



**THE STUDY OF AUSTRALIAN GOVERNMENT POLICIES
ON MAQASID AL-SHARI'A PERSPECTIVE**

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Abstract: This article discusses the Australian government policies from the perspective of *Maqasid al-Shari'a*. The performance of policies focusing on the study is traffic laws, taxes, the environment, and anti-domestic violence. In several literature pieces, *Maqasid al-Shari'a* is defined as the purpose, objective, and secret set by Allah SWT in every Sharia law. *Maqasid al-Shari'a* is also defined as "something that is the goal (Shari) of Allah in making law." In addition to being 'ammah (general), khassah (unique), and juz'iyah (parts), in Islam, *Maqasid al-Shari'a* is based on five main points as follows: protecting religion, protecting the soul, protecting reason, protecting property, and protecting descendants. After conducting in-depth interviews with several informants, books, journals and tracing the laws on traffic, tax, environment, and anti-domestic violence in Australia, the conclusion is that the Australian government policies are based on *Maqasid al-Shari'a* in one part. However, it is not a country based on religion or Sharia in the other part. Australia is a liberal country providing freedom for its citizens to have faith or no belief. However, in several other respects, it appears that the Australian government's policies are against the *Maqasid al-Shari'a*, such as the ability to drink heavily in limited spaces, the life of same-sex marriages, and so on. This article is critical in developing policy studies of the non-Islamic countries on *Maqasid al-Shari'a* perspective.

Artikel ini membahas tentang kebijakan pemerintah Australia dalam perspektif Maqashid Syariah. Kebijakan yang menjadi fokus dalam penelitian dimaksud adalah undang-undang lalu lintas, pajak, lingkungan hidup dan anti kekerasan dalam rumah tangga. Dalam sejumlah literatur, Maqashid Sharia sendiri diartikan sebagai maksud, tujuan dan rahasia yang ditetapkan oleh Allah SWT pada setiap hukum Syariah. Maqashid Syariah juga didefinisikan sebagai "sesuatu yang menjadi tujuan (Syari) Allah dalam mensyariatkan hukum". Selain ada yang bersifat 'ammah (umum), khassah (khusus) dan juz'iyah (bagian-bagian), dalam Islam Maqashid Syariah didasarkan pada lima hal pokok utama sebagaimana berikut; menjaga agama, menjaga jiwa, menjaga akal, menjaga harta, dan menjaga keturunan. Setelah melakukan wawancara yang mendalam pada sejumlah informan, penelusuran pada buku, jurnal dan undang-undang lalu lintas, pajak, lingkungan hidup dan anti kekerasan dalam rumah tangga di Australia, maka diperoleh kesimpulan bahwa kebijakan pemerintah Australia secara nyata sebagian telah didasarkan pada maqashid syariah, namun pada sebagian yang lain masih belum sesuai maqasyid syariah. Australia adalah negara liberal yang memberikan kebebasan bagi warganya untuk beragama atau tidak beragama. Namun demikian, dalam beberapa hal

yang lain, terlihat kebijakan pemerintah Australia yang bertentangan dengan maqasyid sharia seperti kebolehan minuman keras pada ruang terbatas, hidupnya perkawinan sejenis, dan sebagainya. Artikel ini memberi kontribusi penting dalam studi kebijakan pemerintah Negara bukan Islam dalam perspektif maqashid syariah.

Keywords: *Government Policies; Australia; Maqasid Al-Shari'a.*

INTRODUCTION

As a liberal country, Australia has implemented state policies based on human values. It treats all groups equally without exception, though Aboriginal tribes have been discriminated against in the past. Currently, the government is more concerned with the Aboriginal tribe, suspected of living for more than 40,000 to 60,000 years.¹

The country's population of 25.694.000 people² is accorded the same rights in society. For instance, Australian Muslims have the opportunity to worship according to their religion. Mosques have been built in some big cities such as Adelaide, Sydney, Canberra, and Melbourne.

Australian Muslim residents come from 77 countries globally, with the worship daily, monthly, and yearly. This shows that Australia is the country where the religious freedom of the population is guaranteed. Australian Muslims are generally immigrants from Asia-Pacific, the Middle East, and Africa. These immigrants have enriched almost all aspects of life, from business, arts, cuisine, and sports.³

Beautiful, neat, orderly, and charming cities are the hallmarks of a large Australian city. It is right to see some cities of Australia as cities with their anti-traffic jams due to high compliance and discipline with traffic regulations. It makes Australia one of the most regulated countries globally of Western countries. Australia is not a Western country, but the culture of its people in Western culture. From a historical perspective, we know that Australia is part of the British Commonwealth of Nations.⁴

However, they have also adapted to a tolerant, informal, and broadly egalitarian society. This makes it imperative to examine the implementation of Australian government policies from the *Maqasid al-Shari'a* perspective. Therefore, this paper focuses on implementing Australian government policies,

¹ www.indonesia.embassy.gov.au. See too, Marx Davis, *The Land of Plenty, Australia in The 2000s*, (Australia: Melbourne University Press, 2008), 43-45.

² <https://www.ceicdata.com/id/indicator/australia/population>.

³ M. Noor Harisudin, *Islam Di Australia* (Surabaya: Pustaka Radja, 2019). 4-5, Samina (Editor) Yasmeen, *Muslims in Australia: The Dynamix of Exclusion and Inclusion*, Australia: Melbourne Univerity Press, 2010., n.d., Amra and Demet Divaren (editors) Pajalic, *Growing Up Muslim in Australia* (Australi: Allen and Unwin, 2019).

⁴ Harisudin, *Islam Di Australia*. 5

specifically traffic, taxes, environmental sustainability, and anti-violence in households.⁵

This literature study uses a qualitative approach to examine the implementation of Australian government policies based on *Maqasid al-Shari'a* perspective. It employs content analysis on the informant's interviews on the implementation of government policies and the books of the *Maqasid al-Shari'a*. The validity of the research data is determined using the triangulation source of the informants' interviews.

MAQASID AL-SYARI'A THEORY

The *Maqasid al-Shari'a* theory is built on the correlation between Islamic Law, and the benefits enjoyed (*maslahat*). It is vital to remember that Islamic sharia is based on benefits. In this context, Ibn al-Qayyim al-Jauziyah stated that:

Sharia is based on wisdom and the benefit of its servants in the world and hereafter. It involves justice, mercy, wisdom, and benefit. Therefore, all things ignoring justice for the sake of tyranny, affection, benefit (*maslahat*) of the mafsadat, and wisdom to vanity is not sharia, even though it is included in sharia interpretation.⁶

Classical scholars apply *Maqasid al-Shari'a* to all areas of Islamic law and do not divide it into specific sections. For example, they make *Maqasid* levels such as *ad-dlaruriyat* (necessity/primary), *al-hajiyat* (necessity/secondary), and *al-tahsiniyat*.⁷ From the first level (*dlaruriyat*), it born *ushul al-Khamsah* consisting of *hifdz ad-din* (protecting religion), *hifdz annafs* (protecting soul), *hifdz al-'aql* (protecting mind), *hifdz an-nasl* (protecting descendants), and *hidzl al-mal* (protecting property).⁸

Posted as *Syatibi Maqashid*, experts criticized the *maqashid al-sharia* theory. For example, Jaser Auda mentioned four weaknesses of the classic *maqasid* concept in the level of needs (traditional classification of necessities). First, *the Maqasid's* claim that the discussion space of all Islamic law, according to Jaser Auda, is de facto unjustifiable because it cannot show the scope of specific chapters.⁹ Second, Jaser Auda saw that the classical *Maqasid* was trapped in the paradigm

⁵ I chose these four themes because they are policies that relate to many people in Australia.

⁶ Ibn-Qayyim-al-Jawziyyah, "I'lam al Muwaqqi'in 'an Rabbi al 'Alamin" (Dar al Kutub al 'Ilmiyyah, 1991). 333, Nasrulloh Nasrulloh, "Maqasid Shari'ah Sebagai Pendekatan Sistem Dalam Hukum Islam," *Journal de Jure* 2, no. 2 (December 30, 2010), <https://doi.org/10.18860/j-fsh.v2i2.2970>.

⁷ -Juwaini al, *Al-Burhan*, Juz 2 (Tp: Dar al-Wafa, tth.). 595 and 613

⁸ Ghazali al, *Al-Mustasyfa Min Ilm al-Ushul* (Beirut: Dar al-Kutub, tt). 328

⁹ Jaser Auda, *Maqashid Shariah as Pholosopy as Islamic Law, A System Approach* (London: IIIT, 2007). Salamah Eka Susanti, "Pendekatan Sistem Dalam Teori Hukum Islam (Membaca Pemikiran Jasser Auda)," *Asy-Syari'ah : Jurnal Hukum Islam* 1, no. 1 (June 1, 2015): 109-25.

of protection and preservation, which confined *Maqasid* to individual areas only.¹⁰ Third, *Maqashid's* classification does not cover universal issues and fundamental life values, such as justice and freedom. Fourth, the determination of the classical *maqasid* is mainly formulated from the *fiqh* literature, not from the sources of the al-Qur'an and al-Hadith.¹¹

Muhammad Sa'id Ayubi also divides *Maqasid al-shariah* in terms of its scope into three, as explained below:

First, *Maqasid al-'Ammah* is realized in its teachings concerning worship, human relations, traditions, and punishment. The point is to revolve around two important things, namely *maslahah* and *taysir*.

Second, *Al-Maqasid al-Khassah* is to be realized in certain parts of its teachings, whether related to worship, human relations, tradition, or punishment.

Therefore, the terms *al-maqasid al-'ibadah* (worship), *al-maqasid al-tasarruf al-maliyah* (financial transactions) emerged, *al-maqasid al-'uqubah* (sanctions/punishment), etc.

Third, *Al-Maqasid Al-Juz'iyah* is to be realized by the Sharia on specific issues in its teachings, such as *maqasid* prayer, *wudlu*, buying, selling, etc.

It is determining what becomes *maqashid al-shari'ah* Islamic legal scholars are cautious and not haphazard. Apart from not tolerating mistakes in this process, this requires a deep reflection (contemplation) and intense research of the Sharia texts. Therefore, in terms of strength, *Maqasid al-shari'ah* is divided into two levels, as follows:

First, *Al-Maqasid Al-Qath'iyah* is a *Maqasid* produced from much research on the decisions and discussions of friends and the source and background of the Sharia texts, *Taysir* (dispensation).

Second, *Al-Maqasid Al-Zanniyah* is a *Maqasid* produced from several research that not much dealt with the decisions and discussions of the friends and the sources and backgrounds of the Sharia texts.

In a detailed explanation, al-Ghazali stated that:

Maslahah, at its origin, is an expression of withdrawing benefits or rejecting *madharat*. However, withdrawing benefits and rejecting *madharat* is the goal of human beings and the perceived worthiness in achieving it. Therefore, *maslahah* is *maqshud as-syar'i*. The purpose of sharia is to preserve religion, soul, intellect, wealth, and descent. Everything containing these five things is *maslahah*. Contrastingly, things not containing these five elements are *mafsadah*, and their rejection is included in *maslahah*.¹²

¹⁰ Auda, *Maqashid Shariah as Philosophy as Islamic Law, A System Approach*. 21-22

¹¹ Auda.

¹² Abu Zahra, *Usul Fiqh* (Beirut: Dar al-Fikr al-Arabiyyah, 1994). 442-445

Al-Ghazali mentions five things maintained in Islam, also called *Ad-Dlaruriyat al-Khamsi*. They include maintaining religion, soul, reason, wealth, and descent. Fulfilling these five things mean there is *Maqasid al-Shari'ah*. Without them, *Maqasid Al-Shari'ah* is not being implemented, even in an Islamic State.

As what al-Ghazali emphasized is in line with As-Syatibi's statement regarding the relationship between *maslahah* and *Maqashid Al-Shari'ah*:

هذه الشريعة... وضعت لتحقيق مقاصد الشارع في قيام مصالحهم في الدين و الدنيا معا

*The sharia aims to create benefit in this world and the hereafter.*¹³

As-Syatibi, in his expression, emphasized that the purpose of sharia (*Maqasid Al-Shari'ah*) of a legal stipulation is to create benefit. Therefore, between *Maqasid Al-Shari'ah* and *maslahah* are two things that cannot be separated.¹⁴

In this context, we can see that in every law, Sharia always includes *maslahah* as an embodiment of goodness and benefit and keeps away from *madlarat* as a form of ugliness and damage. The goal is to create prosperity as well as the totality of devotion or worship to Allah SWT. In other words, *maslahah* is the foundation and axis of legal change where it becomes the foundation of interpretation and appreciation of the arguments of the Sharia text.¹⁵

The purpose of sharia covered in the *Maqasid Al-Shari'ah* in spreading *maslahah* for each Sharia law is comprehensive. It covers all the basic principles and particular case units of Sharia law. Therefore, the al-Qur'an and al-hadith texts regulating human life, both individual and social, contain *maslahah*.

Maslahah as the core of *Maqasid Al-Shari'ah* is a very urgent and strategic alternative for the development or renewal of law where the text of the al-Qur'an and hadith must be placed with an emphasis on *maslahah*.¹⁶ The current legal problems should refer to the benefit of humankind, both in this world and the hereafter.

On another aspect, in terms of rejection and acceptance of Sharia, *maslahah* is divided into three:

First, *Maslahah Mu'tabarah*, a benefit whose existence is legitimized by the legal texts of al Quran and al-Hadith. More clearly, all laws promulgated by Allah SWT through the text of al-Qur'an and the Prophet Muhammad through his *Saheeh* hadith has a goal, giving benefit. This type of *maslahah* is known as

¹³ Syatibi As, *Al-Muwafaqat Fi Ushul al-Ahkam, II* (Beirut: Dar al-Kutub al-Ilmiyah, tt). 374, Abdurrohman Kasdi, "Actualizations of Maqāsid Al-Shariah In Modern Life; Maqāsid Al-Shariah Theory As a Method of The Development of Islamic Laws and Shariah Economics," *Justicia Islamica* 16, no. 2 (November 19, 2019): 247-68, <https://doi.org/10.21154/justicia.v16i2.1666>.

¹⁴ As, *Al-Muwafaqat Fi Ushul al-Ahkam, II*. 42, Galuh Nasrullah Kartika Mr and Hasni Noor, "Konsep Maqashid al-Syari'ah dalam Menentukan Hukum Islam (Perspektif Al-Syatibi dan Jasser Auda)," *AL IQTISHADIAH JURNAL EKONOMI SYARIAH DAN HUKUM EKONOMI SYARIAH* 1, no. 1 (December 18, 2014): 50-69, <https://doi.org/10.31602/iqt.v1i1.136>.

¹⁵ Ali Hasaballah,, *Ushul at-Tasyri al-Islami* (Egypt: Dar al-Ma'rifah, 1964). 257

¹⁶ Asafri Jaya Bakri, *Konsep Maqasyid Syariah Menurut As-Syatibi* (Jakarta: PT Raja Grafindo Persada, 1996). 168

maslahah mu'tabarah. For example, to protect the preservation of human life, Allah SWT requires the obligation of *Qisas* (punishment for a crime). Thus, in the law of *Qisas*, there is a content of benefit planned by Allah SWT. Allah SWT as the Creator of law. This is seen in the benefit of the law of stoning for adultery, the law of cutting off hands for stealing, and 2: 1 for an inheritance, etc.¹⁷

Second, *Maslahah Mulgha*, a benefit referred to by human reason, essentially contradicts the Sharia text of al-Qur'an and al-Hadith. All benefits that are contrary to the *Qath'i* texts are neglected (*mulghah*). For example, in modern society, where gender discrimination has begun to be challenged, matters of family survival are no longer burdened solely on the shoulders of husbands, women have equal opportunities in all fields of knowledge, the president or head of state does not have to be male, the distribution of inheritance is no longer 1: 2, 1: 1 or it can be reversed, for women 2 and men one and so on. Decisions like this, according to some thinkers, are claimed to contain benefits. Unfortunately, however, this decision is, according to some past scholars,¹⁸

Third, *Maslahah Mursalah*, a *Maslahah* in a position between *maslahah mu'tabarah* and *maslahah mulgha*. In other words, there are no texts of al-Qur'an or as-Sunnah that legitimize their existence and do not cancel or neglect their existence. All *maslahah* referred to by human reason, but not ruled or rejected by the text, is called *maslahah mursalah*. Imam Malik was the first scholar who introduced the term *maslahah mursalah* and made it the source of Islamic law. Some examples of the so-called *maslahah mursalah* are codifying al-Qur'an, making currency, handling people who are reluctant to pay zakat, taxes, and making prison.¹⁹

In terms of influence²⁰ in public life, *maslahah* is divided into three:

First, *maslahah dlaruriyah*, namely the benefits that must be realized in human life to achieve happiness in the world and the hereafter. The most accessible standard to determine this benefit is the consequences it causes. If a benefit without its existence will destroy the world's life and the hereafter, it is called *maslahah dlaruriyah*. *Maslahah dlaruriyah* includes the protection and maintenance of five basic human needs: protecting religious beliefs, protecting body and soul, protecting offspring, protecting the right to think, and protecting property.²¹

¹⁷ Wahbah Az-Zuhaili, *Ushul Fiqh Al-Islami I* (Damaskus: Dar al-Fikr, tt). 770, M. Noor Harisudin, *Ilmu Ushul Fiqh* (Malang: Instran Publishing, 2021). 254, Ajim Harahap Zul Anwar, "Konsep Maqashid Syariah Sebagai Dasar Penetapan Dan Penerapannya Dalam Hukum Islam Menurut Izzudin Bin Abd Salam," *Jurnal Tadzkir* Vol. 9, no. No. 2 (2014)., J. Johari, "Konsep Maslahah Izzudin Ibn Abdi Salam: Telaah Kitab Qawa'id al-Ahkam Limashalih al-Anam," *Epistemé: Jurnal Pengembangan Ilmu Keislaman* 8, no. 1 (June 6, 2013): 69-88, <https://doi.org/10.21274/epis.2013.8.1.69-88>.

¹⁸ Az-Zuhaili, *Ushul Fiqh Al-Islami I*. 770, Harisudin, *Ilmu Ushul Fiqh*. 254

¹⁹ Harisudin, *Ilmu Ushul Fiqh*. 254

²⁰ Az-Zuhaili, *Ushul Fiqh Al-Islami I*. 771, Alwi Bashor Lutfi, "Maslahat Menurut Najmuddin At-Thufi," *Jurnal IAIN Manado: Jurnal Potret Pemikiran* Vol. 15, no. No. 1 (2012).

²¹ Abd Wahab Khalaf, *Ilmu Ushul Fiqh* (Kairo: Dar Ihya al-Kutub, tt). 200

To protect religious beliefs, Sharia promulgates legal instruments to protect and defend it, such as religious obligations, prohibition of doing an apostate, mandating specific worship, and so on, which constitute sharia instruments in Islam.

Second, *maslahah hajiyyah* (secondary-complementary needs). If it is not fulfilled, it is a need that does not cause damage or chaos in human life or threaten their existence but will bring difficulties (*masyaqaqah*) in life. In other words, *maslahah hajiyyah* is what humans need to get convenience, space in carrying the burden of *taklif* and difficulties in their lives.²²

In the framework of *hajiyyah maslahah*, Sharia promulgates legal instruments in Sharia, the field of worship, *mu'amalah*, *munakahah*, to *jinayah*. In the field of worship, Sharia promulgates the permissibility of not fasting for sick people or traveling. Moreover, the law of authority is obliged to perform *jama'* and *qashar*, *tayammum* for those who cannot get water, etc. In the field of *mu'amalah*, Sharia allows various kinds of transactions from buying and selling, leasing, pawning, rice fields, accounts payable to modern transactions that have emerged today. This law is prescribed solely to provide convenience in carrying out its humanitarian duties. This is what is called *rukhsah*.

Third, *maslahah tahsiniyah-Kamaliyah* (tertiary-supplementary needs), the needs proclaimed to fulfill the demands of good and bad values, character, prestige, and noble morals to make people live naturally in glory and perfection. If it is not fulfilled, a need will not cause difficulties, even destruction, but it does not provide value and perfection in human life.²³

To fulfill the benefit of this *tahsiniyah*, Sharia proclaims legal instruments in almost all areas of Islamic law. In the field of worship, Allah and The Messenger oblige the purity of the body, clothes, and places from uncleanness, covering places that are not good to be seen when someone faces the creator. In the field of *mu'amalah*, the prohibition law is promulgated, making *gharar* speculation in transactions, prohibiting seizing transactions from other parties.

Likewise, in the field of custom, the law is not allowed to kill religious leaders, children, and women in war, prohibits chopping and mutilating victims, and so on. These are all prescribed to achieve a more civilized life and perfect life.

In the context of the conflict between the three *maslahahs*, the scholars agreed to prioritize *maslahah dlaruriyat*, then *maslahah hajiyyah*, and finally *maslahah tahsiniyat*. For example, when there is a conflict between opening the naked genitals and injuring the body, which is naturally classified as *dlaruriyat* to nourish the soul, the scholars agree to prioritize protecting the soul. Therefore,

²² Khalaf. 202

²³ Khalaf. 303

they concluded that it is permissible to injure the body to protect the soul even though it must be done by opening the genitals.²⁴

Whether it is viewed from a broad scope or not, *maslahah* is divided into two, there are:

First, *Maslahah 'Ammah*, everything containing goodness for all people or most of them, for example, seeking religious knowledge, jihad, and all actions categorized as *fard kifayah*.

Second, *Maslahah al-Khassah*, everything containing benefits for each person in terms of several actions performed by each of them, such as blocking *paiilt* (idiots) from transacting.²⁵

If there is a conflict between *Maslahah 'Ammah* and *Maslahah Khassah*, *Maslahah 'Ammah* should be prioritized (*al-maslahah al-ammah muqaddamatun alal maslahah al-khassah*). Not hoarding is a common *maslahah* for humans that must take precedence over *maslahah* of the benefits of those who do hoarding.

When there is a conflict between *qath'iyah maslahah* and *dlaniyah maslahah*, the *dlaniyah maslahah* takes precedence (*Mura'atu al-maslahah al-qath'iyah 'ala mura'ati al-maslah al-dlaniyah*).²⁶ Therefore, he should wait when a person going to pray does not find water initially, but he is sure or thinks he will get water. However, if he does not have faith in getting water, he should do *tayammum* and pray at the beginning. This is because establishing prayers at the beginning of time is *qathiyah maslahah* rather than ablution using *dlaniyah water*.²⁷

In several countries, there is a standard derivation of *maqasidus sharia*. For example, the Indonesian Ulema Council (MUI) provides *maslahah* criteria in the MUI provisions as follows:

“**First**, *maslahah* / benefit according to Islamic law is the attainment of the sharia objectives (*maqashid al-shari'ah*) realized through the maintenance of the five primary needs (*al-dlaruriyat al-khams*), including religion, reason, soul, wealth, and descent. **Second**, the benefits justified by the *Shari'ah* do not contradict the *nash*. **Third**, institutions with competence in Sharia are mandated to determine the benefits or *maslahat* of something based on sharia, which is achieved through *ijtihad jama'i*”.²⁸

Indonesian Ulema Council does not allow *maslahah* to move without limits or *maslahah*, which relies solely on human reason. Therefore, the limitations of *ijtihad jama'i* make the *maslahah* more measurable.

²⁴ M. Romzi Al-Amiri, *Ad-Durar as-Saniyah Maqashid al-Syariah al-Islamiyah* (-: Markaz at-Tabh al-Amiri, 1437). 98

²⁵ Al-Amiri.

²⁶ Al-Amiri. 100

²⁷ Al-Amiri.

²⁸ Majelis Ulama Indonesia, *Himpunan Fatwa MUI Sejak Tahun 1975* (Jakarta: Penerbit Airlangga, 2011). 490

AN IMPLEMENTATION OF AUSTRALIAN GOVERNMENT POLICIES

This paper chooses four Australian Government policies: tax policy, high taxes for traffic violators, environmental conservation policy, and domestic violence. I see this is an exciting topic in Australia, especially from the Maqashid Sharia perspective.

Tax Policy

Australia is a British Commonwealth country with high taxes.²⁹ It becomes imperative to develop the country. It has become imperative to develop the country into a sophisticated country this recent. For instance, the price of a car is affordable, around 2000 Australian dollars. This has significant impacts on the lifestyle of citizens. Therefore, most Australian students have cars for mobility and transportation.³⁰

The taxes imposed on products are extraordinarily high. For example, the annual car tax is 350 Australian dollars. Also, citizens are expected to pay a Green Slip of 700 dollars as life insurance. This means one is expected to pay at least 1,050 Australian dollars annually³¹ Many are often overwhelmed with the costs of owning cars to the extent of abandoning them.

Income tax is also high in Australia. Some workers pay a 6% tax. For instance, for individuals earning 25 AUD per work hour, 1.5 AUD is immediately deducted as tax, though it is refundable at the end of the year. In case a person has paid 5000 dollars as annual taxes, a refund can be claimed. For Aussie citizens, income tax money goes to their pensions. They have an average working-age limit of 68 years and are entitled to pension funds.

The highest tax chargeable is 40 percent of an individual's income, though it varies with wealth. The government requests up to 40 percent taxes to suppress the wide gaps between the poor and the rich. However, tax allocation is evident, including infrastructure and education.³²

The government's effort is evident in implementing high taxes, high-income people, and lower or no taxes for low earners. Taxing a wealthy businessman is 40 percent, aligning with Al Qur'an "*Kaila yakuuna duulatan bainal aghniyaii minkum.*" Therefore, there is a circulation of assets in society.

In the context of five essential things, Australia act based on *hifdz al-mal*. Since Jamaludin Athiyah stated that wealth belongs to God in the view of Islam, humans are entrusted to build benefit on earth. Therefore, ownership of assets

²⁹ As we know that Australia, Swedia, Japan, Austria, Netherland, Belgium, Irlandia, Australia, China, France and Germany are the top ten countries with high taxes in the world.

³⁰ Income Tax Act 1986 No. 108, 1986 on <https://www.legislation.gov.au/Details/C2016C00461/Html/Text>

³¹ Latif Dwi Purnomo, Sydney, Interview, 12 August 2019. Read also Income Tax Act 1986 No. 108, 1986 on <https://www.legislation.gov.au/Details/C2016C00461/Html/Text>

³² Muhammad Hafidz Lidinillah, Sydney, Interview, 12 August 2019.

should have a social dimension to realize benefit or “*maslahat*” (Jamaludin Athiyah, Nahwa Taf’il Maqashid as-Syariah, 146). High taxes optimize welfare for the poor. Australia has almost no poor people due to balanced funds distribution.

High Taxes for Traffic Violators

Apart from high taxes, Australia is also known for its high fines. Australia is one of the top 10 countries in the world with high taxes.³³ For example, parking fine, such as Latif’s statement of students in Sydney, is 114 dollars. Parking of fewer than 10 meters from the intersection should be 334 dollars. The fine for violating the red light is 457 dollars.³⁴

People are terrified of these high fines. In case a violation occurs and is seen through CCTV, a bill is sent shortly. For this reason, traffic is orderly in Australia. Fines for speeding above 130 km per hour are 800 dollars.³⁵ This charge of fine frighten citizens but provide input to the state.

The streets are orderly, neat, and without traffic except in some big cities, including Sydney and Melbourne. The traffic shows regularity and good governance.

Australia implements the Prophet’s hadith: *La dlarara wala dliraara*. From this hadith, the ulama have the *ushuliyah* rule: *al-ashlu fil madlarri al-tahimu wal alshlu fil manafi ‘al-hillu*. Basically, *madlarat* is *haraam*, and *maslahah* is *halal*.

Australia has a very high standard in applying these rules. *Madlarat* is discouraged by giving sanctions and high fines. For this reason, people obey government regulations on traffic. Order is the primary goal of the Australian government, not the funds.

Environmental Conservation Policy

The Australian government has a firm policy on Environmental Conservation. For instance, there is a system development focusing on environmental conservation. Many people are impressed with what is in Aussie. Big cities still look green and sustainable because of the government’s focus on the environmental issue.³⁶

Australian homes look green and beautiful with grass and vegetation. Furthermore, animals and plants are highly protected³⁷. There is an atmosphere of birds chirping in villages and forests.

³³ *Commissioner of Taxation Annual Report 2012-13* (Australian Taxation Office: Australian Government, 2013).

³⁴ Hafidz, Sydney, Interview, 12 August 2019. And see to, Sabilul Muttaqin, Interview, 6 August 2019. See National Transport Commission (Road Transport Legislation – Driver Licensing) Regulations 2006 on <https://www.legislation.gov.au/Details/F2016C00706/Html/Text>

³⁵ Akhmad Najibul Khoiri, Sydney, Interview, 12 August 2019. National Transport Commission (Road Transport Legislation – Driver Licensing) Regulations 2006 on <https://www.legislation.gov.au/Details/F2016C00706/Html/Text>

³⁶ Katiman, Canberra, Interview, 9 August 2019

³⁷ Nella, Adelaide, Interview, 6-7 August 2019. See too Environment Legislation Amendment Act 2015 No. 11, 2015 on <https://www.legislation.gov.au/Details/C2015A00011/Html/Text>.

The Australian Government is very concerned about preserving animals. Therefore, the shooting of birds, kangaroos, or other animals is prohibited. The state protects these animals except for rabbits because they are too many and damage plants' habitat³⁸.

“For example, protected wetlands and water catchments purify the water we drink. Forests and plant life filter and oxygenate the air we breathe. Native vegetation helps protect against floods and soil erosion. Healthy functioning ecosystems help plant pollination and seed dispersal. Healthy ecosystems also help maintain our biodiversity: the genetic diversity and resilience of our flora, fauna, and micro-organisms”.³⁹

Moreover, The Australian Government also protects plants. There are strict restrictions on killing plants with very harsh sanctions. It is only the government that has the right to vanish the plants.⁴⁰

There are many environmental conservation policies in Australia. For instance, the Green Party is one of the organizations in Australia with the right to oversee environmental conservation. Its central vision is to ensure policies focusing on environmental conservation. The Australian Federal Government is urged to continue to protect the environment. Since the Green Party won in several states⁴¹, environmental conservation work has been maintained.

The environmental conservation policy adopted by Australia is under *Maqsud Shari*, which encourages the protection of nature. Mustofa Abu Sway in *Towards an Islamic Jurisdiction of the Environment* stated that:

“...Looking at the original five things, protecting the environment is very important. In case it keeps deteriorating, there will ultimately be no life, property, or religion. The environment encompasses the other aims of the *syariah*. Its destruction prevents humans from fulfilling the concept of vicegerency on earth, which threatens their existence.”⁴²

Abu Sway stated that protecting the environment is the highest goal of the Sharia. Therefore, everyone, especially Muslims, should preserve the environment.

³⁸ Katiman, Canberra, Interview, 9 August 2019

³⁹ See <https://www.environment.gov.au/land/nrs/about-nrs/australias-protected-areas>

⁴⁰ Latif Dwi Purnomo, Sydney, Interview, 12 August 2019

⁴¹ In 2010 the Victorian Greens had an unprecedented year of excitement and success. After almost two decades of heartbreak and unlucky Federal election results, not only did we elect a Greens candidate Richard Di Natale to the Senate, we also made history with Adam Bandt becoming the first Green to win a seat in the lower house in a general election. Adam was elected with a primary vote of 36.2%. See <https://greens.org.au/vic/about/history>

⁴² Mustofa Abu Sway, *Toward an Islamic Jurisprudence of the Environmental*, 34.

Domestic Violence

In domestic violence, Australia has a strong attitude against perpetrators of domestic violence. This is because of high respect for humanity, especially for women as victims of domestic violence. The government strongly condemns domestic violence.⁴³

Domestic violence refers to acts of violence that occur between people who have, or have had, an intimate relationship in domestic settings. These acts include physical, sexual, emotional, and psychological abuse. Defining forms of violence, its perpetrators, and its victims is complicated by the many different kinds of intimate and family relationships and living arrangements in Australian communities.⁴⁴

Because of this, domestic violence is most commonly perpetrated by males against their female partners, but it also includes violence against men by their female partners and violence within same-sex relationships.

Since young, children are educated on anti-domestic violence. There are sanctions for perpetrators who are doing violence to women. If a husband is guilty of doing violence against his wife, he is not allowed to approach his wife beyond some meters.⁴⁵

As written in Australia's White Ribbon Website, the statistical data shows that, on average, one woman is killed by a husband, boyfriend, or ex-boyfriend every week. In 2012-2014, killings due to domestic violence amounted to 52. Additionally, one in four women experiences emotional abuse, including sexual harassment by their partners. The number of emotional abuse victims was estimated at 3.4 million based on the 2016 Survey Statistics Bureau.⁴⁶ In the case of divorce due to violence, complainants need to wait for two years. The state hardly takes action against the perpetrators.

Based on the high number of domestic violence victims, the government issued legislation⁴⁷ that guarantees the protection of citizens. Every victim of domestic violence is guaranteed welfare and compensation. Where it is necessary, employees are given leave permission to facilitate residence separation and

⁴³ Yusdi Maksum, Sydney, Interview, 12 August 2019. See too Family Law Act 1975 No. 53, 1975 on https://www.legislation.gov.au/Details/C2020C00374/Html/Volume_1. See too https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/bn/2011-2012/dvaustralia.

⁴⁴ A and H Chadwick Morgan, *Key Issues in Domestic Violence, Summary Paper, No. 7, Australian Institute of Criminology (AIC)* (Canberra: , December 2009, p. 1, 2010)., Australian Bureau of Statistics (ABS), *Conceptual Framework for Family and Domestic Violence Cat. No. 4529.0, ABS*, (Canberra: viewed 6 December, 2009).

⁴⁵ Yusdi Maksum, Sydney, Interview, 12 Agustus 2019.

⁴⁶ *Ibid.*

⁴⁷ See Family Law Act 1975 No. 53, 1975 on https://www.legislation.gov.au/Details/C2020C00374/Html/Volume_1

enhance the victims' safety.⁴⁸ Likewise, eliminating domestic violence is a concern to the government based on *hifdz al-nafs* and *hifdz al-nasl*. In the Prophet's hadith, husbands are forbidden from beating their wives. Similarly, Jamaludin Athiyah stated that *maqashid al-usrah* encourages peace, love, and affection (*sakinah, mawaddah wa rahmah*).

"Family relationships are not only in matters of sexuality but also peace and affection as the marriage purpose. Intimate matters should be conducted through noble values and civilized ways.⁴⁹ Therefore, the implementation of anti-violence in the household is in line with *Maqashid al-Sharia*.

Although the implementation of Australian government policies is generally stated in *Maqasid al-Shari'a*, several things are contrary to *Maqasid al-Shari'a*. For example, the permissibility of drinking *khamr* in several states in Australia is limited only in certain places. On the other hand, it is prohibited to be carried out in public places. However, this limitation is still contrary to the *Maqasid al-Shari'a* principles in *hifdz al-aql*. Because of *hifdz al-aql*, Islam prohibits liquor without any exception.

Likewise, the ability to live with the same sex, both lesbianism and homosexuality in Australia, shows a contradiction with the principles of *Maqasid al-Shari'a*, especially *hifdz an-nasal* (raising offspring). The Australian government can use the pretext of respecting human rights. However, this - once again - contradicts the principles in *Maqasid al-Shari'a*, which focus on protecting and sustaining human beings in the world.

CONCLUSION

Australia substantively implements *Maqasid al-Shari'a* in one part. Penalties and harsh sanctions for traffic fines, victims of environmental damage, and domestic violence prove the country's *Maqasid al-Shari'a* implementation. Australian Muslims must not disobey the applicable rules since they do not contradict the Islamic Sharia.

First, the Australian government's effort is evident in implementing higher taxes for high-income people and lower or no taxes for low earners as in line with *Al-Qur'an* "*Kaila yakuuna duulatan bainal aghniyaa minkum.*" Therefore, there is a circulation of assets in society. In this context of five essential things, Australian acts are based on *hifdz al-mal*.

Second, the traffic in Australia shows regularity and good governance. Australia implements the Prophet's hadith: "*La dlarara wala dliraara.*" Thus,

⁴⁸ *Ibid.*

⁴⁹ Jamaludin Athiyah, *Nahwa Ta'fil Maaqashid as-Syari'ah* (Damaskus: Darul Fikri, 2003). 153. See to M Noor Harisudin, Muhammad Choriri, *On The Legal Sanction Against Marriage Registration Violation in Southeast Asia Countries: A Jasser Auda's Maqasid Al-Shariah Perspective*, Samarah, Vol 5, No 1 (2021).

Madlarat is haram, and *maslahah* is halal. *Madlarat* is discouraged by giving sanctions and high fines. For this reason, people obey government regulations on traffic because an order is the primary goal of the Australian government.

Third, the environmental conservation policy adopted by Australia is under *Maqsud Shari*, encouraging the protection of nature.

Fourth, based on the high number of domestic violence victims, the Australian government issued legislation to guarantee the protection of citizens. Every victim of domestic violence is guaranteed welfare and compensation. The elimination of domestic violence concerns the government in line with *hifdz al-nafs* and *hifdz al-nasl*.

However, in the other part, some policies in Australia are not following the *maqashid al-shariah* principles in Islam. Examples are regarding the permissibility of drinking even in a restricted place, the guarantee of the permissibility of same-sex marriage, whether lesbianism or homosexual and several other things. This shows that no matter how perfect it is, even Homer nods, no one is perfect. Moreover, the Australian people's perception of the world is not always in line with the *maqashid al-shariah* view in Islam.

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