

MAQASHID SHARIA AS THE BASIS FOR DECISION MAKING OF CORPORATE SOCIAL RESPONSIBILITY BASED ON A PROPHETIC LEGAL PARADIGM

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Abstract

In principle, corporate social responsibility (CSR) is a company's commitment to participate in building a sustainable economy to improve the quality of life and the environment for the benefit of the company, the community, and the surrounding environment. In practice, however, many CSR programs are merely oriented towards the fulfilment of company obligations, which certainly affects the quality of CSR implementation. The prophetic legal paradigm is one perspective for carrying out activities derived from the divine order, based on three basic principles: amar ma'ruf (humanization), nahi munkar (an order to stay away from the things of faith and claimed disadvantages of Islam/liberation) and tu'minuna billah (transcendence). In this study these three principles are linked to the objectives of Islamic law known as maqashid sharia constituting different levels of implementation: dharuriyyat (essential needs), hajiyyat (complementary needs) and tahsiniyyat (tertiary needs).

Keywords: CSR, Prophetic Law, Maqashid Syariah, decisions.

A. Introduction

The 2016 economic census revealed that the number of companies in Indonesia totaled 26.711.001,² while the 2020 population census showed 270.203.917

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² Badan Pusat Statistik, 'Jumlah Usaha/Perusahaan menurut Kategori Lapangan Usaha dan Tempat Usaha' (Badan Pusat Statistik, 2016) <<https://se2016.bps.go.id/umkumb/index.php/site/tabel?tid=1&wid=0>> accessed 5 March 2022.

people.³ Of these figures, some companies are known to apply sharia principles, as observable from the data indicating that Indonesia is a country with the largest number of sharia banks in the world. The data released by the Financial Services Authority (OJK) on Sharia Banking Statistics (SPS) as of November 2021, highlighted that Islamic banks in Indonesia totaled around 196.⁴ This number consisted of 13 Islamic Commercial Banks, 20 Islamic Business Units, and 163 Islamic Financial Institutions. The data pinpointed quite a number of companies that apply sharia principles, and thus their corporate social responsibility is related to social activities based on Islamic activities. This is in line with the following Quranic verse:

وَلِكُلِّ وِجْهَةٌ هُوَ مُوَلِّيٰهَا فَاسْتَبِقُوا الْخَيْرَاتِ أَيْنَ مَا تَكُونُوا يَأْتِ بِكُمْ اللَّهُ جَمِيعًا إِنَّ اللَّهَ عَلَىٰ
كُلِّ شَيْءٍ قَدِيرٌ ١٤٨

translated as “to each is a goal to which God turns him; then strive together (as in a race) toward all that is good. Wheresoever ye are God will bring you together. For God hath power over all things.” (QS. Al-Baqarah (2): 148)

The aforementioned verse requires all mankind to strive for goodness. In the same vein, while it is true that every company is established to seek for profit, Islamic-based companies shall not only be profit-oriented, but also be socially oriented, as it should prioritize the value of worship (reward).

In principle, the concept of prophetic paradigm was originally offered as a synthesis of the major debates occurring among Muslim scholars regarding theology.⁵ Prophetic is defined as prophethood, which places revelation (Al-Qur’an) and Hadith (*as-sunnah*) as the main source of law.⁶ The Prophetic Paradigm is characterized by three elements: transcendence, humanization, and liberation. The understanding of these three elements is intended to find elements that are relevant to the development of science based on philosophical knowledge and understanding. These three elements are derived from the

³ Badan Pusat Statistik, ‘Hasil Sensus Penduduk 2020’ (Badan Pusat Statistik, 2020) <[⁴ Otoritas Jasa Keuangan, *Sharia Banking Statistic* \(Otoritas Jasa Keuangan 2021\) <<https://www.ojk.go.id/id/kanal/syariah/data-dan-statistik/statistik-perbankan-syariah/Documents/Pages/Statistik-Perbankan-Syariah---November-2021/SPS%20November%202021.pdf>>.](https://www.bps.go.id/pressrelease/2021/01/21/1854/hasil-sensus-penduduk-2020.html#:~:text=Hasil%20Sensus%20Penduduk%20(SP2020)%20pada,sebanyak%20141%20jiwa%20per%20km2.> accessed on 5 March 2022.</p>
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⁵ Ash-shidiqqi, E. A. ‘Meneropong Ilmu Hukum Profetik: Penegakan Hukum yang Berketuhanan’ (2020) 2 *Amnesti Jurnal Hukum* 1, 33-42.

⁶ Ahimsa-Putra, H. S., *Paradigma Profetik Islam: Epistemologi etos dan model* (UGM PRESS 2019).

understanding of liberalism, Marxism, and religion, as contained in the provisions of the Quran Surah Ali Imran (3): 110 as follows:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ بِاللَّهِ
وَلَوْ ءَامَنَ أَهْلَ الْكِتَابِ لَكَانَ خَيْرًا لَهُمْ مِمَّنْهُمْ الْمُؤْمِنُونَ وَأَكْثَرُهُمُ الْفَاسِقُونَ ١١٠

translated as: You are now the best people brought forth for (the guidance and reform of) mankind. You enjoin what is right and forbid what is wrong and believe in Allah. Had the People of the Book⁸⁹ believed it were better for them. Some of them are believers but most of them are transgressors.

Many Corporate Social Responsibility (CSR) programs are merely carried out by conventional companies and sharia companies to fulfil their obligations, and comply with the prevailing legal provisions. Companies implementing sharia provisions or principles should not only be oriented towards fulfilling obligations to the state and society, but also the obligations of Allah as the creator.⁷ *Maqashid Sharia* is one of the essential Islamic concepts that refers to the objectives of Islamic law or sharia, the framework of which is derived from a critical approach in the field of jurisprudence. This concept focuses on the well-being and benefit of individuals, society, and humanity in general⁸ as a way to consider broader social, economic, and environmental impacts.⁹ In this article, this concept serves as a basis for implementing Corporate Social Responsibility programs, especially for Islamic companies. This is conducted to ensure that these goals function as an important component in Islamic law to protect fundamental human rights, social justice, and to foster an understanding of Islamic law and its goals. This *Maqashid Syariah* conceptual framework identifies five main objectives: protection of faith (*al-din*), protection of life (*al-nafs*), protection of intellect (*al-'aql*), protection of lineage (*al-nasl*)

⁷ Jejen Hendar, 'Corporate Social Responsibility (CSR) Dalam Prespektif Hukum Islam' (2017) 15 Jurnal Syiar Hukum 1.

⁸ Miftahul Huda, Imam Haryadi, Adib Susilo, Achmad Fajaruddin, and Fadhila Indra, 'Conceptualizing waqf Insaan on i-HDI (Islamic human development index) through management Maqashid Syariah' in *Proceedings of the 1st International Conference on Business, Law And Pedagogy, ICBLP 2019, 13-15 February 2019*, (Sidoarjo, 2019). See also in Dusuki, Asyraf Wajdi, and Nurdianawati Irwani Abdullah, 'Maqasid al-Shariah, Maslahah, and Corporate Social Responsibility' (2007) 24 American Journal of Islamic Social Sciences 1, 25.

⁹ Saifuddeen, Shaikh Mohd, Noor Naemah Abdul Rahman, Noor Munirah Isa, and Azizan Baharuddin, 'Maqasid al-Shariah as a complementary framework to conventional bioethics' (2014) 20 Science and engineering ethics (2014), 317-327.

and protection of property (*al-mal/wealth*).¹⁰ Thus, the application of *Maqashid Syariah* in decision making on corporate social responsibility programs is intended to provide an overview on the use of this basic concept on the implementation of CSR programs in companies in Indonesia, especially in sharia-based companies.

B. Problem Formulation

On the basis of the aforementioned problems, it is deemed necessary to conduct a study on *maqashid sharia* as a basis for social and environmental responsibility programs derived from the prophetic legal paradigm limited to the following problem formulation: first, how are corporate social responsibility and a prophetic legal paradigm related? Second, how *maqashid sharia* applied to decision making of corporate social responsibility programs based on a prophetic legal paradigm?

C. Methodology

The scientific research method was applied in this research,¹¹ particularly using a qualitative approach and normative juridical legal research.¹² The sources of data were obtained from library research to obtain secondary data consisting of primary legal materials, including relevant laws and regulations, secondary legal materials (books, journals, and research results), and tertiary legal materials (legal dictionaries). The data were analyzed with descriptive qualitative legal material.¹³

D. Discussion and Results

1. The Concept of Maqashid Sharia

The meaning of *maqashid ash-shari'ah* started with a simplest meaning then evolving to a holistic meaning.¹⁴ The concrete and comprehensive definition of the concept had not been proposed by classical scholars before Al-Syathibi. According to Al-Syathibi, every command and prohibition of Allah has the goal of bestowing

¹⁰ Meri Indri Hapsari and Zainal Abidin, 'Zakat distribution in maqasid al-shariah framework' (2016) 2 Journal of Islamic Financial Studies 2.

¹¹ Asfi Manzilati, *Metodologi penelitian kualitatif: Paradigma, metode, dan aplikasi*. (Universitas Brawijaya Press 2017). See also Rianto Adi, *Metodologi Penelitian Sosial dan Hukum* (Yayasan Pustaka Obor Indonesia 2021).

¹² Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum: Normatif dan Empiris* (Prenadamedia Group 2018).

¹³ Burhan Bungin, *Metodologi Penelitian Kuantitatif: Komunikasi, Ekonomi, dan Kebijakan Publik Serta Ilmu-Ilmu Sosial Lainnya* (Kencana 2014).

¹⁴ Teguh Anshori, 'Menuju Fiqih Progresif (Fiqih Modern Berdasarkan Maqashid Al Syariah Perspektif Jaser Auda)' (2020) 2 Al-Syakhsyiyah: Journal of Law & Family Studies 1, 168-181. See also Busyro, *Maqâshid al-syarîah: Pengetahuan Mendasar Memahami Masalahah*. (Prenada Media 2019).

benefit and avoiding harm, both rules in the field of world life and in the field of worship.¹⁵

The basic concept of *maqashid sharia* is rooted in the belief that Islamic law aims to serve and prioritize the greater good of society, provide benefits for humanity and prevent from harm. One of the main manifestations of *maqashid sharia* is the achievement of benefit for society, including safety, security, and health. This can be achieved through harmonious relationship between individuals and society, as well as with the surrounding environment. *Maqashid sharia* serves as an essential concept in the development and application of Islamic economic and financial theories, as well as other areas of Islamic law.¹⁶

Departing from various definitions, the scholars classify *maqashid sharia* into several categories. Abu Ishaq al-Syathibi described three categories: *dharuriyyat* (essential), *hajiyyat* (complementary), and *tahsiniyyat* (tertiary).¹⁷

a. *Dharuriyat*

Dharuriyat refers to what is absolute/must exist in human endeavors to benefit this world and in the hereafter. If *dharuriyat* does not exist, the benefit of the world cannot be achieved and will even damage the benefit itself. In other words, *adh-dharuriyyat* is an essential goal of human life known as *adh-dharuriyyat al-khams*,¹⁸ namely protection of faith, life, mind, lineage, and wealth.¹⁹ Protection refers to the attempt to strengthen its elements and its foundations, in addition to serving as an aspect to prevent from harming these five basic needs for protection.

1) Protection of Faith

Protection of Faith at the level of *al-dharûriyah* consists of habitually carrying out religious commands, which are classified in the primary level of obligations, such as carrying out the five daily prayers, fasting, zakat,

¹⁵ S Khatib, 'Konsep Maqashid Al-Syariah: Perbandingan Antara Pemikiran Al-Ghazali dan Al-Syathibi' (2018) 5 Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan 1, 47-62. See also Ali Mutakin, 'Teori Maqâshid Al Syarî'ah dan Hubungannya dengan Metode Istinbath Hukum' (2017) 19 Kanun Jurnal Ilmu Hukum 3, 547-570.

¹⁶ Nur Khalish, Muhammad Roy Purwanto, Tamyiz Mukharromd Supriadic, and Hamidullah Marazie, 'The significance of Maqasid Syariah principles in improving Islamic economics and finance' (2020) 13 International Journal of Innovation, Creativity and Change 3. See also Nurhad, 'The Importance of Maqashid Sharia as a Theory In Islamic Economic Business Operations' (2019) 3 International Journal of Islamic Business and Economics 2, 130-145.

¹⁷ Nofialdi, 'Maqasid Al-Syari'ah dalam Perspektif Syatibi' (2017) 8 Al-Fikra: Jurnal Ilmiah Keislaman 8, 128-155. See also Zaprulkhan, *Rekonstruksi Paradigma Maqashid Asy-Syari'ah: Kajian Kritis dan Komprehensif* (IRCISOD 2020).

¹⁸ Zaprulkhan (n 18).

¹⁹ Afridawati, 'Stratifikasi Al-Maqashid Al-Khamsah (Agama, Jiwa, Akal, Keturunan Dan Harta) dan Penerapannya dalam Masalah' (2015) 13 Al-Qisthu: Jurnal Kajian Ilmu-ilmu Hukum Islam 1. See also in Afridawati, 'Stratifikasi Al-Maqashid Al-Khamsah (Agama, jiwa, Akal, keturunan dan Harta)' (2011) 6 Al-Qisthu: Jurnal Kajian Ilmu-Ilmu Hukum 2, 100-117. See also Azwar Iskandar and Khaerul Aqbar 'Green Economy Indonesia dalam Perspektif Maqashid Syari'ah' (2019) 3 Al-Mashrafiyah: Jurnal Ekonomi, Keuangan, dan Perbankan Syariah 2, 83-94.

and pilgrimage.²⁰ Neglecting these mandatory prayers means threatening the existence of religion. The same is applied in protecting religion from external threats, which is obligatory. This provision is seen as strengthening the existence of religion itself. As for rejecting things that interfere with the existence of religion, there are prohibitions that result in threats and sanctions for the perpetrators, for example being prohibited from leaving Islam (apostasy), and if continued, they are threatened with the label of disbeliever and face the death penalty.²¹ Likewise threats to people who do not carry out the orders of prayer, fasting, zakat, and pilgrimage.

2) Protection of Life

Protection of life serves as the second priority after religion. Islamic law never justifies harming other people's lives as well as one's own.²² Allah has absolute power over other people's lives, and no one has the right to release it from someone except Allah. When someone precedes the power of Allah by taking other people's lives, in addition to eliminating the existence of one's soul, it also precedes what one does not deserve before Allah. Therefore, Allah has promised those who killed a human without any justification with severe chastisement of hell and the label to be considered to have killed everyone. Not only intentional killings unintentionally committed murders are also punishable by expiation. Thus, in another less lethal form, but is sufficient to threaten those who harm other people's lives, Allah also prescribes qisas in this regard. Hence, in Islamic law, persecution is also included in the law to imposed with qisas, or repaying something in line or in proportion to what one has done.

Protection of life at the *al-dharûriyah* level also covers fulfilling basic needs in order to maintain the continuity of life, for example the need for food, clothing, and shelter.²³ In this case, Ibn Taimiyah articulated that it is obligatory to eat in an emergency situation, even if it is forbidden food. On the other hand, it is illegal to kill other people's life without any Islamic legal justification. In addition, Islamic law also forbids suicide and persecution, even though it does not lead to murder. Cases of persecution in Islamic law are also subject to qishas punishment. Disregarding the need to protect life threatens the existence of the human life.

3) Protection of the Mind

Intellect is an element possessed by humans that distinguishes them from animals. Humans live by reason,²⁴ use their minds to think, solve problems with their minds, and various other functions of reason. A distorted mind disturbs someone's life journey as a human being. Similarly, a person who is no longer able to protect his mind as seen as

²⁰ Jejen Hendar, Nurul Chotidjah and Abdul Rohman, 'Implementasi Tanggung Jawab Sosial Perusahaan pada Perbankan Syariah Ditinjau dari Maqashid Syariah' (2021) 20 Anterior Jurnal 3, 70-79.

²¹ N.T. Utami, 2021 *Analisis Hukum Islam terhadap Putusan Pengadilan Tinggi Agama Bandung Nomor 0023/Pdt. G/2018/PTA. Bdg tentang Penolakan Isbat Nikah* (Doctoral Dissertation UIN Sunan Ampel Surabaya).

²² Jejen Hendar, Nurul Chotidjah and Abdul Rohman (n 21).

²³ Busyro (n 19).

²⁴ Siti Khasinah, 'Hakikat Manusia menurut Pandangan Islam dan Barat' (2013) 13 Jurnal Ilmiah Didaktika: Media Ilmiah Pendidikan dan Pengajaran 2. See also Busyro (n 19).

mentally ill or developmentally disabled and never leads a sweet life as someone who uses the mind to reason. Therefore, Allah has ascertained the rules to protect the mind through His commands and prohibitions for preserving the human mind.

Protecting intellect at the level of *al-dharûriyah*, is a necessity for allowing someone to have a sound mind. Therefore, it is necessary for everyone to learn the knowledge to improve the quality of reason. Islam has also prohibited things that can eliminate someone's ability to reason, for example, drinking alcohol. Violation to this provision threatens the existence of human reason. Therefore, someone who violates this provision is imposed to punishment of flogging with 80 lashes and threats of torture in the hereafter.

4) Protection of Lineage

Having children is one of the primary goals of marriage.²⁵ On this basis, Islam regulates the relationship between a man and a woman through marriage, urging them to have children and grandchildren who continue the family lineage. Allah has recognized the importance of marriage institution to protect lineage, as well as the whole society. Therefore, abandoning the institution of marriage leads to the disruption of lineage and the whole community, since there is no more honor in the relation to offspring in the perspective of Allah and society. Having offspring is one of the primary goals of marriage because a clear lineage generates clear regulation related to family laws, such as inheritance, and kinship, which must be protected firmly.

Protection of offspring at the *al-dharûriyah* level is derived from the law of marriage and the prohibition of adultery.²⁶ Marriage is a legal way to have children, since otherwise children from adultery are not recognized as legitimate offspring. Therefore, ignorance of the rules surrounding children disrupts the family lineage, both in this world and in the hereafter. The importance of this clear lineage does not only produce benefits in this world, but also for the hereafter.

5) Protection of Wealth

Wealth supports human life and helps achieve happiness in the hereafter.²⁷ Wealth enables people to get what they want and to worship properly. Therefore, Islam recognizes private property rights, because property rights led to a happy life in the world. Conversely, people deprived of wealth find it hard to get what they want easily. Instead, he leads a difficult life and even troublesome for others. Someone who is impoverished cannot perform Islamic rituals requiring the abundance of wealth, such as zakat and hajj. Therefore, wealth is an essential life support that is recognized in the Quran. Allah has commanded people to seek wealth and forbids taking other people's property.

Protection of wealth at the *al-dharûriyah* level covers the prescribed procedures for ownership of assets through buying and selling, the obligation to seek sustenance, the obligation to maintain trust over

²⁵ Busyro, 'Menyoal Hukum Nikah Misyar dalam Potensinya Mewujudkan Maqasid al-Asliyyah dan al-Tab'iyah dalam Perkawinan Umat Islam' (2017) 11 Al-Manahij: Jurnal Kajian Hukum Islam 2, 215-232.

²⁶ Busyro (n 19).

²⁷ Busyro (n 19).

people's assets, and the distribution of assets through inheritance. Likewise, it is obligatory to issue zakat if the assets have reached the *nisab* and *haul*. On the other hand, Islamic law prohibits taking other people's property in an improper way, such as stealing and robbing. Other illegal taking of property is also prohibited such as usury, cheating, consuming the property of orphans unjustly, committing bribes (*risywah*), and others. Violation against this rule results in clear losses due to the lack of maintenance of assets.

b. *Hajiyat*

Hajiyat is something that is needed for freedom and eliminating the narrowness that leads to difficulties.²⁸ However, the damage to the *hajiyat* does not harm the benefits at the *dharuriyat* level. Even though it does not harm life, its existence is needed to provide convenience in life.

The purpose of *hajiyat* and its legal aspect are grouped into three groups:

- 1) Things that are ordered by legal jurisprudence based on the do's and don'ts. For example, establishing a school in connection with knowledge for improving the quality of the mind. Establishing a school is indeed necessary, but even without being established, it does not mean that efforts to gain knowledge are not achieved, because studying can be carried out outside of school.
- 2) Things forbidden by the law that are to be avoided to prevent from indirectly violating one of the essential elements.
- 3) All forms of convenience included in the law of *rukhsah* (convenience) that provide relief for human life.

c. *Tahsiniyyat*

Tahsiniyyat is taking something in accordance with customary goodness and stay away from conditions that stain or tarnish someone and leads to a disgrace in the eyes of reason.²⁹ It shall exist to ease life. However, without the fulfillment of these tertiary needs, life is not harmed and does not cause any difficulties. Its existence is desired for the glory of morality and the goodness of social order.

The division of sharia objectives on these three matters simultaneously indicates or is based on the level of interests/needs and priority scales. The *daruriyat* level is higher than *hajiyat* level, and *hajiyat* level is higher than *tahsiniyyat* level.

2. Concept of Corporate Social Responsibility

From the western perspective, companies are only established with the aim of collecting profits and prioritizing personal interests despite the harm against the

²⁸ Sri Astuti A. Samad and Munawwarah 'Adat Pernikahan dan Nilai-Nilai Islami dalam Masyarakat Aceh menurut Hukum Islam' (2020) 3 El-USRAH: Jurnal Hukum Keluarga 2, 289-302. See also Mursyid Djawas and Sri Astuti A. Samad, 'Conflict, Traditional, and Family Resistance: The Pattern of Dispute Resolution in Acehnese Community According to Islamic Law' (2020) 4 Samarah: Jurnal Hukum Keluarga dan Hukum Islam 1, 65-84.

²⁹ Mohammad Daud Ali, *Hukum Islam Pengantar Hukum Islam dan Tata Hukum Islam di Indonesia* (Raja Grafindo Persada 2001).

rights of others.³⁰ This misalignment of views has created serious social problems,³¹ thus causing a widespread reaction from other parties who deem that business is not only about seeking for profit but also about taking the surrounding environment into account by maintaining ethical and social balance in nature.³² The extensive attention to environmental problems, pressure from public outcry, and regulations that change the way people do business have prompted the creation of sustainable development and brought about the concept of CSR in the west.

A large number of companies are running CSR programs for several reasons,³³ first among which is market pressure from users, workers or the capital market, to select company products that have social responsibility and ethics in doing business.³⁴ The second reason is owing to pressure from laws and regulations and governments to carry out CSR activities.³⁵ The third is attributed to the growing power and influence of communication tools, both in the form of mass media and print media, which encourage consumers to form organizations, playing a role in pressuring companies to carry out social activities towards the community,³⁶ and the fourth reason is due to CSR ability to generate profits for the company.

The concept of CSR was first conveyed by Bowen,³⁷ who stated that CSR is a business decision to provide good for to society. Davis³⁸ had further explanation of CSR as a voluntary effort of a company to create an economic balance with the

³⁰ Hari Sutra Disemadi and Paramita Prananingtyas, 'Kebijakan Corporate Social Responsibility (CSR) sebagai Strategi Hukum dalam Pemberdayaan Masyarakat di Indonesia' (2020) 4 *Jurnal Wawasan Yuridika* 1, 1-16. *See also* Suspim G. Nainggolan, 'Penggabungan (Merger) Perseroan Terbatas di Indonesia dan Dampaknya terhadap Pekerja' (2017). 20 *Premise Law Journal*. *See also* Roland Bénabou and Jean Tirole, 'Individual and Corporate Social Responsibility' (2010) 77 *Economica* 305, 1-19.

³¹ Ahmad Nurkhin, *Corporate Governance dan Profitabilitas; Pengaruhnya terhadap Pengungkapan Tanggung Jawab Sosial Perusahaan: Studi Empiris pada Perusahaan yang Tercatat di Bursa Efek Indonesia* (Doctoral Dissertation, Pascasarjana Universitas Diponegoro 2009).

³² M. A. Daniri, 'Standarisasi Tanggung Jawab Sosial Perusahaan' (2008) 2 *Indonesia: Kadin Indonesia* 1, 1-36. *See also* Disemadi (n 31).

³³ Asyraf Wajdi Dusuki dan Humayon Dar, 'Stakeholders' Perceptions of Corporate Social Responsibility of Islamic Banks: Evidence from Malaysian Economy' [2007] *Islamic Economics and Finance*, 249.

³⁴ Ismail Badollahi, 'Perlakuan Akuntansi Tanggung Jawab Sosial Perusahaan Untuk Pengembangan Masyarakat Sekitar PT Semen Tonasa' (2019) 2 *Jurnal Akun Nabelo: Jurnal Akuntansi Netral, Akuntabel, Objektif* 1, 171-180.

³⁵ Disemadi (n 31) 1-16.

³⁶ Marzully Nur and Denies Priantinah, 'Analisis Faktor-Faktor yang Mempengaruhi Pengungkapan Corporate Social Responsibility di Indonesia (Studi Empiris Pada Perusahaan Berkategori High Profile Yang Listing di Bursa Efek Indonesia)' (2012) 1 *Nominal: Barometer Riset Akuntansi dan Manajemen* 2, 22-34.

³⁷ Howard R. Bowen, *Social Responsibilities of the Businessman* (Harper & Brothers 1953).

³⁸ Keith Davis, 'Understanding the Social Responsibility Puzzle' (1967) 10 *Business Horizons* 4, 45-50.

surrounding circumstances. The concept of CSR was redeveloped by John Elkington,³⁹ who defined CSR as a concept for organizations, especially for-profit companies as an obligation to consider the interests of users, workers, shareholders, the community, the surrounding environment in all aspects of its operations.

In Indonesia, CSR is marked by the issuance of Law Number 40 of 2007 concerning Limited Liability Companies as the birth of a new round of regulation regarding CSR, even though discussions on CSR had started long before the issuance of this law. With the enactment of this law, the provisions for implementing CSR, which were originally limited to voluntary programs, have become mandatory.⁴⁰ CSR implementation is regulated through this Law, as stipulated in Article 1 number 3 that CSR is a company's commitment to participate in sustainable economic development, which is intended to improve the quality of life and the quality of the environment that is beneficial to companies, communities, and the public at large.

This concept highlights the word "commitment," which is defined as an agreement, attachment, or responsibility to do something. In the Act, the CSR is defined as an agreement, commitment, or responsibility of a company to carry out sustainable economic development with the aim of improving the quality of people's lives, which includes improving the quality of health, economy, social, and education. Besides, in order to improve the quality of the environment, which includes preventing environmental damage and environmental pollution,⁴¹ improving the quality of life and the environment certainly benefits the sustainability of businesses, communities, and the public at large.

CSR programs are regulated in Article 74, stipulating the obligations for companies in the field of natural resources and companies related to natural resources to run their CSR programs. The elucidation of the Law explains that the provisions in obliging companies to carry out CSR activities are aimed at constantly

³⁹ John Elkington, *Cannibals With Forks: The Triple Bottom Line Of Twenty-First Century Business* (Capstone 1997).

⁴⁰ Andrew Shandy Utama, Pelaksanaan Tanggung Jawab Sosial dan Lingkungan Perusahaan Berdasarkan Undang-Undang Nomor 40 Tahun 2007 untuk Meningkatkan Kesejahteraan Masyarakat Kecamatan Rumbai Pesisir Kota Pekanbaru (2018) 4 Jurnal Cendekia Hukum 1, 26-36.

⁴¹ Mira Rosana, 'Kebijakan Pembangunan Berkelanjutan yang Berwawasan Lingkungan di Indonesia' (2018) 1 Kelola: Jurnal Sosial Politik 1, 148-163.

creating harmonious, balanced, and compliance with the environment, values, norms, and culture of the local community.⁴²

Under this regulation, the designation of CSR is only limited for companies that run their business in the field of natural resources or companies that manage and utilize natural resources. It is also applicable to companies running business related to natural resources and companies that do not manage natural resources or carrying out activities utilizing natural resources but having their business activities resulted to an impact on natural resources.

The provision of CSR in Article 74 paragraph (1) changed the requirement for every company engaged in the natural resources sector and related to carrying out CSR activities from initially voluntary to mandatory. It is expected that government intervention in the implementation and regulation of CSR leads to maximum implementation as a way to create a harmonious and balanced relationship between the company in accordance with the environment, values, and norms.⁴³ The management of companies engaged in the field of natural resources plays an important role, especially in relation to environmental sustainability as a legacy of mankind in the future.⁴⁴

This is so because companies are mostly responsible for pollution, global warming, environmental damage due to its business activities.⁴⁵ Therefore, the government as the regulator, issues provisions of Article 33 paragraph (3) of the 1945 Constitution, stipulating that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.⁴⁶ In running their businesses, companies benefit from the community and the surrounding environment, which thus makes it necessary for the companies to preserve the environment and improve people's lives.

Article 74 also regulates the costs of these CSR program, which must be budgeted as expenses in public disclosures. The report shall be included in the

⁴² Rudi Pisteo, Fajar Sugianto, dan Sanggup Leonard Agustian, 'Pemaknaan Kembali terhadap Tanggung Jawab Sosial dan Lingkungan Perusahaan' (2020) 3 Jurnal Hukum Magnum Opus 1, 1-13.

⁴³ Yusuf Mastur Hadi, *Aspek Hukum Pelaksanaan CSR bagi Perusahaan di Indonesia* (Doctoral Dissertation Universitas Islam Kalimantan 2021).

⁴⁴ Maret Priyanta, Penerapan Konsep Konstitusi Hijau (Green Constitution) di Indonesia sebagai Tanggung Jawab Negara dalam Perlindungan dan Pengelolaan Lingkungan Hidup (2016) 7 Jurnal Konstitusi 4, 113-130.

⁴⁵ T. Romi Marnelly, Corporate social responsibility (CSR): Tinjauan teori dan praktek di Indonesia (2012) 2 Jurnal Aplikasi Bisnis 2, 49-59.

⁴⁶ Hardiansyah Hamzah, 'Politik Hukum Sumber Daya Alam' (2019) 6 *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 2, 276-290.

annual report. The next paragraph of the article also requires the CSR to be carried out with due regard to the aspects of decency and fairness.⁴⁷ This provision leads to a different problem for companies, because there are no clear provisions for defining decency and fairness, which results in different interpretations.⁴⁸

3. Concept and Paradigm of Prophetic Law

In prophetic law, jurisprudence is not only based on the level of *haqq al-yakin* (true belief) derived from the Qur'an and Hadith, but also on truth gained from the human ability to contemplate, reason, and think about the existing discourses in society. In terms of prophetic paradigm, the revelation serves as a general theory that must be reduced to a theoretical to practical stage. The main epistemology of the Islamic prophetic paradigm consists of monotheism,⁴⁹ prophecy,⁵⁰ and knowledge.⁵¹

The prophetic law concept was originally derived from a synthesis of the major debate that occurred among Muslim scholars regarding theology.⁵² Prophetic concept is defined as prophethood by placing revelation (Al-Qur'an) and Hadith (as sunnah) as the main source of law.⁵³ The Prophetic Paradigm is characterized by 3 elements: transcendence, humanization, and liberation.⁵⁴ Understanding of these three elements is directed to seek for relevant elements to the development of science, based on philosophical knowledge and understanding. These three characteristics are taken from

⁴⁷ Yeti Sumiyati, Jejen Hendar, Taty A. Ramli, and M. Faiz Mufidi, 'Kriteria Kepatutan dan Kewajaran dalam Tanggung Jawab Sosial Perusahaan menurut Hukum Islam' (2018) 2 *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah* 1, 58-68.

⁴⁸ Rachmad Robby Nugraha, Siti Hamidah, dan Moch. Fadli, 'Makna Kepatutan dan Kewajaran Berkaitan dengan Tanggung Jawab Sosial Perusahaan dalam Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas' (2018) 3 *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan* 2, 176-185.

⁴⁹ The view that God or Allah SWT is the Supreme Being, who created nature and all its contents, including humans, then chooses and appoints a human being to be a messenger for Him or to become a prophet to convey His messages in the form of commands and prohibitions to the people. *Tawhid* is defined as the views and beliefs that underlie all the basic assumptions in the prophetic paradigm. See Heddy Shri Ahimsa-Putra, *Paradigma Profetik Islam: Epistemologi Etos dan Model* (UGM PRESS 2019).

⁵⁰ In the prophetic paradigm, prophethood is seen as a human figure called a prophet, and is understood as a human being who was given the ability by God (Allah SWT, who is believed to have created this world and its contents) to have direct contact and gain knowledge from Him. Look in Ahimsa-Putra (n 50).

⁵¹ Science is knowledge obtained through a certain process called the scientific method, it is this method that distinguishes science from the fruit of thought. See J. S. Suriasumantri, *Ilmu dalam perspektif* (Yayasan Obor Indonesia 1999).

⁵² Ellectrananda Anugerah Ash-shidiqqi, 'Meneropong Ilmu Hukum Profetik: Penegakan Hukum yang Berketuhanan' (2020) 2 *Amnesti Jurnal Hukum* 1, 33-42.

⁵³ Ahimsa-Putra (n 50).

⁵⁴ P. Astuti (2018). *Nilai-Nilai Profetik dan Implikasinya bagi Pengembangan Kurikulum Pendidikan Agama Islam (Studi Pemikiran Kuntowijoyo)* (Doctoral Dissertation UIN Raden Intan Lampung 2018); M. Z. Abidin, *Filsafat Ilmu-Ilmu Keislaman Integralistik: Studi Pemikiran Kuntowijoyo* (2016) 13 *Jurnal Ilmiah Ilmu Ushuluddin* 2, 119-134; Menurut Kuntowijoyo, ketiga hal tersebut diartikan sebagai pilar dari ilmu sosial profetik, see Kuntowijoyo, *Islam sebagai Ilmu Epistimologi, Metodologi, dan Etika* (Tiara Wacana 2006).

the concept of liberalism, Marxism, and religion, while in Islam, these provisions are written in the Quran Surah Ali Imran (3): 110 as follows:

كُنْتُمْ خَيْرَ أُمَّةٍ أُخْرِجَتْ لِلنَّاسِ تَأْمُرُونَ بِالْمَعْرُوفِ وَتَنْهَوْنَ عَنِ الْمُنْكَرِ وَتُؤْمِنُونَ بِاللَّهِ
وَلَوْ ءَامَنَ أَهْلُ الْكِتَابِ لَكَانَ خَيْرًا لَهُمْ مِّنْهُمْ الْمُؤْمِنُونَ وَأَكْثَرُهُمُ الْفَاسِقُونَ ۝ ۱۱۰

Translated as “Ye are the best of peoples evolved for mankind enjoining what is right forbidding what is wrong and believing in God. If only the People of the Book had faith it was best for them; among them are some who have faith but most of them are perverted transgressors.”

The Quranic interpretation of the Ministry of Religious Affairs of the Republic of Indonesia,⁵⁵ explains that: Once Allah has explained the obligation of preaching for Muslims and maintaining unity and oneness, this verse also explains that this instruction is required because Muslims are the best and most important people in the sight of Allah ever born. In other words, it was revealed to all mankind until the end of time, because Muslims are commanded to do what is good, and prevented from what was wrong. They are also required to believe in Allah with true faith and to carry out His commands, avoid His prohibitions, and believe in His messengers. Those are the three factors that cause Muslims to be recognized as good people. If only that the People of the Book believed as Muslims believe, did what is right and avoided what is wrong and did not become divided and disagree about the truth of the teachings of Allah’s religion, surely that would be better for them. However, although some of those among them believe Allah as the faith of Muslims, and thus a small number of them deserve the title of good people, most of them are ungodly and do not want to follow Allah’s instructions and disobey Allah by denying Sharia. Even though most of the People of the Book are wicked, they do not harm Muslims, because Allah protects Muslims based on the three factors mentioned in the previous verse. In fact, there was nothing they could do except minor annoyances, such as ridicule, threats, and insults. However, if one day they happen to fight Muslims, surely Allah helps those who believe, so that they fall backwards because they are defeated, and they do not get any help from anyone.

This interpretation explains that the virtue of the best ummah is characterized by three elements: *amar ma’ruf, nahy munkar*, and faith. In terms of the relationship among

⁵⁵ Kementerian Agama RI, *Al Qur’an dan tafsirnya* (LPQ Depag RI 1998).

these three characteristics in the science of prophetic law, Syamsudin held that *amar ma'ruf* shall be transformed into humanization, *nahy munkar* is related to liberation, and faith is relevant to transcendence. This concept aims to draw a distinction between general or conventional legal knowledge and the prophetic legal knowledge.⁵⁶

Syamsudin further explained these three elements as follows. First, *Amar ma'ruf* in everyday language can refer to anything from the individual, semi-social, and collective aspects.⁵⁷ Hence, it is interpreted as humanization or a condition of being human. In this case, humanization aims to treat all of mankind as a human. Second, *Nahy munkar* shall refer to as preventing evil and despicable deeds,⁵⁸ while liberation refers to the attempt to liberate from the cruelty of structural poverty, technological arrogance, and the exploitation of abundance. Third, *Tukminuna billah* as written in the Quran is equivalent to the word transcendence or rising above,⁵⁹ Transcendence has the aim of adding a transcendental dimension to culture.

4. The Concept of Corporate Social Responsibility based on the Prophetic Law Paradigm

The Quran Surah Ali Imran: 110, highlights the virtue, prevention of evil, and having faith in Allah.⁶⁰ Kuntowijoyo then transformed these three principles into social science, humanization, liberation, and transcendence.⁶¹ Humanization refers to an attempt to humanize people, eliminating material things, including human slavery, and buying and selling, eliminating dependence, or being independent and being able to empower oneself without help from other parties. Meanwhile, liberation refers to the implementation of *nahy munkar*, while transcendence is defined as the implementation of *tu'minuna billah*.

⁵⁶ M. Syamsudin and others *Ilmu Hukum Profetik: Gagasan Awal, Landasan Kefilsafatan, Dan Kemungkinan Pengembangannya di Era Postmodern* (FH UII Press 2013).

⁵⁷ Syamsudin (N 57); See also M. Mustanadi, *Pendidikan Islam Non Formal dan Penguatan Perilaku Keagamaan Masyarakat Transisi: Studi Terhadap Majelis Ta'lim pada Masyarakat Lingkar Bandar Udara Internasional Zainuddin Abdul Madjid* (Doctoral Dissertation UIN Mataram 2021). See also I. Mas'ud, *The Miracle of Amar Ma'ruf Nahi Munkar* (LAKSANA 2018).

⁵⁸ Syamsudin (n 57); See also Mas'ud (n 58).

⁵⁹ Syamsudin (n 57).

⁶⁰ Kudzaifah Dimiyati, Absori, Kelik Wardiono, and Fitrah Hamdani, 'Morality and law: Critics upon HLA Hart's Moral Paradigm Epistemology Basis based on Prophetic Paradigm' (2017) 17 *Jurnal Dinamika Hukum* 1, 23-30.

⁶¹ M. Masduki, *Pendidikan profetik; Mengenal gagasan ilmu sosial profetik Kuntowijoyo* (2017) 9 *TOLERANSI: Media Ilmiah Komunikasi Umat Beragama* 1, 1-22. See also Absori, Kudzaifah Dimiyati, and R. Ridwan, 'Makna Pengelolaan Lingkungan Pespektif Etik Profetik' (2017) 17 *Al-Tahrir: Jurnal Pemikiran Islam* 2, 331-352.

The concept of CSR is regulated in Article 1 number 3 of Law Number 40 of 2007 concerning Limited Liability Companies, as stipulated that CSR is a company's commitment to participate in sustainable economic development to improve the quality of life and the quality of the environment to benefit the company, community, and the public at large.

The relation between CSR programs and the paradigm of Prophetic Law is as follows:

1. CSR is based on the principles of *Amar Ma'ruf*

A company's commitment to implement CSR program based on the principle of *Amar Ma'ruf* aims to uphold justice and call for good deeds. Kuntowijoyo called this principle as the implementation of humanity, which aims to treat all mankind humanely as a human being.⁶²

CSR programs, thus, are aimed at building harmony between stakeholders, on the basis of friendship, building kinship, thereby minimizing conflicts between companies and local communities, and building a clean and comfortable environment.⁶³ In creating harmony, the role of various related parties is needed, both from the government, companies, and the community.

In addition, activities that demonstrate the principles of *Nahy Munkar* are improving people's welfare through community empowerment and development.⁶⁴ Empowerment carried out by the company is expected to achieve the main objective of CSR program, in order to improve the quality of life. This program is certainly expected to have a positive impact on the existence of the company's business activities.

On this basis, this program reflects the principles of *Nahy Munkar* by mutual helps, as written in the Quran Surah Al-Maidah:

...وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ...

Translated as "... help ye one another in righteousness and piety but help ye not one another in sin and rancor..."

⁶² Rifka Anisa, Siti Zazak Soraya, and Dwi Ulfa Nurdahlia, Konsep Ilmu Sosial Profetik Kuntowijoyo terhadap Pengembangan Pendidikan Islam (2021) 5 Kuttab: Jurnal Ilmu Pendidikan Islam 2, 93-100.

⁶³ Dwiyan Mayangsari, Mufid Salim, Virna Julia Kahar, Shella Aprilliya, Firhan Ardhiyansyah, and Ragil Ilmiawan, 'Evaluasi Proses Manajemen Program CSR Kemitraan (Studi Kasus Program Kemitraan dan Kebinaan Lingkungan PT. Madubaru)' (2020) 2 Journal of Communication Sciences (JCoS) 2, 106-116.

⁶⁴ Disemadi and Prananingtyas (n 31) 1-16.

A CSR program that is based on mutual assistance is expected to create harmony between the company and the local community to create prosperity and economic independence in the community.⁶⁵ Hence, such a program reflects the mandatory commands in Islamic law.

Other activities that reflect the *Nahy Munkar* principle are preserving the environment; the company's concern for environmental sustainability is expected to be able to guarantee the continuity of the company's business activities.

2. CSR based on the *Nahy Munkar* principle

A company's commitment to implementing CSR based on goodwill, it is hoped that the concept of CSR which is based on human liberation from evil deeds (liberation) creates an independent, advanced, and prosperous society through a commitment to sustainable economic development, which certainly has an impact on business sustainability for the company.

The existence of CSR activities based on liberation or *nahy munkar* provides and creates a good, clean, and comfortable environment.⁶⁶ Companies are required to strive to preserve environmental functions and prevent environmental pollution and damage. This CSR activity must be based on environmental concern and sustainable environmental development.

Other activities that can be carried out by the company are participating in preventing acts of corruption, collusion, and nepotism.⁶⁷ So that the activities carried out by the company can participate in preventing corruption, bribery and other actions that are in conformity with the provisions of Islamic law, namely *Nahy Munkar* activities..

3. CSR based on the *Tukminuna Billah* Principle

A company's commitment through CSR in addition to having to pay attention to human and environmental standards must also form a strong foundation in building a company, not only strong in business capital, strong in

⁶⁵ Rizka Rahmah Hidayati, Badaruddin, and R. Hamdani Harahap, 'Faktor-Faktor Pendukung dan Penghambat Implementasi Program Corporate Social Responsibility dalam Membantu Kehidupan Masyarakat Sekitar Perkebunan' (2021) 10 PERSPEKTIF 1, 171-179.

⁶⁶ Anastya Yuni Widyaningrum and Yuli Nugraheni, 'Perempuan dan Pemaknaan *Triple Bottom Line* di Kawasan Mangrove Surabaya' (2019) 3 Jurnal Studi Komunikasi 3, 444-459.

⁶⁷ Arief Gunawan Wibisono, 'Revitalisasi Prinsip-Prinsip Good Governance dalam Rangka Penyelenggaraan Pemerintahan yang Baik, Bersih, dan Bebas Korupsi, Kolusi, Serta Nepotisme' (2014) 10 Law Reform 1, 31-47. See also Achmad Lamo Said and La Ode Asrun Azis, *Corporate Social Responsibility dalam Perspektif Governance* (Deepublish 2018).

employees, strong in raw materials, but the most important thing is the value of monotheism or religious values. One form of implementing religious values can be done through CSR activities based on faith or transcendence. This commitment is built through prophetic values, namely monotheism, prophethood, and knowledge.

5. *Maqashid Syariah* as a Basis for Corporate Social Responsibility Decisions with a Prophetic Legal Paradigm

The previous discussion classified CSR based on a prophetic paradigm into three areas: CSR based on *Amar Ma'ruf* (humanization), CSR based on *nahy munkar* (liberation), and CSR based on *Tukminuna Billah* (transcendence). This study analyzes these three foundations based on the objectives of Islamic law or *maqashid sharia*, which classifies according to the level of interest in life, namely *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*.

When a CSR program is implemented on the basis or paradigm of prophetic law, the program is assessed using a priority scale of *maqashid sharia*. On the implementation of CSR, Isam articulated that is not only aimed at the fulfillment of legal and moral obligations, but also serves as part of worship to reach God's blessing by applying strategies to make the company and society survive in the long term. In other words, Islamic law essentially benefits and rejects *mafsadat*, or to achieve goodness, by implementing *Amar Ma'ruf* and rejecting *mafsadat* by implementing *Nahy Munkar*, all of which are to achieve the benefit of humanity. The three principles of CSR implementation based on the Prophetic Law paradigm reflect the aim of *maqashid sharia*, namely benefitting the general public, and the environment.

The classification of *maqasid sharia* levels and their relation to the implementation of CSR based or paradigm of prophetic law is:

- a. At the *dharuriyyat* level, the basis for implementing CSR programs must include or be related to essential interests, which include the following five aspects:
 1. Protection of faith. Programs related to aspects of worship to increase faith. Therefore, this activity can be in the form of taking the company employees to perform the *Hajj* or *Umrah* pilgrimage. In addition, this can take the form of Islamic studies that enhance faith and strengthen monotheism.
 2. Protection of life. The program must be crafted to enforce humanity, liberation, and transcendence. Protection of life through programs for the

sake of humanity is expected to provide opportunities for all people to get jobs. It can also be done by providing health services for employees, the community, and the surrounding environment, with the hope of providing health insurance for stakeholders. Protection of life through liberation prevents environmental damage, acts of corruption, and bribery.

3. Protection of intellect. Such a CSR program can be implemented by providing educational funds or scholarships to increase intelligence, reason, and independence through a good education for the community to enhance their economic, social, and political perspective as a way to prosper them by providing them with scholarships or other forms of educational assistance. In addition, this CSR program can take the form of developing educational facilities to enhance people's intellect. including building schools, madrasas, and other educational institutions.
 4. Protection of lineage. A CSR program can be focused on preserving the environment, preventing environmental damage in order to prepare and provide a good natural environment for future generations.
 5. Protection of wealth. CSR program at this level can be focused on providing community welfare through community development and empowerment in order to create an independent society in the economic sector. It can also be done by aiding small and micro entrepreneurs to make them survive amidst the tough business competition with other entrepreneurs.
- b. At the *hajiyyat* level, the implementation of CSR can come in the form of providing educational facilities and social assistance, or other activities that are categorized crucial elements in terms of flexibility and eliminating narrowness that leads to difficulties.⁶⁸

At the level of *tahsiniyyat*, it is clear that a CSR implementation is aimed at incidental assistance, such as assistance with religious activities, commemoration of holidays, or other activities aimed at maintaining the existence of element that makes life easier.

E. Conclusion

From the discussion and analysis, it is conclusive that corporate social responsibility is an important part of business in the contemporary era. Social responsibility is not a new concept in Islam since it is written in the basic teachings of Islam. One of the main concepts used in corporate social responsibility decision making is *maqashid sharia*. Maqashid sharia refers to the goal of Islamic law and serves as a guide for decision makers to ensure that they are in line with Islamic teachings and principles. Each goal has its own principles that must be considered in making CSR decisions. In terms of the application of these principles or concepts, the framework of *Maqashid Syariah* framework is closely

⁶⁸ Samad (n 29); See also in Djawas and Samad (n 29).

related to Corporate Social Responsibility decision-making. Therefore, companies must consider not only their economic responsibilities but also their social and environmental responsibilities in order to ensure that their actions are in line with the objectives of Islamic law. The concept of *maqashid sharia* is relevant to CSR program with a paradigm of prophetic law based on three aspects: humanization, liberation, and transcendence. These three aspects serve as the basis for companies to carry out CSR programs by relating them with the objectives contained in Islamic law, namely *maqashid sharia*, with the aim of achieving benefits and avoiding immorality or *mafsadat*. This program can further be classified into three levels: *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*.

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