

RECONSTRUCTION OF CONTEMPORARY ISLAMIC LAW BASED ON MAQĀSID AL-SYARĪ'AH: A STUDY IN THE CONTEXT OF FAMILY AND ECONOMIC LAW

Andi Ali Akbar¹, Muhammad Sirojudin Sidiq², Anggita Vela³, Muhamad Ibnu Afrelian⁴
STIS Darusy Syafa'ah Lampung Tengah

¹ andialiakbar@stisda.ac.id, ² sirojudinsidiq@stisda.ac.id, ³ anggitaavela@stisda.ac.ad, ⁴ ibnuafrelian@stisda.ac.id

Abstrak

Maqāsid al-syarī'ah merupakan konsep mendasar dalam sistem hukum Islam yang tidak hanya merepresentasikan nilai-nilai dasar Syariat, melainkan juga berfungsi sebagai paradigma metodologis dalam pengembangan hukum Islam yang responsif terhadap perubahan zaman. Dalam konteks hukum keluarga Islam dan hukum ekonomi Syariah, maqāsid berperan sebagai instrumen interpretatif yang memungkinkan lahirnya hukum-hukum berorientasi pada keadilan, kemaslahatan, kemudahan, dan keberlanjutan. Penerapan maqāsid dalam metode ijtihad, baik melalui qiyās, istihsān, maupun maṣlaḥah mursalah, telah terbukti memberikan solusi hukum yang lebih kontekstual dan humanistik terhadap berbagai persoalan kontemporer yang tidak dijelaskan secara eksplisit dalam teks-teks dasar Syariat. Penelitian ini menunjukkan bahwa integrasi maqāsid al-syarī'ah dalam formulasi hukum kontemporer sangat relevan, terutama dalam menghadapi kompleksitas kehidupan modern yang sarat dengan dinamika sosial, ekonomi, dan budaya. Dengan menjadikan maqāsid sebagai kerangka utama dalam penalaran hukum, para mujtahid dan pembuat kebijakan hukum Islam dapat terhindar dari kekakuan tekstual serta mampu merumuskan hukum yang inklusif, adaptif, dan tetap berada dalam koridor maqāsid syarī'ah. Oleh karena itu, pemahaman dan penerapan maqāsid perlu terus dikembangkan dalam studi akademis dan menjadi bagian integral dari pengambilan keputusan keagamaan serta legislasi hukum Islam di Indonesia dan dunia Muslim pada umumnya.

Key words: *Maqāsid al-syarī'ah; hukum Islam kontemporer; hukum keluarga; ekonomi Islam; rekonstruksi*

1. INTRODUCTION

Global transformation and the explosion of science and technology today have created new and complex legal challenges for Muslim societies. Phenomena such as e-law, digital media, and globalization have given rise to cases that are not covered in classical Sharia literature. To address this, the maqāṣid al Syārī'ah approach is essential as an adaptive framework for translating Islamic principles into a modern context.¹

Rapid changes in society have forced Islamic law to move with the times. Sharia should not be a static text that is only quoted literally, but must be revived through interpretations that take into account social urgency and human values, principles that can only be fulfilled through maqāṣid al Syārī'ah.² Contemporary issues such as digital rights, platform economics, and bioethics require an ijtihad approach that goes beyond qiyās. The maqāṣid approach encourages mujtahids to delve into the objectives of sharia, welfare, justice, and benefit, rather than focusing solely on the literal meaning of the text.³

Islam provides terminology for understanding texts, divided into two categories: textual (lafziyyah) and contextual (*maknawiyah*). *Maknawiyah* interpretation uses maqāṣid to ensure that Islamic law remains meaningful and effective, without being limited to past ways of thinking, especially when dealing with contemporary issues.⁴ The maqāṣid al Syārī'ah value system encompasses five fundamental principles that must be upheld: religion, life, intellect, lineage, and property. In the modern context, safeguarding these five elements provides a roadmap for legal regulation and interpretation that remains grounded in public interest, without undermining the necessary contextuality of the law.⁵

In order for Islamic law to remain relevant in the modern era, the maqāṣid approach allows for differentiation between texts that are means (wasā'il) and ends (ahdāf) of the law. By taking into account universal and adaptive values, sharia can be harmonised with local cultures and needs, including digital norms and the global environment.⁶ The integration of maqāṣid al Syārī'ah is not merely academic discourse, but needs to be realised in the reform of family law, Islamic economics, and public policy. If maqāṣid is applied consistently, Islamic

¹ Zaprul Khan Zaprul Khan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda," *Walisono: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018): 445, <https://doi.org/10.21580/ws.26.2.3231>.

² 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): 141–56, <https://doi.org/10.55927/jsih.v1i2.1118>.

³ Tawffeeq A. S. Mohammed, "A Scientometric Study of Maqasid Al-Shariah Research: Trending Issues, Hotspot Research, and Co-Citation Analysis," *Frontiers in Research Metrics and Analytics* 9 (November 2024): 1439407, <https://doi.org/10.3389/frma.2024.1439407>; Aasim Padela, "Maqāṣidī Models for an 'Islamic' Medical Ethics: Problem-Solving or Confusing at the Bedside?," *American Journal of Islam and Society* 39, nos. 1–2 (2022): 72–114, <https://doi.org/10.35632/ajis.v39i1-2.3069>.

⁴ Zaprul Khan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse."

⁵ Sabil Mokodenseho et al., "Analysis of the Influence of Fiqh and Maqasid Al-Syariah in the Formation of Islamic Legal Policy in Indonesia," *West Science Islamic Studies* 2, no. 01 (2024): 30–37, <https://doi.org/10.58812/wsiss.v2i01.590>.

⁶ Usman Safiyanu Duguri et al., "The Application of Maqasid Al-Shari'ah in the Foreign Policy of Islamic States," *International Journal of Academic Research in Business and Social Sciences* 11, no. 3 (2021): Pages 88-96, <https://doi.org/10.6007/IJARBS/v11-i3/8559>.

law will be able to bridge the gap between tradition and modernity. This reinforces the role of Sharia as a dynamic instrument that remains relevant to modern society.⁷

The main focus of this article is to elaborate on the application of the *maqāṣid al-syarī'ah* approach in two strategic domains of contemporary Islamic law, namely family law and Islamic economics. In the context of family law, this study examines how *maqāṣid* principles such as *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-'ird* form the basis of arguments in responding to contemporary issues such as early marriage, divorce, in vitro fertilisation, and the protection of children's rights. Meanwhile, in the context of Islamic economics, the focus is directed at the *maqāṣidi* evaluation of transaction systems, Islamic financial instruments, productive zakat, and *halal-thayyib* regulations in modern industry. The aim of this approach is to show that *maqāṣid* is not only a legal-normative approach, but also a substantive paradigm that provides moral and social legitimacy to current Islamic legal practices.

This article offers a significant discussion compared to previous studies by emphasising interdisciplinary integration between *maqāṣid* and methodological reform in law formation, not only through a normative conceptual approach but also through a practical, case-based approach based on actual cases in contemporary Muslim societies. While many previous studies still limit *maqāṣid* to theoretical aspects or abstract principles, this article presents a synthesis between classical *maqāṣidi* theory and modern legal challenges through contextual *ijtihād* based on *maslahat* and substantive values of justice. Thus, this article contributes to efforts to make *maqāṣid* an epistemological foundation in the formation of Islamic law that is responsive, inclusive, and adaptive to global social and economic dynamics.

2. METHODS

This study employs a qualitative approach using library research, with the aim of exploring and analysing the concept of *maqāṣid al-syarī'ah* in the development of Islamic law, particularly within the scope of family law and Islamic economics. The primary data sources for this study consist of the classical works of *usul al-fiqh* scholars such as al-Shātībī, al-Ghazālī, and Izzuddin bin Abd al-Salām, as well as contemporary literature by modern Islamic legal thinkers such as Mohammad Hashim Kamali, Wahbah al-Zuhaylī, and Abdul Majid al-Najjar. Secondary data was obtained from reputable national and international academic journals relevant to the themes of *maqāṣid*, *ijtihād*, and the renewal of Islamic law.

Data analysis was conducted using content analysis, which emphasises a contextual and substantive understanding of Islamic legal texts through the *maqāṣidi* approach. In this analysis, the researcher examines normative and applied arguments concerning *maqāṣid al-syarī'ah*, and reviews how *maqāṣid* are utilised as a methodological framework in the formulation of legal rulings on contemporary issues. The analysis is conducted critically to identify the relevance of *maqāṣid* to current legal challenges, and how *maqāṣidi* principles can form the basis for a renewal of Islamic law that is more responsive to the social and economic dynamics of modern Muslim societies.

⁷ Mariah Darus @. Mat Junus et al., "Ethical Governance through Maqasid Shariah Perspective: A Conceptual Framework," *International Journal of Academic Research in Business and Social Sciences* 14, no. 10 (2024): Pages 920-932, <https://doi.org/10.6007/IJARBS/v14-i10/23148>; Muhammad Arafat and Asmuni, "Implementation of Maqashid Al-Syariah in Islamic Criminal Law in Muslim Countries: A Comparative Study in Saudi Arabia, Iran, Malaysia, and Indonesia," *AL-SULTHANIYAH* 14, no. 1 (2025): 45–68, <https://doi.org/10.37567/al-sulthaniyah.v14i1.3577>.

3. RESULTS AND DISCUSSION

Basic Concepts of Maqāṣid al-Syarī'ah

The term Maqāṣid al-Syarī'ah comes from two root words: maqāṣid, the plural form of maqṣad, which means 'goal' or "objective", and syarī'ah, which in classical Arabic is defined as 'way of life' or 'method of rule' (Al Faruqi, 1982). As a maṣdar form, maqāṣid indicates an action or intention aimed at achieving a certain goal. Terminologically, Maqāṣid al-Syarī'ah refers to the ultimate goals of Islamic law, which are designed to bring about benefits and prevent harm in five main aspects of religious life (hifẓ al dīn), life (hifẓ al nafs), intellect (hifẓ al 'aql), lineage (hifẓ al nasl), and wealth (hifẓ al māl).⁸ Maqāṣid is the main foundation of Islamic law, which has implications for areas such as family law and Islamic economics. The philosophy of maqāṣid emphasises that every product of Islamic law aims to ensure benefits and reject harm.

Ibn Qayyim al-Jawziyyah, as quoted by Jasser Auda, emphasised that Sharia is not merely a set of ritual rules, but rather divine policy that touches on all dimensions of human life: justice, peace, and universal goodness. Therefore, any provisions that contradict these values are not part of true Sharia.⁹ The concept of maqāṣid has developed through the authority of great scholars. Imam al Haramain, Al Ghazālī's teacher, was an early pioneer of maqāṣid thought, which was later formulated systematically by al Ghazālī and further refined by as Syāṭibī in al Muwāfaqāt fī Uṣūl al-Syarī'ah, which emphasised that Islamic law was formed with the primary objective of realising worldly and spiritual benefits.¹⁰

According to al-Shāṭibī, maqāṣid has three levels of human needs: ḍarūriyyāt (basic needs), ḥājjiyyāt (important needs), and taḥsīniyyāt (improvement needs). The fulfilment of these three levels is a measure of the adequacy and benefit of a Sharia law. The substance of maqāṣid is maslahah, namely the benefits achieved or harm avoided in the daily practice of Islamic law.¹¹

The category of ḍarūriyyāt is a classification of maqāṣid that covers primary needs which, if not fulfilled, will threaten the basis of human life both in this world and in the hereafter. Al-Shāṭibī mentions that ḍarūriyyāt are components that must be fulfilled immediately because they are essential for the survival of the people.¹² This category consists of five main dimensions, known as al kulliyāt al khamsah, namely Ḥifẓ al Dīn (preserving religion), Ḥifẓ al Nafs (preserving the soul), Ḥifẓ al 'Aql (preserving reason), Ḥifẓ al Nasl (preserving offspring),

⁸ Nazifah Hanafiah, "Relevansi Maqashid Syariah Dalam Kebijakan Perlindungan Perempuan Dan Anak Pada Hukum Keluarga Di Indonesia," *Integrated Education Journal* 1, no. 2 (2024): 112–25.

⁹ Ika Yunia Fauzia and Abdul Kadir Riyadi, *Prinsip Dasar Ekonomi Islam Perspektif Maqashid Syariah* (Kencana, 2014), 44.

¹⁰ Isnain La Harisi and M. Wahid Abdullah, "Pembaharuan Hukum Keluarga Islam Dalam Menghadapi Tantangan Sosial Kontemporer Perspektif Maqashid Syariah," *USRAH: Jurnal Hukum Keluarga Islam* 5, no. 2 (2024): 226–41, <https://doi.org/10.46773/usrah.v5i2.1358>.

¹¹ Farida Ulvi Naimah et al., "Building Religious Institutions With Maqasid Al-Shari'ah in Family Affairs," *Al-'Adalah: Jurnal Syariah Dan Hukum Islam* 7, no. 1 (2022): 111–40, <https://doi.org/10.31538/adlh.v7i1.2275>.

¹² Solehuddin Harahap and Arisman, "Maqashid Al-Syari'ah Berdasarkan Kemaslahatan Yang Dipelihara Dalam Hukum Islam," *Jurnal Hukum Islam Hukumah* 6, no. 2 (2023): 37–52, <https://doi.org/http://dx.doi.org/10.55403/hukumah.v6i2.577>.

and *Ḥifẓ al Māl* (preserving wealth). If all these elements are fulfilled, a person can live a noble and prosperous life, in accordance with the ideals of *maqāṣid*, which in Islamic economics is known as *falāḥ* (true prosperity).

Speaking of secondary needs (*Ḥājiyyāt*), these are obstacles to welfare that are not immediately critical, so that if they are overlooked, they may cause difficulties but do not endanger existence. *Ḥājiyyāt* increase effectiveness and added value in human life, such as ease of administration, education, or social services that complement primary needs. *Taḥsīniyyāt* are tertiary needs, namely habits that refine the quality of life, such as norms of politeness, aesthetics, and social order. If not implemented, *Taḥsīniyyāt* do not affect basic human safety, but contribute to a more meaningful quality of life.¹³

Understanding this hierarchy of *maqāṣid* is important in formulating laws that are not merely textual but contextual, especially in the areas of family *fiqh* and Islamic economics. For example, when formulating family policies to ensure child protection (*ḥifẓ al nafs* and *ḥifẓ al nasl*), or designing an Islamic financial system that maintains social welfare (*ḥifẓ al māl*) without neglecting justice.¹⁴ The *maqāṣid* foundation bridges ethical and pragmatic needs in today's digital age. As shown in contemporary studies, the application of *maqāṣid* results in policies that are inclusive, adaptive, and relevant to the needs of modern society.¹⁵

Table 1: The five essential elements that must be upheld (*al kullīyyāt al khamsah*) in accordance with the *maqāṣid* approach

No	Element	Description
1	<i>Ḥifẓ al-Dīn</i> (upholding religion)	Upholding the right to practise religion and worship as the spiritual foundation of individuals and society. Freedom of belief is highly valued.
2	<i>Ḥifẓ al-Nafs</i> (keeping the spirit alive)	Protection of human life Killing or suicide is strictly prohibited; Sharia guarantees the safety of life.
3	<i>Ḥifẓ al-‘Aql</i> (keeping one's wits about oneself)	Protecting the mind from things that diminish rational function, such as dependence on harmful substances, and encouraging the pursuit of knowledge.
4	<i>Ḥifẓ al-Nasl</i> (preserving one's lineage)	Guaranteeing offspring through legal marriage norms, prohibitions on incest and adultery, and child custody rights in Islamic family life.
5	<i>Ḥifẓ al-Māl</i> (safeguarding assets)	Preserving wealth in a lawful, fair and distributive manner through Islamic economic mechanisms that are anti-usury, anti-fraud and growth-oriented.

The Urgency of Maqāṣid al Syāri‘ah in the Methodology of Islamic Law Development

¹³ Ika Yunia Fauzia and Abdul Kadir Riyadi, *Prinsip Dasar Ekonomi Islam Perspektif Maqashid Syariah*, 69.

¹⁴ Achmad Syawal Nurhidayatullah and Oman Fathurohman SW, “Maqashid Syariah Sebagai Kerangka Kerja Untuk Inovasi Produk Keuangan Non Bank Dalam Era Digital,” *Jurnal Masharif Al-Syariah* 9, no. 5 (2024): 3635–53, <https://doi.org/https://doi.org/10.30651/jms.v9i5.24835>.

¹⁵ Abdul Manan Ismail et al., “The Role Of Maqasid Al-Shariah In Contemporary Fatwa Formulation: A Balanced Approach,” *Al-Qanatir: International Journal of Islamic Studies* 33, no. 7 (2024): 85–110.

Every norm or regulation has its legislative ratio or intended purpose. Abdul Majid al Najjar emphasises that without understanding the goal of a law, both the legislature and the executive branch risk losing direction and meaning in its application. Without that understanding, the law can become dry and irrelevant. This is where maqāṣid becomes a fundamental instrument in formulating, understanding, and applying Sharia law appropriately and sustainably.¹⁶

After the prophetic era, Sharia law seemed to be closed textually and there was no new revelation. However, the lives and problems of the people are constantly evolving. Therefore, ijtihad has become an urgent necessity. Maqāṣid al Syārī'ah provides flexible interpretative parameters that focus on the value of benefit, not merely on the literal text.¹⁷ With this methodology, mujtahids can formulate laws that are in line with the objectives of Sharia in contemporary situations.

The importance of other maqāṣid al-Sharī'ah in the development of Islamic law is to balance the various opinions of scholars with the maqāṣidi tarjih approach. The current legal situation is still largely zhannī, with many disputed opinions. Contemporary mujtahids are required to weigh textual opinions, social conditions, and maqāṣid al-Sharī'ah through maqāṣidi fatwas (ijtihad intiqā'i). This approach prioritises legal choices that are appropriate to the times, more humane, easier, and free from harm.¹⁸ This principle of ijtihad is highly relevant for the contextualisation of family law and Sharia economics in Indonesia today.

A historical example of this maqāṣidi approach is the decision of Caliph Umar bin al-Khattab to postpone the punishment of cutting off the hands of people who were forced to steal due to hunger during a famine. This demonstrates the application of maqāṣid al Syārī'ah as an effort to preserve life (hifẓ al nafs), which takes priority even though the law also aims to preserve property (hifẓ al māl).¹⁹ Another analytical example is when Siti Aisyah rejected the narration stating that the deceased can be tortured because of the cries of their family, based on QS al-An'ām verse 164. Here, maqāṣid helps to criticise narrations that are not in line with the objectives of Sharia.²⁰

Contemporary studies confirm that integrating maqāṣid with ijtihad strengthens legal outcomes, making them more just, flexible, and contextual.²¹ The maqāṣid-based ijtihad model provides space for mujtahids to synthesise between texts, illat, and maslahat in the current context. According to Mohammad Hashim Kamali, maqasid and ijtihad are instruments of civilisational renewal, expanding the scope of legal interpretation beyond a mere focus on formal legality.²² Knowledge of maqasid improves the epistemological quality of

¹⁶ Abdul Majid an-Najjar, *Maqashid Asy-Syari'ah Bi Ab'ad Jadidah* (Dar al-Gharb al-Islami, 2008), 18–19.

¹⁷ Safriadi Safriadi, "Maqāṣid Al-Syārī'ah Sebagai Metode Ijtihad Kontemporer," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 4, no. 2 (2018): 1–16, <https://doi.org/10.32505/qadha.v4i2.309>.

¹⁸ Chamim Tohari et al., "The Ijtihad Construction Of Islamic Law Based On The Maqāṣhid Al-Syārī'Ah Approach In The Indonesian Context," *Prophetic Law Review* 4, no. 2 (2022): 195–221, <https://doi.org/10.20885/PLR.vol4.iss2.art4>.

¹⁹ Abdul Majid an-Najjar, *Maqashid Asy-Syari'ah Bi Ab'ad Jadidah*, 20.

²⁰ Abdul Majid an-Najjar, *Maqashid Asy-Syari'ah Bi Ab'ad Jadidah*, 35.

²¹ Abdelrahman Abdelhamid Mohammed Hassanein, "The Complementarity of Ijtihad and the Maqasid Al-Shariah in Islamic Law: An Analytical Study," *International Journal of Academic Research in Business and Social Sciences* 15, no. 5 (2025): Pages 847–859, <https://doi.org/10.6007/IJARBS/v15-i5/25424>.

²² Mohammad Hashim Kamali, "Maqasid Al-Sharī'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective," *ICR Journal* 2, no. 2 (2011): 245–71, <https://doi.org/10.52282/icr.v2i2.647>.

Islamic law and strengthens the legitimacy of law for a changing society. Contemporary literature recommends the integration of maqāṣid into the curriculum of Sharia studies and mujtahid training, including majami' fiqh (fatwa bodies). This aims to make future legal formulations more inclusive, contextual, and in favour of the interests of the people.²³

The involvement of maqāṣid in Islamic legal methodology also reinforces the spirit of inclusivity and adaptability in the context of family law and Islamic economics. In the field of family law, the maqāṣid approach allows mujtahids to consider psychological, social, and gender justice dimensions in establishing laws, such as in issues of marriage guardianship, divorce, or children's rights. In Islamic economics, maqāṣid is the foundation for designing financial instruments that are not only formally halal, but also oriented towards distributive justice, community empowerment, and poverty alleviation.²⁴ This is in line with the concept of falāh (worldly and otherworldly happiness), which is the ethical goal of maqāṣid in an economic context. Therefore, maqāṣid is not only a normative guideline but also a strategic instrument for promoting social transformation through Islamic law.

Furthermore, the integration of maqāṣid in law formation also has epistemological implications. Maqāṣid offers a hermeneutic approach that emphasises not only the text as dead data, but as a living revelation that continues to provide guidance in the dynamics of the times. Understanding maqāṣid provides direction for Islamic legal scholars and practitioners in conducting tarjih, takhrīj, and even istinbāṭ of law. Therefore, in Islamic higher education systems, maqāṣid needs to be made the main epistemological framework in the Islamic law curriculum, not just as a supplement or additional material. As stated by Al-Raysuni, maqāṣid becomes the 'spirit' in contemporary ushul fiqh that revives the dynamics and adaptive power of sharia in responding to the challenges of the ummah in the modern era.²⁵

The Relevance of Maqāṣid al-Syāri'ah in the Development of Islamic Law

The tradition of Islamic law in determining legal rulings does not rely solely on the text, but also on the noble objectives that the Sharia itself seeks to achieve. Izzuddin bin Abd al-Salam, a great scholar in the field of usul fiqh, explicitly stated that all Sharia laws are derived to alleviate human suffering, reject all forms of harm, and bring about benefits for the servants of Allah.²⁶ Sharia aims to permit what is good and prohibit what is bad, and all of this is done in order to create a beneficial and balanced life for humanity from the beginning to the end of time.²⁷

²³ Wahid Ahtar Baihaqi, "Membumikan Maqasid Al-Shar'iah Sebagai Basis Ijtihad Kontemporer," *Nizham: Jurnal Studi Keislaman* 5, no. 1 (2017): 89–102.

²⁴ Asyraf Wajdi Dusuki and Abdulazeem Abozaid, "A Critical Appraisal of the Challenges of Realizing Maqasid Al-Shariah in Islamic Banking and Finance," *International Journal of Economics, Management and Accounting* 15, no. 2 (2007): 143–65, <https://doi.org/https://doi.org/10.31436/ijema.v15i2.133>.

²⁵ Ahmad Al-Raysuni, *Imam Al Shatibi's Theory of the Higher Objectives and Intents of Islamic Law*, trans. Nancy Roberts (International Institute of Islamic Thought, 2005), 478, <https://doi.org/10.2307/j.ctvkjb1w9>.

²⁶ Izzuddin bin Abd al-Salam, *Al-Qawa'id al-Shugra* (Dar al-Fikr al-Mu'ashirah, 1996), 18.

²⁷ Nur Hasan, "Relationship of Maqasid Al-Shari'ah with Usul al-Fiqh (Overview of Historical, Methodological and Applicative Aspects)," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 3, no. 2 (2020): 231, <https://doi.org/10.30659/jua.v3i2.8044>.

Similarly, Imam al-Syāṭibī, in his monumental work ‘al-Muwāfaqāt’, stated that all Islamic laws revolve around one point, namely mashlahah, the good and welfare of mankind.²⁸ Similarly, Wahbah al-Zuhaylī emphasises that all provisions in Sharia, whether related to worship or muamalah, are aimed at maintaining and ensuring the benefit of humanity.²⁹ This statement shows that maqāṣid is not an additional or secondary approach, but rather the heart of the entire process of establishing and developing Islamic law.

The scholars of *usul al-fiqh* then classified the objectives of Sharia into five fundamental principles known as ‘al-kullīyyāt al-khamsah’ (the five fundamental principles), namely preserving religion (*hifẓ al-dīn*), life (*hifẓ al-nafs*), intellect (*hifẓ al-‘aql*), lineage (*hifẓ al-nasl*), and wealth (*hifẓ al-māl*). Al-Shāṭibī divides maqāṣid into two realms: maqāṣid al-shārī‘ (God’s objectives in prescribing the law) and maqāṣid al-mukallaf (the objectives of the mukallaf or legal subject in implementing the law). The two go hand in hand, complementing each other and merging in an effort to realise a life that is in harmony with divine will and human needs.³⁰

Maqāṣid are also classified according to their level of urgency, namely: 1) *ḍarūriyyāt* (primary needs that must exist for human survival); 2) *ḥājīyyāt* (secondary needs that can eliminate difficulties if fulfilled); and 3) *taḥsīnīyyāt* (tertiary needs that improve life).³¹ This hierarchical structure is important in setting legal priorities, especially in the face of increasingly complex and dynamic contemporary issues

Maqāṣid forms the foundation for the derivation of Islamic law through methods of *ijtihād* such as *qiyās*, *istiḥsān*, and *maṣlahah mursalah*. *Qiyās*, for example, is a method of legal analogy based on ‘*illat* (legal reasoning) rooted in maqāṣid. According to al-Syāṭibī, identifying the ‘*illat* of a *nash* is the way to understand the essence of maqāṣid. However, not all ‘*illat* are easy to identify; in some cases, *mujtahids* must be *tawaqquf* (restrained) and return to the literal meaning of the command/prohibition as a form of obedience to the Sharia.³² An applicable example of *qiyās* is the prohibition of *khamr*. The scholars found that the intoxicating nature of *khamr* is the main *illat* for its prohibition because it damages the mind. Therefore, all intoxicating substances, even if not mentioned in the *nash*, are also prohibited because they contradict the maqāṣid of protecting the mind (*hifẓ al-‘aql*).

Another equally important method is *istiḥsān*. In this method, *mujtahids* may deviate from the rigid provisions of *qiyās* if, in certain situations, there are stronger reasons and greater benefits for doing so. For example, in the case of agricultural land *waqf*, although according to *qiyās*, irrigation rights are not included in the *waqf* because they are not mentioned in the *waqf* declaration, with *istiḥsān*, these rights are still considered part of the *waqf* in order to realise the full benefits of the *waqf* and in accordance with the objectives of *sharia*.³³ This

²⁸ Abu Ishaq al-Syatibi, *Al-Muwafaqat Fi Ushul al-Syariah*, Jilid 2 (Dar al-Kutub al-Alamiyah, n.d.), 3.

²⁹ Wahbah Az-Zuhaili, *Fiqih Islami Waadillatuhu* (Darul Fikr, 1984), 1018.

³⁰ Abu Ishaq al-Syatibi, *Al-Muwafaqat Fi Ushul al-Syariah*, 3.

³¹ Muhammad Nazir Alias et al., “The Position of Maqasid Al-Shariah within Islamic Legal Sources: A Comprehensive Analysis,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 2 (2025), <https://doi.org/https://doi.org/10.22373/q4byre51>.

³² Fadhli Suko Wiryanto and Mufidatul Husna, “The Urgency and Strategic Role of Maqasid Shari’ah and Maslahah in Responding to The Legal and Economic Challenges of Muslim Business,” *Jurnal of Middle East and Islamic Studies* 10, no. 1 (2023), <https://doi.org/10.7454/meis.v10i1.158>.

³³ Hamidah Mudhofir, “Istihsan Dan Aplikasinya Dalam Wakaf Tunai Di Indonesia,” *Labatila: Jurna Ilmu Ekonomi Islam* 1, no. 1 (2017): 19–40.

is in line with contemporary thinking that istiḥsān functions as an adaptive method of ijtihad in the digital and modern economic era.³⁴

Maslahah mursalah is also an important instrument in determining the law when the text does not explicitly explain a case. The companions of the Prophet have widely applied this method. The collection of the Qur'an by Abu Bakr and the standardisation of recitation by Uthman bin Affan are historical examples of the use of maṣlaḥah mursalah for the common good.³⁵

Contemporary literature affirms the important role of maqāṣid in the development of contextual and just Islamic law. According to Mohammad Hashim Kamali, maqāṣid is an important pillar in the tajdīd (renewal) project of Islamic law, because it provides flexibility in responding to social realities without losing the spirit of sharia.³⁶ Meanwhile, Abdelrahman Abdelhamid Mohammed Hassanein recommends integrating maqāṣid into the sharia education curriculum and strengthening the capacity of mujtahids in adopting the maqāṣidī approach.³⁷

The Role of Maqāṣid in Ijtihad and Legal Reform

A deep understanding of Maqāṣid al Syārī'ah is an important foundation in modern ijtihad work. Without this understanding, a mujtahid or mufti risks producing laws that are merely textual, without seeing the meaning and wisdom behind the text. This is evident in several fatwas that appear defensible on the surface, but lead to errors or become contextually irrelevant in today's society. Studies at Ulul Albab emphasise that the absence of maqāṣid as a basis will weaken the effectiveness of fatwas and the resulting interpretations of the law.³⁸

Imam al-Shāṭibī explicitly stated that the two main requirements for a mujtahid are understanding maqāṣid and being able to interpret the law based on that understanding. For him, maqāṣid is above linguistic understanding, qiyās, nasak, and others because without realising the purpose of the law, interpretation can deviate from the intention of the Shariah itself. al-Shāṭibī positions maqāṣid as the backbone of ijtihad, which guides mujtahids to remain within the corridor of the objectives of Sharia law, rather than merely following words or textuality alone.³⁹

The concept of maqāṣid does not belong solely to classical scholars. Contemporary scholars continue to develop it in a modern context. One such scholar, Jasser Auda, through a multidimensional approach, offers maqāṣid with six characteristics: cognitive, holistic, open, hierarchical, multidimensional, and goal-oriented.

³⁴ Nofiardi Nofiardi and Muhammad Irfan Helmy, "Istiḥsān-Based Waqf in The Carotai Tradition in Tanang River Community, Agam District, West Sumatera," *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (2024): 365–78, <https://doi.org/10.15408/ajis.v24i2.37582>.

³⁵ Ilham Tohari et al., "Maqasid Syariah Sebagai Pijakan Konseptual Dalam Pembaruan Hukum Keluarga Islam Indonesia," *Arena Hukum* 13, no. 02 (2020): 314–28, <https://doi.org/10.21776/ub.arenahukum.2020.01302.7>.

³⁶ Mohammad Hashim Kamali et al., "مقاصد الشريعة والاجتهاد: أداتان للتجديد الحضاري," *Journal of Contemporary Maqasid Studies* 3, no. 1 (2024): 145–74, <https://doi.org/10.52100/jcms.v3i1.134>.

³⁷ Mohammed Hassanein, "The Complementarity of Ijtihad and the Maqasid Al-Shariah in Islamic Law."

³⁸ Andi Moh. Rezki Darma et al., "Al-Maqqahid Al-Shari'ah Philosophical Aspects and Its Relevance to Contemporary Ijtihad," *International Journal of Social Science* 2, no. 4 (2022): 1923–28, <https://doi.org/10.53625/ijss.v2i4.4179>.

³⁹ Abdul Manan Ismail et al., "The Role Of Maqasid Al-Shariah In Contemporary Fatwa Formulation: A Balanced Approach."

This approach makes maqāṣid an adaptive and progressive philosophy of Islamic law, paving the way for the integration of human rights and modern policy systems.⁴⁰

Some Western intellectuals also confirm the relevance of maqāṣid in the framework of legal reform. Muhammad Hasyim Kamali, in his journal, voices the idea of Islamic legal reform (tajdīd hadārī) based on maqāṣid, offering an expansion of the scope of maqāṣid from the discipline of law to the realm of civilisation. This methodological reinforcement opens up space for the application of Maqāṣid in forming a more inclusive and dynamic legal order.⁴¹

The importance of integrating Maqāṣid into ijtihad is also confirmed in contemporary Algerian research, which states that a comprehensive understanding of Maqāṣid is an important foundation for ijtihad to remain relevant. This approach places the public interest above individual interests and provides appropriate methodological tools to address contemporary challenges without deviating from the objectives of Sharia.⁴² In addition to the theoretical framework, scientometric research shows that Maqāṣid has become a multidisciplinary field of study with significant growth between 2000 and 2022. This research identifies research trends that highlight the implementation of maqāṣid in Islamic economics, medicine, technology, politics, and social justice. Even during the pandemic, maqāṣid studies were used to help formulate an Islamic response to global crises such as COVID-19.⁴³

In the field of Islamic legal education, knowledge of Maqāṣid is an important element in equipping future students and mujtahids. A study by Andi Moh. Rezki Darma in the International Journal of Social Science states that maqāṣid as an epistemological basis increases the relevance and legitimacy of Islamic law, making it more responsive to social changes, such as gender, cultural plurality, and technological developments.⁴⁴ Within a methodological framework, maqāṣid and ijtihad have been proven to complement each other. The integration of maqāṣid into ijtihad strengthens justice and facilitates legal decision-making. This ensures that Sharia law is not a static product, but rather a dynamic legal system that meets the needs of the times.⁴⁵

Overall, classical scholars and modern thinkers agree that maqāṣid should not be treated as a secondary discourse, but rather as the main framework for the development of Islamic law. The conceptual and practical integration of maqāṣid in education, ijtihad methodology, and legal reform is a prerequisite for sharia to remain relevant, fair, and transformative. This step also reflects the harmony between the principles of Islamic law and the dynamics of modern society's needs.

Maqāṣid al-Syarī'ah as a Paradigm for the Transformation of Family and Economic Law

⁴⁰ Zaprulkhan, "Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse."

⁴¹ Kamali et al., "مقاصد الشريعة والاجتهاد."

⁴² Muhammad Mujtaba Abdulkadir and Halima Ibrahim Bature, "Aligning Maqasid Al-Shari'ah and Ijtihad: A Framework for Contemporary Islamic Jurisprudence: التوفيق بين مقاصد الشريعة والاجتهاد: اطار للفقه الاسلامي," *Journal of Arts and Sociological Research* 7, no. 6 (2025), <https://doi.org/10.70382/ajasr.v7i6.030>.

⁴³ Mohammed, "A Scientometric Study of Maqasid Al-Shariah Research."

⁴⁴ Darma et al., "Al-Maqqahid Al-Shari'ah Philosophical Aspects and Its Relevance to Contemporary Ijtihad."

⁴⁵ Mohammed Hassanein, "The Complementarity of Ijtihad and the Maqasid Al-Shariah in Islamic Law."

The application of Maqāṣid al-Syarī'ah in Islamic family law is becoming increasingly important in line with social dynamics and the contemporary needs of the community. The main objectives of Sharia, such as preserving offspring (ḥifẓ al-nasl), preserving honour (ḥifẓ al-'ird), and preserving life (ḥifẓ al-naḥs), require a reinterpretation of several classical fiqh provisions. For example, in the issue of early marriage, the maqāṣid approach requires legal policies that are not only formally valid, but also capable of guaranteeing children's rights, reproductive health, and psychological readiness in building a household.⁴⁶ This perspective emphasises the importance of protecting children's rights as a form of implementing maqāṣid in maintaining a quality family life.

When discussing divorce, maqāṣid al-syarī'ah directs the law towards the principles of justice, benefit, and protection for the most vulnerable parties, especially women and children. Islamic law provides for divorce as a last resort when a marriage can no longer uphold the principles of sakinah, mawaddah, and rahmah. In this context, maqāṣid directs that divorce proceedings be conducted humanely, maintaining dignity and ensuring justice in terms of alimony rights, custody rights, and protection from violence.⁴⁷ This approach is relevant in strengthening the Islamic family law system in Indonesia, which is adaptive to social needs.

Furthermore, maqāṣid plays an important role in addressing family law issues that are not explicitly discussed in the text, such as in vitro fertilisation (IVF), adoption, and the regulation of joint property in marriage. In this case, maqāṣid provides justification for contemporary ijtihad, as long as the policy aims to preserve the five basic principles of sharia. For example, IVF is permitted when the procedure does not violate sharia restrictions and is carried out within the framework of a valid marriage, as it aims to preserve the lineage and fulfil the couple's right to have children.⁴⁸

In the context of Islamic economics, maqāṣid serves as an evaluative parameter for Islamic financial products and policies. For example, the prohibition of riba and gharar (uncertainty) in muamalah is not only based on the text, but also because it undermines the principles of justice, certainty, and balance in economic transactions. Therefore, maqāṣid requires that every Islamic financial product prioritises transparency, fairness, and provides real benefits to society, not merely legal formalities of contracts.⁴⁹

The implementation of maqāṣid in Islamic finance can be seen in the instruments of productive zakat and cash waqf. This concept is not merely about fulfilling religious obligations, but also serves as a structural solution in reducing poverty and social inequality. In this case, maqasid manifests in the form of ḥifẓ al-māl (preserving

⁴⁶ Wan Nor Adibah Wan Ahmad et al., "[Syariah Maqasid Perspective in Preserving Family Institution] Perspektif Maqasid Syariah Dalam Memelihara Institusi Keluarga," *Jurnal Islam Dan Masyarakat Kontemporer* 22, no. 3 (2021): 16–28, <https://doi.org/https://doi.org/10.37231/jimk.2021.22.3.584>.

⁴⁷ Muhammad Hafis and Johari Johari, "Maqasid Al-Syariah Sebagai Problem Solver Terhadap Penetapan Hak Asuh Anak Pasca Perceraian," *Jurnal Ilmiah Universitas Batanghari Jambi* 22, no. 3 (2022): 1522, <https://doi.org/10.33087/jiubj.v22i3.2420>.

⁴⁸ Tenggo Subangun Harahap, "Tinjauan Maqasid Syari'ah Terhadap Pencatatan Perkawinan," *AL-SYAKHSHIYYAH Jurnal Hukum Keluarga Islam Dan Kemanusiaan* 5, no. 1 (2023): 38–56, <https://doi.org/10.30863/as-hki.v5i1.3359>.

⁴⁹ Rozi Andriani Muhammad Alvin Algifari, "Maqasid Syariah Dalam Pengembangan Ekonomi Islam (Analisis Komprehensif Dan Implementasi)," preprint, Zenodo, December 19, 2024, <https://doi.org/10.5281/ZENODO.14522804>.

wealth) and ḥifẓ al-nafs (preserving life), as the community's funds are managed strategically to empower the economy of the mustahiq and create economic independence for the community.⁵⁰

The presence of the Islamic banking system has also become a significant practical application of maqāṣid al-syarī'ah. Principles such as justice ('adl), benefit (maṣlaḥah), and social responsibility (al-mas'ūliyyah al-ijtimā'iyyah) form the basis for Islamic banking operations. Products such as murābahah, muḍārabah, and musyārah are not only tested in terms of sharia compliance, but also in terms of the extent to which these products bring real benefits to society and protect consumers from exploitative practices and ambiguity.⁵¹

Finally, maqāṣid has become an important direction in formulating halal and thayyib regulations in the food, pharmaceutical, and cosmetics industries. The establishment of halal standards that focus not only on ingredients, but also on production processes, distribution, and trade ethics, shows that maqāṣid sharia has become the spirit of the contemporary Islamic economic system.⁵² Here, maqāṣid plays a role in maintaining health (ḥifẓ al-nafs), preventing fraud (ḥifẓ al-'aql), and ensuring the economic sustainability of the ummah

4. CONCLUSION

Maqāṣid al-syarī'ah is a fundamental concept in the Islamic legal system that not only represents the basic values of sharia, but also serves as a methodological paradigm in the development of Islamic law that is responsive to changing times. In the context of Islamic family law and Sharia economic law, maqāṣid serves as an interpretative instrument that enables the emergence of laws oriented towards justice, benefit, convenience, and sustainability. The application of maqāṣid in the ijtihad method, whether through qiyās, istiḥsān, or maṣlaḥah mursalah, has been proven to provide more contextual and humane legal solutions to various contemporary issues that are not explicitly explained in the basic texts of Sharia.

This study shows that the integration of maqāṣid al-syarī'ah in the formulation of contemporary law is highly relevant, especially in dealing with the complexities of modern life, which is fraught with social, economic, and cultural dynamics. By making maqāṣid the main framework in legal reasoning, mujtahids and Islamic legal policy makers can avoid textual rigidity and are able to formulate laws that are inclusive, adaptive, and remain within the corridor of maqāṣid syarī'ah. Therefore, the understanding and application of maqāṣid needs to be continuously developed in academic studies and become an integral part of religious decision-making and Islamic law legislation in Indonesia and the Muslim world in general.

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⁵⁰ Nasfi Nasfi and Sabri Sabri, "Maqashid Syariah Sebagai Basis Pengembangan Ekonomi Islam," *El-Kahfi | Journal of Islamic Economics* 3, no. 01 (2022): 23–27, <https://doi.org/10.58958/elkahfi.v3i01.81>.

⁵¹ Ermita Zakiyah, "Maudhui's Tafsir Method in the Qur'an and Hadith on Maqasid Syariah for Economic Welfare in Indonesia," *Journal of Islamic Economics and Philanthropy* 5, no. 4 (2022): 235, <https://doi.org/10.21111/jiep.v5i4.8289>.

⁵² Naimah et al., "Building Religious Institutions With Maqasid Al-Shari'ah in Family Affairs."

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