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Justice and Protection for Persons with Disabilities in Indonesia: A Perspective from Systems Theory and *Maqāṣid al-Sharīʿah*

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Abstract

The protection of the rights of persons with disabilities has become an increasingly significant issue in both human rights discourse and contemporary Islamic legal scholarship. Although Indonesia enacted Law Number 8 of 2016 to guarantee the rights of persons with disabilities, scholarly attention devoted to examining the law through Jasser Auda's contemporary reconstruction of Maqāṣid al-Sharīʿah, particularly from the perspectives of social justice and systems theory, remains relatively limited. This study employed normative legal research using a juridical-philosophical approach by analysing primary legal materials, principally Law Number 8 of 2016, supported by relevant legislation, scholarly literature, and contemporary Islamic legal scholarship. The study aims to analyse the compatibility of the protection of the rights of persons with disabilities under Law Number 8 of 2016 with Jasser Auda's *maqāṣid al-sharīʿah* and to explore how his systems approach provides a more comprehensive interpretive framework for understanding disability law beyond conventional normative analysis. The findings demonstrate that the law reflects a paradigm shift from a charity-based approach to a human rights-based approach by recognising persons with disabilities as equal citizens entitled to full participation in public life. The findings further indicate that the law fulfils the six essential objectives of Maqāṣid al-Sharīʿah while embodying the six principles of Jasser Auda's systems approach, namely cognitive nature, wholeness, openness, interrelated hierarchy, multidimensionality, and purposefulness. This study contributes to the advancement of contemporary Islamic legal scholarship by demonstrating that *maqāṣid al-sharīʿah* can serve as a dynamic interpretive framework for disability law and offers policy implications for strengthening the implementation of the rights of persons with disabilities in Indonesia.

Keywords: Justice, persons with disabilities, legal protection, *maqāṣid al-sharīah*, systems theory

Abstrak

Perlindungan hak-hak penyandang disabilitas telah menjadi isu yang semakin penting baik dalam diskursus hak asasi manusia maupun dalam kajian hukum Islam kontemporer. Meskipun Indonesia telah mengesahkan Undang-Undang Nomor 8 Tahun 2016 untuk menjamin hak-hak penyandang disabilitas, perhatian yang diberikan untuk mengkaji undang-undang tersebut melalui rekonstruksi kontemporer maqāṣid al-sharīʿah yang dikemukakan oleh Jasser Auda, khususnya dari perspektif keadilan sosial dan teori sistem, masih terbatas. Penelitian ini menggunakan penelitian hukum normatif dengan pendekatan yuridis-filosofis melalui analisis terhadap bahan hukum primer, termasuk Undang-Undang Nomor 8 Tahun 2016, yang didukung oleh peraturan perundang-undangan terkait, literatur ilmiah, dan kajian hukum Islam kontemporer. Penelitian ini bertujuan untuk mengkaji kesesuaian perlindungan penyandang disabilitas dalam Undang-Undang Nomor 8 Tahun 2016 dengan maqāṣid al-sharīʿah menurut Jasser Auda serta untuk mengeksplorasi bagaimana pendekatan sistem Jasser Auda memberikan kerangka interpretatif yang lebih luas dalam memahami hukum disabilitas di luar analisis normatif konvensional. Hasil analisis menunjukkan bahwa undang-undang tersebut mencerminkan pergeseran paradigma dari pendekatan berbasis belas kasih menuju pendekatan berbasis hak asasi manusia dengan mengakui penyandang disabilitas sebagai warga negara yang setara dan berhak untuk berpartisipasi secara penuh dalam kehidupan publik. Temuan penelitian selanjutnya menunjukkan bahwa undang-undang tersebut memenuhi enam tujuan pokok maqāṣid al-sharīʿah sekaligus mewujudkan enam prinsip pendekatan sistem Jasser Auda, yaitu sifat kognitif (cognitive nature), keutuhan (wholeness), keterbukaan (openness), hierarki yang saling terkait (interrelated hierarchy), multidimensionalitas (multidimensionality), dan kebertujuan (purposefulness). Penelitian ini memberikan kontribusi terhadap pengembangan kajian hukum Islam kontemporer dengan menunjukkan bahwa maqāṣid al-sharīʿah dapat berfungsi sebagai kerangka interpretatif yang dinamis bagi hukum disabilitas serta memberikan implikasi kebijakan bagi penguatan implementasi hak-hak penyandang disabilitas di Indonesia.

***Kata Kunci**: Keadilan, perlindungan hukum, penyandang disabilitas, maqāṣid al-sharīah, teori sistem*

Introduction

The issue of discrimination against persons with disabilities remains a serious concern for various groups, both nationally and globally. Various cases of discrimination, violence, and inhumane treatment against persons with disabilities continue to occur in various social spaces, ranging from the family environment to education and public spaces. These practices demonstrate the persistence of stigma and social constructs that marginalize persons with disabilities as an unequal group. In principle, discrimination against persons with disabilities is contrary to the values

of humanity, justice, and respect for human dignity. Every human being, including persons with disabilities, has the inherent right from birth to obtain protection of their human rights and to participate fully and meaningfully in social life.[1]

Empirical reality shows that persons with disabilities are still very vulnerable to violence and unfair treatment. Ledingham's research reveals that women with disabilities are four times more likely to experience violence and sexual abuse than women without disabilities.[2] A similar phenomenon also occurred in Indonesia, such as the case of bullying against a disabled junior high school student in Makassar in May 2024,[3] as well as an incident in 2022 involving a 15-year-old disabled teenager who was restrained by his parents because he was suspected of stealing food. These incidents show that persons with disabilities face stigma-based violence rooted in society's views on disability.[4]

The human rights perspective places the state as the primary party with the obligation to guarantee the protection, respect, fulfillment, and enforcement of human rights for all citizens, without discrimination. This obligation is even more important for vulnerable groups, including persons with disabilities, who are often in an unequal position socially, economically, and culturally. Normatively, the values of respect for human dignity have been embedded since the establishment of Pancasila as the foundation of the Indonesian state, both in relation to the relationship between humans and God Almighty and in relation to fellow humans. The principles of fair and civilized humanity, as well as social justice for all Indonesian people, form the ethical and constitutional foundation for the protection of the rights of persons with disabilities.[5]

In line with this principle, the state has established a legal framework to protect the rights of persons with disabilities. Formal recognition and guarantees of the rights of persons with disabilities were first regulated through Law Number 4 of 1997 concerning Persons with Disabilities. This law regulates the rights, obligations, and responsibilities of persons with disabilities, as well as provisions related to employment access and welfare improvement. However, its implementation reveals

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[1] Risky Novialdi et al., "Menyoal Kesenjangan Dan Diskriminisi Publik Terhadap Penyandang Disabilitas," *Journal of Governance and Social Policy* 2, no. 2 (2021), p. 169–78.

[2] Emily Ledingham, Graham W. Wright, and Monika Mitra, "Sexual Violence Against Women With Disabilities: Experiences With Force and Lifetime Risk," *American Journal of Preventive Medicine* 62, no. 6 (2022), p. 895–902.

[3] Darsil Yahya and Dita Angga Rusiana, "'Viral, Siswa SMP Difabel Di Makassar Di-'bully", Pihak Sekolah Buka Suara"," Kompas, 2024, https://makassar.kompas.com/read/2024/06/14/151754178/viral-siswa-smp-difabel-di-makassar-di-bully-pihak-sekolah-buka-suara.

[4] Larissa Huda, "'Malangnya Nasib Bocah Yang Dipasung Orangtua Di Bekasi, Kaki Dirantai Dan Dituduh Sering Habiskan Makanan,'" Kompas, 2022, https://megapolitan.kompas.com/read/2022/07/23/07000071/malangnya-nasib-bocah-yang-dipasung-orangtua-di-bekasi-kaki-dirantai-dan?page=all.

[5] Shinta Azzahra Sudrajat, "Hak Asasi Manusia (HAM) Sebagai Bentuk Kebijakan Politik Dalam Pelaksanaan Perlindungan," *Jurnal Agama Dan Sosial-Humaniora* 1, no. 1 (2022), p. 17–28.

that Law Number 4 of 1997 has not effectively strengthened the position of persons with disabilities as equal subjects of law. The regulation still places persons with disabilities in the old paradigm that is oriented towards pity, rehabilitation, and social assistance alone.[6]

This paradigm is also reflected in the use of terms and norms that tend to stigmatize persons with disabilities as individuals who are considered helpless and dependent on the assistance of others. As a result, the law has not been able to guarantee equal opportunities for persons with disabilities to develop their potential, independence, and active participation in social life as dignified human beings. This condition shows a gap between the normative recognition of the rights of persons with disabilities and the reality of their protection and fulfillment.[7]

In line with social dynamics, developments in the human rights paradigm, and demands for equality and inclusiveness, Law Number 8 of 2016 on Persons with Disabilities was enacted to replace Law Number 4 of 1997. This law marks a significant paradigm shift from a pity-based approach to a rights-based approach. Law Number 8 of 2016 explicitly places persons with disabilities as legal subjects who have equal rights, obligations, and roles in social, national, and state life. This regulation comprehensively regulates 22 types of rights for persons with disabilities as well as two special rights for women and children with disabilities, while also providing clear responsibilities to the central and regional governments.[8]

A review of Islamic law shows that strengthening the protection of the rights of persons with disabilities as regulated by Law Number 8 of 2016 has strong relevance to the principle of *maqāṣid al-sharīʿah*. The contemporary *maqāṣid al-sharīʿah* framework developed by Jasser Auda places the main objective of Islamic law on efforts to ensure comprehensive protection and welfare for humans. This protection includes *ḥifẓ al-dīn* (protection of religion), *ḥifẓ al-nafs* (protection of life), *ḥifẓ al-ʿaql* (protection of reason), *ḥifẓ al-nasl* (protection of honor and family), and *ḥifẓ al-māl* (protection of property). These five objectives are primary needs (*ḍarūriyyāt*) that form the foundation of human life and dignity.

Several previous studies have examined the issue of justice for persons with disabilities in various fields. These studies can be grouped into several main themes. First, the perspective of labor law and social justice, as stated by Aay Mohamad Furkon et al. (2025), highlights the gap between legal norms and labor practices and emphasizes the importance of strengthening the protection of workers' rights, especially women and persons with disabilities, through the integration of the

[6] Nita Ariyulinda, "Efektivitas Pelaksanaan Undang-Undang No. 4 Tahun 1997 Tentang Penyandang Cacat," *Negara Hukum* 5, no. 1 (2014), p. 91–105.

[7] Okki Chandra Ambarwati, Amalina Niara Putri, and Riant Nugroho, "Studi Deskriptif Riset Kebijakan Tentang Hak-Hak Difabel Di Indonesia," *Matra Pembaruan* 6, no. 1 (2022), p. 29–41.

[8] Frichy Ndaumanu, "Hak Penyandang Disabilitas: Antara Tanggung Jawab Dan Pelaksanaan Oleh Pemerintah Daerah," *Jurnal HAM* 11, no. 1 (2020), p. 131–50.

principle of *maqāṣid al-sharīʿah*.[9] In a similar context, Ana and Latifah (2025) analyze legal protection for workers with disabilities in Indonesia using Satjipto Rahardjo's progressive legal perspective, which shows that although Law Number 8 of 2016 provides a strong normative foundation, its implementation has not yet fully realized substantive justice.[10] Second, the perspective of public services and access to justice, as studied by Firda and Hadi (2021), who evaluated the accessibility of public services for persons with disabilities and found a gap between the normative guarantee of public service rights and their implementation in various cities in Indonesia. In line with this,[11] Erna Listiawati (2023) specifically highlights the fulfillment of access to justice for persons with intellectual disabilities who are in conflict with the law, emphasizing the structural, institutional, and regulatory barriers in all stages of the criminal justice system.[12] Third, the perspective of welfare and protection of vulnerable groups, as stated by Lisa and Edi (2024), who analyze the implementation of the concept of the welfare state in fulfilling the welfare of children with disabilities in Indonesia through the applicable legal framework, but find various obstacles, such as limited accessibility, budget, and quality of educational services.[13]

Collectively, previous studies demonstrate a growing scholarly concern regarding the protection of the rights of persons with disabilities in Indonesia. Despite addressing different dimensions of disability, these studies consistently reveal that legal recognition has not yet been fully translated into substantive social justice. Studies in labour law emphasize the persistent gap between statutory guarantees and equal employment opportunities, while research on public services and access to justice highlights institutional barriers, inadequate accessibility, and weak policy implementation. Likewise, welfare studies identify structural constraints that limit the realization of inclusive social protection, whereas theological studies advocate equality and non-discrimination primarily from normative religious perspectives. In the criminal justice sector, scholars also underline the continuing vulnerability of persons with disabilities due to limited institutional capacity and entrenched social stigma. These findings collectively indicate that the challenges faced by persons with disabilities are multidimensional,

[9] Aay Mohamad Furkon, et al., "Diskriminasi Pasar Tenaga Kerja Di Indonesia Dalam Perspektif Ekonomi Syariah," *Jurnal Riset Ekonomi Syariah (JRES)* 5, no. 2 (2025), p. 153–62.

[10] Ana Riana and Latifah Setyawati, "Legal Protection for Workers with Disabilities in Indonesia : Satjipto Rahardjo ' s Perspective on Legal Protection," *Staatsrecht Jurnal Hukum Kenegaraan Dan Politik Islam Vol.* 5, no. 2 (2025), p. 783–811.

[11] Firda Silvia Pramashela and Hadiyanto Abdul Rachim, "Aksesibilitas Pelayanan Publik Bagi Penyandang Disabilitas Di Indonesia," *Focus : Jurnal Pekerjaan Sosial* 4, no. 2 (2022), p. 225.

[12] Erna Listiawati et al., "Acces to Justice Penyandang Disabilitas Intelektual: Peradilan Pidana Sebagai Implementasi Equality Before the Law," *Simbur Cahaya* XXX, no. 1 (2023), p. 173–90.

[13] Lisa Lamusul Afiyah and Edi Pranoto, "Implementasi Aturan Hukum Yang Menjawab Konsep Welfare State Dalam Prospektif Kesejahteraan Anak Disabilitas Di Indonesia," *Syntax Literate ; Jurnal Ilmiah Indonesia* 7, no. 9 (2023), p. 15523–38.

extending beyond legal regulation to encompass institutional, social, cultural, and ethical dimensions.

Nevertheless, the existing literature remains fragmented in both its analytical scope and theoretical orientation. Most legal studies concentrate on evaluating statutory implementation or sector-specific legal issues, whereas theological discussions generally focus on religious norms and ethical values without integrating them into a contemporary legal analytical framework. Consequently, previous studies have not sufficiently explained how disability protection can be understood through an integrated Islamic legal philosophy capable of accommodating legal certainty, social justice, human dignity, and sustainable human development simultaneously. This limitation is particularly evident in the absence of studies employing Jasser Auda's systems-oriented *Maqāṣid al-Sharīʿah*, which reconceptualizes the objectives of Islamic law through the principles of cognition, wholeness, openness, interrelated hierarchy, multidimensionality, and purposefulness.

This study addresses these theoretical and methodological gaps by applying Jasser Auda's contemporary *Maqāṣid al-Sharīʿah* framework to evaluate Law Number 8 of 2016 concerning Persons with Disabilities. Unlike previous studies that primarily assess disability issues from legal, theological, or policy implementation perspectives, this research develops an integrated analytical framework that connects Indonesia's disability law with the six features of Auda's systems theory. Through this approach, disability protection is examined not merely as compliance with statutory obligations but as the realization of the higher objectives of Islamic law, encompassing the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), property (*ḥifẓ al-māl*), and human dignity (*ḥifẓ al-'irḍ*). Accordingly, this study contributes to contemporary Islamic legal scholarship by extending the application of Jasser Auda's *Maqāṣid al-Sharīʿah* to disability rights and by offering a conceptual framework for strengthening rights-based, inclusive, and socially just disability policies in Indonesia.

This research is a normative legal study that uses a juridical-philosophical method. It employs Jasser Auda's concept of *Maqāṣid al-Sharīʿah* to represent the contemporary maqāṣid syariah perspective. The focus is on analyzing social justice for persons with disabilities in Indonesia. Persons with disabilities are placed as subjects of law and justice within the framework of national law and Islamic legal philosophy. The research uses secondary data, which includes primary legal materials and supporting legal materials. Primary legal materials include Law Number 8 of 2016 on Persons with Disabilities, the 1945 Constitution of the Republic of Indonesia, and other regulations related to human rights and social justice. Secondary legal materials were obtained through literature studies. These cover books, scientific journal articles, and academic works discussing persons with disabilities, human rights, and Jasser Auda's *Maqāṣid al-Sharīʿah*. Tertiary legal materials include legal dictionaries, Islamic encyclopedias, and other relevant supporting documents.

The research approaches used are the statute approach and the philosophical approach. The statute approach is used to examine the positive legal norms that regulate the rights and protection of persons with disabilities, particularly the provisions in Law Number 8 of 2016 concerning Persons with Disabilities. The philosophical approach was used to examine the values of justice, humanity, and benefit from the perspective of Islamic legal philosophy, with an emphasis on Jasser Auda's concept of *Maqāṣid al-Sharīʿah*, which is systemic, multidimensional, and oriented towards human capacity building. Data analysis was conducted using qualitative analysis techniques. At this stage, the norms contained in Law Number 8 of 2016 concerning Persons with Disabilities were elaborated and contextualized in relation to the basic concepts of human rights from the perspective of Islamic philosophy, particularly through the framework of Jasser Auda's *Maqāṣid al-Sharīʿah*. The analysis process included data reduction, normative-philosophical interpretation, and an assessment of the compatibility between national regulations and the values of social justice, human dignity protection, and the welfare of persons with disabilities.

The Dignity of Human Rights

Kamus Besar Bahasa Indonesia (KBBI) defines "rights" as "property, the power to do something, and the right to claim or control something." In addition, human rights refer to fundamental rights such as the right to life and protection; the term "rights" also denotes human dignity.[14]

Human rights are essentially a set of guidelines or regulations that protect citizens from potential persecution, detention, and/or restriction of movement by the state. This suggests that the state is subject to some limitations in protecting the basic rights of citizens from arbitrary use of power.[15] On the other hand, human rights are explained by Baharudin Lopa as natural rights that God Almighty directly gives.[16] Meanwhile, the 1966 International Covenant on Civil and Political Rights (ICCPR) defines human rights as deriving from the inherent dignity of human beings.[17]

In its important documents, the Indonesian state defines human rights as "basic rights inherent in human beings that are natural and universal as a gift from God Almighty" in TAP MPR NUMBER XVII/MPR/1998 on Human Rights, number C.2.a. In addition, "Human Rights are a set of rights inherent in the nature

[14] Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, Cet I (Jakarta: Balai Pustaka, 1988), p. 292.

[15] Julia Hernida and Novaria Rahmawati, "Peran Negara Dalam Melindungi Hak Asasi Manusia Di Indonesia Dalam Perspektif Hukum Islam," *Asas* 12, no. 2 (2020), p. 129–40.

[16] Baharudin Lopa, *Al-Qur'an Dan HAM* (Yogyakarta: PT Dana Bakti Prima Yasa, 1996), p. 2.

[17] Areeba Butt, "International Covenant on Civil and Political Rights (ICCPR)," *SSRN Electronic Journal*, 2024, p. 1–24.

and existence of humans as creatures of God Almighty," according to Article 1 of Law Number 39 of 1999 on Human Rights.[18]

The rights listed above are fundamental to human dignity as a creature of God Almighty. Human rights are natural and fundamental rights derived from human dignity. This indicates that human rights are rights that a person has by nature, which cannot be separated from his nature, so human rights are flexible and sacred. The basic principles of the human rights conceptual framework are human dignity and equality. As the foundation of human rights, human dignity and equality bind society and the state to uphold individual rights, ensuring everyone has equal opportunities in life and protected dignity.[19]

Human rights are developed from the idea of natural rights, so there is a close relationship between natural rights and human rights. The notion of natural rights was used to explain the content of the concept of human rights before the word human rights became popular.[20] The concepts of natural rights and human rights are similar. According to Salojarvi, natural rights are basic rights a person has naturally (as a human being). Natural rights are based on a person's nature as a human being; since all people have the same nature, everyone has natural rights.[21] John Locke referred to natural rights as the rights that everyone has, even in the absence of government. These rights, including life, liberty, and property, are fundamental rights.[22]

Human rights do not require juridical legitimacy in their application to national or international legal systems, as human rights are inherent and inalienable. Human rights are inherent in everyone, even without a constitution that guarantees or protects them. This theistic nature of human rights is recognized. However, because the majority of human life systems are secular and positivistic, juridical legitimization of the existence of human rights needs to be enacted.[23]

The 1945 Constitution of the Republic of Indonesia clearly states in Article 1, Paragraph 3 that Indonesia is a state of law. Limitation of power is one of the objectives of the rule of law.[24] Protecting the ownership and safety of citizens from

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[18] Abd. Muni, "Hak Asasi Manusia Dalam Konstitusi Indonesia," *Jurnal Al'Adalah* 23, no. 1 (2020), p. 65–78.

[19] Yermek Buribayev et al., "Human Dignity - The Basis of Human Rights to Social Protection," *Wisdom* 16, no. 3 (2020), p. 143–55. Royan Utsany, Tw Afrizal, and Khamim, "Women's Rights and Gender Equality: An Analysis of Jasser Auda's Thoughts and His Contribution to Renewal of Islamic Family Law in Indonesia," *Journal of Islamic Law* 3, no. 1 (2022), p. 54–73.

[20] Christopher Tollefsen, "God, New Natural Law Theory, and Human Rights," *Religions* 12, no. 8 (2021), p. 1–8.

[21] Juhana Mikael Salojarvi, *Human Right Redefining Legal Thought: The History of Human Rights Discourse in Finnish Legal Scholarship* (Springer, 2020), p. 4.

[22] John Locke, *Two Treatise of Government* (Cambridge: Cambridge University Press, 2003), p. 323.

[23] Sonya Hellen Sinombor, "The Use Of Universal Declaration Of Human Rights (UDHR) In Indonesia Legal System," *Al Wasath Jurnal Ilmu Hukum* 3, no. 1 (2022), p. 1–12.

[24] Arsyad Aldyan and Abhishek Negi, "The Model of Law Enforcement Based on Pancasila Justice," *Journal of Human Rights, Culture and Legal System* 2, no. 3 (2022), p. 178–90.

violations and attacks by other citizens is another objective of the rule of law. The concept of the rule of law consists of substantive components. Protecting human rights is one of the main components of this component. The discussion on the protection of human rights will not be separated from the protection of the rights of vulnerable communities and minorities. There are five categories of groups included in vulnerable groups according to Law Number of 1999 on Human Rights, namely children, pregnant women, the elderly, people with low incomes, and persons with disabilities.[25]

Persons with disabilities in Indonesia have the same position, rights, obligations, and roles as other citizens. Indonesia is a sovereign state that upholds the rights of all its citizens, including persons with disabilities, through respect, protection, and fulfillment of their needs. The Republic of Indonesia is a sovereign state that adheres to the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia. This country strongly upholds respect and protection of human dignity, especially by protecting and promoting the rights of vulnerable groups, such as persons with disabilities.[26] These provisions can be found in Article 5 paragraph (1), Article 11, Article 20, and Article 28 I paragraph (2) of the 1945 Constitution of the Republic of Indonesia. Based on Article 5 paragraph (1) of Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities, every person with a disability is entitled to the following rights: a. Existence; b. Absence of social rejection; c. Confidentiality; d. Justice and legal protection; e. Learning; f. Employment, business ownership, and joint ventures; g. Welfare; h. Governance: i. Faith; j. Sports; k. Arts and tourism; l. Public assistance; m. Affordability; n. Accessibility. Accessibility refers to the ability of individuals to access and use public services. It also includes protection from disasters, habilitation and rehabilitation services, concessions, data collection, freedom to live freely and be part of society, and freedom of expression. Law of the Republic of Indonesia Number 8 of 2016 on Persons with Disabilities ensures that persons with disabilities in Indonesia are treated with respect and protected and meet their needs. The law outlines 22 rights the government must fulfill for people with disabilities. Discrimination based on gender, socioeconomic level, or religious views should not be tolerated in public policy. Therefore, according to the constitution, persons with disabilities have a constitutional right to special services, especially for their special

[25] Noh I. Boiliu et al., "Human Rights: The Convergence of the Second Sila of Pancasila and Hans Kung's Global Ethics in Indonesia," *HTS Teologiese Studies / Theological Studies* 78, no. 4 (2022), p. 1–5.

[26] Aswandi Bobi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019), p. 128–45.

circumstances. Therefore, this right must be upheld, and the government must make every effort to ensure its realization.[27]

The enactment of Law Number 8 of 2016 signifies more than a legislative reform in the field of disability rights. It reflects a gradual transformation in the way the Indonesian legal system understands the position of persons with disabilities within society. Earlier legal approaches were largely influenced by a welfare paradigm, in which persons with disabilities were perceived as beneficiaries of state assistance whose needs were addressed primarily through rehabilitation and social services. Although such an approach was developed with protective intentions, it inevitably reinforced the perception that disability constituted an individual limitation requiring charity rather than an issue of equal citizenship. The current law departs from this perspective by recognising persons with disabilities as rights-bearing citizens whose participation in education, employment, politics, religion, and public life forms an integral part of constitutional justice. In this respect, the law reflects an important shift from protection based on compassion to protection grounded in equality and legal recognition.

Read through Jasser Auda's contemporary conception of *Maqāṣid al-Sharīʿah*, this transformation acquires a broader juridical meaning. Auda's reconstruction of maqāṣid moves beyond the classical concern with preserving essential human interests toward an understanding of Islamic law that places human development, institutional reform, and social justice at its centre. Consequently, the protection of persons with disabilities cannot be reduced to the provision of legal safeguards alone. The more fundamental question concerns whether legal institutions, public policies, and social practices create conditions in which persons with disabilities are genuinely able to exercise their rights and participate on equal terms with other citizens. From this perspective, justice is measured not only by the existence of legal norms but also by the extent to which those norms transform social relations and remove structural barriers that perpetuate exclusion.[28]

Law Number 8 of 2016 should therefore be understood as more than a statutory instrument regulating the rights of persons with disabilities. Its significance lies primarily in the normative orientation that informs the legislation. The recognition of accessibility, equal opportunity, reasonable accommodation, and meaningful participation is not simply an expansion of legal entitlements; it reflects a fundamental legal commitment to human dignity as the ultimate objective of the legal order. Read from this perspective, the law is directed not merely towards protecting a vulnerable social group but towards restructuring the relationship between the state and persons with disabilities on the basis of equality and

[27] Nasrullah et al., "Reconstructing Mining Governance Through Maqasid Al-Sharia: Towards Natural Resource Management Public Welfare Oriented," *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 1 (2025), p. 97–112.

[28] Ahmad Iffan et al., "Reconstructing Universal Jurisdiction in Contemporary International Law: A Maqāṣid Al-Sharīʿah Approach to Global Justice," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 26, no. 1 (2026), p. 265–83.

citizenship. Jasser Auda's reconstruction of *Maqāṣid al-Sharīʿah* offers an important interpretive framework for understanding this transformation. Instead of treating Islamic law and international human rights as competing normative traditions, Auda's approach reveals a shared ethical foundation in which both seek to affirm the equal worth of every individual and impose a corresponding obligation upon the state to dismantle legal and institutional barriers that diminish human dignity.

The enactment of Law Number 8 of 2016 accordingly marks a significant shift in the philosophy of disability law in Indonesia. Previous legislation largely approached disability through a welfare paradigm in which persons with disabilities were positioned as recipients of rehabilitation programmes, social assistance, and state protection. Although such measures reflected a concern for vulnerable communities, they simultaneously reinforced the assumption that disability represented an individual deficiency requiring charitable intervention. Law Number 8 of 2016 departs from this premise by recognising persons with disabilities as rights-bearing citizens whose legal status derives from their inherent dignity rather than from compassion or benevolence. The significance of this shift therefore extends beyond the reformulation of statutory rights; it represents a transition from paternalistic protection to a constitutional conception of equality in which inclusion becomes an essential attribute of citizenship itself.[29]

Viewed through Auda's reconstruction of *Maqāṣid al-Sharīʿah*, this legislative development acquires a broader jurisprudential meaning. Auda rejects the tendency to confine the objectives of Islamic law to the classical notion of preserving individual interests and instead advances a systems-based understanding in which law serves the continuous development of human life and society. Justice, within this framework, cannot be measured solely by the enactment of legal norms but by the capacity of those norms to expand human capabilities and enable full participation in social, economic, political, cultural, and religious life. Disability therefore ceases to be understood merely as a condition requiring legal protection; it becomes a measure of whether legal institutions are capable of eliminating structural exclusion and creating conditions in which equality is realised in practice rather than proclaimed in principle.

Such a perspective also invites a more comprehensive reading of Law Number 8 of 2016 than is commonly offered by conventional normative legal analysis. The rights guaranteed by the legislation including accessibility, education, employment, political participation, religious freedom, and access to public services should not be viewed as separate legal guarantees operating independently within distinct regulatory domains. They constitute interdependent components of a single normative architecture directed towards the restoration of human dignity. It is precisely in this sense that Auda's *Maqāṣid al-Sharīʿah* contributes more than a framework for assessing normative conformity; it provides a methodology for

[29] Muhammad Lutfi Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer," *Al-Manahij: Jurnal Kajian Hukum Islam* X, no. 1 (2016), p. 1–16.

interpreting contemporary legislation through the interconnected objectives of justice, inclusion, and human flourishing. Consequently, the law emerges not merely as a body of positive legal norms but as an instrument of social transformation through which equality is institutionalised and dignity becomes the defining criterion of justice. From this standpoint, the relationship between Islamic law and contemporary human rights discourse is not one of normative tension but of substantive convergence, both affirming that every individual possesses equal dignity and that the legal order bears responsibility for ensuring the conditions necessary for its realisation.

Jasser Auda's View on Sharia Maqāṣid

The word Maqāṣid is the jama' form of the Arabic maqsid, meaning advice, purpose or interest. In tafsir scholarship, maqāṣid has a variety of meanings, such as al-Hadaf (purpose), al-Matlub (something of interest), or al-Gayah (ultimate goal) of Islamic law.[30] The word Sharia refers to religion, way of life, and belief.[31] The uṣuliyyin defines Maqāṣid Shariah as several meanings, purposes, and characteristics outlined in Shariah law.[32]

According to Hammadi, maqāṣid refers to the wisdom intended by the lawmaker for all laws. He asserts that every creation of God must have a certain "purpose". When the term "maqāṣid al-Sharīah" is used, it refers to the purpose of Allah swt, not the purpose of humans.[33] According to Ash-Syāṭibī, the main purpose of sharia commands is to achieve mashlahat, either in this world or in the hereafter, or both. Meanwhile, the fundamental purpose of prohibitions is to reject damage and mafsadah.[34]

Maqāṣid al-Sharīah is important to study in Islamic jurisprudence. First, Islamic law is intended for humans and derived from divine revelation. Therefore, Islamic law will always deal with social change. Second, from a historical perspective, the Prophet Muhammad, his companions, and the mujtahid generation have paid attention to this theory. Third, maqāṣid al-Sharia is built on legal objectives

[30] Jasser Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach* (London: The International Institute of Islamic Thought, 2007), p. 2.

[31] Muhammad Sa'd bin Aḥmad bin Mas'ūd and Alyūbī, *Maqāsid Asy-Syarīah Al Islāmiyyah Wa 'Ilāqatuhā Bi Al Adillati Asy-Syariyyah* (Arab Saudi: Dar Hijrah Li An-Nasyr wa Tauzi', 1998), p. 29.

[32] Mohammad Hashim Kamali, *Maqasid Al-Shari'ah, Ijtihad and Civilisational Renewal* (Malaysia: The International Institute of Islamic Thought (IIIT), 2012), p. 2.

[33] Hammadi Al-Ubaydi, *Asy-Syatibiy Wa Maqashid Asy-Syari'ah* (Mansyurat Kulliyat ad-Da'wah al-Islamiyyah wa Lajnah al-Huffadz ' ala at-Turas al-Islami, 1992), p. 135.

[34] Abu Ishaq Al-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syariah*, Juz 1 (Beirut: Dar al-Ma'rifah, 1996), p. 350. Nuryanto Ahmad Dwi and Jaelani Abdul Kadir, "The Role of State Official Wealth Report in Realizing the Principles of Maqashid Sharia," *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (2024), p. 155–81.

that can be traced back to every human problem, so understanding it is very important for the success of the mujtahid in doing ijtihad.[35]

The classical understanding of the concept of maqāṣid that still focuses on preservation is shifted by Jasser Auda's concept of maqāṣid. He tries to reinterpret the idea of maqāṣid in a way that is more adaptable, flexible, and focused on universal human values. Auda critically criticizes the traditional notion of maqāṣid created in classical times. He mentions four weaknesses of classical maqāṣid, namely. First, classical maqāṣid theory is not specific in its coverage in specific chapters, so it cannot answer specific questions regarding certain topics. Second, classical maqāṣid thinking emphasizes individual benefits, such as protecting individual minds, individual property, and so on. Third, more general fundamental concepts such as justice, freedom of speech, and others are not included in the classical maqāṣid classification. Fourth, classical maqāṣid is deduced from Islamic legal heritage, not sources.[36]

Jasser Auda argues that expanding the scope and dimensions of maqāṣid theory as defined in classical Islamic law is necessary for Islamic law to address modern difficulties and realize the benefit of humanity effectively. It is necessary to broaden the scope from what was initially limited to the benefit of the individual to a broad dimension of the realm of society or humanity as a whole. From the protection of offspring (*ḥifẓ al-nasl*) to the protection of the family (*ḥifẓ al-usrah*); from the protection of the intellect (*ḥifẓ al-aql*) to the realization of scientific thought; from the protection of the soul (*ḥifẓ al-nafs*) to the protection of human honor (ḥifẓ al-karamah al-isnaniyah) or the protection of human rights, (*ḥifẓ huquq al-insan*); from the protection of religion (*ḥifẓ al-dīn*) to the protection of freedom of belief (hurriyah al-i'tiqad); from the protection of property (*ḥifẓ al-māl*) to the embodiment of social solidarity. The expansion proposed by Jasser Auda reflects a fundamental reorientation of the objectives of Islamic law. Rather than limiting the function of *Maqāṣid al-Sharīʿah* to the preservation of essential human interests, Auda places greater emphasis on the promotion of human capabilities and the creation of social conditions that enable individuals to live with dignity. This shift has important implications for disability studies. The question is no longer confined to whether persons with disabilities receive legal protection, but extends to whether the legal system enables them to participate fully in education, employment, religious life, political processes, and other spheres of public life. In this respect, disability becomes an issue of social justice rather than merely one of social welfare or legal protection.[37]

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[35] 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. 222–39.

[36] Jasser Auda, *Maqasid Al-Syari'ah a Beginner's Guide* (London: The International Institute of Islamic Thought, 2008), p. 6–7.

[37] Samsul Arifin, "Rekonstruksi Hukum Islam Melalui Pendekatan Maqashid Syari'ah," *Jurnal Mediasas : Media Ilmu Syari'ah Dan Ahwal Al-Syakhsiyyah* 5, no. 1 (2022), p. 98–109.

Jasser Auda divides the Maqāṣid system approach into six system theories (System Approach), namely Cognitive nature; Jasser Auda distinguishes between Sharia, fiqh, consensus, and 'urf. Islamic law is the product of the ideas of jurists and ijtihadists who focus on the hidden meanings of sharia in the Quran and hadith. Therefore, the cognitive character of Islamic law is necessary to reconcile the different perspectives in the definition of Islamic law. The cognitive dimension is particularly relevant to contemporary disability law because it recognises that legal interpretation is inseparable from the social context in which it develops. Legal norms concerning persons with disabilities should therefore not be regarded as fixed formulations whose meaning is exhausted by the text of legislation. Instead, they remain open to reinterpretation in response to changing understandings of equality, accessibility, and inclusion. This perspective allows Law Number 8 of 2016 to be understood not merely as a statutory document but as part of an evolving legal discourse that continuously seeks to realise justice for persons with disabilities. [38]

Wholeness: According to this system, every causal interaction is a component of a whole that develops and gives rise to characteristics that come together to form a cohesive whole. The validity of holistic or *kulli* propositions is a generalized part that precedes individual and partial laws. This is an attempt to implement the Maqāṣid sharīah, which is based on justice, freedom, and tolerance on a universal scale. The principle of wholeness provides an important analytical foundation for understanding disability rights. In practice, the rights of persons with disabilities are frequently addressed through fragmented legal and administrative policies, with education, employment, healthcare, accessibility, and political participation treated as separate sectors. A holistic perspective rejects such fragmentation by recognising that these rights are mutually dependent. Equal access to education, for instance, directly influences employment opportunities, while accessible public infrastructure determines the effective enjoyment of political, religious, and social rights. Accordingly, the effectiveness of disability law cannot be assessed by examining individual legal provisions in isolation but by evaluating the coherence of the legal system as a whole. [39]

Openness: A living system must be able to interact with the surrounding conditions at all times. Every law is made and developed to meet the demands of the times, so the law must be flexible enough to adapt to the context of changing times, circumstances, and places. Jasser Auda states that the Islamic legal system is transparent or open. The idea that the door to ijtihad is closed is unfounded and will cause Islamic law to become stagnant and encourage stagnant thinking. The openness of Islamic law also provides an important justification for the continuous

[38] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 45–46. Muchamad Toif Chasani, "Analysis of a System Approach in Islamic Law Philosophy (Jasserauda's Perspective)," *Journal of Social Interactions and Humanities* 1, no. 2 (2022), p. 141–56.

[39] Auda, *Maqasid Al-Syariah: a Philosophy of Law System: A System Approach*, 46–47; Ari Murti and Toufan Aldian Syah, "Menelaah Pemikiran Jasser Auda Dalam Memahami Maqasid Syariah," *Citizen : Jurnal Ilmiah Multidisiplin Indonesia* 1, no. 2 (2021), p. 60–67.

development of disability legislation. Social perceptions of disability have undergone profound changes over recent decades, moving from a charity-based understanding towards a rights-based and inclusion-oriented paradigm. Consequently, legal interpretation must remain responsive to technological developments, international human rights standards, and evolving social expectations. Auda's concept of openness therefore supports the view that legislation concerning persons with disabilities should not be regarded as a final legal product but as part of an ongoing process of legal reform directed towards greater equality and inclusion. [40]

Interrelated hierarchy: The hierarchical arrangement of components or subsystems forms the basis of a system. This interrelated hierarchy feature implies, among other things, that daruriyyat, hajiyat, and tahsiniyat are considered equally. Jasser Auda provides two enhancements to the maqāṣid alsyarī'ah dimension in the interconnected hierarchy. The first step is to enhance the maqāṣid dimension by moving from its previously particular form to a hierarchy that includes general, particular, and partial maqāṣid dimensions. This hierarchy is based on the development and human rights models that lead to an abundance of maqāṣid.[41] Second, it expands the scope of maqāṣid from traditional individual to contemporary social. This implies that the maqāṣid extends to the entire society and state. For Jasser Auda, this is the most important maqāṣid. The concept of an interrelated hierarchy further explains why disability rights should not be prioritised selectively. Civil, political, economic, social, cultural, and religious rights constitute complementary dimensions of human dignity rather than competing legal interests. Limiting legal protection to one category of rights while neglecting others inevitably weakens the overall objective of justice. Through this perspective, Law Number 8 of 2016 can be understood as an integrated legal framework in which different categories of rights collectively contribute to the realization of equal citizenship for persons with disabilities.[42]

Multidimensionality: A system with multidimensionality is a combination of various interconnected subsystems. When maqāṣid and multidimensionality are combined, the problem of conflicting propositions can be resolved. Islamic law must be multidimensional because the system is bound and interconnected. Contradictions between propositions will disappear when multidimensional thinking is applied, as seemingly contradictory propositions can be compromised and modified to suit the

[40] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 47. M. Noor Harisudin and Muhammad Choriri, "On the Legal Sanction against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective," *Samarah* 5, no. 1 (2021), p. 471–95.

[41] Achmad Siddiq et al., "Reconstructing Waqf Share Policies: A Maqashid Sharia Approach with Insights from Indonesia," *El-Mashlahah* 15, no. 1 (2025), p. 79–100.

[42] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 48–49. Asep Saepudin Jahar, et al., "The Use of Maqasid Al-Sharia in Maritime and National Resilience Context," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 21, no. 1 (2021), p. 97–110.

new context. As a consequence, Islamic law will be adaptable to address contemporary issues. The multidimensional nature of disability also illustrates the practical relevance of Auda's approach. Disability discrimination rarely arises from a single legal problem. Instead, it is shaped by the interaction of social attitudes, institutional practices, economic conditions, cultural perceptions, and legal regulations. A multidimensional analysis therefore avoids reducing disability to a purely medical, legal, or social issue. Rather, it encourages a comprehensive understanding in which legal reform must be accompanied by institutional change and broader societal transformation. Such an approach offers a more realistic framework for evaluating the implementation of disability rights in Indonesia. [43]

Purposefulness: All systems have a fundamental purpose. Islamic law was created with specific purposes in mind. The five qualities of an Islamic legal system-cognition, wholeness, openness, interconnectedness, and multidimensionality- are what Islamic law seeks to actualize. Therefore, the main objectives of the six methods of the system are interrelated with each other. Taken together, the six characteristics of Auda's systems approach provide a comprehensive methodological framework for interpreting contemporary disability law. Their significance lies not simply in redefining the objectives of Islamic law but in offering a different way of understanding the relationship between legal norms, public institutions, and social realities. From this perspective, the protection of persons with disabilities cannot be evaluated solely by determining whether statutory rights have been formally recognised. More importantly, attention must be directed towards whether those rights are capable of transforming institutional practices, removing structural barriers, and enabling persons with disabilities to participate equally in society. This systemic understanding forms the analytical basis for examining Law Number 8 of 2016 in the following discussion. [44]

The Principle of Beneficence in the Law on Persons with Disabilities

The basic principle of Sharia is to realize the general benefits of Muslims and humanity. In addition to realizing benefits, Sharia also aims to protect humanity from harm or misery.[45] Sharia formulation cannot be separated from the principle of humanity itself. It is also the mandate of Sharia to promote and protect human rights. Any rules and issues that involve efforts to suppress and override human rights, then the rules and provisions are contrary to Islamic sharia. Islam teaches universal values

[43] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 50–51. Mohammad Fauzan Ni'ami and Bustamin, "Maqāṣid Al-Syarī'Ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda," *Juris: Jurnal Ilmiah Syariah* 20, no. 1 (2021), p. 91–102.

[44] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 52–53. Ah. Soni Irawan, "Maqāshid Al-Sharīah Jasser Auda Sebagai Kajian Alternatif Terhadap Permasalahan Kontemporer," *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 1 (2022), p. 39–55.

[45] Muḥammad Saīd Ramaḍan al Būṭī, *Ḍawābiṭ Al Maṣlaḥah Fī Al Syarī'ah Al-Islāmiyyah* (Mesir: Muassasah al-Risalah, 1965), p. 23.

based on respect and responsibility for human values. The differences between humans are not justification for actions that violate the order of life between people. The relationship between *maṣlaḥah* and human rights deserves particular attention in contemporary Islamic legal thought. In the classical tradition, *maṣlaḥah* was often understood in terms of preventing harm and preserving essential human interests. While this understanding remains fundamental, contemporary scholars such as Jasser Auda argue that public benefit should also be measured by the extent to which legal institutions expand human capability, strengthen social participation, and protect human dignity. Accordingly, the realization of *maṣlaḥah* is no longer confined to preventing individual harm but extends to creating legal and institutional conditions that enable all members of society, including persons with disabilities, to exercise their rights on an equal basis. This broader conception provides an important framework for evaluating disability legislation beyond its formal legal provisions.[46]

Along with the times, human problems are growing and varying. Another issue that is of serious concern is the issue of discrimination, especially against persons with disabilities. This has been happening for a long and is a classic problem in human history. Discrimination against persons with disabilities still occurs frequently in Indonesia. Many factors often underlie this, ranging from an improper understanding of religion that creates stigma and prejudice to a lack of knowledge and awareness, and so on. Regardless of the causative factor, the government has made efforts to minimize it by issuing a law on persons with disabilities. Persistent discrimination against persons with disabilities also demonstrates that legal inequality is rarely produced by legislation alone. Social stigma, inaccessible public services, limited educational opportunities, and exclusion from the labour market interact to reinforce one another, creating structural barriers that cannot be eliminated solely through formal legal recognition. This observation reinforces Auda's systems approach, which understands social problems as the product of interconnected legal, institutional, and cultural factors. Consequently, disability protection requires not only legislative reform but also the transformation of public institutions and social attitudes that continue to marginalise persons with disabilities.[47]

In substance, the law on persons with disabilities is very progressive. This can be seen in developing the protection of the rights of persons with disabilities. In addition, the basic principle used as the philosophical basis for the formation of this law is that acts of discrimination against persons with disabilities are acts that are contrary to divine and human values. This is as explained in the weighing section (a). This is because humans are God's creatures who have a high position. Any action that violates this principle is tantamount to harming God. From the perspective of *Maqāṣid al-Sharīʿah*, the philosophical foundation of the law reflects a significant

[46] Iffatin Nur, et al., "Maqāṣid Al-Sharīʻat: The Main Reference and Ethical-Spiritual Foundation for the Dynamization Process of Islamic Law," *Ahkam: Jurnal Ilmu Syariah* 20, no. 2 (2020), p. 331–60.

[47] Ebenhaezer Alsih Taruk Allo, "Penyandang Disabilitas Di Indonesia," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 9, no. 2 (2022), p. 807–12.

development in the understanding of *maṣlaḥah*. Protection is no longer directed merely towards safeguarding vulnerable individuals from immediate harm, but towards affirming their equal status within the legal community. This distinction is important because the effectiveness of disability legislation should not be assessed solely by the number of rights formally recognised, but by its capacity to reconstruct legal relationships based on equality, dignity, and participation. In this regard, the principle of beneficence is realised not through charitable assistance but through the removal of structural inequalities that hinder the exercise of fundamental rights.[48]

In addition to efforts to respect human dignity, the principles that form the basis of this law are respect for human dignity, eliminating discrimination, efforts to provide full participation, equal opportunity, and equality (Article 2). If we examine these principles in more detail, the principles of implementation and fulfillment of persons with disabilities are relevant to maqāṣid al-Sharīah. The provision on non-discrimination, for example, states that all persons with disabilities have the same rights and opportunities as others. The principles contained in Article 2 therefore function as more than general legislative guidelines. Collectively, they establish the normative architecture upon which the protection of persons with disabilities is constructed. Respect for dignity, non-discrimination, equal opportunity, accessibility, and participation are mutually reinforcing principles rather than separate legal commitments. Their interdependence reflects Auda's conception of law as an integrated system, in which the realization of one objective depends upon the effective implementation of the others. Evaluating these principles individually would overlook the systemic character of disability protection envisaged by the legislation.[49]

The law on persons with disabilities also raises the principle of equality. This is relevant to Islam's basic principles that place all human relations in a balanced position. Several normative foundations show the principle of respect for human dignity; this can be seen in the warning given by Allah SWT to the Prophet Muhammad in surah Abasa verses 1-6 when he showed a disrespectful attitude to the blind friend Ibn Ummi Maktum.[50] In another verse, Surah al-Nur verse 61, Allah SWT states that there is no humiliation or degradation in extending an invitation to people with disabilities to participate in a banquet. All of this refers to the mission of Islam, which is to provide mercy to the universe and realize benefits. These Qur'anic narratives are particularly significant because they demonstrate that respect for persons with disabilities is not a contemporary legal innovation but has deep ethical roots within the Islamic tradition. Nevertheless, contemporary disability

[48] Iffatin Nur, et al., "A Genealogical Analysis of the Concept and Development of Maqashid Syarī'Ah," *Al-'Adalah* 17, no. 1 (2020), p. 1–30.

[49] Abidin Nurdin et al., "Tujuan Hukum Islam Untuk Kemaslahatan Manusia: Penerapan Kaidah Fiqhiyah Dalam Bidang Ekonomi Dan Hukum Keluarga," *El-Usrah: Jurnal Hukum Keluarga* 5, no. 1 (2022), p. 41–55.

[50] Arina Alfiani and Sulaiman, "Hak-Hak Kaum Difabel Dalam Al-Qur'an: Meneladani Kisah Pada QS. 'Abasa (80)1-10," *Mukaddimah: Jurnal Studi Islam* 7, no. 2 (2022), p. 167–86.

rights require a broader legal articulation than moral recognition alone. Auda's reconstruction of *Maqāṣid al-Sharīʿah* enables these ethical teachings to be translated into concrete legal obligations by linking religious values with constitutional principles, public policy, and institutional responsibility. Consequently, the protection of persons with disabilities becomes an expression of both religious ethics and constitutional justice rather than merely an act of individual compassion.[51]

In addition to these principles, non-discrimination, full participation, equal opportunity, and equality boil down to human values. The enactment of the Law on Persons with Disabilities is a normative argument to ensure the protection of persons with disabilities. Previously, the principle of protection did not have a strong foundation. Law Number of 1997 on Persons with Disabilities has a problem in viewing persons with disabilities as incomplete human beings. The law portrays people with disabilities as objects that have physical and mental limitations, which ultimately hinder their ability to engage in activities effectively. Disability is perceived as a barrier, resulting in the assumption that people with disabilities are unable to perform activities or tasks effectively, thus requiring a rehabilitation process. The perspective of people with disabilities as beneficiaries is evident in the content of the law. This charity-based law emphasizes government efforts to protect the rights of persons with disabilities through rehabilitation initiatives, provision of social assistance, and maintenance of social welfare.[52] Because of this, Law Number 8 of 2016 on Persons with Disabilities was born, resulting in a paradigm shift from charity-based to human rights-based. The transition from Law Number 4 of 1997 to Law Number 8 of 2016 represents more than a legislative amendment; it signifies a profound transformation in the philosophy of disability law in Indonesia. The earlier legislation reflected a predominantly charity-based approach in which persons with disabilities were positioned as recipients of welfare programmes. By contrast, the current law recognises them as autonomous rights-holders whose participation in public life constitutes a legal entitlement rather than a form of state benevolence. This transformation closely corresponds with Auda's expansion of *Maqāṣid al-Sharīʿah* from the preservation of individual interests towards the promotion of human dignity, capability development, and inclusive social institutions. Consequently, the law should be understood not simply as providing greater legal protection but as reconstructing the relationship between the state and persons with disabilities on the basis of substantive equality. This is by the fiqh rule "al-ḍararu lā yuzālu bi al-ḍarari" eliminating the harm must not contain the harm.[53] Thus, the basic

[51] Anshori, "Disabilitas Menurut Al-Qur'an," *JALSAH: The Journal of Al-Quran and as-Sunnah Studies* 1, no. 1 (2022), p. 34–45.

[52] Fajri Nursyamsi et al., *Kerangka Hukum Disabilitas Indonesia : Menuju Indonesia Ramah Disabilitas* (Jakarta: Pusat Studi Hukum dan Kebijakan Indonesia (PSHK), 2015).

[53] Tājuddīn ibn 'Aliy Al-Subkiy, *Al-`Asybāh Wa Al-Naẓāir* (Beirut: Dar al-Kūtub al-Ilmiyyah, 1991), p. 41.

principles of the law on persons with disabilities are sharia principles, namely preserving and protecting human rights.

Viewed through this analytical framework, the principle of beneficence embodied in Law Number 8 of 2016 extends beyond the classical understanding of preventing harm (*dafʿ al-mafsadah*) and securing benefit (*jalb al-maṣlaḥah*). It reflects a contemporary conception of *maṣlaḥah* in which justice is realised through equal participation, institutional inclusiveness, and the elimination of structural discrimination. This interpretation distinguishes the present analysis from conventional normative readings of disability legislation by demonstrating that the value of the law lies not only in the recognition of legal rights but also in its capacity to transform social relations in accordance with the broader objectives of *Maqāṣid al-Sharīʿah*.

Jasser Auda's Maqāṣid Syarī'ah Perspective on the Law on Persons with Disabilities

In Auda's perspective, the principle of maqāṣid development is oriented towards realizing broader benefits. This principle is based on the realization that Sharia has a wide range. The classical maqāṣid paradigm, which is based on the principle of preservation, is developed to be more dynamic and contextual. Auda emphasizes the principle of development based on protecting human rights and the needs and problems humans face in the contemporary dimension. If classical maqāṣid emphasizes individual-personal concerns, then Auda's maqāṣid offers a concept that pays more attention to social aspects. Building a more holistic, humanist, and universal maqāṣid is an effort that continues to be developed in formulating Islamic law and contemporary regulations. This conceptual expansion is particularly significant when applied to disability law. The protection of persons with disabilities can no longer be understood merely as an effort to safeguard vulnerable individuals from discrimination. Instead, it reflects a broader legal commitment to creating social conditions in which every individual is able to participate equally in public life. From Auda's perspective, the effectiveness of legal protection is therefore measured not only by the existence of legal norms but also by the extent to which those norms strengthen human dignity, expand individual capabilities, and transform social institutions. This broader orientation distinguishes contemporary *Maqāṣid al-Sharīʿah* from classical preservation-based approaches and provides the analytical foundation for interpreting Law Number 8 of 2016.[54]

The enactment of the Law on Persons with Disabilities is a breath of fresh air for protecting human rights and dignity. The law on persons with disabilities is preventive, preventing all acts of discrimination, law enforcement, and assistance. However, it also enhances development, such as efforts to create a friendly and

[54] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 21–24. Mazen Hashem, *Maqāṣid Al-Sharīʿah: A Civilizational Perspective* (London: The International Institute of Islamic Thought, 2023), p. 41–42.

inclusive community environment. At least 22 rights, plus four rights for women with disabilities and seven rights for children with disabilities, are stipulated in the Law on Persons with Disabilities in Article 5, paragraphs 1, 2, and 3. The breadth of rights recognised under the law demonstrates that disability protection is no longer confined to ensuring minimum legal safeguards. Rather, the legislation seeks to establish an enabling environment in which persons with disabilities are able to exercise their civil, political, economic, social, cultural, and religious rights in an integrated manner. Such an approach reflects Auda's understanding that the objectives of Islamic law should promote human flourishing rather than merely prevent harm. Consequently, the significance of Law Number 8 of 2016 lies not simply in the expansion of legal rights but in the reconstruction of the relationship between the state and persons with disabilities on the basis of equality, participation, and social inclusion.

In more detail, the description of the provisions regarding the protection of persons with disabilities in Auda's maqāṣid sharia as an effort to safeguard and maintain human interests is as follows, Protection and maintenance of religiosity and the role of religion (*ḥifẓ al-dīn*). Religion is central to human life. The involvement of religion in solving the problem of stigma and prejudice against persons with disabilities must be done. In addition, safeguarding the right to religion and practicing their beliefs must continue to be pursued. The religious rights of persons with disabilities are integral to universal human rights. Everyone, including those with physical, mental, or intellectual limitations, can embrace religion and worship their respective beliefs. Law Number 8 of 2016 on Persons with Disabilities in Indonesia has recognized this right through Article 14. This article provides a fairly broad scope related to the religious rights of persons with disabilities. Every person with a disability is free to choose the religion or belief he adheres to without coercion or discrimination and to worship by the teachings of his religion or belief, individually or in groups. In addition, places of worship must be designed and equipped with facilities that allow persons with disabilities to worship comfortably and safely. This includes accessing religious materials in formats that suit their needs, such as braille, audio, or sign language.[55]

The contemporary interpretation of *ḥifẓ al-dīn* therefore extends beyond guaranteeing freedom of worship. Within Auda's framework, protecting religion also requires ensuring that persons with disabilities are able to participate fully in religious life without physical, institutional, or social barriers. Accessibility to places of worship, religious education, and inclusive religious services should consequently be understood as integral components of religious freedom rather than supplementary social policies. This interpretation broadens the classical conception

[55] Noer Yasin, "Implementasi Kebijakan Pemenuhan Hak Beragama Penyandang Disabilitas Oleh Negara Perspektif Maqashid Syariah," *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 2 (2021), p. 170–83.

of religious protection by linking it directly with human dignity and equal citizenship.[56]

Protection and maintenance of the soul (ḥifẓ al-nafs) The maintenance and safeguarding of the soul is not only understood by maintaining human existence in the physical dimension, such as fulfilling basic needs such as eating and drinking. The human soul consists of not only physical elements but also psychological elements. Article 26 of Law Number 8 of 2016 on Persons with Disabilities is one of the crucial articles in providing special protection for this vulnerable group. This article directly reflects the principle of protecting the soul in Islam by prohibiting all forms of violence, whether physical, psychological, or sexual, against persons with disabilities. The protection provided by Article 26 is very comprehensive, covering physical violence, such as physical acts that cause injury, harm, or pain. Furthermore, psychological violence causes emotional suffering, such as humiliation, intimidation, or isolation. In addition, economic violence is in the form of economic exploitation, such as fraud, misappropriation of property, or deprivation of the right to wages, and sexual violence, such as sexual harassment, rape, or sexual exploitation. This broader understanding of *ḥifẓ al-nafs* illustrates one of the principal differences between classical and contemporary maqāṣid. Protection of life is no longer restricted to safeguarding physical existence but also encompasses psychological security, personal autonomy, and freedom from structural violence. Violence against persons with disabilities frequently occurs in subtle forms, including neglect, exclusion, and institutional discrimination. Accordingly, the effectiveness of legal protection should be assessed by examining whether public institutions are capable of preventing these forms of violence and ensuring an environment in which persons with disabilities may live with safety and dignity.[57]

Protection and maintenance of the mind (ḥifẓ al-'aql) The concept of protecting the mind has been explained by efforts to prohibit drinking alcohol because it can eliminate the mind. As a result, there is no control over the actions taken. From a contemporary perspective, protecting and maintaining the mind by maintaining the right to education and access to enriching knowledge and disseminating scientific thought is important. Article 10 of Law Number 8 of 2016 on Persons with Disabilities is an effort to realize inclusive education in Indonesia. This article is in line with the principle of preserving reason in Islam and provides a strong legal basis to guarantee the right to education for persons with disabilities. The article emphasizes that education should be inclusive and appropriate to the needs of people with disabilities. The education system must provide adequate facilities, such as assistive devices, appropriate teaching methods, and necessary support. By providing access to inclusive and appropriate education, this law

[56] A. Bahruddin, "Implementasi Maqasid Al-Shari'ah Sebagai Solusi Problematika Sosial Dan Kemasyarakatan Kontemporer," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 1 (2017), p. 1.

[57] Lefri Mikhael, "Tanggung Jawab Negara Dalam Pemenuhan Hak Atas Kesehatan Jiwa Dihubungkan Dengan Hak Asasi Manusia," *Jurnal HAM* 13, no. 1 (2022), p. 151–66.

supports the maqāṣid objective of sharia to protect and develop the intellect of persons with disabilities. Inclusive education enables people with disabilities to develop their full potential and contribute productively to society. The right to inclusive education also carries broader implications than access to formal schooling alone. Education constitutes the primary means through which persons with disabilities develop their capabilities, exercise autonomy, and participate in public decision-making. From Auda's perspective, the protection of intellect therefore contributes directly to the realization of other objectives of *Maqāṣid al-Sharīʿah*, including social participation, economic independence, and human dignity. This demonstrates that educational rights should be interpreted as an investment in human capability rather than merely as a social service provided by the state.[58]

Protection and preservation of offspring (ḥifẓ al-nasl) The concept of offspring protection in the classical maqāṣid perspective is explained by prohibiting khalwat and adultery. In the contemporary maqāṣid concept, protecting offspring is by creating a good family institution.[59] Persons with disabilities in Article 8 of the Law on Persons with Disabilities have the right to form a family and continue their offspring through legal marriage. The right to form a family, enshrined in this article, is not just a mere legal construction but also reflects universal human values, including in the perspective of maqāṣid sharia. With this right, the law ensures that people with disabilities have an equal opportunity to form a family, which is part of preserving offspring. Recognising the right of persons with disabilities to establish a family also challenges long-standing social assumptions that disability diminishes legal capacity or parental competence. The law therefore performs an important normative function by affirming that disability does not negate an individual's right to marriage, parenthood, and family life. Within Auda's framework, the protection of family extends beyond biological continuity towards preserving the social institution through which human dignity, mutual responsibility, and intergenerational justice are realised.[60]

Protection and preservation of property (ḥifẓ al-māl) The concept of preserving property (ḥifẓ al-māl) in the classical maqāṣid view, which is more preventive is broadly understood by avoiding economic practices that lead to usury. In Auda's view, contemporary ḥifẓ al-māl seeks to realize the socio-economic concerns of society and promote human welfare. Articles 9 and 11 of the law on persons with disabilities mandate that persons with disabilities should be given access to employment, education, and training that enables them to participate in the economy and safeguard their well-being. Social support, such as benefits and health

[58] Hendra Dude, et al., "Pemenuhan Hak Pendidikan Bagi Penyandang Disabilitas Perspektif Hukum Nasional dan Hukum Islam," *Al-Mizan* 16, no. 1 (2020), p. 153–76.

[59] Ardian Kurniawan, et al., "From Judicial Discretion to Maqasid Al-Shari'ah Reasoning: The Case of Marriage Dispensation at the Muara Bulian Religious Court, Indonesia," *Islamic Law and Social Issues in Society* 1, no. 1 (2025), p. 63–83.

[60] Uswatun Khasanah, "Pemenuhan Hak Dan Kewajiban Suami Istri Penyandang Disabilitas," *Al-Hukkam: Journal of Islamic Family Law* 2, no. 2 (2022), p. 137–52.

services, should ensure they do not experience poverty or economic hardship. This law indirectly implements the principle of property maintenance by guaranteeing the right of persons with disabilities to social welfare.[61] Economic empowerment occupies a central position in Auda's contemporary understanding of *ḥifẓ al-māl*. Property should not merely be protected from unlawful appropriation; it should also be developed through equal access to employment, entrepreneurship, vocational training, and social security. Economic exclusion remains one of the principal causes of marginalisation experienced by persons with disabilities. Consequently, guaranteeing opportunities for productive employment becomes an essential instrument for achieving substantive equality rather than simply an aspect of economic policy.[62]

Protection and maintenance of honor (ḥifẓ al-'irḍ) Respect for human dignity is a basic principle that must be upheld in social life. The law on persons with disabilities explicitly adopts the principle of respect for human dignity. Article 2 of Law Number 8 of 2016 on Persons with Disabilities affirms the principle of respect for human dignity as the basis for formulating and implementing policies relating to persons with disabilities. This article contains basic principles that reflect the state's commitment to respect and protect the dignity of every individual, especially those with disabilities. This article explicitly underlines that the rights of persons with disabilities must be recognized and fulfilled with full respect for their dignity as human beings. This principle is in line with the maqāṣid of sharia, particularly ḥifẓ al-'Ird, which emphasizes the protection and respect for the dignity of every individual in realizing an inclusive society. Respect for human dignity constitutes the normative core that unites all dimensions of disability protection. The principle of *ḥifẓ al-'irḍ* should therefore not be understood narrowly as safeguarding personal honour against insult or defamation. Within the contemporary objectives of Islamic law, it encompasses recognition of every person's equal moral worth irrespective of physical, sensory, or intellectual conditions. This broader interpretation reinforces the principle that public institutions bear a responsibility to eliminate practices that perpetuate stigma, exclusion, and discriminatory treatment towards persons with disabilities.[63]

Based on this explanation, the operational concept of Auda's contemporary maqāṣid sharia has been embedded in the law on persons with disabilities. Therefore, the state has a major role in realizing the protection and empowerment of the rights of persons with disabilities as stipulated in the law. This can be done through several

[61] Firman Muntaqo et al., "The Transformation of Land Law in Indonesia: From Commodification to Maqāṣid and Social Justice," *Al-Ahkam* 35, no. 2 (2025), p. 287–312.

[62] Alia Harumdani Widjaja, et al., "Perlindungan Hak Penyandang Disabilitas Dalam Memperoleh Pekerjaan Dan Penghidupan Yang Layak Bagi Kemanusiaan," *Jurnal Konstitusi* 17, no. 1 (2020), p. 197–223.

[63] M. Anshari, "Penghormatan, Perlindungan, dan Pemenuhan Hak Penyandang Disabilitas Dalam Perspektif Maqasid Al Syariah," *Al-Mashlahah: Jurnal Hukum Islam dan Pranata Sosial* 12, no. 1 (2024), p. 31–40.

strategic steps, including policy formulation, implementation of inclusive infrastructure, social and economic empowerment, raising public awareness, and policy monitoring and evaluation. Taken together, these six objectives demonstrate that Law Number 8 of 2016 embodies a comprehensive understanding of disability protection that extends beyond conventional legal regulation. The law does not merely enumerate individual rights but constructs an integrated framework in which religious freedom, personal security, education, family life, economic participation, and human dignity reinforce one another. This interconnected structure closely reflects Auda's systems approach, according to which the effectiveness of law depends upon the interaction of multiple legal, institutional, and social components rather than the existence of isolated legal norms.[64]

Paradigmatically, based on Auda's system theory, rules are cognitive products.[65] Law Number 8 of 2016 on Persons with Disabilities is a clear example of a cognitive product law. This law results from a complex process of thinking, analysis, and synthesis from various parties, including legal experts, academics, disability activists, and policymakers. The law reflects the social construction of disability at the time. It reflects the understanding of the community, government, and experts about what disability is, the rights attached to it, and the challenges faced by people with disabilities. As a cognitive product, the law is dynamic and subject to change over time. Applying these laws involves interpretation by judges, advocates, prosecutors, and other law enforcers. These interpretations are based on understanding the legal text and the relevant social context so that they can contain subjective biases. For example, personal views or the interests of certain groups may influence how the law is applied. Nevertheless, the presence of a law on persons with disabilities amidst the need for protection and empowerment of persons with disabilities places it in an important position or ḍarūriyyah. Viewing Law Number 8 of 2016 as a cognitive product also implies that disability legislation should remain open to reinterpretation as social understandings of disability continue to evolve. Legal concepts concerning accessibility, reasonable accommodation, digital inclusion, and assistive technologies are constantly developing alongside technological and societal change. Consequently, the implementation of disability law requires continuous legal interpretation rather than mechanical application of statutory provisions. Such flexibility is consistent with Auda's view that Islamic legal reasoning should remain responsive to changing human realities while preserving its ethical objectives.

[64] Mukti Tabrani, "Maqâshid Revitalization in Global Era: Istidlâl Study from Text to Context," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018), p. 310–33.

[65] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 45. Muhammad Lutfi Hakim, "Sharī'a, Fiqh, and Qānūn: A Portrait of the Cognitive Nature of Islamic Law in Indonesia," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 55, no. 1 (2021), p. 25–48.

The next principle in Auda's systems theory paradigm is wholeness.[66] Auda's Systems Theory presupposes a systemic relationship between one element and another. It is like an organ of the body, which has an interrelated, reciprocal relationship with one another. Therefore, each element has a task and function in a system. In the context of maqāṣid, Auda brings the concept of maqāṣid from an individualistic to a more universal system. Law Number 8 of 2016 on Persons with Disabilities recognizes various rights of persons with disabilities, including education, health, employment, and accessibility. Recognizing these rights reflects an attempt to integrate these rights within a coherent legal framework. Each component right in the law is interrelated. For example, the right to education cannot be separated from the physical accessibility of schools. The law also sets out obligations for the government, communities, and the private sector to work together to provide support and services for people with disabilities. This integration of roles ensures that not just one system element is functioning, but all elements work synergistically to achieve social inclusion.

According to Auda's view, openness from systems theory means that a living system must undergo change.[67] Therefore, openness to contemporary reality and various approaches is necessary. Legal change is a certainty. The intersection with science, technology, and modernity has implications for legal change. This paradigm of development and openness can be seen from the efforts to expand the rights of persons with disabilities; namely, there are 22 rights in addition to 4 rights for women with disabilities and seven rights for children with disabilities in article 5. In addition, the Law on Persons with Disabilities seeks to address the challenges faced by persons with disabilities in modern times. For example, by including provisions on accessibility of technology and information, the law demonstrates responsiveness to technological advances and societal changes. The law provides a legal basis for policies and programs that support people with disabilities. Openness in implementation means that policies developed can be adapted to local needs and specific conditions faced by people with disabilities in different regions.

The next principle of systems theory is the related hierarchy.[68] Like a system, it is built up from the smallest systems within it. Auda explains that there are paradigmatic problems in the classical maqāṣid concept. One such problem is that classical maqāṣid focuses only on individual issues, not on the family, society, and

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[66] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 46. Ichwan Ahnaz Alamudi, "Intellectual Development Of Maqashid Al-Syariah: A Thought Of Jaseer Auda," *Tawazun: Journal of Sharia Economic Law* 7, no. 2 (2024), p. 162–76.

[67] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 47. Zaprulkhan Zaprulkhan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda," *Walisongo: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018), p. 445–72.

[68] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 48. Syukur Prihantoro, "Maqasid Al-Syari'Ah Dalam Pandangan Jasser Auda (Sebuah Upaya Rekontruksi Hukum Islam Melalui Pendekatan Sistem)," *Jurnal At-Tafkir* X, no. 1 (2017), p. 120–35.

humanity. The next problem is that classical maqāṣid still does not include basic universal values such as justice and freedom, and the last is that normative-literal sources, not empirical reality, still dominate the sources of the legal formulation. The Law on Persons with Disabilities tries to get out of these problems; this law focuses on protection and empowerment for persons with disabilities. In addition, the presence of the Law on Persons with Disabilities departs from the empirical reality of discrimination against persons with disabilities. The Law on Persons with Disabilities is the main framework that regulates the rights of persons with disabilities, supported by implementing regulations, policies, and support programs. From the main law to local policies and implementation, it must work synergistically to achieve the goals of protecting and empowering persons with disabilities. Effective implementation requires coordination between government, communities, and relevant organizations, as well as ongoing evaluation and adjustment to ensure that disability laws remain relevant and responsive to the needs of persons with disabilities.

The principle of multi-dimensionality is the next element of Auda's systems theory. As a system, it does not consist of just one dimension but of multiple dimensions.[69] Disability law encompasses legal, social, economic, cultural, and psychological dimensions and seeks to provide comprehensive and integrated solutions for protecting and empowering persons with disabilities. The multidimensional approach ensures that the various aspects affecting persons with disabilities are considered and addressed simultaneously. The dimensions interact and influence each other. For example, changes in the time dimension (technological developments) may affect the implementation of laws on the space dimension (digital accessibility). Similarly, changes in the cognitive dimension (changes in people's perceptions) can influence policies. By considering multiple dimensions, disability law seeks to create a coherent and effective system to support the rights of persons with disabilities and improve their overall quality of life.

The final principle is to focus on purpose.[70] Every system has a purpose. It may not have just one purpose, but it may have several. The disability law was designed with a clear purpose to protect and empower people with disabilities. This law seeks to achieve positive outcomes and have a real impact on the welfare of persons with disabilities by regulating various aspects of the lives of persons with disabilities. The principle of purposefulness in this law is evident from the objectives of rights protection, empowerment, and social inclusion, as well as efforts to reduce discrimination and stigma.

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[69] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 49. Maulidi Maulidi, "Maqasid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda," *Al-Mazaahib: Jurnal Perbandingan Hukum* 7, no. 1 (2022), p. 113–31.

[70] Auda, *Maqasid Al-Syariah a Philosophy of Law System: A System Approach*, p. 51. Mustaqim, "Maqasid Al-Shari'ah Sebagai Filsafat Hukum Islam," *Al-Mabsut: Jurnal Studi Islam Dan Sosial* 2, no. 1 (2022), p. 31–39.

Ultimately, the application of Auda's systems approach demonstrates that the significance of Law Number 8 of 2016 cannot be measured solely by the breadth of rights it guarantees. Its greater contribution lies in reconstructing disability protection as an integrated legal system directed towards human dignity, social inclusion, and capability enhancement. Rather than treating persons with disabilities as passive beneficiaries of state assistance, the law positions them as equal citizens whose participation constitutes an essential indicator of justice. This interpretation distinguishes the present analysis from conventional doctrinal studies by demonstrating that *Maqāṣid al-Sharīʿah* functions not only as a normative benchmark but also as a methodological framework for evaluating contemporary disability law through the interconnected objectives of justice, equality, and human development.

Conclusion

This study demonstrates that Jasser Auda's reconstruction of *Maqāṣid al-Sharīʿah* provides a broader analytical framework for understanding disability law than the classical preservation-oriented approach by emphasising human dignity, capability development, social inclusion, and institutional transformation as the core objectives of justice. Within this perspective, Law Number 8 of 2016 represents a paradigm shift from a charity-based to a human rights-based approach that recognises persons with disabilities as equal citizens entitled to full participation in public life. The analysis confirms that the law is consistent with the contemporary objectives of *Maqāṣid al-Sharīʿah*, reflected in the protection of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), intellect (*ḥifẓ al-'aql*), family (*ḥifẓ al-nasl*), property (*ḥifẓ al-māl*), and human dignity (*ḥifẓ al-'irḍ*), while also embodying Auda's six systems principles cognitive nature, wholeness, openness, interrelated hierarchy, multidimensionality, and purposefulness. Accordingly, disability protection should be understood as an integrated legal system rather than a collection of isolated statutory rights. More importantly, this study argues that Auda's framework functions not merely as a normative benchmark but as a contemporary methodology for interpreting disability law through the interconnected objectives of justice, equality, and social inclusion, shifting legal analysis from formal statutory compliance to the evaluation of whether legal institutions effectively remove structural barriers and enable the full participation of persons with disabilities. These findings also have practical implications: policymakers should strengthen the implementation of Law Number 8 of 2016 through integrated cross-sectoral policies; legislators should periodically review the law to address emerging issues such as digital accessibility, assistive technologies, and reasonable accommodation; judicial institutions should adopt a substantive equality approach that prioritises human dignity, accessibility, and social inclusion; and public service providers should ensure that accessibility, non-discrimination, and meaningful participation become operational standards so that the objectives of the law are realised not only in legal doctrine but also in institutional practice.

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