



The Concept of Human Rights in the Maqashid Syari'ah Perspective

Konsep Hak Asasi Manusia dalam Perspektif Maqashid Syari'ah

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Abstract

This study examines the conceptual dichotomy that often arises between universal Human Rights (HAM) and the fundamental goal framework of Islamic law, namely Maqasid Sharia. There is an urgency to harmonize these two concepts in order to strengthen the guarantee of humanitarian protection in the legal system. This study uses a literature study method with a descriptive research nature with a comparative approach, examining primary and secondary legal materials, as well as Islamic legal doctrine. The main objective of this study is to analyze the convergence and substantial coherence between human rights principles and the five essential objectives of Maqasid *Syari'ah* (*al-daruriyyat al-khams*). Therefore, the results of the study show that instead of being contradictory, Maqasid Sharia and human rights are two mutually synergistic and integrated frameworks, which lie in the identical end goal, namely the maintenance of human dignity (*karamah al-insan*) and the achievement of the common good. Human rights concepts such as the right to life (*hifdz al-nafs*), freedom of thought (*hifdz al-aql*), and property rights (*hifdz al-maal*) are explicitly internalized in the purpose of shari'a. In conclusion, Maqasid *Syari'ah* serves as a strong theological-philosophical foundation for the strengthening and justification of the universality of human rights, eliminating the dichotomy between positive law and spiritual values. The implication of this study is that it offers an integrative model in the development of law that guarantees the comprehensive protection of basic human rights.

Keywords: Human Rights, Maqasid Syari'ah, Normative Judicial, Public Welfare

Abstrak

Studi ini mengkaji dikotomi konseptual yang sering terjadi antara Hak Asasi Manusia universal (SDM) dan kerangka objektif dasar Hukum Islam, yaitu *Maqasid Syariah*. Ada urgensi untuk menyelaraskan kedua konsep ini untuk memperkuat jaminan perlindungan kemanusiaan dalam sistem hukum. Penelitian ini menggunakan metode yuridis normatif dengan sifat penelitian deskriptif dan pendekatan komparatif, menganalisis materi hukum primer dan sekunder, serta doktrin hukum Islam. Tujuan utama

dari penelitian ini adalah untuk menganalisis titik-titik konvergensi dan koherensi substansial antara prinsip-prinsip SDM dan lima tujuan penting Syariat Maqasid (al-daruriyyat al-kham). Hasilnya menunjukkan bahwa, alih-alih bertentangan, *Maqasid Syariah* dan SDM adalah dua kerangka kerja yang sinergis dan terintegrasi, berlabuh pada tujuan akhir yang identik: pelestarian martabat manusia (karamah al-insan) dan pencapaian kesejahteraan umum (*maslahah*). Konsep SDM seperti hak untuk hidup (*hifdz al-nafs*), kebebasan berpikir (*hifdz al-aql*), dan hak milik (*hifdz al-maal*) secara eksplisit diinternalisasi dalam tujuan Syariah. Kesimpulannya, Syariah Maqasid berfungsi sebagai landasan teologis-filosofis yang kuat untuk penguatan dan pembenaran universalitas SDM, menghilangkan dikotomi antara hukum positif dan nilai-nilai spiritual. Implikasi dari penelitian ini adalah menawarkan model integratif untuk pembangunan hukum yang secara komprehensif menjamin perlindungan hak asasi manusia yang mendasar.

Kata Kunci: Hak Asasi Manusia, Maqasid Syari'ah, *Judicial Normative*, Kesejahteraan Publik (*Maslahah*)

1. INTRODUCTION

Human rights (*droits de l'homme*) is a global discourse that defines the minimum standard of essential protection of human life and universal freedoms inherent in each individual (Ritonga and Ichsan 2025). Human rights apply anytime, anywhere, and to anyone so that their nature becomes universal, their position is protected so strongly without discriminatory treatment. The first declaration of human rights was voiced by the Archbishop of Canterbury as opposed to the paradoxical conception of human life and even the human rights crisis, the Archbishop with Cardinal Stephen Langton on June 15, 1215 AD in the *Magna Carta* charter affixed with the stamp of King John in Runnymede, England. (Bisnis et al. 2006) The drafting of the *Magna Carta* charter was motivated by prominent social inequalities such as the neglect of church rights, the illegal imprisonment of barons, and unilateral justice. (Dan, Ham, and Matondang n.d.) Meanwhile, in the United States in 1776, it was proclaimed that the nature of freedom was "Humans are universally created equal, have equal rights in life, liberty and happiness" So that on December 10, 1948 human rights were officially strengthened by the United Nations in the "*Universal Declaration of Human Rights / UDHR*" mandating every country to pay attention to and supervise the upholding and implementation of human rights in each country. (Huda 2019)

Indonesia has the same spirit in upholding Human Rights, stated in Law of the Republic of Indonesia No. 39 of 1999 "Human Rights are a set of rights that are inherent in the haqiqat and existence of human beings as creatures of God Almighty and are His gifts that must be respected, upheld, and protected by the state, law, government and every person, for the honor and protection of the dignity of human dignity". Human rights find their relevance and contextuality in the midst of a complex life, filled with the potential for human rights violations that are also increasingly wide-open. (Zahra et al. 2025) The recognition of the existence of human rights does not seem to be final, not a few are suing its existence (its origin). (Aqidah and Kalijaga n.d.) One study conveyed that human rights are from the *code of law* by King Hammurabi, Babylonia as quoted in Ngainun Naim, Religious leaders such as Islamic thinkers view the concept of human rights in the West with a critical but selective attitude because it is considered too secular for several main reasons. First, Western human rights concepts are often seen as a product of thought, which ignores the religious and spiritual dimensions that are at the core of the life of the Muslim community. Human rights in the Western view are often anthropocentric and even secular, positioning human beings as absolute references and sources, not bound by *the Divine dimension* or even the standard of morality, so as to confuse the theological view itself (Widiawan et al. 2025).

Second, some Western human rights concepts and implementations may conflict with *sharia* values and Islamic traditions, such as rights related to sexuality, marriage, or total freedom without religious moral limitations, creating a tension between the principle of absolute individual rights and the moral and social obligations that Islam teaches (Hidayat 2016).

The conceptualization of Islam in finding an authentic theological foundation in the implementation and protection of Human Rights certainly does not only adopt the totality of the West,

but must be understood and referred to the principles taught by Islam This foundation is based on the concept of *Maqasid Syari'ah* (shari'a goals) which protects five important points: religion, soul, intellect, descent, and property, as fundamental human rights that must be protected and respected. In this context, human rights are a form of protection of divine rights (God's right to His creatures), not just a social agreement (Kusuma 2023). This approach provides a comprehensive human rights framework, including moral, social, spiritual, and spiritual aspects, and adds a dimension of social obligations and deep religious responsibilities. With this theological foundation and *maqasid of Syari'ah*, Muslims can answer criticism of Western human rights and provide a more meaningful, just and sustainable model of human rights in a society that is based on Islamic values, not just adhering to external principles that are not in line. Thus, it is necessary to examine the actual philosophical basis of Human Rights in *Maqasid Syari'ah*, as well as the contribution that *Maqasid Syari'ah* gives in human rights in a global view.

2. METHODS

This research uses the type of Normative Legal Research (*Normative Juridical Research*), which focuses on the analysis of Islamic legal concepts and their application to Human Rights (HAM) issues. The main approach used is the *Conceptual Approach* to examine in depth the relationship between the concept of *Maqasid Syari'ah* and the principles of human rights. In addition, the Islamic Law Philosophy approach is also used to analyze the basic values and the ultimate goal (hikmah) of Sharia, namely realizing the benefits and rejecting mafsadat, as a philosophical basis for the protection of human rights. The data of this research is Secondary Data, which consists of Primary Legal Materials (Al-Qur'an, Hadith, and works of ushul fiqh scholars). Secondary Legal Materials (journals and books on Maqasid and Human Rights), and Tertiary Legal Materials. The data collection technique is carried out through Documentary *Study* by searching, recording, and classifying relevant literature. Furthermore, the data was analyzed using the Qualitative-Descriptive Analysis technique to describe the correlation between the five pillars of *Maqasid al-Dharuriyah* and human rights, then synthesized into a complete argument about the contribution of *maqasid* to the global human rights discourse.

3. RESULTS AND DISCUSSION

The concept of *Maqasid Syari'ah* is not a contemporary idea, but a framework of thought that has been rooted in the tradition of Islamic law (Zahra et al. 2025). Although the basic purpose of the shari'a has been recognized since the early days of Islam, the formulation and systematics of *maqasid* were formally introduced and developed by scholars, the most prominent of which was Abu Ishaq al-Syatibi (d.790 H/1388 A.D.) through his work *Al-Muwafaqat fi Ushul al-Syari'ah*. Syatibi classified the goals of the *Syari'ah* into five essential needs (*al-dharuriyyat al-khams*), namely the protection of religion, soul, intellect, posterity, and property. Thus, *Maqasid Syari'ah* acts as the highest epistemology in the interpretation of law, ensuring that every regulation is aimed at achieving the benefit (good) of humanity. (Huda 2017).

With this theoretical foundation, this section presents a comprehensive analysis of the research findings, where empirical and qualitative data are evaluated using the five primary elements of *Maqasid Syari'ah* as the main framework. The analysis will soon begin with the first pillar of *al-dharuriyyat al-khams*, namely the protection of religion and belief (*Hifzh ad-Din*), which is an essential foundation for the recognition and guarantee of the right to religious freedom in the context of modern human rights.

a. *Hifzh ad-din* (Protection of religion and The Right to Freedom of Belief)

The *maqashid* theory of al-Syatibi was of course developed according to the demands of his time and the social changes that occurred at that time. The theory of *maqashid al-Syari'ah* and its development has great potential in order to portray religion as a protector of individual rights. If the protection of individual rights runs according to the right corridor, then religion in this case is social *capital* for the construction of civil *society*. (Hazin et al. n.d.) And in that way, religion also contributes to the maintenance of democratic life. Religion fully supports democratic life in the religious field through the protection of fundamental rights to religion or belief, and guarantees the freedom to practice

the religious teachings or beliefs of each of its followers, as in the constitutional system of the State of Indonesia it is clearly stated that *"The State guarantees the freedom of each citizen to embrace his own religion and to worship according to his religion and belief."*

This concept is strengthened by the thought of contemporary scholars who are also mufasssir "Wahbah al-Zuhayli" which emphasizes that it is an absolute right given by Allah to humans, so that *hifzh ad-din* includes the prohibition of forcing a person to embrace a certain religion and providing religious freedom, both in terms of beliefs and worship practices regulated by the state. A verse that legitimizes freedom is QS. al-Baqarah [2] 256 as follows:

"Tidak ada paksaan untuk (masuk) ke dalam agama (Islam); Sesungguhnya telah jelas bahwa jalan yang benar itu berbeda dari jalan yang sesat. Maka barangsiapa yang mendurhakai Thaghut dan beriman kepada Allah, maka sesungguhnya ia telah berpegang teguh pada tali yang sangat kuat yang tidak akan putus. Dan Allah Maha Mendengar lagi Maha Mengetahui." (QS. Al-Baqarah/2:256).

In his book of tafsir Al-Munir, Wahbah gives a conclusion that the context speaks of the prohibition of coercion in religion, because religion is the foundation of faith as part of guidance and the authority is with God. (Dan et al. n.d.). The substance of this verse expresses three things, namely [1] the prohibition of forcing to embrace religion, [2] the existence of corridors and rules that have been given by God, and [3] the consequences of freedom to choose and believe in a religion. Eko Siswanto on the Papuan Ministry of Religion website explained that based on its interests, maintaining religion can be categorized into three levels, namely:

- 1) *Daruriyyat* level: maintaining and carrying out religious obligations at the primary level (e.g.: praying five times is an obligation, which if ignored will threaten the existence of religion).
- 2) *Hajiyyat* level: carrying out religious provisions with the intention of avoiding difficulties (e.g., plural prayers and *qasr* for those who are traveling, which if carried out will not threaten the existence of religion, but only be imposed on the person who does it).
- 3) Level of *tahsiniyyat*: following religious instructions to uphold human dignity, as well as completing the implementation of obligations to God (e.g., closing the *awrah* or cleaning the body, which if not done will not threaten the existence of religion and will not make it difficult for the person who does it).

This correspondence also emphasizes the importance of maintaining human dignity (*karamah al-insan*) and displaying the face of Islamic tolerance (*samahah al-Islam*), so that religion is not used as a tool of domination or oppression. Islam as well as human rights gives full responsibility and will to every person regarding what he or she believes, including his will and willingness to get out of what he had previously believed Although there are still scholars in this matter.

"Everyone has the right to freedom of thought, conscience, and religion; These rights include freedom to change their religion or belief, and freedom, either alone or in association with others, in public or in private, to practice their religion or belief by teaching, practicing, worshiping, and observing it."

b. *Hifzh an-nafs* (Protection of Life) and The Right to Life

Azizatul Khumairoh in his academic writings explained that one of the main rights that is considered in Islam is the right to life. Islam protects humans to maintain the safety of the soul from any reason. Allah also forbids the killing of others and forbids a person to kill himself. Allah directly affirms this in Q.S. Al-Isra'/17:33:

"Janganlah kamu membunuh orang yang telah diharamkan Allah, kecuali dengan alasan yang benar. Barangsiapa yang dibunuh karena kezaliman, maka sesungguhnya Kami telah memberikan kekuasaan kepada walinya. Akan tetapi, janganlah ia (wali) melampaui batas dalam membunuh (Kisah). Sesungguhnya, dialah orang yang mendapat pertolongan".

Within the framework of Islamic legal philosophy, *maqasid Syari'ah*, the protection of the soul is placed in the second highest hierarchy, after *hifzh ad-din* as a fundamental pillar, known as *Hifzh an-nafs* (the preservation of the soul). This concept is one of the five existential *maqasid Syari'ah* (primary needs), affirming that the overall purpose of the establishment of Islamic law is to ensure the dignified existential sustainability of human beings. (Barat n.d.). In terminology, *hifzh an-nafs* is not limited to the prevention of physical death, but includes a more holistic dimension of protection, including physical, mental, and spiritual safety collectively. This profound conception finds an essential point of convergence with the right to life:

"The right to life of every person is protected by law. No person shall be deprived of his life intentionally, except in the execution of a court decision after he has been found guilty of a crime the punishment of which is provided for in the law".

This is emphasized in Law No. 39 of 1999 concerning Human Rights Article 9 and the 1945 Constitution Chapter X concerning Human Rights Article 28 (1) "Everyone has the right to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment and the right to receive health services." However, *hifzh an-nafs* has a theological and historical depth that goes beyond modern concepts, having become a standard doctrine in *Syari'ah* long before the birth of the contemporary human rights discourse.

Again on the official website of Hukum Online, Eko Siswanto on the Papuan Ministry of Religion website mentioned that there are three levels in maintaining the soul, namely:

- 1) The level of *daruriyyat*, which is the fulfillment of needs that if ignored, the existence of the soul can be threatened, for example meeting basic needs in the form of food to sustain life.
- 2) *Hajjiyat* level: activities that if ignored will not threaten human existence, but if forced may make life difficult, for example, it is allowed to hunt animals to enjoy delicious and halal food.
- 3) The level of *tahsiniyyat*, a normative activity that is polite, will not threaten life or make it difficult, for example, the etiquette of eating and drinking.

Not only in surah Al-Isra', Allah alludes to the right to life again in the verse of QS. Al-Maidah verse 32 by underlining that individuals not only have the right to live, but also the moral and social obligation to actively maintain life. From the legal aspect, the determination of repressive sanctions such as the Qishah law functions as a harsh protective mechanism (deterrent effect), the main purpose of maintaining public order and ensuring the upholding of human rights principles. The depth of this analysis shows its multidimensional nature:

- 1) The Public Dimension demands a collective and structural responsibility (the state) to provide adequate security, sanitation, and health infrastructure.
- 2) The Medical/Bioethical Dimension, *Hifzh an-nafs* expressly prohibits suicide and regulates ethical limits in contemporary issues such as abortion (except for emergency medical reasons) and the right to decent medical treatment.

The relevance of *hifzh an-nafs* is increasingly crucial in addressing the complexity of contemporary challenges, where the threat to an-Nafs is not limited to physical violence, but extends to systematic neglect of the right to psychological health and well-being (Hazin et al. n.d.). In the aspect of physical health, *hifzh an-nafs* demands the obligation of the state to ensure sanitation, accessible medical facilities, and the fulfillment of proper nutrition. Issues. Mental health is the main highlight, because life protection now includes the need to protect an-Nafs from psychological vulnerability caused by modern pressure, discrimination, and bullying.

Environmental threats also fall within this scope; environmental damage and pollution indirectly violate *hifzh an-nafs* because they damage the quality of life and cause serious diseases. Thus, *hifzh an-nafs* demands a holistic protection paradigm, in line with Article 9 Paragraph (2) of Law No. 39 of 1999 which guarantees the right to a prosperous life of birth and mind, affirming that the protected 'life' is a whole life and free from physical and psychological suffering. (Huda 2017). The concept of *hifzh an-nafs* provides a transformative theological-normative foundation: it not only guarantees passive rights (the right not to be killed), but also obliges active responsibility to protect oneself and others' lives from all forms of harm. In contrast to secular human rights frameworks that often focus on the

legal-formal dimension, *hifzh an-nafs* places the protection of the soul as a sacred worship and mandate from God, resulting in a holistic, proactive, and comprehensive vision of human rights protection-a paradigm that is essential for strengthening the upholding of human dignity as a whole in modern society.

c. *Hfzh Al-Aql* (Protection of Reason) and Intellectual Property Rights

In Nu Online, Mashun Adib explained that Islam's appreciation for the role of reason lies in knowledgeable people who use their intellect to think about holy verses. *Hifzh al-'Aql* (maintenance of reason) in the maqasid of *Syari'ah* is closely related to the protection of intellectual property rights as part of efforts to preserve human thought, creativity, and intellectual works. Reason is the main instrument (*taklif*) that distinguishes human beings from other creatures and is an absolute requirement for the imposition of religious laws. (Widiawan et al. 2025). Therefore, protecting the intellect means maintaining the source of understanding, wisdom, and human cognitive processes.

This principle correlates with Intellectual Rights within the framework of modern human rights, including the Right to a Decent Education, the Right to Expression, and Academic Freedom. Intellectual property rights (IPR) such as copyrights, patents, and trademarks are considered to be the product of human invention that reflect the use of reason and creativity that must be respected and protected by law.

"Everyone has the right to the protection of the moral and material interests arising from any scientific, literary or artistic production created." "Everyone has the right to develop themselves through the fulfillment of their basic needs, the right to education and to benefit from science and technology, art and culture, in order to improve their quality of life and for the welfare of life humans".

The normative justification for the protection of reason is dualistic, including preventive and proactive dimensions:

- 1) The negative aspect of *Hifzh al-Aql* is in the form of a strict prohibition against everything that damages the function of the intellect, such as the consumption of *khamr* (liquor) and drugs. This prohibition is preventive, ensuring that human reasoning functions without distortion. Instead
- 2) The Positive Aspect demands an active obligation to increase the capacity of reason, manifested through a strong drive to seek knowledge (*thalabul 'ilmi*) throughout life and the practice of *ijtihad* (independent and critical thinking). These two aspects show that the protection of reason is not just a prohibition, but a commitment to intellectual development.

The levels of maintaining intellect according to Eko Siswanto include:

- 1) The level of *daruriyyat*, if not heeded, will threaten the existence of reason, for example, it is forbidden to drink liquor.
- 2) The level of *hajiyyat*, if carried out, will not damage one's intellect, but will make it difficult for oneself, for example, the recommendation to pursue science.
- 3) The level of *tahsiniyyat*, if carried out, will not threaten the existence of reason and is closely related to ethics, for example, avoiding delusions or listening to something that is not beneficial.

According to an article entitled "*Hifzh al-Aql* and the Challenges of the Digital Era: Keeping Minds from Negative Information, 2025", on the Ma'had 'Aly page of the Maslakul Huda Fi Ushul Fiqhi Islamic Boarding School confirms that today, *Hifzh al-Aql* faces a more subtle and systemic threat than addictive substances, such as a form of *cognitive violence* through the uncontrolled flow of information. (Hidayat 2016). *Hifzh al-Aql* demands collective protection of reason from the spread of hoaxes, disinformation, and *post-truth* phenomena that systematically undermine the ability of reason to process facts and make sound and rational decisions. Therefore, *hifzh al-Aql* becomes a strong theological-philosophical foundation for media literacy, critical education, and legal sanctions against the spreader of lies that damage social order and public reason.

Hifzh al-Aql goes beyond the concept of the Right to Education or Expression in secular human rights. The concept of Maqasid not only guarantees the right to learn, but instills a theological obligation to use reason for good (*maslahat*). This results in a complete paradigm of protection, where maintaining

reason is maintaining human spiritual and social capacity. Thus, *Hifzh al-Aql* ensures that Intellectual Rights are not only exercised, but directed towards the wisdom and function of the most noble intellect. In short, *hifzh al-'aql* and intellectual property rights are inextricably intertwined in Islamic law; protection of reason includes respect and protection of works intellectual as the embodiment of valuable human thought and must be protected from protection or plagiarism in accordance with *maqashid as-syari'ah*.

d. *Hifzh An-Nasl* (Maintenance of Offspring) Social-Civil Rights

Hifzh an-Nasl (protection of descendants/families) is a concept in *the maqasid of syari'ah* that emphasizes the continuous protection of generations and social order through legitimate family institutions. (Kusuma 2023). This concept includes maintaining the genealogy, ensuring a shah marriage as the basis for the continuity of the *nasab*, and ensuring children's rights such as maintenance, education, and a safe environment. Quoting Eko Siswanto, the levels in maintaining offspring include:

- 1) The level of *daruriyyat*, which if ignored will threaten the existence of offspring, for example, the sharia of marriage and the prohibition of adultery.
- 2) The level of *hajiyyat*, which if ignored will not threaten the existence of the offspring, but can make it difficult, for example, the stipulation of the provision mentioning dowry for the husband at the time of the marriage contract; if the dowry is not mentioned at the time of the contract, the husband will experience difficulties, because he has to pay *the mitsl* dowry.
- 3) The level of *tahsiniyyat*, which if ignored will not threaten human existence, does not complicate marriage, such as *khitbah* or *walimah* in marriage.

Hifzh an-Nasl (protection of posterity) is one of the fundamental goals of *Syari'ah* that is often simplified in meaning. This concept is only understood as an effort to protect the *nasab* from adultery. In fact, as a pillar that guarantees the existence and sustainability of human beings, *Hifzh an-Nasl* demands a much more progressive vision: protecting offspring from all forms of *mafsadah* (damage), both biological, social, and psychological. (Widiawan et al. 2025). In the modern context, the challenge to *nasl* does not only come from moral violations, but precisely from structural violence and family vulnerability legalized by negligence or discrimination, especially Domestic Violence (KDRT). Demanding that *Hifzh an-Nasl* be a protector from domestic violence which is a collective violation of *maqasid*, destroying *Hifzh an-nafs*, *Hifzh al-'Aql*, and demolishing *Hifzh an-Nasl* fundamentally. Therefore, strict law enforcement against domestic violence (Law No. 23 of 2004) and guarantees of protection for victims by the state are sharia orders that must be implemented. This is where the synergy between *Hifzh an-Nasl* and human rights finds its urgency in Indonesia. He demanded active state intervention, not only to prevent damage, but also to facilitate adequate protection, protection (*riya'ah*), and education. Universally, *Hifzh an-Nasl* is legitimized in human rights instruments, especially through:

- 1) The right to form a family: Article 28B (1) of the 1945 Constitution and Article 16 of the DUHAM are the State's recognition of the right of individuals to continue their offspring through legal marriage, which is the *main means* of protection of the *nasab* and morals.
- 2) Responsible Reproduction Rights: *Hifzh an-Nasl* according to the extension of meaning becomes the optimal progenitor. Policies such as raising the marriage age limit and the Family Planning program (*tanzim al-nasl*) are proactive implementations to protect *the nasl* from health vulnerabilities and incapacities of *ri'ayah* (protection).

Another crucial issue is the rights of children born out of wedlock. Although there are differences in *fiqh* views on *nasab*, *the spirit of Maqasid* demands that children's rights to welfare be prioritized. *Hifzh an-Nasl* ethically rejects discrimination that punishes children for their parents' mistakes. (Hazin et al. n.d.). The Constitutional Court's Decision No. 46/PUU-VIII/2010, which recognizes the civil relationship of an out-of-wedlock child with his biological father, is a progressive step in line with *Hifzh an-Nasl*'s spirit in protecting the *nasl* from stigma and social harm. In summary, *Hifzh An-Nasl* protects the family order as the main institution in preserving generations, as well as ensuring the protection of the rights of individuals and children in order to create a strong social and moral continuity. This protection includes legal, social, and ethical dimensions in maintaining the honor and preservation of

families and descendants in accordance with sharia maqasid and human rights.

e. **Hifzh Al-Maal (Maintenance of Property) and Economic, Social and Cultural Rights (EKOSOB)**

Azizatul Khumairoh (17: 2022), said that the meaning of safeguarding wealth is to seek treasures in order to maintain their existence and increase material and religious enjoyment. Furthermore, humans must not be an obstacle to themselves and their property. However, what needs to be emphasized is that the property must meet three conditions, namely obtained in a halal way, used for halal things, and issued for worship and useful for the surrounding community. (Zahra et al. 2025). The dimension of *Hifzh al-Maal* (maintenance of property) in *Maqasid Syari'ah* is a pillar that is in line with the rights guaranteed by universal human rights instruments, especially those related to economic and social rights. This concept goes beyond just safeguarding physical assets; It is a comprehensive framework to ensure economic justice, security of ownership, and equitable distribution of welfare in society. *Hifzhul Maal* has a double normative basis that makes it indisputable, both in Islamic law and international law, due to the following:

- 1) First, Property Protection. The principle of *hifzhul maal* expressly prohibits taking other people's property in an unlawful way, such as Fiman Allah in the Qur'an verse 188, and imposes legal sanctions on the perpetrators of theft. Universally, This principle resonates directly with Article 17 of the Universal Declaration of Human Rights (DUHAM) which states "No one shall be arbitrarily deprived of his property". Thus, *Hifzhul Maal* is the theological foundation for demanding that the state stop corruption, asset grabbing, and evictions without fair compensation.
- 2) Second, Economic Rights and Dignity of Work. Islamic law requires every individual to earn a halal livelihood and prohibits exploitative practices such as usury or fraud. This obligation is the fulfillment of equal rights for all people without discrimination on the basis of gender, to obtain a fair wage (*al-ajrul kafi*) so that their dignified existence is guaranteed. This is in line with Article 23 of the DUHAM, namely the right to work, with the condition of work that is fair, profitable, and guarantees a dignified existence.
- 3) Third, Social Welfare. *Hifzh al-Maal* demanded a fair distribution. Mechanisms such as zakat and infak function as instruments of structured wealth redistribution, aiming to ensure a decent standard of living for all levels of society. Universally, this principle reflects Article 25 of the DUHAM regarding the right to an adequate standard of living (clothing, food, and shelter, health services) and inadequate social security. Strictly speaking, *Hifzhul Maal* binds individuals and the state to carry out protective and distributive functions. The failure of the state to protect people's property from confiscation or failure to ensure fair distribution is a violation of *Maqashid* as well as a violation of human rights.

In Hukum Online, Eko Siswanto explained the levels in maintaining assets on the *Papuan Ministry of Religion website* include:

- 1) The level of *daruriyyat*, which if violated will threaten the existence of property, for example the sharia on the ordinance of property ownership and the prohibition of taking other people's property in an illegal way.
- 2) The level of *hajiyyat*, which if violated the existence of property will not be threatened, but will make it difficult for the person concerned, for example the sharia about buying and selling by way of salam.
- 3) The level of *tahsiniyyat*, which affects whether or not the property is legal, for example the provision on avoiding deception or fraud.

The relevance of *Hifzhul Maal* as a concept of human rights is most felt when faced with the reality of global and national economic inequality. According to data from the Central Statistics Agency (BPS), Indonesia's Gini Ratio in March 2023 was recorded at 0.388. This figure is close to the category of moderate to high inequality. This value is a factual justification that national wealth and development benefits tend to be concentrated in the top 20%, threatening the right to the welfare of the majority. In urban areas, inequality is even sharper, reaching 0.409. This high inequality rate is evidence of a collective failure to implement the principle of fair distribution (*Social Welfare*) and shows the

vulnerability of *Economic Rights* to vulnerable groups (Ritonga and Ichsan 2025).

The impact is evident in cases of poverty and the inability of the community to meet a decent standard of living, which is explicitly contrary to Article 25 of the DUHAM. Not to mention that cases of resource grabbing and eviction of land for corporate projects without fair compensation are tangible manifestations of *ghasb* (right-wing taking by zhalim) which is prohibited in *Hifzhul mal* and is a direct violation of Article 17 of the DUHAM of Human Rights.

Hifzhul Maal in *Maqasid Syari'ah* is a framework that demands systemic justice. It not only prohibits individual theft, but also opposes individual theft, but also opposes structural theft (corruption, wage exploitation, policy injustice) that deprives society of its collective right to welfare. This concept provides a strong normative basis for human rights activists to demand state accountability in protecting the right to work, property, and a decent standard of living, thus forming the foundation of a just, sustainable, and humane economy. Protecting property is protecting the honor of human life. (Hazin et al. n.d.). *Hifzhul Maal* ethically rejects the accumulation of wealth that causes extreme inequality. He encourages wealth distribution mechanisms, such as zakat, infaq, and alms, and supports a progressive tax system. And again in line with the goal of human rights to achieve Social Welfare, which is based on the concept of property as a trust and a means of achieving *common prosperity*. (Kusuma 2023). The concept in *Hifzhul Maal* uses property as an instrument to realize social justice, guarantee the rights of all citizens, and stabilize civilization. Islam recognizes private property rights but limits its absolutism through social obligations such as zakat and inheritance rules that ensure the distribution of justice in society

4. CONCLUSION

This study concludes that *Maqasid Syari'ah* is the highest epistemology that provides a strong ethical and philosophical foundation for the enforcement of universal Human Rights (HAM). The five pillars (Religion, Soul, Reason, Heredity, and Property) show a substantial correspondence with modern civil, political, economic, and social rights. Correspondence and Correspondence of *Maqasid-HAM*: *Hifzh ad-Din* (Religion) with the Right to Freedom of Religion (principle of *laa ikraaha fi ad-din*). *Hifzh an-Nafs* (Soul) with the Right to a Prosperous Life (demanding holistic protection: physical, mental, and environmental). *Hifzh al-Aql* (Intellectual) with Intellectual Rights and Education (fighting *hoaxes* and supporting literacy). *Hifzh an-Nasl* (Offspring) with Family and Reproductive Rights (against domestic violence and the stigma of out-of-wedlock children). *Hifzh al-Maal* (Property) with Economic Rights and Social Welfare (against corruption and economic inequality). While the substantive contribution and excellence of *Maqasid; Maqashid* enriches human rights through two main contributions Transformation of Rights into Proactive Obligations (Amanah): *Maqasid* transforms passive rights into active responsibilities.

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