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**Reconstruction of the Higher Objective of Islamic Law  
(*Maqasid Shariah*) to Strengthen Halal Industry with  
Special Reference to Halal Environment, Halal Green and  
Halal Medical Industry in Global Era**

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# **Reconstruction of the Higher Objective of Islamic Law (*Maqasid Shariah*) to Strengthen Halal Industry with Special Reference to Halal Environment, Halal Green and Halal Medical Industry in Global Era**

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## **Abstract**

The main purpose of this article is to reconstruct the higher objective of Islamic law (*Maqasid shariah*) by introducing two more essential values of *maqasid shariah* namely *Hifz al-Bi'ah* (protection of the environment (*Hifz al-Bi'ah*) and *hifz al-sihhah wa daf' al-marad* (preservation of health and protection of disease. In order that *maqasid shariah* could be played as a tool to fulfill the objective of *al-shari'ah* namely happiness, peace, prosperity, progress, glory, and fraternity between components of society, especially in the global era, therefore, the principle of *maqasid shariah* must occupy a very important place in Islamic law with special reference to environmental issues and Islamic medicine since it is the tool to fight harm which threatens the safety of the five essential values of *maqasid shariah* namely: faith, life, intellect, property and lineage/dignity. In modern globalization, Muslim jurists are being criticized for a static or not dynamic understanding of the higher objective of Islamic law, which makes them lose contact with the changing conditions of contemporary life. In other words, they are unable to relate the higher objective of Islamic law (*maqasid shariah*) to modern situations. The finding shows that it is an urgent need to regard the preservation/protection of the environment which included the protection of air, water, and mountain; the preservation/protection of health (*hifz al-Sihhah*) wa daf' al-marad (protection of disease), as an essential element of *maqasid al-shari'ah*.

## **Keywords**

Reconstruction, *Maqasid shariah*, Halal Industry

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## **1. Introduction**

Shari'ah is often defined as an order that regulates human relations with Allah (*ḥabl min Allah*) on the one hand, on the other hand, regulates human relations with fellow human beings (*ḥabl min al-nās*) (Syukron, 2011). *Maqasid al-shariah* is a staple in al-Syatibi's legal thought in which there is the concept of *mashlahat* as the goal of God as the Maker of *shari'a* (*qashd al-syari*). The application of *mashlahat* is focused on the goal of realizing benefit or avoiding the danger of harm to religion, soul, mind, lineage, and wealth in this world and in the hereafter (Djalaluddin, 2015). As an order, Islam not only regulates religious issues but also various issues related to the world.

Shari'ah as the essence of Islamic teachings grows in various situations, conditions, and aspects of space and time. In addition to having a variety of sources and types, *Shari'a* aims to find happiness, peace, prosperity, nobility, and brotherhood of the components of

society. To achieve these objectives and in line with the flexibility of Islamic law (*alShari`ah*), the role and place of *Maqasid al-Shariah* must not only protect the five principles/essential values of faith, life, intellect, property, and lineage. Where in this global era the principles of maqashid sharia are important because some dynamic understanding of higher Islamic law makes them lose touch with the changing conditions of contemporary life. To reconstruct the objectives of Islamic law (Maqashid Sharia) it is required to include other al-daririyyat, namely *hifz al-Bi'ah* and *hifz al-Shihhah wa daf' almarad* so that they can act as tools to fulfill al-shariah goals.

## 2. Research Methods

The type of research used in this article is legal *research*. Normative juridical research is legal research that places law as a building system of norms. The norm system in question is about the principles, norms, rules of trade regulations, court decisions, treaties, and doctrines (teachings). It is said to be normative juridical research because this research covers the entirety of norms, values, and principles related to the (Mukti Fajar & Yulianto Ahmad, 2010) teachings of propriety from the perspective of law in Indonesia.

## 3. Discussion

### 3.1 Reconstruction in line with Shari`ah (Islamic Law), Objective of Islamic Law and its Relevance to Modern and Global Society

Shari`ah which derives from the Arabic word *shari'a*: means the clear path, highway, or the road to a watering place. Hasbi as-Shiddieqy stated that shari`ah is "The road where the spring comes out or the road where the waterfall goes (As-Shiddieqy, 1978). Every living creature definitely needs water as a means of maintaining the safety and health of the body, in order to survive in the world. Likewise, the meaning of "the straight path" in it implies that the Shari'a is a guide for humans to achieve goodness and safety both soul and body. The straight path must always be passed by every human being to achieve happiness and safety in his life (Rohidin, 2016).

It clearly indicates the relationship between *shari`ah* and the environmental elements notably water and a big road (highway). Since there is no life without water. Similarly, there is no life without shari`ah.

Manna' al-Qhaththan's opinion, is that *syari`at* means "all the provisions of Allah that are prescribed for His servants, both regarding faith, worship, morals, and muamalah". *Shari`ah* means the commands given by Allah to His servants, which have been brought by any of the prophets. Whether relating to the manner of action (*kayfiyyah al-'amal*) known as a subsidiary and applied law (*far'iyyah wa 'amaliyyah*) of which the science of *Fiqh* was developed; or relating to the manner of belief (*kayfiyyah al-'itiqad*), known as the essentials and dogma (*asliyyah wa 'itiqadiyyah*) for which the science of *kalam* was developed.

Imam Al-Shatibi (d. 790/1388) defined most of the essential terms that he uses in his *al-Muwafaqat*, and characterized the *Shari`ah* as:

- blessed (*mubarakah*); ordained for the benefit of mankind in this world and in the hereafter.
- general; accessible to a common unlettered person (*ummiyyah*),
- universal (*amma; kulliyah*), not specific to a particular party or group. All are equal in the eyes of the law.
- liberal (*samha*); meaning free (broad and open).
- convenient (*sahla*),
- protected (*ma`sumah*); *Shari'ah is maintained at all times*.

Understanding from this characteristic that *Shari'ah* in a broad sense can be regarded as an important tool to reduce if not solve modern and global crises. If we believe that, Islamic law provides equally for each person's pursuit of real justice and real happiness, both in this world and the hereafter.

Hence, Shariah has to give attention, not only to legal and illegal things but also to a large number of human needs including the preservation and protection of the environment and protection of health.

The objective of Islamic law and its *maqasid shariah* dimensions is not only to deal with, prescribe, uphold, and direct the modes of worship for the individual and give guidance for personal morality and action, but also to prescribe directives for a collective life containing various subjects, like global warming, environmental crisis, health, family relationships, socio-economic affairs, duties of citizens, decision-making structures, laws of war and peace, international relations, as well as, how to preserve and protect a healthy environment.

If we view the *Shari'ah* from the perspective not limiting it to legal and illegal affairs, but rather examine it as a system of general guidance revealed by Allah (S.W.T), enunciated, interpreted by Prophet Muhammad (S.A.W), discovered, elaborated by the Jurists and authenticated and harmonized by *Ijma'*.

we will discover that the *Shari'ah* is truly a comprehensive system of faith and practice. It is a complete way of life, catering to all facets of human existence: individual and social, material, moral, economic, political, legal, cultural, national, and international, as well as in protecting and maintaining the environment.

Maqashid al-shari'ah means the content of values that are the goal of law enforcement. So thus, maqasid al-shari'ah are the goals to be achieved from a legal determination (Jaya, 1996).

Aims of Higher Objective of Islamic Law (Maqasid shariah), Abd al-Wahab Khallaf (Egyptian Scholar) states that the texts of the Shari'ah cannot be understood correctly except by someone who knows maqashid al-shari'ah (purpose of law) (Shidiq, 2009). Shariah is not only contributed to the growth of civilization but also, has its place in the "preservation of a healthy environment", to safeguard human beings from spiritual and physical afflictions. The various rules and injunctions of the *Shari'ah* concerning such affairs as ritual cleanliness, food, and drinks, dietary, work habits, and the organization of the environment are all ordered by Allah (S.W.T) for the purpose that humanity and society can preserve and maintain a healthy environment.

The foundation of the *Shari'ah* is wisdom and the safeguarding of people's interests in this world and the next. In its entirety, it is justice, mercy, and wisdom.

The fundamental aim of the *Shari'ah* is to achieve this noble aim, the *Shari'ah* constructs human life on the basis of *ma'rufat* (virtues) and cleanses it of the *munkarat* (vices). It must have become clear that *ma'rufat* denotes all the virtues and good qualities that have always been accepted as "good" by the human conscience. Conversely, *munkarat* denotes all the sins and evils that have always been condemned by human nature as "evil". That is the path to be pursued, the *Shari'ah*.

Dharuriyat namely *maslahat* is primary, on which human life is very dependent on it, both the aspect of *diniyah* (religion) and the worldly aspect. So this is something that cannot be left behind in human life. If it does not exist, human life in the world will be destroyed and the afterlife will be damaged (getting tormented). This is the highest level of benefit. In Islam, *maslahat dharuriyat* is guarded against two sides: first, its realization and embodiment, and second, maintaining its sustainability (Jaya, 1996).

Imam Al-Shatibi (d. 790/1388) defines *al-daruriyyat* in his *al-Muwafaqat*. As one of the categories of the objective of *Shari'ah* is those which are necessary for the achievement of human Beings' spiritual and material well-being and in the absence of which people's earthly interest will suffer harm, thereby leading to corruption, disorder, and the loss of life in this world, and in the next world, to the loss of ultimate spiritual well-being and felicity.

Based on this, the essential values are then divided into (*al-daruriyyah al-khamsa*) namely protection of *al-din*; protection of life; protection of dignity or lineage (*al-'ird*), and protection of property.

The essential value of the above *maqasid shari'ah* is to support the natural endeavor of the human body to return to its natural, healthy state. Health, a dynamic condition of balance, is the result of an individual's ability to cope with internal and external influences.

### 3.2 Laws of Necessity in Islamic Law

In the Islamic Encyclopedia, it is stated that *darurah* is a state of extreme danger or difficulty that befalls a person who is feared to cause damage or illness to the soul, limbs, or honor so that at that time it is permissible to do what is unlawful or leave what is obligatory (Aris, 2011). The concept of *darurah* in Islamic law may help to provide some ideas for protection against diseases and to explore some of the avenues of the Islamic law that can be utilized towards the health objective (Al-Nasimi, 1991, 2: 285-7; Mohammad Muslehuddin, 1973, 37-52).

In the Holy *Qur'an*, Allah (s.w.t) says:

- But if one is compelled by necessity, neither craving (it) nor transgressing, there no sin on him indeed, Allah is forgiving, merciful. (Al- Baqarah (2):173).
- Allah desire ease for you, He desireth not hardship for you. (Al-Baqarah (2):185).
- He hath chosen you and hath not laid upon you religion any hardship. (Al-Hajj (22):78).

Literally, *darurah* is derived from the root *darr* means: to face adversity. The works of jurists often referred to situations of necessity when one is faced with fighting and preventing a *darar*. Also, *darurah* is defined as a situation, which presents the fear of destruction, and substantial harm to one of the essential values, faith, intellect, property, and lineage, involving oneself or another human being. Thus, an emergency is a forced condition to perform prohibited acts or abandon demands/obligations. If you don't do

what is forbidden, you will be harmed/perish, or your body, your wealth, or your honor will be harmed. The opinion quoted by Imam Ahmad bin Hanbal states it is called an emergency if someone believes that his life is almost in danger of being taken away if he does not want to eat something that is haram (Hamzah, 2020).

The jurists established legal maxims under the rules of *darurah*. Among the most frequent legal maxims that relate to the preservation of health are:

- *al-Darurat tubih al-mahzurat* (necessity makes the unlawful lawful).
- *al-Darar yuzal* (harm must be eliminated).
- *al-Darar yudfa' bi qadr al-imkan* (harm is to be prevented to the extent that is possible).
- *al-Darurat tuqdar biqadriha* (necessity must be measured in accordance with its true proportions).
- *la darar wa la dirar fi al-Islam* (no injury should be imposed nor an injury to be inflicted as a penalty for another injury).

The maxim is the general principle and guidelines that have been derived from the totality of the evidence of the *Qur'an* and *Sunnah*, and consist basically of the work of Muslim jurists who have put together and formulated a set of abstract guidelines on various legal themes which help to know general message and purpose of the *Shari'ah*.

The legal maxim like "*harm must be eliminated (al-darar yuzal)*" is among the most prominent and the most comprehensive of all legal maxims. It does not specify any type of harm. Therefore, it declares all *darar* regardless of its nature, origin and cause should be opposed

Next, the legal maxim: "necessity must be measured in accordance to its true proportions (*al-darurat tuqdar biqadriha*)" is one of *Shari'ah* principle for the preservation of health. Applying this maxim to medical care, a sick person is allowed to perform *Salah* while sitting, but when the patient recovers, any length of time, the patient is expected to perform *Salah* in the normal way.

### **3.3 Six Necessities (*al-Darurat al-Sittah*) in Islamic Medicine**

The following are their recommendations for the protection and preservation of human health:

1. Moderate in motion and rest;
2. Balance and moderate in eating and drinking;
3. Rejection of excess in every circumstance and condition;
4. Living in healthy surroundings;
5. Avoidance of any excesses, before such bad habits become uncontrollable;
6. Continuous realization of true harmony in ambitions and resolutions;
7. Acquisition of being reserved through the possession of good habits, including proper physical exercise and bathing.

### **3.4. Reconstruction/Recommendation of New Principle/Fundamental Value of Higher Objectives of Islamic law (*Maqasid Shari'ah*)**

It is essential to find out new and relevant principles/necessities of *maqasid shari'ah* since they are directly connected with the objective, nature, and characteristics of Islamic law i.e., justice, happiness, divining origin, free from discrepancies and shortcomings,

flexibility, universal, realistic, contemporary, blessed (*mubaraka*); Arabic; general; accessible to a common unlettered person (*ummiyya*), universal (*amma*; *kulliya*), liberal (*samha*), convenient (*sahla*) and protected (*ma'suma*). The essentials are the matters on which the religion and worldly affairs of the people depend upon, their neglect will lead to total disruption and disorder and it could lead to an evil ending. Therefore besides the classical five essential values (*al-darurah al-khamsah*) namely preservation/protection of faith; preservation/protection of life; preservation/protection of intellect; preservation/protection of property; and preservation/protection of dignity or lineage, the following necessities must be placed in a proper place in *maqasid shari'ah* under the rule of necessities namely:

- *Hifz al-Bi'ah* (Preservation/Protection of Environment) i.e., Air, Water, Mountain

The environmental crisis is one of the major problems of the contemporary world which no doubt affects the five necessities (*al-daruriyyah al-khamsa*). There are various challenges of the post-industrial world and the age of information explosion, with the crisis of global warming or climate change, yet Islamic law scholars do not seriously understand Islamic law when dealing with this crisis.

There is a serious need for a new essential value (*al-daruriyyah*) in *maqasid shariah* namely "preservation/protection of the environment" since we are currently challenged by the crisis of the environment notably the challenge of climate change. The climate Change Conference in Copenhagen organized by United Nation, from 6 December to 18 December 2009 was held with delegations from 192 countries most notably scientists and experts, unfortunately, Islamic law scholars are not among them. The conference was organized with the aim of committing and establishing a new global treaty on climate change which plays a vital role to reduce the carbon greenhouse emission gases from the earth's surface. The earth is global warming by the effect of Green House Effect Gases (GHEG) known as Global Warming. We know that Global Warming is a hot issue in these days, and even it is even in danger position for all living creatures if the Carbon GHES is not reduced right now.

- *Hifz al-Sihhah wa daf al-marad* (Preservation of health and protection of disease)

It is true to say that protection of health as the protection of *al-daruriyyat alkhamsa*. It is necessary to accept "the protection of human health" as a fundamental value in *maqasid shariah*.

Good health is something for which we are accountable to God. It is incumbent upon the grateful servant, to safeguard this blessing and not to allow any change to overcome it through ill-usage. Otherwise, according to Islamic law, he will be severely punished. Allah (S.W.T) says: "Anyone who tampers with God's grace after it has been bestowed on him will find God to be stern in punishment." (Al-Baqarah (2): 211). Interestingly, the command to preserve good health in *Qur'anic* verse occurs side by side with reference to propagating knowledge (*'Ilm*), which is fundamentally important for man.

#### 4. Conclusion

The above discussion reveals to us that *Shari'ah* (Islamic law), irrespective of the variety of its sources and kinds, aims to discover and formulate God's Will and its application leads to happiness, peace, prosperity, progress, glory, and fraternity between components of society. To achieve these objectives and in line with the flexibility of Islamic law (*al-Shari'ah*), the role and place of *Maqasid al-Shariah* must not only protect the five principles/essential values of faith, life, intellect, property, and lineage, introduced by many Muslim scholars notably Imam al-Shatibi in fourteen century but included other two essential values of *al-daririyyat* namely preservation/protection of the environment (*Hifz al-Bi'ah*) and preservation of health and protection of disease (*hifz al-sihhah wa daf' al-marad*).

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