

## Meeting the Challenges of Time: Exploring the Concept of *Maqāṣid Sharī'ah* in the Thought of Jasser Auda

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**Abstract:** This article discusses an overview of *maqāṣid sharī'ah* in the thought of Jasser Auda, which forms the foundation of his approach to Islamic legal philosophy. Auda highlights the importance of understanding *maqāṣid sharī'ah* as the primary goal of Islamic law. He argues that a deep understanding of *maqāṣid sharī'ah* is necessary to produce just and welfare-oriented laws. In this perspective, Auda views Islamic law as an integrated system, where each part is interconnected and contributes to achieving the established goals. Auda also details that his systemic thinking encompasses concepts such as *rahmatan li al-‘ālamīn* (mercy to all creation) and *maslahah* (public interest), as guides for formulating laws that are responsive to the needs of society. This research concludes that Jasser Auda's thoughts on the philosophy of Islamic law, emphasizing *maqāṣid sharī'ah* and Islamic law as an integral system, significantly contribute to understanding how Islamic law can function as a flexible and adaptive instrument in responding to the changes of time. This approach reinforces the idea that Islamic law is not static but can evolve according to its fundamental principles to achieve the welfare of the people and higher moral goals.

**Keywords:** Islamic Legal Philosophy; Jasser Auda; *Maqāṣid Sharī'ah*; Systems Theory

### *Menjawab Tantangan Zaman: Menelusuri Pemikiran Jasser Auda tentang Konsep Maqāṣid Sharī'ah*

**Abstrak:** Artikel ini membahas tinjauan tentang *maqāṣid sharī'ah* dalam pemikiran Jasser Auda, yang merupakan fondasi dari pendekatannya terhadap filsafat hukum Islam. Auda menyoroti pentingnya memahami *maqāṣid sharī'ah* sebagai tujuan utama dari hukum Islam. Ia berpendapat bahwa pemahaman yang mendalam terhadap *maqāṣid sharī'ah* diperlukan untuk menghasilkan hukum yang adil dan berorientasi pada kesejahteraan umat. Dalam perspektif ini, Auda memandang hukum Islam sebagai suatu sistem yang terintegrasi, di mana setiap bagian saling terkait dan memberikan kontribusi terhadap mencapai tujuan yang ditetapkan. Auda juga merinci bahwa pemikiran sistemnya mencakup konsep-konsep seperti *rahmatan li al-‘ālamīn* (rahmat bagi semesta alam) dan *maslahah* (kemaslahatan), sebagai panduan

*untuk merumuskan hukum yang responsif terhadap kebutuhan masyarakat. Penelitian ini menyimpulkan bahwa pemikiran Jasser Auda tentang filsafat hukum Islam, dengan menekankan pada maqāṣid sharī'ah dan hukum Islam sebagai sistem yang integral, memberikan kontribusi signifikan terhadap pemahaman tentang bagaimana hukum Islam dapat berfungsi sebagai instrumen yang fleksibel dan adaptif dalam merespons perubahan zaman. Pendekatan ini memperkuat ide bahwa hukum Islam tidak statis, tetapi dapat berkembang sesuai dengan prinsip-prinsip yang mendasarinya untuk mencapai kesejahteraan umat dan tujuan moral yang lebih tinggi.*

**Katakunci:** Filsafat Hukum Islam; Jasser Auda; Maqāṣid Sharī'ah; Teori Sistem

## A. Introduction

The Philosophy of Islamic Law focuses not only on the application of religious rules, but also on understanding the basic principles of Islamic law that can adapt to evolving social challenges.<sup>1</sup> In today's Muslim societies, there are a variety of deepening social problems, such as poverty, ignorance, socio-economic inequality, and injustice towards women and people with disabilities.<sup>2</sup> All these problems require more attention from Muslim scholars to find new ways for Islamic law to remain relevant and provide solutions in dealing with these issues, because Islam is a religion that is suitable for all times and places.<sup>3</sup> Islamic values and teachings have a significant position in shaping the social and legal structure of Muslim societies.<sup>4</sup> For this reason, understanding the basic concepts in Islamic law is very important, so that Islam can remain a religion that is relevant and in accordance with the times.<sup>5</sup>

One approach that is considered relevant in addressing the challenges of the times is *maqāṣid sharī'ah*, which refers to the main objectives of Islamic law.<sup>6</sup> These

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<sup>1</sup>M. Syaikhul Arif, "Sifat and Karakteristik Hukum Islam," *Siyasah: Jurnal Hukum Tata Negara* 3, no. 2 (2020): 30–38.

<sup>2</sup>Muhammad Halif et al., "Relevansi Tafsir Kontekstual Dalam Menjawab Masalah Sosial-Kemasyarakatan Di Abad 21" 1, no. 4 (2024): 135–42.

<sup>3</sup>Vitania Hidayati, "Umat Islam Dan Modernitas : Menjaga Relevansi Di Era Perubahan" *Prosiding Konferensi Nasional Mahasiswa Sejarah Peradaban Islam (KONMASPI)* 1, (2024).

<sup>4</sup>Rifki Abror Ananda and Ahmad Khoirul Fata, "Sejarah Pembaruan Islam Di Indonesia," *Jawi* 2, no. 1 (2019): 19–40, <https://doi.org/10.24042/jw.v2i1.4121>.

<sup>5</sup>Ridwan, Kurniati, and Misbahuddin, "Relevansi Fungsi Dan Tujuan Hukum Islam Dalam Era Modern," *Al-Mutsala* 5, no. 2 (2023): 390–404, <https://doi.org/10.46870/jstain.v5i2.838>.

<sup>6</sup>Muhammad Alvin Algifari and Rozi Andriani, "Maqasid Syariah Dalam Pengembangan Ekonomi Islam (Analisis Komprehensif Dan Implementasi)," *Journal of Sharia Economics Scholar (JoSES)* 2, no. 3 (2024): 95–100, <https://doi.org/10.5281/zenodo.14522804>.

objectives include the welfare of humanity (*maslahah*), justice, and the protection of individual and group rights.<sup>7</sup> *Maqāṣid sharī'ah* focuses not only on the rules or legality of the law, but also on its ultimate goal, which is the achievement of social and economic welfare in society.<sup>8</sup> Therefore, studying *maqāṣid sharī'ah* is essential in building an Islamic legal system that can address contemporary problems faced by Muslims, including social and economic inequality.<sup>9</sup>

In addition to *maqāṣid sharī'ah*, there is another concept that is no less important in the study of Islamic legal philosophy, namely system theory. This concept considers Islamic law as a system consisting of various elements that are interrelated and adaptive to changing times. In this view, Islamic law is not simply applied mechanically based on existing texts, but must also consider the changing social and cultural context.<sup>10</sup> Systems theory makes room for evolving social dynamics and offers a more flexible approach to the application of Islamic law in the modern world.<sup>11</sup>

Jasser Auda is a contemporary thinker who has made significant contributions in developing an understanding of *maqāṣid sharī'ah* and the application of systems theory in Islamic law.<sup>12</sup> In his thought, Auda emphasizes that Islamic law must adapt to the social and cultural changes that occur.<sup>13</sup> He argues that *maqāṣid sharī'ah* must

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<sup>7</sup>Muhammad Iqbal, Lomba Sultan, and Asni, "Fungsi Dan Tujuan Hukum Islam Dan Korelasinya Dengan Pembinaan Masyarakat The Functions and Objectives of Islamic Law and Their Correlation with Community Development," *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam* 10, no. 2 (2023): 175–89.

<sup>8</sup>Asli Nasution, Muchlis Bahar, and Boiziardi As, "Tingkatan Al-Maqashid Al-Khamsah Dan Penerapannya; Levels of Al-Maqashid Al-Khamsah and Their Application" *Jurnal Kolaboratif Sains* 7, no. 12 (2024): 4656–70, <https://doi.org/10.56338/jks.v7i12.6609>.

<sup>9</sup>Abdul Waid and Niken Lestari, "Teori Maqashid Al-Syari'ah Kontemporer Dalam Hukum Islam Dan Relevansinya Dengan Pembangunan Ekonomi Nasional," *Jurnal Labatila* 4, no. 01 (2020): 94–110, <https://doi.org/10.33507/lab.v4i01.270>.

<sup>10</sup>Dikson T. Yasin, "Teori Sistem Ijtihad Jasser Audah," *Jurnal Studi Islam* 12, no. 2 (2020): 253–431.

<sup>11</sup>Fadhilah Khunaini, "Relevansi Hukum Islam Dalam Dinamika Kontemporer: Analisis Kontekstual Terhadap Prinsip Maqashid Al-Shariah," *JPIK: Jurnal Pemikiran dan Ilmu Keislaman* 7, no. 1 (2024): 38–54.

<sup>12</sup>Dayu Aqraminas, "Kontribusi Jasser Auda Dalam Kajian Al-Qur'an: Interpretasi Berbasis Sistem," *Ushuluna: Jurnal Ilmu Ushuluddin* 1, no. 2 (2020): 125–44, <https://doi.org/10.15408/ushuluna.v1i2.15293>.

<sup>13</sup>Deni Mulyadi, "Pengembangan Harta Wakaf di Dayah Ummul Ayman Samalangka Kabupaten Bireuen (Studi Menurut Konsep Maqasid Syari'ah Jasser Auda)," *Skripsi* (Banda Aceh: Universitas Islam Negeri Ar-Raniry, 2023).

be applied by considering the existing social conditions, not just based on traditional interpretations alone.<sup>14</sup> In addition, Auda also suggests that the Islamic legal system be understood as a more open and dynamic system, which can provide solutions to Muslims' socio-economic problems.<sup>15</sup> Auda proposes a more comprehensive view of the relationship between Islamic values and Islamic law in the context of modern times, which differs from more conservative understandings that focus on religious texts alone.<sup>16</sup>

Although there are several studies that discuss *maqāṣid sharī'ah* and systems theory in Islamic legal philosophy, Auda's thoughts on these two concepts have not been much explored in depth. Existing research tends to only provide a general description of these concepts, without criticizing their relevance and application in a broader social context. This research aims to fill this void by examining Auda's views on *maqāṣid al-sharī'ah* and systems theory. It will explore how Auda understands these two concepts and how their application can offer solutions to the social and legal challenges facing Muslims in the modern world.

This research uses a qualitative approach with a library research method. This approach was chosen because it aims to understand more deeply Auda's views on *maqāṣid al-sharī'ah* and systems theory through a study of his monumental work, *Maqāṣid al-Sharī'ah Kafalsafah li al-Tashri' al-Islami: Ru'yah Mandzumiyah*. The book provides a more in-depth overview of Auda's thoughts on Islamic law and its relevance to social issues facing Muslims. By focusing on this text, this research will analyze various related topics, including the development of *maqāṣid sharī'ah* in modern views, systems philosophy, the history of *fiqh* madhhabs, as well as systems theory approaches in Islamic law.

This research is expected to make a significant contribution in enriching contemporary Islamic legal thought. By analyzing Auda's views in depth, it is

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<sup>14</sup>Waid and Lestari, "Teori Maqashid Al-Syari'Ah Kontemporer Dalam Hukum Islam Dan Relevansinya Dengan Pembangunan Ekonomi Nasional."

<sup>15</sup>Fahrul Ulum, "Konstruksi Keilmuan Hukum Ekonomi Islam Pendekatan Teori Sistem Jasser Auda," *Maliyah: Jurnal Hukum Bisnis Islam* 2, no. 1 (2012): 306–28.

<sup>16</sup>Hengki Ferdiansyah, *Pemikiran Hukum Islam Jasser Auda* (Ciputat: Eriteria Media Daria, 2014).

expected to find a more comprehensive understanding of how *maqāṣid al-sharī'ah* and System Theory can be applied in facing socio-economic challenges in the modern world. In addition, this research is also expected to provide new insights into how Islamic law can be more dynamic and relevant in the context of an evolving Muslim society. The results of this research can be an important reference for scholars, Islamic law practitioners, as well as people who are interested in understanding the application of Islamic law in the era of globalization.

## **B. Biography of Jasser Auda**

Jasser Auda was born in 1966 in Cairo, Egypt. In this city, Auda studied religious sciences in the circles (*halaqah*) held at the al-Azhar Mosque in Cairo (1983-1992). He pursued his formal education at Cairo University, majoring in Communication Sciences. He completed his undergraduate studies in 1988 and obtained his master's degree in 1993.<sup>17</sup> After obtaining an M.Sc (Master of Science) degree from Cairo University, Auda pursued doctoral studies in the field of system analysis at the University of Waterloo, Canada, and obtained his Ph.D. in 1996.<sup>18</sup>

Despite having attained a doctoral degree, Auda's enthusiasm for learning never ceased. He returned to study at the Islamic American University, focusing on a different field from before, which was Islamic law as part of Islamic studies. Three years later, precisely in 1999, he obtained his second Bachelor's degree, a BA (Bachelor of Arts). At the same campus, he pursued a Master's degree with a concentration in Islamic Law and completed it in 2004. Later, he went to the United Kingdom to pursue a doctoral degree at the University of Wales and graduated in 2008.<sup>19</sup>

In terms of religious studies, Auda was greatly influenced by the thoughts of Muhammad al-Ghazali, Yusuf al-Qaradhawi, Taha Jabir al-Alwani, Hasan Turabi, and Ismail Sadiq al-Adawi. These figures are known as reformers of Islamic law.

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<sup>17</sup> *Ibid.*

<sup>18</sup> Andi Triyawan, *Maqāṣid Syariah Menurut Jasser Auda* (Bandung: Media Sains Indonesia, 2020).

<sup>19</sup> Jasser Auda, *Baina al-Syarī'ah wa al-Siyasah: Asilatu li Marhalati Ma Ba'da al-Tsaurah*, (n.d.).

Meanwhile, in the field of science, particularly in systems analysis, Bartanlanffy and Lazslo greatly influenced Auda's thought. Additionally, he was also inspired by the thoughts of Rudolf Von Jhering, the founder of the social utilitarianism.<sup>20</sup>

Jasser Auda is considered a highly productive intellectual, with dozens of writings produced by his hands in both English and Arabic. Among his published books are: *Fiqh al-Maqāṣid: Understanding Islamic Law Based on Its Objectives*, *Maqāṣid al-Sharī'ah as Philosophy of Islamic Law*, *Maqāṣid al-Sharī'ah: Evidence for Beginners*, *Between Shariah and Politics*, and others.<sup>21</sup> His writings have been published in the form of books and hundreds of articles in journals, media articles, book chapters, DVDs, public lectures, and online journals distributed worldwide. Additionally, he has received numerous awards for his work.<sup>22</sup>

After completing his master's studies at Cairo University in 1993, Jasser Auda moved to Canada to pursue doctoral education. Following this, he focused more on his career in the West than in the Middle East. Apart from being a lecturer at the University of Waterloo, he also taught at various campuses, including Carleton University, the Islamic University of Novi Pazar in Serbia, Alexandria University in Egypt, among others. Auda has also been active in several Islamic organizations such as the European Council for Fatwa and Research. Additionally, he has established several foundations or research institutions for the development of Islamic law, including the Maqāṣid Centre, the al-Furqan Islamic Heritage Foundation, the Cordoba Initiative, among others.<sup>23</sup>

Jasser Auda also teaches at the Faculty of Islamic Studies Qatar (QFIS), focusing on Public Policy studies within the Islamic Studies program. He is a founding member of the International Union of Muslim Scholars based in Dublin; a member of the Academic Council of the International Institute of Islamic Thought in London, England; a member of the International Institute for Advanced Systems Research (IIAS) in Canada; a supervisory member of the Global Civilisation Studies Centre

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<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> Ilham Mashuri, "Pendekatan Sistem Dalam Teori Hukum Islam : Perspektif Jasser Auda," *Fitrah: Jurnal Kajian Ilmu-Ilmu Keislaman* 5, no. 1 (2019): 13.

<sup>23</sup> *Ibid.*

(GCSC) in England; a member of the Executive Council of the Association of Muslim Social Scientists (AMSS) in England; a member of the Forum Against Islamophobia and Racism (FAIR) in England; and a consultant for Islamonline.net.<sup>24</sup> He also serves as the director and founder of the Maqāṣid Research Center in London, England, and is a visiting lecturer for the Faculty of Law at Alexandria University in Egypt, the Islamic Institute of Toronto in Canada, and the Academy of Islamic Jurisprudence in India.<sup>25</sup>

### C. Islamic Law: A Jasser Auda's Perspective

In *Khulāṣah Bidāyah al-Mujtahid wa Nihāyah al-Muqtasid*, Auda explains that Islamic jurisprudence (*fiqh*) as a product of Islamic law in its time needs reformulation so that the resulting meanings align with the higher objectives of Shariah (*maqāṣid sharī'ah*).<sup>26</sup> Since the Quran is the highest source of Islamic law, according to Auda, it is imperative to utilize the objectives of Shariah (*maqāṣid sharī'ah*) in interpreting the Quran. All of this aims to achieve a holistic and comprehensive interpretation oriented towards welfare, while remaining grounded in the fundamental principles of the Quran. At this point, Auda sees the importance of using thematic interpretation to understand Quranic verses holistically and comprehensively because it allows for the correlation between one verse and another (*munāṣabat*).<sup>27</sup>

Auda proposes two approaches: First, the time and history approach; and second, the systems approach. In the time and history approach, there are two minimal theories used: the idealist approach, where researchers attempt to understand and interpret historical facts by fully believing in the existing facts without doubt, and the reductionist approach, where researchers attempt to understand and interpret facts and

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<sup>24</sup>Sholihul Huda, "Filsafat Sistem Dalam Studi Hukum Islam Perspektif Jasser Auda," *Al-Hikmah: Jurnal Studi Agama-Agama* 8, no. 1 (2022): 14.

<sup>25</sup>Muhammad Syaifullah, "Pendekatan Sistem Terhadap Hukum Islam Perspektif Jasser Auda," *Mahkamah* 3, no. 2 (2018): 221.

<sup>26</sup>Jasser Auda dan Muhammad Salim Al-ʿAwa, *Khulasah Bidayah Al-Mujtahid Wa Nihayah Al-Muqtasid* (Kairo: al-Shuruq al-Dauliyyah, 2009).

<sup>27</sup>Hafidhuddin, "Kerukunan Umat Beragama (Studi Maqāṣid As-Syari'ah Perspektif Jasser Auda)," *Jurnal Mafatih* 2, no. 1 (2022): 22.

history with skepticism. In this study, the time and history approach used by Auda is the first step taken to map the history of the development of Islamic law from traditional Islam, to modern, and postmodern Islam.<sup>28</sup>

Auda divides traditionalist groups into several categories: traditionalist scholastics, neo-traditionalist scholastics, neo-literalists, and groups oriented towards ideological theory. Modernist groups are divided into several categories: new interpretation reforms, apologetic re-interpretation, *maṣlaḥah*-oriented theories, and *uṣūl* revisionism. Meanwhile, postmodernism is a perspective supported by contemporary intellectuals aimed at deconstructing and reconstructing layered arts, culture, and intellectual traditions.<sup>29</sup>

Auda proposes changes in the study of Islamic law on two simultaneous dimensions: the approach to *ijtihād* and its methodological tools, and the *Maqāṣid* paradigm as the basis of Islamic legal philosophy. Auda explains the importance of distinguishing between Shariah, Fiqh, fatwa, qanun, and urf. Regarding the approach to the study of Islamic law, Auda emphasizes the urgency of integrating the study of Islamic law with other disciplines in addressing contemporary fiqh issues. The systemic approach offered by Auda is considered more responsive in conducting legal *ijtihād*.<sup>30</sup>

He also divides Islamic legal thought into three groups in understanding textual sources: First, the literalist/stagnation group, which understands the law scripturally, without considering the substantive meaning of the text (*maqāṣid*). Second, the secularism/westernization group, which understands the law based on contemporary philosophy and methodology, where Western civilization is used as a reference in *ijtihād* by negating the textual sources. Third, the centrism/renewal group,

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<sup>28</sup>Ari Murti, "Menguak Pemikiran Jasser Auda Tentang Filsafat Hukum Islam," *Citizen: Jurnal Ilmiah Multidisiplin Indonesia* 1, no. 2 (2021): 62.

<sup>29</sup>Nur Solikin, "Menguak Pemikiran Jasser Auda Tentang Filsafat Hukum Islam," *Al-Adalah* 16, no. 2 (2012): 185–89.

<sup>30</sup>Maulidi, "Maqāṣid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda," *Al-Mazahib* 7, no. 1 (2019): 120.



which compromises between the two aforementioned approaches by making *maqāṣid* the basis of *ijtihād*.<sup>31</sup>

Jasser Auda offers a critique of the reductionist approach to understanding Islamic law, just as Mustafa Al-Siba'iy criticized the orientalist view of the Prophet's hadith and sunnah. This approach emphasizes the need to understand Islam through a broader and holistic maqasid perspective, not just a rigid textual approach.<sup>32</sup>

#### ***D. Maqāṣid Sharī'ah***

The term "*Maqāṣid Sharī'ah*" is a combination of the words "*Maqāṣid*" and "*Sharī'ah*". "*Maqāṣid*" is the plural form of the word "*maqṣid*". It originates from the root word "*qa-sa-da*", which means "to approach something" and "something to become gathered". For example, saying "*aḡṣadahu al-sahma*" means "the arrow hit its target". Stating "*al-naqah al-qāṣid*" means "the she-camel is fat (because it is full of meat)".<sup>33</sup> Meanwhile, the word "*Sharī'ah*" etymologically means "a path to a watering place, a path to a water source, or a path that must be followed or the passage of water in a river". Thus, "*Maqāṣid Sharī'ah*" in terminology implies the intended purpose or objective of Islamic legislation, with an emphasis on the wisdom and reasons for the establishment of a law.<sup>34</sup>

The embryonic concept of *Maqāṣid Sharī'ah* can be traced back to the era of the companions of the Prophet, such as in the actions of Umar ibn al-Khattab (may Allah be pleased with him). There are several incidents that demonstrate how Umar applied this concept in addressing various issues of his time, such as the distribution of land under the control of the Islamic state in Egypt and Iraq at that time. The companions requested Umar to distribute the land seized in war to the soldiers who had participated

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<sup>31</sup>Auda, *Maqāṣid al-Sharī'ah Kafalsafah li al-Tashri' Al-Islami: Ru'yah Mandzumiyyah* (London: International Institute of Islamic Thought, 2012).

<sup>32</sup>Muhammad Arwani Rofi'i, "Mustafa Al-Siba'iy Dan Kritikanya Terhadap Pandangan Orientalis Tentang Hadis Dan Sunnah Nabi," *Kabilah: Journal of Social Community* 4, no. 1 (2019): 90–107, <https://doi.org/10.35127/kbl.v4i1.3679>.

<sup>33</sup>Abu al-Husein Ahmad bin Faris bin Zakariyyah, *Mu'jam Maqayis al-Lughah*, vol 5 (Beirut: Dar al-Jail, n.d.).

<sup>34</sup>Ah. Soni Irawan, "Maqāṣid al-Sharī'ah Jasser Auda Sebagai Kajian Alternatif Terhadap Permasalahan Kontemporean," *The Indonesian Journal of Islamic Law and Civil Law* 3, no. 1 (2022): 41–42.

in the battle. They presented evidence from the Quran that clearly and definitively stated that the spoils of war could be distributed to the soldiers who fought. However, Umar refused to distribute the land to the fighting soldiers to the extent requested. He built his argument based on another more principled Quranic verse, which emphasized Allah's intention not to restrict wealth to certain individuals or the wealthy.<sup>35</sup>

Two centuries later, precisely in the 5th to 8th centuries AH (11th to 14th centuries CE), the concept of *Maqāṣid* developed into a more philosophical and systematic framework. Given that the *Maqāṣid* model that had developed in the earlier eras until the 5th century AH could no longer adequately address the advancements in the world and civilization, the concept of *al-maṣlahah al-mursalah* (unrestricted public interest) was developed into what is not explicitly mentioned in the two authentic sources of Islam, the Quran and Hadith. This concept later became the beginning of the discourse on *maqāṣid*. The first figure to introduce the concept of *maqāṣid* was Imam al-Juwayni (d. 478 AH / 1085 CE) in his book *al-Burhān fī Uṣūl al-Fiqh*. This book was the first work to explain the hierarchy of basic needs that we now know, and it also became the framework for *maqāṣid*.<sup>36</sup>

Furthermore, there is Abū Ḥamīd al-Ḡazālī (d. 505 AH / 1111 CE) in his work *al-Muṣtaṣfā min 'Ilm al-Uṣūl*. Al-Ḡazālī systematized the necessities introduced by his teacher, al-Juwayni, into: (1) religion, (2) life, (3) intellect, (4) lineage, and (5) property. Another scholar who developed the theory of *al-maqāṣid* is 'Izz al-Dīn ibn 'Abd al-Salām (d. 660 AH / 1209 CE) in his book *Qawā'id al-Aḥkām fī Maṣāliḥ al-Anam, Maqāṣid al-Ṣalāh, and Maqāṣid al-Ṣawm*. Among these three works, the first mentioned is the one that made the greatest contribution to the theory of *al-maqāṣid*.<sup>37</sup>

Other prominent figures include Shihāb al-Dīn al-Qarafi (d. 684 AH / 1285 CE), Shams al-Dīn Ibn Qayyim (d. 748 AH / 1347 CE), and later the theory of *maqāṣid* underwent significant conceptual development in the hands of Abū Ishāq al-Shātībī (d. 790 AH / 1388 CE) through his work *al-Muwāfaqat fī Uṣūl al-Sharī'ah*,

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<sup>35</sup>Danial, *Epistemologi Hukum Islam Jasser Auda* (Lhoksumawe, 2021).

<sup>36</sup>*Ibid.*

<sup>37</sup>'Izz al-Din Ibn 'Abd Al-Salam, *Qawa'id al-Ahkām fī Masalih Al-Anam* (Beirut: Dar al-Nasr, n.d.).

earning him the title "father of *Maqāṣid al-Sharī'ah*."<sup>38</sup> In this work, Shāṭibī developed the concept of *maqāṣid* by undertaking three important steps. First, he elevated *maqāṣid* from mere interests to the principles of law. In this context, Shāṭibī viewed *maqāṣid* as the foundation of religion, the principles of *sharī'ah*, and the fundamentals of the community. Second, he moved from the wisdom behind the rules to the basis of the rules. To achieve this, he divided Quranic verses into two categories: universal verses (such as goodness, justice, compassion, and so on) and specific verses (such as verses about marriage, trade, governance, and others). Third, he shifted from uncertainty to certainty in *maqāṣid*.<sup>39</sup>

The theory of *maqāṣid* continued to be developed by scholars born in the 20th century CE or entering into the modern/contemporary era, including Muḥammad Ṭāhir Ibn 'Ashūr (1879-1973 CE) from Tunisia, who is considered the "father of contemporary *Maqāṣid al-Sharī'ah*" after al-Shāṭibī. Ibn 'Ashūr succeeded in establishing *Maqāṣid al-Sharī'ah* as a new concept independent of the study of Uṣūl al-Fiqh.<sup>40</sup> As a value, *Maqāṣid al-Sharī'ah* is an integral part of the study of *maṣlaḥah mursalah*, *istiḥṣān*, and *qiyās* in the field of Uṣūl al-Fiqh. However, in its development, the study of *Maqāṣid al-Sharī'ah* increasingly demonstrates its urgency in the determination of Islamic law, especially in responding to contemporary legal issues.<sup>41</sup>

Maqasid can be classified into various aspects, depending on the dimension perceived by a jurist or scholar, such as: dimension of necessity, legal dimension striving to achieve *maqasid*, Categories of people covered, Level of universality of Maqasid.<sup>42</sup> Maqasid al-Shariah has three main objectives: primary objectives (*darūriyat*), are necessities that must be achieved in worldly life and the hereafter;

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<sup>38</sup>Retna Gumanti, "Maqāṣid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)," *Jurnal Al-Himayah* 2, no. 1 (2018): 102.

<sup>39</sup>Auda, *Maqāṣid Al-Sharī'ah Kafalsafah Li Al-Tashri' Al-Islami: Ru'yah Mandzumiyyah*.

<sup>40</sup>Gumanti, "Maqāṣid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)."

<sup>41</sup>Maulidi, "Maqāṣid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda."

<sup>42</sup>Syukur Prihantoro, "Maqāṣid Al-Syari'ah Dalam Pandangan Jasser Auda (Sebuah Upaya Rekonstruksi Hukum Islam Melalui Pendekatan Sistem)," *Jurnal At-Tafkir* 10, no. 1 (n.d.): 123.

secondary objectives (*hajjiyāt*), aim to avoid hardship and adversity in life; tertiary objectives (*taḥṣiniyāt*), focus on maintaining propriety and etiquette in life.<sup>43</sup>

The primary goal of *maqasid* al-shariah is *jalb al-maṣālih wa daf'u al-mafāsid* (bringing about benefits and preventing harm), which is reflected and detailed in several aspects, namely: preserving the objectives of creation, ensuring that the law can be understood by the accountable individuals (*mukallaḥ*), clarifying the burden and responsibility of the law on the accountable individuals, and emphasizing that obedience/compliance must come with sincere intention.<sup>44</sup> Based on its principles and applications, *sharī'ah* contains many ethical values, including justice, mercy, wisdom, and goodness. All of these ethical values can lead humans to a prosperous way of life.<sup>45</sup>

The *maqasid shari'ah* approach developed by Jasser Auda includes aspects of social justice and harmony in social life. One of the main principles in *maqasid* is to create balance and tolerance between religious communities. The study of religious traditions in Balun-Turi Village, Lamongan, is a clear example of how harmony between religion and culture can be realized in social life.<sup>46</sup>

#### E. Jasser Auda's Thought on the *Maqāṣid al-Sharī'ah*

Auda's thoughts on *maqāṣid al-sharī'ah* began with concerns about various inhumane events carried out in the name of Islamic law, such as the bombings in London on July 7, 2005, which claimed 52 lives, among many other incidents that undermined human values.<sup>47</sup> He is renowned as a contemporary scholar who has made groundbreaking contributions to the development of Islamic jurisprudence, particularly *Maqasid al-Shariah*. No contemporary scholar has conducted analytical

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<sup>43</sup>Mukhlisli, "Konsep Maqāṣid al-Sharī'ah Sebagai Teori Pembentukan Hukum Islam Tak Pernah Tuntas Perspektif Jasser Auda," *JAU: Jurnal Penelitian dan Pemikiran Islam* 1, no. 1 (2014).

<sup>44</sup>*Ibid.*

<sup>45</sup>Dedisyah Putra, "Metodologi Maqāṣid Al-Syari'ah Jasser Auda Sebagai Pendekatan Baru Sistem Hukum Islam," *Al-Syakhshiyyah* 4, no. 1 (2002): 90.

<sup>46</sup>Muhammad Arwani Rofi'i and Nurin Alfiani, "Religious Traditions in Balun-Turi Village, Lamongan: Representation of Religious and Cultural Harmony in Indonesia," in *Proceedings of International Conference on Muslim Society and Thought* (Surabaya: Faculty of Ushuluddin and Philosophy, UIN Sunan Ampel, 2024), 255, <https://doi.org/https://doi.org/10.15642/ICMUST.4.2024.1666>.

<sup>47</sup>Triyawan, *Maqāṣid Syariah Menurut Jasser Auda*.

studies like Auda. His in-depth research on *Maqāṣid al-Sharī'ah*, utilizing a systemic approach he studied during his doctoral studies, stands unparalleled.<sup>48</sup> According to Auda, Shariah fundamentally embodies principles grounded in wisdom and the welfare of humanity. Shariah encompasses justice, mercy, wisdom, and benefit. Therefore, anything that deviates from justice, fails to embody mercy, wisdom, and benefit, cannot be considered Shariah, even if it involves legal interpretations.<sup>49</sup>

The concept of *maqāṣid* in classical Islamic legal theory is still limited to individual interests. According to Auda, this scope should be expanded to encompass broader realms; from individual to societal or human community levels. From safeguarding lineage (*ḥifẓ al-nasl*) to safeguarding the family (*ḥifẓ al-usrah*); from protecting reason (*ḥifẓ al-'aql*) to the realization of scientific thinking or the spirit of seeking knowledge; from preserving life (*ḥifẓ al-nafs*) to protecting human dignity (*ḥifẓ al-karāmah al-insāniyah*) or human rights protection (*ḥifẓ hūqūq al-insāniyah*); from protecting religion (*ḥifẓ al-dīn*) to protecting freedom of belief (*ḥurriyah al-i'tiqād*); from safeguarding wealth (*ḥifẓ al-māl*) to realizing social solidarity.<sup>50</sup>

In Jasser Auda's thinking, family protection (*hifz al-usrah*) is a development of the concept of *hifz al-nasl* in *maqasid shari'ah*. This principle emphasizes the importance of choosing a life partner who is in line with Islamic morality values. In this context, the meaning of the ideal partner in Surah Al-Nur [24]: 26 becomes relevant as a foundation in choosing a life partner who is in accordance with the principles of chastity and virtue.<sup>51</sup>

The classical ulema organized the *Maqāṣid al-Sharī'ah* into a pyramid-like hierarchy, starting from the general objectives (*maqāṣid 'āmmah*) at the center, then branching out into specific objectives (*maqāṣid khāssah*), and finally into detailed

<sup>48</sup>Triyawan, *Maqāṣid Syariah Menurut Jasser Auda*.

<sup>49</sup>Muhammad Faisol, "Pendekatan Sistem Jasser Auda Terhadap Hukum Islam: Ke Arah Fiqh Post-Postmodernisme," *Kalam: Jurnal Studi Agama Dan Pemikiran Islam* 6, no. 1 (2012): 44.

<sup>50</sup>Jasser Auda, *Al-Ijtihad Al-Maqāṣidi: Min Al-Tasawwur Al-Usuli Ila Al-Tanzil Al-'Amali* (Beirut: al-Shabakah al-'Arabiyyah li al-Abhath wa al-Nashr, 2013).

<sup>51</sup>Aida Ayu Lestari, Fuji Lestari, and Muhammad Arwani Rofi'i, "Construction of the Ideal Spouse Meaning in Surah Al-Nur [24]: 26: Critique and Solution for Choosing a Life Partner," in *Proceedings of International Conference on Muslim Society and Thought* (Surabaya: Faculty of Ushuluddin and Philosophy, UIN Sunan Ampel, 2024), 255, <https://doi.org/https://doi.org/10.15642/ICMUST.5.2026.1670>.

objectives (*maqāṣid juz'iyah*). On the other hand, they categorized them into *ḍarūriyyāt* (necessities), *ḥajīyyat* (needs), and *taḥsīniyyat* (luxuries). They established a priority order in case of conflicts between different objectives, prioritizing the preservation of religion over life, intellect, and so forth. Despite appearing simple, the application of this theory in reality is challenging and complex. According to Auda, the Maqasid al-shariah with all its levels is not a pyramid-like structure but rather interconnected circles (*dawāir mutadākhilah wa mutaqaṭ'i'ah*), where each aspect is interconnected with the others.<sup>52</sup>

In Auda's assessment, the traditional classification of *Maqāṣid*, as done by al-Shātībī, needs to be reconsidered for contemporary conditions. There are at least four reasons why this is necessary: (1) the scope of traditional *Maqāṣid* is directed towards all of Islamic law in general, thus unable to depict the objectives for specific fields within *fiqh*; (2) traditional *maqāṣid* are highly focused on the individual rather than on the family, society, and humanity at large; (3) the classification of traditional *maqāṣid* does not encompass the most universal fundamental values such as justice and freedom; and (4) traditional *maqāṣid* are derived from literal *fiqh* sources rather than from original real-world realities.<sup>53</sup>

Based on the classical scholars' hierarchy of *maqāṣid* (*ḍarūriyyah*, *ḥajīyyat*, and *taḥsīniyyat*), Auda attempts to divide the hierarchy of *maqāṣid* into 3 groups as follows:<sup>54</sup>

No	Jasser Auda's <i>Maqāṣid</i>	Description
1	<i>Maqāṣid Ammah</i> (general <i>maqāṣid</i> )	Encompassing all benefits found in universal legislative behavior such as justice, equality, tolerance, facilitation, and others. Also included in this category are the essential aspects as found in classical <i>maqāṣid</i> , such as necessities ( <i>ḍarūriyyat</i> ).
2	<i>Maqāṣid Khāssah</i> (specific <i>maqāṣid</i> )	Regarding the benefits ( <i>maṣlaḥah</i> ) within a specific issue, such as the prohibition of harming women within the family sphere, the prohibition of deception in trade by any means, and so forth.
3	<i>Maqāṣid Juz'iyah</i> (partial <i>maqāṣid</i> )	Regarding the most essential benefit ( <i>maṣlaḥah</i> ) of a legal event. People often refer to this benefit as “wisdom/ <i>ḥikmah</i> ” or “secret”.

<sup>52</sup>Usman Betawi, “Maqāṣid Al-Syariah Sebagai Dasar Hukum Islam Dalam Pandangan Al-Syatibi Dan Jasser Audha,” *Jurnal Hukum Responsif* 6, no. 6 (2018): 36.

<sup>53</sup>Auda, *Maqāṣid Al-Shari'ah Kafālsafah Li Al-Tashri' Al-Islami: Ru'yah Mandzumiyyah*.

<sup>54</sup>Mukhlishi, “Konsep Maqāṣid al-Shari'ah Sebagai Teori Pembentukan Hukum Islam Tak Pernah Tuntas Perspektif Jasser Auda.”

*Maqāṣid* becomes crucial in Islamic law, because *maqāṣid* serves as the foundation and main gateway to understanding the law revealed by Allāh to Prophet Muḥammad (peace be upon him). Auda positions *maqāṣid al-sharī'ah* as the bridge between Islamic law and various contemporary issues and challenges, even considering it the primary key. *Maqāṣid* serves as the fundamental gateway for conducting ijtihād towards the reform of Islamic law.<sup>55</sup>

The differences between the concept of *maqāṣid al-sharī'ah* as understood by classical scholars and contemporary interpretations such as those applied by scholars like Jasser Auda are:

1. One difference lies in the context faced by classical scholars and contemporary scholars. Classical scholars lived within their historical context, while contemporary scholars like Jasser Auda interpret and apply *maqāṣid al-sharī'ah* to address the unique social, economic, and political challenges of the modern era.
2. The method of interpretation can also be a point of difference. Classical scholars use a classical approach in interpreting religious texts and extracting *maqāṣid*, whereas contemporary scholars may employ more contextual and philosophical methods of interpretation.
3. Contemporary scholars, including Jasser Auda, emphasize the importance of balance and moderation in realizing *maqāṣid al-sharī'ah*, especially in responding to the complex and diverse challenges of the modern era.
4. Contemporary interpretations place more emphasis on the relevance of *maqāṣid al-sharī'ah* in addressing contemporary social issues, while classical ulema focus more on the application of these principles within their society at that time.
5. Contemporary scholars are more inclined to adapt the principles of *maqāṣid* to the demands of the times, whereas classical scholars are more focused on applying these principles in accordance with their historical context.

The differences do not imply absolute contradiction or disagreement between the views of classical scholars and contemporary scholars. Instead, these differences

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<sup>55</sup>Auda, *Maqāṣid Al-Sharī'ah Kafalsafah Li Al-Tashri' Al-Islami: Ru'yah Mandzumiyyah*.

reflect adaptation and interpretation that are appropriate to the context of the times and the needs of different societies.

#### **F. Jasser Auda's Contribution to the Development of Islamic Law**

Jasser Auda's contribution to the evolution of *maqāṣid* lies in his position as a philosopher of Islamic law with a systemic approach. According to him, Islamic law should be oriented towards *maqāṣid al-shari'ah*, which is the welfare of humanity. No reason can be justified if the *maqāṣid* as the goal of law is neglected, even if it starts from a relatively correct interpretation.<sup>56</sup>

Some examples of incorporating *maqāṣid* into Islamic legal methodology can be explained as follows:

1. *Istishān* based on *maqāṣid*. Traditionally, *istishān* has been understood as an effort to improve the method of *qiyās*. According to Jasser Auda, the focus should not be on the *'illat* (cause), but rather on its *maqāṣid*. Therefore, *istishān* is meant to bypass the implications of *qiyās* by directly applying its *maqāṣid*.
2. *Fatḥ al-Dhara'i* to achieve better *maqāṣid*. Some scholars from the Maliki school propose *fatḥ al-dhara'i*, alongside *sadd al-dhara'i*. Al-Qaraḥi suggests that if something leads to a forbidden goal, it should be blocked (*sadd al-dhara'i*), so something that leads to a good goal should be opened (*fatḥ al-dhara'i*). Prioritizing should be based on *maqāṣid*. Thus, these Maliki scholars not only limit themselves to the negative consequences but also extend to positive thinking.
3. *'Urf* and the goal of universality. In the discussion of *'urf*, Ibn Ashur states that Islamic law must be universal, applicable to all people, anywhere and anytime, in accordance with the messages contained in the Qur'an and hadith.
4. *Istishāb* based on *maqāṣid*. The principle of *istishāb* is logically sound, but its application must align with its *maqāṣid*. For example, the application of the presumption of innocence until proven guilty. Its *maqāṣid* is to uphold the goal of justice. The application of the principle "permissibility until proven prohibition", its *maqāṣid* is to uphold the goals of generosity and freedom of choice.<sup>57</sup>

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<sup>56</sup>Auda, *Maqāṣid Al-Shari'ah Kafalsafah Li Al-Tashri' Al-Islami: Ru'yah Mandzumiyyah*.

<sup>57</sup>Murti, "Menguak Pemikiran Jasser Auda Tentang Filsafat Hukum Islam."



Jasser Auda sees a similarity between *'illah* and *maqāṣid* because *'illah* is defined as *al-ma'nā al-laḍī shurī'a al-ḥukm li 'ajlih* (the meaning due to which a law is legislated). Furthermore, several names of *'illah* such as *al-sabab*, *al-amarah*, *al-dā'i*, *al-bā'ith*, *al-ḥamīl*, *al-manat*, *al-dalīl*, *al-muqtada*, *al-mujib*, and *al-mu'athir* can also serve as reasons for the similarity between *'illah* and *Maqāṣid*. Thus, when there is a principle of *usul* which states: "*al-ḥukm al-shar'ī yadūru ma'a 'illatih; wujūdan wa adaman*" (the Islamic law is contingent upon the presence or absence of an *'illah*), it means a law will be judged to exist if its *'illah* exists and vice versa.<sup>58</sup>

Auda also agrees with the opinion of classical scholars who divide *'illah* into two parts, namely *ta'abbudi* (irrational) and *ta'aqquli* (rational). *'Illah*, a legal reasoning that can be grasped by reason, is often referred to as *al-ta'līl bi al-ḥikmah* (establishing *'illah* with wisdom). And if the *'illah* of a law is not yet known or understood for its wisdom, then its *maqāṣid* (objectives) are *ta'abbudi*.<sup>59</sup>

He thus concludes that *'illah* and wisdom are the same because the rational *'illah* is *al-ta'līl bi al-ḥikmah*, and the wisdom of a law can certainly be sought and accepted by reason (*ta'aqquli*). However, Auda still distinguishes between wisdom and *maqāṣid* (objectives), namely: wisdom is a benefit among several benefits that form the foundation of a law. Whereas *maqāṣid* are benefits that are legislated by the *sharī'ah* or a primary objective of a law in the strong perception (*al-ẓan al-gālib*) of the *ijtihād* of a *mujtahid*, which is why the law is legislated.

So there are three states between wisdom and *maqāṣid*, namely: (a) sometimes there is a difference between wisdom and *maqāṣid*, (b) sometimes wisdom is also a part/branch of *maqāṣid*, and (c) sometimes wisdom is the essence of *maqāṣid* itself.

*Maqāṣid* is employed as a method of *ijtihād* in deriving Islamic law for several reasons, as elucidated by Auda:

<sup>58</sup>Mukhlisi, "Konsep Maqāṣid al-Sharī'ah Sebagai Teori Pembentukan Hukum Islam Tak Pernah Tuntas Perspektif Jasser Auda."

<sup>59</sup>Abbas Arfan, "Maqāṣid Al-Syari'ah Sebagai Sumber Hukum Islam Analisis Terhadap Pemikiran Jasser Auda," *Al-Manahij* 7, no. 2 (2019): 190.

1. *Fahm dilālah al-maqṣid*: This means understanding the implications of *maqāṣid*, implying the permissibility for a mujtahid to derive a conclusion regarding the meaning of a legal text through *maqāṣid*.
2. *Tagayyur al-fatwā bi tagayyur al-zamān ḥasba al-maqāṣid*: This denotes the alteration of a legal verdict due to changes in the circumstances of a particular era, with consideration given to *maqāṣid*. It signifies that the relative nature of a legal verdict is determined by the relativity of *maqāṣid* in a time that is inherently relative and dynamic.
3. *Ḥillu al-ta'ārud bi al-i'tibār al-maqāṣid*: This involves resolving contradictions between evidences through the consideration of *maqāṣid*. In *uṣul al-fiqh*, when there is a literal contradiction between evidences, there are three possible solutions: reconciliation (*al-jam'u*), abrogation (*al-naskh*), and preference (*al-tarjīh*). However, these solutions can also be approached with consideration to *maqāṣid*.
4. *Man'u al-hiyāl al-fiqhiyyah*: This refers to the prohibition of legal stratagems or tricks. Generally, scholars have unanimously agreed to prohibit legal stratagems, as per the prohibition by the Prophet Muhammad (peace be upon him) against the practice of *muḥallil* and *muḥallil lah*, although there are a few cases where certain legal stratagems are permissible.<sup>60</sup>

Due to the four reasons above, Auda proposed five strategies to make *maqāṣid* a new methodology in ijtihad, namely:

1. There must be the courage to change the school of thought theoretically.
2. Thinking in the manner of the Zāhiri school (literalism) by adopting neo-literalism.
3. Applying a philosophy of deconstruction approach.
4. Striking a moderate balance between literalism and historicism; with the caveat that literalism should not neglect *maslahah* (benefit) and historicism should not exceed the authority of revelation, and by restoring the position of *maqāṣid* to its original place.

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<sup>60</sup> *Ibid.*

5. Continuously optimizing the role of the *maqāṣid* concept in the renewal of Islam in all fields.<sup>61</sup>

The System Approach in *Maqāṣid Sharī'ah* according to Auda encompasses the following aspects:

1. Cognitive Nature of the Islamic Legal System: According to Auda, Islamic law (*fiqh*) is a hypothesis resulting from the cognitive construction of legal experts *fi al-dīn al-faqīh*. Islamic law is the result of reasoning and *ijtihād* by jurists who attempt to uncover the hidden meanings or practical implications of *sharī'ah* found in the Quran and Hadith. Thus, the cognitive nature of Islamic law is necessary to validate the highly varied views in determining Islamic law.
2. Wholeness of the Islamic Legal System: Wholeness or integrity of Islamic law can be seen from the evidence used by the scholars of *Uṣūl al-Fiqh*, which is of a "holistic evidence" (*al-ḥujjah al-kullī*) nature, taken into consideration in determining Islamic law. Holistic or comprehensive thinking is also necessary in studying the philosophy of Islamic law to develop semantics and theology.
3. Openness of the Islamic Legal System: Holistic or comprehensive thinking is also necessary in studying the philosophy of Islamic law to develop semantics and theology. Islamic law can be developed according to the needs of the time when facing new changes in various aspects of human life. Islamic law can be flexible according to the context of time, situation, and place.
4. Interrelated Hierarchy within the Islamic Legal System: Although in the *Maqāṣid al-Shariah* as formulated by classical scholars, such as al-Shātībī for instance, there are hierarchies or levels of *maqāṣid*, namely *ḍarūriyat*, *ḥājīyat*, and *taḥsīniyat*, fundamentally, they are interrelated and interconnected. In fact, the fulfillment of one need must be in order to realize the basic needs below it.
5. Multi-Dimensionality of the Islamic Legal System: Since the system is a unity of various interrelated subsystems, so is Islamic law. Therefore, in *ijtihād* to determine Islamic law, one must think multidimensionally.

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<sup>61</sup> *Ibid.*

6. Purposefulness of the Islamic Legal System: In a system, the purpose is the core. A system is formed to achieve a specific purpose, and so is Islamic law. In this case, *maqāṣid* or the objectives of Islamic law are the essence of Islamic law itself. The purposefulness of Islamic law covers the five features of the Islamic legal system above, namely: cognitive nature, wholeness, openness, interrelated hierarchy, and multi-dimensionality.<sup>62</sup>

Auda's thoughts on system philosophy and theory are influenced by many system philosophy figures, especially Bertalanffy, the "father of system theory." Besides, other figures also significantly contribute to Jasser Auda's theory and philosophy, such as D. Katz, L. Kahn, Ackoff, Churchman, Boulding, Bowler, Maturana, Varela, Luhmann, Waeber, H. Simon, J. Jordan, S. Beer, and Skyttner. The theories and thoughts of these figures are then restructured by Auda, giving rise to a new proposal applicable to philosophy and law. According to Auda, various system theories offered by these figures are generally designed for the field of physics. Moreover, according to Auda, many classifications by system figures are still binary and monodimensional, which contradicts the multidimensional and universal features of the system. For example, Weaver's dichotomy between "simple" and "complex," and the classification of "living" and "non-living" by Bertalanffy, Jordan, Salk, and Checkland.<sup>63</sup>

Auda believes that the objectives of Islamic law (*maqāṣid al-shari'ah al-Islamiyyah*) serve as fundamental and primary principles, as well as a methodology in analysis based on systems. Moreover, because the effectiveness of a system is measured by the fulfillment of its intended objectives, the effectiveness of the Islamic legal system is also measured by the fulfillment of its primary objectives (*maqāṣid*).<sup>64</sup>

The following is a table of the shift from classical *maqāṣid al-shari'ah* to contemporary *maqāṣid al-shari'ah*:

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<sup>62</sup>Auda, *Maqāṣid Al-Shari'ah Kafalsafah Li Al-Tashri' Al-Islami: Ru'yah Mandzumiyyah*.

<sup>63</sup>Akhmad Supriadi, "Sistem Sebagai Filsafat (Tawaran Baru Jasser Auda Bagi Pengembangan Hukum Islam Kontemporer)," *Jurnal Studi Agama Dan Masyarakat* 13, no. 2 (2017): 224.

<sup>64</sup>Lukman Hakim and Akhmad Rudi Maswanto, "Maqāṣid Al-Syari'ah Ala Jasser Auda Upaya Mereformasi Hukum Islam Melalui Pendekatan Teori Sistem," *Al-Ashlah* 1, no. 1 (2022): 24.

No	The Classical <i>Maqāṣid</i>	Contemporary <i>Maqāṣid</i>
1	Preserving Lineage ( <i>al-Nasl</i> )	Theory oriented towards family protection; greater concern for the family institution.
2	Preserving the Intellect ( <i>al-'Aql</i> )	Multiplying patterns of thought and scientific research; prioritizing journeys in pursuit of knowledge; suppressing patterns of thought that prioritize the criminality of mob crowds.
3	Preserving the soul and dignity ( <i>al-'Irdh</i> )	Preserving and protecting the dignity of humanity; safeguarding and defending human rights.
4	Preserving the religion ( <i>al-Dīn</i> )	Safeguarding, protecting, and respecting religious or belief freedom.
5	Preserving wealth ( <i>al-Māl</i> )	Prioritizing social care; paying attention to economic development and growth; promoting human welfare; bridging the gap between the rich and the poor.

The paradigm shift and transition from old *maqāṣid* theory to the new *maqāṣid* theory lie in their respective focal points. The emphasis of the old *maqāṣid* is more on protection and preservation, while the new *maqāṣid* theory emphasizes development and rights. In the effort to develop the concept of *maqāṣid* in this new era, Jasser Auda proposes human development as the expression of his obsession and the primary target of contemporary public interest (*maṣlaḥah*).<sup>65</sup>

According to Auda's observation, it is crucial to understand how to position the texts (*naṣ*). In traditional scholars' knowledge, according to the understanding found in classical texts, the concept of Nash evidence is divided into two: *qat'i* (definitive) and *ẓanni* (speculative). Then this definitive evidence (*naṣ qat'i*) is further divided into three categories: *qat'iyyat al-dilālah* (definite indication), *qat'iyyat al-thubūt* (definiteness of authenticity), and *al-qat'i al-mantiqi* (definiteness of logic). Actually, it is the traditional scholars who formulated the concept of *qat'i* based on their assumptions, which were then declared as definite truths. Additionally, there is also the issue of *ta'ārud al-adillah* (contradiction between texts). However, the contradiction lies in the linguistic aspect rather than in the logic aspect, which is always associated with the time when the texts were formulated. To address this problem, *fiqh* scholars should use the *maqāṣid* framework, prioritizing texts by

<sup>65</sup> *Ibid.*

considering the existing social conditions and not viewing one text as conflicting with another.<sup>66</sup>

Auda is a contemporary Muslim scholar who has contributed significantly to the development of the concept of *maqāṣid al-sharī'ah*. Here are some important contributions Auda has made to the development of contemporary Islamic law:

1. Auda offers reinterpretations or new explanations of *maqāṣid* concepts, using specific philosophical approaches such as systems theory or placing them in a contemporary context.
2. Auda is able to align *maqāṣid* with Islamic law (*fiqh*) and how he integrates *maqāṣid* principles into the understanding of Islamic law.
3. Auda emphasizes the relevance of *maqāṣid al-sharī'ah* in facing contemporary challenges and how these principles can provide guidance in solving social, economic, and political issues.
4. Auda stresses the importance of achieving a balance between various *maqāṣid* and how to achieve this without neglecting the core principles of Islamic teachings.
5. Auda highlights the role of *maqāṣid* in achieving social justice and community welfare, as well as how these principles can serve as guidelines in policy formation and social action.

#### **G. Application of Jasser Auda's Theory to Contemporary Issues**

The *maqāṣid al-sharī'ah* theory developed by Jasser Auda focuses on the main objectives of Islamic law that are adaptive and systematic.<sup>67</sup> In the context of contemporary issues, this theory can be applied to respond to various social, economic, and political challenges by considering the *maslahat* of the people.<sup>68</sup> One of the main concepts introduced by Auda is a systems approach that sees Islamic law as an open system that can change according to the needs of society.<sup>69</sup> Thus, Islamic

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<sup>66</sup>Solikin, "Menguak Pemikiran Jasser Auda Tentang Filsafat Hukum Islam."

<sup>67</sup>Fatmawati, Zainal Abidin, and Gani Jumat, "Teori Maqashid Al-Syari'ah Modern: Perspektif Jasser Auda," *KIIIES* 5.0 1, no. 1 (2024): 232–37.

<sup>68</sup>Naylal Fithri, "Seberapa Penting Maqashid Al-Syari'ah Di Era Kontemporer?," *IZZU: Jurnal Ekonomi Islam* 1, no. 1 (2021): 70–83.

<sup>69</sup>Ilham Mashuri, "Pendekatan Sistem Dalam Teori Hukum Islam (Perspektif Jasser Auda)," *Fitrah: Jurnal Kajian Ilmu-Ilmu Keislaman* 5, no. 1 (2020): 11–28, <https://doi.org/10.24952/fitrah.v5i1.1106>.

law is not understood as a static rule, but as an instrument that can be adjusted to achieve justice and welfare.

In dealing with issues of gender inequality, Auda's theory can be used to interpret Islamic law more inclusively. Instead of simply adhering to classical legal texts that may limit the role of women in society, Auda's *maqāṣid al-sharī'ah* approach emphasizes the goals of Islamic law, namely justice and benefit. Therefore, laws relating to women's rights can be revisited to be more in line with the principles of social justice without neglecting Islamic values.<sup>70</sup>

In addition, in facing modern economic challenges such as social inequality and Islamic finance, Auda's *maqāṣid al-sharī'ah* theory can be used to formulate sharia-based economic policies that are more oriented towards social welfare. The principles of justice and benefit in *maqāṣid al-sharī'ah* enable the implementation of an Islamic economic system that does not only focus on formal compliance with usury or zakat laws, but also creates a more just and sustainable system. This includes initiatives such as Islamic microfinance that empower the economically disadvantaged.<sup>71</sup>

Here are some examples of solutions based on Jasser Auda's Theory on contemporary issues:

#### 1. Islamic Family Law Reform for Gender Equality

In many Muslim societies, women still face legal challenges that limit their rights in child custody, divorce, and inheritance. The *maqāṣid al-sharī'ah* theory developed by Jasser Auda emphasizes that Islamic law should ensure social welfare and justice, rather than simply following legal texts literally. Therefore, there is a need to adjust Islamic family law rules to be more inclusive and in accordance with the principles of justice. This reform aims to ensure that Islamic law remains relevant to the times and can accommodate the increasingly complex needs of Muslim societies.<sup>72</sup>

In terms of child guardianship, some Islamic legal systems still automatically grant guardianship rights to the father after divorce, even though in many cases the

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<sup>70</sup>Fithri, "Seberapa Penting Maqashid Al-Syari'ah Di Era Kontemporer?"

<sup>71</sup>Syahrul Sidiq, "Maqasid Syari'ah & Tantangan Modernitas: Sebuah Telaah Pemikiran Jasser Auda," *In Right: Jurnal Agama dan Hak Azazi Manusia* 7, no. 1 (2017): 140–61.

<sup>72</sup>Fatmawati, Zainal Abidin, and Gani Jumat, "Teori Maqashid Al-Syari'ah Modern: Perspektif Jasser Auda."

mother is better able to provide better care. Based on the *maqāṣid al-sharī'ah* principle that emphasizes *maslahah*, decisions regarding guardianship should not be based solely on gender, but rather on broader factors such as the welfare of the child, economic ability, and emotional stability of the parents. Therefore, legal reforms can be made by granting guardianship rights to the mother if it is proven that she is better able to meet the needs of the child, as has been implemented in some modern Muslim countries.<sup>73</sup>

In terms of inheritance, classical Islamic law stipulates that sons get twice as much as daughters because men are considered the main breadwinners. However, in modern societies where women also work and contribute economically, this rule can be revisited to make it more equitable. The *maqāṣid al-sharī'ah* approach allows for a reinterpretation of inheritance law by considering the economic contribution of each family member, so that women's rights in inheritance are no longer rigid, but more flexible in accordance with the evolving social and economic context.<sup>74</sup>

## 2. *Maqāṣid*-Based Economic Development to Address Poverty

Islamic financial systems often focus only on the prohibition of usury (interest), but pay little attention to broader aspects of social welfare. Jasser Auda asserts that the main purpose of Islamic law is to create welfare for the whole society, not just compliance with formal rules. Therefore, Islamic economic policy must be more inclusive and oriented towards social justice. In the context of *maqāṣid al-sharī'ah*, Islamic economics must play an active role in reducing poverty and economic inequality with a more progressive and sustainable approach.<sup>75</sup>

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<sup>73</sup>Ahmad Bunyan Wahib, "Reformasi Hukum Waris Di Negara-Negara Muslim," *Jurnal Asy Syirah, Ilmu Syari'ah Dan Hukum* 48, no. 1 (2014): 29–54.

<sup>74</sup>Soni Zakaria, "The Contextualization Of The Māqāṣid Āl-Šyārīāh Jasser Auda Theory In The Concept And Practice Of Islamic Family Law," *Al-Adl* 14, no. 2 (2021): 83–97; Ahmad Khoirul Fata and Muhammad Hasan Said Iderus, "Feminism Paradigm In Gender Equality Argument of Nasaruddin Umar," *Kalam* 12, no. 1 (2018), <https://doi.org/10.24042/klm.v12i1.2248>.

<sup>75</sup>Ari Murti and Toufan Aldian Syah, "Menelaah Pemikiran Jasser Auda Dalam Memahami Maqasid Syariah," *Citizen: Jurnal Ilmiah Multidisiplin Indonesia* 1, no. 2 (2021): 60–67, <https://doi.org/10.53866/jimi.v1i2.9>; Atmo Prawiro and Ahmad Khoirul Fata, "Optimalisasi Peran Lembaga Zakat Dalam Mewujudkan Keadilan Sosial-Ekonomi," *Al-Buhuts* 16, no. 1 (2020): 80–98.



One of the solutions offered in the *maqāṣid al-sharī'ah* approach is Islamic microfinance, which allows the poor to gain access to capital without being burdened by the interest system. In this model, Islamic financial institutions can implement qard hasan schemes (interest-free loans) or profit-sharing models such as mudharabah and musharakah, so that the underprivileged can start small businesses and improve their lives. This approach not only reduces dependence on short-term social assistance, but also provides opportunities for individuals to build economic independence.<sup>76</sup>

In addition to microfinance, the distribution of zakat and waqf should also be directed to more strategic purposes. In many cases, zakat is only used for immediate relief without a sustainable long-term strategy. Based on Auda's theory, zakat and waqf should be focused on social infrastructure development such as education and health. For example, zakat can be used to fund free schools for children from underprivileged families or build hospitals with free services for the poor. In this way, zakat is not only a momentary relief, but also an instrument of economic development with far-reaching impact.<sup>77</sup>

## H. Conclusion

This article discusses Jasser Auda's views on the philosophy of Islamic law, focusing on the concept of *maqāṣid al-sharī'ah* (objectives of *sharī'ah*). Jasser Auda presents a holistic and contextual perspective on Islamic law, emphasizing the importance of understanding the objectives of *sharī'ah* to achieve justice and welfare in society.

According to Auda, *maqāṣid al-sharī'ah* is the primary foundation in interpreting Islamic law. In his view, Islamic law should not be understood mechanically or dogmatically, but rather should be placed in the context of the objectives of *sharī'ah*, which include the protection of religion, life, intellect, lineage,

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<sup>76</sup>Achmad Syawal Nurhidayatullah et al., "Maqashid Syariah Sebagai Kerangka Kerja Untuk Inovasi Produk Keuangan," *Jurnal Masharif al-Syariah: Jurnal Ekonomi dan Perbankan Syariah* 9, no. 5 (2024).

<sup>77</sup>Khavid Normasyhuri, Budimansyah, and Ekid Rohad, "Strategi Pengelolaan Zakat, Infaq Dan Sedekah (ZIS) Terhadap Pemberdayaan Ekonomi Umat Dalam Pencapaian Sustainable Development Goals (SDGs) Pada Masa Covid-19," *Ilmiah Ekonomi Islam* 8, no. 2 (2022): 16; Prawiro and Fata, "Optimalisasi Peran Lembaga Zakat Dalam Mewujudkan Keadilan Sosial-Ekonomi."

and property. With this approach, Islamic law can be more adaptive to changes in time and environment. Through the systems theory approach, Auda emphasizes the interconnection between various elements in Islamic law, and how they relate to each other to achieve the objectives of *sharī'ah*. This approach views law as a complex and dynamic system, rather than a set of separate regulations.

Overall, Jasser Auda's perspective presents a comprehensive and contextual framework for understanding and applying Islamic law. Through the application of *maqāṣid al-sharī'ah* and systems theory, it is hoped that a deeper understanding of the objectives of Shariah and how Islamic law can effectively address contemporary challenges can be obtained.

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