfare in both this world and the hereafter (Salam, n.d.)

2. The Construction of Contemporary Maqashid

The historical development of the theory of *maqashid al-sharī'ah* in contemporary literature is often portrayed as culminating in the figure of Abū Isḥāq al-Shāṭibī. Consequently, the evolution of *maqashid* is not fully captured as an epistemological construction that progresses from a value-based concept toward a systematic methodological approach. The historiographical limitation to a single figure has led to a static understanding of *maqashid*, whereas post-Shāṭhibī intellectual developments in fact reveal significant shifts toward the conceptualization of *maqashid* as a new analytical framework within Islamic legal theory. Thus, while al-Shāṭibī's

position is rightly recognized as foundational, it does not preclude subsequent, more comprehensive theoretical elaborations (Mawardi, 2010).

Al-Shāṭibī's thought in *al-Muwāfaqāt* serves as a primary reference for modern legal theorists in formulating the general principles of Islamic law, especially regarding *maqashid* as the universal objectives of the Sharī'ah. According to al-Shāṭibī, all particular rulings (*al-aḥkām al-juz'iyyah*) are essentially constructed upon universal principles (*al-qawānin al-kulliyyah*) derived inductively from a holistic reading of the texts and the overarching spirit of the Sharī'ah. In this respect, al-Shāṭibī stands out as a pioneer in the application of "complete induction" (*al-istiqrā' al-tāmm*), a methodological procedure involving exhaustive compilation of textual evidence to formulate universal legal maxims. This method challenges the previously dominant deductive tradition that had shaped *uṣūl al-fiqh* for centuries. Although Imām al-Shāfi'ī in *al-Risālah* had hinted at the use of induction as a tool for understanding scriptural guidance, it was al-Shāṭibī who consolidated inductive and deductive reasoning into a coherent and systematic methodological framework. Thus, al-Shāṭibī was not merely an innovator of argumentative techniques but an epistemological reformer who linked universal principles and particular rulings in an ongoing dialectical relationship (Safi, 2001).

Al-Shāṭibī's methodological framework begins with the establishment of three levels of universal rules (*qawā'id kulliyyah*), all of which converge upon the *maqashid al-ḍarūriyyah* as the fundamental objectives of the Sharī'ah. The *maqashid al-ḍarūriyyah* are viewed as primary necessities essential for the preservation of religion and human life; neglecting them would cause structural harm to both social and religious order. For al-Shāṭibī, the classification of *maqashid* is not merely conceptual but also methodological, as it forms the basis for constructing legal maxims that are stable yet open to ongoing interpretive development. Al-Shāṭibī's methodology is dynamic and balanced, integrating both inductive and deductive forms of reasoning. Particular principles (*juz'ī*) are treated as derivatives of universal principles (*kullī*), yet the universal principles themselves are not regarded as absolute or immune to revision. Al-Shāṭibī emphasized the need for continual verification, wherein universal principles are tested, refined, and filtered through particular cases. In other words, a reciprocal and dialectical relationship between the universal and the particular is consistently maintained. This

dialectical process is guided by two interrelated methodological principles: *First*, contradictions between a universal principle and certain particular cases do not automatically invalidate the universal principle; the universal is retained as long as its inductive foundation remains strong. *Second*, wherever possible, universal maxims must be modified or specified to accommodate valid particular evidence. These principles reflect al-Shāṭibī's commitment to ensuring the flexibility of Islamic law without compromising its epistemological foundations (Safi, 2001).

At this point, it becomes evident that al-Shāṭibī offered a methodology that not only integrates two traditions of reasoning but also provides a framework that enables maqashid to function both as foundational principles and as analytical mechanisms within legal reasoning. This is what allowed *maqashid* after al-Shāṭibī to develop into a broader methodological approach rather than remain merely a normative value concept. Thus, al-Shāṭibī's contribution lies not merely in articulating *maqashid al-sharī'ah* as the objectives of Islamic law but more importantly in constructing an epistemology that integrates universal and particular principles through a comprehensive inductive–deductive framework. This intellectual legacy paved the way for the transformation of *maqashid* into a modern approach within Islamic legal studies, an approach later expanded by contemporary scholars in the areas of legal reform, the process of the derivation of Islamic legal methodology, and *maqashid*-based policy analysis. According to al-Shāṭibī, the inductive process employed in the application of *maqashid al-sharī'ah* is valid and possesses definitive epistemic certainty (*qaṭ'ī*). This conclusion stands in opposition to arguments rooted in Greek philosophical traditions that rejected the inductive method. From this perspective, it becomes clear that al-Shāṭibī sought to transform *maqashid al-sharī'ah* from a static conceptual framework into an active and dynamic methodological foundation through the use of inductive reasoning (Mawardi, 2010).

According to Louay Safi, the inductive method of reasoning proposed by al-Shāṭibī can be elaborated into four sequential stages: *first*, the analysis of texts or social contexts by deconstructing three determining factors, namely objectives, motives, and norms; *second,* the classification of various methods or types of action on the basis of similarities or differences among their components. This step is inseparable from the first stage; *third,* the identification of universal rules that govern the interaction among the

components identified in the second stage. In order to formulate such universal rules or "laws of interaction," a comparative examination that transcends temporal and geographical boundaries is required, so as to achieve detailed and comprehensive conclusions; and *fourth*, the systematization of universal rules into a form that does not differ from that employed in textual derivation. This systematization is intended to eliminate internal inconsistencies within the system of rules, whether derived from historical analysis or revelation (Safi, 2001).

Jasser Auda argues that al-Shāṭibī made three major contributions to the reformulation of *maqashid al-sharī'ah*: *first*, he shifted the understanding of *maqashid al-sharī'ah* from being an indeterminate and marginal consideration toward becoming a core foundation of legal theory. Whereas in earlier periods *maqashid* were often regarded as vague and non-fundamental, al-Shāṭibī refuted this view by asserting that *maqashid* constitute the very foundations of religion, law, and faith (*uṣūl al-dīn, qawā'id al-sharī'ah, and kulliyyāt al-millah*). *Second*, he introduced a shift from viewing maqashid merely as policy considerations or underlying wisdoms (*ḥikam*) behind legal rulings to treating them as fundamental and universal principles (*kulliyyah*) that cannot be overridden by partial or particular evidences (*juz'iyyah*). This perspective marked a significant departure from classical approaches, and *third*, he transformed the epistemic status of *maqashid* from conjectural (*ẓanniyyah*) to definitive (*qaṭ'iyyah*) foundations (Auda, 2015).

3.   The Maqashid Theory and Legal Reasoning

The theory of *maqashid* operates within a paradigm that may be analytically associated with utilitarian reasoning. According to Darmodiharjo, the school of Utilitarianism is a legal-philosophical tradition that places utility as the primary objective of the existence of law. This utility is understood in terms of happiness. Accordingly, the goodness or badness, as well as the justice or injustice of a law, depends on whether it produces happiness for human beings. Within this framework, legal validity is normatively evaluated on the basis of its consequences for human welfare. This school of thought may also be situated within the broader domain of legal positivism, insofar as it ultimately arrives at the conclusion that the purpose of law is to create social order, while

simultaneously providing the greatest possible benefit for humankind (Darmodiharjo & Shidarta, 1995).

The *maqashid* theory asserts that all efforts of legal derivation must be carried out within the framework of uncovering the intention of the Lawgiver in realizing human welfare (*maṣāliḥ al-'ibād*), rather than merely manipulating limited textual indications while neglecting the essential divine purpose behind the revelation of the law (Fanani, 2010). On this basis, it can be understood that the application of *maqashid* theory does not rely solely on the interpretation of legal textual sources, as described above, but is further developed through *ijtihād* in understanding social phenomena, so as to arrive at legal conclusions that are capable of bringing about public benefit. Nevertheless, there exists a foundational maxim within *maqashid al-sharī'ah* that the Sharī'ah was revealed to protect human beings from enslavement to their desires and to ensure their submission to the law of God. Therefore, *maqashid* theory constitutes one of the essential components that may be employed in the discovery of law or the formulation of legal norms in accordance with human needs, grounded in patterns of legal reasoning that have developed in both positive law and Islamic law.

Legal reasoning (rechtsvinding) is generally understood as the process of formulating and constructing legal norms by judges or authorized officials in applying the law to concrete legal events. In this context, judges do not merely function as the "mouthpiece of the law," but act as active subjects who interpret, concretize, and even create law within the limits of their authority. The process of legal discovery becomes particularly crucial when written law does not explicitly regulate a certain event, contains normative ambiguities, or is no longer fully relevant to continuously evolving social dynamics (Hidayatullah, 2020).

Within legal theory, two major tendencies in legal discovery are commonly recognized, namely the progressive and conservative schools. The progressive school holds that law and the judiciary should function as instruments of social engineering, so that law not only reflects social reality but also becomes a means of promoting social change toward more just and civilized conditions. Conversely, the conservative school views law and the judiciary primarily as instruments for maintaining social and moral stability, tasked with preventing the degradation of values and preserving the continuity of established legal traditions. These differences in orientation influence the choice of

methods used in interpreting legal texts and in understanding the social contexts underlying legal events (Muwahid, 2017). To carry out legal discovery, various methods of interpreting statutory texts and social realities have developed, including grammatical, systematic, historical, sociological, and teleological methods. In the tradition of Islamic law, the theory of *maqaṣhid al-sharīʿah* can be understood as one of the methods of legal discovery that is open and dynamic. This theory embodies the principle of legal progressivity, as it takes the objectives of the Sharīʿah as the primary foundation for formulating and applying law. Its basic orientation is to realize the ideal goals of law, namely legal certainty, justice, and utility in human life. Within this framework, law is not treated as a rigid normative structure, but as an ethical-juridical instrument for realizing public welfare (*maṣlaḥah*).

Maqashid theory appears to share similarities with the teleological method of legal interpretation in the tradition of positive law. The teleological method focuses on the social purposes of a statutory regulation. Through this method, judges interpret existing rules by considering the intent and objectives of the legislators, especially when the prevailing norms are no longer fully aligned with contemporary societal needs. In this approach, a regulation may be given a new meaning or its scope expanded so that it can be applied to situations, relationships, interests, and needs that were previously unknown at the time of its enactment. However, upon deeper analysis, there are fundamental differences between the teleological method and *maqashid* theory. The teleological method in positive law essentially departs from existing statutory texts. It is textual-inductive in nature, in the sense that new interpretations are only possible when there is a written norm available to be interpreted. Accordingly, the scope of this method is limited by the existence of positive legal texts. If no regulation can be used as a point of departure, the teleological method cannot function optimally, because it lacks an initial normative basis serving as the source of interpretive legitimacy (Mertokusumo & Mr. A. Pitlo, 1993).

By contrast, the theory of *maqashid al-sharīʿah* does not stop at a purely textual reading of the primary legal sources, namely the Qur'an and the Sunnah. The *maqashid* approach places the divine objectives underlying the establishment of law as the main focus of analysis. Therefore, the process of legal discovery is not confined to mere textual manipulation, but is expanded through a profound understanding of social realities,

historical change, and societal phenomena. In this framework, text and context are treated as two equally important sources of data, analyzed through methodological stages formulated by Muslim jurists and legal thinkers.

The *maqashid* method relies on a combination of inductive and deductive reasoning. Particular principles (*juz'iyyāt*) are placed under universal principles (*kulliyyāt*), yet at the same time these universal principles are not regarded as final and absolute. Rather, universal principles are continuously tested, enriched, and refined through the analysis of ever-developing particular cases. This relationship forms a dynamic and continuous dialectical process, enabling the law to continually adapt without losing its normative and theological foundations. The dialectical process within the *maqashid* method is constrained by two main principles. *First*, the existence of tension between a universal principle and certain particular cases does not automatically invalidate the applicability of that universal principle. This is because universal principles are the product of a long inductive process involving extensive normative and empirical data. *Second*, insofar as possible, universal principles must be modified or elaborated so that they are capable of accommodating and explaining valid particular cases. In this way, legal renewal is not understood as a rupture from tradition, but as an internal process within the framework of the fundamental principles of the Sharīʿah.

Thus, it can be concluded that the theory of *maqashid al-sharīʿah* constitutes a model of legal reasoning that transcends the limits of purely textual interpretation. It offers a methodological framework that integrates revelatory texts, the objectives of the Sharīʿah, and social reality into a coherent epistemological structure. The universality of principles within *maqashid* is not rigid, but is open to enrichment and reinterpretation through continuous dialogue with particular cases. For this reason, the *maqashid* method is not only relevant as an instrument of *ijtihād* in Islamic law, but also possesses significant theoretical value in modern legal discourse, particularly in efforts to maintain a balance between normative stability and the dynamics of social change.

4. The Paradigm Shift in Maqashid: From Textual to Contextual

The complexity of modern life necessitates an epistemological reconstruction capable of bridging the gap between normative religious texts and the dynamic realities of the contemporary world. It is within this context that the framework of contemporary

maqashid emerges as a new paradigm offering a more comprehensive methodological approach. This shift marks the transformation *of maqashid al-sharī'ah* from a merely normative theory concerning the purposes of the law into a full-fledged methodology of legal reasoning (*manhaj al-ijtihād*) that guides the process of formulating and discovering Islamic legal rulings. In traditional approaches, *maqashid* is often understood as the "objectives behind the law," namely the foundational values that the Sharī'ah seeks to realize. While this perspective has undoubtedly made significant contributions, it is insufficient in many cases to respond effectively to modern dynamics that demand flexibility and adaptive capacity. Therefore, contemporary *maqashid* positions itself as a conceptual framework that not only articulates the purposes of the law but also directs the methodology employed in the process of *istinbāṭ al-aḥkām*. Thus, *maqashid* is no longer placed at the final stage as a normative justification; rather, it is integrated from the outset of legal analysis, serving as an epistemological foundation that simultaneously guides the reading of texts and the observation of contextual realities (Arminsyah, 2025).

As a methodological paradigm, contemporary *maqashid* integrates two dimensions: the normative dimension grounded in the scriptural sources of the Sharī'ah, and the empirical dimension grounded in social realities. The integration of these two elements enables jurists to engage in a more holistic and responsive form of legal reasoning. Within this framework, the process of discovering Islamic legal rulings can be described through several structured steps:

a. **Identification of the Objectives of the Sharī'ah**

The first step involves identifying the relevant objectives of the Sharī'ah in relation to the legal issue under examination. Unlike the classical framework, which primarily focuses on the preservation of the five essential values, *ḥifẓ al-dīn, al-nafs, al-'aql, al-nasl*, and *al-māl*, contemporary *maqashid* expands its scope to incorporate values emerging from modern human needs. These include gender justice, the promotion of human rights, environmental protection, social justice, good governance, and the enhancement of public welfare. This expansion aligns with the principle that maqāṣid is dynamic and capable of evolving with societal change, provided that it remains anchored in the foundational values of the Sharī'ah.

b. Analysis of Social Context and Empirical Realities

The next stage consists of conducting an in-depth analysis of the social context in which the law will be applied. Contemporary *maqashid* emphasizes the importance of contextual reasoning, a process that considers the social, cultural, economic, and political dynamics influencing the implementation of the law. Consequently, law is not treated merely as a textual norm but as a response that must remain relevant to the needs of society. Without proper contextual understanding, the outcome of ijtihād risks losing its relevance or, worse, causing harm.

c. Textual Interpretation within the Maqāṣid Framework

At the interpretive stage, contemporary *maqashid* asserts that religious texts should be read progressively, with continuous reference to the objectives of the Sharī'ah. When a literal interpretation conflicts with *maqashid* or produces greater harm, the *maqashidi* approach allows space for a more adaptive reinterpretation. This does not imply a negation of the text; rather, it affirms that texts must be understood within the ethical purposes intended by the Sharī'ah. Accordingly, *maqashid*-based interpretation functions as a mechanism that harmonizes text and socio-historical reality without compromising core principles of Islamic law.

d. Legal Formulation and Verification of Public Welfare

Following *maqashid*, based reasoning and contextual analysis, the subsequent step is to formulate a legal ruling that best responds to societal needs. This formulation must be evaluated through the principles of public welfare (*maṣlaḥah*), justice, rationality, and social acceptability. Thus, legal products derived from the *maqashid* approach are not only normatively valid but also ethically sound, practically applicable, and capable of offering substantive solutions to contemporary challenges.

Through this methodological approach, contemporary *maqashid* plays a significant role in constructing a more responsive and contextual epistemology of Islamic law. It provides a framework that allows Islamic law to remain relevant without abandoning its foundational principles. This approach affirms that Islamic law is not

static; rather, it is a dynamic system that remains open to methodological innovation in pursuit of human welfare (*maṣlaḥah*). Accordingly, contemporary *maqashid* functions not only as a method of legal reasoning but also as a bridge that connects the transcendental nature of the Sharī'ah with the ever-evolving realities of modern life (Auda, 2008).

The application of contemporary *maqashid* as a method of legal derivation carries far-reaching implications for the development of Islamic legal theory and practice. As a new methodological framework, contemporary *maqashid* positions the objectives of the Sharī'ah as the primary orientation in legal determination. This shift affects not only the conceptual structure of Islamic law but also the way Islamic legal rulings are formulated to address increasingly complex modern challenges. Broadly, these implications can be mapped across three main domains: epistemological, sociological, and practical.

Epistemologically, the contemporary *maqashid* approach expands the knowledge base of Islamic law from a predominantly textual paradigm toward an integrated model that harmonizes textual sources with the ethical purposes of the Sharī'ah. Classical Islamic legal tradition typically treats the text (*naṣṣ*) as the primary authority, with *maqashid* serving as a supporting principle. In contemporary development, however, *maqashid* is promoted as a conceptual framework that shapes the reading and reasoning of the text itself. Consequently, the methodology of *ijtihād* becomes richer and more multidimensional. This approach also prevents Islamic law from falling into interpretative rigidity, since legal meaning is not confined to the literal level of wording but is evaluated through the lenses of justice, public welfare, and overarching *maqashid*. This epistemological transformation opens wider intellectual space for creative ijtihād and strengthens the rational foundations of Islamic law in addressing contemporary issues. From a sociological perspective, the application of contemporary *maqashid* renders Islamic law more responsive to societal dynamics. Law is no longer viewed merely as a rigid set of rules immune to social change, but as a dynamic instrument aimed at achieving social justice.

In modern societies characterized by rapid transformations in social structure, technology, economy, and patterns of human interaction, purely literal approaches often prove insufficient. *Maqashid* offers a framework for interpreting social realities as an integral component of legal formulation. This enables Islamic law to function more

relevantly, constructively, and problem-solving in orientation. Through this approach, Islamic law can serve as a normative system that responds to collective aspirations without losing its normative foundations. Practically, contemporary *maqashid* facilitates the expansion of Islamic legal application into new domains previously beyond the reach of classical methodologies.

The modern world presents exceedingly complex legal questions, including those related to bioethical issues, artificial intelligence, environmental protection, global economic integration, human rights, and digital governance. Without an adaptive methodological framework, Islamic law risks becoming disconnected from these pressing realities. The *maqashid* approach enables the development of Islamic legal responses within these domains while preserving fidelity to the foundational principles of the Sharīʿah. By placing the objectives of the Sharīʿah at the center, ijtihād can produce rulings that are relevant, applicable, and firmly rooted in Islamic values. The construction of contemporary *maqashid* offers a model of Islamic legal reasoning that is not only normative-theological but also contextual, rational, and humanistic. This approach serves as a middle path between two extremes: on the one hand, textual conservatism that resists change, and on the other, legal liberalism that risks detaching itself entirely from the authority of revelation. Contemporary *maqashid* seeks to reconcile these tendencies by asserting that text, context, and the objectives of the Sharīʿah must be harmonized within the ijtihād process (Beka, 2022; Zaprulkhan, 2018).

The contemporary maqāṣid paradigm positions social context and human welfare as integral factors in legal determination. Within this framework, Islamic law is no longer viewed as a direct derivation of textual sources alone, but rather as the outcome of a dialectical interaction between text, social reality, and the objectives of the Sharīʿah. Such an approach produces legal rulings that are more adaptive and inclusive, enabling Islamic law to make significant contributions in addressing the needs of modern society. By emphasizing this integral relationship, contemporary *maqashid* seeks to reaffirm that the Sharīʿah fundamentally aims to realize human welfare across all dimensions of life.

The construction of contemporary *maqashid* thought developed by modern scholars such as Jasser Auda, Abdullah bin Bayyah, and Yusuf al-Qaradawi is grounded in a set of epistemological and methodological principles that constitute its theoretical foundation as below:

First, is the principle of openness within the Islamic legal system. Jasser Auda argues that Islamic law must be understood as an open system capable of interacting with social, political, economic, and technological developments. An open legal system allows the Sharīʿah to remain relevant over time because it is capable of adapting to change. In this perspective, *maqashid* functions as a mechanism of methodological flexibility that prevents legal determination from being confined solely to textual literalism, while still remaining rooted in the foundational principles of revelation (Auda, 2008).

Second, is the principle of universal welfare (*al-maṣlaḥah al-ʿāmmah*). In contemporary discourse, *maqashid* is no longer limited to the interests of the Muslim community; instead, it extends to encompass universal human concerns. This aligns with the understanding that *maqashid* values such as justice, freedom, the protection of human dignity, and public well-being represent global moral principles. Thus, *maqashid* may serve as Islam's ethical contribution to broader human civilization (Al-Qaradhawi, 2007; Beka, 2022).

Third, is the principle of legal dynamism and contextuality. One of the major critiques of textualist approaches is their tendency to produce stagnation (*jumūd*) in the law. Contemporary *maqashid* rejects such stagnation by asserting that the law must adapt to social change. Legal reasoning that focuses solely on textual interpretation without considering *maqashid* risks generating injustice and contradicting the very purposes of the Sharīʿah. Therefore, *maqashid* becomes an epistemological instrument that ensures the law continues to function as a vehicle for welfare (Auda, 2025).

Fourth, is the principle of humanization and social justice. In the framework of contemporary *maqashid*, the human being is placed at the center of legal orientation. The Sharīʿah is understood as a system designed to preserve and uphold human dignity (*karāmah insāniyyah*) and to promote social justice across various spheres of life. In this sense, *maqashid* functions as an ethical foundation ensuring that Islamic law is not only normatively sound but also socially just and human-centered (Auda, 2008; Waid & Lestari, 2020).

Thus, contemporary *maqashid* provides a significant contribution to the development of a more relevant and welfare-oriented methodology for deriving Islamic legal rulings. This approach emphasizes that Islamic law is a dynamic, inclusive system that remains open to change so long as it operates within the orbit of the objectives of the

Sharīʿah. Accordingly, contemporary *maqashid* is not merely a legal theory; it represents an epistemological paradigm capable of addressing the challenges of modernity without sacrificing the normative identity of the Sharīʿah.

D. Conclusion

The contemporary construction of *maqashid al-sharīʿah* offers an essential epistemological and methodological foundation for the development of Islamic law amid modern social change. The tension between the limitations of scriptural texts and the dynamic realities of human life necessitates the emergence of a more adaptive method of legal discovery. In this context, *maqashid* is no longer understood merely as an abstract set of normative objectives, but as a methodological paradigm capable of integrating the fundamental values of the Sharīʿah with continually evolving social, political, and cultural needs.

Historically, the concept of *maqashid* developed from the classical formulations of al-Juwaynī, al-Ghazālī, and al-Shāṭibī, who emphasized the *al-kulliyyāt al-khamsah* as the pillars of public welfare. Contemporary scholars such as Jasser Auda and Ibn Bayyah have expanded the scope of *maqashid* to encompass global issues, including human rights, social justice, environmental protection, gender equality, and good governance. This expansion demonstrates the vast potential of maqāṣid to serve as a guiding framework for constructing Islamic law that is responsive and relevant across time. Within the methodology of *istinbāṭ al-aḥkām*, the contemporary construction of *maqashid* opens broader interpretive space through the inductive–deductive approach articulated by al-Shāṭibī. This approach enables a harmonious dialectic between text, context, and legal purpose, allowing law to be formulated without falling into textual rigidity or excessive contextual subjectivity. By positioning the objectives of the Sharīʿah as its primary orientation, *maqashid* functions as a methodological instrument that not only preserves the normative roots of Islamic law but also promotes the continuous realization of justice and public welfare in society.

Furthermore, *maqashid* exhibits notable proximity to the teleological method of legal discovery within the tradition of positive law, particularly in its emphasis on legal purpose as the basis for interpretation and application of norms. This similarity indicates that *maqashid* can act as an epistemological bridge between Islamic law and modern legal

theory, thereby reinforcing its capacity as a progressive, open, and temporally relevant method of legal reasoning. Thus, contemporary *maqashid* represents a strategic paradigm for realizing Islamic law that is just, adaptive, and functional. It not only provides direction in formulating laws consistent with Sharī'ah values but also ensures that Islamic law remains capable of offering solutions to modern challenges without compromising its theological essence. This study affirms that strengthening *maqashid* as a methodology is a pivotal step in constructing an Islamic legal system that can address the needs of global society while upholding the lofty objectives of the Sharī'ah: justice, public welfare, and human well-being.

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