



# The Urgency of *Maslahah* in the Formulation of Fatwa and Legislation in Indonesia: An Analytical Study

Mayadina Rohmi Musfiroh<sup>1</sup>, Fatma Mohamed Mansour Saqr<sup>2</sup>, Alfa Syahriar<sup>3</sup>

<sup>1,3</sup> Universitas Islam Nahdlatul Ulama, Jalan Taman Siswa, Jepara, Indonesia

<sup>2</sup>Suez Canal University, 4,5 The Ring Road, Ismailia, Egypt

\*(Corresponding author) e-mail: [mayadina@unisnu.ac.id](mailto:mayadina@unisnu.ac.id)

## Abstract

The concept of public interest (*maslahah*), as developed by traditional Islamic jurists, is regarded by as gender-neutral. It is essential to incorporate a gender perspective that ensures equitable consideration of *maslahah* for both men and women in the formulation of fatwas and legislative products. Without this perspective, legal decisions may be biased and unjust. This research aims to analyze the concept of *maslahah* as articulated by Imam Al-Ghazali, Ash-Syatibi, and the Indonesian Women Ulema Congress (KUPI), and to identify the most pertinent interpretation of *maslahah* for the formulation of fatwas and legislation in Indonesia. The study employs a qualitative data collection model through literature review and descriptive-comparative data analysis. The primary findings indicate that the concept of *maslahah* has evolved over time, transitioning from its foundational idea focused on public welfare considerations during the 5<sup>th</sup> century Hijri to a practical concept that has often overlooked women's experiences as active subjects. In the contemporary context, KUPI expands upon the parameters of benefit established by earlier scholars by incorporating affirmative benefits for women. However, the integration of women's experiences in the formulation of *maslahah* tends to be contextual rather than universal, influenced by varying situations, conditions, cultures, and diverse contexts. This article contributes to ongoing discussions regarding law-making in Indonesia by highlighting the importance of incorporating aspects of affirmative *maslahah* for women and vulnerable groups, as well as the necessity to revise existing regulations to enhance affirmative *maslahah* for women and their families.

**Keywords:** Public Interest, *Maslahah*, Affirmative Benefit, Fatwa, Legislation.

## Abstrak

Konsep *maslahah* yang telah dikembangkan oleh para ahli hukum Islam tradisional dianggap sebagian kelompok masih netral gender. Padahal penting sekali mengintegrasikan perspektif gender yang memberikan porsi setara antara *maslahah* bagi laki-laki dan perempuan dalam perumusan fatwa ataupun produk perundangan. Tanpa itu, keputusan hukum dapat berpotensi bias dan tidak adil bagi kemanusiaan. Tujuan penelitian ini adalah untuk menganalisis konsep kemaslahatan Imam Al-Ghazali, Asy-Syatibi, dan KUPI dan menemukan konsep *maslahah* yang lebih relevan dalam perumusan fatwa dan perumusan perundangan di Indonesia. Penelitian ini menggunakan model pengambilan data secara kualitatif, melalui studi kepustakaan, serta analisis data deskriptif-komparatif. Temuan utama dari penelitian ini menunjukkan bahwa konsep *maslahah* terus berkembang dari masa ke masa, mulai masa pembentukan pondasi dasar sebagai gagasan pertimbangan kesejahteraan publik sampai menjadi konsep praktis pada abad ke-5 Hijriah belum mempertimbangkan pengalaman perempuan sebagai subjek aktif. Dalam konteks kekinian, KUPI melengkapi batasan kemaslahatan yang telah disusun oleh ulama sebelumnya dengan mencantumkan *affirmative benefit* bagi perempuan. Namun, pengintegrasian pengalaman perempuan dalam perumusan *maslahah* seringkali bersifat kontekstual daripada universal karena perbedaan situasi, kondisi, budaya dan budaya yang beragam. Kontribusi artikel ini dapat menjadi pertimbangan bagi pihak-pihak yang berwenang dalam merancang undang-undang di Indonesia untuk memastikan aspek-aspek *maslahah afirmatif* bagi perempuan dan kelompok rentan atau merevisi berbagai peraturan yang membawa *maslahah* yang lebih afirmatif kepada perempuan dan keluarganya.

**Kata Kunci:** *Maslahah*, Kemanfaatan, Pembuatan Fatwa, Aturan Perundangan.



## Introduction

Public interest (*maslahah*) is a critical factor in the formulation of legislation within Indonesian Islamic law.<sup>1</sup> *Maslahah* is regarded as the foundational principle underpinning the rule of law established by legally authorized institutions. Additionally, the concept of *maslahah*, as articulated by both traditional and contemporary Islamic legal scholars, reveals variations despite certain overlaps. The current interpretation of *maslahah* is general and often perceived as gender-neutral. This is evidenced in the application of *maslahah* as a method of *bahsu al-masail* within Nahdlatul Ulama (NU) and in the fatwa drafting methodology employed by the Indonesian Ulema Council (MUI), which incorporates benefit as one of the methods for interpreting the law and making legal decisions, particularly in cases not governed by Islamic regulations. *Bahsu al-masail* serves as a discussion forum among Islamic scholars dedicated to exploring religious issues that lack established rulings.

Without integrating a gender perspective, legal decisions may be biased and potentially detrimental to women. In the current context, it is essential to incorporate a gender perspective into the formulation of fatwas, laws, and regulations to ensure equitable benefits for both men and women. This article addresses two key questions: first, how do the characteristics of *maslahah* compare among the views of Imam al-Ghazali, al-Syatibi, and the Indonesian Women Ulema Congress (KUPI); and second, how is the concept of *maslahah* relevant to the context of fatwa and law-making in Indonesia? This research aims to explore the correlations among the concepts of *maslahah* as articulated by Imam al-Ghazali, al-Syatibi, and KUPI, and to identify a relevant concept of public interest for the formulation of fatwas and legislation in Indonesia.

Based on the literature review, several studies examine the concept of *maslahah* as introduced by al-Ghazali and al-Syatibi, as well as the KUPI methodology. Notably, Khatib (2018) explains that for al-Ghazali and al-Syatibi, the essence of all Islamic teachings is *maslahah*. Consequently, when conflicts arise between the domain of *mu'amalah* and customary practices, the *maslahah* derived from religious texts and consensus must take precedence. Both scholars assert that the core principle of *maslahah* is the protection of humanity.<sup>2</sup> Hermanto (2017) concludes that al-Ghazali's concept of *maslahah* is more comprehensive than that of al-Tūfi; however, both utilize the concept as a legal argument to address contemporary issues. Conversely, while al-Ghazali employs textual evidence as a foundation for determining *maslahah*, al-Tūfi relies more on logic and restricts his analysis to the domains of *mu'amalah* and tradition, excluding the realm of worship.<sup>3</sup>

Rozi et al. (2022) concluded that al-Juwaini emphasized the significance of understanding maqashid sharia in the interpretation of Islamic law. In contrast, al-Ghazali clarified the concept of benefit as a means to uphold the objectives of Islamic law, which are encapsulated in five fundamental protections.<sup>4</sup> Kusmana (2019) analyzes the factors that enable the KUPI Movement to provide alternative perspectives and establish its presence within the discourse of nationalism. This article concludes that women scholars can articulate alternative viewpoints by positioning the Qur'an as the primary source of Islamic law,

---

<sup>1</sup> Said Syarifuddin, "Maslahat as Considerations of Islamic Law in View Imam Malik," *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 1 (June 30, 2020): 85, <https://doi.org/10.22373/sjhk.v4i1.6754>, 93-100.

<sup>2</sup> Suansar Khatib, "Konsep Maqashid Al-Syari'ah: Perbandingan Antara Pemikiran Al-Ghazali Dan Al-Syatibi," *Mizani: Wacana Hukum, Ekonomi Keagamaan* 5, No. 1 (2018), 47.

<sup>3</sup> Agus Hermanto, "Konsep Maslahat Dalam Menyikapi Masalah Kontemporer (Studi Komparatif al-Tūfi Dan Al-Ghazali)," *Al-'Adalah* 14, no. 2 (2017), <http://dx.doi.org/10.24042/adalah.v%vi%i.2414>, 433.

<sup>4</sup> Fahrur Rozi, Tutik Hamidah, and Abbas Arfan, "Konsep Maqasid Syari'ah Perspektif Pemikiran Al-Juwaini Dan Al-Ghazali," *Iqtisoduna: Jurnal Ekonomi Syariah Dan Hukum Islam* 5, No. 1 (June 2022), 53.

alongside other sources, through a moral movement aimed at enhancing the status and role of women, promoting the welfare of children, and addressing sustainable environmental issues.<sup>5</sup>

However, no articles have been found that juxtapose the concept of benefit as articulated by al-Ghazali and al-Syatibi, representing classical scholarship, with KUPI as a contemporary religious entity. Therefore, the purpose of this article is to analyze the concept of *maslahah* as introduced by al-Ghazali and al-Syatibi and its application by KUPI as a methodology for addressing socio-religious issues in Indonesia.

There are two significant reasons for this article's aim to juxtapose the concepts of *maslahah* as articulated by al-Ghazali, al-Shatibi, and KUPI. First, al-Ghazali, known as the proof of Islam, is a foundational figure in the development of the concept of *maslahah* within the framework of maqashid shariah science in the 5<sup>th</sup> century Hijriyah. He provided a comprehensive explanation of the concepts of public interest (*maslahah*) and the prevention of harm (*mafsadah*).<sup>6</sup> Al-Raysuni further acknowledges Imam al-Ghazali's intellect, recognizing him as a prolific scholar with substantial influence in the discourse surrounding maqashid science, which continues to this day. While preliminary ideas of maqashid science existed during the time of Imam al-Juwaini, Imam al-Ghazali is rightly credited as the cornerstone of this discipline due to his systematic and comprehensive approach.<sup>7</sup> Al-Shatibi is included in this analysis because he advanced al-Ghazali's efforts to articulate the concept of *maslahah* within the framework of legal objectives, thereby elevating the significance of *maslahah* for the methodological reconstruction and renewal of Islamic law in the 7<sup>th</sup> century AH. Meanwhile, KUPI, a contemporary socio-religious entity, endeavors to promote, integrate, and ensure that *maslahah* is accessible to all individuals, including women and marginalized groups. Secondly, juxtaposing the concepts of *maslahah* as presented by al-Ghazali, al-Shatibi, and KUPI facilitates the construction of historical and scholarly bridges. It also allows for an exploration of how *maslahah* can be applied to address contemporary gender-specific issues, such as child marriage and abortion for survivors of rape.

## Method

This study employs a qualitative methodology through a comprehensive literature review. The primary data consist of al-Ghazali's "*al-Mustasfā*," al-Shatibi's "*al-Muwāfaqāt*," and the Fatwa Methodology developed by Miftahudin Abdul Kodir, which explores the concept of public interest (*maslahah*) and its practical applications. The secondary data is drawn from the works of classical scholars addressing *maslahah*, as well as relevant journal articles that contribute to the literature review. Following the collection of data, an in-depth analysis is conducted, using descriptive-comparative and contrast analysis methodologies to identify correlations, coherence, and relevance within the context of formulating fatwas and legal regulations in Indonesia.

---

<sup>5</sup> Kusmana, "The Qur'an, Women, And Nationalism In Indonesia: Ulama Perempuan's Moral Movement," *Al-Jami'ah: Journal of Islamic Studies* 57, No. 1 (2019), 110.

<sup>6</sup> Akbar Sarif and Ridzwan Ahmad, "Konsep Maslahat dan Mafsadah menurut Imam al-Ghazali," *Tsaqafah* 13, No. 2 (January 25, 2018): 353, <https://doi.org/10.21111/tsaqafah.v13i2.1183>, 362, 362.

<sup>7</sup> Ahmad Al-Raysuni, *Nazariyyah Al-Maqāshid 'ind Imām al-Syātibi*, 2nd ed. (Riyadh: al-Dār al-Ālamiyyah li al-Kutub al-Islāmī, 1412H/1992M), 159.

### **Al-Ghazali, as-Syatibi and the concept of *maslahah* in KUPI**

Etymologically and terminologically, "*maslahah*" signifies goodness or the promotion of benefit.<sup>8</sup> Within the framework of ushul fiqh, scholars offer a diverse range of interpretations of *maslahah*, which can be succinctly categorized into three primary expressions: the cause that facilitates the objectives of sharia (maqashid sharia), the intention of the sharia maker, and the concepts of delicacy and happiness. Firstly, Imam al-Ghazali asserts that *maslahah* encompasses the preservation of the goals of Islamic law,<sup>9</sup> a view supported by al-Khawarizmi, who interprets *maslahah* as the safeguarding of the intentions of the Islamic law maker.<sup>10</sup> Al-Ghazali further elucidates the definition of *maslahah* as follows:<sup>11</sup>

*Maslahah* pertains to the preservation of the maqasid of Sharia. The five fundamental objectives of the maqasid of Sharia are the protection of religion, life, intellect, family, and property. Any action that supports the safeguarding of these five principles is deemed beneficial, or *maslahah*, whereas actions that undermine these principles are classified as *mafasadah*, signifying anything that has the potential to disrupt or corrupt. Furthermore, the act of rejecting *mafasadah* is also referred to as *maslahah*.

In fact, al-Ghazali asserted that the welfare of creation is the primary objective of all religious laws. Consequently, the teachings of Islamic law converge on a common principle regarding the prohibition of disbelief, murder, adultery, theft, and the consumption of alcohol, due to the harm they inflict. Al-Ghazali elaborates:

Religions and legal systems cannot be entirely separated from individual interests. This is why the laws established by the prophets consistently prohibit actions such as disbelief, murder, adultery, theft, and the consumption of alcohol.<sup>12</sup>

Second, the majority of ushul fiqh scholars, including al-Amidi, define *maslahah* as the objective of establishing law, whether to achieve benefit, avert harm, or a combination of both.<sup>13</sup> Third, the perspective of al-'Izz bin 'Abdissalam characterizes benefit as the factors that contribute to well-being and happiness. Consequently, there exists a range of terms that implicitly relate to maqashid, despite the presence of various differences that are not fundamentally substantial.<sup>14</sup>

Based on this definition, the researcher asserts that the concept of *maslahah* serves to uphold the objectives of sharia for the betterment of society and the enhancement of quality of life. Furthermore, *maslahah*, as a mechanism for safeguarding against harm (*mafasadah*), is universal and can be derived from both textual and contextual sources. This indicates that the benefits are not confined to those explicitly stated in texts but may also encompass actions that promote the welfare of individuals and humanity, even if they are not directly addressed in

<sup>8</sup> Al-Fayūmī, *Al-Miṣbāh al-Munīr* (Beirut: Maktabah Lubnān, 1987), 132.

<sup>9</sup> Abu Hamid Muhammad Al-Ghazali, *Al-Mustaṣfā* (Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.), 174.

<sup>10</sup> Asy-Syaukāni, *Irsyād Al-Fuḥūl* (Riyadh: Dar al-Fadhilah, 2000), jilid 2, 990.

<sup>11</sup> Abu Hamid Muhammad Al-Ghazali, *Al-Muṣṭasyfa Fī 'ilm al-Uṣūl*, Jilid II (Beirut: Dar al-Kutub al-Islamiyyah, t.th), 174.

<sup>12</sup> Al-Ghazali, 174.

<sup>13</sup> Abu Hasan Ali al-Amidi, *Al-Iḥkām Fī Uṣūl al-Aḥkām* (Riyadh: Dar al-Ṣamī'iy, 2003), jilid 3, 339.

<sup>14</sup> Al-'izz Abdissalam, *Qawā'id al-Aḥkām Fī Maṣālih al-Anām* (Beirut: Dar al-Ma'arif, n.d.), jilid 1, 10.

the texts. The universality of the *maslahah* concept pertains to fundamental human necessities, including the preservation of religion, life, intellect, property, descendants, the environment, justice, equality, and others.

### The standard of *maslahah* according to al-Ghazali, al-Shatibi and KUPI

It is essential to establish parameters that prevent influence from the individual interests of specific persons or groups. It is important to clarify that the standard of benefit does not pertain to subjective desires or claims regarding the perceived benefits of one's actions. From the outset of Surah al-Baqarah [2]:11-12, there is a depiction of the claims made by hypocrites who consider themselves to be positive contributors, while, in reality, they cause harm. Consequently, Al-Ghazali established a set of criteria for determining benefit to safeguard against the influence of personal or group interests in the interpretation of sharia objectives. These criteria are as follows: First, the benefit in question must align with the principles of the five maqashid of sharia;<sup>15</sup> second, it must not contradict textual evidence and the consensus of scholars (*ijma'*);<sup>16</sup> this stands in contrast to al-Thufi's view, which permits absolute precedence of benefit even when it contradicts text and consensus;<sup>17</sup> third, the benefit must be certain;<sup>18</sup> fourth, the benefit must be universal.<sup>19</sup>

Al-Ghazali categorized *maslahah* into three distinct classifications. The first classification, based on the acknowledgment of Sharia, encompasses three types: considerable interest (*maslahah mu'tabarah*), canceled interest (*maslahah mulghah*), and interests that are neither acknowledged nor rejected in the texts (*maslahah mursalah*). The second classification, which assesses the strength of *maslahah*, consists of three levels: necessity (*dharūriyyat*), needs (*hājjiyyāt*), and improvements (*tahsīniyyat*).<sup>20</sup> Lastly, the third classification, which considers the scope of the target, is divided into two categories: general benefit and specific benefit.<sup>21</sup>

Meanwhile, al-Syatibi's perspective on *maslahah* is articulated in *al-Muwāfaqāt*, where he asserts that the establishment of Islamic law is fundamentally aimed at realizing the benefit of humanity in both this world and the hereafter.<sup>22</sup> This explanation emphasizes the strong connection between each enacted law and the benefits that must be realized. This relationship indicates that the concept of *maslahah* serves as a criterion for fulfilling the primary objective behind the enactment of a law. In other words, a law is deemed successful and aligned with its original intent when it yields a benefit for humanity related to that law, both in this world and in the hereafter. More specifically, al-Syatibi elaborated that the intended worldly benefits are as follows:

By "benefit," I refer to all aspects that contribute to an elevated and fulfilling human experience, encompassing the comprehensive satisfaction of both biological and psychological needs in an optimal manner, thereby fostering a state of abundance and well-being.<sup>23</sup>

<sup>15</sup> Al-Ghazali, *Al-Muṣṭasyfa Fī 'ilm al-Uṣūl*, 174.

<sup>16</sup> Abu Hamid Muhammad Al-Ghazali, *Iḥyā' 'Ulūmiddīn* (Mesir: Al-Maktabah al-Tijariyah al-Kubra, n.d.), Juz 2, 232.

<sup>17</sup> Al-Thūfī, *Risālah Fī Ri'āyat al-Maṣlahah* (Al-Dār al-Misriyyah al-Lubnāniyyah, 1993), 23.

<sup>18</sup> Al-Ghazali, *Al-Muṣṭafā*, 176.

<sup>19</sup> Al-Ghazali, 176.

<sup>20</sup> Abu Ishaq. Al-Syatibi, *Al-Muwāfaqat* (Beirut: Dar al-Kutub al-'Ilmiyyah, 2009), juz 4, 88.

<sup>21</sup> Al-Ghazali, *Al-Muṣṭafā*, 173-174.

<sup>22</sup> Al-Syatibi, *Al-Muwāfaqat*, 220.

<sup>23</sup> Al-Syatibi, 231.

The analysis of Shathibi's explanation indicates that, within the context of global interests, "benefit" encompasses any advantage that can enhance human life, both individually and socially, in terms of quality. Furthermore, this benefit is understood to address human needs on both biological and psychological levels, thereby enabling individuals to realize their full potential in alignment with the principles of creation.<sup>24</sup>

Additionally, as-Syathibi clarifies the concept of the benefit of the hereafter through two models. The first is pure benefit, exemplified by the pleasure afforded to the inhabitants of Paradise. The second is mixed benefit, demonstrated by the pleasure experienced by believers who, despite being in Hell, remain impervious to the flames in relation to the limbs used in prostration and the heart that possesses the light of faith. In this case, they receive punishment only in proportion to their transgressions.<sup>25</sup>

Based on the explanation provided, the essence of the concept of *maslahah*, according to as-Syathibi, is the benefit that facilitates the alignment of human interests in this world. This is manifested through the establishment of a comprehensive order for human life that harmonizes these interests in the hereafter, characterized by the attainment of eternal pleasure and culminating in the ultimate pleasure of Allah SWT.

KUPI's understanding of "benefit" is grounded in the frameworks established by classical scholars while incorporating contemporary interpretations. The organization is inspired by scholars from both Nahdlatul Ulama and Muhammadiyah. In its generation of religious knowledge and fatwas, KUPI has broadened the concept of benefit from an individual focus to include communities and nations, adopting a systemic approach as proposed by Jasser Auda. Notably, as Faqihuddin Abdul Kodir acknowledges, KUPI has been actively engaged in promoting broader benefits well before these developments.

From KUPI's perspective, the concept of benefit is framed within the values of nationality, humanity, and universality. The value of nationality seeks to ensure that benefits are accessible to all citizens, transcending boundaries of ethnicity, race, religion, and background. The value of humanity is designed to guarantee that benefits are inclusive, rather than exclusive or chauvinistic, fostering a spirit of collaboration among nations and cooperation within the global population. This value underscores a commitment to shared agreements, justice, welfare, and environmental sustainability, with the aim of generating benefits for both the world and the universe. Meanwhile, the value of universality emphasizes the importance of concrete efforts to preserve and balance the environment and nature.<sup>26</sup> However, in practice, the values promoted by KUPI require further examination to establish best practices for addressing contemporary humanitarian challenges.

Upon examining the concepts of benefit as articulated by al-Ghazali and as-Syatibi, it becomes evident that the notion of benefit is general, neutral, and universal. The universality of al-Ghazali's definition of benefit encompasses all creatures through five principles of protection (*al-kulliyāt al-khamsah*), which are derived from the objectives of the sharia maker, or maqashid shariah. Additionally, as-Syatibi emphasizes that benefit encompasses everything that contributes to the uprightness and perfection of human life, addressing the

---

<sup>24</sup> Alfa Syahriar and Zahrotun Nafisah, "Comparison of Maqasid Al-Shari'ah Asy-Syathibi and Ibn Ashur Perspective of Usul al-Fiqh Four Mazhab," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 3, no. 2 (April 30, 2020): 185, <https://doi.org/10.30659/jua.v3i2.7630>, 188-189.

<sup>25</sup> Al-Syatibi, *Al-Muwafaqat*, 236; Rozi, Hamidah, and Arfan, "Konsep Maqasid Syari'ah Perspektif Pemikiran Al-Juwaini Dan Al-Ghazali, 53."

<sup>26</sup> Faqihuddin Abdul Kodir, *Metodologi Fatwa KUPI* (Cirebon: KUPI, 2022), 78.

fulfillment of both biological and psychological needs. This comprehensive approach aims to ensure that individuals experience an abundance of pleasure in both this world and the hereafter. Ultimately, the concept of *maṣlaḥah* centers on the fulfillment of these biological and psychological needs, fostering a life characterized by perfection and happiness.

Al-Ghazali asserts that the primary purpose of marriage is reproduction. Selecting criteria for a virtuous wife is essential for fulfilling the purpose of marriage, which aims to establish harmony and tranquility while facilitating the benefits of both religious and material pursuits.<sup>27</sup> Al-Syatibi similarly posits that the main objective of marriage is reproduction, followed by the pursuit of tranquility, emotional attachment, and support in achieving both worldly and spiritual benefits, as well as appreciating the beauty of Allah's creations, particularly in women.<sup>28</sup> The perspectives of al-Ghazali and al-Syatibi are informed by a hadith suggesting that prospective husbands should evaluate their potential wives by observing their faces and hands. However, this emphasis does not reduce women to mere subjects of the law, as the necessity for a good partner is a fundamental concern for both men and women.

The standardization of benefits, as articulated by al-Ghazali, aims to establish clearer boundaries and filter out subjective benefits that do not align with the public good. To this end, al-Ghazali delineates four limitations of benefit: First, the intended benefit must fall within the scope of *al-kulliyāt al-khamsah*, meaning that any benefits outside this framework cannot be classified as such.<sup>29</sup> Second, it must not conflict with established texts and the consensus of scholars (*ijmā'*), ensuring that the benefit is supported by valid evidence derived from both *naqli* and consensus arguments.<sup>30</sup> While this approach is valuable for maintaining validity, it may also restrict innovative thinking in addressing contemporary issues that are not explicitly covered in the *nash* and scholarly decisions. Third, the benefit must be certain;<sup>31</sup> and fourth, it must be universal.<sup>32</sup> In contrast, al-Syatibi identifies the indicators of benefit in only two areas: the fulfillment of biological and psychological needs.

Between the perspectives of al-Ghazali and al-Syatibi, the concept of benefit they address is both universal and gender-neutral. There is no differentiation, integration, or categorization of benefits based on the interests and needs of specific genders, including men, women, or other vulnerable groups. For instance, regarding the prohibition of women entering mosques, al-Ghazali argues that to achieve the goal of preserving lineage (*hifz al-nasl*), it is essential to avoid mixing between men and women due to potential negative consequences. As a result, he prohibits women from attending mosques and gatherings of *dhikr*. Al-Ghazali asserts in *Ihya' Ulumuddin*:

"It is essential to establish a barrier that obstructs the view of men and women to mitigate the potential for suspicion of corruption and behaviors that could lead to misconduct. Additionally, it is required to restrict women from attending the mosque for prayers and participating in *dhikr* gatherings."<sup>33</sup>

<sup>27</sup> Abu Hamid Muhammad Al-Ghazali, *Ihya' Ulumuddin* (Beirut: Dar al-Hazm, n.d.), jilid 2, 38.

<sup>28</sup> Al-Syatibi, *Al-Muwafaqat*, jilid 2, 336.

<sup>29</sup> Al-Ghazali, *Al-Mustasfā*, 174.

<sup>30</sup> Al-Ghazali, *Iḥyā' 'Ulūmiddīn*, juz 2, 232.

<sup>31</sup> Al-Ghazali, *Al-Mustasfā*, 176.

<sup>32</sup> Al-Ghazali, 176.

<sup>33</sup> Al-Ghazali, *Ihya' Ulumuddin*, jilid 2, 337.

This opinion appears to exhibit gender bias, as it implies the domestication of women. In contrast, other historical Hadiths suggest a more equitable religious environment between men and women. This perspective can be contextualized by acknowledging the significant time span between the 5<sup>th</sup> and 7<sup>th</sup> centuries and the present day, during which numerous shifts in circumstances, culture, conditions, aspirations, and needs of both men and women have taken place.

Departing from this gap, KUPI aims to enhance the concept of benefit by acknowledging the unique needs and experiences of women, which differ from those of men across both biological and sociological dimensions. This approach, referred to as the Ultimate Justice approach, emphasizes the recognition of the equality of men and women as servants of God, affirming their equal status and active roles in fulfilling life responsibilities that necessitate collaborative and reciprocal efforts between both genders. From the researcher's perspective, KUPI's interpretation of the concept of benefit can be characterized as gender mainstreaming within the framework of *maslahah*.

### **The role and position of *maslahah* in Islamic jurisprudence**

*Maslahah* plays a crucial role and holds methodological significance in Islamic jurisprudence. This principle serves as a hermeneutic tool for addressing everyday challenges within Muslim society.<sup>34</sup> Initially, Muslim jurists framed *maslahah* as an idea centered on public welfare considerations; however, its application was often ad hoc, inconsistent, and complex. The concept of *maslahah* as a mature technical term emerged only during the 5<sup>th</sup> century A.H. This evolution is evident in the writings of Islamic jurists both before and after al-Ghazali, including al-Ghazali's own works. Notably, al-Shatibi's exploration of *maslahah* within the framework of the theory of legal objectives is pivotal for the methodological reconstruction and renewal of Islamic law.<sup>35</sup> Several terms employed by scholars from various schools of thought (*mazhab*), such as insist-urge-demand (*'ilha*), wisdom (*hikmah*), appropriateness (*munāsabah*)<sup>36</sup> and *maslahah*, are regarded as conceptual foundations for the development of maqashid sharia theory.<sup>37</sup>

In the contemporary landscape, there is an increasing necessity for *maslahah* as a mechanism for legal transformation. Numerous modern Islamic reformers have utilized the maqashidi approach to address various internal and external challenges facing Islam.<sup>38</sup> This approach is holistic, aligning with the core message of Islam and emphasizing the principles of social justice, peace, and human development. However, Muslim thought has encountered difficulties in effectively addressing the challenges posed by the modern global society,

---

<sup>34</sup> J. Lobah, "The Islamic Principle of Maslaha as Practical Wisdom for Human Development," in *CSR, Sustainability, Ethics and Governance*, 2016, 145–51, [https://doi.org/10.1007/978-3-319-28287-9\\_11](https://doi.org/10.1007/978-3-319-28287-9_11), 145.

<sup>35</sup> Hayatullah Laluddin et al., "An Analysis of Maslahah's Development through al-Ghazali Pre and Post al-Ghazah Periods," *International Business Management* 6, no. 2 (2012): 183–93, <https://doi.org/10.3923/ibm.2012.187.193>, 183.

<sup>36</sup> Khairuddin Hasballah et al., "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 598, <https://doi.org/10.22373/sjhk.v5i2.10914>, 609.

<sup>37</sup> A.H.B. Yusuf, "A Study of Conceptual Foundations of Maqāsid Al-Sharī'ah (Objectives of Islamic Law) as Expounded by Classical Muslim Jurists," *Islamic Quarterly* 64, no. 4 (2020): 527–46, 527.

<sup>38</sup> A. Aziz bin Sattam, *Sharia and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence*, Sharia and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence, 2015, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85141625901&partnerID=40&md5=e8e4b9df710d41d1eadb9aef09dec1ca,1>.



particularly concerning technology, governance, economics, and environmental sustainability. *Maslahah* is anticipated to serve as a tool to tackle issues related to human development, unchecked growth, abuse of power, social exclusion, and environmental degradation.<sup>39</sup>

Some leading scholars have elevated its status to that of an independent source of law, while other prominent jurists have examined the specific limitations that should be applied to *maslahah* when considering it within the broader framework of Islamic law.<sup>40</sup> Al-Shatibi offers a distinctive interpretation of *maslahah* by associating it with the term innovation in religious matters (*bid'ah*), which serves as a benchmark for the development of Islamic law, ensuring that it aligns with the directives of sharia. He rejects opinions that link the use of benefits conveyed by the sharia in the form of law to create additional benefits, as well as the absence of arguments that justify or criticize (*maslahah mursalah*) and opinions that express agreement (*istihsān*), viewing these as the basis for misguided interpretations.<sup>41</sup>

Al-Shatibi argues that some individuals are confused about the distinctions between *maslahah mursalah*, *istihsān* and heresy due to a lack of understanding of ushul fiqh. Some of these individuals consider certain instances of *maslahah mursalah* to be misguided, basing their assumptions on the opinions of the companions and *tabi'in*, which they use as evidence to justify *bid'ah* in worship. From their perspective, *maslahah mursalah* represents an adjustment of legal matters without a basis in specific shar'i evidence and is not regarded as an acceptable form of analogy (*qiyas*). In contrast, as-Syathibi interprets *bid'ah* through the lens of Islamic law rather than from a linguistic standpoint, asserting that *bid'ah* applies solely to aspects of worship. This understanding is reflected in his definition of *bid'ah* as a term for religious provisions that are deliberately created and resemble the sharia, manifesting in behaviors that excessively rely on them, particularly in the worship of Allah. His definition clarifies that if a new action occurs outside the realm of worship, it is not classified as *bid'ah*.

The participation of women in the public sphere, the establishment of contemporary factories, the compilation of the Qur'an, and the formation of the state should not be classified as *bid'ah*. Al-Shatibi argued that the justifications presented by scholars who utilized *maslahah mursalah* and *istihsān* to categorize these actions as *bid'ah* are fundamentally flawed. This is due to the fact that *maslahah mursalah* is a methodology that arises from situational demands in the absence of explicit evidence. Therefore, it is incorrect to classify these actions as innovations lacking a rational basis.<sup>42</sup>

### **Fatwa methodology of the Indonesian Women Ulema Congress (KUPI)**

In its efforts to address social and religious issues affecting women and to cultivate religious perspectives that reflect women's experiences in the formulation of religious fatwas, laws, and policies, KUPI establishes tawhid as the cornerstone of its movement. The organization envisions the realization of mercy for all and is committed to upholding noble morals as its mission. This vision of mercy has inspired a mission focused on benefit, which is

<sup>39</sup> Lobah, "The Islamic Principle of Maslahah as Practical Wisdom for Human Development", 145

<sup>40</sup> Aziz bin Sattam, *Sharia and the Concept of Benefit: The Use and Function of Maslahah in Islamic Jurisprudence*, 1.

<sup>41</sup> Yahdi Dinul Haq, Hafizah Muchtia, and Zia Alkausar Mukhlis, "Bid'ah in Concept of Maslahah Mursalah and Istihsan According to Imam Asy-Syathibi," *Juris: Jurnal Ilmiah Syariah*, 2021, <https://doi.org/10.31958/juris.v20i2.3352>, 236.

<sup>42</sup> Yahdi Dinul Haq, Hafizah Muchtia, and Zia Alkausar Mukhlis, "Bid'ah in Concept of Maslahah Mursalah and Istihsan According to Imam Asy-Syathibi," *Juris: Jurnal Ilmiah Syariah*, 2021, 236, <https://doi.org/10.31958/juris.v20i2.3352>, 236.

executed within the framework of three core values: equality, justice, and interconnectedness. Currently, the mission of benefit is articulated through three primary values: nationality, humanity, and universality. KUPI employs nine core values to define its vision and mission: divinity, mercy, benefit, equality, interconnectedness, justice, nationality, humanity, and universality.<sup>43</sup>

Methodologically, the KUPI Fatwa uses three main approaches, the promotion of good conduct (*ma'rūf*), reciprocity (*mubādalah*), and the principle of True Justice. The *ma'rūf* approach, as articulated by its originator, Nyai Hj Badriyah Fayumi, aims to address socio-theological issues faced by Muslims, particularly those affecting vulnerable groups such as women, children, and minorities. This approach is grounded in a comprehensive analysis of marriage-related verses in the Qur'an, which frequently utilize the term *ma'rūf* as both an ethical foundation and a principal method for resolving challenges associated with marital and familial relationships.<sup>44</sup> According to Badriyah Fayumi, the concept of *ma'rūf* encompasses 'everything that embodies the values of goodness, truth, and appropriateness in accordance with sharia, common sense, and the prevailing societal norms.'<sup>45</sup>

According to her, the concept of *ma'rūf* in the Qur'an encompasses three key ideas that warrant further exploration. First, *ma'rūf* serves as a foundational principle for social relationships, encompassing interactions among individuals, marital relationships, family dynamics, as well as broader community, national, and global relationships. Second, *ma'rūf* represents the recognition of beneficial traditions that are accepted and practiced within a society, commonly referred to as tradition (*'urf* or *'ādah*) in the discipline of *usul fiqh*. Third, *ma'rūf* functions as a framework for grounding the universal values of Islam in relation to contemporary contexts.<sup>46</sup>

In addition to *ma'rūf*, *mubadalah* functions as a methodological framework in the formulation of KUPI fatwas. The *mubadalah* method is employed in the interpretation of hadith, which constitutes the second source of law for Muslims, subsequent to the Quran. The principle that governs the relationship between the Quran and hadith is characterized by cooperation and interdependence, rather than hegemony and dominance. Moreover, Islamic texts are subject to interpretation, thereby facilitating the reflection of these foundational premises in every assessment.

Methodologically, the *mubadalah* approach consists of four key steps. First, it is essential to ensure that the text being analyzed addresses the relationships between men and women in both domestic and public spheres. Second, the text must explicitly reference men or women, identifying one or both as either the subject or the object. Third, it is important to categorize the text as belonging to fundamental value teachings, thematic principal teachings, or implementative and operational teachings. Finally, the interpretation should align the text's meaning with the fundamental teachings and thematic norms concerning men and women, emphasizing their collective call to engage in virtuous actions and uphold noble morals.<sup>47</sup>

In applying the paradigm, approach, and nine values of KUPI, the KUPI Religious Deliberation also employs the *maqashid sharia* framework, which is grounded in classical scholarship. This framework aims to ensure that the decisions made during religious

---

<sup>43</sup> Faqihuddin Abdul Kodir, *Metodologi Fatwa KUPI* (Cirebon: KUPI, 2022), 76-80.

<sup>44</sup> Kodir, 103.

<sup>45</sup> Kodir, 103.

<sup>46</sup> Kodir, 104.

<sup>47</sup> Faqihuddin Abdul Kodir, *Perempuan (Bukan) Sumber Fitnah! Mengaji Ulang Hadis Dengan Metode Mubadalah* (Bandung: Akaruna.id, 2021), 32. Kodir, *Metodologi Fatwa KUPI*, 107.

deliberations are both sound and comprehensive, providing solutions to a variety of issues while reflecting the vision of universality and the mission of promoting ethical standards. In its fatwa methodology, KUPI appears to integrate the perspectives of classical maqashid scholars such as al-Syatibi, as well as contemporary figures like Sheikh Muhammad ath-Tahir ibn 'Ashur (d. 1973)<sup>48</sup> and Jasser Audah, through six features of a systems approach. According to as-Syatibi, the maqashid sharia has crystallized into five principles (*al-kulliyāt al-khamsah*), which serve as foundational elements in the study and application of Islamic law. These five principles are established as a clear and definitive legal basis, integral to the core of the faith (*usūl ad-dīn*), legal rules (*qawā'id shar'iyah*), and religious principles (*kulliyāt al-millah*). The five principles encompass the protection of the soul, religion, intellect, property, offspring, and honor.<sup>49</sup>

Whereas maqashid, from the perspective of contemporary scholars, is not solely utilized as a framework for safeguarding fundamental human rights, it also serves to expand the range of protection targets, thereby enhancing its significance and effectiveness. For instance, in the context of family protection, which was initially understood to encompass the endorsement of marriage and the prohibition of adultery, this concept has since been broadened to include principles related to family protection, such as marriage registration as a means of legitimizing the validity of marriage, among other aspects.

From the perspective of Sheikh Muhammad ath-Tahir Ibn Ashur, the protection of the family should encompass all ethical values of Islamic law that foster family harmony, dignity, and resilience. For instance, in cases of domestic violence, such as a husband physically abusing his wife, if such actions undermine the unity of the household and exacerbate domestic conflicts, it becomes imperative for the government to implement regulations that prevent such violence. This approach aligns with the principle of family protection within the framework of maqasid sharia.<sup>50</sup>

Meanwhile, Jasser Auda contextualizes the concept of family protection within the framework of family development, addressing fundamental moral principles related to the safeguarding of individual and social rights. This includes a specific emphasis on ensuring the protection of women and children across all aspects of family law institutions. This approach aligns with KUPI's Fatwa, which prohibits sexual violence and mandates the protection of children from inadequate parenting. KUPI asserts that Jasser Auda's maqashid sharia is consistent with the classical legal principles of Ibn al-Qayyim al-Jauziyah, as well as contemporary legal principles such as rationality, expediency, justice, and morality.<sup>51</sup>

### **The *maslahah* approach in the formulation of fatwas and legislation in Indonesia**

The discourse on *maslahah* as a method for deriving Islamic law (*manhaj fī al-istibāth al-ahkām al-Islāmiyyah*) has yet to achieve consensus among the Jumhur Ulama. Nonetheless, it is essential to connect this concept to the religious institutions responsible for discussing and issuing fatwas on social and religious matters, such as the Indonesian Ulema Council (MUI),

---

<sup>48</sup> Muhammad Ibnu 'Asyur, *Maqâsid Al-Syarî'ah Al-Islâmiyyah* (Mesir: Dar al-Salam, 2007), 45.

<sup>49</sup> Kodir, *Metodologi Fatwa KUPI*, 94.

<sup>50</sup> Muhammad Thahir Ibnu 'Asyur, *Al-Tahrîr Wa al-Tanwîr* (Tunisia: Dar al-Tunisia, 1984); Kodir, *Metodologi Fatwa KUPI*, 95.

<sup>51</sup> Kodir, 102.

the Bahsul Masail Institute (LBM) Nahdhtul Ulama and Majelis Tarjih Muhammadiyah.<sup>52</sup> Each of these institutions regards '*maslahah*' as a pivotal factor in their decision-making processes and the formulation of legal fatwas. This approach also extends to the drafting of laws and regulations in Indonesia, where the perspective of benefit should serve as a primary criterion for evaluating legislative products. This ensures that legal outcomes effectively address contemporary social and humanitarian challenges.

In the formulation of MUI fatwas, when there is no consensus among fiqh scholars regarding a specific issue, it is permissible to explore new legal interpretations (*ijtihad jama'i*). Methodologically, *ijtihad* is conducted by prioritizing the approaches of bayānī, ta'līlī, istislahī, and by avoiding harm (*sadd adz-dzari'ah*). The benefit approach has been employed in the development of MUI fatwas; however, there are still fatwas related to women that exhibit both gender-neutral and gender-biased characteristics. This observation is consistent with the findings of Latifah's research, which indicated that among the 18 MUI fatwas on women analyzed, 9 were categorized as gender-biased while the remaining 9 were classified as gender-neutral.<sup>53</sup>

In MUI Fatwa No. 7/Munas VI/MUI/2000 regarding Female Migrant Workers (TKW), the MUI employs verses, hadith, and the principle of "preventing harm takes precedence over seeking benefit" to assert that it is impermissible for women to become migrant workers unless accompanied by a mahram. This position aligns with Al-Ghazali's concept of *maslahah*, particularly in the context of safeguarding the soul to protect TKW from the risks associated with working abroad. From Al-Syatibi's perspective on benefit, the decision to become a migrant worker represents a potential benefit that can enhance both individual and societal well-being. This benefit addresses biological and psychological human needs, ultimately enabling individuals to achieve their full potential in accordance with their inherent nature.<sup>54</sup>

Becoming a migrant worker presents a challenging decision, particularly given the limited job opportunities available in the country. The formulation of a fatwa can provide significant benefits by addressing the underlying factors that compel many women to seek migrant work. For instance, data indicates that the number of unemployed individuals in Indonesia reached 7,194,862 as of February 2024, while poverty affects 25.22 million people as of March 2024.<sup>55</sup> In light of this situation, the government should prioritize enhancing the skills and competencies of female laborers to empower women to enter the workforce effectively. Consequently, the resulting fatwa should specifically address the needs and challenges faced by women in this context.

To enhance the universal and neutral concept of benefit, it is essential to integrate KUPI's benefit perspective. This perspective is grounded in humanitarian values that aim to ensure benefits are inclusive rather than exclusionary. KUPI prioritizes collaboration among nations, the cooperation of the global community, and a commitment to collective agreements. It advocates for justice, welfare, and environmental sustainability to create benefits for both the world and the universe. This approach seeks to establish an ecosystem that provides

---

<sup>52</sup> Ansori Ansori, "Position of Fatwa in Islamic Law: The Effectiveness of MUI, NU, and Muhammadiyah Fatwas," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (July 29, 2022): 53–72, <https://doi.org/10.18326/ijtihad.v22i1.53-72>, 55–65.

<sup>53</sup> Anthin Lathifah, "Perempuan Dalam Fatwa Ulama Di Indonesia : Karakteristik Hukum Dan Perspektif Feminis Muslim," *LPPM UIN Walisongo*, 2019, 180.

<sup>54</sup> Al-Syathibi, *Al-Muwafaqat* (Lebanon: Dar al-Kotob al-Ilmiyah, 2009), 231.

<sup>55</sup> Badan Pusat Statistik, "Berita Resmi Statistik No 54/08/Th. XXVI," 2024.

protection and security for migrant workers abroad, as well as support for the families and children they leave behind.<sup>56</sup>

In the context of legislative drafting in Indonesia, it is essential to integrate masalah considerations into the legislative process. For instance, Law No. 23 of 2002, later revised to Law No. 35 of 2014 on Child Protection, incorporates the principle of the best interests of children. This principle is further illustrated in Law No. 16 of 2019, Article 2, Paragraph b, which raises the minimum marriage age for women from 16 to 19 years, thereby promoting the rights and interests of children.<sup>57</sup>

While the amendment to the marriage age limit under Law No. 16 of 2019 addresses specific issues, it has concurrently resulted in a significant rise in marriage dispensation applications, increasing from 23,145 cases in 2019 to 25.53 million in 2023. This statistic positions the country fourth globally in terms of child marriage cases.<sup>58</sup> The researcher's analysis suggests that this trend is linked to the inadequate implementation of supportive policies. Consequently, cross-sectoral policies are crucial to effectively uphold the increased marriage age limit, emphasizing the benefits and best interests of children. Such policies should encompass enhanced access to secondary and tertiary education for adolescents aged 16 to 19, reproductive health education, digital literacy, and employment opportunities as viable alternatives to continuing education. Moreover, data suggests that poverty and social change are significant factors contributing to the high rates of early marriage.<sup>59</sup>

## Conclusion

This research underscores the significance of integrating masalah that addresses the aspirations of women and vulnerable groups in the formulation of fatwas, as well as in the drafting of laws and regulations. This integration is crucial to prevent the issuance of fatwas and laws that may exhibit gender bias and lack justice. The analysis presented in this article reveals that while the concept of *masalahah*, as articulated by earlier scholars, provides a significant and universal foundation of benefit, it has not fully incorporated the experiences of women as active participants. KUPI has played a vital role in reinforcing the boundaries of benefit established by previous scholars by incorporating affirmative benefits for women. However, the integration of women's experiences in the formulation of *masalahah* is often contextual rather than universal, reflecting variations in situations, conditions, and cultures. From a relevance standpoint, the concept of benefit that aligns with the contemporary context of law-making in Indonesia must take into account all aspects, including cultural diversity and the aspirations and needs of women and vulnerable groups with unique requirements. KUPI enhances the concept of benefit by emphasizing the specific needs and experiences of women, which differ from those of men, encompassing both biological and sociological dimensions. This approach is referred to as the Ultimate Justice approach. Researchers describe this process as 'gender mainstreaming in the concept of *masalahah*.'

---

<sup>56</sup> Kodir, *Metodologi Fatwa KUPI*, 78.

<sup>57</sup> Kementerian Sekretariat Negara Republik Indonesi, *Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974*, 2019.

<sup>58</sup> Schoolmedia Eko, "Indonesia Peringkat Empat Kasus Kawin Anak Di Dunia, 25,52 Juta Anak Menikah Usia Dini," November 4, 2023, <https://news.schoolmedia.id/lipsus/Indonesia-Peringkat-Empat-Kasus-Kawin-Anak-di-Dunia-2552-Juta-Anak-Menikah-USia-Dini-3898>.

<sup>59</sup> Yoesep Budiyo, "Tingginya Angka Perkawinan Usia Anak Di Indonesia," March 8, 2024, <https://www.kompas.id/baca/riset/2024/03/08/tingginya-angka-perkawinan-usia-anak-di-indonesia>.

## References

- Abdissalam, Al-'izz. *Qawā'id al-Aḥkām Fī Maṣāliḥ al-Anām*. Beirut: Dar al-Ma'arif, n.d.
- Abdul Kodir, Faqihuddin. *Metodologi Fatwa KUPI*. Cirebon: KUPI, 2022.
- — —. *Perempuan (Bukan) Sumber Fitnah! Mengaji Ulang Hadis Dengan Metode Mubadalah*. Bandung: Akaruna.id, 2021.
- Al-Fayūmī. *Al-Miṣbāḥ al-Munīr*. Beirut: Maktabah Lubnān, 1987.
- Al-Ghazali, Abu Hamid Muhammad. *Al-Mustaṣfā*. Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.
- — —. *Al-Muṣṭasyfa Fī 'ilm al-Uṣūl*. Jilid II. Beirut: Dar al-Kutub al-Islamiyyah, t.th.
- — —. *Iḥyā' 'Ulūmiddīn*. Mesir: Al-Maktabah al-Tijariyyah al-Kubra, n.d.
- — —. *Ihya' Ulumuddin*. Beirut: Dar al-Hazm, n.d.
- Al-Raysuni, Ahmad. *Nazariyyah Al-Maqāshid 'ind Imām al-Syātībī*. 2nd ed. Riyadh: al-Dār al-'Ālamiyyah li al-Kutub al-Islāmī, 1412H/1992M.
- Al-Syathibi. *Al-Muwafaqat*. Lebanon: Dar al-Kotob al-Ilmiyyah, 2009.
- Al-Syatibi, Abu Ishaq. *Al-Muwafaqat*. Beirut: Dar al-Kutub al-'Ilmiyyah, 2009.
- Al-Thūfī. *Risālah Fī Ri'āyat al-Maṣlahah*. Al-Dār al-Misriyyah al-Lubnāniyyah, 1993.
- Amidi, Abu Hasan Ali al-. *Al-Iḥkām Fī Uṣūl al-Aḥkām*. Riyadh: Dar al-Ṣamī'iy, 2003.
- Ansori, Ansori. "Position of Fatwa in Islamic Law: The Effectiveness of MUL, NU, and Muhammadiyah Fatwas." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (July 29, 2022): 53–72. <https://doi.org/10.18326/ijtihad.v22i1.53-72>.
- Asy-Syaukāni. *Irsyād Al-Fuḥūl*. Riyadh: Dar al-Fadhilah, 2000.
- Aziz bin Sattam, A. *Sharia and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence*. Sharia and the Concept of Benefit: The Use and Function of Maslaha in Islamic Jurisprudence, 2015. <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85141625901&partnerID=40&md5=e8e4b9df710d41d1eadb9aef09dec1ca>.
- Badan Pusat Statistik. "Berita Resmi Statistik No 54/08/Th. XXVI," 2024.
- Budiyanto, Yoesep. "Tingginya Angka Perkawinan Usia Anak Di Indonesia." March 8, 2024. <https://www.kompas.id/baca/riset/2024/03/08/tingginya-angka-perkawinan-usia-anak-di-indonesia>.
- Eko, Schoolmedia. "Indonesia Peringkat Empat Kasus Kawin Anak Di Dunia, 25,52 Juta Anak Menikah Usia Dini." November 4, 2023. <https://news.schoolmedia.id/lipsus/Indonesia-Peringkat-Empat-Kasus-Kawin-Anak-di-Dunia-2552-Juta-Anak-Menikah-USia-Dini-3898>.
- Haq, Yahdi Dinul, Hafizah Muchtia, and Zia Alkausar Mukhlis. "Bid'ah in Concept of Maslahah Mursalah and Istihsan According to Imam Asy-Syathibi." *Juris: Jurnal Ilmiah Syariah*, 2021. <https://doi.org/10.31958/juris.v20i2.3352>.
- Hasballah, Khairuddin, Andi Darna, Wardana Said, Hajarul Akbar, Ihdi Karim Makinara, and Faisal Fauzan. "Identifying 'Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (December 26, 2021): 598. <https://doi.org/10.22373/sjhk.v5i2.10914>.
- Hermanto, Agus. "Konsep Maslahat Dalam Menyikapi Masalah Kontemporer (Studi Komparatif al-Tūfi Dan Al-Ghazali)." *Al-'Adalah* 14, no. 2 (2017). <http://dx.doi.org/10.24042/adalah.v%vi%i.2414>.
- Ibnu 'Asyur, Muhammad. *Maqāsid Al-Syarī'ah Al-Islāmiyyah*. Mesir: Dar al-Salam, 2007.
- Ibnu 'Asyur, Muhammad Thahir. *Al-Tahrīr Wa al-Tanwīr*. Tunisia: Dar al-Tunisia, 1984.
- Indonesia, Kementerian Sekretariat Negara Republik. *Undang-Undang Nomor 16 Tahun 2019 Tentang Perubahan Atas Undang-Undang Nomor 1 Tahun 1974*, 2019.

- Khatib, Suansar. "Konsep Maqashid Al-Syari'ah: Perbandingan Antara Pemikiran Al-Ghazali Dan Al-Syatibi." *Mizani: Wacana Hukum, Ekonomi Keagamaan* 5, no. 1 (2018).
- Kodir, Faqihuddin Abdul. *Metodologi Fatwa KUPI*. Cirebon: KUPI, 2022.
- Kusmana. "The Qur'an, Women, And Nationalism In Indonesia: Ulama Perempuan's Moral Movement." *Al-Jami'ah: Journal of Islamic Studies* 57, no. 1 (2019).
- Laluddin, Hayatullah, Mohammad Nasran Mohammad, Zuliza Mohd Kusrin, Shofian Ahmad, Zaini Nasohah, Mohd. Zamro Muda, Md.Yazid Ahmad, and Ahmad Muhammad Husni. "An Analysis of Maslahah's Development through al-Ghazali Pre and Post al-Ghazah Periods." *International Business Management* 6, no. 2 (2012): 183–93. <https://doi.org/10.3923/ibm.2012.187.193>.
- Lathifah, Anthin. "Perempuan Dalam Fatwa Ulama Di Indonesia : Karakteristik Hukum Dan Perspektif Feminis Muslim." *LPPM UIN Walisongo*, 2019.
- Lobah, J. "The Islamic Principle of Maslahah as Practical Wisdom for Human Development." In *CSR, Sustainability, Ethics and Governance*, 145–51, 2016. [https://doi.org/10.1007/978-3-319-28287-9\\_11](https://doi.org/10.1007/978-3-319-28287-9_11).
- Rozi, Fahrur, Tutik Hamidah, and Abbas Arfan. "Konsep Maqasid Syari'ah Perspektif Pemikiran Al-Juwaini Dan Al-Ghazali." *Iqtisoduna: Jurnal Ekonomi Syariah Dan Hukum Islam* 5, no. 1 (June 2022).
- Sarif, Akbar, and Ridzwan Ahmad. "Konsep Maslahat dan Mafsadah menurut Imam al-Ghazali." *TSAQAFAH* 13, no. 2 (January 25, 2018): 353. <https://doi.org/10.21111/tsaqafah.v13i2.1183>.
- Syahriar, Alfa, and Zahrotun Nafisah. "Comparison of Maqasid Al-Shariah Asy-Syathibi and Ibn Ashur Perspective of Usul al-Fiqh Four Mazhab." *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 3, no. 2 (April 30, 2020): 185. <https://doi.org/10.30659/jua.v3i2.7630>.
- Syarifuddin, Said. "Maslahat as Considerations of Islamic Law in View Imam Malik." *SAMARAH: Jurnal Hukum Keluarga dan Hukum Islam* 4, no. 1 (June 30, 2020): 85. <https://doi.org/10.22373/sjhc.v4i1.6754>.
- Yusuf, A.H.B. "A Study of Conceptual Foundations of Maqāsīd Al-Sharī'ah (Objectives of Islamic Law) as Expounded by Classical Muslim Jurists." *Islamic Quarterly* 64, no. 4 (2020): 527–46.