

The Shifting Paradigm in *Maqāsidi* Discourse: A Case of Modern Islamic Bioethics

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Abstract: *The advancement of contemporary biomedical issues has brought forth two distinct responses among Muslim scholars. The traditional view, which strictly adheres to the Quran and tradition, tends to find it difficult or even outright rejects modern biomedical practices as they may conflict with religious texts. On the other hand, the rationalist perspective tends to be more open and accommodating towards modern biomedical practices as it relies on independent reasoning detached from revelation. While acknowledging the existence of the traditionalist viewpoint in the modern era, this paper focuses on the rationalist perspective, discussing how biomedical decisions are made. By examining rationalist views on several modern biomedical issues such as organ transplantation, in vitro fertilization, and blood trading, the researcher argues that the flexibility of the maqāsidi al-sharī'ah principles has become the framework in the development of this biomedical field. The researcher highlights a shift in the maqāsidi paradigm from a theocentric paradigm – interpreting religion with the narrow goal of 'defending God' – to an anthropocentric paradigm – interpreting religion to defend human beings and their rights. Using discourse analysis methodology, this study argues that the paradigm shift towards an anthropocentric maqāsidi has integrated Sharia with human subjectivity influenced by interests. Consequently, modern biomedical issues, which address the interests of safeguarding human life, are prioritized. Finally, although such maqāsidi may potentially lead to a liquid Islamic law, the researcher concludes that an anthropocentric maqāsidi paradigm will be more humane, dynamic, accommodating, and responsive to the demands of human life development.*

Keywords: *Maqāsidi; Antropocentric; Islamic Modern Bioethics.*

Abstrak: Kemajuan isu-isu biomedis kontemporer saat ini telah memunculkan dua aliran respon yang berbeda di mata para cendekiawan muslim. Pandangan tradisional, yang dengan ketat berpedoman pada Al-Qur'an dan tradisi, cenderung sulit atau bahkan tidak menerima sama sekali praktik-praktik biomedis modern karena bertentangan dengan *nash-nash* agama. Sementara pandangan rasionalis cenderung lebih terbuka dan akomodatif menerima praktik-praktik biomedis modern karena berpedoman pada penilaian akal sendiri yang terlepas dari wahyu. Terlepas dari mendiskusikan keberadaan pandangan pertama (tradisionalis) di era modern ini, makalah ini akan fokus pada pandangan kedua (rasionalis) dengan mendiskusikan bagaimana putusan-putusan biomedis dikeluarkan. Dengan mengkaji pandangan-pandangan rasionalis terhadap beberapa isu biomedis modern, seperti transplantasi organ, bayi tabung, dan jual beli darah, peneliti berargumen bahwa fleksibilitas prinsip-prinsip *maqāsidi al-syarī'ah* telah menjadi framework dalam pengembangan bidang biomedis ini. Di sini, peneliti menyoroti adanya pergeseran *maqāsidi* dari paradigma teosentris; menjalankan agama dengan tujuan 'membela Tuhan' dalam pengertian yang sempit, ke paradigma antroposentris; menjalankan agama untuk membela manusia dan hak-haknya. Dengan menggunakan metode analisis wacana, penelitian ini berargumen bahwa pergeseran paradigma *maqāsidi* menuju antroposentris telah menjadikan syari'ah menyatu dengan subjektivitas manusia yang dipengaruhi oleh kepentingan-kepentingan. Karenanya, isu-isu biomedis modern, yang menjawab kepentingan menjaga jiwa manusia, adalah diutamakan. Terakhir, meskipun *maqāsidi* seperti ini berpotensi mengarah pada *liquid Islamic law*, peneliti berkesimpulan bahwa paradigma *maqāsidi* antroposentris akan lebih humanis, dinamis, akomodatif, dan responsif terhadap tuntutan perkembangan kehidupan manusia.

Kata Kunci: *Maqāsidi; Antroposentris; Biomedis Modern Islami.*

INTRODUCTION

The emergence of various issues related to the medical field in an era of science and technology advancements poses a challenge to Islamic legal ethics. This is because, on the one hand, the Qur'an and Islamic traditions have never addressed these complicated challenges of modern medicine. On the other hand, there is a belief that Islamic law covers all human actions in the past, present, and future. Muslim scholars throughout history have attempted to develop a comprehensive legal system based on their own methods and ways of thinking. That is why, regarding modern medical issues, for instance, they have different views. As Sachedina (2009) points out, the way Muslim scholars interpret modern medical issues is influenced by two often opposing perspectives; the rationalist and the traditionalist.¹ The rationalist approach maintains that when deciding issues for which no particular advice is available from Islamic law and ethics normative sources, lawyers and judges ought to create their own rational judgments independent of revelation. Traditionalists, on the other hand, disapprove of this rational method because it is not sufficiently grounded in normative sources. They insist that no legal or moral judgment is valid if it is not based on revelation, either the Qur'an or Tradition.

In specific, as technological advancements increase humanity's ability to rejuvenate the human body, Muslims frequently wrestle with the question of whether and how a Muslim should use it in accordance with the Islamic perspective. When it comes to actions that literally contradict religious texts, the situation becomes much more perplexing.² For example, when a wife is diagnosed as infertile, or dangerous to get pregnant, is it permissible to borrow another woman's womb to carry her baby? Or what is the ruling on buying and selling blood for healing when the hadith text prohibits buying and selling unclean goods, including blood? In such instances, the decision between protecting religion (*hifz al-din*) in the form of sticking to Islamic tradition (hadith) and defending human life (*hifz al-nafs*) in the form of medical practices appears to be conflicting. Building on Sachedina's argument regarding the rationalist view, many modern Muslim scholars have attempted to answer these troubling questions using the maqasid approach that has been formulated by Islamic scholars.

Intertwining maqasid in modern bioethics issues is one of the most possible and viable ways. This is in line with Al-Marakebiy's (2019) argument in his article that jurists have reformed the maqasid discourse in the modern context in two ways; 1) the inclination towards rationalization of sharia, and 2) increasing maqasid and

¹ Sachedina, Abdulaziz, *Islamic biomedical ethics: Principles and Application* (USA: OPA, 2009).

² Wael B. Hallaq, "Maqasid and the Challenges of Modernity," *Al-Jami'ah: Journal of Islamic Studies* 49, no. 1 (29 Juni 2011): 1-31, <https://doi.org/10.14421/ajis.2011.491.1-31>.

reinterpreting its meaning. He also points out that modernity has influenced maqasid by bringing it into what he refers to as "liquid Islamic law". Consciously or unconsciously, such liquidity makes maqasid a means through which sharia merges with the subjectivity of jurists.³ On this basis, I assume that this liquidity of maqasid is also at work in modern bioethics issues, and this paper seeks to critically examine the use of maqasid through the views of Muslim scholars on Islamic bioethics by taking the case of several issues.

In recent years, while quite a few works have been dedicated to integrating Islamic bioethics into an academic field with distinguishable disciplinary parameters, research methods, and scope⁴, little attention has been paid to focus on intertwining maqasid and Islamic bioethics⁵. Ibrahim et al⁶ and Padela⁷, for example, developed al-Shatibi's maqasid theory to address modern bioethics and medical issues. They redefine and reorder the five maqasid principles (*dharuriyat al-khams*) by placing the preservation of the human soul (*hifz al-nafs*) at the first rank, followed by the preservation of offspring (*hifz al-nasl*), the preservation of reason (*hifz al-'aql*), and finally the preservation of religion (*hifz al-din*) and wealth (*hifz al-mal*). In this paper, not only reorganize the five maqasid theories, I fill this scholarly lacuna by showing the transformation and paradigm shift of maqasid; from the theocentric paradigm to the anthropocentric paradigm in deciding Islamic bioethics. In its application, besides being intimately linked to rational proofs, the anthropocentric paradigm better accommodates social and natural scientific data rather than scripturally heavy fiqh reasoning methods.

³ محمد المراكبي، "الحداثة وتحولات الخطاب المقاصدي: نحو فقه سائل؟" (27) *Journal of Islamic Ethics* 3, no. 1-2 (Desember 2019): 9-29, <https://doi.org/10.1163/24685542-12340028>.

⁴ Ahmad Tajemmiri, "Islamic Bioethics for Fetus Abortion in Iran," *American Journal of Scientific Research*, 1 Januari 2011, 118-21; Aasim Padela, Ahsan Arozullah, dan Ebrahim Moosa, "Brain Death in Islamic Ethico-legal Deliberation: Challenges for Applied Islamic Bioethics," *Bioethics* 27 (13 Desember 2011), <https://doi.org/10.1111/j.1467-8519.2011.01935.x>; Aasim I. Padela dan Ebrahim Moosa, ed., *Medicine and Shariah: A Dialogue in Islamic Bioethics* (Notre Dame, Indiana: University of Notre Dame Press, 2021); Mohammed Ghaly, "Islamic Bioethics in the Twenty-First Century," *Zygon*® 48, no. 3 (2013): 592-99, <https://doi.org/10.1111/zygo.12021>; Alireza Bagheri dan Khalid Abdulla Al-Ali, ed., *Islamic Bioethics: Current Issues and Challenges*, Intercultural Dialogue in Bioethics, vol. 2 (New Jersey: World Scientific, 2018).

⁵ Abdul Halim Ibrahim dkk., "Maqasid al-Shariah Based Islamic Bioethics: A Comprehensive Approach," *Journal of Bioethical Inquiry* 16 (4 Februari 2019), <https://doi.org/10.1007/s11673-019-09902-8>; Aasim I. Padela, "Using the Maqāṣid Al-Sharī'ah to Furnish an Islamic Bioethics: Conceptual and Practical Issues," *Journal of Bioethical Inquiry* 16, no. 3 (2019): 347; Shaikh Saifuddeen dkk., "Maqasid al-Shariah as a Complementary Framework to Conventional Bioethics," *Science and engineering ethics* 20 (9 Juli 2013), <https://doi.org/10.1007/s11948-013-9457-0>.

⁶ Ibrahim dkk., "Maqasid al-Shariah Based Islamic Bioethics."

⁷ Padela, "Using the Maqāṣid Al-Sharī'ah to Furnish an Islamic Bioethics."

I will begin this paper by explaining the maqasid discourse and demonstrating how the maqasid paradigm transformed from the pre-modern era to the modern and post-modern eras, as well as its shift from theocentric to anthropocentric paradigms. Next, I will touch on the Muslim encounter with modern biomedical issues to show how complex they are and that Islam needs to be the answer to them. In the main section, I will critically examine the operationalization of maqasid in Islamic bioethics through the perspectives of Muslim scholars. I will demonstrate how the maqasid paradigm works for medical ethics considerations by using instances from bioethics such as blood buying and selling, organ transplantation, and brain death.

DISCUSSION

Maqāsīd Discourse and Its Transformations

Before going further into the intertwining of maqasid and modern biomedical issues through the views of Muslim scholars, it is necessary for me to first briefly explain the discourse of maqasid in the history of Islamic law while demonstrating the transformation and paradigm shift of maqasid; from the pre and postmodern eras, and from theocentric to anthropocentric paradigm. The term maqasid (al-sharia) is commonly understood as the highest objective of Islamic law, referring to the Lawgiver's (God's) intent and purpose in providing laws, namely to benefit and prevent harm from mankind in this world and the hereafter⁸. The maqasid discourse basically has the premise that there are rationales behind scriptural commands and so it is considered one of the core theories of Islamic legal ethics as it allows for extending revelatory norms to cover situations that are not directly addressed by the scriptures⁹. However, in its history, there have been transformations, developments and even shifts in the discourse of maqasid by each scholar in each era as will be discussed in this section.

Towards Modern *Maqāsīd*; Rasionalization of Sharias

To begin discussing maqasid, it is important to understand that it is strongly tied to theological discourse on the topic of "*Tahsin wa Taqbih*." There is a debate among the Ash'ariy-Maturidiy and Mu'taziliy schools of kalam regarding how one can know between something good (*hasan*) and something bad (*qabih*).¹⁰ Essentially, the Mu'taziliy believes that good and bad can be determined by reasoning, yet the

⁸ Imran Ahsan Khan Nyazee, *Theories of Islamic Law: The Methodology of Ijtihad*, 2nd edition (CreateSpace Independent Publishing Platform, 2016).

⁹ Aasim Padela, "Maqāsīdī Models for an 'Islamic' Medical Ethics: Problem-Solving or Confusing at the Bedside?," *American Journal of Islam and Society* 39, no. 1-2 (8 Agustus 2022): 72-114, <https://doi.org/10.35632/ajis.v39i1-2.3069>.

¹⁰ Abu al-Fath Muhammad al-Sahristani, *al-Milal wa al-Nihal*, vol. Jilid 1 (Beirut: Dar el-Fikr, t.t.).

Asy'ariy and Maturidiy believe that only revelation (sharia) defines what is good and what is bad. According to Asy'ariy, reason, which is relative, cannot arrive at knowing between good and bad things. Everyone has a different view of what is considered good and what is considered bad. Good according to one person is not necessarily good according to another, and vice versa. Therefore, to know what is good and bad, according to Asy'ari-Maturidi is to return to the shar'i (scriptural text). While for Mu'taziliy, because they consider bad and good things can be known with reason, then someone will easily reach sharia rulings based on his own reasoning. In short, Mu'taziliy's approach of Tahsin wa Taqbih 'Aqliy which believes that reason can define what is good and what is bad, is the forerunner of the maqasid framework.

As for in the term Islamic legal theory, the maqasid framework is also termed "ta'lil". Although the similarity of the two terms is still debated, it is apparent that they both lead to the same conclusion regarding the existence of reason (*'illah*) in every rule (*sharia*). One crucial topic raised in this discourse is whether every ruling in Islamic law has a rationale (*maqasid/'illah*). They then classified Islamic law into two categories: "ta'abbudiy" and "ta'aqquliy/ta'allul". In simple terms, "ta'abbudiy" refers to rulings that practically do not need or cannot be digested by the rationale, or according to some madhhabs "it actually has *maqasid/hikmah*, but cannot be captured by humans".¹¹ In other words, God only wants to see a Muslim's obedience without having to know something behind the command or prohibition. For instance, a Muslim does not need to understand why God mandated four *rak'ahs* of Zuhr prayer rather than three or five. The obligation is only to obey and perform as ordered. On the other hand, laws that are deemed to have reasoning (*maqasid/'illah*) in them are referred to as "ta'aqquliy".¹² In other words, Muslim needs to reason with God why there is such command or prohibition. As a result, these rulings can be reinterpreted and contextualized according to certain conditions and circumstances.

However, the dichotomy of "ta'abbudiy" and "ta'aqquliy" turned out to cause new problems among Islamic law scholars due to the absence of definite measures and standards. Finally, the scholars also have different views in determining which are classified as "ta'abbudiy", and which are "ta'aqquliy". Some scholars consider the ruling on cutting off the hand of a thief to be ta'abbudiy, so they obediently carry out the ruling in accordance with what is ordered, without finding out the *maqasid* (reasoning) behind such an order. For some other scholars, they consider the ruling on cutting off the hands of thieves to be ta'aqquliy. They believe that the order to sever hands had a rationale (*maqasid/wisdom*) and that it was given in order to

¹¹ المراكبي، "الحدائثة وتحولات الخطاب المقاصدي".

¹² Washfiy 'Āsyur, *Ahkam al-Shariah Baina al-Ta'abbud wa al-Ta'lil* (London: Muassasah al-Furqan li al-Turats al-Islamiy, 2014).

'dissuade robbers'. By knowing the reasoning of the rulings, they can reinterpret the punishment for thieves with various alternatives provided that it achieves the *maqṣad* of 'creating a deterrent effect' other than cutting hands, such as imprisonment or the like.¹³

In later developments, instead of doing the dichotomy of Islamic law, later Islamic legal scholars, especially modern scholars, tend to try to rationalize all Islamic law (*sharia*). Khaled Abou el-Fadl¹⁴, Yusuf Al-Qaradawiy¹⁵, Jasser Auda¹⁶, Muhammad Hashim Kamali¹⁷, and other figures make an effort to change the laws from what most classical scholars consider as *ta'abbudiy* into something *ta'aqquliy*. They believe that every ruling in Islamic laws has a *maqṣad* (reasoning) so that every Muslim needs to find out about the reason behind a ruling. For them, almost nothing is classified as *ta'abbudiy*. As a result, each law's reasoning or *maqṣid* can be used to reinterpret, contextualize, or even amend any norm of Islamic law. Using this paradigm and framework, the majority of modern Islamic legal scholar position *maqṣid*, with all its liquidity and flexibility, as a bridge that links *sharia* with modern issues, such as liberalism, human rights, bioethics, and so on.¹⁸

In addition to efforts in rationalizing *sharia*, *maqṣid* transformation can also be evident in the way modern Islamic legal experts have reinterpreted the form of *maqṣid* itself. For instance, in the traditional *maqṣid* paradigm, the act of preserving religion (*hifz al-din*) took the form of killing apostates, combating religious insulters, and so on. In contrast, in the contemporary *maqṣid* paradigm, the act of preserving religion can take the form of allowing everyone the freedom to practice their religion, erecting religious structures, and so on. Another illustration is *hifz al-'aql*, or the protection of the mind. According to the traditional *maqṣid* paradigm, refraining from consuming drugs and alcohol is one way to protect one's mind. Meanwhile, according to Yusuf al-Qaradawiy, education can be considered a type of mind protection in the modern *maqṣid* paradigm.¹⁹ Such a shift and

¹³ Jasser Auda, *Membumikan Hukum Islam Melalui Maqashid al-Syariah*, trans. oleh Rasidin dan Ali Abdul Mun'im (Bandung: Mizan), diakses 6 Juli 2023, <https://www.gamedia.com/products/membumikan-hukum-islam-melalui-maqasid-syariah>.

¹⁴ Khaled Abou El Fadl, *Reasoning with God: Reclaiming Shari'ah in the Modern Age* (Lanham: Rowman & Littlefield Publishers, 2014).

¹⁵ Yusuf al-Qaradawiy, *Dirāsah fi Fiqh al-Maqāsid al-Sharīah Baina al-Maqāsid al-Kulliyah wa al-Nusūs al-Juz'iyah* (Kairo: Dār al-Syurūq, 2008).

¹⁶ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought, 2008), <https://doi.org/10.2307/j.ctvkc67tg>.

¹⁷ Mohammad Hashim Kamali, *Maqasid Al-Shari'ah, Ijtihad and Civilisational Renewal* (International Institute of Islamic Thought, 2012), <https://doi.org/10.2307/j.ctvkc6797>.

¹⁸ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law*.

¹⁹ Yusuf al-Qaradawiy, *Dirāsah fi Fiqh al-Maqāsid al-Sharīah Baina al-Maqāsid al-Kulliyah wa al-Nusūs al-Juz'iyah*.

transformation further demonstrate the adaptability of *maqasid* in modern times. *Maqasid* is used as a valuable tool of legitimizing Islamic laws, or in the language of Al-Marakebiy; "a liquid Islamic law". Apart from the argument that *maqasid* has the potential to damage the order of Islamic law because it eliminates the rigidity of Sharia,²⁰ this also shows how *maqasid* is a powerful weapon for Islamic legal scholars to address the challenges of modernity, such as modern bioethics issues that will be discussed in the next section.

Theocentric to Anthropocentric Paradigm

After reading the development of the *maqasid* discourse, besides showing a transformation towards the flexibility of Islamic law, I also found a shifting paradigm from theocentric to anthropocentric. Theocentric is basically a paradigm that emphasizes God as the goal in implementing Islamic sharia, while anthropocentric is a paradigm that emphasizes that the goal of Islamic sharia is human welfare and safety. In practice, the theocentric paradigm tends to implement Islamic laws by prioritizing scriptural text as a form of obedience to God rather than considering human conditions. The anthropocentric paradigm, on the other hand, emphasises human welfare and safety in applying Sharia rather than focusing strictly on scriptural text (Al-Qur'an and Traditions).²¹ The emergence of humanitarian challenges in the present era, particularly new issues not addressed literally in Islamic scripture, necessitates a shift in the *maqasid* paradigm to an anthropocentric one.

In the *maqasid* discourse, there are popularly five principles considered as the highest goals in Islamic law known as *al-ushūl al-khamshah*, namely preservation of religion (*hifz al-dīn*), of human life (*hifz al-nafs*), of mind and intellect (*hifz al-'aql*), of progeny (*hifz al-nasl*), and preservation of wealth (*hifz al-māl*). Although some other scholars have added or omitted these principles based on their interpretation of Sharia (al-Qur'an and Hadith), at least these five principles are widely accepted and held by a number of scholars like al-Juwayni, al-Ghazali, and al-Shatibi.²² However, only a handful of these scholars emphasize the hierarchy of the five principles. In the sense that there is no particular sequence as to which principle ranks first, second, third and so on, or which one takes precedence if two principles dispute. Al-Shatibi, for example, while emphasizing that these five principles are *dharuri*

²⁰ المراكبي، "الحداثة وتحولات الخطاب المقاصدي".

²¹ Aksin Wijaya, "AN ARGUMENT FOR ISLAMIC ANTHROPOCENTRISM (From Taklifi Reasoning to Human Right Reasoning)," *PalArch's Journal of Archaeology of Egypt / Egyptology* 17, no. 3 (12 November 2020): 487–500, <https://doi.org/10.48080/jae.v17i3.122>.

²² Abdul Mustaqim, "ARGUMENTASI KENISCAYAAN TAFSIR MAQASHIDI SEBAGAI BASIS MODERASI ISLAM" (Pidato Pengukuhan Guru Besar dalam Bidang Ulumul Qur'an Disampaikan di Hadapan Rapat Senat Terbuka Universitas Islam Negeri Sunan Kalijaga Yogyakarta, Yogyakarta, 2019), 1–79, <https://digilib.uin-suka.ac.id/id/eprint/37005/>.

(essential), he also asserts that *hifz al-din* and *hifz al-nafs* are the most important maqasid principles, but it remains unclear whether preserving religion takes precedence or priority over preserving human life.²³

The shifting paradigm into anthropocentric can be a response to the uncertainty of the maqasid hierarchy, particularly on issues that lead to conflict between two major maqasid principles; protecting religion (*hifz al-din*) and protecting intellect (*hifz al-'aql*), which one takes precedence? As a simple example, when a Muslim is praying indoors and suddenly there is an earthquake, should he continue his prayer under the guise of obeying God as a means of preserving religion (*hifz al-din*) or should he leave the prayer in order to preserve himself (*hifz al-nafs*)? The anthropocentric maqasid paradigm will opt to quit praying as a means of self-preservation, whereas the theocentric paradigm will continue to pray. As a consequence, the anthropocentric paradigm elevates the principle of soul protection (*hifz al-nafs*) above the principle of religious preservation (*hifz al-din*).

In addition, the anthropocentric maqasid paradigm has become a fundamental foundation in examining scripture texts that literally contradict human rights, such as the death penalty for apostates (those who leave Islam). Some of the most recent Islamic scholars, such as Aasim Padela²⁴ and Abdul Mustaqim²⁵, have explicitly amended al-Shatibi's hierarchy of five maqasid principles. If al-Shatibi and some other scholars before him appeared to consider religious maintenance (*hifz al-din*) as the highest rank, current scholars rank it as the lowest. In more detail, they place the interests of human life as the first (*hifz al-nafs*), followed by the preservation of offspring (*hifz al-nasl*), the preservation of reason (*hifz al-'aql*), the preservation of property (*hifz al-mal*), and finally the preservation of religion (*hifz al-din*). In terms of the death penalty for apostates, it is unacceptable because it contradicts the highest maqasid; preserving human rights, and preserving lives.²⁶

Thus, I may argue that the shifting maqasid paradigm into anthropocentric leads to more flexible Islamic law since it prioritizes human rights and circumstances, which are dynamic, over Islamic tradition's postulates. In other words, as long as an issue is in line with dynamic human rights, it is more likely to be accepted. In contrast, if the issue is opposed to human rights, it is usually examined or even rejected.

²³ Abû Ishâq al-Syathibi, *al-Muwafaqât fi Ushûl al-Syarî'ah* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 2009).

²⁴ Padela, "Maqâsidi Models for an 'Islamic' Medical Ethics."

²⁵ Mustaqim, "ARGUMENTASI KENISCAYAAN TAFSIR MAQASHIDI SEBAGAI BASIS MODERASI ISLAM."

²⁶ Padela, "Using the Maqâsidi Al-Sharî'ah to Furnish an Islamic Bioethics."

***Maqāsid* Anthropocentric for Islamic Bioethics: Views from Muslim Scholars**

Along with the rapid growth of technology and medical sciences, bioethics is an important issue in the modern era. On the one hand, with unprecedented advances in biomedical technology, many medical practices, such as kidney dialysis, organ transplantation, artificial ventilation, in vitro fertilization, surrogacy arrangements, and many others, are now becoming real solutions in supporting human life and welfare. On the other hand, when these practices clash with Islamic tradition's scriptures, Muslims are left in a dilemma. This situation eventually led to the emergence of Islamic bioethics scholars, who are more inclusive and aim to accommodate current bioethics practices. Although it is still in its early stages in terms of theory and practice, I contend that Islamic bioethics has a strong dialectic with anthropocentric *maqasid*, as stated in the previous section. This is because, in Islamic bioethics, moral obligations and ethical practices are determined by evaluating how the proposed action benefits or harms any human interest as the overriding principle²⁷. More clearly, taking the cases of buying and selling of blood, in vitro fertilization, and organ transplantation as examples, this section will critically examine the use of the anthropocentric *maqasid* by tracing the views of Islamic bioethics scholars.

Organ Transplantation

In the current day, organ transplantation is a widespread medical treatment that involves transferring an organ or tissue from one person to another in order to save their life. Of course, neither the Qur'an nor ancient Islamic traditions mention this practice. It has only become a reality because to advances in medical science and technology, making it difficult for current Islamic jurists to provide judgements. We can see from the perspectives of scholars such as Yusuf al-Qaradhawi, Jamal el-Din Atiyya, Tariq Ramadhan, Jasser Auda, Omar Hasan Kasule, and many other modern Islamic scholars that their concerns are primarily on human welfare and safety.²⁸ Yusuf al-Qaradhawiy, for example, believes that donating organs from a living person is not acceptable because it harms the individual (by reducing the donated organs). Organ transplantation is legal when extracting organs such as corneas, hearts, kidneys, and so on from a deceased person, provided permission is secured from the family or heirs. The permissibility of organ transplantation is also due to the level of *hajah* (need) and *dharuri* (emergency).²⁹ This indicates that if organ transplantation is not performed, it will cause problems or potentially jeopardize people's lives. Human safety and welfare are prioritized with the presence of advanced facilities that have been shown to aid in the healing process.

²⁷ Bagheri dan Al-Ali, *Islamic Bioethics*.

²⁸ Padela, "Maqāsid Models for an 'Islamic' Medical Ethics."

²⁹ Yusuf al-Qaradhawiy, *Fatwa Al-Mu'asirah*, vol. jilid 2 (Kuwait: Dar al-Qalam, 1994).

In Vitro Fertilization

In Vitro fertilization is a modern medical term that refers to the process of producing children for married couples. In practice, IVF refers to the outside-the-body fertilization of an egg with sperm. An egg is extracted from the wife's ovary and incubated with the husband's sperm. Pre-embryo cells are allowed to divide 2-4 times in an incubator after fertilization for 3-5 days. These pre-embryos are then reintroduced to the wife's womb to mature and grow normally. While some scholars do not support IVF, many other contemporary Islamic scholars do so on the grounds of preserving the human race (*hifz al-nasl*). Some scholars approve it since there are abnormalities or impediments that prevent married couples from becoming pregnant, even though they are really keen to have children. From here, they appear to emphasise humanitarian aspects over the normative Islamic tradition, which leads to surrender as a type of obedience to God's will.

Buying and Selling of Blood

Buying and selling of blood is another modern medical practice utilized to transfuse blood. This practice is also debated among Islamic jurists; some forbid it, while others allow it. Islamic jurists who prohibit the sale of blood, especially traditional Islamic jurists, argue that blood is one of the unclean and unbeneficial goods that the prophet clearly prohibited from being traded. With the advancement of technology and medical science in the current day, blood is now understood to have numerous benefits, including the ability to save human lives. As a result, some modern Islamic scholars permit the practice of buying and selling blood.³⁰ Such a viewpoint demonstrates how human safety can be used to justify decisions that directly contradict Islamic tradition (Hadith).

The three examples of modern bioethical practices described above; buying and selling blood, organ transplantation, and in vitro fertilization, as well as several other bioethical practices, demonstrate modern Islamic legal scholars' openness to accepting bioethical practices that are new, have not been discussed in the Islamic legal tradition, or even contradict the literal scriptural text (al-Qur'an and Hadith). Their perspective on human welfare and safety is influenced by anthropocentric *maqasid* paradigm. The welfare and safety of human life is rated first because when a person's life is lost or harmed, it has an affect on other welfare; he cannot properly practice religion, gain wealth, or achieve mental and offspring welfare.

³⁰ Padela dan Moosa, *Medicine and Shariah*.

CONCLUSION

Since its inception until the contemporary era, the maqasid discourse has undergone transformations and shifts marked by the presence of various views and ways of thinking that demonstrate the flexibility of maqasid. Many Islamic law scholars, particularly in the modern era, use the maqasid framework as a foundation for addressing matters that aren't covered in the traditional Islamic tradition, such as bioethics. With the rapid advancement of technology and medical expertise, many medical practices must be considered through the lens of Islamic law. Organ transplantation, in vitro fertilization, and the buying and selling of blood are some examples. On the basis of the anthropocentric maqasid paradigm, certain Islamic scholars, particularly those concerned with formulating Islamic bioethics, recognize and sanction these kinds of practices. They prioritize the goal of human welfare and salvation over other goals. For them, the welfare and safety of human life is at the most crucial position that will affect other objectives such as religious practice, offspring preservation, mind protection, and property acquisition. All of these goals will be impossible to attain unless human life is saved.

Based on the data and analysis above, this research also shows that the maqasid paradigm shift towards anthropocentric has made shari'ah fused with human subjectivity influenced by interests. Therefore, modern biomedical issues, which address the interests of safeguarding human life, are prioritized. Finally, although such maqasid has the potential to lead to liquid Islamic law, this research also contributes to showing the anthropocentric maqasid paradigm which is more humanist, dynamic, accommodating, and responsive to the demands of human life development. This dynamic situation allows it to become an object of research that can be developed further.

REFERENCES

- Abu al-Fath Muhammad al-Sahristani. *al-Milal wa al-Nihal*. Vol. Jilid 1. Beirut: Dar el-Fikr, t.t.
- Abû Ishâq al-Syathibi. *al-Muwafaqât fi Ushûl al-Syarî'ah*. Beirut: Dâr al-Kutub al-`Ilmiyyah, 2009.
- Auda, Jasser. *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*. International Institute of Islamic Thought, 2008. <https://doi.org/10.2307/j.ctvkc67tg>.
- Bagheri, Alireza, dan Khalid Abdulla Al-Ali, ed. *Islamic Bioethics: Current Issues and Challenges*. Intercultural Dialogue in Bioethics, vol. 2. New Jersey: World Scientific, 2018.
- Fadl, Khaled Abou El. *Reasoning with God: Reclaiming Shari'ah in the Modern Age*.

- Lanham: Rowman & Littlefield Publishers, 2014.
- Ghaly, Mohammed. "Islamic Bioethics in the Twenty-First Century." *Zygon*® 48, no. 3 (2013): 592–99. <https://doi.org/10.1111/zygo.12021>.
- Hallaq, Wael B. "Maqasid and the Challenges of Modernity." *Al-Jami'ah: Journal of Islamic Studies* 49, no. 1 (29 Juni 2011): 1–31. <https://doi.org/10.14421/ajis.2011.491.1-31>.
- Ibrahim, Abdul Halim, Noor Rahman, Shaikh Saifuddeen, dan Madiha Baharuddin. "Maqasid al-Shariah Based Islamic Bioethics: A Comprehensive Approach." *Journal of Bioethical Inquiry* 16 (4 Februari 2019). <https://doi.org/10.1007/s11673-019-09902-8>.
- Jasser Auda. *Membumikan Hukum Islam Melalui Maqashid al-Syariah*. Diterjemahkan oleh Rasidin dan Ali Abdul Mun'im. Bandung: Mizan. Diakses 6 Juli 2023. <https://www.gramedia.com/products/membumikan-hukum-islam-melalui-maqasid-syariah>.
- Kamali, Mohammad Hashim. *Maqasid Al-Shari'ah, Ijtihad and Civilisational Renewal*. International Institute of Islamic Thought, 2012. <https://doi.org/10.2307/j.ctvkc6797>.
- Mustaqim, Abdul. "ARGUMENTASI KENISCAYAAN TAFSIR MAQASHIDI SEBAGAI BASIS MODERASI ISLAM," 1–79. Yogyakarta, 2019. <https://digilib.uin-suka.ac.id/id/eprint/37005/>.
- Nyazee, Imran Ahsan Khan. *Theories of Islamic Law: The Methodology of Ijtihad*. 2nd edition. CreateSpace Independent Publishing Platform, 2016.
- Padela, Aasim. "Maqāṣidī Models for an 'Islamic' Medical Ethics: Problem-Solving or Confusing at the Bedside?" *American Journal of Islam and Society* 39, no. 1–2 (8 Agustus 2022): 72–114. <https://doi.org/10.35632/ajis.v39i1-2.3069>.
- Padela, Aasim, Ahsan Arozullah, dan Ebrahim Moosa. "Brain Death in Islamic Ethico-legal Deliberation: Challenges for Applied Islamic Bioethics." *Bioethics* 27 (13 Desember 2011). <https://doi.org/10.1111/j.1467-8519.2011.01935.x>.
- Padela, Aasim I. "Using the Maqāṣid Al-Sharī'ah to Furnish an Islamic Bioethics: Conceptual and Practical Issues." *Journal of Bioethical Inquiry* 16, no. 3 (2019): 347.
- Padela, Aasim I., dan Ebrahim Moosa, ed. *Medicine and Shariah: A Dialogue in Islamic Bioethics*. Notre Dame, Indiana: University of Notre Dame Press, 2021.
- Sachedina, Abdulaziz. *Islamic biomedical ethics: Principles and Application*. USA: OPA, 2009.
- Saifuddeen, Shaikh, Noor Rahman, Noor Munirah Isa, dan Azizan Baharuddin. "Maqasid al-Shariah as a Complementary Framework to Conventional Bioethics." *Science and engineering ethics* 20 (9 Juli 2013).

<https://doi.org/10.1007/s11948-013-9457-0>.

- Tajehmiri, Ahmad. "Islamic Bioethics for Fetus Abortion in Iran." *American Journal of Scientific Research*, 1 Januari 2011, 118–21.
- Washfiy 'Āsyur. *Ahkam al-Shariah Baina al-Ta'abbud wa al-Talil*. London: Muassasah al-Furqan li al-Turats al-Islamiy, 2014.
- Wijaya, Aksin. "AN ARGUMENT FOR ISLAMIC ANTHROPOCENTRISM (From Taklifi Reasoning to Human Right Reasoning)." *PalArch's Journal of Archaeology of Egypt / Egyptology* 17, no. 3 (12 November 2020): 487–500. <https://doi.org/10.48080/jae.v17i3.122>.
- Yusuf al-Qaradhawiy. *Dirāsah fi Fiqh al-Maqāsidi al-Sharīah Baina al-Maqāsidi al-Kulliyah wa al-Nusūs al-Juz'iyah*. Kairo: Dār al-Syurūq, 2008.
- — —. *Fatwa Al-Mu'asirah*. Vol. jilid 2. Kuwait: Dar al-Qalam, 1994.
- المراكبي, محمد. "الحدائثة وتحولات الخطاب المقاصدي: نحو فقه سائل؟" *Journal of Islamic Ethics* 3, no. 1–2 (27 Desember 2019): 9–29. <https://doi.org/10.1163/24685542-12340028>.