MAQĀSID AL-SHARĪA IN THE STUDY OF HADITH AND ITS IMPLICATION FOR THE RENEWAL OF ISLAMIC LAW: STUDY ON JASSER AUDA’S THOUGHT

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Abstract: This article examines Jasser Auda’s maqāṣid approach to studying hadith and its implications for the renewal of Islamic law. Generally speaking, one way to gain a closer understanding of the purpose of the hadith is through contextualizing the Prophetic narrations (hadiṯ), primarily when the scripture cannot be understood textually. Using a descriptive-analytic and critical approach, this study showed that the conception of Auda’s maqāṣid could solve the problem. First, Auda, in this terms, offers a way of reading the scripture based on the intent in applying Islamic law and how its implications when maqāṣid are a primary consideration in reading and applying the law. Second, the theoretical approach as a result of Auda’s academic research is the validation of several ijtihād methodologies which will practically produce the Anthropocentric Maqāṣid, namely the Maqāṣid model considering the development of world governance thinking within the framework of nation-states on the one hand, and making human values such as freedom, equality, justice, democracy as a source of mašlahah on the other. The logical consequence of this Anthropocentric maqāṣid idea necessitates drawing legal conclusions (istinbath al-ahkam) based on mašlahah, no longer on the text.
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Maqasid Al-Sharia in the Study of Hadith and Its Implication for the Renewal of Islamic Law

Artikel ini bertujuan untuk mengkaji pendekatan maqasid Jasser Auda dalam kajian hadis dan implikasinya bagi pembaruan hukum Islam. Secara umum, untuk lebih memahami tujuan hadits, salah satu cara yang dapat ditempuh adalah melalui kontekstualisasi riwayat-riwayat Nabi (hadith), terutama ketika kitab suci tidak dapat dipahami secara tekstual. Dengan menggunakan pendekatan deskriptif-analitik dan kritis, penelitian ini menunjukkan bahwa konsepsi maqasid Auda dapat menjadi solusi dari permasalahan tersebut. Pertama, Auda dalam hal ini menawarkan cara membaca kitab suci berdasarkan niat dalam penerapan hukum Islam dan bagaimana implikasinya ketika maqasid menjadi pertimbangan utama dalam membaca dan menerapkan hukum. Kedua, Pendekatan teoritis sebagai hasil penelitian akademis Auda adalah validasi dari beberapa metodologi ijtihad yang secara praktis akan menghasilkan Maqasid Antroposentris, yaitu model Maqasid yang mempertimbangkan perkembangan pemikiran tata kelola dunia dalam kerangka negara-bangsa di satu sisi, dan menjadikan nilai-nilai kemanusiaan seperti kebebasan, kesetaraan, keadilan, demokrasi sebagai sumber maslahah di sisi lain. Konsekuensi logis dari pemikiran maqasid Antroposentris ini mengharuskan penarikan kesimpulan hukum (istinbath al-ahkam) berdasarkan maslahah, bukan lagi pada teks.

Keywords: Maqasid; Hadith; Islamic Law; Narration; Purpose; Anthropocentric.

INTRODUCTION

The hermeneutic method, which emphasizes awareness of text, context, and contextualization, has become part of the consciousness of classical interpreters. The study of the texts, for example, has become the fundamental instrument of the interpreters and the jurist in interpreting Qur’an and Prophetic traditions (hadith). The Ushulīs, for example, have discussed the linguistic theories (al-qawā'id al-lughawiyyah) in detail, such as the term haqīqah-majaz (allegorical), mantuq-mafhum (explicit-implied), 'am-khäs, muthlaq-muqayyad, amr-nahy, and so on. Similarly, the awareness of context (asbāb al-nuzūl / asbāb al-wurūd) has also become an integral part of the study of ulūm al-Qur’an and al-hadīth, such as makkī-madani, naṣikh-manshūkh (abrogating- abrogated), asbāb al-nuzūl, asbāb al-wurūd, and so on.52

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4 Abu Ishaq As-Syathibi, Al-Muwafaqat Fi Usulī as Syariah Juz II (Beirut: Daar al-Kutub al-‘Ilmiyyah, 2002):49
Moreover, this aspect of “contextualization” is also inseparable from the attention of some scholars of the Qur’ān and the hadīth in the classical period. Studies on the concept of mašlahah (public interest) or Maqāṣid al-Shari‘ah can be included in this sphere. Classical Muslim scholars have provided a significant portion of this discourse, the books on the methodology of Islamic law (ushūl al-fiqh). Nevertheless, in conventional Islamic studies, the tradition of making the text “the object of material” is less well known because of the assumption of mainstream Islamic studies that the sciences of the Qur’ān are regarded as a mature and raw science.

The study of the theoretical history of Maqāṣid is based on several reasons. First, one implication of the theological view of Muslims is that the Qur’ān is always relevant for every time and place in the development of a methodological interpretation significantly along with the acceleration of socio-cultural conditions and human civilization. It is reasonable when Muslim scholars say that the Qur’ān needs to be interpreted following the demands of the contemporary era. Second, Islam encounters some permanent problems, namely the limited number of texts (al-Qur’ān and al-Hadīth), while society’s various events and dynamics are constantly rolling out and creating more complicated and complex problems. Strictly speaking, Muslims now face the challenges of highly complex contemporary dynamics. The reality of Muslims today certainly makes us very sad since when Islam is mentioned, the mind will imagine backwardness, especially related to science and technology. It is almost inconceivable to hear or read the news that the latest scientific and technological discoveries come from the Islamic world on an international scale. Unfortunately, the response often arising is apologetic, defensive, and counter-productive actions. As a result, most Muslims are increasingly confined to worrisome situations and conditions.
Third, the study of maqāṣid’s theorizing and generally diversifying only focuses on the book of al-Muwāfaqāt of al-Syāṭībī written in the eighth century. In contrast, the actualization of maqāṣid has experienced ups and downs over several centuries, even up to the present era. For these considerations, the conception of Jasser Auda, a contemporary Muslim thinker from Egypt, about Maqāṣid al-Shari‘ah, particularly al-maqāṣid or the ‘intents’ of the Prophet, deserves to be considered and studied more deeply. The focus of this article is to explore further one aspect of Auda’s thought, mainly related to the concept of Maqāṣid in the study of hadith texts.

However, the central questions to be answered in this study are: 1) How is the conception of Jasser Auda’s thought of Maqāṣid in contextualizing the narrative of prophetic traditions as the primary source of Islamic law? 2) How is the methodological implication of the Prophetic narrative contextualization based on Jasser Auda’s Maqāṣid in the contemporary of Islamic legal reform? This article intends to answer those questions using a descriptive-analytic and critical approach.

The focus of this research is a literature study that is descriptive-analytical and based on the study of maqasid and its implications for the interpretation of hadith. The approach method used in this research is doctrinal research (theoretical rational deductive) to examine the conception of Auda’s thought of maqāṣid in contextualizing the narrative of the Prophetic traditions as the primary source of Islamic law. In addition, this research was conducted to discuss the methodological implications of the contextualization of Prophetic narrations based on Auda’s Maqāṣid in the contemporary Islamic legal reform.

AL-QIRA’AH AL-MAQASIDIYYAH: A CONTEXTUAL READING OF HADITH

Genealogically the design of Maqāṣid conception is not a new finding. Maqāṣid al-Shari‘ah is not the result of the achievements of contemporary scholars because, in the classical fundamentals of Islamic law (ushūl al-fiqh), the term of maqāṣid was found in books written by classical scholars of fundamentals (ushūlis). However, it is still summarized and scattered in the discussion of analogy (qiyyās). As in the time of the Companions, according to Salam Madkur in Duski Ibrahim, the ijtihād of the Companions are three forms among them: 1) interpreting the texts, 2) using the method of analogy, and 3) using ‘unrestricted interest’ (al-masālih al-mursalah) and juridical preference (istihsān).


The history of the ideas that attempt to read the scripture, both Qur’ān and hadith, by concluding the purposes, or intents behind the text (al-qirā’ah al-maqāṣ idīyyah), has begun since the ijtihad era of the Companions of the Prophet. One well-known and popular example, which many narrators have narrated, is the incident of afternoon prayer at Bani Quraydhah.\(^{16}\)

Other historical events, which show a more severe consequence of taking a ‘purpose-oriented’ approach to the Prophetic instructions, involve the activities of the ijtihad of the Companions of Umar bin Khattab in various religious cases. The incidents referred to are, among others, Umar’s rejection of distributing the newly-‘conquered’ land of Egypt and Iraq among the warring soldiers as some ‘spoils of war’. In this case, it seems clear that Umar, the second caliph, along with his Companions who supported his opinion, had understood the specifics of the verses of ‘spoils of war’ in the broader context of the Islamic legal purpose of the general division of property. To borrow contemporary expressions, the intention is to reduce the ‘class gap.’\(^{17}\)

Second, it is an incident that shows the thinking and application of Islamic law based on maqāṣid by Umar, namely a moratorium on the (Islamic) punishment for theft during the famine of Madinah. He thought that applying the hand-cut punishment prescribed in the scripture. At the same time, people need basic supplies for survival, which goes against the universal principle of justice, which he considered more fundamental to follow.\(^{18}\) Third, it is an incident when Umar decided to put the horses into the types of wealth included in the obligatory charity of zakah (al-māl al-zakāwī), despite the Prophet’s explicit instruction to exclude them. Umar’s rational argument was that horses at his time were becoming significantly more valuable than camels, which the Prophet included in zakah. In other words, the Caliph Umar understood and perceived the Prophetic intent or purpose of zakah in terms of the form of social assistance that is paid by the wealthy for the sake of the poor, regardless of the exact types of wealth that were mentioned in the prophetic tradition and understood via its literal implication.\(^{19}\) Some of these case examples are presented to explain how the early conceptions of how the text was read based on its intent and purpose (al-qirā’ah al-maqāṣidīyyah) in the application of Islamic law and how its implications when al-maqāṣid are taken into the primary consideration in reading and simultaneously applying the law.

According to Auda, after the Companions’ era, the theory and classifications of maqāṣid began to develop. However, maqāṣid, as Auda acknowledged, was not

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\(^{17}\) Auda. 11-12.


developed until the time of the later usūlīs; between the fifth to eighth Islamic century. For the early conceptions of al-maqaṣid between the third and fifth Islamic centuries, we can inventory names such as al-Tirmidhi al-Hakīm (d. 296 AH/908 CE) with his book’s title al-Shalāh wa Maqāṣiduhā (Prayers and their Purposes); Abū Zayd al-Balkhi (d. 322 AH/933 CE) with his work al-Ibānah ‘an Ilal al-Diyānah (Revealing Purposes in Religious Practices); Al-Qaffāl al-Kabīr Syāsyī (d. 365 AH/975 CE) with his work’s title Mahāsin al-Sharā‘ (The beauties of the Laws); Ibn Bāwaih al-Qummī (d. 381 AH/991 CE) with his book ‘Ilal al-Sharā‘ (The Reasons behind the Rulings of Shari‘ah); And al-‘Āmirī al-Faylasūf (d. 381 AH/991 CE) with his book al-I’lām bi-Manāqib al-Islām (Awareness of the Traits of Islam). From this description, we can conclude that classifications of maqaṣid according to ‘level of necessity’ were not developed until the fifth century. Then, the whole theory reached its more mature stage in the eighth Islamic century.20

In contrast to the earliest conceptions of maqaṣid between the third and fifth centuries, with the literal and nominal method of reading and incapable of coping with the complexities of life and the evolving of civilization, the theory of ‘unrestricted interest’ (al-maṣlaḥah al-mursalah), after that century, has been developed as a method which includes what is not mentioned in the scripture. This theory filled a gap in the literal methodologies and gave birth to the theory of maqaṣid in the discipline and practice of Islamic law. The most influential religious jurists who made the most significant contributions to the maqaṣid theory between the fifth and eighth centuries can be mentioned such as Abū al-Ma’ālī al-Juwaynī (d. 478 AH/1085 CE) with his book Al-Burhān fī Ushū’ al-Fiqh (The Proof in the Fundamentals of Law) and Giyāts al-Umam (The Salvage of the Nation); Abū Hāmid al-Ghazālī (d. 505 AH/1111 CE) with his work al-Mustashfā (The Purified Source); ‘Izz al-Dīn bin ‘Abd al-Salām (d. 660 AH/1209 CE) with Maqaṣid al-Shalāḥ (Purposes of Prayers), Maqaṣid al-sawm (Purposes of Fasting), and Qawā'id al-Ahkām fī Mashālikh al-Anām (Basic Rules Concerning People’s Interests); Syihāb al-Dīn al-Qarāfī (d. 684 AH/1285 CE) with his Al-Furūq (The Differences); Ibn al-Qayyim (d. 784 AH/1347 CE) with his I’lām al-Muwaffaqī‘in; and Abū Ishāq al-Shāthibī (d. 780 AH/1388 CE) with his Al-Muwāfaqāt fī Ushū’ al-Shari‘ah (Congruencies in the Fundamentals of the Revealed Law).21

Maqaṣid, in Jasser Auda’s view, is one of the most critical intellectual and methodological means today for Islamic reform and renewal.22 In contemporary
terms, Auda attempts to introduce the study of *maqāṣid* as an attempt to achieve ‘human development and to realize ‘human rights so that the achievement of *maqāṣid* is easier to measure and evaluate empirically through contemporary scientific standards. Therefore, in this context, Auda introduces the concept of *maqāṣid* as the principle of launching new ideas in Islamic law, especially the important notion of ‘the difference between means and purpose.’ Auda illustrates *Maqāṣid* as an essential strategy in reinterpreting the Qur’ān and the Prophetic tradition.\(^{23}\)

Another critical contribution that can be contributed by the contemporary reading of *maqāṣid* for the realization of the renewal of Islamic thought is in the realm of ijtihad, or the renewal of the theory of Islamic law. In this aspect, the contemporary reading of *maqāṣid* provides many contributions, including *maqāṣid* for the thematic interpretation of the Qur’ān and hadīth. This is what the author means to present ‘the contemporary reading of the purposes’ (*al-qirā’ah al-maqaṣid al-idiyyah al-mu’āṣirah*) as the model of ‘interpretation of the purpose of Qur’ān’ (*tafsīr al-maqaṣid*) and ‘interpretation of the Prophetic intent’ (*hadīth al-maqaṣid*); An alternative model in the study of contemporary interpretations, both Qur’ān and hadīth.

**MAQĀṢID AS THE BASIS OF CONTEMPORARY IJTIHAD**

According to Auda, among the most important contributions made by *al-Maqaṣid* id, understanding for the realization of the renewal of Islamic thought is in the realm of ijtihad or the renewal of Islamic legal theory.

1. Differentiating between *ta’āruf* and *tanāqud*

   In the treasures of the Islamic juridical theory, there are two different terms, namely the term of *ta’āruf/ ikhtilaʕ* (opposition or disagreement) and the term of *tanāqud/ ta’ānud* (contradictions) of several propositions (Qur’ānic verses or Prophetic narration). To what extent are the possible contradictions of the two terms of the various propositions? According to the ulama, in essence, the first term, *ta’āruf*, is considered to be possible. While the second term, *tanāqud*, is considered impossible between the valid arguments unless the validity is not actual. Therefore, conflict or disagreement between evidence is defined as an ‘apparent contradiction between evidence in the mind of the scholar’ (*ta’āruf fi thin al-mujtahid*). This is precisely the wrong perception of fiqh scholars.\(^{24}\)

   This kind of understanding illustrates that the two disputed evidence (*ta’āruf/ikhtilaʕ*) should not be a contradiction (*tanāqud*) that can not be resolved. This can happen because it is caused by a lack of perception of a jurist to make him


\(^{24}\) Auda. 218.
feel that contradiction, where he, for example, lacks or does not even get complete information about the Prophetic narration that is considered contradictory. Another possibility is that the jurist has no knowledge, which includes the aspects of the narrator’s context in terms of place (al-makān), time (al-tawqīf), situations, and conditions (al-dhurūf).

Meanwhile, the term ta’ārud is defined as a clear logical conciliation of truth and falsehood shared in the same statement (taqāsum al-ṣidq wa al-kadzib). The illustration of the possibility of contradictions is when there are two texts, or more, which are equally authentic, in which one leads to a specific law (such as forbid something), while the other leads to the opposite law (e.g., justifying the existence of something). The contradiction of this model is unlikely to occur in the shariah prologues, which are genuinely revealed, in both the Qur’ān and hadīth.25 The possibility of a contradiction, if it feels, is only in the domain of the process of the history of hadīth caused by the negligence of the narrators, thus raising the perception of two contradictory pieces of evidence.

A case example explaining the contradiction of a narrator’s negligence is a hadīth narrated by Imām Ahmad that two men met ‘Āisyah ra, saying that: “Abū Hurairah narrated, according to Bukhārī, that the Prophet has said: ‘Indeed such bad omens are in women, animals, and houses’ (innamā al-thiyarah fi al-mar’ati wa al-dawāb wa al-dār). However, (also according to Bukhārī) ‘Āisyah replied: “For the sake of bringing down the Qur’ān to Abī Qāsim, it is not like that of the Prophet, but the Prophet had said:’ The people during the Days of Ignorance (jāhiliyyah) used to say that bad omens are in women, animals, and houses.”26

This kind of contradiction, which includes two contradictory narrations in its legal significance, rarely occurs, and its effect on fiqh is limited. The majority of ta’ārud cases are disputes between Prophetic narrations because of, apparently, a missing context, not because of the logically contradicting accounts of the same episode, in contrast to the other term, namely ta’ārud. Most of these ta’ārud cases have a significant influence on fiqh, known as “outward contradiction”; A contradiction is outwardly seen for our understanding as a contradiction, but he is not a contradiction on his side.

2. Toward Multi-Dimensionality: A Resolving ‘Opposition.’

As is known that the scholars have tried to make a method formula to resolve the contradictions that exist between the evidence. The method is the possibilities of harmonization between the evidence are arranged based on its hierarchy as follows:

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25 Auda, 218.
26 Auda, 219.
a. Conciliation (al-jam’u): Attempts to consolidate contradictory narrations in the unity of thinking because of differences in the context of each narration. This method is based on a fundamental rule that states that “applying the script is better than ignoring it (i’nm al-nash awlā min ihmālihā).

b. Abrogation (al-naskh): This method suggests that the later evidence, chronologically speaking, should ‘abrogate’ (juridically annual) the former evidence. This means that when verses disagree, the verse that is (narrated to be) revealed last is considered to be abrogating evidence (al-nāsikh) and others to be abrogated (al-mansūkh).

c. Elimination (al-tarjīh) weighs the effort between evidence. This method suggests endorsing the narration that is ‘most authentic’ and dropping or eliminating other narrations. The eliminating hadīth is called al-riwāyah al-rājījah, which means the narration that is ‘heavier in the scale.’

d. Waiting (al-tawaqquf), reluctance to give opinions. This method suggests that the scholar is not to decide until one of the above three methods is proved.

e. Cancellation (al-tasāquth). This method suggests that the scholar ignores both narrations because of the uncertainty.

f. Choice (al-takhyīr). This method allows the scholar to choose whatever is judged suitable for the situation.27

Scholars do not agree upon hierarchical sorting of solving methods as mentioned. Auda also recognizes this. Based on Auda’s inductive investigation of various cases of external contradiction, that al-tawaqquf, al-tasāqut, and al-takhyīr methods are rarely performed. While most scholars precede the theoretical method is the conciliation method (al-jam’u). Followers of the Hanafi school perform the method of abrogation. Auda’s further inductive investigations indicate that hadīth scholars sometimes use the al-tarjīhi method. While among the tendency of Islamic jurists is more toward the use of the al-naskh method. So, it can be said that the most widely used method is abrogation and elimination.

According to Auda, many scripts are abrogated without any compelling reason other than the failure of the jurists to understand how they can harmonize the narrations in a unified perceptual framework. Therefore, al-naskh and al-tarjīh reflect the general feature of binary thinking in fundamental methodology (ushūl al-fiqh). The conciliation method must use the multi-dimensional concept to overcome the above deficiencies.28 One of the practical consequences of the cancellation of several narrations, both the Qur‘ān and hadīth, in the name of abrogation and elimination is the amount of ‘rigidity’ and inflexibility in the Islamic law.

27 Auda, 219–220.
28 Auda, 221.
Furthermore, in order to make al-maqaṣid the basis of contemporary ijtihad, precisely al-maqaṣid combined with multi-dimensionality, according to Auda, could offer a rational and constructive solution for the dilemmas of opposing pieces of evidence.

Consider, for example, an attribute. If we restrict our view to one dimension, such as war and peace, order and forbiddance, standing and sitting, men and women, and so on, we will have no way to reconcile the evidence, and it will most likely cause ta’ārud al-adillah. However, suppose we expand the one-dimensional space into two dimensions, the second of which is a maqāṣid to which both pieces of evidence contribute. In that case, we will be able to ‘resolve’ the opposition and interpret the pieces of evidence in a unified context. The following are some typical examples of applications from a combination of multi-dimensional methods and maqāṣid that represent some of the views, both traditionalist and modernist today:

a. Purpose of magnanimity in the ritual of worship

For example, in the case of different ways of performing ‘acts of worship’ (kaifiyyah al-ibādāt), many opposing narrations attributed to the Prophet with a good narration. In the nuances of interpretation by the method of abrogation (al-naskh), these different narrations often lead to heated debates and prolonged conflict within Muslim communities. This would have different implications, Auda said, if the opposing narrations were resolved through the perspective of al-maqaṣid. However, understanding these narrations within a maqāṣid of magnanimity (taisir) entails that the Prophet did carry out these rituals in various ways, suggesting flexibility in such matters. With this purpose of magnanimity, the Muslims, who are human communities with different abilities and qualities, can perform their worship according to their circumstances. Examples of these acts of worship are the different ways of standing and moving during prayers, reciting ‘God is Great’ (takbīr) during ‘Id prayers, details of pilgrimage, and so on.

b. Purpose of the Universality of Islam and Local Wisdom

Related to this case, there are several Prophetic narrations related to customs (al-‘urf), which were also considered ‘in opposition. The external contradictions between these narrations relating to customs (al-‘urf) could be interpreted through the purpose (maqāṣid) of ‘universality of the Islamic law’ as Ibn ‘Ashūr had suggested. In other words, these narrations should be understood as the Prophet’s efforts to show his concern for the multicultural society. As an example of the contradictions between the two Prophetic narrations, both attributed to ‘Āisyah ra, one of which forbids ‘any women’ from marriage without her guardian, while the

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29 Auda, 224–226.
other allows previously married women to make their own independent choices in marriage. It is also narrated that ‘Aishah ra. Did not apply the conditions of marriage guardian in some cases. Hanafis explained, ‘the Arabic custom goes that a woman who marries without her guardian’s consent is shameless. For Auda, understanding these two narrations in the context of considering local wisdom (al-‘urf) based on the Islamic law’s universality is not only able to resolve the contradictions and provide flexibility in carrying out marriage ceremonies according to their customs in different places and times. This maqāshīd approach can help Muslims coexist, tolerate, and mutual understand cultural plurality by recognizing the legitimate marriage norms prevailing in their communities.

c. Purpose of gradual application of rulings

Several Prophetic narrations were categorized under cases of abrogation, even though they were, according to some jurists, cases of the principle of gradualism (al-tadrij) in applying the law. According to Auda, the gradual application of large-scale rulings is to soften the path of change brought by the law to society’s deep-rooted habits. Thus, the external opposing narrations regarding the prohibition of liquor and usury, and the gradual execution of prayer and fasting, should also be understood in terms of the Prophetic intent of gradual application and implementation of change management to high ideals in any given society.

3. Maqāshīd for Thematic Interpretation of the Prophetic Tradition

In terms of Islamic reform, the thematic school of interpretation, as Auda expressed, attempts to pursue several steps towards interpreting the script (nash), which takes into account the Maqāshīd. Reading purposefulness (al-qirā’ah al-maqāsh idiyah) presented as a model of interpretation of the ‘intent’ has an assumption that the method of reading Prophetic narrations about the themes, principles, and supreme values, is based on the perception that ‘the Prophetic narration is a unified whole. Moreover, in the term of thematic interpretation, there are attempts to interpret the Prophetic traditions based on the holistic approach of Maqāshīd, taking into consideration the life of the Prophet as a whole which is divided into themes containing principles and moral values. Thus, the validity of the hadith can be questioned, for example, if its content is incompatible with fundamental principles and moral values. Similarly, suppose the jurists have failed to break an outward contradiction between two Prophetic linguistic traditions. In that case, one’s validity will be based on ‘the extent to which the narration fulfills and conforms to the principles of the Qur’ān.

31 John Makdisi, “A Reality Check on Istihsā>n as A Method of Islamic Legal Reasoning,” UCLA Journal of
Ahmad Syafi’i Sulaiman Jamrozi, Suad Fikriawan, Syamsul Anwar, & Misnen Ardiansyah, *Maqāṣid Al-Sha fi ‘ah in the Study of Hadith and Its Implication for the Renewal of Islamic Law*

In the context of the interpretation of *Maqāṣid* in the renewal of Islamic thought, Auda added one more requirement for the validity of hadīth that has been applied for this. The requirement is ‘a systematic coherence’ from the conditions of authenticating the content (*matn*) of these narrations with the principles and values of Islam. Thus, a *Maqāṣid*-based approach could fill a crucial gap in the narration of hadīth, which is the gap of missing context. In all schools, most prophetic narrations are composed of one or two sentences or answer one or two questions without elaborating on the narration’s historical, political, social, economic, or environmental context. However, the context and its impact on how the narration is understood and applied are usually left to the speculation of the narrator or jurist. A ‘holistic picture’ helps overcome this lack of information by understanding the law’s general purposes. In other words, *maqāṣid*, as a scientific effort that examines the purposes of the Prophet, can be utilized in contextualizing the narration of hadīth.

In addition to the above, Auda stated that al-maqāsid, the ‘intents’ of the Prophet, could also be utilized in contextualizing narrations. About this, al-Qarāfī differentiated between the Prophet’s actions ‘as a conveyer of the divine message, a judge, and a leader and suggested that each of these intents has a different impact on the law.

**TOWARD ANTHROPOCENTRIC MAQĀṢID**

As it is known that the paradigm of purposes (*maqāṣid*) has undergone many changes in terms of classification, depending on the dimensions viewed by a jurist or scholar, such as (1) level of necessity, which is the traditional classification; (2) scope of the rulings aiming to achieve purposes; (3) scope of people included in purposes; and (4) level of universality of the purposes.

The traditional classifications of *maqāṣid* include three levels of necessity, which are necessities (*al- dai riyya t*), needs (*al-hajiyya t*), and luxuries (*al-tahsiniyya t*). Then the scholars divided the level of necessity into five famous necessities, namely: preservation of religion (*hifdż al-dīn*), preservation of soul (*hifdż al-nafs*), preservation of mind (*hifdż al-‘aql*), preservation of offspring (*hifdż al-nasl*), and the preservation of wealth (*hifdż al-māl*).

However, the paradigm of *maqāṣid* developed over time, especially in the twentieth century. Some Muslim scholars, the initiator of the contemporary theory of *maqāṣid*, have criticized the above traditional classifications of necessities for

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33 Auda, 6.
some reasons, including the following: (1) the scope of traditional classifications of maqāṣid are only concerned with individuals rather than families, societies, and human in general; (2) the scope of traditional maqāṣid is the fundamental Islamic law. However, they fall short of including specific purposes for single scripture/rulings or groups of scripture that cover specific topics or ‘chapters’ of Islamic law; (3) the traditional maqāṣid classification did not include the most universal and fundamental values, such as justice and freedom, in its fundamental theory of necessities; (4) traditional maqāṣid were deduced from the tradition and Islamic legal heritage itself, rather than referring to the original Islamic scripts (Qur’ān and hadīth) for the basis of maqāṣid.35

In order to correct the deficiencies inherent in the traditional theory of maqāṣid, Auda said that the contemporary scholars had induced the concepts and classifications of maqāṣid from a new perspective. First, based on the considerations of the legal coverage covered by maqāṣid, contemporary scholars divided maqāṣid into three levels: (1) general maqāṣid: this maqāṣid is observed throughout the entire body of the Islamic law, such as the necessities and needs mentioned above and newly proposed maqāṣid, such as ‘justice,’ ‘universality,’ and ‘facilitation’; (2) specific maqāṣid: this maqāṣid are considered in one particular chapter of Islamic law, such as the welfare of children in the chapters of the family law, preventing criminals in the chapters of the criminal law (jināyāt), and preventing monopoly in the chapters of transactions (mu‘āmalāt); and (3) partial maqāṣid: this maqāṣid are the intents behind specific scripture or rulings, such as the intent of discovering the truth in seeking a certain number of witnesses in specific court cases, the intent of feeding the poor in banning Muslims from storing meat during festival days (‘Ied), and so on.36

Second, in order to correct the deficiencies in classical maqāṣid classification that tend to be individualistic-oriented, contemporary scholars have expanded the concept of maqāṣid, covering a broader scope of people-the, communities, nations, or humanity in general. Ibn ‘Āshūr, for example, has briefly placed maqāṣid concerning the ‘nation’ (ummah) at a higher level than maqāṣid related to individuals. Rashid Ridhā, for a second example, included ‘reform’ and ‘women’s rights in his theory of maqāṣid. Yusuf al-Qardāwī, for a third example, included ‘human dignity’ and ‘human rights in his paradigm of maqāṣid. These extensions of the scope of maqāṣid have provided an opportunity for contemporary jurists to respond to global challenges and issues and help them to realize maqāṣid into practical plans for renewal and reform.37 Thus, according to Auda, these contemporary theorists have

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laid the fundamental basis of *maqāṣid* and its system of values associated with the center of the debates on citizenship, national integration, and civil rights for the Muslim minorities in non-Muslim-majority societies.

Third, in order to revise traditional *maqāṣid*, contemporary jurists have succeeded in introducing a new universal *maqāṣid* was directly deduced from original scripture rather than from the body of jurisprudence literature in the schools of Islamic law. This method significantly allowed the conception of *maqāṣid* to overcome the historicity of fiqh edicts. Moreover, the direct deductive method of the source of the Islamic teachings provides an opportunity to represent scripture in higher values and principles.38

Furthermore, Auda suggests ‘human development’ to be a prime expression of *maslahah* (public interest) in our time, which *maqāṣid al-shari’ah* should aim to realize through the Islamic law. Thus, the realization of this *maqāṣid* could be empirically measured via UN ‘human development targets,’ according to current scientific standards. Similar to the area of human rights, the area of human development requires more research from a *maqāṣid* perspective. Nevertheless, the evolution of ‘purposes of Islamic law’ into human development gives ‘human development targets’ a first base in the Islamic world.39 Therefore, to bridge the gap between the traditional Islamic law and the international law agreed by most UN members, then Jasser Auda - after decomposing traditional Islamic legal theory by comparing it with the theory of modern Islamic law and the Postmodern era and using a detailed framework of systems analysis proposed the need for a paradigm shift of the traditional *maqāṣid* theory to a new theory of *maqāṣid*. A shift from the traditional theory of *maqāṣid* composed by al-Shatibī to a contemporary theory of *maqāṣid*, taking into account the development of world governance thinkers in terms of nation-states.40 Here is his suggestion in the following table:

**Figure 1. Shift Paradigm Theory of the Traditional Maqāṣid Towards the Contemporary Maqāṣid**

<table>
<thead>
<tr>
<th>No</th>
<th>Traditional Maqāṣid</th>
<th>Contemporary Maqāṣid</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Preservation of Offspring (<em>hifdż al-nasl</em>)</td>
<td>Family-oriented theories; more concern for family institutions.</td>
</tr>
<tr>
<td>2.</td>
<td>Preservation of Mind (<em>hifdż al-‘aql</em>),</td>
<td>Multiplying thinking and propagation of scientific research; traveling to seek knowledge; suppressing the herd mentality. Moreover, avoiding brain drain.</td>
</tr>
</tbody>
</table>

38 Auda, 8.
3. Preservation of Honor and Preservation of Soul (hifż ‘ird wa al-nafs)

4. Preservation of Religion (hifż al-dīn), Maintaining, protecting, and respecting the freedom of faiths

5. Preservation of Wealth (hifż al-māl), Prioritizing social assistance; paying more attention to economic development; promoting human welfare; and eliminating the gap between the poor and the have.

The traditional classifications of maqāṣid include three levels of necessity, which are necessities (al-ḍarūrīyyāt), needs (al-hajiyyāt), and luxuries (al-tahsiniyyāt).\(^41\) Then the scholars divided the level of necessity into five famous necessities, namely: preservation of religion (hifż al-dīn), preservation of soul (hifż al-nafs), preservation of mind (hifż al-‘aql), preservation of offspring (hifż al-nasl), and the preservation of wealth (hifż al-māl).\(^42\)

**CONSIDERING AUDA’S REASON FOR MAQĀṢID**

As Auda explained, contemporary jurists developed the traditional maqāṣid terminology in contemporary’s language, despite some jurist’s rejection of the idea of ‘contemporization’ of maqāṣid terminology. The shifting paradigm from the traditional conception of maqāṣid to the contemporary conception of maqāṣid lies at the second press point. The traditional maqāṣid emphasizes protection and preservation, while the contemporary maqāṣid more takes account of development and rights.

To develop the concept of maqāṣid in this era, Jasser Auda proposed ‘human development’ to be a prime expression of his obsession and the main target of today’s public interest; (maslahah) in our time, which maqāṣid al-shari‘ah should aim to realize through the Islamic law. Furthermore, the realization of this maqāṣid could be seen empirically in its development, tested, controlled, and validated through the human development index and human development targets proclaimed and designed by United Nations.

If so far, the classical scholars tend to base maslahah (public interest) on the ‘Will of God’ (maqshūd al-Shā‘rī’) obtained through the text of the Qur’ān and hadīth, so the product is a maṣlahah that is not grounded and less realistic. Everything is always restored to the ‘Will of God’, whereas those who live and dabble with religious and social problems in the historical dimension are humans.\(^43\)


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According to the writer, basing *maṣlaḥah* on the ‘Will of God’ produced via scripture should be reviewed because it means did not give the space for human beings those who have burdened the law (*mukallaf*) to determine their law. In this context, the formulation of *maqāṣid al-shari‘ah* offered by Jasser Auda could be used as a foothold for the effort of landing the epistemology of *maṣlaḥah* from ‘theocentric’ conception to ‘anthropocentric’ conception by making human values such as freedom, equality, justice, democracy as the source of public interest.

According to the writer, this anthropocentric *maṣlaḥah* or *maqāṣid* has a very significant role in the objective of a legal settlement. Because everything ordered by God has to contain the benefit, something forbidden must contain the harm. All the laws and ordinances of life made by God for man essentially derive from two fundamental principles they are taking benefits (*jalb al-masha‘lih*) and avoiding mishiefs (*dar‘u al-mafāsid*). That is, all God’s laws are made for the benefit of humanity in the world and the Hereafter (Al-Shāthibi, p. 30). The presence of the law of Allah (*al-ahkām al-shari‘ah*) should be used as a guide and reference by humankind in wading life, and there is no other purpose for human beings to achieve goodness in the world and the hereafter. Based on this, the jurists have agreed that *maṣlaḥah* is the core purpose of Islamic law (*maqāṣid al-shari‘ah*), resulting in a famous adage among ushūfis that “where there is *maṣlaḥah* there is the law of God “ (*aināmā kānat al-maṣlaḥah fa tsamma hukm Allāh*).

The logical consequence of this anthropocentric idea of *Maqāṣid* necessitates legal conclusion based on *maṣlaḥah*, no longer in written scripture (*al-‘ibrah bi al-maṣlaḥah la bi al-fadż*). This basic revolutionary rule (*qā‘idah*) presupposes that which should be the attention of an Islamic jurist in deducing the law of the Qur’ān and hadīth rather than its scripture but from the *maqāṣid* aspect contained. The axis is the moral ethic of a verse and not the specific legislation or literal formulation. In order to know the *maqāṣid*, one must understand the context and possess the competence of worldview, which is not only the context of the personal-particular worldview but also the impersonal-universal context of worldview.

**CONCLUSION**

After explaining and analyzing the critical points of Jasser Auda’s thought through lengthy discussions, some substantive conclusions are as follows:

One way to gain a closer understanding of the purpose of the hadith is through contextualizing the Prophetic narrations (hadīth), primarily when the scripture cannot be understood textually. The conception of Auda’s *maqāṣid* could solve the problem. First, Auda, in this terms, offers a way of reading the scripture

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based on the intent in applying Islamic law and how its implications when *maqāṣ id* are a primary consideration in reading and applying the law. In this aspect, a contemporary reading of *maqāṣid* contributes more, including *maqāṣid* for thematic interpretation of the hadīth. The holistic approach in the thematic interpretation of hadīth based on the *Maqāṣid* approach potentially opens opportunities for the disclosure of the principles and moral values embodied by hadīth. Auda added one more requirement for the validity of hadīth that has been applied. The requirement is ‘a systematic coherence’ from the conditions of authenticating the content (*matn*) of these narrations with the principles and values of Islam. Thus, a *maqāṣid*-based approach could fill a crucial gap in the narration of hadīth, which is the gap of missing context. Second, *maqāṣid* combined with multi-dimensionality, according to Auda, can provide a rational and constructive solution to dilemmas considered to be contradictory.

The methodological implications of contextualization of the prophetic tradition based on *maqāṣid* in the renewal of contemporary Islamic legal are the occurrence of the “Contemporaryization concept of *maqāṣid*” through the transformation of paradigm and theory of *maqāṣid* from the traditional theory of *maqāṣid* to the contemporary theory of *maqāṣid*. The traditional *maqāṣid* emphasizes the protection and preservation, while Auda’s contemporary *maqāṣ id* more takes into account the development and rights. Academic objectivity as a result of Auda’s academic research is the validation of several methodologies of *ijtihād*, which would produce the type of Anthropocentric *maqāṣid*. The logical consequence of this anthropocentric idea of *Maqāṣid* necessitates legal conclusion based on *maṣlahah*, no longer in written scripture (*al-‘ibrah bi al-maqaṣid la bi al-alfādż*).

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