ICSIS Proceedings
Internasional Conference on Sharia and Islamic Studies (ICSIS) Proceedings
State Islamic University Sjech M. Djamil Djambek Bukittinggi

Al Hurriyah : Jurnal Hukum Islam
e-ISSN: 2549-4198

ORIGINAL ARTICLE OPEN ACCESS

IJTIHAD MAQASHIDI: IMPLEMENTATION IN THE REALM OF MUAMALAT FROM THE PERSPECTIVE OF ABDULLAH BIN BAYYAH

Ahmad Budiman[1]

***Corespondence :**
Email :
budimanelsyinq19@gmail.com

Authors Affiliation:
[1]Universitas Islam Negeri Sjech M. Djamil Djambek Bukittinggi, *Indonesia*

Article History :
Submission :
Revised :
Accepted :
Published

Keyword : *Ijtihad Maqasidi, Abdullah bin Bayyah, Muamalat*

Kata Kunci : *Ijtihad Maqasidi, Abdullah bin Bayyah, Muamalat*

Abstract

This research examines ijtihad maqashidi and its implementation in the realm of muamalat from the perspective of Abdullah bin Bayyah. Utilizing a library research method and descriptive analysis techniques, this study collects data from various relevant sources to identify the application of ijtihad maqashidi in contemporary muamalat contexts. The findings indicate that ijtihad maqashidi provides practical solutions to economic challenges, such as issues related to inflation. In inflationary conditions, it is permissible to repay debts based on current value rather than the nominal amount at the time of borrowing. Additionally, transactions can be conducted without the prerequisite that goods must be received by the seller first, and there is flexibility in transactions involving deferred delivery of money and goods, as long as they remain compliant with sharia principles. These findings demonstrate the relevance of ijtihad maqashidi in addressing muamalat issues and emphasize the need for an adaptive and responsive approach to modern economic dynamics, consistent with sharia principles. This research aims to contribute to the development of Islamic legal thought within the context of muamalat.

Abstrak

Penelitian ini mengkaji ijtihad maqashidi dan implementasinya dalam ranah muamalat dari perspektif Abdullah bin Bayyah. Menggunakan metode pustaka dan teknik analisis deskriptif, penelitian ini mengumpulkan data dari berbagai sumber yang relevan untuk mengidentifikasi aplikasi ijtihad maqashidi dalam konteks muamalat kontemporer. Hasil penelitian menunjukkan bahwa ijtihad maqashidi memberikan solusi praktis dalam menghadapi tantangan ekonomi, seperti pada persoalan inflasi. Dalam kondisi inflasi, diperbolehkan mengembalikan hutang dengan nilai saat ini, bukan nominal saat peminjaman. Selain itu, jual beli dapat dilakukan tanpa syarat bahwa barang harus diterima oleh penjual terlebih dahulu, serta adanya fleksibilitas dalam transaksi yang melibatkan penundaan serah terima uang dan barang, asalkan tetap aman dari penyimpangan syariah. Temuan ini menunjukkan relevansi ijtihad maqashidi dalam menyelesaikan masalah muamalat, serta menegaskan perlunya pendekatan yang adaptif dan responsif terhadap dinamika ekonomi modern, sesuai dengan prinsip-prinsip syariah. Penelitian ini diharapkan dapat memberikan kontribusi pada pengembangan pemikiran hukum Islam dalam konteks muamalat

INTRDUCTION

Ijtihad maqashidi is an approach in Islamic law that emphasizes the achievement of objectives and welfare in every aspect of life.(Fadhil, 2023) This approach is particularly important to explore within the realm of muamalat, where economic and social interactions continually evolve over time. In this context, Abdullah bin Bayyah, a prominent scholar and contemporary thinker, offers profound insights into the application of ijtihad maqashidi in muamalat. With his progressive thinking and deep understanding of social and economic contexts, Abdullah bin Bayyah emerges as a relevant figure to study, given his approach that bridges sharia values and the realities of modern life.

Abdullah bin Bayyah is known for his extensive experience across various Islamic disciplines and his strong commitment to the principles of maqashid syariah. He not only comprehends classical texts but also interprets and applies them in contemporary contexts.(A.R, 2020, p. 20) This expertise positions him as one of the respected scholars in the Islamic world today. In his view, ijtihad maqashidi is a vital tool for addressing new challenges faced by Muslim communities, particularly in muamalat, which encompasses economic, social, and financial aspects. Through this approach, Abdullah bin Bayyah emphasizes the importance of ensuring community welfare and fairness in every economic transaction.(Beka, 2021)

In an increasingly complex global economic situation, the principles of maqashid syariah provide a robust framework for addressing contemporary issues such as inflation, economic instability, and the need for innovation in financial products and services. Abdullah bin Bayyah argues that ijtihad maqashidi can offer flexible and adaptive solutions to these challenges. For instance, in inflationary conditions, he permits the repayment of debts based on current value rather than the nominal amount at the time of borrowing, reflecting his sensitivity to changing economic conditions.(Robbani et al., 2021) This illustrates how ijtihad maqashidi can serve as a practical guideline that upholds sharia values without neglecting societal needs.

Through the thoughts of Abdullah bin Bayyah, this study aims to explore the implementation of ijtihad maqashidi within the realm of muamalat more deeply. By focusing on the modern context, the research seeks to uncover new ways to apply sharia principles in muamalat practices that are more aligned with contemporary challenges. The works and ideas of Abdullah bin Bayyah will serve as primary references in this analysis, which is expected to make a significant contribution to the development of contemporary Islamic law. This research also aims to investigate how ijtihad maqashidi can be broadly applied in business and financial practices, ensuring that it remains relevant not only theoretically but also practically in the everyday lives of Muslim communities.

METHODS

This research employs a qualitative approach using library research techniques, allowing for data collection from various relevant written sources. The nature of this study is qualitative,(Afrizal, 2014, p. 5) with descriptive analysis conducted to understand the phenomena being investigated. Through descriptive methods, this study aims to comprehensively describe and explain issues related to the implementation of ijtihad maqashidi in muamalat. The analytical process includes a review of the works of Abdullah bin Bayyah as well as other related literature to identify key concepts and practical applications of ijtihad maqashidi. By using this approach, the research aspires to yield a deep understanding of how ijtihad maqashidi can be integrated into modern muamalat contexts, along with its contributions to addressing the problems faced by society today.

RESULT AND DISCUSSION

Biograph Abdullah bin Bayyah

Abdullah bin Bayyah was born on January 1, 1935, in Mauritania, a country in northwest Africa known for its rich intellectual tradition in Islamic studies. From a young age, Abdullah demonstrated a keen interest in knowledge, particularly religious studies. He was raised in a family that prioritized education and Islamic values, which laid the foundation for his future thinking. In Mauritania, he began his early education at a madrasah, where he learned Arabic and the fundamentals of fiqh, tafsir, and hadist.(Adam et al., 2018)

After completing his initial education, Abdullah bin Bayyah continued his studies at Al-Azhar University in Egypt, one of the oldest and most prestigious Islamic educational institutions in the world. At Al-Azhar, he obtained a bachelor's degree in Sharia and Islamic law. His education there provided him with a broad perspective on Islamic law and a rich intellectual tradition. During his time in Egypt, he also had the opportunity to interact with various scholars, deepening his knowledge and broadening his intellectual horizons.

Upon returning to Mauritania after his studies at Al-Azhar, Abdullah bin Bayyah became actively involved in teaching at various educational institutions. He served as a lecturer at the Islamic University of Mauritania and founded several madrasahs. Abdullah was known as a dedicated educator, inspiring many of his students with his progressive ideas. In his teaching, he emphasized the importance of contextual understanding of religious texts, enabling students to apply Islamic principles in their daily lives.(Harun et al., 2022)

In addition to his role as an educator, Abdullah bin Bayyah was also active in social activities and dawa. He established organizations focused on promoting peace and interfaith understanding. One of his most notable contributions was in interfaith dialogue, where he sought to build bridges between Muslim and non-Muslim communities. He believed that mutual respect and understanding were essential for creating harmony in a diverse society.

In the realm of Islamic thought, Abdullah bin Bayyah is recognized as a key figure in developing the concept of ijtihad maqashidi. Ijtihad maqashidi focuses on the goals and benefits of sharia and its relevance to contemporary issues. Through this approach, he aims to provide practical solutions to the challenges faced by Muslims in the modern era, such as economic, social, and political issues. His thinking has garnered attention from various circles, including scholars and academics, who view this approach as an effort to adapt sharia to the needs of the times.(Hasanudin, 2019)

Abdullah bin Bayyah also serves as a member of the International Union of Muslim Scholars and is involved in various international organizations promoting education and social development in the Muslim world. He is frequently invited as a speaker at international conferences and seminars, where he shares his views on the importance of a maqashidi approach in addressing global challenges. On various occasions, he has emphasized that ijtihad should not only be an act of interpretation but also take into account social and humanitarian aspects.(Hambari & Ayuniyyah, 2022)

In addition to his academic and social influence, Abdullah bin Bayyah is known for his contributions to writing. He has published numerous scholarly works and books addressing various aspects of Islamic law, ijtihad maqashidi, and other contemporary issues. His works serve not only as reference materials for students and scholars but also as guides for practitioners of Islamic law and the general public. He often writes about the importance of integrating sharia values with the realities of modern life, enabling people to live according to Islamic teachings without neglecting contemporary needs.(Adam et al., 2018)

To this day, Abdullah bin Bayyah remains active in education and dawa. He is a respected figure among scholars and intellectuals in Islam, and his thoughts continue to inspire a new generation to think critically and adaptively in response to the evolving times. In facing global challenges, Abdullah bin Bayyah remains optimistic that sharia principles can contribute to creating a just, peaceful, and prosperous society. Through ijtihad maqashidi, he hopes to provide guidance for Muslims to lead harmonious lives in alignment with religious values.

Ijtihad Maqashidi: Definition and Significance

1. Definition of Ijtihad

Ijtihad etymologically derives from the word “juhd,” meaning effort or endeavor. In the context of Islamic law, ijtihad refers to the maximum effort of a mujtahid (legal expert) to determine sharia law from available sources, including the Quran, hadith, ijma' (consensus of scholars), and qiyas (analogy).(Has, 2013) Ijtihad is the process of interpretation and legal determination undertaken when there is no clear text found in these sources. Several definitions of ijtihad according to scholars include:

Pertama, abu Zahra defines ijtihad as the diligent effort to discover sharia law in situations lacking specific texts.(Najmudin et al., 2023). Kedua, Al-Syathibi states that ijtihad is the effort to understand sharia law deeply through careful thought based on existing sharia principles.(Ikhsan & Iskandar, 2021). Ketiga, ibn al-Qayyim defines ijtihad as the endeavor by a mujtahid to reach sharia law through understanding and analysis of Quranic texts and Hadith, while considering the circumstances of society.(Muslim, 2020)

2. Definition of Maqashid

Maqashidi is the plural form of the word maqashid, derived from "qasd," which means aim or purpose. In the context of sharia, maqashid refers to the primary objectives behind Islamic laws, aiming to achieve goodness and prevent harm in human life.(Wahid, 2018) Definitions of maqashid according to some scholars include:

Pertama, according to Imam Al-Ghazali, maqashid refers to the objectives and values sought by sharia, including protection of religion, life, intellect, lineage, and property. This encompasses the essence of all rules established in Islam.(Shodiq, 2020). Kedua, Ibn Ashur views maqashid as the general principles serving as the objectives of sharia, functioning as a guide for understanding and applying Islamic law contextually and relevantly to the needs of the times.(Fauzan & Imawan, 2023). Ketiga, Abdullah bin Bayyah emphasizes that maqashid provides an in-depth explanation of sharia objectives, which must be considered in every ijtihad to ensure that legal decisions align with the welfare of the community.(Fadhil, 2023)

Maqashid syariah is generally divided into three main categories:

First, maqashid daruriyyah, which are basic needs that must be fulfilled, such as religion, life, intellect, lineage, and property.(Paryadi, 2021). Second, maqashid hajiyyah, which are additional needs that enhance living conditions, such as ease in economic and social activities. Third, maqashid tahsiniyyah, which relate to aesthetic and moral aspects, such as decorum and good morals, serving as complements to the above maqashid.(Deski, 2022)

3. Ijtihad Maqashidi: Meaning and Concept

Ijtihad maqashidi is an approach in Islamic law that combines the effort of legal interpretation (ijtihad) with the objectives of sharia (maqashid). Ijtihad refers to the maximum effort of a mujtahid to determine law from available sources, while maqashid focuses on the primary purposes behind those laws, such as achieving welfare and preventing harm. By understanding maqashid, mujtahids can establish laws that are not only textually accurate but also relevant to current social and economic contexts.

The significance of ijtihad maqashidi lies in its ability to address contemporary challenges that are not explicitly regulated by classical texts. For example, in the realm of muamalat, many new practices have emerged, such as digital transactions and modern financial products. Ijtihad maqashidi provides space for scholars to formulate laws that align with these developments while upholding sharia principles. Thus, this approach acts as a tool for adjusting Islamic law to the needs of contemporary society.(Ridwan, 2020)

The implementation of ijtihad maqashidi is highly relevant in various aspects of life, including economic, social, and cultural domains. This approach encourages innovation in muamalat practices while considering sharia objectives. For example, in buying and selling transactions, ijtihad maqashidi can be used to regulate new practices like e-commerce, ensuring that transactions remain fair and beneficial for all parties involved. Therefore, ijtihad maqashidi serves not only as a legal guide but also as a means to achieve justice and welfare in society.(Asmuni, 2005)

4. Evidence from the Quran and Hadith Several verses from the Quran and hadith support the importance of ijtihad maqashidi, including:
   a. Quran: "And We have not sent you, [O Muhammad], except as a mercy to the worlds." (QS. Al-Anbiya: 107). This verse indicates that the purpose of sharia is to bring goodness to all of humanity, aligning with the principles of maqashid.
   b. "Indeed, Allah intends for you ease and does not intend for you hardship." (QS. Al-Baqarah: 185). This shows that sharia is meant to facilitate human life.
   c. Hadith: The Prophet Muhammad (peace be upon him) said, "Indeed, actions are judged by intentions." (HR. Bukhari and Muslim). This emphasizes the importance of intention and purpose in every action, forming the basis of ijtihad maqashidi.

In the context of muamalat issues, the Prophet Muhammad (peace be upon him) taught that "Both parties in a sale transaction have the right to cancel the transaction as long as they have not yet parted." (HR. Bukhari). This demonstrates the flexibility in muamalat that must consider the welfare of both parties.

5. The Importance of Maqashidi Ijtihad in Life

   Among the key urgencies of maqashidi ijtihad in contemporary life are:
   a. Addressing Contemporary Challenges

      In a rapidly evolving and complex world, numerous new issues arise that are not addressed by classical texts.(Herdiansyah & Hidayati, 2021) Maqashidi ijtihad provides a framework for scholars (mujtahid) to respond to these challenges in a manner that is relevant and aligned with the values of shariah. A clear example is the modern financial landscape, including Islamic banking products, investments, and insurance, which require a deeper understanding of shariah objectives.
   b. Upholding Justice and Public Welfare

      One of the primary aims of maqashid al-shariah is to achieve public welfare (maslahah) and prevent harm (mafsadah). By applying maqashidi ijtihad, scholars can ensure that the laws derived not only conform to textual sources but also serve the interests of society. For instance, in the context of sales transactions, this approach allows for adjustments in legal rulings to protect the rights of consumers and businesses alike.
   c. Encouraging Innovation and Creativity

      Maqashidi ijtihad encourages scholars and intellectuals to think creatively and innovatively in finding legal solutions that align with contemporary developments. This is particularly crucial in the field of muamalat, where new products and practices frequently emerge. This approach fosters discussion and exploration of new ideas while remaining within the framework of shariah principles.
   d. Accommodating Diverse Perspectives

      By understanding maqashid, maqashidi ijtihad also creates space for various viewpoints and interpretations in the establishment of laws. This is vital for maintaining diversity within Islamic legal thought, allowing the community to benefit from a range of existing approaches.

Among the implementations of maqashid al-shariah in the domain of muamalat from the perspective of Abdullah bin Bayyah, several issues can be outlined:

The Law of Repaying Debt in Inflationary Conditions

Debt is a common form of transaction in muamalat. In Islam, the law regarding debt repayment typically focuses on the nominal amount borrowed. However, when inflation occurs, the debate among scholars about how to repay debt becomes more complex.(Ghulam, 2016) The majority of scholars from various schools of thought argue that debt repayment should correspond to the original amount borrowed, asserting that repaying more than the nominal amount could lead to riba, which is prohibited in Islam.

From the majority viewpoint, the fundamental principle in debt repayment is to adhere to the original agreement. This means that if someone borrows 1,000,000 rupiah, they should repay 1,000,000 rupiah, regardless of fluctuations in the currency's value due to inflation. This perspective is based on the understanding that the initial agreement is binding, and altering it may introduce uncertainty and risks that contradict the principles of shariah.

In contrast, Abdullah bin Bayyah offers a different perspective. He argues that inflation, particularly in severe conditions, creates an abnormal situation. In his view, it is unjust for a lender to receive the same nominal amount when the purchasing power of that money has drastically decreased due to inflation. This could result in significant losses for the lender, which clearly contradicts the principle of justice in muamalat.(Susanto, 2021, p. 30)

Inflation can be defined as a general increase in the prices of goods and services, resulting in a decline in the value of money.(Parakkasi, 2016) In this context, the real value of the borrowed money could be much lower at the time of repayment compared to when the loan was granted. For example, if someone borrows 1,000,000 rupiah during a period of low inflation and then repays it during a time of high inflation, that amount may only have a purchasing power equivalent to 700,000 rupiah. This illustrates the injustice faced by the lender who receives the same nominal amount but with diminished value.

Following this explanation, Abdullah bin Bayyah proposes that debt repayment in conditions of severe inflation should be based on the current value rather than the original nominal amount. The severity of inflation should refer to the commonly recognized standards of abnormality (al-‘adah). If the inflation appears severe and unusual, then the loan should be repaid according to its current value. In his view, this aligns better with the principles of maqashid al-shariah, which aim to achieve the welfare of all parties involved. This approach allows both lenders and borrowers to avoid unfair losses due to changing economic conditions.(Kholishuddin & Ilmi, 2023)

For example, if someone borrows 1,000,000 rupiah to purchase daily necessities, and at the time of repayment inflation reaches 40%, the real value of that money has decreased. Repaying 1,000,000 rupiah at that point means that the lender would actually incur a loss of 400,000 rupiah in purchasing power. In this case, Abdullah bin Bayyah argues that it would be fairer if the debt repayment is adjusted according to the current value of money, possibly by repaying an amount equivalent to the real value of 1,000,000 rupiah at the time of repayment.

This approach not only protects the lender but also considers the welfare of the borrower. If the borrower is required to repay a higher value, it could impose an excessive burden on them. By aligning debt repayment with economic conditions, we maintain balance in muamalat and safeguard the rights of all parties involved.

Bin Bayyah is not alone in his opinion. Some classical scholars, such as Abu Yusuf from the Hanafi school, argue that it is permissible to repay a debt with an amount different from the nominal value in abnormal conditions. This is supported by the maqashid al-shariah principle of achieving justice. Allah SWT states: "Indeed, Allah commands you to be just" (Quran, An-Nahl: 90). This is also in line with the maqashid al-shariah principle of eliminating harm. The Prophet Muhammad (peace be upon him) stated, "Do not cause harm and do not reciprocate harm with harm."(Muiz, 2020)

In this context, it is essential to remember that the purpose of shariah is to create a just and prosperous society. Therefore, Abdullah bin Bayyah’s viewpoint, which considers the real value of debt, becomes important, especially in conditions of severe inflation. This approach is consistent with the principles of maqashid al-shariah, which focus not only on legal aspects but also on welfare and social justice.

In conclusion, the debate regarding debt repayment in inflationary conditions illustrates the complexity of muamalat law in Islam.(Fadhil, 2023) The majority of scholars tend to adhere to the nominal principle, but Abdullah bin Bayyah's perspective offers a relevant alternative in addressing modern economic challenges. Bin Bayyah even critiques the rigidity still enforced by contemporary Islamic jurisprudence institutions that insist on repaying debts according to the original nominal value, even in severe inflation conditions. In practice, adjusting debt repayment to current real values can help create justice and welfare for all parties involved. Therefore, it is important to consider both viewpoints and seek the most equitable solution that aligns with shariah principles in every situation.

Selling Goods That Have Been Ordered but Not Yet Received

The practice of selling goods that have been ordered but not yet received by the seller, and then reselling them to another party, is a frequently discussed theme in muamalat jurisprudence. The majority of scholars agree that this practice is not permissible, based on a hadith from the Prophet Muhammad (peace be upon him) that prohibits selling something before it has been delivered, encapsulated in the phrase "Do not sell what you do not possess." The Prophet articulated this prohibition when a companion asked about the legality of selling food that had been ordered but not yet received. This prohibition carries significant implications for maintaining fairness and transparency in transactions.(Basyariah, 2022)

Based on this hadith, the majority of scholars argue that selling goods that have not yet been received involves risks and uncertainties that could disadvantage the parties involved. In the context of selling food, this prohibition is further emphasized due to the importance of freshness and quality in food products.(Pitriani & Purnama, 2020) If the sold food does not meet the promised specifications or quality, it could harm consumers and lead to dissatisfaction. Therefore, this prohibition is viewed as general and applicable to all types of goods.

Ibn Abbas, a well-known companion of the Prophet recognized for his legal knowledge, also stated that all commodities are prohibited from being sold before they are received, similar to food items. This view underscores that the prohibition on selling goods that have not yet been received applies not only to food but to other products as well. According to him, this is necessary to protect the rights of all parties involved in the transaction.(Midisen et al., 2024)

However, Abdullah bin Bayyah offers a different perspective. He considers the prohibition on selling goods not yet received to be a personal ijtihad of Ibn Abbas. In his view, current economic conditions necessitate a more flexible understanding. Given the increasing complexity of transactions, particularly in the era of globalization, there are circumstances in which selling goods not yet received may be justified, especially if such transactions are conducted transparently and do not disadvantage others.

Abdullah bin Bayyah is not alone in his argument. The Maliki school also has a distinct approach regarding this matter. They argue that the prohibition on selling goods before receipt only applies to food, considering the urgent needs for food and its high susceptibility to spoilage. In this context, the Maliki school maintains that other goods do not share the same characteristics as food. Therefore, they permit the sale of goods not yet received, provided there is no element of deception and the transaction adheres to applicable shariah principles.

Within the framework of Islamic law, scholars who allow the sale of goods that have been ordered but not yet received also reference the Quranic verse stating that Allah has made trade lawful, as articulated in the verse, "And Allah has permitted trade" (Quran, Al-Baqarah: 275). This verse serves as a basis for some scholars to assert that as long as transactions are conducted in a proper manner and do not violate shariah principles, selling goods not yet received can be justified. This illustrates a space for ijtihad and contextual consideration in trade practices.(Anugrah et al., 2023)

The reality in the field today demonstrates that the practice of selling goods before receipt is already common, especially in large international transactions, such as the sale of oil, mining products, and other commodities. In many cases, contracts for sale at the international level are based on agreements and estimates, rather than on the physical receipt of goods. This practice presents new challenges in applying shariah principles in the dynamic global economy.

In addressing this issue, the maqashid al-shariah approach becomes highly relevant. Maqashid al-shariah emphasizes the objectives and benefits of shariah law, aiming to facilitate human transactions and maintain welfare. In this context, allowing transactions involving the sale of goods not yet received can be viewed as an effort to meet community needs and maintain economic stability.

Considering maqashid al-shariah, it is essential to recognize that flexibility in transactions can yield benefits for many parties. If the practice of selling goods not yet received has become widely accepted within society, then allowing for this practice could be more advantageous. This is not solely about economic gains but also about facilitating the everyday lives of people.

In conclusion, while the majority of scholars prohibit the sale of goods that have not yet been received based on hadith and strong arguments, there remains room for ijtihad and further discussion. The perspectives of Abdullah bin Bayyah and the Maliki school offer a more flexible approach, particularly in light of contemporary economic needs and circumstances. By considering maqashid al-shariah, practices in muamalat can be adjusted to remain relevant and beneficial for society while upholding fundamental shariah principles. This approach can help create a balance between economic interests and compliance with Islamic law.

Sale and Purchase with Deferred Delivery of Money and Goods

The sale and purchase with deferred delivery of money and goods is a complex topic within the study of Islamic commercial jurisprudence (fiqh muamalat). In market practice, particularly in stock exchanges and international trade, transactions often occur where both money and goods are absent at the time of agreement, with a commitment that both will be delivered in the future. Such transactions, involving commodities like oil, iron, and minerals, raise intriguing legal issues that warrant analysis.

The majority of scholars agree that this type of transaction is impermissible, categorizing it as a sale of debt for debt. This term refers to situations where both means of exchange—money and goods—are not in liquid form. The prohibition is often derived from a hadith stating the prohibition against trading debt for debt (بيع الكالئ بالكالئ). However, doubts about the authenticity of this hadith exist, with Imam Ahmad asserting that it is not strong.(Harisman & Harahap, 2023)

Despite these doubts, the consensus among scholars maintains that the sale of debt for debt is prohibited. Some scholars regard this as an implicit consensus (ijmak sukuti), where some scholars agree on its prohibition while others remain silent, thus not contesting the claim. This consensus, albeit lacking strong evidence, emphasizes the prohibition of such practices.(Arisson, 2016)

In contrast to the majority of scholars, Abdullah bin Bayyah approaches this issue from the perspective of maqashid al-shariah (the objectives of Islamic law). He argues that the prohibition stems from deeper causes, primarily to avoid discord and conflict among transaction participants. Imam Qurafi from the Maliki school also emphasizes that the prohibition exists due to the potential for disputes rather than solely based on the evidence, which he considers insufficient to justify the prohibition. According to Bin Bayyah, if measures are in place to avoid conflict and the market system has robust mechanisms to prevent it, such transactions could be permissible. This underscores the importance of considering social and economic contexts in legal determinations. With appropriate regulations, transactions that appear problematic could proceed without issues.(Farrar, 2022)

A similar viewpoint was expressed by classical scholars like Said bin Musayyib, regarded as one of the foremost scholars of his time. He stated that sales with deferred delivery of goods and money are permissible, suggesting that there is room for more flexible interpretations regarding such sales. Said’s position reflects an awareness of economic realities and societal needs, indicating that interpretations should not be rigidly confined to texts but should also consider context. Imam al-Shatibi, a maqashid expert, differentiates between sales with subsequent delivery of goods. He categorizes benefits into three types: dharuri (urgent needs), hajiy (secondary needs), and tahsini (complementary needs). In this framework, sales are viewed as dharuri, vital for human sustenance, while delivery is seen as an ancillary aspect that may be treated as tahsini.(Syahriar & Nafisah, 2020)

If these two elements conflict, the dharuri needs must take precedence. This implies that even if delivery has not yet occurred, sales remain permissible as their fundamental objective is to satisfy urgent needs. This perspective aligns with the Qur'anic verse stating that Allah has permitted trade, which pertains to the sales contract itself rather than the timing of delivery. Although Bin Bayyah allows for such transactions, he stresses that sales with deferred delivery are only permissible when neither party is dealing in cash or foodstuffs. If the commodities involved are money or food, their legal status will differ. This distinction is crucial, as the nature of these commodities significantly affects legal rulings. Transactions involving money or food require heightened scrutiny due to their fundamental characteristics and necessities in daily life. Therefore, if there is a potential for conflict or loss in transactions involving these commodities, caution in execution is paramount.

In international trade, particularly in large transactions, it is common for parties to agree to conduct transactions even when money and goods do not physically exist simultaneously. This creates legal challenges that businesses must navigate, especially concerning compliance with Islamic principles. Many large companies engage in such transactions because they see opportunities and needs in the dynamic global market. This situation underscores the importance of a more flexible approach to understanding commercial law. In light of globalization and rapid economic developments, it is crucial for scholars and community leaders to continuously adapt Islamic legal interpretations to emerging realities.(Syahriar & Nafisah, 2020)

Creating robust regulations is key to facilitating safe and equitable sales practices. Clear regulations can help prevent conflicts and provide legal certainty for all parties involved in transactions, including effective oversight of market practices to ensure adherence to Islamic principles. In conclusion, sales with deferred delivery of money and goods present a complex issue but can be understood within the framework of maqashid al-shariah. While the majority of scholars prohibit this practice, alternative perspectives open avenues for its permissibility, provided the context and legal objectives are considered. With a broader understanding and attention to societal needs, we can create a more flexible and responsive system of muamalat that meets contemporary economic challenges while ensuring adherence to Islamic principles.

CONCLUSION

The conclusions drawn from Abdullah bin Bayyah's thoughts emphasize the importance of maqashid al-shariah in formulating Islamic commercial law in the modern era. By considering contemporary needs and different contexts, he argues that practices deemed forbidden may be permissible, as long as they do not conflict with sharia principles. Examples include the allowance of repaying debts according to current value in cases of severe inflation, selling ordered goods before receipt, and transactions where the object of the contract has not yet been delivered all reflecting the application of maqashid relevant to today's realities. This approach ensures that the law remains responsive to societal needs while striving for the common good and welfare of many, creating a more just and sustainable economic system. It underscores the necessity for flexibility and adaptation in the application of Islamic law in contemporary times.

References

A.R, M. (2020). *Al Ijtihâd al-Maqâshidi'inda Abdillâh bin Bayyah Wa Taf" îluhu fî Fatâwâhu hawla Ahkâm al-Usroh*. Universitas Islam Negeri Syarif Hidayatullah Jakarta.

Adam, F. K., Nor Mohd Zulkarnain, S. I., & Ramli, M. A. (2018). Pandangan Shaykh Abdullah Bin Bayyah Tentang Konsep Keamanan: Kajian Terhadap Buku Khitab Al-Amni Fi Al-Islam. *Jurnal Peradaban*, *11*(1), 86–114. https://doi.org/10.22452/peradaban.vol11no1.5

Afrizal. (2014). *Metode Penelitian Kualitatif: Sebuah Upaya Mendukung Penggunaan Penelitian Kualitatif Dalam Berbagai Disiplin Ilmu*. Raja Grafindo Persada.

Anugrah, M., Pangestu, R., Wisesa, S. A., & Zaidan, Z. (2023). Sistem Bisnis Dropship dalam Perspektif Hukum Agama Islam. *Jurnal Religion: Jurnal Agama, Sosial, Dan Budaya*, *1*(5), 129–140.

Arisson. (2016). Praktek Jual Beli Hutang Pada Pedagang Ayam di Kecamatan Kelayang Kabupaten Indragiri Hulu Ditinjau Dari Ekonomi Islam. *Hukum Islam*, *XVI*(2), 209–213.

Asmuni, M. (2005). Studi Pemikiran Al-Maqashid: Upaya Menemukan Fondasi Ijtihad Akademik yang Dinamis. *Al-Mawarid*, *XIV*(2), 155–178.

Basyariah, N. (2022). Larangan Jual Beli Gharar: Kajian Hadist Ekonomi Tematis Bisnis Di Era Digital. *Mukaddimah: Jurnal Studi Islam*, *7*(1), 40–58. https://doi.org/10.14421/mjsi.71.2902

Beka, R. (2021). Maqaṣid and the Renewal of Islamic Legal Theory in 'Abdullah Bin Bayyah's Discourse. *American Journal of Islam and Society*, *38*(3–4), 103–145. https://doi.org/10.35632/ajis.v38i3-4.2987

Deski, A. (2022). Maqasid Syari'Ah Menurut Abdul Wahab Khalaf. *Jurnal Ilmiah Al-Furqan: Al-Qur'an Bahasa Dan Seni*, *9*(1), 203–213. https://doi.org/10.69880/alfurqan.v9i1.59

Fadhil, M. H. (2023). Understanding Human Rights In Islam: The Ideas Of Abdullah Bin Bayyah. *Jurnal Kajian Islam Kontemporer*, *5*(1), 1–9.

Farrar, S. (2022). Syariah-Based Sufism in the Modern Era: a Look At the Work of Shaykh ʿabdullāh Bin Bayyah. *Malaysian Journal of Syariah and Law*, *10*(2), 49–60. https://doi.org/10.33102/mjsl.vol10no2.404

Fauzan, H., & Imawan, D. H. (2023). Pemikiran Maqashid Syari'ah Al-Tharir Ibn Asyur. *Jurnal Syari'ah Dan Hukum*, *5*(1), 101–114.

Ghulam, Z. (2016). Implementasi Maqashid Syariah Dalam Koperasi Syariah. *Iqtishoduna*, *5*(1), 90–112.

Hambari, & Ayuniyyah, Q. (2022). Pemisahan Maqashid Syariah dari Ilmu Ushul Fiqh dan Pengaruhnya Pada Penetapan Hukum Islam Kontemporer. *Mizan: Journal of Islamic Law*, *6*(1), 11. https://doi.org/10.32507/mizan.v6i1.1200

Harisman, H., & Harahap, M. Y. (2023). Akad Jual Beli yang Dilarang Prespektif Hukum Islam. *Doktrina: Journal of Law*, *6*(2), 104–117.

Harun, M. S., Mohd, S. I. N., Zulkarnain, Ali, A. K., & Abidin, M. S. Z. (2022). The Fiqh Al-Tawari Thoughts Of Abd Allah Bin Bayyah On The Management Of Worship During

The Covid-19 Pandemic. *Afkar*, *19*(2), 141–172.

Has, A. W. (2013). Ijtihad Sebagai Alat Pemecahan Masalah Umat Islam. *Episteme: Jurnal Pengembangan Ilmu Keislaman*, *8*(1), 89–112. https://doi.org/10.21274/epis.2013.8.1.89-112

Hasanudin, F. (2019). Ijtihad Maqashidi: Metodologi dan Kontekstualisasi Hukum Islam di Indonesia (Studi Fatwa-fatwa Majelis Ulama Indonesia). *Al-Mawarid: Jurnal Syari'ah Dan Hukum*, *1*(2), 134.

Herdiansyah, & Hidayati, S. (2021). Peran Maqashid Syari'Ah Dalam Ijtihad. *Jurnal Hukum Das Sollen*, *6*(2), 125–134. https://doi.org/10.32520/das-sollen.v6i2.1831

Ikhsan, M., & Iskandar, A. (2021). Abu Ishaq Al-Syathibi and His Perspective on Maslahat. *AT-TURAS: Jurnal Studi Keislaman*, *8*(1), 60–73. https://doi.org/10.33650/at-turas.v8i1.1997

Kholishuddin, & Ilmi, M. H. H. (2023). Implementation of Manhaj Maqāṣidī Bin Bayah in Understanding Hadith (Fiqh Ḥadīṡ). *Nabawi: Journal of Hadith Studies*, *4*(1), 45–81. https://doi.org/10.55987/njhs.v4i1.63

Midisen, K., Achmad, L. I., & Parida. (2024). Analisis Penerapan Maqashid Syariah Dalam Pemberdayaan Dana Zakat Bagi Masyarakat Terdampak Pandemi. *Jurnal Ilmiah Ekonomi Islam*, *10*(1), 370. https://doi.org/10.29040/jiei.v10i1.12392

Muiz, A. (2020). Landasan Dan Fungsi Al-Qawa'Id Al-Fiqhiyyah Dalam Problematika Hukum Islam. *Al-Afkar Journal*, *3*(1), 103–114. https://al-afkar.com/index.php/Afkar_Journal/issue/view/4https://al-fkar.com/index.php/Afkar_Journal/issue

Muslim, H. (2020). Pemikiran Ibnu Qayyim Al-Jauziyah (W 751 H/1350 M) Tentang Perubahan Fatwa Dan Relevansinya Dengan Penerapan Hukum Islam Di Indonesia. *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial Islam*, *8*(2), 285–313.

Najmudin, D., Janatino, J. H., Sobariah, M., Maulana, I., Hafiz, I. Al, & Alfirani, E. (2023). Syubhat dalam Pelaksanaan Hudud Menurut Abu Zahrah. *Tashdiq: Jurnal Kajian Agama Dan Dakwah*, *2*(1), 1–18. https://doi.org/10.4236/tashdiq.v2i1.1530%0A10.333/Tashdiq.v1i1.571

Parakkasi, I. (2016). Inflansi Dalam Persepktif Islam. *Laa Maisyir*, *3*(1), 41–58.

Paryadi. (2021). Maqashid Syariah: Definisi dan Pendapat Para Ulama. *Cross-Border*, *4*(2), 201–216.

Pitriani, E., & Purnama, D. (2020). Dropshipping Dalam Perspektif Konsep Jual Beli Islam. *Jurnal Ekonomi Dan Perbankan Syariah*, *3*(2), 87–104. https://doi.org/10.46899/jeps.v3i2.162

Ridwan, M. (2020). Ijtihad Pada Era Kontemporer (Konteks Pemikiran Islam dalam Fiqih dan Maqashid al-Syariah). *Jurnal Masohi*, *1*(2), 110. https://doi.org/10.36339/jmas.v1i2.356

Robbani, S., Yasid, A., & Sanuri, S. (2021). The revitalization of Maqasid al-Mu'amalat according to Abdullah bin Bayyah and Its implications on Islamic law. *Research, Society and Development*, *10*(14), 1–10. https://doi.org/10.33448/rsd-v10i14.21295

Shodiq, A. (2020). Maqashid As-Syariah Perspektif Imam Al-Ghazali; Studi Literasi Maslahah Mursalah. *Moderasi: Journal of Islamic Studies*, *2*(2), 139–159.

Susanto, S. (2021). *Konstruk Maqasid Syariah Fikih Muamalah Dalam Pemikiran Abdullah Bin Bayyah*. Institut Agama Islam Negeri Purwokerto.

Syahriar, A., & Nafisah, Z. (2020). 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*(2), 185. https://doi.org/10.30659/jua.v3i2.7630

Wahid, A. (2018). Reformasi Maqashid Syariah Klasik Menuju Perspektif Kontemporer. *Syaikhuna: Jurnal Pendidikan Dan Pranata Islam*, *9*(2), 219–230. https://doi.org/10.36835/syaikhuna.v9i2.3260