

FAITH, FREEDOM, AND THE LAW: A *MAQĀṢID AL-SHARĪ'AH* APPROACH TO RELIGIOUS RIGHTS

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ABSTRACT

Freedom of religion is one of the issues that is often discussed in the context of human rights and Islamic law. Islam recognizes freedom of religion with the principle of “There is no coercion in religion” (Surah al-Baqarah, 2: 256), but at the same time, Islam also emphasises the protection of the faith of Muslim as one of the main objectives of maqāṣid al-sharī'ah, which is Hifz al-Din (preservation of religion). This study aims to examine the concept of religious freedom from the perspective of maqāṣid al-sharī'ah by balancing the protection of faith and social tolerance. This approach analyses the views of classical and contemporary Islamic scholars. The results of the study found that Islam practices a balance between maintaining the purity of the faith of Muslim and respecting the right of adherents of other

religions to practice their beliefs. Therefore, an approach based on the principles of maqāṣid al-sharī‘ah that emphasizes justice (adl), ihsan (ihsan), and the public good should be prioritized in addressing the issue of religious freedom in the Muslim world today.

Keywords: *freedom of religion, maqāṣid al-sharī‘ah, hifz al-din, protection of aqidah, social tolerance, human rights*

INTRODUCTION

Freedom of religion is one of the key principles of internationally recognized human rights. In Islam, the concept of freedom of religion has been mentioned in the Quran, among others in Surah al-Baqarah verse 256 which affirms that “There is no coercion in religion”. This principle shows that Islam respects the right of individuals to choose and practice their beliefs. However, at the same time, Islam also places the preservation of the faith (*Hifz al-Din*) as one of the five main objectives of *maqāṣid al-sharī‘ah*, which demands the protection of Islam from any threat that can damage the faith of Muslim as the knowledge of *maqāṣid al-sharī‘ah* acts as the philosophical foundation of the formulation of Islamic law (Mujib & Hamim, 2021: 6928).

Discussion on religious freedom often poses a dilemma among Islamic scholars, especially when faced with issues such as apostasy, religious pluralism, as well as the rights and limitations of individual freedom in a Muslim society (Samudin et al. 2023: 39). While Islam recognises the right of adherents of other religions to practice their beliefs, there are also certain principles that need to be maintained to ensure a balance between freedom of religion and the protection of faith (Syaza & Meor Alif, 2023: 434). Therefore, this study will examine religious freedom from the perspective of *maqāṣid al-sharī‘ah* by focusing on the balance between the protection of faith and social tolerance in a pluralistic society.

Maqāṣid al-sharī‘ah (the higher objectives of Islamic law) offers an alternative paradigm that exists within the Islamic legal tradition. By shifting the legislative focus from rigid legal positivism to a value-driven, purpose-oriented framework, *maqāṣid al-sharī‘ah* offers a possible methodology to reconcile divine law with the universal rights of citizens, establishing a solid foundation for freedom of conscience and responsive to modern challenges (Asadurrohman et al. 2025, 183).

By examining the wisdom behind the concept of no coercion in religion as in Surah Al-Baqarah (2: 256) and the concept of *maqāṣid al-sharī‘ah*,

this article argues that because divine revelation did not explicitly prescribe worldly punishment for apostasy, modern state frameworks will operate most effectively when they distinguish between civil violations and private conscience especially involving individuals trapped as *de jure Muslims*, despite being *de facto non-Muslim* in practice. In instances of quiet, non-hostile disaffiliation, a transition away from coercive legislative measures serves to uphold both the dignity of individual choice and the true spirit of Islamic legal objectives. (Razali Musa et al., 2025: 638)

FAITH AND FREEDOM; TEXTUAL FOUNDATIONS OF HUMAN RIGHTS IN THE QURAN

Generally, (Rehmat et al., 2025: 1-18) classified that the Quran constructs a strong framework for human rights, which is structurally defined by three major pillars. The first of these foundational pillars is the acknowledgement of the inborn value of human being. This is a principle primarily governed by Quran 17: 70: “*We have honored the children of Adam*”. In contemporary Islamic human rights discourse, this declaration is recognized as an important theological baseline. Rather than tying human worth to tribal affiliation, gender, or religious conformity, the text explicitly extends this divine honor to the entirety of humankind. Contemporary scholarship highlights that this foundational perspective frames human sanctity as a birthright granted by the Creator, serving as a direct Islamic equivalent to the concept of essential, non-negotiable dignity found in modern international legal frameworks.

The second major pillar centers on personal choice in faith, emphasizing that a relationship with the Divine is meaningless without personal liberty. This principle is heavily reinforced across multiple textual markers, most notably Quran 2:256, which famously states, “*There shall be no compulsion in religion*”. The text explicitly rejects state or social coercion in matters of spiritual conscience (Asadurrohman et al. 2025, 204), a theme further elaborated in Quran 10:99 where forced belief is presented as a contradiction to divine wisdom and Quran 18:29, which declares, “*The truth is with your Lord; so whoever will, may believe, and whoever will, may disbelieve*”. Together, these verses construct a comprehensive scriptural ethic that prioritizes individual free will. Progressive legal scholars argue that this explicit protection of personal conviction invalidates classical, medieval-era criminal penalties for private theological choices.

The third intersecting pillar is the concept of human equality, which actively upholding equity beyond basic equality. In other words, Quran guaranteed the

protection to whatever people need to achieve justice. This is enforced by key verses such as Quran 49:13, which explicitly addresses mankind's diverse "nations and tribes" to clarify that social, ethnic, and racial hierarchies are artificial constructs, establishing spiritual righteousness (taqwa) as the only true metric of human value. This concept of equality among all human beings is paired with an uncompromising mandate for systemic equity in Quran 5:8, which instructs believers to stand firmly as absolute witnesses for justice, even when doing so conflicts with their personal desires, parents, or close relatives. Reformist academics leverage these overarching moral mandates to prove that the fundamental, egalitarian spirit of the Quran overrides any temporary, context-specific legal applications developed by historical jurists (Ilham Abdi Prawira et al., 2025: 28-29).

These three classifications are not seen isolated, instead it forms a complete and unified framework that aligns with the universal objective of human dignity. Specifically, it is noted that the Quran's preservation of human sanctity, voluntary faith, and moral choice directly reflects the spirit of Article 18 of the Universal Declaration of Human Rights (UDHR), which guarantees universal freedom of thought, conscience, and religion. Modern Muslim jurists utilize this deep alignment to advocate for extensive legislative reforms in Muslim-majority states. They argue that true compliance with Shariah is achieved not by mimicking the punitive, imperial political strategies of the Middle Ages, but by dynamically evolving state institutions to guarantee the civil rights and human dignity of all citizens, irrespective of their faith background (Saed, 2020: 89).

It is argued by many that the Qur'ān did not prescribe any worldly punishment for apostasy and preserves absolute silence regarding temporal penalties for changing one's faith, reserving accountability strictly for the hereafter (Razali Musa et al., 2025: 639). (Asadurrohman et al. 2025: 185) had also discussed a comprehensive, critical and contextual analysis of apostasy in Islamic principle, focusing on the death punishment in the historical perspective and contemporary reinterpretations. The prescribed capital punishment was directed at wartime surveillance and subversion what modern legal systems categorize as high treason rather than a peaceful departure from faith.

The study of the purpose of Shari'ah (*maqāṣid al-sharī'ah*) also involves the concept of *maqāṣid al-Qur'ān*. *Maqāṣid al-sharī'ah* (Shariah Objectives) has focused on understanding Islamic law, while *maqāṣid al-Qur'ān* will be the path to understanding the concepts, rules and interpretations of the Quran. This means that the concept of *maqāṣid al-Qur'ān* will discuss more broadly the issue of law. The issue of religious freedom is an issue discussed in the

context of *maqāṣid al-Qur'ān*. Thaha Jabir al-'Alwani (2006: 90) has stated that freedom of religion is an important goal of the objectives and purposes of *Sharī'ah*. This is included in the objective matter of maintaining religion. According to him, maintaining religion is not just about punishing apostates. The objective of maintaining religion is based on the principle that there is no coercion in religion. Al-'Alwani concluded that freedom of belief is part of the essential purpose of *Sharī'ah*. Al-'Alwani is also of the view that the matter of an individual's confidence is not the matter of the state to determine it, but rather it is a personal matter (Fawaid, 2017:165).

THE FRAMEWORK OF MAQĀṢID AL-SHARĪ'AH AND FREEDOM OF RELIGION

Maqāṣid al-sharī'ah is an important concept in the development of Islamic fiqh. Various definitions have been put forward by Islamic scholars to explain this concept. Among them, Ibn 'Ashur posits that *maqāṣid al-sharī'ah* refers to the profound meanings and wisdoms observed by Allah in all or most parts of legislation, where such considerations are not limited to a specific circumstance of Shariah law (Ibn 'Ashūr 2007,: 49). Furthermore, this concept also means the ultimate purpose of legislation and the underlying secrets established by Allah within each of His laws (Al-Fāsī 1993, :115). According to Al-'Alim, *maqāṣid al-sharī'ah* is the public welfare or benefit attained by human beings, whether by performing good deeds or by abandoning evil actions (Al-'Ālim 1997, 84). Additionally, in the view of both al-Qaradawi and al-Ghazali, *maqāṣid al-sharī'ah* represents the purpose of legal legislation designed to enable humanity to achieve good and reject evil (al-Qaradāwī 2012; al-Ghazālī 1996, 1:172).

The development of *maqāṣid al-sharī'ah* in the evolution of Islamic thought shows how it progressed from a small part of Islamic law into a significant major philosophy centered on human rights (Mujib et al.,2021: 6928). This development is divided into two main eras which are the classical phase and the modern reformist era. The classical era focused on the protecting the ruling of religion and maintaining the state stable and the modern era focused more on the human development, fair treatment for all and also protecting human rights (Lathifah et al., 2022: 367-390).

Within classical legal theory, Imam al-Shāṭibī reached and developed the ultimate principle of *maqāṣid* theory by manifesting the preservation of the five primary objectives of Islamic law (*al-darūriyyāt al-khams*) into two distinct operational strategies or in two primary dimensions (Toguan Rambe

et al., 2026: 4). It is referred to the concept of affirmative strategy (*jānib al-wujūd*) and a protective strategy (*jānib al-'adam*) (al-Shāṭibī n.d., 2:8–9; Mujib and Hamim 2021, 3). The first dimension involves proactive measures that reinforce religious commitment, including the cultivation of faith and the consistent observance of obligatory religious practices. This dimension involves actions that affirm and strengthen religious commitment. It includes the performance of core religious obligations such as prayer, fasting, zakat, and pilgrimage, as well as the internalization of faith through belief in the tenets of Islam.

The second dimension pertains to protective measures designed to prevent actions or conditions that may compromise the integrity or stability of religious belief and practice. Collectively, these dimensions constitute a comprehensive framework for safeguarding the religious aspect of human life. For instance, this framework may justify the imposition of legal sanctions on individuals who abandon the faith, as a means of preserving communal religious integrity. For example, it imposes punishment on people who leave religion (Mujib et al., 2021: a6928). The second dimension seeks to prevent threats to religious integrity. This includes legal and social mechanisms to deter apostasy, heresy, and public acts that may undermine the sanctity of religion. For example, Islamic jurisprudence may prescribe sanctions against individuals who publicly renounce Islam, not as a punitive measure alone, but as a means of preserving communal religious cohesion. The application of the concept of *maqāṣid al-sharī'ah* in the formulation and interpretation of Islamic law is essential to ensure that legal rulings remain responsive to contemporary realities. However, because classical jurists operated under imperial state conditions, they maintained a strict hierarchy that prioritized the collective preservation of religion (*ḥifẓ al-dīn*) over the preservation of individual human life (*ḥifẓ al-nafs*).

In the medieval time, religion and the state authority were attached together. Leaving the religion (*riddah*) was not seen as an innocent and personal choice of belief. However, the state authority regarded that an act of treason or like defecting to the enemy during a war. Classical jurist regarded leaving faith as the dangerous political threat thus triggered them the strict legal defense system. They argued that the state had a duty to protect its religious and political borders. To crush any internal rebellion or subversion, they mandated the death penalty as a defensive measure to keep the empire safe.

THE MAQASIDIC PARADIGM SHIFT: HARMONIZING FOUNDATIONAL TEXT WITH CONTEMPORARY JURISPRUDENCE

The historical development of Islamic legal thought reveals a critical structural divergence between the core and unchangeable moral lessons in the sacred text and the practical laws as temporary and limited by time. A well-known classical jurist, most notably Ibn Taymiyyah, explicitly drew a sharp systemic line between a citizen's private, personal disbelief which carried absolutely no earthly or civil penalty and overt, public acts of sedition (*muḥārabah*) directed against the state. This vital legal distinction firmly indicates that the severe penalties traditionally associated with apostasy (*riddah*) in classical *fiqh* were historically, textually, and conceptually tethered to crimes of political treason, subversion, and insurrection rather than the policing of individual conscience or personal faith (Asadurrohman et al. 2025: 205). In recent years, contemporary Muslim jurists have increasingly revisited the concept of religious freedom through the framework of Maqāṣid al-Sharī'ah to reconcile traditional Islamic principles with the realities of pluralistic societies. Central to this discourse is the balance between *ḥifẓ al-dīn* (preservation of religion) and the ethical imperative of coexistence and tolerance.

To reconstruct a sustainable, human-rights-compliant framework from within the Islamic tradition, contemporary reformist thinkers increasingly look to the methodology of *maqāṣid al-sharī'ah*. Originally formulated by classical theologians such as al-Ghazali to safeguard five core human necessities that are life, religion, intellect, lineage, and wealth, the Maqasidic framework has been dynamically expanded by modern systemic thinkers like Jasser Auda (Dahlan et al. 2026, 44). Under this contemporary framework, the primary objective of protecting faith (*ḥifẓ al-dīn*) shifts away from coercive state-enforced uniformity toward the broad, structural protection of absolute freedom of conscience, thought, and religious pluralism. Because the preservation of human life (*ḥifẓ al-nafs*), universal justice, and the sanctity of the human intellect (*'aql*) are paramount divine intents, they fundamentally override and nullify the coercive, historically contingent value systems that underpin archaic apostasy punishments. Consequently, a rigorous, purpose-driven reconsideration of the Islamic legal corpus through the lens of *maqāṣid* offers a fluid, authentic path toward legal reform. This methodology allows modern Muslim-majority societies to systematically harmonize Shariah with the global human rights framework without severing their institutional ties to sacred tradition.

Within the modern evolution of *maqāṣid* reasoning, a crucial transition phase emerged through the twentieth-century scholarship of Abdul Qadir Awda

and Yusuf al-Qaradawi, who paved the way for a more rights-centric paradigm. In his systematic analysis of Islamic criminal jurisprudence, Awda pioneered the modern argument that classical execution mandates were fundamentally administrative tools designed to control armed political rebellion against the state, rather than tools to police private intellect. Building directly upon this contextual foundation, Yusuf al-Qaradawi introduced a critical legal contradiction by separating ‘minor apostasy’ (*riddah khafīyyah*) from ‘major apostasy’ (*riddah muzillah*).

Al-Qaradawi argued that a purely private, peaceful shift in personal conviction constitutes minor apostasy, which remains entirely outside the jurisdiction of human governments and carries zero worldly penal sanctions. Conversely, major apostasy was strictly redefined as an active, public political defection aimed at inciting societal violence or subverting state security. Abdul Qadir ‘Awdah also explained that there are two important elements in preserving and maintaining the concept of freedom of religion in Islam (‘Awdah n.d., 1:536). First, humans are obliged to respect the rights of others in terms of faith, and one must not force others to believe in a creed at all. Second, it is the responsibility of the person who has chosen the Islamic creed to preserve his creed. While this transition phase successfully restricted state overreach by shielding private conscience, it still left the door open for states to regulate public expressions of dissent.

Modern Islamic legal theory, however, has undergone a critical structural shift. Contemporary reformers like Muḥammad al-Ṭāhir Ibn ‘Āshūr and Jasser Auda have expanded the scope of *ḥifẓ al-dīn* from the mere preservation of an institutionalized faith to the constructive advancement of universal freedom of religion (Dahlan et al, 2025: 47). Under this updated framework, the primary duty of an Islamic governance system regarding religion is not coercion, but rather guaranteeing that all individuals regardless of their theological leanings can exercise their conscience and practice their faith safely without fear of state or societal reprisal.

Muḥammad al-Ṭāhir Ibn ‘Āshūr was a well-distinguished Muslim thinker who contributed significantly in the development of Islamic thought. He introduced several important principles which *maqāṣid al-sharī‘ah* addresses, such as the nature of humankind (*fiṭrah*), tolerance (*samāḥah*), benefit (*maṣlahah*), equality (*musāwāh*) and freedom (*ḥurriyyah*). It is established that the Ibn ‘Ashur view on freedom of religion is a balanced approach, while using the Maqasid lens to relate the absolute freedom of conscience is important objective of Islamic law. This approach prevents the rigid application of jurisprudential rulings derived from earlier historical contexts without due

consideration of the socio-cultural and temporal circumstances of the present era (Syaza & Meor Alif, 2025: 435).

In this regard, the views of contemporary scholar Jasser Auda in the field of *maqāṣid al-sharī'ah* are seen and referred to because Jasser Auda highlights the concept of human development as the main pillar for the benefit of today (Arina Hakan, 2018: 135-152). Jasser Auda, a contemporary scholar who has developed knowledge and theories related to *maqāṣid al-sharī'ah* has made the knowledge of *maqāṣid* a Philosophy of Islamic Law. According to him, the science of *maqāṣid* should be used as a basic methodology in the development of fiqh theory (Sadjali and Tohari, 2024: 56).

In his book *Maqasid al Sharī'ah as Philosophy of Law: A System Approach*, Jasser Auda states the definition of *maqāṣid* in four parts; first, the wisdom behind a legal establishment. Second, *maqāṣid* is defined as a good end to every legal stipulation. Third, a law must be based on the intention of *ilāhiyah* and moral concepts. Fourth, the emphasis on the concept of *maṣāliḥ*. According to Jasser Auda, the concept of *maqāṣid al-sharī'ah* must be based on the main purpose which is the values and principles of humanity. This principle coincides with Islam which upholds human values as well as being a religion that can provide the best solution to problems in human life.

The following table is a development of the traditional *maqāṣid al-sharī'ah* theory and the contemporary *maqāṣid* theory.

Table 1: Theory *Maqāṣid al-Sharī'ah* Traditional and Contemporary

No.	Traditional <i>Maqāṣid</i> Theory	Contemporary <i>Maqāṣid</i> Theory
1.	Taking care of the offspring (an Nasl)	Theories centered on family protection
2.	Keeping Your Mind	Priority theory of thinking ability and research
3.	Maintaining honor	Theory of the care and protection of human dignity; Safeguarding Human Rights
4.	Maintaining Religion	Theory of safeguarding, protection and respect for religious freedom and matters of belief
5.	Taking Care of Property	Social development theory; emphasis on economic development and development

Source: Based on the reconstruction concept of Maqasid al-Shariah Jasser Auda (Arina Hakan, 2018: 146)

Jasser Auda reviews the mindset of classical medieval scholars, critiquing them for treating the five core pillars in a narrow, individualistic, and “passive-defensive” way (M. Abrar Dahlan et al,2026:46). For example, old classical manuals limited “protecting life” (*hifz al-nafs*) to passive criminal laws, like waiting for a murder to happen just to punish the killer through *qisas*. Auda reconstructs this entire concept using a systems approach built on features like *Wholeness* (treating rights as a unified whole), *Openness* (being open to universal values), and *Purposefulness* (focusing on human benefit). He argues that protecting life must be active, adaptive, and expansive. Instead of just policing crimes, a state truly fulfills the goals of Shariah by actively investing in human flourishing. This means integrating modern, measurable standards like ensuring universal access to quality healthcare, guaranteeing social security, and providing a clean, healthy living environment where every individual can live with genuine dignity.

To strengthen the contemporary rights-centric paradigm shift, modern legal discourse relies heavily on the structural deconstruction presented by the prominent contemporary jurist Taha Jabir al-Alwani. In his foundational study on religious liberty, al-Alwani asserts the ultimate authority and *maqāsidī* authority of the Quran over context-bound historical traditions. He demonstrates that while the Quran firmly protects human moral autonomy and contains over two hundred verses rejecting religious coercion, it maintains absolute silence regarding any worldly penal sanction for apostasy (*riddah*). Al-Alwani contends that classical jurists mistakenly established the death penalty by conflating a peaceful change of belief with a “compound crime” a medieval political phenomenon where religious conversion was inherently bound to active military defection and armed state treason. By separating private, voluntary conscience from public, violent subversion, al-Alwani’s framework provides a modern jurisprudential mechanism that invalidates state-enforced religious policing and aligns the preservation of religion (*hifz al-dīn*) directly with the defense of universal human dignity (Galela, et al., 2025: 395).

Contemporary scholars such as Thaha Jabir al-’Alwani are also of the view that human nature is religious including the right to freedom of religion which is one of the main purposes of narration. According to him, among the benefits of human beings that need to be celebrated is the right to freedom of religion (Hasbulloh Huda,2017:38-53). The guarantee of the right to freedom of religion is based on the view that the teachings of the Quran and Hadith also guarantee the personal affairs of an individual. Taha Jabir al-Alwani has contributed significantly to the evolution of *maqāsid al-sharī’ah* by proposing a distinction between the traditional framework and

a more contemporary interpretation. His approach emphasizes the need to expand the classical objectives of Islamic law to address modern challenges, advocating for a dynamic methodology that integrates Qur'anic objectives (*maqāṣid Qur'āniyya*) with contemporary realities and ethical imperatives. According to him, the traditional *maqāṣid* theory focuses more on protection and care, while the contemporary *maqāṣid* theory emphasizes more on human development and rights and rights (Muhammad Bushiri, 2017: 136).

The concept of *maqāṣid al-sharī'ah* has provided a comprehensive approach to the implementation of Islamic law in a multiracial society such as in Malaysia. Mohd Hashim Kamali, a contemporary scholar who described the principles of *maqāṣid al-sharī'ah* as one of the best approaches to dealing with contemporary issues in Islam (Hashim Kamali, 2011: 271). Mohd Hashim Kamali has made a connection between the concept of *maqāṣid al-sharī'ah* and the concept of *al hikmah* as stated in the Quran. This gives a new dimension that a law must consider various factors and not just depend on the literal meaning of a narration. The function of the *maqāṣid* theory is in fact important to explain the wisdom and rationality of a law that is Shariah to show the perfection of Islamic law itself. Andrew F March on the other hand highlights that *the maqāṣid* theory has the potential to pave the way for Islamic thought that is more creative and reformist in accordance with the new situations that exist (Andrew F March, 2011: 367). Scholars such as Yūsuf al-Qarāḍāwī, Jasser Auda, Mohammad Hashim Kamali, and Tariq Ramadan advocate for a purposive and context-sensitive interpretation of Sharī'ah that aligns with contemporary human rights values while remaining grounded in Islamic jurisprudence.

AN APPRAISAL OF CLASSICAL JURISTIC VIEWS IN BALANCING STATE INTEREST AND PERSONAL CONSCIENCE

According to this discussion of the concept of contemporary *maqāṣid*, the protection of religion includes freedom of religion and human belief. The contemporary scholar in *maqāṣid* develops the purpose of the Shariah by connecting it to the issue of human rights and development. The modern debate surrounding freedom of conscience in Muslim-majority societies cannot be resolved through a simple clash of civilizations. Rather, it requires a deeper exploration into understanding *riḍḍah* in Islamic jurisprudence: between textual interpretation and human rights. While classical frameworks frequently relied on literal, context-bound interpretations to police religious boundaries, a contemporary paradigm shift utilizes *maqāṣid al-sharī'ah* to

prove that true scriptural fidelity naturally demands the protection of absolute personal liberty.

When looking against general interests (*al-maṣāliḥ al-‘āmmah*), the classical consensus giving capital punishment for apostasy (*riddah*) was contextually suitable within its immediate medieval imperial background. Operating during an era of imperial expansion where religious adherence and state citizenship were completely attached, classical jurists had recognized that a public departure from the state-sanctioned faith functioned as an explicit act of political treason, military desertion, and armed subversion. Socio-historical analysis of early execution decrees such as those dissected by Abdul-Aziz al-Mut’ini reveals that the state was defending its borders from internal collapse against individuals who had committed independent acts of violent insurrection or war crimes against the early polity, rather than punishing private theological reflection (Al-Mut’ini, 1998: 75-89). This defensive rationale was further contextualized in modern legal thought by Abdul Qadir Awda, who pioneered the argument that classical *riddah* penalties were fundamentally context-bound, temporary administrative tools of state security rather than unchangeable, timeless divine mandates (‘Awdah n.d.: 536-542).

Consequently, the classical framework becomes fundamentally incorrect when applied as a universal, timeless rule for the modern era. With regard to specific interests (*al-maṣāliḥ al-khāṣṣah*), the classical defensive strategy (*jānib al-‘adam*) utterly fails because it tramples individual freedom of belief, which contemporary Maqāṣid theorists define as a primary, non-negotiable prerequisite for human moral autonomy (Ibn ‘Āshūr, 2006:87-93). By using physical coercion to police private conscience, this ancient application directly violates the clear, mass-transmitted (*mutawātir*) Quranic principle of absolute non-compulsion.

As Ibn ‘Āshūr notes in his analysis of the verse, the phrasing serves as a permanent, universal filter over historical reports, declaring that religious coercion is impossible and legally void because genuine faith (*īmān*) requires voluntary internal conviction. Furthermore, enforcing outward compliance through state terror causes a terrible systemic harm (*mafsadah*): it forces dissenters to feign belief under duress, structurally breeding institutional hypocrisy (*nifāq*) over sincere faith. As Jasser Auda’s systems approach demonstrates, a coercive legal architecture that fosters hypocrisy directly undermines the core metaphysical purpose of *ḥifẓ al-dīn* (safeguarding religion), thereby stripping the law of its foundational justice and purposefulness.

These reformist thinkers argue that the classical legal tradition must evolve to address modern realities, including religious diversity and minority rights.

Kamali and Auda, for instance, emphasize that *Maqāṣid*-based reasoning enables Islamic law to support broader notions of freedom of belief and social justice. This literature review critically examines how these evolving interpretations seek to harmonize doctrinal fidelity with the ethical imperatives of modern society, contributing to a more inclusive and humane understanding of Islamic law.

This outcome strongly echoes with the theoretical distinctions explored by (Khaitan and Norton, 2019: 1128). In their analysis of religious liberty, they map out two core interests evaluated from distinct points: the committed perspective, which centers on personal adherence and moral autonomy, and the non-committal perspective, which deals with the public, systemic management of religious identity. The contextual approach to *Maqasid* is not an abandonment of Islamic scripture, but rather it is argued that it uphold the true purpose of Islam which highlighted on justice, mercy and freedom (Azwarfajri et al., 2025: 199).

In light of the definition of *maqāṣid al-sharī'ah*, a critical question arises: how can a state effectively regulate the determination of an individual's Islamic religious status while simultaneously upholding the constitutional guarantee of freedom of religion? This tension highlights the need for a legal framework that balances the objectives of Islamic law with the pluralistic and rights-based principles enshrined in modern governance.

FAITH, LAW, AND APOSTASY: THE ISSUE OF THE RELIGIOUS DISAFFILIATION IN MALAYSIA

In Malaysia, it is argued that the relevant authorities have no compelling reason to allow apostasy (Norashikin Shariffuddin et al., 2023: 43). It confronts logic for a state with Islam as its official religion to allow its citizens to renounce their official religion. This suggests that the laws are in conflict and it is the federation's duty to safeguard, defend, and to propagate Islam. (Ong & Zuhair Rosli, 2021).

The application of contemporary theories in the context of religious freedom and the determination of individual religious status in Malaysia necessitates a cautious and methodologically sound approach. It is contended that any new exercise of *ijtihad* must be undertaken with due diligence to ensure a balanced reconciliation between constitutional guarantees of religious liberty and the jurisdictional authority of Islamic law (Mohamed Adil et al. 2023: 72). This is particularly pertinent in Malaysia, where the dual legal system comprising civil and Shariah courts often leads to complex jurisdictional overlaps in

matters of religious identity. Scholars have emphasized that *ijtihad* remains a vital tool in addressing evolving socio-legal challenges, provided it aligns with the *maqāsid al-Sharī'ah* (objectives of Islamic law) and contemporary realities (Nisar, 2023:71).

It is noted that the focus of religious preservation (*da'wah*), both rulers and religious scholars bear a profound responsibility to ensure that Muslim adherents remain persistent in their commitment to Islamic teachings (Ibrahim and Samudin, 2022: 243). There are two steps that need to be implemented to ensure the continuity of religious observance based on *maqāsid al-sharī'ah*, namely ensuring the existence and survival of Islam through the practice of implementing all Islamic teachings through *da'wah* and curbing the pollution of the Islamic faith including preventing apostasy. In implementing this step, power and political will are a necessity to ensure that the Islamic faith and Shariah are preserved (Syaza and Meor Alif, 2023: 437). In this regard, the law preventing Muslims from apostasy and deviation of the faith is in line with the concept of safeguarding religion as one of the objectives of *Sharī'ah*.

If a person is not outwardly a Muslim, conversion to Islam must be made voluntarily. Freedom of religion for Muslims means that Islam respects other religions and that adherents of other religions are free to practice their religion peacefully. The matter of faith is a matter of *ukhrawi* that will be counted in the hereafter. For those who have converted to Islam, it is obligatory for the individual to keep his faith until the end of life. In this regard, a convert's application to leave Islam is something that should not be underestimated by religious authorities.

Wan Naim in his study has put forward a policy and guidelines on how to implement the principle of maintaining religion according to the principle of *maqāsid al-sharī'ah* in facing current issues. The findings of his study show that the application of the objective concept of safeguarding religion in Shariah involves the need for humans to understand the reasons behind Allah's commands in matters involving religion including understanding the question of how Allah wants humans to benefit from religion itself. According to Wan Naim, there is a correlation between the level of impact of a punishment or regulation on the society and the degree of strictness of a policy made (Wan Naim, 2016: 379-382). For example, if something has a significant impact on society, then the policy that is enacted must be modest. The simplicity of this policy includes tolerance in using harsh approaches such as the death penalty, detention and obstruction to the right to freedom. In the case of leaving Islam or apostasy, the policy or punishment for the offence of leaving Islam can be severe when it affects the stability of the country and society, in contrast to the situation of leaving Islam which only involves a person's personal issues.

Understanding in the implementation of *Sharī'ah* is very much needed by the Muslim community today and it requires due attention by contemporary Islamic scholars. The question is, what parts of Shariah are categorized in moral aspects that have no legal effect and which parts are categorized as offences that must be enforced through law in society (Ibrahim and Samudin, 2022: 245). Luaoy Safi (2011: 211) stated that it is very important to know the categorization of a law in *Sharī'ah* to ascertain the extent to which the authorities can intervene in the moral affairs of an individual and the extent to which the authorities can intervene in the affairs of an individual's privacy. The author is of the view that the issue of determining one's Islamic religious status is a legal issue because the religious status affects a person's life. Therefore, it is appropriate for the responsible party to formulate a clear provision on how a person can obtain the status of a non-Muslim without neglecting the importance of safeguarding the Islamic faith.

The status of religion has an important impact on the life of the human soul. A man's will and need for religion is the original nature of man's creation. However, the environmental factors of life have made the human beings are divided according to their own religions and beliefs. The discussion regarding the recognition of a person as a Muslim show that every individual will not be forced to convert to Islam. However, if a person is covered with a veil of acceptance of Islam, then forcing and defending them as Muslims is not justified. This situation coincides with the nature of human beings who are made of various ethnicities and cultures when in reality Allah can make man as one people if He wills it. The Quran explains through verse 118 of Surah Hud which means;

“And say: ‘The truth comes from your Lord, so whoever wants (to believe) let him believe, and whoever wants (disbelieve) let him be a disbeliever.’”

The declaration that a person is no longer a Muslim show that the Shariah Court Judge has celebrated the individual's fitness to be religious with his or her own beliefs. This situation has been discussed by Al Ghazali (an Islamic philosopher) that even if a person's nature believes in the existence of God, if the nature of nature is not able to assess the true reality, then the individual will be on the wrong path (Naila Farah and Cucum Novianti, 2016: 189-215).

CONCLUSION

The jurisprudential evolution of *maqāṣid al-sharī'ah* from a medieval, state-centric framework into a modern, rights-centric philosophy provides a vital

legal bridge for contemporary religious liberty. By dissecting the structural classifications of Muslim jurists across history, it becomes clear that the classical validation of the death penalty for apostasy (*riddah*) was never an unchangeable spiritual directive. Rather, as proven by historical-sociological context, medieval executions were context-bound administrative, wartime measures designed to punish political treason, military desertion, and active subversion against imperial states.

When evaluated against the dual metrics of general and specific interests, the contemporary reformist paradigm shift spearheaded by Muhammad al-Tahir Ibn 'Āshūr emerges as the most doctrinally accurate framework for the modern era. By re-engineering the higher objective of safeguarding religion (*ḥifẓ al-dīn*) into the active, structural protection of absolute freedom of belief (*ḥurriyyat al-'aqīdah*), modern reformist thought seamlessly aligns Islamic legal philosophy with foundational scriptural mandates. This shift is beautifully operationalized by Jasser Auda's contemporary systems approach. Auda moves the *Maqāṣid* paradigm from a passive-defensive character which historically limited the preservation of life (*ḥifẓ al-nafs*) to restrictive criminal applications like *qisās* into an active-adaptive framework. Under this modern system, the true fulfillment of *ḥifẓ al-nafs* and *ḥifẓ al-'aql* is measured by positive human resource development, such as state investments in healthcare, education, and modern welfare standards.

Ultimately, human rights in Islam are fundamentally theocentric, existing as a transcendental bestowal and divine gift directly from Allah under His absolute sovereignty. Because true faith (*īmān*) requires absolute, uncoerced internal conviction of the heart, utilizing state penal frameworks to enforce religious compliance achieves the exact opposite of divine intent. Coercion fails to protect the faith; instead, it systematically cultivates institutional hypocrisy (*nifāq*) by forcing individuals to maintain outward conformity under duress.

Therefore, as observed in contemporary pluralistic legal landscapes like Malaysia, state frameworks must transition away from old, context-dependent imperial treason logic. To truly honor the overarching, non-coercive spirit of the Quran, modern states must recognize that a faith maintained by fear is spiritually void, making the absolute protection of freedom of conscience a mandatory requirement for a just, ethical, and civilized society.

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