



**Samarah:** Jurnal Hukum Keluarga dan Hukum Islam  
Volume 5 No. 1. January-June 2021  
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167  
DOI: 10.22373/sjhh.v5i1.9139

## **Ḥifẓ Al-Lisān As Maqāṣid Al-Sharī'ah Al-Ḍarūriyyah (Its Importance And Relevance In The Contemporary Era)**

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**Abstract:** This study examines the urgency and relevance of *ḥifẓ al-lisān* to be included as a part of *al-ḍharūriyyāt* from the five main points (*al-ḍharūriyyāt al-khams*) which have to be maintained and is the main level in the study of *maqāṣid al-sharī'ah*. The transformation of *ḥifẓ al-lisān* as *maqāṣid al-sharī'ah al-ḍarūriyyah* has a pivotal role in today's contemporary era. This study only focus on two important aspects such as how *ḥifẓ al-lisān* is being used as an important part of *maqāṣid al-sharī'ah* in the *al-ḍharūriyyāt* and to what extent the urgency and relevance of *ḥifẓ al-lisān* as *maqāṣid al-sharī'ah* in the contemporary era. This study employed inductive analysis as a method of analysis. The sources are books related to *maqāṣid al-sharī'ah* written by Islamic jurists. The results of this study reveal that *ḥifẓ al-lisān* is suitable and urgent to be included as a part of *maqāṣid al-ḍarūriyyah* based on the arguments of *aqli* and *naqli* as well as phenomena that occur in the today's contemporary era. *Ḥifẓ al-lisān* is necessary to do in terms of harmonizing life of society, nation and state. However, by ignoring *ḥifẓ al-lisān* has an impact on the emergence of negative attitudes such as provocation, slander, sarcasm, racism, spreading hoax news, hate speech and others. This negative attitude must be stopped because it certainly creates *mafsadat* for the community, nation and state.

**Keywords:** Maqāṣid al-sharī'ah, ḥifẓ al-lisān, masalah, al-ḍarūriyyāt, contemporary era.

**Abstrak:** Artikel ini mengkaji tentang urgensi dan relevansi *ḥifẓ al-lisān* untuk dimasukkan sebagai bagian dari *al-ḍharūriyyāt* dari lima pokok utama (*al-ḍharūriyyāt al-khams*) yang harus dipertahankan dan menjadi level utama dalam kajian *maqāṣid al-syarī'ah*. Transformasi *ḥifẓ al-lisān* sebagai *maqāṣid al-sharī'ah al-ḍarūriyyah* memiliki peran penting di era kontemporer saat ini. Kajian ini hanya berfokus pada dua aspek penting seperti bagaimana *ḥifẓ al-lisān* digunakan sebagai bagian penting dari *maqāṣid al-syarī'ah* dalam *al-ḍharūriyyāt* dan sejauh mana urgensi dan relevansi *ḥifẓ al-lisān* sebagai *maqāṣid al-syarī'ah* di era kontemporer.

|| Submitted: March 08, 2021 || Accepted: June 07, 2021 || Published: June 30, 2021

*Penelitian ini menggunakan analisis induktif sebagai metode analisis. Sumbernya adalah buku-buku yang berkaitan dengan maqāṣid al-syar'ah yang ditulis oleh para ahli hukum Islam. Hasil penelitian ini mengungkapkan bahwa ifẓ al-lisān cocok dan mendesak untuk dimasukkan sebagai bagian dari maqāṣid al-ḍarūriyyah berdasarkan dalil-dalil aqli dan naqli serta fenomena yang terjadi di era kontemporer saat ini. ifẓ al-lisān perlu dilakukan dalam rangka harmonisasi kehidupan bermasyarakat, berbangsa dan bernegara. Namun, dengan mengabaikan ḥifẓ al-lisān berdampak pada munculnya sikap negatif seperti provokasi, fitnah, sarkasme, rasisme, penyebaran berita hoax, ujaran kebencian dan lain-lain. Sikap negatif ini harus dihentikan karena tentunya menimbulkan mafsadat bagi masyarakat, bangsa dan negara.*

**Kata Kunci:** *Maqāṣid al-sharī'ah, ḥifẓ al-lisān, masalah, al-ḍarūriyyāt, era kontemporer.*

## Introduction

In today's contemporary era, *ḥifẓ al-lisān* (taking care of the way to speak ) is important as well as urgently needed to be maintained in order to create social relations that are safe, peaceful, serene, and prosperous in the midst of living in society, nation and state or in the language of the Qur'an it is expressed in the term *baldatun toyyibatun wa rabbun ghafur*.<sup>1</sup> This lofty aim is a form of *maslahat* variant that must be realized according to the mandate ordered in Islamic law (*maqāṣid al-sharī'ah*).

There are several reasons why *ḥifẓ al-lisān* is crucially important and urgent to be guarded in the contemporary era today which are (1) taking care of the way to speak is a direct command from Allah and His Messenger which is expressly stated in the Koran and Hadith also may scholars tend to use it as *qaul* (words of wisdom), poetry, *maḥfūzāt* (pearls of wisdom) ; (2) *mafsadat* which is caused by untreated speech is very fatal both in this world and in the hereafter as an example, in this world, it often appears squabbles, fights, blasphemy, slander, quarrels and even murder, while, in the hereafter, it is clear that he/ she will be put into hell<sup>2</sup> ; (3) along with the times marked by advances in science and technology, in this modern-contemporary era, the phenomenon of hate speech, provocation, bullying, hoaxes, slander, gossip, sarcasm, racism and others are increasingly occurring in society, not only in Indonesia but also in all countries around the world, although some of these forms of oral acts have existed for a long time, their intensity and impact are

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<sup>1</sup> Surah Saba '(34): 15.

<sup>2</sup> Innal Munafiqīn fī al-Darkil Asfali min al-Nār walan tajida lahum naṣīrā (Surah al-Nisa '(4): 145).

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so great that they can be seen and felt today, particularly with the advancement of technology in the form of highly sophisticated communication media that makes it easier for everyone to say whatever they want ; and (4) the Electronic Transaction Information Law (UU ITE) which appeared especially in Indonesia on April 21, 2008 where the content contained in it reinforces the importance of taking care of the way to speak.

Based on the aforementioned four arguments, this study needs to include ḥifẓ al-lisān as part of the maqāṣid al-sharī'ah al-Ḍarūriyyah. Therefore, the addition of *al-oral hifdzu* as one of the *Ḍarūriyyāt* components makes *al-kulliyāt al-khamsah* able to "metamorphose" into *al-kulliyat al-sittah* or *al-dharururiyyat al-sittah*.

The idea of adding *maqāṣid al-sharī'ah al-Ḍarūriyyah* has been researched and written by several intellectuals and Islamic jurists as has been done by Hasamuddin, MZ.<sup>3</sup>In his research, he attempted to include *ḥifẓ al-'Ird* as a part of the *maqashid dharuriyyat* after connecting to current social developments. Similar study was also made by Khairul Hamim and Lalu Supriadi<sup>4</sup>which attempted to actualize the concept of *ḥifẓ al-'ird* with hoax news in the contemporary world. A more detailed explanation of the possibility of adding *maqāṣid al-sharī'ah al-Ḍarūriyyah* which was written by Karim al-Nafi'i using the *ushul-maqasidi* study approach.<sup>5</sup> Likewise with almost the same research title written by Usman Muhammad Gharib<sup>6</sup>. It's just that Usman strengthened his argument by stating the efforts made by Imam Ibn Taymiyyah who added *ḥifẓ al-'adālah* (maintaining justice) as *maqāṣid al-sharī'ah al-Ḍarūriyyah* and placed after *ḥifẓ al-dīn* based on detailed arguments from al- Qur'an and hadith.<sup>7</sup> Strengthening the thesis of Karim Nafi'i and Usman Muhammad Gharib, Syarifah Nadirah Nasibah et al<sup>8</sup> also

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<sup>3</sup>Hifzh al-'Ird in Modern Social Transformation; Efforts to Make Hifzu al-'Ird as Maqasid al-Dharuriy., *At-Tasyri* ': Vol. XI. No. 2, December 2019, p 119-132.

<sup>4</sup> Khairul Hamim and Lalu Supriadi, 'The Contextualization Of Ḥifẓ Al-'Ird on Hoax News (A Study on Imam Tājuddīn Al-Subkī's Maqāṣid Al-Sharī'ah)', *Ulumuna* 24, no. 2 (2020), p. 348.

<sup>5</sup> Karim Al-Nafi'i, *Al-Ḍarūriyyat Al-Khams Baina Al-Ziyādah Wa Al-Ḥaṣr* (Riyad: Markaz Namā' lil buḥūts, n.d.), p. 10.

<sup>6</sup> Usman Muhammad Gharib, 'Al-Ḍarūriyyat Al-Khams Baina Al-Ḥaṣr Wa Al-Ziyādah', *Journal of Art, Literature, Humanities, and Social Science (JALHSS)* 2, no. 12 (2017), p. 12.

<sup>7</sup> Al-Nafi'i, *al-Dharuriyyat al-Khams baina al-Ziyadah wa al-Haṣr*, p. 12.

<sup>8</sup>Syarifah Nadirah Nasibah et al., Listening Security and Prioritizing It in al-Maqashid al-Daruriyyat "Journal of JFatwa: Journal of Fatwa Management and Research Vol. 20., No. 1 (2020), p. 7.

promoted *ḥifẓ al-amni* (maintaining security) as an important thing to be guarded in the present.

From several previous studies, study on *ḥifẓ al-lisān* as *maqāṣid al-sharī'ah al-ḍarūriyyah* has not received deep attention, whereas, *ḥifẓ al-lisān* (taking care of the way to speak) in the millennial and modern-contemporary era is a solution to various crises that have disrupted social relations between the nation and the state. Thus, this study aims to complement the shortcomings of existing studies by analyzing the importance of *ḥifẓ al-lisān* as an urgent part of being included in the *maqāṣid al-sharī'ah al-ḍarūriyyah* category.

This study assumes that *ḥifẓ al-lisān* has a very large impact on life both in this world and the hereafter. This is as narrated in the many arguments both *aqli* and *naqli* arguments that are contained in the Koran and the hadith. In addition, the rapid development of science and technology also facilitates massively various forms of speech, utterances, fake news and other negative expressions which are increasingly being spread without knowing the exact source of the news. Therefore, study on *ḥifẓ al-lisān* can be used as a conceptual basis to prevent negative expressions that have the potential to damage the joints of life in society, nation and state in the social, economic, cultural, political and even religious fields. This preventive effort is carried out to maintain the dignity and honor of a person, which in essence are the values of benefit which are the goals of *maqashid al-sharia* itself.

This type of study is library research (library research) using a qualitative approach. Data collection was carried out through observation in which the researcher observed the “live” behavior in the community, especially the observation of the spoken words and the impact of the spoken utterances. Apart from observation, data collection was also carried out by means of documentation, namely collecting and reading literature from books, journals, both printed and electronic. There are two sources of data in this research which are primary data sources in the form of books related to *maqashid al-sharia*, both classical books (polar *al-turāts*) and contemporary books. Secondary data sources were obtained through dictionaries, encyclopedias, internet and so on. This study employed a content analysis method, analyzing data from published books or literature. According to Harold D Lasswell, there are three stages that are passed in content analysis : (1) describe the contents of the message in the form of the thought of the character being studied, (2) examining the causes of the message content towards behavior that gives rise to values, attitudes, motives and problems at the source of the message, (3) examines the impact or implication of the

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message content on the recipient.<sup>9</sup> After analyzing, the researcher then concluded from the studies conducted.

### Understanding *Maqāṣid al-Sharī'ah*

The word of *maqāṣid al-sharī'ah* comes from Arabic which consists of two words, *maqāṣid* and *al-sharī'ah*. The word *Maqāṣid* is plural form of the root word *qaṣada-yaqṣudu-qaṣdan* which means intention, goal, direction of something and a straight path,<sup>10</sup> grip, justice, balance, come to something<sup>11</sup>. From this root word, three forms of words are often used in several references such as *al-Qaṣdu*, *al-Maqṣūd*, and *al-Maqṣad*.<sup>12</sup> According to Su'ad Kurim the terms of *al-Qaṣdu* and *al-Maqṣad* have different meanings, *al-Qaṣdu* means the meaning obtained from naṣ (legal text) while *al-Maqṣad* means the goal contained in naṣ (legal text).<sup>13</sup> Su'ad Kurim strengthens his argument by saying that every legal text is ensured to have two aspects that must be found, the meaning of the law and the purpose of the law.<sup>14</sup>

As for the word *sharī'ah* in language has several meanings: *al-dīn* (religion), *al-sunnah* (way), *al-amru* (command) *al-madhab* (mazhab), and *al-minhāj* (method).<sup>15</sup> The word *sharia* also means a straight path (*al-ṭarīqah al-mustaqīmah*).<sup>16</sup> This meaning is in accordance with the word of Allah, surah *al-Jātsiyah: 18*, and surah *al-Mā'idah: 48*. Meanwhile, according to the term, there are several definitions put forward by the scholars. According to Abdullah An-Naim as quoted by Abdun Nasir, *sharī'ah* is all aspects related to Islam regarding belief, worship, law, morality and others, although

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<sup>9</sup> K. Koentjaraningrat, *Community Research Methods*. (Jakarta: Gramedia Pustaka Utama, 1990), 23.

<sup>10</sup> Majma' al-Lughāt al-'Arabiyyāt, *Al-Mu'jam Al-Wasīṭ* (Mesir: Maktabah al-Shurūq al-Dawliyyāt, n.d.), p. 738. Lihat juga, Hans Wehr, *A Dictionary Of Modern Written Arabic* (London: Mac Donald & evan Ltd, 1980), p. 767.

<sup>11</sup> Ibn Mandzhur, *Lisān al-'Arab*, (Cairo: Dār al-ma'arif, 1990), p. 353-355.

<sup>12</sup> Ibn Bih, A., *'Alāqāt Maqāṣid al-Sharī'ah bi Uṣūl al-Fiqh* (Beirut: Mu'assasah al-Furqān Li al-Turāts al-Islāmī, 2006), p. 11-13.

<sup>13</sup> Su'ad Kurim, *Jadal al-'Alaqaḥ Baina al-Qaṣd al-Qur'ani wa al-Maqṣad al-Syar'i*, *The Flower of Book: Maqāṣid al-Syarī'ah wa al-Ijtihād* (Beirut: Mu'assasah al-Furqān Li al-Turats al-Islami, 2008), p. 81-82.

<sup>14</sup> *Ibid.*, p. 82-83.

<sup>15</sup> Majma' al-Lughāt al-'Arabiyyāt, *al-Mu'jam al-Wasīṭ*, 479. See also Ibn Manẓur, *Lisān al-'Arab*, Vol. 8, p. 173.

<sup>16</sup> Mushthafa Syalabiy, *al-Madkhal Fi al-Fiqh al-Islāmīy, Ta'rīfuhu Wa Tarīkhuḥu Wa Madzāhibuhu*, Cet. 10 (Beirut: Dar al-Jam'iyyat, 1405 H / 1985 m), p. 27.

this word often refers to the meaning of Islamic law (Islamic law).<sup>17</sup> However, Jasser Auda distinguished the terms between *shari'ah* and *fiqh*. According to him, *Shari'ah* is a revelation that was received by the Prophet and practiced in everyday life which then becomes the message and mission of life contained in the Koran and Hadith. *Fiqh* is a collection of the opinions of jurists' (jurisprudents) from various schools of thought (*mazhab*) regarding the practice of *shari'ah* law in their various real-life situations during the last fourteen centuries.<sup>18</sup>

This definition emphasizes that *sharia* is a constant revelation from God and is not interpreted by humans, while *fiqh* is dynamic in line with changes in time and place. *Fiqh* terminology is later known as Islamic law (Islamic law). In line with Jasser Auda, Muhammad al-Washil defined that *sharia* as a collection of legal provisions established by Allah Almighty through His Messenger found in the Koran and al-Sunnah.<sup>19</sup> Based on some opinions of these scholars, it can be concluded that *shari'ah* is all provisions of Allah to His servants who are *mukallaf*, both in the form of demands such as orders and prohibitions as well as the causes of these demands such as pillars, conditions and all things that are His rules, and the *Shari'a* itself must be sourced from the Al-Quran and Sunnah. . The combination of these two words to form maqashid al-sharia is linguistically defined as the objectives of the shari'ah. Meanwhile, in terms of terms, there are several definitions put forward by the scholars.

Furthermore, Imam al-Ghazali outlines it as *al-maslahah*, which is a basic explanation of something that brings beneficial value or eliminates harm by maintaining the five basic objectives of the *Shari'a*, namely maintaining religion, soul, mind, descent, and property.<sup>20</sup> Imam al-Syatibi concluded that *maqashid syari'ah* is the goal of maintaining the objectives of the *shari'a* passed down to creatures so as not to run away from three basic interests (*ḍarūriyyāt*, *ḥājjiyyāt*, and *taḥsīniyyāt*) and Allah implies something with the intention of benefiting mankind in the world and in the hereafter.<sup>21</sup> According to Ibn Asyur, *maqashid al-sharī'ah* are the objectives

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<sup>17</sup>Muhammad Abdun Nasir, *Contemporary Sharia Discourse in the West: A Study of Wael B. Hallaq and M. Barry Hooker's Thought*. Ulul Albab, (2017) 18 (1), p. 1–20.

<sup>18</sup>Jasser Auda, *Maqashid Syariah as Philosophy of Islamic Law System Approach*. (IIIT, 2008), p. xxiii.

<sup>19</sup> Muhammad Washil, *al-Madkhal al-Waṣīṭ li al-Dirāsah al-Syarī'ah al-Islamiyyah wa al-Fiqh wa al-Tasyri* '(Egyptian: al-Maktabah al-Taufiqiyyah, tt), p. 15.

<sup>20</sup> Abu Hamid Al-Ghazali, *al-Mustaṣfā min 'Ilmil Uṣūl*, Juz 2 (Riyad: Dār al-Hijrah, 1998), p. 481-482.

<sup>21</sup> Al-Syathibi, *al-Muwafaqāt fi Uṣūl al-Ahkām* Juz 2 (Beirūt: Dār al-Fikr, tt), p. 3-4.

and wisdoms that are generated by Allah in determining all or most of the laws contained in a *shari'a* text.<sup>22</sup> Meanwhile, 'Allal al-Fāsi (1328-1394H), explained that the meaning of *maqashid al-syaria'ah* as the goal of *sharia*, and the hidden meanings made by *al-shari'* in each of the *sharia* laws.<sup>23</sup> Another study conducted by Ibn 'Asyur and Al-Fāsi, Wahbah Zuhaily defines *maqashid sharia* as the meanings and purposes that are contained in all or most of the implied laws and / or the purpose of the existence of *sharia* and the secrets that come from every law that is implied.<sup>24</sup>

From some of the definitions put forward by the scholars above, it can be understood that *maqashid syari'ah* is all the rules of Allah addressed to His servants both in the form of orders and prohibitions that aim to realize the benefit of humans and prevent them from anything that can lead to *mafsadat* (Jalbul maṣāliḥ wa dar'ul mafāsīd) in this world and hereafter.

### **Additional Discourse of *Maqāshid al-Ḍarūriyyah***

Currently, additional discourse concept of *al-ḍarūriyyāt* become an interesting concept to discuss such as is the concept of *al-ḍarūriyyāt* limited to only five main things based on the *ijma' ulama* or is it the *ijtihad* of the previous scholars which may develop and change according to the times?.

*Ulama fiqh* and *ushul fiqh* in general only limited *maqāshid al-ḍarūriyyāt* only for five things, namely safeguarding religion, soul, mind, descent and property. The difference in concept of *al-ḍarūriyyāt* has five cases were initiated by Imam Al Ghazali who was followed by later scholars such as Imam al-Razi, Al-Amidi, Al-Syathibi and others. In addition, Al-Amidi explicitly stated that the concept of *al-ḍarūriyyāt* only has five points and there is no addition of the five things. The group that follows Imam Al Ghazali also believes, if it is said to the exist of *al-ḍarūriyyāt* other than those five, it can be put in either one of *al-ḍarūriyyāt* or just complement it as a way of keeping the five *al-ḍarūriyyāt*.<sup>25</sup>

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<sup>22</sup> Ṭāhir Ibn 'Āshur, *Maqāshid al-Syarī'ah al-Islāmiyyah* (Amman: Dār al-Nafā'is, 2001), p. 251.

<sup>23</sup> 'Allal al-Fasī, *Maqāshid al-Syarī'ah al-Islāmiyyah wa makārimuha* (ttp; Dār al-Garb al-Islāmī, 1995), p. 7.

<sup>24</sup> Wahbah al-Zuhaily, *Uṣūl al-Fiqh al-Islāmī* (Beirut: Dār al-Fikr, 1986), p. 1017.

<sup>25</sup> Syarifah Nadirah Nasibah et al., "Emphasizing Security and Prioritizing It in al-Maqashid al-Daruriyyat" *Journal of JFatwa: Journal of Fatwa Management and Research* Vol. 20., No. 1 (2020), April Issue, p. 7.

For this group that makes a case classified as deep *al-ḍarūriyyāt* when its nature that will destroy the life of this world or the hereafter if it is being neglected and not fulfilled. Another measure that is also put by this group to consider is included in the category of *al-ḍarūriyyāt*, if a person violates the provisions of the criminal law, the quality of the violation includes major sins such as murder, apostasy, adultery, drinking alcoholic beverages and so on. They also added that if a case is punishable by *hudud* punishment, that is a sign that it falls into the category of *al-ḍarūriyyāt* such as the punishment of cutting off the hands of a thief, whipping for drinking alcohol, stoning for adultery and the punishment of suicide in return for murder. Therefore, the majority of *ushul* scholars say that "*hudud is maqashid and maqashid is hudud*".<sup>26</sup>

In contrast to the above arguments, some scholars argue that *al-ḍarūriyyāt* is not limited to the five main points which have been mentioned but may be added with the results of new *ijtihad-ijtihad*. Imam Ibn Taymiyyah, for example, made justice of an important part of *maqashid al-syari'ah-al-ḍarūriyyah*. According to him, maintaining justice must be put after maintaining religion because if justice is not upheld then life will be chaotic.<sup>27</sup> If justice is not maintained, then there will be damage to human life with the occurrence of oppression, neglect of rights, and all other forms of injustice in terms of social, cultural, political, economic and even religious. Apart from justice, another thing that the scholars added into the five category of *al-ḍarūriyyāt* are freedom, human rights, equality, unity, security and so on.<sup>28</sup> In fact, before Ibn Taymiyyah, the idea of the addition had been started in the VII century which was pioneered by a number of scholars such as Tājuddīn al-Subki in the *jam'u al-jawāmi'* book, as well as al-Thūfi (d. 716 H) and al-Qarāfi (684 H). However, al-Qarāfi is not so firm in making this offer.

Generally, theory of the *maqāsid Tājuddīn al-Subki* (728 H-771 H) was not much different from the theory of al-Syāthibi as previously mentioned. It's just that the *maqāshid* activists call the discussion conducted by al-Syāthibi more systematic. But on the other hand, there is something different from al-Subki's *maqāshid* paradigm, by proposing *hifzh al-irḍ* as part of the *maqasid al-dharuriyyah*. Even if we pay attention to his statement, it can be seen that the theory of *maqāshid* al-Subki consists of six points as quoted by Muhammad Ahmad al-Qayātī from the book *jam'u al-jawāmi' fi ushūl fiqh* by Tājuddīn al-Subki. It is stated that '*wa al-dharūri*

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<sup>26</sup> Al-Nafi'i, *Al-Ḍarūriyyat al-Khams baina al-Ziyādah wa al-Ḥasr*, p. 10.

<sup>27</sup> Ibid., p. 3.

<sup>28</sup> Syarifah Nadirah, "Emphasizing Security and Prioritizing It", p. 7.



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*kaḥifẓ al-dīn, fa an-naḥs, fa al-'aql, fa an-nasb, fa al-māl, wa al-'ird* which means emergency is like safeguarding religion, soul, reason, descent, property and honor.<sup>29</sup>

The inclusion of *al-'ird* as part of *dharuriyyat* has caused polemics among *ulama* afterward. Some of them agreed, and some objected to the inclusion of *ḥifẓ al-'ird* into *ḍarūriyyāt*.<sup>30</sup> Al-Qarafi and al-Thufi, for example, both disagreed with these additions. Both are of the view that *ḥifẓ al-'ird* is part of the *maqāshid*, it's just that the division is still in the division of five points (*al-kulliyāt al-khams*), as quoted in the *syarh tanqīh al-fushūl* book. It is mentioned that "*al-kulliyat al-khams wa hiya ḥifẓ al-nuḥs, wa al-addiyān, wa al-ansāb, wa al-'uqul, wa al-amwāl wa qila al-'rād*" which means five main things, namely protecting the soul, religion, descent, reason, wealth and also dignity.<sup>31</sup> In line with the two Imams, Ibn Asyur, for example, also did not agree with the addition, according to him, *al-'ird* falls within the scope of *al-hājiyyāt*. He also did not accept *ḥifẓ al-nasab* within the scope of *ḍarūriyyāt*, unless it was meant to protect *al-nasl*.

In contrast to Ibn Asyur, al-Syaukani defended al-Subki's opinion by saying that the addition of *al-'ird* is part of *al-ḍarūriyyāt* so that the number becomes six because in reality, most people spend all their power and efforts to maintain their dignity as they maintain themselves and their possessions. On this basis, Allah establishes and enforces criminal law for *qazaf* actors because this is a form of violation or desecration of one's dignity which can be more urgent than others.<sup>32</sup> Al-Bannāni tried to mediate the difference of opinion by explaining that *al-'irdis* in addition to the author (al-Subki) by ordering them using *waw 'ataf*. This showed that *al-'ird* level as same as *al-māl*, while the other ordering uses the letter *fa*.<sup>33</sup>

Several things that include in *ḍarūriyyāt* category by the scholars above have raised pros and cons whereas the *ḍarūriyyāt* problem is the

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<sup>29</sup>Hasamuddin, MZ., Jurnal al-Tasyri 'Vol. XI, No. December 2, 2019 "Ḥifẓ al-'irdh in Modern Social Transformation (Efforts to Make Ḥifẓ Al-'ird As Maqāshid Al-Dharūriyyah), p. 128.

<sup>30</sup> Khairul Hamim and Lalu Supriadi, Ulumuna Journal "The Contextualization Of Ḥifẓ Al-'ird on Hoax News (A Study on Imam Tājuddīn al-Subkī's Maqāshid al-Sharī'ah), Vol. 24 No.2 (2020) December, 357.

<sup>31</sup> Ibid., p.129

<sup>32</sup> Muhammad ibn 'Ali al-Shaukānī, *Irshād al-Fuhūl ila Tahqīq al-Haq min' Ilm al-Uṣūl* (Beirut: Dār al-Fikr, 1972), p. 216.

<sup>33</sup>Al-Bannani explained the editorial team used by al-Subki in sorting the *dharuriyyat* problem in his *Jam'ul jawami* 'book, namely "wa al-dharūri: ka ḥifẓ al-din, fa al-naḥsi, fa al-'aqli, fa al-nasabi, fa al-māli, wa al-'ird. "

result of the *ulama's ijtihad* which can change and develop according to developments in situations, conditions and times. Because of that, this study tends to consider al-ḍarūriyyāt not only limited to five main things, but also anything that can disturb and eliminate comfort, tranquility and have a large negative impact on people's lives can be categorized as a case. *al-ḍarūriyyāt* as one of them *ḥifẓ al-lisān* (taking care of the way to speak). The case of al-ḍarūriyyāt can no longer be used as a sub-theme to the five main points above, it needs to be self-contained and clearly stated so that it can be given great attention when the conditions and demands of the times require it.

### Epistemology of *Ḥifẓ al-Lisān* as *Maqāṣid al-Ḍarūriyyah*

As it is known that there are five points *maqāṣid al-ḍarūriyyah*, which must be guarded and maintained, cannot be separated from the detailed and in-depth building of the framework of thought and study of the scholars. Each of the five things has a solid foundation / foundation from the Koran and Hadith. Apart from that, rational considerations that are oriented to the benefit and social impacts that occur also take into account the determination of *maqāṣid al-ḍarūriyyah*. The prohibition of apostasy as a consequence of *ḥifẓ al-dīn* is an embodiment of the word of God Almighty in Surah al-Baqarah verse 217<sup>34</sup> and Surah al-Nahl: 106. Apart from the Koran, the Messenger of Allah (saw) explained the punishment for this apostate in a hadith:

وعن ابن عباس رضى الله عنه قال: قال رسول الله صلى الله عليه وسلم: من بدل دينه فاقتلوه

*From Ibn Abbas ra. He said: Rasulullah saw. Said: "Whoever changes his religion then kill him." (Hadith narrated by Bukhari)*<sup>35</sup>

Also the history of al-Bukhari which is taken from the *Masruq* route from Abdullah, that the Messenger of Allah said,

<sup>34</sup>The above verse according to Quraish Shihab explains that there are two consequences of apostasy, which are his/she deeds in the world will be in vain and he / she will be eternal in hell. These consequences he/she will receive when he/she apostatizes which continues until death. However, if he/ she is converted and embraces Islam again, according to Imam Shafi'i, his/ her practice will not be erased and his / her repentance is accepted by Allah SWT. According to the Hanafi and Maliki scholars, they argue that the two consequences mentioned in the above verse are related to two conditions. Each effect occurs with each condition. Abolition of charity is the result of apostasy, and eternity in hell is the result of dying in an apostate state. Read M. Quraish Shihab, *Tafsir al-Mishbah, Message, Impressions and Conformity of the Qur'an*, Vol. 1 (Jakarta: Lentera Hati, 2004), p. 464.

<sup>35</sup>Muhammad Ibn Isma'il Al-Kahlani, *Subul Al-Salam*, Juz III, (Cairo: Syarikah wa Mathba'ah Mushthafa Al-Baby Al-Halaby, 1960), p. 265.

## Ḥifẓ Al-Lisān As Maqāsid Al-Sharī'ah Al-Ḍarūriyyah (Its Importance And 327 Relevance In The Contemporary Era)

Khairul Hamim

DOI: 10.22373/sjhk.v5i1.9139

لا يحل دم امرئ مسلم يشهد ان لا اله الا الله و انى رسول الله الا باحدى ثلاث النفس بالنفس و الثيب الزاني و المارين علاني و المارين<sup>36</sup>

*"It is not lawful the blood of a Muslim who testifies that there is no god but Allah and testifies that I am the Messenger of Allah, except for one of three things; soul with soul (killing is punishable by suicide) married people commit adultery, and people who apostatize from religion (Islam) because they leave the congregation.*

Likewise, the prohibition against killing<sup>37</sup> Humans in all their forms are generally a consequence of the birth of ḥifẓ al-nafs itself. It is based on the word of Allah surah al-An'am: 151, al-Mā'idah: 32 and al-Takwīr: 8-9.<sup>38</sup>

Meanwhile, it is prohibited to rob (*ḥirābah*) and steal (*saraqah*) which causes the emergence of *ḥifẓ al-māl* which is clearly found in the Koran, namely Qs. Al-Mā'idah verse 33 concerning the punishment for robbery<sup>39</sup> and Qs. al-Mā'idah verse 38 which describes the punishment for the crime of theft.<sup>40</sup>

While the argument from the Koran which is used as the basis for the prohibition of adultery and *qazaf* so that the term *ḥifẓ al-nasl / al-nasab* appears is the Word of God in the al-Qur'an Surah al-Isra 'verse 32<sup>41</sup>, al-Nisa

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<sup>36</sup>Bukhāri, Ṣahīḥ Bukhāri, Volume IV. 154.

<sup>37</sup> Killing is prohibited in Islam either on purpose (or semi-deliberately, wrongful killing [qatlul khata ' ] (al-Nisa': 92), (Likewise it is prohibited to commit suicide by any means and any media such as hanging oneself, drinking poison, explosions / suicide bombings. self (Surah Al-Baqarah: 195, al-Nisa ' : 29), etc. Islam also condemns the abortion perpetrator (al-Isra': 31, al-An'am: 151). al-Bukhari from the path of Abdillah bin Amru bin Ash, that the Messenger of Allah said "Whoever kills an infidel mu'ahad, he will not smell heaven, even though the smell can really be felt from a distance of forty years." Read al - Munzari, al-Targhīb wa al-Tarhīb, III p. 298.

<sup>38</sup> Ahmad Raisuni, Nazariyyah al-maqāsid, p. 173.

<sup>39</sup> The verse reads:

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا....

*Indeed, the retribution against those who fight against Allah and His Messenger and cause destruction on the earth,*

<sup>40</sup> The editorial of the verse is as follows:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ

*Men who steal and women who steal, cut off both hands (as) retribution for what they do and as torment from Allah. and Allah is Mighty, Most Wise.*

<sup>41</sup> The verse explains the prohibition of anyone from approaching adultery, because approaching adultery is prohibited and not allowed, let alone committing such an act.

'verses 15-16<sup>42</sup> and Surah al-Nur verse 2 regarding the punishment for adultery,

الزَّانِيَةُ وَالزَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ ...

*Woman who commits adultery and man who commits adultery, then each one of them beats a hundred times.*

Meanwhile, the verse on the prohibition of *Qazaf* is explained in Surah Al-Nur verses 4 and 23 and Surah Al-Nur verse 23.

Furthermore, the syar'i argument is prohibited from drinking liquor as a consequence of the existence of *hifz al-'aql* is the word of Allah surah al-Ma'idah verse 90:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ  
فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾

*O you who believe, Verily (drinking) khamar, gambling, (sacrificing for) idols, drawing fate with arrows (al-azlam), are included in the deeds of satan. So stay away from these actions so that you get good luck.*

The prohibition of *khamr* is not done all at once but is done gradually. Prior to the revelation of the 90th verse of Surah al-Maidah above, several verses had been revealed which constitute a series of prohibitions on *khamar*. The first verse that comes down (related to the prohibition of *khamr*) is verse 67 of surah al-Nahl.<sup>43</sup> This verse is informative, which informs that apart from being *rizki* from Allah SWT, dates and grapes can also be used as ingredients for making wine. Next comes the second paragraph, namely ayat 219 surah al-Baqarah,<sup>44</sup> and verse 43 of surah al-

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<sup>42</sup>Based on this verse, at the beginning of Islam, the penalty provisions for the crime of adultery before the verse 2 of Surah al-Nur were confined in the family's house until death or until Allah made a way for it. Meanwhile, the sanction for adulterous men is torture (beatings). Read Ahmad al-Mursi Husain Jauhar, Maqashid Syari'ah, Cet. Third (Jakarta: Amzah, 2013). 132.

<sup>43</sup> The verse reads:

وَمِنْ ثَمَرَاتِ النَّخِيلِ وَالْأَعْنَابِ تَتَّخِذُونَ مِنْهُ سَكَرًا وَرِزْقًا حَسَنًا ۗ إِنَّ فِي ذَٰلِكَ لَآيَةً لِّقَوْمٍ يَعْقِلُونَ

*And from the fruit of palm and grapes you make an intoxicating drink and a good sustenance. In fact, in that there really is a sign (the greatness of Allah) for those who think.*

<sup>44</sup> The verse came down after 'Umar bin Khattab and his other companions asked Rasulullah SAW about drinks which were intoxicating and deprived of reason. These friends are used to drinking wine. Two companions of the Prophet Muhammad who during

Nisa'.<sup>45</sup> After that, only the last verse (verse 90 of Surah al-Ma'idah) which explains and states that drinking alcohol is absolutely forbidden. As for one of the *hadiths* of the prophet which explains the punishment for alcoholics is,

عَنْ أَنَسٍ أَنَّ النَّبِيَّ صَلَّى صَ أُتِيَ بِرَجُلٍ قَدْ شَرِبَ الْخَمْرَ فَجُلِدَ بِجَرِيدَتَيْنِ نَحْوَ أَرْبَعِينَ، قَالَ: وَ  
فَعَلَهُ أَبُو بَكْرٍ. فَلَمَّا كَانَ عُمَرُ اسْتَشَارَ النَّاسَ فَقَالَ عَبْدُ الرَّحْمَنِ بْنُ عَوْفٍ: أَحْفُ الْخُدُودِ  
ثَمَانِينَ فَأَمَرَ بِهِ عُمَرُ.

*From Anas RA, actually the Prophet SAW had confronted him with a man who had drunk khamr. Then the person is hit with two date palm stalks (sticks) 40 times. Anas said, "That method was also done by Abu Bakr". But (in 'Umar's time) after 'Umar asked the opinions of other friends, 'Abdur Rahman bin' Auf said, "The lightest punishment is 80 times. Then 'Umar also ordered to be beaten 80 times.[HR. Ahmad, Muslim, Abu Dawud and Tirmidhi confirmed it]*

Observing the foregoing, all types of actions are included in *maqashid al-dharurah* has a solid foundation from both Koran and hadith. Similarly, *ḥifẓ al-lisān* which is the main point of this paper. Taking care of the way to speak (*ḥifẓ al-lisān*) becomes 'illat (reason) prohibiting someone from slandering, gossiping, spreading fake news (hoax), insulting / criticizing, blasphemy, bullying, saying harsh words (sarcasm), provocation, hate speech and so on. The prohibition of all types of oral acts is also stipulated in the essence of Koran and hadith.

There are many verses that affirm this, such as the word of Allah in surah al-Baqarah verses 191 and 217 which prohibits someone from slandering others because slandering is bigger than murder. The existence of the words *ashaddu* and *akbaru* accompanying the words *fitnah* in the above verse, namely "*walfitnatu ashaddu minal qathli*" and "*walfitnatu akbaru minal qathli*" indicate that the impact of slander is very powerful and dangerous. Therefore, it is natural that the perpetrators of slander receive severe sanctions and it is true that what is said in the Koran is that slander is

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his ignorance never drank *khamar* were Abu Bakr Ash-Siddiq and Uthman bin Affan. In connection with the question about the *khamar*, the verse above comes down.

<sup>45</sup> Sabab revealed that the verse explained that at one point Abdurrahman bin Auf invited his friends to drink *khamar* until they were drunk. When the time for prayer arrived, one of the priests read the letter al-Kafirun incorrectly due to the influence of *khamar*. Then came the third verse, namely An-Nisa verse 43. This verse has not absolutely prohibited liquor and gambling, so some Muslims at that time still drank it.

crueller than murder.<sup>46</sup> Because if a person is killed, he will only feel one death in a very short time, but if a person is slandered, he can feel repeatedly "dying" because he has to endure feelings of shame and sadness in a relatively long period of time.

In Indonesia itself, the Criminal Code (KUHP) has regulated threats to the slanderers in article 390:

*"Any person who with the intention of illegally benefiting himself or another person broadcasts false news which causes the price of merchandise, funds or securities to decrease or increase, shall be punished by a maximum imprisonment of two years and eight months."*<sup>47</sup> similar with the Law on Information and Electronic Transactions (ITE) article 28 paragraph 1.

Apart from the aforementioned Law, a number of verses of the Koran also condemn those who lie and spread false news [*Hoax*] (Surah Al-Naḥl: 116, al-Nur: 11-20) verbal actions such as provoking and playing against one another (Qs. Al-Qalam: 11). Allah also prohibits acts of insulting, criticizing, making fun of, bullying, sarcasm, cursing or uttering hate speech to someone or certain people because these actions can damage social relations and are categorized as wrongdoers if they do not repent (Qs. Al-Ḥujurāt: 11 and al-Humazah: 1). In similar way, God's prohibition of gossiping (*ghibah*) to fellow humans because it is likened to eating the flesh of a dead brother. (Surah al-Ḥujurāt: 12).

Apart from the Koran as a basis for legitimacy *ḥifẓ al-lisān*, there are also a number of hadiths, sayings of scholars, words of wisdom, and poetry that strengthen and emphasize the importance of taking care of the way to speak among others are the words of the Prophet Muhammad.

سلامة الإنسان في حفظ اللسان

*"Human safety depends on his ability to guard his mouth."* (Narrated by al-Bukhari).

إِنَّ الْعَبْدَ لَيَتَكَلَّمُ بِالْكَلِمَةِ ، يَنْزِلُ بِهَا فِي النَّارِ أَوْ بَيْنَ الْمَشْرِقِ

*"Surely a servant utters a sentence without thinking beforehand, and because of this he falls into hell as far as east and west."*<sup>48</sup>

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<sup>46</sup>In the Koran, there are two cases of slander that have been perpetuated which are the slander of the Egyptian rulers against the Prophet Yusuf that he had cheated on Siti Zulaikha, a woman of the royal family and the slander raised by Abdullah bin Salul against Siti Aisyah along with a friend who became known as *hadith ifqi* (fake news).

<sup>47</sup>R. Sugandi, SH., Criminal Code (KUHP), (Jakarta: National Business, 2005), p. 95.

<sup>48</sup> Muslim, *Ṣaḥīḥ Muslim*, 2988th hadith.

The hadith explains that humans will be safe both in this world and in the hereafter if they are able to maintain their speech. In addition, taking care of the way to speak is the main characteristic of a Muslim and a sign that he believes in Allah almighty, as explained in the hadith of the Prophet;

المسلم مَنْ سَلَّمَ الْمُسْلِمُونَ مِنْ لِسَانِهِ وَيَدِهِ<sup>49</sup>

"A Muslim is one who does not interfere with others with his words or hands." (Narrated by Bukhari no. 11 and Muslim no. 42).

عن أبي هريرة رضي الله عنه عن رسول الله صلى الله عليه وسلم قال: «من كان يؤمن بالله واليوم الآخر، فليقل خيرا أو ليصمت، ومن كان يؤمن بالله واليوم الآخر، فليكرم جاره، ومن كان يؤمن بالله واليوم الآخر، فليكرم ضيفه»<sup>50</sup>

*From Abu Hurairah RA that Rasulullah SAW said, "Whoever believes in Allah and the Last Day, let him say good or be silent; whoever believes in Allah and the Last Day, let him respect his neighbors; whoever believes in Allah and the Last Day, let it be he glorifies his guests." (Narrated by Bukhari and Muslim)*

It is also stated that people who do not keep their mouths (lying) are one of the characteristics of hypocrites, on the other hand those who keep their mouths are people who are greatly missed by heaven.

عَنْ أَبِي هُرَيْرَةَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ آيَةُ الْمُنَافِقِ ثَلَاثٌ إِذَا حَدَّثَ كَذَبَ ، وَإِذَا وَعَدَ أَخْلَفَ ، وَإِذَا أُؤْتِمِنَ خَانَ<sup>51</sup>

*From Abu Hurairah, that the Prophet SAW said, "There are three signs of a hypocrite: if he speaks he lies, if he promises he denies, and if given the mandate he betrays". (HR. Al-Bukhari)*

الْجَنَّةُ مُسْتَأَقَّةٌ إِلَى أَرْبَعَةِ نَقَرٍ : تَأْتِي الْقُرْآنَ ، وَحَافِظِ اللِّسَانِ ، وَمُطْعِمِ الْجِيعَانَ ، وَصَائِمِ فِي شَهْرِ رَمَضَانَ (رواه أبو داود والترمذي عن ابن عباس)

*Heaven is yearning for 4 groups: those who read the Koran, those who guard the tongue, those who feed those who are starving, and those who fast during the month of Ramadan.*

Someone who does not guard his tongue, then he/she will not enter heaven or heaven is not guaranteed for him/her heaven as said the Prophet:

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<sup>49</sup> Muhyiddin Abi Zakaria Yahya bin Syaraf al-Nawawi, Riyadushshalihin (Cairo: Mustafa al-Bab al-Halaby, 1969), See also: Al-Bukhari, Sahih Bukhari, Kitab al-Iman, 9th Hadith.

<sup>50</sup> Abdullah Muhammad bin Ismail al-Bukhari, Sahih Bukhari, Juz 4, Bab Hifz al-Lisan Hadith 6089 (Beirut: Dar al-fikr, 1999), p. 2605.

<sup>51</sup> Muslim, Şahīḥ Muslim, Kitab al-Iman, Chapter Signs of the Nifaq Hadith No. 88 and 89 (Beirut: Dār al-Fikr, t tt), Bukhari, No. 32-33.

وعن سهل بن سعد رضي الله عنه قال, قال رسول الله صلى الله عليه وسلم: من يضمن لي ما بين لحييه وما بين رجليه أضمن له الجنة) متفق عليه (52)

*From Sahl bin Sa'ad ra, he said that Rasulullah saw said: "Whoever is able to guarantee for me what is between his two beards (oral) and what is between his legs (genitals) I guarantee for him heaven." (Muttafaq 'alaih; Sahih Bukhari number 6474*

If we look closely, all the types and forms of actions as above are actions that are performed orally. All these actions boil down to speech or tongue. Therefore, verbal is very dangerous if it is not awake, especially in today's modern-contemporary era. For this reason, Allah and His Messenger greatly emphasized the importance of keeping this word of mouth in order to avoid the negative impact that is caused, namely fade or suffering that will be experienced both in this world and the hereafter.

### Transformation of Ḥifẓ al-Lisān as Maqāṣid al-Ḍarūriyyah

The scholars emphasize that the realization of the benefit of mankind is the core goal of Islamic law practice itself, to realize goodness while avoiding evil, or in *fiqh* terms it is known as "*dar 'al-mafāsid* (preventing fade) *wa jalb al-maṣāliḥ* (and getting benefits)".<sup>53</sup> On this basis, a popular expression emerged among them: *ainamā kānat al-maṣlahatu fatsammā ḥukmullāh*<sup>54</sup> which means where there is *maṣlahat*, there is the law of Allah. This can be concluded that conflict with the principles of Islamic law can be used as a consideration in determining Islamic law. The obligations in *shari'ah* are to pay attention to *maqashid al-syari'ah* where it changes the goal to protect the benefit of humans.<sup>55</sup>

According to Imam al-Syathibi,<sup>56</sup> *maṣlahah* consists of three categories which are *ḍarūriyyah*,<sup>57</sup> *ḥājiyyah*,<sup>58</sup> and *taḥsīniyyah*.<sup>59</sup> There are

<sup>52</sup>Al-Bukhari, Ṣaḥīḥ Bukhārī, Juz 4 hadith no. 6088...., 2605.

<sup>53</sup>Imam al-Syathibi clearly stated that the purpose of Allah SWT to lower the *shari'a* (legal provisions) is nothing but to gain benefit and avoid fade (*jalbul maṣaliḥ wa dar'ul mafāsid*), in easier language, all the rules of law that Allah has established are for the benefit of mankind itself. Read in more detail; Abu Ishaq al-Syatibi, *al-Muwafaqāt fi Uṣūl al-Syarī'ah*, Juz II, (Beirut: Dār al-Ma'rifah, 1975), 6., Read also Abu Hamid al-Ghazali, *al-Mustasfā fi 'il al-Uṣūl* Volume 1 (Beirut: Dār al-Kutub al-'Ilmiyyah, nd), 286.

<sup>54</sup> Yusuf Qardhawi, *Al-Ijtihād al-Mu'āṣir* (Cairo: Dār al-Tauzī 'wa al-Nasyr al-Islāmiyyah, 1994), p. 68.

<sup>55</sup> Yudian W. Asmin, *Philosophy of Islamic Law and Social Change* (Surabaya: al-Ikhlās, 1995), p. 229.

<sup>56</sup> Abu Ishaq Al-Shathibi, *Al-Muwāfaqāt fi Ushūl al-Ahkam*, volume II, (Beirut: Dar al-Fikri, t.th), p. 8.



## **Ḥifẓ Al-Lisān As Maqāsid Al-Sharī'ah Al-Ḍarūriyyah (Its Importance And 333 Relevance In The Contemporary Era)**

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DOI: 10.22373/sjnk.v5i1.9139

five things that must be maintained in realizing *dharuriyyat* needs: keep religion (*ḥifẓ al-dīn*), keep the soul (*ḥifẓ al-nafs*), take care of offspring (*ḥifẓ al-nasl*), safeguard property (*ḥifẓ al-māl*), and keep a sense (*ḥifẓ alaql*). These five things are known as *al-ḍarūriyyāt al-khams*, *al-maṣāliḥ al-khamsah*, *al-kulliyyāt al-khams*, or *al-uṣūl al-khamsah*.<sup>60</sup>

Previous study conducted by Ahmad al-Raisuni, the emergence of five main things that must be guarded originated from the study of the scholars on the sanctions (*'uqubah*) for the perpetrators of criminal acts (*ḥudūd*) in the provisions of Islamic jurisprudence. The components of this criminal act include five things: the crime of apostasy, murder, adultery, qazaf, robbery, theft, and drinking liquor.<sup>61</sup> At first glance the division amounts to seven parts because some scholars distinguish between *zina* and *qazaf*, as well as robbery and theft. However, by the majority of scholars of *fiqh* and *ushul fiqh*, the criminal acts of *zina* and *qazaf* as well as robbery and theft are combined into one so that the number becomes five. The merger was carried out because both were in a form of violation (*zina-qazaf*) is closely related to *nasab/nasal*, and robbery-theft is closely related to property matters.

The consequences of these five crimes make the basis for the scholars to determine five things that must be guarded. The crime of apostasy (leaving Islam) has consequences for the maintenance of religion (*ḥifẓ al-dīn*) in other words, keeping religion means that someone is prohibited from being apostate, the crime of murder causes *ḥifẓ al-nafs*. The crime of robbery-theft gave birth to *ḥifẓ al-nafs and māl*. The crime of *zina-qazaf* underlies the birth of *ḥifẓ al-nasl or al-nasab*. And the crime of drinking liquor/ alcohol gives birth to what is called *ḥifẓ al-'Aql*.

Considering at the five main points that must be guarded above, there are two types of criminal acts that are combined into one, such as *zina* and *qazaf*, as well as robbery and theft. This integration may be intended to facilitate the making of *maqashid* categorization because it is united in one

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<sup>57</sup> *Maṣlahah ḍarūriyyah* is what is absolute or that must exist in human efforts to bring about benefit in this world and the hereafter. If *ḍarūriyyah* does not exist, then the benefit of the world cannot be achieved and it will even damage life itself.

<sup>58</sup> *Maslahah ḥājīyyah* namely the benefit needed in perfecting the previous basic benefit in the form of relief to maintain and maintain basic human needs.

<sup>59</sup> *Maslahah taḥsīniyyah* that is, the benefits that are complementary in the form of flexibility that can complement the benefits of the *hājīyyah*. These three benefits need to be distinguished, so that a Muslim can determine priorities in taking a benefit. Read: Nasrun Haroen, *Ushul Fiqh 1* (Jakarta: Logos Wacana Ilmu, 1997). 116.

<sup>60</sup> Ahmad al-Raisuni, *Al-Fikrul Maqāsidī Qawā'iduhu wa Fawā'iduhu* (Rabat: al-Dār al-Baiḍā', 1999), p. 29.

<sup>61</sup> *Ibid.*, p. 30.

object. However, the existing integration provides a separate gap for some scholars in making different categorizations, for example, objects that must be preserved can be six, seven or more as previously explained. The effort to determine the five main points by previous scholars deserves high appreciation because it can make it easier for subsequent scholars to determine the priority scale in Islamic law. One thing that is important to say is that the forms of criminal acts mentioned above are very limited in number but nevertheless have a very big impact, especially for the benefit of mankind both in this world and in the hereafter. All actions that can destroy the social order must be eliminated in order to create a peaceful and harmonious life.

In today's modern era, one of the actions that can damage the joints of life in society, religion, nation and state is the freedom of a person to speak like the uncontrolled tongue in speaking so that there is often noise, chaos, fights, fights, and even murder between humans. In addition, slander, public lies, blasphemy, hoaxes, racism, hate speech, provocation, sarcasm are rife in society. All forms of action boil down to verbal. Unattended speech has devastated the socio-religious life of the nation and state. The result of uncontrolled verbal causes many families to fall apart, fights between teenagers due to ridicule and insults, as well as brawls everywhere which lead to murder. Leaders insult each other and wars between countries because they feel harassed due to being insulted by their country's symbols and so on.

All of these things occur starting from very trivial or simple things such as speech that arises from a person with the tongue as the intermediary for the core. Although this oral (read in tongue) seems trivial in the view of some people, if considering the facts, the impact is very large as previously described. Thus, taking care of the way to speak is seen as something important and urgent to control and stop. Because if not, the damage or mafsadah caused in social, religious, national and state life would continue to occur.

## Conclusion

The study of *maqāṣid al-sharī'ah* in various aspects of life has been written by many Islamic jurists. One of the parts of *maqashid al-syaria'h* which is very important and interesting to study at this time is the study of the discourse on the addition of *maqāṣid al-sharī'ah al-ḍarūriyyāt* which is not only limited to five main things (*al-ḍarūriyyāt al-khams*) but also it can be increased to six or more according to the results of the *ulama's ijtihad*. One of the important parts that must be maintained in the modern-contemporary era not to mention the *al-ḍarūriyyāt al-khams* is *ḥifẓ al-lisān*

or taking care of the way to speak. It is very important and urgently needed to do because if the tongue is not controlled, the impact would be very enormous both in world and hereafter according to the information from the Koran and the hadith. Almost all of us know that in this day and age various types of actions or actions carried out by verbal such as provocation, hate speech, blasphemy, spreading slander and hoax news, sarcasm, racism and so on can be done easily regardless of the situation and even the subject addressed. These negative actions are rife at this time, causing disharmony between individuals, families and even chaos in the community, which ultimately disrupts the life of the nation and state and becomes increasingly erratic both from a social point of view, culture, economy, politics and even religion. Therefore, to decrease all of the cases, all components of the nation could maintain their speech in terms of integrity, individual, family, community, nation and state because that is the main objective of Islamic law, which is to preserve the benefit of mankind in the world and in the hereafter.

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DOI: 10.22373/sjkh.v5i1.9139

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