



CONTEXTUALIZATION OF *MAŞLAĦAĦ*  
JASSER AUDA'S THOUGHT  
IN ISLAMIC ECONOMY

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**Abstract**

MaşlaĦah based on the purpose of his day divided into two levels, namely; MaşlaĦah the world and the Hereafter." MaşlaĦah the world is the obligation or rule of Shara' related to the laws of Muamalah instead (social and economic interactions). While MaşlaĦah Hereafter is the obligation or restriction of Shara' about the rules of Aqidah (Tauhid) and Worship. Yasser Auda divided the MaşlaĦah on the aspect of the need into three categories: (a) MaşlaĦah al-Dlaruriyyah (primary benefit), (b) MaşlaĦah al-Hajiyyah (secondary benefit) and (c) MaşlaĦah al-TaĦsiniyyah (benefit Tertiary). The concept of Maqāşid offered by Auda is identical with MaşlaĦah and the view of the Ulama about MaşlaĦah and all type. Jasser Auda defines maqāşid in four meanings, first, the wisdom behind a law. Second, a good end goal that the Law was trying to achieve. Third, the divine purpose group and the moral concept are the basis of Law. Fourth, maşālih. In the maqāşid idea offered by Auda, values and humanitarian principles are the most important. Auda also tried to reconstruct the old maqāşid concept, which is protection and preservation in the direction of the maqāşid theory, which refers to development and rights. The implications of the application of maqāşid al-sharī'ah. Using the maşlaĦah instrument in the context of the Islamic economy in Indonesia are used to fulfil the needs of sharia policies in the economic sector which do not only revolve around Islamic banking matters.

**Keywords:** MaşlaĦah of Jasser Auda' Thought and Islamic Economy

## INTRODUCTION

Science *uṣūl fiqh* appeared and developed along with the emergence and development of Fiqh itself. It's just that the bookkeeping of Fiqh became an independent science ahead of the bookkeeping of science *uṣūl fiqh*. Although in practice, the birth of Fiqh was actually through several processes. And this process is called *uṣūl fiqh*.

So *uṣūl fiqh* has existed since the time of Companions (after the Prophet), where they use the media *ijtihād* and *ra'yu* in establishing some legal problems that The researchers will not identify in the Qur'ān and al-Sunnah. But their *ijtihād* are not based on standard rules or specific methods, but instead based on the understanding of the spirit or meaning of *tashrī'* which they obtained during approximately 23 years with the Prophet (Arfan, 2008).

The *understanding of the spirit of tashrī'* is a gift and their advantage. Because they live with the Prophet SAW, get guidance and education from the Prophet directly, live when the Quran is still revealed, know the causes of the revelation of the Quran, and others. All of which form a complete and powerful *dhūq (instinct)* in understanding *asrār al-Tashrī'* (*secrets* or *Hikmah-Hikmah Shar'iat*) that will not be possessed by the generations after them quickly (al-Dawalibi, 1965).

For example, *ijtihād* Ali ibn Abi Thalib in determining the punishment of drunks, he said;

إنه إذا شرب هذى, و إذا هذى إفتى, و حده حد المفتين في حد القذف

*"Surely the intoxicator when he drinks and gets drunk, then it will be inconsequential, and when it is inconsequential it will lie, then the limit (punishment) is like the limits of a liar (oath or false accusation)."*

If examined, the determination of punishment outlined Ali is the same as the method *māl (Revert or refer)* or *sad al-Dharā' i*, which is one of the several methods *uṣūl fiqh*. In essence, (al-Andalusi, 1997) *ijtihād* is based on several methods, it's just that they do not give their name, term, and methodology to the *ijtihādi*.

Then after the time of companions, *ijtihād* continued to overgrow with the birth of several mujtahids at some time, different places and generations to form *dhaūq* or

instinct against *asrār al-Sharī'ah* into several other methods in processing, formulating and establishing some problems of Islamic Law. And this triggered the emergence of discussion, friction, and scientific debate in the materials of Islamic Law. The farther and greater the space and time of the mujtahid with the revelation, the more distant and more significant the differences exist. This triggers and motivates some mujtahid figures to make and set rules in *ijtihād* so that discussions and debates remain based on science rather than lust. And finally, the rules are known by the name<sup>1</sup> *uṣūl fiqh*. The first paper to discuss the science of *uṣūl fiqh* ideally is *al-Risālah* his Imam Shāfi'ī

Jasser Auda, who aims to restore the understanding of *the spirit* of *tashrī'* such as the time of Companions of the Prophet Muhammad SAW as a method of *istinbāṭ* Islamic Law through the door that he called *al-Maqāṣid al-Shar'iyyah* or *Maqāṣide al-Shari'ah*. This term may be familiar to Islamic Law scholars with its figures such asal-Shaṭībī, al-Juwaynī, al-Ṭufī, al-Izz Abd. Greetings and others, but in sparing the author of the concept *maqāṣid* offered Auda more broadly, elastic, moderate, and courageous to attract the author's interest to more in analyzing and discussing it in this simple paper.

## RESEARCH METHOD

This type of research in writing is a qualitative type of research. Data collection techniques use literature (library research to trace books written by Jasser Auda and analyses that have been done related to Jasser Auda Thought, especially on Contextualization of *Maṣlaḥah* in Islamic economy. The data analysis techniques used by researchers in this study is a qualitative descriptive analysis using technical analysis miles and Huberman with the stages of such as data collection (*data* collection), presentation of

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<sup>1</sup>A mujtahid who is considered as the basic laying of knowledge *Uṣūl fiqh* is Imam Muhammad al-Baqir bin Ali Zaenul Abidin bin Husen bin Ali bin Abu Tholib, then continued by his son, namely Imam Ja'far al-Shodik. Abu Haneefah (Imam Hanafi) had studied and taught from both (al-Baqir & al-Shodik) is considered as the first to compose and write the science of *Uṣūl fiqh* in *kita'*his "*al-Ra'yu*" which was then continued and developed by two famous disciples; Qodli al-Qudlot-Imam Abu Yusuf-ya'qub bin Ibrohim al-Anshori (he was the first to use the name *Uṣūl fiqh* in his work "*al-Tawhid*") and Imamal-Royani-Muhammad bin Hasan al-Shay ban. As for Imam Shafi'ī who had taught to the two disciples Imam Hanafi wrote us the very famous "*al-Risālah*", when he was in Baghdad and perfected in Egypt. And *al-Risālah* this is a *uṣb Uṣūl fiqh* the most perfect and sitematic in his time, so majority of scholars argue that Imam Shafi'ī was the first to write and book the science of *Uṣūl fiqh*.

data (data *display*), reduction of data (data *reduction*), data analysis (data *analysis*) and the last conclusions (*data conclusion*). The study aims to describe or describe the problem objectively in this research method. And for data collection (data *collection*) (Miles, 1994) the author uses library search (library *research*). After the data is collected, the researchers present or present the data to reduce, select and sort the data that suits the research needs. Furthermore, after being reduced, the researchers analyzed the data of Jasser Auda's Islamic economy Thought. And the last is to conclude the results of the study.

## **RESULTS AND DISCUSSION**

### **Biography of Jasser Auda**

Jasser Auda is Founding Director of *Al-Maqāṣid* Research Centre in the philosophy of Islamic Law, Al-Furqan Foundation, London, UK., since 2005, a scholarship recipient from the International Institute of Advanced Systems Research, Canada, a founding member of the International Union for Muslim Scholars, based in Dublin, a member of the Academic Council of the International Institute of Islamic Thought, U.K., a member of the Board of Commissioners of the Global Civilizations Study Centre, U.K., consultant for Islam on linear, Executive Board member of the Association of Muslim Social Scientists, U.K., and a lecturer at the Islamic Institute in Toronto-Canada, Alexandria University Faculty of Egyptian Law, and The Islamic Fiqh Academy in India. He has a multidisciplinary academic background. He earned PhDs from two Universities with the Philosophy of Islamic Law dissertation at the University of Wales; the U.K., and System Analysis at the University of Waterloo-Canada. And here is a chart of explanations of higher education that have been studied:

**Tabel 1**  
**Auda's Education**

Degrees	Discipline	Institution	Grades	Date
1. Ph.D.	Theology & Religious Studies (Philosophy of Islamic Law)	University of Wales Lampeter, U.K.	Dissertation Based	2008
2. Ph.D.	Systems Analysis & Design (Classification Systems)	University of Waterloo, Canada	Course Average: A	1996
3. M.J.	Comparative Jurisprudence (Principles of Islamic Law)	Islamic American University, USA	GPA: 3.86/4.0 Thesis: Distinction	2004
4. B.A.	Islamic Studies	Islamic American University, USA	GPA: 4.0/4.0	2001
5. B.Sc.	Engineering	Cairo University, Egypt	Course Off. 83%	1988

\*Classic Training: In parallel to my early engineering studies in Cairo, I attended a weekly non-degree 'study circle' in al-Azhar Mosque in Cairo, under the supervision of its Imam, Sheikh Ismail Sadiq al-Adawi, between 1984 and 1990, where I studied the Quran (complete memorization according to Hafs narration), Bukhārī and Muslim Hadith Collections (with Ibn Hajar and Nawawi commentaries), Fiqh (al-Shaf'iah), Ulum Hadith (*Isnād was takhrīj*), and Usul Fiqh (comparative).

He wrote many books and articles in Arabic and English that revolved around the current Fiqh consolidation, especially in the study of *Maqāṣid al-Sharī'ah*. His latest book is *Maqāṣid al-Sharī'ah as The Philosophy of Islamic Law: A System Approach*, IIIT, 2007, which became the main study in this paper.<sup>2</sup>

In his website autobiography, Jasser did not mention his place and date of birth. But in the author's guess, he was born in Egypt because his name and facial expression indicate that. Then turn 360 degrees in the direction of his education to Islamic studies while studying in the West. But while studying mechanical engineering in Cairo attended weekly lessons at halaqah al-Azhar Mosque under the care of Shaykh Isma'il Shadiq al-Adawi between

<sup>2</sup>In addition to the parent book above as the main reference in studying Jasser Auda's thoughts on the concept of *Maqāṣid*, the author also studied other works of Auda that are still one theme such as some arabic-language articles titled *Maqāṣid al-Ahkām al-Shar'iyyah wa Ilaluhā, Madkhal Maqāṣidi li al-Ijtihād*, and others.

1984-1990 in the field of primary studies, such as Hadīth, Ulum al-Hadīth, Fiqh madhhab Shāfiī and Uṣūl Fiqh with comparison madhhab, even he has also finished memorizing 30 juz al-Qur'ān between those years with the history of Imam Hafez.

### **Jasser Auda's Modern Thinking on the Concept of *Maqāṣid* and Its Analysis**

All traditions (madhhab) of Law in Islam agreed that the problem that is not found the answer in the *Qur'an*, *al-Sunnah*, and *Ijmā'*, is resolved through *Ijtihād*. The difference between these streams is only how the methods are used, or some of the streams use specific techniques, but others do not use them (Kābah, 1999).

Methodology (description of methods), according to some experts, is interpreted as a discussion of *theoretical* concepts of various methods related to a knowledge system. If Islamic Law is seen as a science system, then what is meant by the methodology of Islamic Law is discussing the basic concepts of Islamic Law (*Al-Qur'ān*, *Sunnah*, *Ijmā'*), and how Islamic Law is reviewed and formulated. In harmony with the above understanding, there is a writer (Fazlur Rahman) titled *Islamic Methodology in History in* a work that discusses the historical *evolution* of the basic principles of Islamic Thought, namely the Qur'an, Sunnah and *Ijmā'*. With this understanding, the methodology of Islamic Law is no different from the understanding of *uṣūl fiqh*, which according to experts, is interpreted as something on which Islamic Law is built or the evidence on which Islamic Law is made. And some writers, such as Wael B.Hallaq termed (A.Maṣadi, 1998) *Uṣūl fiqh* with the *theory of Islamic Law (Islamic legal theory)*. At the same time, in his book, Auda prefers to mention (Auda, 2007) *Uṣūl fiqh* in his English-language book with the term *Fundamentals of Islamic Law*. (Auda, 2007) As for Indonesia, some writers in this field call *Uṣūl fiqh* with the term *Philosophy of Islamic Law*. (Djamil, 1999) And *Maqāṣid* or *Maṣlaḥah*, which became the primary study of Auda in his book, is one of the



areas of discussion in science *uṣūl Fiqh*. Even Auda strongly agreed with Shaykh al-Ṭahir Ibn 'Ashūr who criticized the establishment of science *Uṣūl Fiqh* as<sup>3</sup> a science that has neglected *Maqāṣid al-Shari'ah* by relying only on *al-fādh* (text--text) outwardly *Shar'iat* and the meanings of the text through specific rules in *istinbāt* Islamic law and look in the eye at the *Maqāṣid* stored in every legal text whereas *Maqāṣid* is the primary purpose and objective of *Fiqh*. In other words, the author likens *Maqāṣid* as a nut to be eaten, while the texts outwardly only its means skin (smooth) that is sometimes discarded by some people. (Auda.net, 2009)

Terma *Maqāṣid* is derived from Arabic, which is the plural form of the word intent, which means a plan, objective, principle, intention, purpose, the end goal. *Maqāṣid* Islamic Law is the targets or intentions behind the Law. For some Islamic law theorists, *maqāṣid* is an alternative statement for *maṣālih* or meaning benefit. (Auda Y. , 2007)

Auda more agreed with the proposal ibn 'Ashūr who proposed that *Maqāṣid* stand alone as "science *Maqāṣidal-Shari'ah*" by still allowing science *Uṣūl Fiqh* as a science that undermines the evidence *fiqh*. (Auda Y. , 2007)

And the concept of *Maqāṣid* developed by Jasser Auda is outlined in his book entitled *Maqāṣidal-Shariah as Philosophy of Islamic Law a systems Approach (Maqāṣid Shari'ah as The Philosophy of Islamic Law as a System Approach)*. The book covers three main subjects, namely: (a). Methodology, (b). Analysis and (c) Development of theory. The three subjects above are described in 7 (seven) chapters, namely: (a). *Maqāṣide al-Shari'ah* (Auda Y. , 2007) in a contemporary perspective, (b). The system as philosophy and methodology of analysis, (c). Islamic Law (*Fiqh*), Imam mujtahid and Madhhab: a historical observation, (d). Classical theories of Islamic Law (*Uṣūl Fiqh*), (e). Contemporary ideas of Islamic Law, (f). A system of approach to the theory of Islamic Law and (g). Conclusion.

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<sup>3</sup>In general, the idea of Ibn 'Ashūr is almost the same as the discourse offered by al-Shathibi, only he has been instrumental in developing the discipline of *Maqāṣid shari'ah* and making it as a new discipline separate from the science of *Uṣūl fiqh*, he was dubbed as the 'second teacher' after al-Shathibi was dubbed the 'first teacher'. He has succeeded in developing the theory of *Maqāṣid* which previously only focused on the study of *juz'iyah* and *kulliyah* became wider, namely by widening the discussion of *Maqāṣid* into '*Maqāṣid* sharia specifically about *muamalat*' in which to explore various issues of *Maqāṣid* about *Maqāṣid* family law, *Maqāṣid* use of property, *Maqāṣid* law and testimony and others.



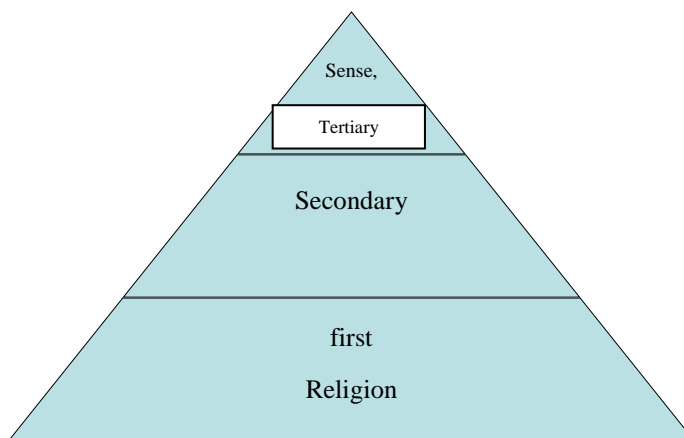
In developing the concept of *Maqāṣid*, then in chapter *one*, before explaining *Maqāṣid al-Shari'ah* in a contemporary perspective, Auda departed from the concept of *maqāṣid* classical (traditional) by quoting and exposing some scholars' opinions about the definition and level of *Maqāṣid*. He criticized some of the views of classical scholars about the concept of *Maqāṣid*, and he also praised some of the classical opinions.

Auda began to define *Maqāṣid* from the view of language science (etymology) first; linguistically, *Maqāṣid*, which is the plural form of *maqṣid* means *maṣlaḥah*, objectives, principles, intentions, objectives, end goals, etc. Then in terms (terminology), *Maqāṣid* (Auda Y. , 2007) can be defined by "the meanings (understanding) desired by *Shari* (God and His Messenger) to be realized through *tashri'* and the determination of the laws that are in-*istinbāt* (take) by the mujtahid through the texts of *Shariah*." And al-Juwayni- (Auda Y. , Madkhal *Maqāshid li al-Ijtihād*), which by Auda is called the first cleric who has offered the concept of *Maqāṣid*- it sometimes mentions *Maqāṣid al-Shari'ah* with the term *maṣlaḥah 'amah* (public benefit). While al-Ghazālī looked at *Maqāṣid* is *al-Maṣalih al-Mursalah* with three levels, namely: primer /necessities (*ḍarūrāt*), under/needs (*ḥājjiyāt*) and tertiary/luxuries (*taḥsinīyāt*) and the opinions of other scholars, such as al-Ṭufī, al-Qarāfī which although different editorial staff but the purpose and purpose are the same. Therefore, Auda also claims that between *Maqāṣid* and *Maṣlaḥah* is the same. (Auda Y. , 2007)

Auda more agreed with the opinion of scholars who divide *Maqāṣid* into three main parts, namely general (*'ammāh*/general), specific (*khāṣṣah*), and partial (*juziyyah*/partial). *Maqāṣid* is a general-purpose (principle) that exists in all aspects of *Shar'iat* or as a whole, such as the principle of tolerance, ease, justice, and freedom. So *Maṣlaḥah* the primary -which includes the obligation to keep religion, soul, reason, *naṣab*, wealth, and honour- it is included in this section *maqāṣid* general. As for *Maqāṣid* special is some of the purposes of *Shar'iat* which is in one chapter/part of some chapters *Shar'iat*, such as the sanctions/punishment in the chapter *jīnayāt* (criminal) there aims to create a deterrent. While *maqāṣid partial id* is sometimes a law or *asrār* (secret) referred to by *Shar'iat* directly against a *partial* law, such as the purpose of *rukḥṣah* (lightening) not fasting for the incapable is to eliminate difficulties (Auda Y. , 2007).

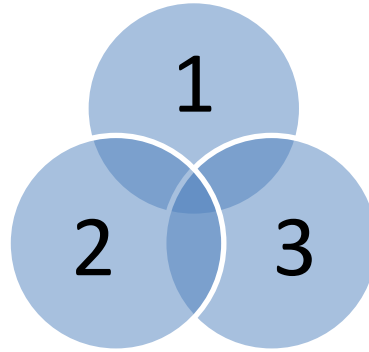
Of the three categories, *maqāṣid* above, indeed the scholars have made a sequence of virtues (hierarchy) starting from *Maqāṣid primary* as the first and foremost order, then the *secondary* and last *tertiary*. Similarly, in *Maqāṣid primary*, there is a sequence of hierarchy that has been made al-Ghazālī and follow the subsequent scholars in the following order: *Hifẓ* (keeping); religion, soul, reason, descendants, and property are in the last order. The hierarchy illustrated with the *mahrām* form (pyramid) as follows:

**Figure 1**  
**Hierarchy of *Mahrām* Form**



The hierarchy serves as a determinant in case of two or more *Maṣlaḥah* facing each other, as an option that should take precedence between the two. As it is permissible for a person to drink *khamr* by force even if it is contrary to the obligation to keep the mind (by not drinking *khamr*) because keeping the soul (so as not to be killed for refusing the compulsion to drink *khamr*) is in the second hierarchy while keeping sense is in the third order. Auda's view, al-Ghazali has violated the hierarchy when al-Ghazālī still prohibits adultery by coercion (rape), it means to have prioritized keeping the *naṣal* (descendants) from the soul, when the order of the soul is at number two, while *naṣ* number four. The complexity of the use of this hierarchy which in Auda's view resulted in some scholars, such as al-Shaṭībī, al-Rāzī, al-Qarāfī, al-Baiḍawī and Ibn Taimiyah refused to use this hierarchy as a solution in determining options. And Auda agrees more with modern

opinion, namely the opinion of Shaykh Muhammad al-Ghazālī who no longer describes *Maqāṣid* with pyramids but with parallel circles and filling each other as the following illustration: (Auda Y. , 2007)



Auda bases the concept of *Maqāṣid*- his on Hadīth *ṣahīh* Bukārī-Muslim and others the following:

عن ابن عمر رضي الله عنهما قال : قال رسول الله صلى الله عليه وسلم يوم الأحزاب ( لا يصلين أحد العصر إلا في بني قريظة ) . فأدرك بعضهم العصر في الطريق فقال بعضهم لا نصلي حتى نأتيها وقال بعضهم بل نصلي ثم يرد منا ذلك . فذكر ذلك للنبي صلى الله عليه وسلم فلم يعنف واحدا منهم

*"IbnUmar ra said: The Prophet Muhammad (PBUH) said on the day of the war al-Ahزاب: ("Do not one of you pray 'aṣr except in the Jewish village of Bani Qurayḍah"). So some of the companions of the Prophet (s) had found the time 'aṣr in the street (before reaching the Banu Qurayḍah), then some friends said: We will not pray before we achieve, and others say: we will still pray in the street. Then he pitted the matter on the Prophet SAW, and the Prophet did not blame or justify anyone. "*

Auda argues that Hadīth above as clear evidence that it is permissible to observe the Law of *Shariah* taken from al-ḡan *al-Ghālib* (strong perception), may even establish a law '*amali*'; (practical) based on the concept of *Maqāṣid* taken through an understanding that is even contrary to the Alloh (cause) that appears textually. Because some of the companions who have *ijtihād* and understand that the purpose of the Prophet's words is to hasten to the destination (Bani *Qurayḍah*) and not the command to pray 'aṣr in Bani *Qurayḍah*, then those who continue to pray in the street means it has been contrary to the outward orders of the Prophet SAW. And *taqīr*-his Prophet SAW

by silence both groups is proof that the Prophet SAW justifies both methods. (Auda Y., 2007)

And Auda also argued with some *ijtihad* Umar which is contrary to the outward text of Hadith by only guided by the understanding of the concept of *maṣlaḥah* or *Maqāṣid*, such as The Decree of Umar ibn Khattab with the withdrawal of taxes from the conquered lands of Iraq and Egypt and not sharing it as a spoil of war (Auda Y., 2007).

However, Auda, before discussing with complete and clear the concept of *Maqāṣid* and its relationship with Allah law as has been understood companions of the Prophet SAW as a system of approach in English Islamic law issues. So in *chapter two*, he first explains philosophically about what and how is it?, what is a philosophical system?, and what is its correlation to Islam and what modern philosophy is the intelligent Islamic system? what is its relationship to Islam and modern philosophy? What is the approach of the system? Also, discuss the cognitive nature of the Islamic legal system that is easy to understand, thorough, open, gradual, multi-dimensional, and *maṣlaḥah*. Besides, at the end of chapter two, Auda also raised the three groups of scholars' differences about "Does God have a purpose behind His *Shar'iat*? And is it possible for a man to judge good and evil without the help of information about God's revelation or the Prophet's words? That is between the opinions of Mu'tazilah and Syi'ah, Asya'irah and Maturidiyyah (Auda Y., 2007).

In *chapter three* in telling the history of the birth of madhhab-madhhab Fiqh, which began from two main strongholds, namely: madrasah *Hijaz (ahl al-Hadīth)* and *madrasah kufah (Ahl al-Ra'y)*, until the emergence of various madhhab schools in *istinbāṭ* law, Auda also criticized that most of the sect did not understand the concept of *Maqāṣid* well like the companions of the Prophet SAW in establishing Law. Auda's criticism can be read clearly in the chart he created as follows: (Auda Y., 2007).

As for *chapter five*, Auda discusses contemporary traditions in the theory of Islamic Law. It was starting from the traditionalist tradition that in this century gave birth to neo-traditionalists and neo-literalists. The emergence of modernist traditions that covet reform by carrying essential agendas such as text reinterpretation, the orientation of the theory *Maṣlaḥah*, revision *uṣūl fiqh* and others with the discussion of modernist figures,

such as Muhammad 'Abduh, Rashid Riḍ an al-Ṭahir ibn Ashūr, Muhammad al-Ghazālī, Hasan al-Turabī, Fazlur Rahman, Fathi Uthman, and others. And until the birth of the postmodernist movement that brought the theory of deconstruction Jacques Derrida which also gave rise to the flow of post-structuralist and historicist with its characters, such as M. Arkun, Naṣr Hamid Abu Zayd, Hasan Ḥanafī, al-Ṭahir al-Haddād and others (Auda Y., 2007)

Method MAZ HAB	Qur'ān	Sunnah	Ijmā'	Qiyās	Maṣlaḥah	Sam'ān	'Urf	Ra'y al- Imam	Fatwa Friends	Istishāb
Māncār	X	X	X	X	X		X		X	X
Ḥanafī	X	X	X	X		X	X		X	X
Shāfi'ī	X	X	X	X					X	
Ḥanbalī	X	X	X	X	X	X			X	X
Ja'fari.	X	X	X					X		X
Zaynī	X	X	X					X		X
Zahirī	X	X								X
'Ibadī	X	X	X	X	X	X				X
Mu'tazilī	X	X	X	X	X	X				

In *chapter six*, Auda discussed in detail the development of the concept of *Maqāṣide* that he researched. The summary of this chapter he has written in two Arabic-language articles entitled *Maqāṣid al-Aḥkām al-Shar'iyyah was 'Ilaluha* and *Madkhal Maqāṣid li al-Ijtihād*. Which is then perfected in his Arabic-language book also published The International Institute of Islamic Thought (IIIT), London-UK with the title *Fiqh al-Maqāṣid; Inathat al-Aḥkām al-Shar'iyyah bi Maqāṣid* And in this sixth chapter Auda also elaborates on the various traditions of post-modernism Islam and also how they influenced some twentieth-century Islamic studies.

By referring to Hadīth Ibn Umar above, Auda argues that *ijtihād* friend in the story of Hadīth is based on *'Alloh* which some friends understand differently from others, resulting in differences in the results of *ijtihād*. Because when the Prophet (PBUH) said not to pray *zuhr/aṣr* except in the village of Bani *Qurayḍah* then *dilālah zahir* showed that

should pray in the village bani *Quraydah*, and *Alloh* is to get to the village, but *Maqāshid* (intent and purpose that is understood contextually) is *al-Isrā'* (hastening to reach the village before the prayer time runs out), then *dilālah al-Maqāshid* his is hurrying and praying in the middle of the road (Auda Y. , Madkhal Maqāshid li al-Ijtihād).

In Auda's view that there are similarities between *Alloh* and *Maqāshid*, because *Alloh* which is defined as *al-Ma'nā al-ladhī Shari'a al-hukm li Alloh* (a make which is, therefore, a law that is in *Shariah*) is the same as the definition of *Maqāshid* (which has been mentioned in front). Not to mention some names *Alloh*, such as *al-Sabab*, *al-Amarah*, *al-Da'i*, *al-Ba'ith*, *al-Hāmil*, *al-Manāt*, *al-Dafīl*, *al-Muqtaḍā*, *al-Mujīb* and *al-Mu'athir* can also be the reason that there are similarities between *Alloh* and *Maqāshid*. So when there is a rule *uṣūliyah* favourite reads: "*al-Hukm al-Shari yaduru ma'a Alloh; wujudan wa adaman*" (*Shariah* law is oriented to the existence or absence of an *Alloh*) means that a law will be punished there, if *Alloh* exists, and vice versa. Thus, a conclusion can be made that "*Tadū al-Aḥkām al-Shar'iyyah al-'Amaliyyah ma'a Maqāshidihā Wujudan wa 'Adaman, kama tadūma'a illaliha wujudan wa 'adaman*".

And Auda also agreed with the opinion of classical scholars who *divide 'Alloh* into two parts, namely *ta'abbudī (irrational)* and *ta'aqquli (rational)*. (Auda Y. , Madkhal Maqāshid li al-Ijtihād) And '*Alloh* a law that can be found by reason is often called *al-Ta'līl bi al-Ḥikmah* (the determination of *Alloh* with an *Ḥikmah*). And if '*Alloh* a law is not or has not been known *Ḥikmah*-his, then *Maqāshid*-hisis *ta'abbudī*. But there are still some scholars who equate and distinguish between *Alloh* and *Ḥikmah*. So most fuqaha view '*illah* can be *hujjiyyah al-hukm*, but not for *Ḥikmah*. (Auda Y. , Madkhal Maqāshid li al-Ijtihād) Then Auda also made a big question that will be the major study of his research, namely, "is *Maqāshid* in a position like *Alloh* or *Ḥikmah*?" (Auda Y. , Madkhal Maqāshid li al-Ijtihād)

Through some analysis of the example of the search case *Alloh*, Auda seems to have concluded that *Alloh* and *Ḥikmah* are the same, because *Alloh* the *ta'aqqulī* it is *al-Ta'līl bi al-Ḥikmah*, and *Ḥikmah* a law can undoubtedly be sought and accepted sense (*ta'aqquli*). But even above, Auda has tried to align between *Alloh* or *Ḥikmah* and *Maqāshid* in its extensibility to the existence of a law, but Auda still makes a feature to find

the difference between *Hikmah* and *maqāṣid* (*Maqāṣid*), namely: *Hikmah* is a *Maṣlaḥah* of some *Maṣlaḥah* which is the foundation of Law, while *maqāṣid* is a *Maṣlaḥah* that is *innaṣ* by Shariah or a *maqāṣid* (the primary purpose) of Law in strong perception (*al-zan al-Ghālib*) from *ijtihād* a mujtahid which is, therefore, the Law is shared. Then there are three circumstances between *Hikmah* and *maqāṣid*, namely: a) sometimes there is a difference between *Hikmah* and *Maqāṣid*; b) sometimes *Hikmah* is also part/branch of *Maqāṣid* and; c) sometimes *Hikmah* is the essence of *Maqāṣid* itself.

Auda concluded, there are four reasons why *Maqāṣid* is used as a method of *ijtihād* in Islamic Law. In other words, *Maqāṣid* is one of the sources of Islamic Law. (Auda Y. , Madkhal Maqāshid li al-Ijtihād) *First, fahm dilālah al-maqāṣid*, meaning that it is permissible for a mujtahid to conclude meaning to a *Shar'iat* text through *Maqāṣid*. His pieces of evidence thīsth Bani *Quraydah* above.

Second, *taghayyural-fatwā bi taghayyur al-zaman has an al-Maqāṣid* (the change of a *fatwā* the Law because of the transformation of the Law of an era with the consideration of *Maqāṣid*), meaning the relativity of a *fatwā* the direction is determined by the relativity of *Maqāṣid* at an age that is very relative and dynamic. Some *ijtihād* evidence thīrd Umar R.A., such as not setting a penalty of cutting off hands for a thief in the condition of the time that is dry season, not giving part of zakat to the rich and able *muallaf* or such as *fatwas* zakat profession al-Qardawī and others.

*Third, hallal-ta'arud bi i'tibār al-Maqāṣid* (resolution of contradictions between the evidence and the consideration of *Maqāṣid*). In *Uṣūl Fiqh*, when there is an outward contradiction between the evidence, then there are three kinds of solutions, namely *al-Naṣkh*, *al-Tarjīh* and *al-Jamai* Then actually, this solution can also be done with consideration *Maqāṣid*. This has been proven by the Prophet Muhammad SAW's actions, such as allowing grave pilgrimage after previously prohibited, prohibiting the storing of sacrificial meat after previously recommended.

*Fourth, man' al-hiyal al-Fiqhiyyah* (prohibition of *ḥilah* trick law). In general, the scholars have agreed to prohibit *ḥilah* law, as the Prophet's prohibition against practice *muḥallil* and *muḥallil lah*. However, there are some cases *ḥilah* is allowed

For the above four reasons, Auda then proposed five strategies to make *Maqāṣid* as a new methodology in *ijtihād*, namely: aa) There must be the courage to change the madhhab line theoretically; (b) Think madhhab *Zahiriyyah* (Literalism) by becoming Neo-Literalism; c) Approach the philosophy of deconstruction via historicism; d) But it is in the middle (moderate) between literalism and historicism; with the limitation that literalism should not neglect (Maksum, 2009) *Maṣlaḥah* and historicism should not exceed the authority of revelation and by restoring the position of *Maqāṣid* in its original place and; e) Continuing to optimize the role of the concept of *Maqāṣid* in the renewal of Islam in all fields (Fuady, 2005).

### Contextualization *Maṣlaḥah* in Islamic Economy

From the analysis that the author did to the thinking of Auda above and some other supporting literature on the concept of *Maṣlaḥah* Then according to the frugal author, the division of types *Maṣlaḥah* can be concluded into five kinds, namely: a) based on the purpose of the time/ time; b) based on the level of its needs; c) based on its scope (its range); d) based on the absence or presence of change; and e) based on whether or not there are terms in its determination.

*Maṣlaḥah*, based on his time's purpose, is divided into two levels. Namely, *Maṣlaḥah The world* and the Hereafter. *Maṣlaḥah* world is an obligation or rule of syara' related to the laws of *Mu'āmalah* (social and economic interaction). While *Maṣlaḥah* Hereafter is an obligation or rule of syariat related to the laws of *aqidah* (tawhid) and Worship (*mahḍah*/pure) (al-Buti, 1992).

*Maṣlaḥah* based on the level of his needs -as referring to his opinion al-Shaṭībī in maintaining the five main objectives of *Shar'iat (al-Maqāṣhid al-Shar'iyah)*- it is then to realize the maintenance of the five central affairs, al-Shaṭībī (al-Shaṭībī, t.t) divides it into three categories and the level of strength of need for *Maṣlaḥah* which Auda also adopts in his book, namely: a) *al-Maṣlaḥah al-Dlaruriyyah* (primary benefit); b) *al-Maṣlaḥah al-hajiyyah* (secondary benefit); and c) *al-Maṣlaḥah al-Tahsiniyyah* (tertiary benefit) (al-Munawwar, 2000).

As for *Maṣlaḥah* based on its scope (its range), majority scholars divide it into three levels, namely: a) *al-Maṣlaḥah al-'ammāh* (*Maṣlaḥah* general): relating to everyone; b)



*al-Maṣlaḥah al-Ghālibah* (*Maṣlaḥah* majority): relating to the majority (mostly) of people, but not for everyone; c) *al-Maṣlaḥah al-Khāṣṣah* (*Maṣlaḥah* unique/personal): concerning specific people, it is rare, such as the benefit of a wife for the judge to make a decision *fāsakh* because his husband declared missing (*mafqud*). And this part becomes meaningful when there is a contradiction between each other. In this case, Jumhur argues that the more general benefit takes precedence over the benefit under it. This division is similar to what Auda did by dividing the level (al-Munawwar S. A., 2000) of *Maṣlaḥah* into general, specific, and partial.

While *Maṣlaḥah*, if reviewed from the existing or not changes to it, can be divided into two parts, namely: a) *Maṣlaḥah* that changes in line with the change in time, or environment, and or people who undergo it, this happens only to problems related to *mu'āin fact* and *'urf* (habit); b) Benefit that never changes and is fixed until the end of time. The benefit is fixed even though the time, environment, and people dealing with the benefit have changed. This unchanging benefit is related to the problems of Worship. According to al-Shaṭibi, the above division's talk becomes relevant and essential when the scholars want to establish the Law of a matter based on *Maṣlaḥah*. In this case, the direction of the issue can only change if it belongs to the category of problems that can be changed. And Auda, in the view of the author, does not seek to distinguish in this matter. He enduring all (al-Munawwar S. A., 2000) *Maṣlaḥah* can accept changes following the conditions of space and time that continue to be dynamic all the time (Dahlan, 1996).

And *lastly*, *Maṣlaḥah* based on the absence or absence of *Shar'iat* in its determination by some scholars such as al-Ghozali divide it into four levels which in the encyclopedia of Islamic Law is called the four benchmarks *Maṣlaḥah*, namely: a) *Maṣlaḥah mujabah* (benefits confirmed syara' *nau'* (species or such); b) *Maṣlaḥah malā'imah* (benefits confirmed syariat jeans (genus or it's kind); c) *Maṣlaḥah mulghah* (undone benefit) by syara,' and (d) *Maṣlaḥah gharībah* (the benefit of silence) by syara.'

In common with al-Ghazali-Buṭi-also divides *Maṣlaḥah* in this category into four levels, only by using different terms, namely: (a) *Maṣlaḥah mu'athirah*; b) *Maṣlaḥah malā'imah*; c) *Maṣlaḥah munāsibah gharībah*; and d) *Maṣlaḥah mursalah*.

*Hujjah* of *Maşlahah* in the view of the scholars against *Maşlahah* as a source of Law that means become the basis of benchmark in the determination Law, or other words, the decision of a specific law a particular issue because of the benefit of wanting the Law. In this case, al-Munawwar mentions that *uşūliyyin* (scholars of science *uşūl fiqh*) discuss the issue of *Maşlahah* in two subjects, namely: (Dahlan, 1996) a) *Maşlahah* as Alloh (motive that gave birth to the Law). The assessment of Alloh is related to the change around *Qiyās*, which equates to the Law of a problem that does not exist *naşbecause* between the two, there are similarities in terms of Alloh. Jumhur scholars argue that every Law established by the *naş* or *Ijmā'*(agreement of the scholars), all based on *Hikmah*, namely to benefit or benefit and avoid *Mafsadah* (damage). In that, every Alloh that becomes the basis of a law boils down to the interests of human benefit. They believe in the decrees set by *naş* in *which* there is no benefit, both in this world in the Hereafter; b) *As a source of Islamic Law*, in discussing *Maşlahah*, in general, the scholars first review it in terms of whether or not the testimony of Syara' against it, whether it is to recognize it as *al-Maşlahah* or not.

In this case, the number of scholars divides into three kinds, namely: a) *Maşlahah* that there is a testimony syara' in acknowledging its existence, namely *Maşlahah mujabah (mu'athirah) and mu'ālimah*, this incarnates into the basis in *Qiyās*, because the same with *al-munaşibin* the discussion of *Qiyās*, which is a natural trait in the form of benefit, which is found in a legal case, can be measured and reasoned, is one of the characteristics in knowing Alloh law to do *Qiyās*. All scholars agreed to say that *Maşlahah* this kind of *hujjah* (can be used as a source of Law); b) *Maşlahah* that there is a testimony syara' who canceled it (reject it), *Maşlahah* this -known as *maşlahah mulgah-* is false means can not be used as *hujjah* or legal source because it is contrary to the *naş*; c) *Maşlahah* that there is no testimony syara' either in admitting it or rejecting it in the form of a certain *naş*. This is known as *Maşlahah mursalah*.

In that, al-Ghozali added three conditions for *Maşlahah* the third type above can make *hujjah*, which is then called *al-Maşlahah al-mursalah*, namely: a) *Maşlahah* must have *malā'imah* nature; (b) Being in the level of *al-đarurah* or in *hajah* level that can be

equated with emergency level. While those in the *tahsinat* level do not become *hujjah*; and c) If it relates to the soul, then *Maşlahah* must be *ḍarurī*, *qaṭʿī* and *kullī* (Khalaf, t.t.)

Al-Khalaf, meanwhile, sets out three main conditions for *Maşlahah* mursalah; if it wants to be used as *hujjah* (legal source). These three conditions are determined so that there are no actions (making the Law) with lust and narrow desire alone in the name of the evidence *Maşlahah* mursalah. As for the three conditions are: (a) *Maşlahah*-his must be accurate (true and robust) and not benefit based on the allegations (Khalaf, t.t.) (*Maşlahah wahmiyyah*), meaning *Maşlahah*-his must be able to realize the benefits or reject *mafsadat*, (b) *Maşlahah*-it must be *'ammāh* (general), meaning *Maşlahah*-it is of general interest (benefit), not the benefit of a certain person or group only and (c) the law to be removed from the *Maşlahah* this should not be contrary to the law or legal principles that already exist based on *naş* or *Ijmā'*. So it is not valid (cancel) to equate the inheritance part between men and women with the basis *Maşlahah*, because of *Maşlahah*-his contradictory *naş* al-Qurʿān (Khalaf, t.t.).

Meanwhile, al-Buṭ I argues, *Maşlahah* can be used as a legal source if it meets the five criteria that he termed *Ḍawābiṭ al-Maşlahah*. The five criteria are; *Maşlahah* must be: (a) included in the scope of the five *al-Maqhashid al-Shar'iyyah*, (b) not contrary to the the Qurʿān, (c) does not contradict al-Sunnah, (d) does not contradict al-Qiyās and (e) does not conflict with other higher benefits / more substantial / more important (al-Buti, 1992).

Furthermore al-Buṭi in his book "*Ḍawābiṭ al-Maşlahah fi al-Shari'ah al-Islamiyyah*" concludes in the final chapter, that the five criteria scent the existence of three consequences, namely: a) should not men-*takhsīş*, interpret *ortaqyid* something from the Qurʿān and al-Sunnah solely on the basis of *Maşlahah*, because the problem should not outperform and contradict the two primary sources of Islamic law; b) The opinion of some scholars who put a famous rule, namely "*tatabaddal al-Aḥkām bi tabaddul al-azman*" (change of Law because of the change of times) it should not be taken outwardly only, because a law that was born because it is based on the Qurʿān or Sunnah or from *Qiyās* which is sourced from both must always exist as long as both still exist and can not change solely following the times; and c) a moral message for scholars who have been able to *ijtihad* and discuss some issues of Islamic Law to be more thorough and careful in understanding

the characteristics of *Maṣlaḥah*, so as not to occur confusion or influenced by *madaniyah* (favorable) laws and materialistic modern culture (al-Buti, 1992).

Al-Munawwar quoted Husayn Hamid Hassan as emphasizing the necessity of one of the two conditions for *Maṣlaḥah mursalah* to be a legal proof, namely: a) the conformity between (al-Munawwar S. A., 2000) *maṣlahah* with the law set al-Shari (Qur'an and Sunnah), through the way *istikhrāj al-manāṭ* (issue 'Alloh law); b) the conformity between *Maṣlaḥah* and jeans *bagarrufāt al-Shari*, meaning *Maṣlaḥah* at least must be in accordance and in line with the type of law that has been set al-Shari (*Maṣlaḥah Malā'imah*).

From the author's analysis of the concept of *Maqāṣid* offered by Auda, which is identical to *Maṣlaḥah* and the view of scholars about *Maṣlaḥah* and such. So in principle, the author accepts the concept of *Maqāṣid* developed by Auda; there only needs to be clarity and concrete examples related to Fiqh *Maqāṣid* as a methodology of *ijtihād* in the field of Fiqh bolder and concrete, i.e., such as the field of *jinayāt* (criminal) that analyzes *the naṣ-naṣ* Qur'an and Sunnah related forms of punishment (*hadud*), such as cutting hands, stoning, flogging and order with the combined approach proposed by Auda, namely: between *neo literalist* and *deconstruction-historicist*. Although it looks like Auda will direct the concept of *Maqāṣid*-his there; to other than the field of *Worship* and *mu'āinstead*, but he still seems floating and hesitant. Or maybe he deliberately lured other reformers to more sharply and concretely developed the concept of *Maqāṣid*-his in the form of results *ijtihād* concrete and use the method of the scholar with "*maqāṣid approach*" that has been developed by Jasser Auda this concept.

To reconstruct *maqāṣid al-sharī'ah* fundamentally, Auda uses a philosophical approach that is multidisciplinary and open with various other relevant disciplines as a methodological framework for reforming the study of *uṣul al-fiqh* and Islamic Law. (Zaprul Khan, 2018). In the *maqāṣid* concept offered by Jasser Auda, the values and principles of humanity are the main focus. The *maqāṣid* theory, which is hierarchical, has experienced developments, especially in the 20th century. The modern approach criticizes the above classification of necessities for the following reasons: the scope of *maqāṣid* theory includes all Islamic Law, is more individual, does not include the most universal

and fundamental values, such as justice and freedom, and deduced from a review of fiqh literature, not referring to the source or script (Auda Y. , 2007).

The following are some of the offers of maqāṣīdal-syarī'ah concepts offered by Jasser Auda, namely: a. Levels of maqāṣīdal-syarī'ah Contemporary scholars' divide maqāṣīd into three levels, namely maqāṣīdāmmah (general maqāṣīd or general objectives), maqāṣīd khāṣṣah (specific maqāṣīd or specific goals) and maqāṣīd juz'iyah (partial maqāṣīd or partial plans). Maqāṣīd'āmmah is public values and meanings that exist under all tasyrī conditions or in most of them, such as justice, freedom, justice, and convenience. *Maqāṣīd khāṣṣah* is *maslahāt* and values that want to be realized in a particular chapter in Sharia, such as the goal of not degrading and endangering women in the family system, frightening society and the deterrent effect of giving punishment, eliminating gharar (obscurity) in mu'amalāt, and others. While *maqāṣīd juz'iyah* is the goal to be realized in specific legal requirements, such as the purpose of honesty and memorization in the provisions of the testimony, eliminating the difficulty of the Law, whether to not fast for people who are unable to fast because of illness, traveling or other. The classical scholars arranged maqāṣīdal-syarī'ah in pyramidal levels, starting from maqāṣīd'āmmahas the center and then branching into maqāṣīd khāṣṣah and finally maqāṣīdjuz'iyah. Then from the other side starting from al-ḍarūriyah, ḥājīyah then tahsīniyah. They arrange an order of priority if there is a conflict between maqāṣīds one another. A stronger priority is given, namely prioritizing the protection of religion over the soul, mind, etc. Although this theory seems simple, it turns out that applying this theory, in reality, is very difficult and complicated. There emerged other views among contemporary scholars such as Jamaludin' Atiyah and Jasser Auda, which differed from the aforementioned classical arrangements. They argue that maqāṣīdal-syarī'ah with all its levels is not a pyramidal structure, in which the maqāṣīd is divided between the top and the bottom. Still, it is a circle that meets and intersects (*dawāir mutadākhilah wa mutaqaṭi'ah*), whose relationships are related to one another (Auda Y., 2007).

As part of Islamic science, Islamic economics has emerged as a new social science discipline that has gained recognition from various higher education institutions in the contemporary Muslim world. Various sources of Islamic knowledge have contributed

significantly in shaping its evolution and development. However, Islamic Law seems to have received less attention in the context of its contextualization in current economic Thought. Using this *maqāṣid al-sharī'ah* approach to assessing its relevance to Islamic financial practice and its contextualization in space and time. It is known that *maqāṣid al-sharī'ah* makes a significant contribution to the understanding of Islamic economics as a discipline in Islamic higher education. *Maqāṣid al-sharī'ah* helps to understand specific economic theories from the perspective of Islamic Law. Therefore, it can be concluded that if Muslim social scientists, especially Muslim economists, such as Jaser Auda, try to embrace and pursue this branch of Fiqh with great care and commitment, this can better facilitate the development of economic theories from an Islamic perspective. The implications of the application of *maqāṣid al-sharī'ah* in Islamic financial practice have an impact to the point of having to use the *maṣlaḥah* instrument (goodness and greater interest or benefit for society) considering that Islam does not harm the individual (Daud, 2016).

The recent economic recession after the Covid-19 pandemic in Indonesia and around the world has increased discussion about the contribution of the Islamic economy in overcoming it. Experts are increasingly demanding that Islamic economic institutions re-instill the philosophy of *maṣlaḥah* in carrying out their operations. The flexibility of Islamic Law is required to include the substance of the *maṣlaḥah* in the financial system. The findings of this study suggest the role of Islamic economists in making new policy breakthroughs and solutions. In determining the sharia compliance of Islamic economic policies in Indonesia, Islamic economists and scholars can concentrate on flexible technical Islamic Law by adapting the *maqāṣid al-sharī'ah* doctrine through the *maṣlaḥah* instrument. The *maqāṣid al-sharī'ah* approach in the context of Islamic economics is taken to meet the needs of the economic sector in Indonesia. (Shaharuddin, 2010) At present, the practice of Islamic economy in the contextualization of *maqāṣid al-sharī'ah* through the *maṣlaḥah* instrument can be explained is based on the concept of economic welfare, universal brotherhood, justice, fair income distribution, and individual freedom in the context of social welfare. It is intended that every individual and organization committed to being honest, to encourage balanced life between life in the Hereafter and the world.

Thus this development could only be achieved in conformity with the *maqāṣid al-sharī'ah* through the *maṣlaḥah* instrument. This implies the necessity for Islamic economic actors to develop products based on overall welfare and a larger perspective from the *maṣlaḥah* framework and not just focusing on normative legal forms. With careful analysis, it can be seen that current Islamic economic practices are, in most cases, not up to the standards required by Sharia. For example, many Muslim economists prefer equity-based instruments and place greater responsibility for social welfare and religious commitment to realize *maqāṣid al-sharī'ah* for equitable distribution of wealth and promote economic development and growth. In contrast, most of the Islamic economic policies in Indonesia only revolve around Islamic banking. Therefore, currently, one of the biggest challenges in producing Islamic economic policies that are solutive and following Sharia is *maqāṣid al-sharī'ah* (Al-Mubarak, 2020).

For example, in a conceptual framework of *waqf*, it is found that in the classical *waqf* literature, the two most disputed aspects of *waqf* jurisprudence constituted the requirements for completion of a *waqf* and its ownership status (Mohammad Abdullah, 2020). That's why legal principles such as *maṣlaḥah*, was an important legal tool that Muslim reformers invoked to work out a comprehensive methodology to bridge the gap between the past and the present on the one hand and legal theory practise on the other (Barzegar, 2019).

## CONCLUSION

Between *ijtihād* and *maqāṣid al-sharī'ah* cannot be separated. *Ijtihad*, in essence, is an effort to explore *syara'* law optimally. The attempt to examine Shara's Law is successful if a *mujtahid* can understand *maqāṣid al-sharī'ah*. Therefore, knowledge of *maqāṣid al-sharī'ah* is one of the requirements of a *mujtahid*. Jasser Auda tried to offer a modern *fiqh* concept based on *maqāṣid al-sharī'ah*. In Jasser Auda's view, Islam is a religion that upholds human values. Islam is also a concept religion that seeks to provide solutions for human life to be harmonious and balanced. This is what Jasser tries to raise how a system concept can regulate the lives of Muslims so that they run according to the rules and provide benefits to humans. Jasser Auda defines *maqāṣid* in four meanings, first, the wisdom behind a law. Second, a good end goal that the Law was trying to achieve. Third,

the divine purpose group and the moral concept are the basis of Law. Fourth, *maṣālih*. In the *maqāṣid* idea offered by Auda, values and humanitarian principles are the most important. Auda also tried to reconstruct the old *maqāṣid* concept, which is protection and preservation in the direction of the *maqāṣid* theory, which refers to development and rights. The implications of the application of *maqāṣid al-sharī'ah*. Using the *maṣlahah* instrument in the context of the Islamic economy in Indonesia are used to fulfil the needs of sharia policies in the economic sector which do not only revolve around Islamic banking matters.

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