The Urgency of the Islamic Law and Contemporary Societal Challenges: The Flexibility of *al-Maslahah* in Determining the Hierarchy *of Maqāṣid al-Sharīʿah*

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Abstract

This study explores the elasticity of the concept of *al-maslahah* in determining the hierarchy of *maqāṣid al-sharīʿah*, a critical issue in the development of contemporary Islamic legal thought. The central research question addresses how *al-maslahah*, as a foundational legal principle, can guide the prioritization within the *maqāṣid* framework and how its flexibility influences the formulation of the Islamic law in the modern era. This study positions *al-maslahah* as a key element in the methodology of legal *istinbāṭ*, facilitating the classification of legal objectives into three primary categories: *ḍarūriyyāt* (necessities), *ḥājiyyāt* (needs), and *taḥsīniyyāt* (embellishments). Employing a normative legal method and a *maslahah*-based approach, the research conducts a comparative analysis of classical and contemporary scholarly perspectives. The data is drawn from core Islamic legal sources the Qur'an, Hadith, and scholarly writings both supporting and critiquing the concept sourced from authoritative books and peer-reviewed journal articles. The findings reveal that while some variation exists in the formulation of the *maqāṣid* hierarchy, the majority of scholars continue to adhere to the classical structure established by Imam al-Ghazālī, encompassing five essential protections: religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-ʿaql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*). However, contemporary scholars such as Jasser Auda and Ali Jumʿah advocate for a more dynamic and contextualized interpretation of this hierarchy to better address present-day challenges. This study underscores that the elasticity of *al-maslahah* plays a vital role in preserving the relevance of *maqāṣid al-sharīʿah*, while also stressing the need for clear boundaries to prevent the erosion of sharia's core principles. In this context, the research affirms the critical role of Islamic law in responding to contemporary societal challenges.
Keywords: Elasticity of *Maslahah*, Hierarchy Determination, *Maqāṣid al-Sharīʿah*, Islamic Law, Contemporary Context

Abstrak

Penelitian ini mengkaji elastisitas konsep al-maslahah dalam menentukan hierarki maqāṣid al-sharīʿah, sebagai isu krusial dalam pengembangan pemikiran hukum Islam kontemporer. Pertanyaan utama dalam penelitian ini adalah bagaimana al-maslahah, sebagai prinsip dasar hukum, dapat memandu proses prioritisasi dalam kerangka maqāṣid serta bagaimana fleksibilitasnya memengaruhi perumusan hukum Islam di era modern. Studi ini menempatkan al-maslahah sebagai elemen kunci dalam metodologi istinbāṭ hukum, yang memfasilitasi klasifikasi tujuan hukum ke dalam tiga kategori utama: ḍarūriyyāt (kebutuhan primer), ḥājiyyāt (kebutuhan sekunder), dan taḥsīniyyāt (penyempurna). Dengan menggunakan metode hukum normatif dan pendekatan berbasis maslahah, penelitian ini melakukan analisis komparatif antara pandangan ulama klasik dan kontemporer. Data diperoleh dari sumber-sumber utama hukum Islam Al-Qur'an, Hadis, dan karya-karya ilmiah baik yang mendukung maupun mengkritisi konsep tersebut—yang bersumber dari literatur otoritatif dan artikel jurnal terakreditasi. Temuan menunjukkan bahwa meskipun terdapat variasi dalam perumusan hierarki maqāṣid, mayoritas ulama masih merujuk pada struktur klasik yang dirumuskan oleh Imam al-Ghazālī, yang mencakup lima perlindungan utama: agama (ḥifẓ al-dīn), jiwa (ḥifẓ al-nafs), akal (ḥifẓ al-ʿaql), keturunan (ḥifẓ al-nasl), dan harta (ḥifẓ al-māl). Namun, sejumlah ulama kontemporer seperti Jasser Auda dan Ali Jumʿah mendorong interpretasi yang lebih dinamis dan kontekstual terhadap hierarki ini guna menjawab tantangan zaman. Penelitian ini menegaskan bahwa elastisitas al-maslahah berperan penting dalam menjaga relevansi maqāṣid al-sharīʿah, seraya menekankan pentingnya batasan yang jelas agar tidak merusak prinsip-prinsip inti syariat. Dalam konteks ini, penelitian ini menegaskan peran strategis hukum Islam dalam merespons tantangan sosial kontemporer.

Kata Kunci*: Elastisitas Maslahah, Penentuan Hierarki, Maqāṣid al-Sharīʿah, Hukum Islam, Konteks Kontemporer*

Introduction

As time progresses and societies evolve, Islamic law is continually confronted with new and complex legal challenges. In addressing these dynamic issues, its relevance as a framework for contemporary problem-solving has grown particularly in offering legal certainty and ethical guidance. At the heart of Islamic legal theory lie its objectives and foundational principles, known as *maqāṣid al-sharīʿah*, which reflect a commitment to wisdom and the promotion of human welfare (*maṣlaḥah*).[1] This emphasis on benefit allows Islamic law to remain flexible and responsive to shifting historical and social contexts.[2]

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[1] Arbanur Rasyid et al., "Dynamics of Childless Marriage Through the Lens of Maqasid Al-Shari'a," *Jurnal Ilmiah Peuradeun* 12, no. 2 (2024), p. 763.

[2] Zanariah Noor and Nazirah Lee, "Preserving Child's Faith In Malaysian Law: A Maqasidic Approach," *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023).

The concept of *maslahah* occupies a central role in Islamic legal studies, particularly in the process of legal *istinbāṭ* (derivation of rulings), especially in determining the hierarchy within *maqāṣid al-sharīʿah*.[3] The elasticity of *maslahah* has been the subject of extensive scholarly discourse in previous studies.[4] For instance, *maslahah* is often utilized as a foundational argument for prioritizing ethical and social values, such as in debates surrounding human rights—specifically,[5] the rights of prospective spouses in marriage laws that require the consent of a guardian.[6] Similarly, the application of *maqāṣid al-sharīʿah* to establish minimum age limits for marriage underscores the significant weight of *maslahah*, particularly in protecting young individuals whose early age could pose risks to their well-being.[7]

Most prior studies have concentrated on the function of *maslahah* in legitimizing Islamic legal rulings, either as an independent legal source or in conjunction with other evidences, as exemplified by scholars like al-Nawawī.[8] In another notable example, Amri examines *maslahah* through the perspective of Najm al-Dīn al-Ṭūfī, who promotes a theory of legal adaptability grounded in *maslahah* as a core principle ensuring the continuity and relevance of Islamic law amid social transformation. Al-Ṭūfī's conception of *maslahah* is particularly notable for its applicability not only in cases lacking explicit textual evidence but also in contexts where scriptural texts exist, such as issues related to *muʿāmalāt* (social and economic transactions).[9]

Despite the extensive discourse on *maslahah* in Islamic legal theory, a more in-depth examination of its elasticity in determining the hierarchy of *maqāṣid al-sharīʿah* has received relatively limited scholarly attention.[10] This study, therefore, occupies a unique position by specifically investigating how the flexibility of

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[3]Mujiburrahman Mujiburrahman et al., "The State Intervention in the Islamic Education in Aceh: Threats or Opportunities?," *Jurnal Ilmiah Peuradeun* 12, no. 2 (2024), p. 539.

[4]Asa'ari Asa'ari et al., "Urgensi Pemahaman Terhadap Maqashid Al-Syari'ah Dan Perubahan Sosial Dalam Istinbath Al-Ahkam," *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 2 (2021), p. 222.

[5]Zumiyati Sanu Ibrahim et al., "Islamic Law and Human Rights: Convergence or Conflict?," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (November 26, 2024), p. 431.

[6]Ahmad Rasyidi Halim, et.al., "Legal Formulation for Forced Marriage Prevention through the Decision of Wali Mujbir in Religious Courts and Its Relevance with Maqāṣid Syariʿah and Human Rights," *Mazahib: Jurnal Pemikiran Hukum Islam* 23, no. 1 (2024), p. 9–116.

[7]Agus Purnomo et. al., "Dimensions Maqāsid Al-Sharīʾah and Human Rights in The Constitutional Court's Decision on Marriage Age Difference in Indonesia," *Samarah* 7, no. 3 (2023), p. 1397–1421.

[8]Maimun Nawawi, "Konsep Mashlahah Perspektif Muhammad Sa'id Ramadhan Al-Buthi," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 5, no. 1 (2013).

[9]Miftahul Amri, "Konsep Maslahat Dalam Penetapan Hukum Islam (Telaah Kritis Pemikiran Hukum Islam Najamuddin At-Thufi)," *Et-Tijarie Jurnal Hukum dan Bisnis Syariah* 5, No. 2 (2018).

[10]Tri Diatmoko et al., "Islamic Legal Policy on Ultra-Micro Enterprise Financing and Its Implementation from the Perspective of Maqāṣid Al-SharīʿA," *Al-Ahkam* 35, no. 1 (2025), p. 87–116.

maslahah can influence the prioritization of legal objectives in Islamic law an aspect that has not been systematically explored in previous research.

Substantively, all Islamic legal rulings aim to realize human welfare, as reflected in the overarching framework of *al-maslahah*. The theory of *maslahah* has been central to Islamic legal thought from the classical period to the present. Early foundational contributions include al-Ghazālī's elaboration of *maslahah* in *al-Mustaṣfā*, ʿIzz al-Dīn ibn ʿAbd al-Salām's emphasis on *jalb al-manāfiʿ wa dafʿ al-mafāsid* (the acquisition of benefit and the avoidance of harm), and al-Shāṭibī's integrative and systematic approach in *al-Muwāfaqāt*. Building upon this classical legacy, contemporary Muslim thinkers such as Ibn ʿĀshūr, ʿAbd al-Majīd al-Najjār, Jamāl al-Dīn ʿAṭiyyah, and Jasser Auda have further developed the theory to suit the complexities of the modern era, introducing new interpretive frameworks that underscore the dynamic and context-sensitive nature of *maqāṣid al-sharīʿah*. The evolving dynamics of Islamic legal methodology, particularly concerning the theory of *al-maslahah*, highlight its transformation into a central component of *maqāṣid al-sharīʿah* in contemporary discourse.[11]

The concept of *Maslahah*, rooted in Islamic jurisprudence, emphasizes the promotion of public welfare and the common good. It serves as a methodological tool employed by legal scholars to uphold principles of justice, equality, and social prosperity, particularly in situations where explicit legal texts offer limited guidance. By prioritizing collective benefit, the *Maslahah* approach aligns legal rulings with the overarching objectives of Islamic law (*maqāṣid al-sharīʿah*), which encompass the preservation of religion, life, intellect, lineage, and property.[12]

Maslahah cannot be actualized without the processes of *ijtihād* and *istinbāṭ*—methodological efforts to derive legal rulings in response to the evolving realities of society. Thus, *ijtihād* is not merely a form of legal innovation but a necessary mechanism for ensuring the continued relevance of Islamic law in contemporary contexts.[13] However, this process of renewal does not entail the replacement of fundamental, absolute, and universal teachings that are firmly established in authoritative Islamic texts (*qaṭʿiyyāt*). Rather, the scope of legal reform lies within the domain of *ẓanniyyāt* provisions that are open to interpretation and fall within the legitimate space for legal development.

From the perspective of *maqāṣid al-sharīʿah*, the renewal of Islamic law may be approached in three ways: first, by giving precedence to aspects related to worship (*ʿibādāt*); second, by focusing on transactional and social matters (*muʿāmalāt*); and third, through a comprehensive approach that integrates both dimensions. This third

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[11]Muhammad Harfin Zuhdi and Mohamad Abdun Nasir, "Al-Mashlahah and Reinterpretation of Islamic Law in Contemporary Context, *Samarah* 8, No. (2024).

[12]Ibnu Radwan Siddik Turnip, et.al., "Implementing the Concept of Co-Parenting in Divorce Cases: An Analysis Using the Maslahah Approach," *Istinbath* 9, No. 2 (2024).

[13]Muhaimin Muhaimin, "The Interrelation between Islamic Law and Regional Regulations in Jember (Examining the Maqāṣid Al-Sharīʿat-Based Reasoning in Istinbāṭ Al-Ahkām)," AHKAM : Jurnal Ilmu Syariah 20, no. 2 (2020), p. 301.

path involves understanding *maqāṣid* through both linguistic (pronunciational) and semantic (meaning-based) approaches. In this context, the objectives and benefits of *maqāṣid al-sharīʿah* must not be confined to technical legal formulations alone but should be appreciated for their deeper philosophical and ethical significance. Such a perspective enables *maqāṣid al-sharīʿah* to function as a universal and dynamic identity for Islamic law, capable of guiding it in a manner that is both faithful to tradition and responsive to modernity.[14]

The significance of this study lies in the growing methodological diversity used in the derivation of *fiqh* rulings within the Muslim community, which has, at times, led to confusion in the formulation of legal *fatwas*.[15] Diverging interpretations of *maslahah* frequently result in differing assessments of the priority scale within the *maqāṣid al-sharīʿah* framework. These discrepancies ultimately manifest in varying legal practices across Islamic societies.[16] Moreover, the concept of *maslahah*, when applied within the context of *maqāṣid al-sharīʿah*, must be recontextualized to encompass not only individual or ritual benefit but also broader social, environmental, and political considerations.[17] Without a clear framework for understanding the elasticity of *maslahah*, there is an increased risk of undermining the coherence and unity of the Muslim community's legal and ethical standards. Consequently, this study seeks to address a fundamental question: how can *maslahah* be applied flexibly. Consequently, this study seeks to address a fundamental question: how can *maslahah* be applied flexibly, yet within measurable and principled boundaries, to determine the hierarchy of *maqāṣid al-sharīʿah*?

The primary contribution of this research is to offer theoretical and methodological clarity regarding the role of *maslahah* within the *maqāṣid* hierarchy. By delineating the scope and limits of *maslahah's* elasticity, this study aims to support the formulation of more consistent and contextually relevant *fatwas* ones that address contemporary realities without departing from the foundational evidences of Islamic law.[18] This study aims to contribute to contemporary Islamic legal discourse

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[14]Azhar Azhar, "Islamic Law Reform in Indonesia from the Perspective of Maqāṣid Al-Sharīʿah: Kerinci's Intellectual Views," *Samarah* 8, No. 2 (2024).

[15]Abdul Mukti Thabrani, "Pengembangan Fiqh Al-'Ilmiyah Melalui Pendekatan Mashlahah Dan Tajdid," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 6, no. 2 (2013).

[16]Tarmizi Tahir and Syeikh Hasan Abdel Hamid, "Maqasid Al-Syari'ah Transformation in Law Implementation for Humanity," *International Journal Ihya' 'Ulum Al-Din* 26, no. 1 (2024), p. 119–31.

[17]Teguh Ifandy and Idaul Hasanah, "Maslahat (Benefits) in Fiqh Awlāwiyāt: A Comparison between Yūsuf Al-Qarādhawī's View and Abdus Salam Alī Al-Karbulī's," *Al-'Adalah* 21, no. 1 (2024), p. 1.

[18]Salafuddin Noor, Ahmadi Hasan, and Nuril Khasyi'in, "Review of Political Theory of Islamic Law Abul 'Ala Al Maududy Positive Perspective of the Political System of Indonesian Islamic Law," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023), p. 36–49.

by exploring solutions grounded in Islamic legal thought, with particular emphasis on the flexibility of its principles in responding to evolving social dynamics.[19]

Employing a normative legal method and a *maslahah* (public interest) approach, the research draws upon primary sources of Islamic law—the Qur'an, Hadith as well as the opinions of scholars who both support and oppose the concept, as documented in classical texts and contemporary journal articles. The study begins with a conceptual analysis of *maslahah* and its function within Islamic legal theory. It then examines differing scholarly perspectives on the hierarchy of *maqāṣid al-sharī'ah* (the objectives of Islamic law), and how these differences influence legal formulation. Further, the research explores the adaptability of *maslahah* in various legal contexts, assessing how its flexibility can be harnessed without compromising the foundational principles of *maqāṣid al-sharī'ah*. The study ultimately seeks to develop a clear and systematic framework for employing *maslahah* as a basis for establishing legal priorities in Islamic jurisprudence. It is expected that the findings will make a meaningful contribution to the advancement of Islamic legal scholarship and the practical application of *maqāṣid al-sharī'ah* in contemporary society.

Urgency of Maslahat and *Maqāṣid al-Sharī'ah* in Islamic Law

The realization and preservation of human welfare is a fundamental principle within Islamic legal philosophy, encapsulated in the concept of *maqāṣid al-sharī'ah* (the objectives of Islamic law). This concept has long been recognized by Islamic scholars, prompting jurists to formulate a broadly inclusive maxim: "Where there is *maslahah* (public interest), there is the law of Allah." One of the central principles of *maqāṣid al-sharī'ah* is justice, which has been reformulated in contemporary discourse by the majority of Islamic legal scholars.[20] Islamic law continues to respond to modern challenges and societal developments, aiming to address the gaps in scientific and legal understanding. Throughout the history of Islamic jurisprudence, scholars have introduced and refined the theories of *maslahah* and *maqāṣid* to ensure that Islamic law remains relevant and responsive to the evolving needs of society.[21]

The theoretical development of the concept of *maqāṣid al-sharī'ah* has evolved through several stages. Early scholars who contributed to this theory emphasized the importance of promoting benefit (*maṣlaḥah*) and preventing harm

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[19]Mufidah Mufidah et al., "Islamic Law and the Blasphemy Debate in Contemporary Indonesia," *AHKAM : Jurnal Ilmu Syariah* 24, no. 2 (2024), p. 327.

[20]Abdi Wijaya et al., "The Implementation of E-Commerce Consumer Option Rights (Khiyar) in Realizing Transaction Justice: A Study of Maqasid Al-Shariah," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 1 (2023), p. 69–82.

[21]Nur Solikin and Moh. Wasik, "The Construction of Family Law in the Compilation of Islamic Law in Indonesia: A Review of John Rawls's Concept of Justice and Jasser Auda's Maqāṣidal-Shari'a," *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023).

(*mafsadah*).[22] One of the earliest proponents, ʿAbd al-Mālik al-Juwaynī (d. 478 AH/1085 CE), used the terms *maqāṣid* and *al-maṣāliḥ al-ʿāmmah* (public interests) interchangeably. He asserted that the primary aim of Islamic law is the protection (*ʿiṣmah*) of five essential elements: religion, life, intellect, lineage, and property. His student, Abū Ḥāmid al-Ghazālī (d. 505 AH/1111 CE), further developed this framework, placing the categories of *maqāṣid* within the scope of *al-maṣāliḥ al-mursalah* (unrestricted public interests). Al-Ghazālī introduced a key principle of prioritization based on levels of necessity, arguing that a higher-level necessity must take precedence over a lower-level one when the two are in conflict in practical application. Following in this intellectual tradition, Abū Isḥāq al-Shāṭibī (d. 790 AH/1388 CE) adopted and expanded upon the terminology of al-Juwaynī and al-Ghazālī. Al-Shāṭibī viewed *maqāṣid* as the foundational objectives of religion, the core principles of legal rulings, and the universal values underpinning Islamic belief. While al-Shāṭibī provided significant elaboration on the concept, al-Ghazālī is widely recognized as the first jurist to pioneer a systematic framework for *maqāṣid al-sharīʿah*. He is considered the founder of the theory for two key reasons, which will be explored in the following discussion.[23]

The first reason al-Ghazālī is regarded as the pioneer of the *maqāṣid al-sharīʿah* framework is his systematic and detailed treatment of the concepts in his seminal work on legal theory, *al-Mustaṣfā*. The second reason lies in the influence of his terminology and conceptual classifications, which were adopted and further developed by subsequent legal scholars. These contributions provide strong evidence of his foundational role in formulating *maslaḥah* (benefit) and *mafsadah* (harm) as core components of Islamic legal theory. Furthermore, al-Ghazālī asserted that these two concepts serve as primary references in addressing the diverse challenges faced by contemporary Muslim societies. As the first scholar to comprehensively articulate these ideas, al-Ghazālī placed *maslaḥah* and *mafsadah* at the heart of *maqāṣid al-sharīʿah*. Importantly, he emphasized that any application of these principles must be firmly grounded in the authoritative texts (*naṣṣ*) of Islamic law. However, Imam al-Ghazālī emphasized that the concept of *maslaḥah* should be employed as a methodological tool rather than an independent source of law, placing it after the Qur'an, *Sunnah*, *ijmāʿ* (consensus), and *qiyās* (analogical reasoning) in the derivation of Islamic rulings.[24]

In this context, Jasser Auda, a contemporary scholar of Islamic legal theory, argues that such an approach enables Islamic law to play a constructive role in promoting human welfare and addressing the complex challenges of the modern era.

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[22]Toha Andiko, Zurifah Nurdin, and Efrinaldi Efrinaldi, "Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia: A Maqāṣid Al-Sharīʿah Review," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (2024), p. 93.

[23]Zanariah Noor and Nazirah Lee, "Preserving Child's Faith In Malaysian Law: A Maqasidic Approach," *Ulumuna: Journal of Islamic Studies* 27, No. 1 (2023).

[24]Akbar Sarif and Ridzwan Ahmad, "Konsep Maslahat dan Mafsadah menurut Imam al-Ghazali," *Tsaqafah* 13, No. 2 (2018), p. 353.

Consequently, he advocates for an expansion of the scope and dimensions of *maqāṣid* theory beyond its classical formulation. While traditional *maqāṣid* focused primarily on individual welfare, Auda contends that they must now encompass broader societal and humanitarian concernsThis expanded framework calls for a shift from the protection of lineage (*ḥifẓ al-nasl*) to the protection of the family unit (*ḥifẓ al-usrah*); from the safeguarding of intellect (*ḥifẓ al-ʿaql*) to the advancement of scientific inquiry and a culture of knowledge; from the preservation of life (*ḥifẓ al-nafs*) to the safeguarding of human dignity (*ḥifẓ al-karāmah al-insāniyyah*) and human rights (*ḥifẓ ḥuqūq al-insān*); from the protection of religion (*ḥifẓ al-dīn*) to the protection of freedom of belief (*ḥurriyat al-iʿtiqād*); and from the preservation of wealth (*ḥifẓ al-māl*) to the realization of social solidarity.[25] This broader understanding of *maqāṣid* reflects a dynamic and holistic vision of Islamic law that seeks to respond meaningfully to the evolving needs of contemporary society.[26]

In the realization of *maqāṣid al-sharīʿah*, the primary consideration is the concept of *maslaḥah* (public interest). Shaykh Ramaḍān al-Būṭī, in his work *Ḍawābiṭ al-Maṣlaḥah*, outlines five criteria for evaluating *maslaḥah* within the framework of Islamic legal reasoning. The final criterion emphasizes that the consideration of one *maslaḥah* must not come at the expense of neglecting other *maṣāliḥ* that are greater or of equal importance. This reflects a fundamental principle within *maqāṣid al-sharīʿah* that *maṣāliḥ* are hierarchical and must be assessed to determine which should take precedence and which may be set aside in cases of conflict.[27] The importance of establishing this hierarchy becomes particularly evident when two legal rulings emerge from differing perspectives on the same issue. To evaluate and prioritize competing *maṣāliḥ*, al-Būṭī proposes three evaluative criteria: (1) the intrinsic value of the *maslaḥah* itself, (2) the degree of its universality, and (3) the certainty with which the intended benefit can be realized in practice.[28] When two *maṣāliḥ* are in conflict where the realization of one necessitates the negation of the other a careful and methodical analysis using these three criteria is required to determine which *maslaḥah* should be prioritized. The theoretical development of the concept of *maqāṣid al-sharīʿah* has undergone several distinct stages. Early scholars who contributed to the formulation of this theory emphasized the importance of promoting benefit (*maslaḥah*) and preventing harm (*mafsadah*). One of the earliest proponents, ʿAbd al-Mālik al-Juwaynī (d. 478 AH/1085 CE), used the terms *al-*

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[25]M. Ihsan Azni Azni, Muhammad Hafis, Asril Amirul Zakariah, Adi Harmanto, Miftahuddin Miftahuddin, "Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts," *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025).

[26]Nur Solikin and Moh. Wasik, "The Construction of Family Law in the Compilation of Islamic Law in Indonesia, p. 315-340.

[27]Nanda Himmatul Ulya, "Konsep Maslahat Dalam Pandangan Sa'id Ramadha Al-Buthi," *Al-Maslahah* 15, no. 2 (2019).

[28]Abdul Jalil Abdul Jalil, "Maqāṣid al-sharīʿah Al-Syathibi (Sebuah Upaya Untuk Menyingkap Tujuan Asasi Formulasi Hukum Islam)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 6, no. 1 (2013).

maqāṣid and *al-maṣāliḥ al-ʿāmmah* (public interest) interchangeably. He asserted that the primary objectives of Islamic law are the protection (*al-ʿiṣmah*) of religion, life, intellect, lineage, and property.

Considering the first criterion the intrinsic value of a maslahah it is evident that the maslahahs recognized by the *Sharīʿah* are organized into five primary categories, commonly referred to as kulliyāt al-khamsah: *ḥifẓ al-dīn* (protection of religion), *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-ʿaql* (protection of intellect), *ḥifẓ al-naṣl* (protection of progeny), and *ḥifẓ al-māl* (protection of property). Within this hierarchy, maslahahs that uphold *ḥifẓ al-dīn* are given precedence over those in subsequent categories when conflicts arise. Similarly, maslahahs that protect ḥifẓ al-nafs are prioritized over those ranked below, and this order continues throughout the five levels. This hierarchical framework is widely accepted among scholars, with Imam al-Ghazālī recognized as the pioneer who first articulated this classification of *kulliyāt al-khamsah*.[29] Meanwhile, Imam al-ʿĀmidī presents a slightly different ordering of the five universal necessities (*al-kulliyyāt al-khamsah*) compared to that of Imam al-Ghazālī, particularly in the placement of *ḥifẓ al-ʿaql* (preservation of intellect) and *ḥifẓ al-nasl* (preservation of lineage).[30] While Imam al-Ghazālī prioritizes intellect over lineage, Imam al-ʿĀmidī tends to reverse this, giving precedence to lineage. According to Imam al-ʿĀmidī, the sequence is as follows: *ḥifẓ al-dīn* (preservation of religion), *ḥifẓ al-nafs* (preservation of life), *ḥifẓ al-nasl*, *ḥifẓ al-ʿaql*, and *ḥifẓ al-māl* (preservation of wealth).[31] Notably, the first (*ḥifẓ al-dīn*) and fifth (*ḥifẓ al-māl*) elements are consistent between the two scholars.

Furthermore, the realization of the *kulliyyāt al-khamsah* can be evaluated through three essential categories that serve as benchmarks in order of significance: (1) *ḍarūriyyāt* (necessities), (2) *ḥājiyyāt* (needs), and (3) *taḥsīniyyāt* (complementary matters). These three categories function as evaluative criteria when integrated with the *kulliyyāt al-khamsah*. *Ḍarūriyyāt* refer to those matters whose presence is indispensable for achieving the objectives of the *maslaḥah* (public interest), particularly in situations of dire necessity.[32] Examples include engaging in *jihād* to preserve religion, obtaining sustenance to preserve life, prohibiting intoxicants to preserve intellect, and permitting financial transactions (*muʿāmalāt*) to preserve wealth. Hajiyyah refers to necessities required to realize maslahah (public interest)

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[29]Muhammad Said Ramadhan Al-Buthi, *Zawabit Al-Maslahah Fi Al-Syari'ah Al-Islamiyyah* (Damaskus: Dar al-Fikr, 2005).

[30]Elfia Elfia et al., "Institutionalizing Maqāsid Ḥifz Al-Naṣl within the Minangkabau Inheritance Framework," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024), p. 193–222.

[31]Ali bin Muhammad Al-'Amidi, *Al-Ihkam Fi Ushul Al-Ahkam* (Damaskus: Dar al-Fikr, 2020).

[32]Jamal Abdul Aziz, "Abu Ishaq Ibrahim Ibn Musa Al-Syathibi Aand His Opinion On The Dichotomy Of Ibadat And Adat In Islamic Law," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 10, no. 2 (2016).

when the situation does not reach the level of emergency.[33] For instance, reciting the shahada is essential for the preservation of religion (*hifz al-din*), the permissibility to consume land animals or other foods pertains to the preservation of life (*hifz al-nafsi*), and the acquisition of knowledge is necessary for the preservation of intellect (*hifz al-aql*).[34] In contrast, tahsiniyyah pertains to matters considered beneficial or commendable according to customary practice, but which do not reach the level of necessity like the previous two categories. Examples of tahsiniyyah include laws concerning the removal of impurities, covering the genitals, and the etiquette of eating and drinking. Each of these categories *zaruriyyah* (necessities), *hajiyyah* (needs), and *tahsiniyyah* (embellishments) also includes *mukkammil* (complementary) matters.[35]

When conflicts arise between these categories, their priorities are determined according to their respective levels, with the three primary categories taking precedence over their complements. This hierarchy exists because *zaruriyyah* represents the core objective among the three, with the others serving as its subsidiary branches. Conventionally, the core objective is given greater consideration than its branches, and efforts are made to preserve it fully, even if it results in some compromise to the subsidiary aspects.[36] The foregoing explanation applies specifically to conflicts between maslahah at different levels.

When a contradiction arises between two maslahahs at the same level for example, between two matters both categorized as *zaruriyyah* the resolution method involves focusing on the underlying object that connects the two (*muta'allaq bih*). If the conflicting maslahahs correspond to different link objects, the hierarchical consideration shifts to prioritizing based on these objects.[37] For instance, a *zaruriyyah maslahah* aimed at preserving religion (*hifz al-din*) is given precedence over one aimed at preserving life (*hifz al-nafsi*), despite both being classified as *zaruriyyah*. In cases where the two contradictory *maslahahs* share the same link object, such as religion or soul, the *mujtahid's* judgment then relies on a secondary criterion among the three previously mentioned: the level of universality of the conflicting *maslahah*.[38]

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[33]Desi Norma Siamtina et al., "The Legal System of the All-You-Can-Eat Ticket System at Tlogo Argo-Tourism, Indonesia: A Maṣlaḥah Al-Mursalah Perspective," *JIL: Journal of Islamic Law* 4, no. 1 (2023), p. 88–103.

[34]Rayno Dwi Adityo Krismiyarsi Krismiyarsi, "The Urgency of Community Service Imposed as Punishment on Juvenile Delinquents: A Study of Al-Shatibi's Maqhasid Al-Syariah Concept," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025).

[35]Ibrahim Musa Al-Syathibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah* (Kairo: Maktabah al-Tajariyah al-Kubra, 1998).

[36]Al-Buthi, *Zawabit Al-Maslahah Fi Al-Syari'ah Al-Islamiyyah*.

[37]Akrom Auladi, "Kuasa Pengetahuan Masyarakat Dan Analisis Hirarki Maqâṣid Syarî'ah Terhadap Fatwa MUI Tentang *Pencegahan* Penyebaran Covid-19," *Syariati: Jurnal Studi Al-Qur'an Dan Hukum* 6, no. 01 (2020)..

[38]Al-Buthi, *Zawabit Al-Maslahah Fi Al-Syari'ah Al-Islamiyyah*.

From this discussion, it becomes evident that *maslahah* and *maqāṣid al-sharī'ah* hold significant importance within Islamic jurisprudence. By applying the principle of *maslahah*, Islamic law remains dynamic and capable of engaging with contemporary societal issues, providing viable solutions. In this regard, the principles of *maslahah* and *maqāṣid al-sharī'ah* ensure the endurance of Islamic teachings by safeguarding human welfare. This reflects one of the divine wisdoms inherent in sharia, revealed by Allah as its legislator, to guarantee justice and compassion through Islamic law.

Elasticity of *Mashlahah* in the Context of Contemporary Islamic Law

Maslahah within the hierarchy of *maqāṣid al-sharī'ah*, as understood in the historical development of the Islamic law, is characterized by flexible and adaptable principles. Specifically, some *maslahah* may occupy the same level and share the same link object and degree of necessity; however, distinctions frequently arise based on the level of universality and the extent of influence that the realization of a particular *maslahah* has on humanity. Consequently, *maslahah* with broader scope is prioritized over those with a narrower scope when they conflict, as it is unreasonable to give precedence to a *maslahah* with limited impact over one with widespread influence. The potential harm resulting from neglecting the broader maslahah is greater than that caused by overlooking a narrower one. For example, teaching religious knowledge holds greater importance than performing sunnah worship, as the former exerts a wider influence on the community, while the latter tends to be of individual significance. The harm resulting from neglecting a broader *maslahah* is generally more significant than that arising from disregarding one of narrower scope.[39] For example, prioritizing the dissemination of religious knowledge is considered more critical than engaging in *sunnah* (non-obligatory) worship, as the former has a wider societal impact, whereas the latter primarily benefits the individual. While the universality of a *maslahah* serves as one criterion for its evaluation, it is also essential to consider a third criterion namely, the realistic prospect of achieving the *maslahah* in practice. This is because a matter is classified as either *maslahah* (benefit) or *mafsadah* (harm) based on the actual consequences it produces in reality.

In some cases, the real-world consequences of an action can be definitively ascertained. For instance, digging a well directly in front of someone's bedroom door at night clearly results in harm, a *mafsadah*, which can be confirmed through customary understanding. Similarly, engaging in financial transactions involving the wealth of orphans who have not yet reached maturity—such as trading their assets for cash can be deemed harmful or beneficial based on customary knowledge of

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[39]Nizaita Omar and Zulkifly Muda, "The Application of the Rule of Istihsan Bi Al-Maslahah (Juristic Preference by Interest): A Practical Approach on Some Medical Treatment," *International Journal of Academic Research in Business and Social Sciences* 7, no. 5 (2017).

likely outcomes, such as anticipated profits.[40] In other cases, however, the effects of an action may be based on strong conjecture (*zann*) of varying degrees. In such situations, the classification of the action as *maslahah* (benefit) or *mafsadah* (harm) is proportionally strong. Conversely, when the outcome of an action remains uncertain, the status of the resulting *maslahah* or *mafsadah* likewise remains uncertain.

Therefore, it is impermissible to prioritize one maslahah over another if the likelihood of its realization is minimal or uncertain, regardless of its intrinsic value or level of universality. For a maslahah to be prioritized, it must either be certain to occur or at least strongly presumed (*maznunah*) to do so. This principle aligns with the fact that the majority of Islamic legal rulings are grounded in strong assumptions (*zan*), provided these do not contradict matters that are definitive (*qat'i*).[41]

In conclusion, for a *maslahah* to be validly considered within Islamic jurisprudence, certain primary conditions must first be met namely, a strong likelihood of its realization in reality, either with certainty or a well-founded presumption (*rujhan al-wuqu'*). Subsequently, the significance of the *maslahah* is evaluated according to its essential level within the framework of the *kulliyah khamsah* (the five universal objectives of Shariah), classified hierarchically as *zaruriyyah* (necessities), *hajiyyah* (needs), and *tahsiniyyah* (embellishments).[42] Furthermore, the *maslahah* is assessed based on the extent of its universality and the breadth of benefits it can provide. Employing these ordered criteria and evaluative scales allows for a systematic ranking of maslahah when conflicts arise. The Qur'an implicitly acknowledges the gradations of *maslahah*, as exemplified in verse 31 of *Surah al-Nisa'*:

إِنْ تَجْتَنِبُوا كَبَائِرَ مَا تُنْهَوْنَ عَنْهُ نُكَفِّرْ عَنْكُمْ سَيِّئَاتِكُمْ وَنُدْخِلْكُمْ مُدْخَلًا كَرِيمًا

Meaning: *"If you avoid the major sins which you are forbidden to do, We will remit from you your lesser sins and admit you to a noble place (Paradise)."* (Qur'an 4:31). (QS. Al-Nisa` [4]: 31)

This verse reflects the hierarchical nature of sin and virtue, paralleling the varying degrees of maslahah recognized within Islamic legal theory. The aforementioned verse implies that sins vary in their severity due to the differing degrees of harm (*mafsadah*) they cause. Since *mafsadah* is the antithesis of *maslahah*, this variation in the harmful consequences of sins corresponds to a parallel variation in maslahah according to their significance. This also serves as evidence that the maslahah promoted by Islamic law exists at different levels of importance.[43]

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[40]Fakhruddin et al., "From Fiqh Al-Ibadat to Muamalat: Repositioning Zakat Management in Indonesia in the Perspective of Maqaṣid Al-Shari'ah," *Samarah* 8, no. 1 (2024), p. 495–517.

[41]Al-Buthi, *Zawabit Al-Maslahah Fi Al-Syari'ah Al-Islamiyyah*.

[42]Masykur Rozi, "Memetakan Skala Prioritas Kebijakan Penanganan Pandemi Covid-19 Perspektif Maqāṣid Al-Syarī'ah: Analisis Terhadap Peraturan Perundang-Undangan Di Indonesia," *JIL: Journal of Islamic Law* 2, no. 1 (2021), p. 62–93.

[43]Ahmad Yani and Megawati Barthos, "Transforming Islamic Law in Indonesia from a Legal Political Perspective," *Al-Ahkam* 30, no. 2 (2020), p. 159–78.

At the highest level is the affirmation of tawhid (the declaration of God's oneness), while at the lowest level are acts such as removing disturbances from the road. Between these extremes, numerous other *maslahahs* exist, each distinguished by its respective degree of significance.[44]

As previously explained, *maslahah* within sharia exhibits variation and exists at different levels, as supported by the two evidences mentioned earlier.[45] This hierarchical framework is primarily derived through inductive reasoning (*istiqrā'*) from various segments of *sharia* rulings. Such research conclusively demonstrates the existence of gradations in *maslahah* within the *sharī'ah*, organized in the order outlined above.[46] The structured categorization of maqāṣid al-sharī'ah, as discussed, has been recognized since the time of Imam al-Ghazālī. While some scholars have proposed adding an additional maqṣad namely, *ḥifẓ al-'ird* (preservation of honor) this inclusion has met significant scholarly criticism, notably from Ibn 'Āshūr. Ibn 'Āshūr contended that the preservation of honor is more appropriately classified either as a component of *ḥājiyyah* (needs) or as part of perfecting *ḥifẓ al-naṣl* (protection of progeny), rather than constituting a distinct category on its own.[47]

In contemporary discourse, there has been a growing call among scholars and writers specializing in *maqāṣid studies* to expand the traditional five *maqāṣid*. Proponents of this expansion argue that the original five maqāṣid, while fundamental, do not encompass all the critical elements necessary to protect and uphold the well-being of Muslim societies and humanity at large. They contend that additional objectives addressing significant modern challenges deserve recognition and preservation within the framework of *maqāṣid al-sharī'ah*.[48] Various proposals suggest that the number of maqāṣid could potentially increase to as many as ten. Among these proposed additions are the protection of human rights, justice (*'adl*),[49] governance through the caliphate, national unity, freedom or independence, economic development, and even environmental preservation. These expanded objectives reflect evolving social, political, and ecological concerns pertinent to the contemporary world.[50]

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[44]*Yusuf* Al-Qardhawi, *Kaifa Nata'amal Ma'a Al-Qur`an Al-'Azim* (Kairo: Dar al-Shuruq, 1999).

[45]Moh. Mukri et al., "The Implementation of the Maslahah Principle in Cultivating Religious Moderation in the State Islamic Universities," *Al-'Adalah* 21, no. 2 (2024), p. 371.

[46]Al-Buthi, *Zawabit Al-Maslahah Fi Al-Syari'ah Al-Islamiyyah*.

[47]Muhammad Thahir bin 'Asyur, *Al-maqāṣid al-sharī'ah Al-Islamiyah* (Kairo: Dar al-Salam, 2020).

[48]Muhammad Harun and Muhammad Torik, "Korelasi Filsafat Nilai Tentang Kebaikan Dengan Al-Maslahah," *Nurani* 16, no. 2 (2016), p. 85–98.

[49]Ahmad Zayyaduz Zabidi, "Paradigma Utilitarianistik Dalam Isthinbath Hukum Islam," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 7, no. 2 (2014).

[50]KN Shofyan Hasan Yusida Fitriyati, Duski Ibrahim, Firman Muntaqo, "Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025), p. 122.

Jasser Auda is a prominent contemporary scholar who has been particularly vocal in advocating for the reconstruction of the classical theory of *maqāṣid al-sharī'ah* into a more contemporary framework. He seeks to transform the traditional concept of *maqāṣid al-sharī'ah*, which primarily emphasizes protection and preservation, into a theory centered on development and rights. The hierarchical theory of *maqāṣid al-sharī'ah* has evolved notably, especially during the twentieth century. Modern critiques of the classical classification of needs highlight several shortcomings: (a) the classical framework does not comprehensively encompass the entire scope of Islamic law;[51] (b) it tends to focus predominantly on the individual rather than the collective; (c) it omits fundamental universal values such as justice and freedom; and (d) it is largely derived from fiqh literature rather than grounded directly in primary sources such as the Qur'an and Sunnah.[52]

According to Jasser Auda, many contemporary issues warrant attention from sharia due to their significance for human welfare. Among the maqāṣid he emphasizes are *al-musāwah* (egalitarianism), *ḥuqūq al-nisā'* (women's rights), human resources (HR), human rights, and other related concerns. In addition to Auda, other contemporary scholars have also advocated for the reconstruction of classical maqāṣid al-sharī'ah. Muhammad al-Ghazālī, for example, supports this view and proposes expanding the category of *zarūriyyāt* (necessities) to include justice and freedom. Similarly, Yusuf al-Qaraḍāwī, although less radical, concurs after studying the Qur'an that several additional objectives should be incorporated into maqāṣid al-sharī'ah. These include the improvement of faith (*taṣḥīḥ al-'aqā'id*), the preservation of human dignity and rights, the call to worship Allah, purification of the soul, moral development, family building, justice for women, nurturing a quality populace, and fostering human solidarity and mutual assistance. Likewise, Ṭāhā Jābir al-'Alwānī presents a comparable perspective. Based on his Qur'anic studies, he identifies the primary maqāṣid al-sharī'ah as the unification of Allah (*tawḥīd*), purification of the soul (*tazkiyah*), and the advancement of human civilization. These contemporary interpretations reflect an evolving understanding of maqāṣid al-sharī'ah that responds to modern societal needs and challenges.

In his opinion, the reason lies in the fact that numerous contemporary issues require the attention of Islamic law and are essential for the well-being of humanity.[53] Among the objectives (*maqāṣid*) he highlights are egalitarianism (*al-musāwah*), women's rights (*ḥuqūq al-nisā'*), human resources, and human rights, among

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[51]Ia Hidarya Suparno Suparno, Rusli Rusli, "A New Restorative Justice Paradigm in the Sociology of Islamic Law in Indonesia: Nahdlatul Ulama and Muhammadiyah's Responses to Corruption Cases," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2025), p. 1.

[52]Galuh Nasrullah Kartika MR and Hasni Noor, "Konsep MaqāṣidAl-Syari'ah Dalam Menentukan Hukum Islam (Perspektif Al-Syatibi Dan Jasser Auda)," *Al Iqtishadiyah Jurnal Ekonomi Syariah Dan Hukum Ekonomi Syariah* 1, no. 1 (2014), p. 50.

[53]Ahmad Zayyadi et al., "Understanding of Legal Reform on Sociology of Islamic Law: Its Relevance to Islamic Family Law in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023), p. 249.

others.[54] In addition to Jasser Auda, other scholars have contributed to similar reconstructionist discourses, including Muḥammad al-Ghazālī, who aligns with Auda's perspective. Al-Ghazālī, a prominent contemporary thinker, advocates for a re-evaluation of the classical framework of *maqāṣid al-sharīʿah*. He proposes the inclusion of justice and freedom within the category of essential objectives (maqāṣid ḍarūriyyah).[55]

Although Yūsuf al-Qaraḍāwī is not considered a radical figure, he similarly argues based on his study of the Qur'an that several additional objectives should be incorporated into the framework of *maqāṣid al-sharīʿah*. These include strengthening faith (*taṣḥīḥ al-ʿaqāʾid*), upholding human dignity and rights, inviting humanity to worship Allah (SWT), purifying the soul, improving moral character, nurturing family life, ensuring justice for women, cultivating a virtuous society, and promoting humanitarianism and mutual assistance.[56] Similarly, Ṭāhā Jābir al-ʿAlwānī, based on his Qur'anic interpretation, concludes that the foremost objectives of *maqāṣid al-sharīʿah* are the affirmation of monotheism (*tawḥīd*), spiritual purification (*tazkiyah*), and the advancement of human civilization.[57]

Regarding this discourse, it can be observed that several issues deemed important in the contemporary era were not considered urgent in previous times. However, many of the matters proposed as additions to the original five *zarūriyyāt* are, in fact, already encompassed within the content of the established five necessities. In some cases, these proposed additions represent a synthesis or combination of elements from the existing five *zarūriyyāt*, and thus remain within their conceptual framework without deviating from it. At times, the matters suggested for inclusion serve as *wasilah* (means) or *mukammil* (complementary elements) to the five *zarūriyyāt*.

Moreover, several of these proposed additions lack a distinct and independent universal value that is separate from the classical five maqāṣid al-*sharīʿah*, underscoring the comprehensive nature of the traditional framework.[58] Even though some of the proposed additions may offer broad benefits to humanity or the world at large, they remain inherently connected to one of the original five maqāṣid and do not constitute a distinct category. Furthermore, certain issues suggested as new maqāṣid do not reach the level of *zarūriyyah* (necessities), which, if neglected, could result in severe harm to human life or the sustainability of the world. Instead, these matters often fall within the category of *ḥājiyyah* (needs) or even *taḥsīniyyah*

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[54]Jasser Auda, *Maqasid Al-Syari'ah Wa Falsafah Li Tasyri' Al-Islami* (Jordania: Ma'had al-Fikr al-Islami, 2012).

[55]Jamal al-Din 'Athiyyah, *Nahwa Taf'il Maqasid Al-Syari'ah* (Damaskus: Dar al-Fikr, 2001).

[56]Al-Qardhawi, *Kaifa Nata'amal Ma'a Al-Qur`an Al-'Azim*.

[57]Taha Jabir Al-'Alwani, *Maqasid Al-Syari'ah* (Beirut: Dar al-Hadis, 2001).

[58]Syafril Wicaksono et al., "Maqashid Sharia Progressive: Anatomical and Transformational of Halal Institutions in UIN KHAS Jember," *El-Mashlahah* 13, no. 2 (2023), p. 107.

(embellishments).[59] For instance, monotheism (*tawḥīd*) or affirming God and calling for worship fall within the broader universal objective of preserving religion (*ḥifẓ al-dīn*), even if only as a part of it. The maqāṣid al-*sharī'ah* framework is inherently complex and holistic; concepts such as justice and freedom, while broad and universal in language, can be systematically categorized within the five maqāṣid through their practical applications.[60] Legal justice relating to the soul is encompassed under *ḥifẓ al-nafs*, justice involving property is covered by *ḥifẓ al-māl*,[61] and freedom of worship pertains to *ḥifẓ al-dīn*, among others. Thus, these expansive concepts are effectively integrated within the classical maqāṣid framework.

Moreover, while some of the proposed additions address genuinely urgent issues, categorizing them as *maqāṣid al-sharī'ah* without rigorous justification constitutes an unwarranted oversimplification that could lead to serious consequences, particularly if adopted by irresponsible legal scholars. Such uncritical expansions pose a significant risk to the established structure of sharia. It is conceivable that certain newly proposed maqāṣid may conflict with the original five *maqāṣid*, and if such additions are accepted uncritically, they might precipitate alterations or eliminations of traditional legal rulings under the pretext of serving these new objectives.

Furthermore, the discourse surrounding the expansion of maqāṣid should not be left unchecked, given that the five classical maqāṣid have been conceptualized with considerable intellectual rigor and coherence. The existing framework is vulnerable to subjective interpretations introduced by individuals lacking sufficient scholarly grounding, who may mistakenly present personal opinions as authoritative within sharia. Such superficial assessments often stem from an inadequate understanding of the comprehensive scope of Islamic law, leading to calls for unnecessary supplements. This trend poses a profound danger, potentially undermining the integrity of Islamic legal scholarship and academic expertise. If left unaddressed, it may result in an increasing number of proponents subjectively expanding *maqāṣid al-sharī'ah* in a fragmented and haphazard manner, thereby destabilizing the solid edifice of Islamic law and lead to the emergence of legal confusion fueled by the proliferation of illegitimate *maqāṣid*[62] In addition to the discourse on expanding the scope of maqāṣid al-sharī'ah, there is also emerging

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[59]Moch Cholid Wardi, Abd. A'la, and Sri Nurhayati, "Contextualization Of Al-Maqasid Al-Kulliyat To The Individual, Family, Society And Humanity's Aspects: An Analysis On Jamaluddin Athiyah's Perspectives," *Malaysian Journal of Syariah and Law* 11, no. 1 (2023).

[60]Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "Maqasid Al-Shari`ah, Maslahah, and Corporate Social Responsibility (2007)," *American Journal of Islam and Society* 41, no. 1 (2024).

[61]Mohd. Faisal Mohamed, et.al., "Principles of Al-Bay' and Al-Ijarah in the Book Sullam Al-Mubtadi Written by Syeikh Daud Al-Fatani : An Analysis within the Perspective of Al-maqāṣid al-sharī'ah ," *Malaysian Journal of Syariah and Law* 6 (2017).

[62]Amanatus Sholihah, "Buzzer: Politic's Interest And Maslahah," *Politea : Jurnal Politik Islam* 5, no. 2 (2023).

debate regarding the reconstruction of the hierarchical ordering of the classical five maqāṣid.[63]

Traditionally, the hierarchy follows the sequence: *ḥifẓ al-dīn* (preservation of religion), *ḥifẓ al-nafs* (preservation of life), *ḥifẓ al-ʿaql* (preservation of intellect), *ḥifẓ al-nasl* (preservation of lineage), and *ḥifẓ al-māl* (preservation of property).[64] However, some contemporary scholars have proposed alternative hierarchies that they argue better reflect the conditions of modern society. Among these scholars is Sheikh ʿAlī Jumʿah, who contends that the classical hierarchy was formulated based on the socio-cultural context of earlier civilizations and is less applicable to today's complex human realities. He proposes a revised hierarchy prioritizing *ḥifẓ al-nafs* first, followed by *ḥifẓ al-ʿaql*, *ḥifẓ al-dīn*, *ḥifẓ al-nasl*, and finally *ḥifẓ al-māl*.[65] This reordering represents a significant contemporary discourse within maqāṣid studies and underscores the necessity for Islamic law to adapt and respond effectively to the evolving challenges of modern society. The debate over the maqāṣid hierarchy exemplifies the dynamic nature of Islamic jurisprudence and its enduring relevance to contemporary legal and ethical issues.

Conclusion

In the established hierarchy of the five maqāṣid al-sharīʿah, the universality and preservation of religion (*ḥifẓ al-dīn*) is clearly prioritized above the other four objectives. This hierarchy is not a temporary or simplistic construct; rather, it is grounded in comprehensive principles, including the evaluative barometers discussed previously. Altering the order of the five maqāṣid effectively implies prioritizing other interests over religion, which could have serious and potentially fatal consequences for the integrity of Islamic law and its objectives. Consequently, the existing hierarchical order should be regarded as a fundamental and inviolable framework. Instances where apparent contradictions arise such as permitting the utterance of a statement of disbelief (*kufr*) to save a life do not indicate a flaw in the hierarchy itself. Instead, these cases reflect the nuanced prioritization among different maqāṣid based on their respective levels of necessity. For example, the preservation of life (*ḥifẓ al-nafs*) is categorized as *zarūriyyah* (essential), whereas refraining from uttering words of disbelief is classified as *ḥājiyyah* (complementary need). Such casuistic exceptions do not imply that the maqāṣid hierarchy is flexible or subject to arbitrary alteration; rather, they demonstrate the dynamic interplay

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[63]Taufiqurohman Taufiqurohman and Nelli Fauziah, "The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023), p. 81.

[64]Muhammad Aulia Rahman, Roibin Roibin, and Nasrulloh Nasrulloh, "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi," *El-Mashlahah* 13, no. 1 (2023), p. 57–75.

[65]Zulkarnain, Habib Iman Nurdin Sholeh, and Ahmad Zaenul Muttaqin, "Local Wisdom in Sebambangan Traditional Marriage Practices: A Maqāṣid Sharī'ah Perspective," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (2024), p. 119–37.

between the different levels of maqāṣid within a coherent and stable overall framework. Therefore, a deeper and more nuanced understanding of the maqāṣid, their hierarchical order, and the application of these principles in complex legal scenarios is essential to avoid misinterpretations that could undermine the objectives and coherence of sharīʿah.

References

Journals and Books

’Asyur, Muhammad Thahir bin. *Maqasid Al-Syariah Al-Islamiyah*. Kairo: Dar al-Salam, 2020.

’Athiyyah, Jamal al-Din. *Nahwa Taf’il Maqasid Al-Syari’ah*. Damaskus: Dar al-Fikr, 2001.

Abdi Wijaya, Achmad Musyahid Idrus, Tahani Asri Maulidah, Mulham Jaki Asti, and Nurjannah Nurjannah. “The Implementation of E-Commerce Consumer Option Rights (Khiyar) in Realizing Transaction Justice: A Study of Maqasid Al-Shariah.” *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 1 (2023. https://doi.org/10.24090/mnh.v17i1.7673.

Abdul Jalil, Abdul Jalil. “Maqashid Al-Syariah Al-Syathibi (Sebuah Upaya Untuk Menyingkap Tujuan Asasi Formulasi Hukum Islam).” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 6, no. 1 (2013). https://doi.org/10.19105/al-lhkam.v6i1.299.

Al-’Alwani, Taha Jabir. *Maqasid Al-Syari’ah*. Beirut: Dar al-Hadis, 2001.

Al-’Amidi, Ali bin Muhammad. *Al-Ihkam Fi Ushul Al-Ahkam*. Damaskus: Dar al-Fikr, 2020.

Al-Buthi, Muhammad Said Ramadhan. *Zawabit Al-Maslahah Fi Al-Syari’ah Al-Islamiyyah*. Damaskus: Dar al-Fikr, 2005.

Al-Qardhawi, Yusuf. *Kaifa Nata’amal Ma’a Al-Qur`an Al-’Azim*. Kairo: Dar al-Shuruq, 1999.

Al-Syathibi, Ibrahim Musa. *Al-Muwafaqat Fi Ushul Al-Syari’ah*. Kairo: Maktabah al-Tajariyah al-Kubra, 1998.

Amanatus Sholihah. “Buzzer: Politic’s Interest And Maslahah.” *Politea : Jurnal Politik Islam* 5, no. 2 (2023). https://doi.org/10.20414/politea.v5i2.5382.

Andiko, Toha, Zurifah Nurdin, and Efrinaldi Efrinaldi. “Implementation of Restorative Justice in a Customary Court in Rejang Lebong District, Bengkulu, Indonesia: A Maqāṣid Al-Sharīʿah Review.” *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (2024). https://doi.org/10.31958/juris.v23i1.12008.

Asa’ari, Asa’ari, Zufriani Zufriani, Arzam Arzam, and Doli Witro. “Urgensi Pemahaman Terhadap Maqashid Al-Syari’ah Dan Perubahan Sosial Dalam Istinbath Al-Ahkam.” *De Jure: Jurnal Hukum Dan Syar’iah* 13, no. 2 (2021). https://doi.org/10.18860/j-fsh.v13i2.13818.

Auda, Jasser. *Maqasid Al-Syari’ah Wa Falsafah Li Tasyri’ Al-Islami*. Jordania: Ma’had al-Fikr al-Islami, 2012.

Auladi, Akrom. "Kuasa Pengetahuan Masyarakat Dan Analisis Hirarki Maqâṣid Syarî'ah Terhadap Fatwa MUI Tentang Pencegahan Penyebaran Covid-19." *Syariati: Jurnal Studi Al-Qur'an Dan Hukum* 6, no. 01 (2020). https://doi.org/10.32699/syariati.v6i01.1259.

Aziz, Jamal Abdul. "Abu Ishaq Ibrahim Ibn Musa Al-Syathibi Aand His Opinion On The Dichotomy Of Ibadat And Adat In Islamic Law." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 10, no. 2 (2016). https://doi.org/10.19105/al-lhkam.v10i2.714.

Azni Azni, Muhammad Hafis, Asril Amirul Zakariah, Adi Harmanto, Miftahuddin Miftahuddin, M. Ihsan. "Pseudo-Maṣlaḥah and Epistemological Failure in Marriage Dispensation at Indonesian Religious Courts." *Jurnal Ilmiah Peuradeun* 13, no. 2 (2025). https://doi.org/https://doi.org/10.26811/peuradeun.v13i2.2047.

Diatmoko, Tri, Absori Absori, Kelik Wardiono, Muh Nashirudin, and Arief Budiono. "Islamic Legal Policy on Ultra-Micro Enterprise Financing and Its Implementation from the Perspective of Maqāṣid Al-Sharī'A." *Al-Ahkam* 35, no. 1 (2025). https://doi.org/10.21580/ahkam.2025.35.1.25207.

Dusuki, Asyraf Wajdi, and Nurdianawati Irwani Abdullah. "Maqasid Al-Shari`ah, Maslahah, and Corporate Social Responsibility (2007)." *American Journal of Islam and Society* 41, no. 1 (2024). https://doi.org/10.35632/ajis.v41i1.3417.

Elfia, Elfia, Nurus Shalihin, Surwati Surwati, Yan Fajri, and Aulia Rahmat. "Institutionalizing Maqāsid Ḥifz Al-Naṣl within the Minangkabau Inheritance Framework." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 2 (2024). https://doi.org/10.18326/ijtihad.v24i2.193-222.

Fakhruddin, Sudirman Hasan, Dwi Hidayatul Firdaus, and Hakmi Hidayat. "From Fiqh Al-Ibadat to Muamalat: Repositioning Zakat Management in Indonesia in the Perspective of Maqaṣid Al-Shari'ah." *Samarah* 8, no. 1 (2024). https://doi.org/10.22373/sjhk.v8i1.19637.

Halim, Ahmad Rasyidi, M. Fahmi Al Amruzi, and Jalaluddin. "Legal Formulation for Forced Marriage Prevention through the Decision of Wali Mujbir in Religious Courts and Its Relevance with Maqāṣid Syari'ah and Human Rights." *Mazahib Jurnal Pemikiran Hukum Islam* 23, no. 1 (2024): 79–116. https://doi.org/10.21093/mj.v23i1.6189.

Harun, Muhammad, and Muhammad Torik. "Korelasi Filsafat Nilai Tentang Kebaikan Dengan Al-Maslahah." *Nurani* 16, no. 2 (2016): 85–98.

Ifandy, Teguh, and Idaul Hasanah. "Maslahat (Benefits) in Fiqh Awlāwiyāt: A Comparison between Yūsuf Al-Qarāḍhawī's View and Abdus Salam Alī Al-Karbulī's." *Al-'Adalah* 21, no. 1 (2024): 1. https://doi.org/10.24042/adalah.v21i1.21316.

Krismiyarsi Krismiyarsi, Rayno Dwi Adityo. "The Urgency of Community Service Imposed as Punishment on Juvenile Delinquents: A Study of Al- Shatibi's Maqhasid Al-Syariah Concept." *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025). https://doi.org/https://doi.org/10.18860/j-fsh.v17i1.31246.

Mohamed, Mohd. Faisal, Mualimin Mochammad Sahid, and Mohamad Zaharuddin Zakaria. "Rukun-Rukun Al-Bay' Dan Al-Ijarah Dalam Kitab Sullam Al-Mubtadi Karangan Syeikh Daud Al-Fatani : Analisis Dari Perspektif Maqasid Al-Syariah = Principles of Al-Bay' and Al-Ijarah in the Book Sullam Al-Mubtadi Written by Syeikh Daud Al-Fatani : An Analysis within the Perspective of Maqasid Al-Syariah." *Malaysian Journal of Syariah and Law* 6 (2017). https://doi.org/10.12816/0051374.

Mufidah, Mufidah, Hartiwiningsih Hartiwiningsih, Isharyanto Isharyanto, and Musa Wardi. "Islamic Law and the Blasphemy Debate in Contemporary Indonesia." *AHKAM : Jurnal Ilmu Syariah* 24, no. 2 (2024). https://doi.org/10.15408/ajis.v24i2.41287.

Muhaimin, Muhaimin. "The Interrelation between Islamic Law and Regional Regulations in Jember (Examining the Maqāṣid Al-Sharī'at-Based Reasoning in Istinbāṭ Al-Ahkām)." *AHKAM : Jurnal Ilmu Syariah* 20, no. 2 (2020). https://doi.org/10.15408/ajis.v20i2.18330.

Mujiburrahman, Mujiburrahman, Teuku Zulfikar, Shukri Ahmad, Hasnul Arifin Melayu, and Jasafat Jasafat. "The State Intervention in the Islamic Education in Aceh: Threats or Opportunities?" *Jurnal Ilmiah Peuradeun* 12, no. 2 (2024). https://doi.org/10.26811/peuradeun.v12i2.1349.

Mukri, Moh., Agus Hermanto, Hanif Hanif, Is Susanto, and Rochmad Rochmad. "The Implementation of the Maslahah Principle in Cultivating Religious Moderation in the State Islamic Universities." *Al-'Adalah* 21, no. 2 (2024). https://doi.org/10.24042/adalah.v21i2.23953.

Nasrullah Kartika MR, Galuh, and Hasni Noor. "Konsep Maqashid Al-Syari'ah Dalam Menentukan Hukum Islam (Perspektif Al-Syatibi Dan Jasser Auda)." *Al Iqtishadiyah Jurnal Ekonomi Syariah Dan Hukum Ekonomi Syariah* 1, no. 1 (2014). https://doi.org/10.31602/iqt.v1i1.136.

Nawawi, Maimun. "Konsep Mashlahah Perspektif Muhammad Sa'id Ramadhan Al-Buthi." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 5, no. 1 (2013). https://doi.org/10.19105/al-lhkam.v5i1.280.

Noor, Salafuddin, Ahmadi Hasan, and Nuril Khasyi'in. "Review of Political Theory of Islamic Law Abul 'Ala Al Maududy Positive Perspective of the Political System of Indonesian Islamic Law." *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 1 (2023). https://doi.org/10.18592/sjhp.v23i1.9626.

Norma Siamtina, Desi, Muhammad Chairul Huda, Sukron Ma'mun, and Nastangin Nastangin. "The Legal System of the All-You-Can-Eat Ticket System at Tlogo Argo-Tourism, Indonesia: A Maṣlaḥah Al-Mursalah Perspective." *JIL: Journal of Islamic Law* 4, no. 1 (2023). https://doi.org/10.24260/jil.v4i1.1150.

Omar, Nizaita, and Zulkifly Muda. "The Application of the Rule of Istihsan Bi Al-Maslahah (Juristic Preference by Interest): A Practical Approach on Some Medical Treatment." *International Journal of Academic Research in Business and Social Sciences* 7, no. 5 (2017). https://doi.org/10.6007/ijarbss/v7-i5/2975.

Purnomo, Agus, Nor Salam, Mukhammad Zamzami, and Abu Bakar. "Dimensions

Maqāsid Al-Sharī'ah and Human Rights in The Constitutional Court's Decision on Marriage Age Difference in Indonesia." *Samarah* 7, no. 3 (2023). https://doi.org/10.22373/sjhk.v7i3.13283.

Rahman, Muhammad Aulia, Roibin Roibin, and Nasrulloh Nasrulloh. "Dayak Ngaju Customary Fines in Pre-Marriage Agreement to Minimize Divorce in The Perspective of Maslahah Mursalah Ramadhan Al-Buthi." *El-Mashlahah* 13, no. 1 (2023). https://doi.org/10.23971/el-mashlahah.v13i1.5623.

Rasyid, Arbanur, Jarudin Jarudin, Idris Saleh, and Rayendriani Fahmei Lubis. "Dynamics of Childless Marriage Through the Lens of Maqasid Al-Shari'a." *Jurnal Ilmiah Peuradeun* 12, no. 2 (2024). https://doi.org/10.26811/peuradeun.v12i2.1182.

Rozi, Masykur. "Memetakan Skala Prioritas Kebijakan Penanganan Pandemi Covid-19 Perspektif Maqāṣid Al-Syarī'ah: Analisis Terhadap Peraturan Perundang-Undangan Di Indonesia." *JIL: Journal of Islamic Law* 2, no. 1 (2021). https://doi.org/10.24260/jil.v2i1.155.

Suparno Suparno, Rusli Rusli, Ia Hidarya. "A New Restorative Justice Paradigm in the Sociology of Islamic Law in Indonesia: Nahdlatul Ulama and Muhammadiyah's Responses to Corruption Cases." *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2025). https://doi.org/https://doi.org/10.18592/sjhp.v24i2.16221.

Tahir, Tarmizi, and Syeikh Hasan Abdel Hamid. "Maqasid Al-Syari'ah Transformation in Law Implementation for Humanity." *International Journal Ihya' 'Ulum Al-Din* 26, no. 1 (2024). https://doi.org/10.21580/ihya.26.1.20248.

Taufiqurohman, Taufiqurohman, and Nelli Fauziah. "The Evaluation of Maqāṣid Asy-Syarī'ah on Discourses of the Islamic Family Law." *El-Usrah: Jurnal Hukum Keluarga* 6, no. 1 (2023). https://doi.org/10.22373/ujhk.v6i1.13035.

Thabrani, Abdul Mukti. "Pengembangan Fiqh Al-'Ilmiyah Melalui Pendekatan Mashlahah Dan Tajdid." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 6, no. 2 (2013). https://doi.org/10.19105/al-lhkam.v6i2.308.

Ulya, Nanda Himmatul. "Konsep Maslahat Dalam Pandangan Sa'id Ramadha Al-Buthi." *Al-Maslahah* 15, no. 2 (2019).

Wardi, Moch Cholid, Abd. A'la, and Sri Nurhayati. "Contextualization Of Al-Maqasid Al-Kulliyat To The Individual, Family, Society And Humanity's Aspects: An Analysis On Jamaluddin Athiyah's Perspectives." *Malaysian Journal of Syariah and Law* 11, no. 1 (2023). https://doi.org/10.33102/mjsl.vol11no1.389.

Wicaksono, Syafril, M. Khoirul Hadi Al-Asy'ari, Elisa Dourothun Nafis El-Adibah, and Iffahasanah Iffahasanah. "Maqashid Sharia Progressive: Anatomical and Transformational of Halal Institutions in UIN KHAS Jember." *El-Mashlahah* 13, no. 2 (2023). https://doi.org/10.23971/el-mashlahah.v13i2.7370.

Yani, Ahmad, and Megawati Barthos. "Transforming Islamic Law in Indonesia from a Legal Political Perspective." *Al-Ahkam* 30, no. 2 (2020).

https://doi.org/10.21580/ahkam.2020.30.2.6333.

Yusida Fitriyati, Duski Ibrahim, Firman Muntaqo, KN Shofyan Hasan. "Justice in Religious Court Decisions through the Lens of Maqashid Al-Shariah." *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025). https://doi.org/https://doi.org/10.19109/nurani.v25i1.27133.

Zabidi, Ahmad Zayyaduz. "Paradigma Utilitarianistik Dalam Isthinbath Hukum Islam." *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 7, no. 2 (2014). https://doi.org/10.19105/al-lhkam.v7i2.335.

Zayyadi, Ahmad, Ridwan, Arif Hidayat, Ubaidillah, and Mowafg Abrahem Masuwd. "Understanding of Legal Reform on Sociology of Islamic Law: Its Relevance to Islamic Family Law in Indonesia." *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023). https://doi.org/10.24090/mnh.v17i2.7584.

Zulkarnain, Habib Iman Nurdin Sholeh, and Ahmad Zaenul Muttaqin. "Local Wisdom in Sebambangan Traditional Marriage Practices: A Maqāṣid Sharī'ah Perspective." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (2024). https://doi.org/10.18326/ijtihad.v24i1.119-137.

Zumiyati Sanu Ibrahim, Suud Sarim Karimullah, Sulastri, Yavuz Gönan, and Hüseyin Okur. "Islamic Law and Human Rights: Convergence or Conflict?" *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 24, no. 2 (2024). https://doi.org/10.19109/nurani.v24i2.19595.