

The Role of Ushul Fiqh as Legal Methodology in Realising Global Justice and Benefit

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Abstract: This study aims to analyse the role of Ushul Fiqh as a legal methodology in realising global justice and welfare. Ushul Fiqh is understood as an epistemological tool that provides rules and methods for deriving Sharia law from primary sources, while ensuring its relevance to social realities and contemporary challenges. Through a descriptive-analytical qualitative approach, this study examines classical and modern literature and maps the contributions of Ushul Fiqh to global issues, such as human rights, gender justice, peace, and sustainable development. The results of the study show that Ushul Fiqh, with its foundation in maqāṣid al-sharī'ah, is able to affirm the orientation of Islamic law towards the protection of religion, life, reason, lineage, and property. Furthermore, its methodological flexibility through instruments such as *maslahah mursalah*, *istihsan*, *sadd al-dhara'i*, and *'urf* enables Ushul Fiqh to play an active role in responding to global dynamics without losing the basic principles of sharia. This finding shows that Ushul Fiqh not only functions as an internal methodology for Muslims, but also has a universal contribution in building substantive justice and benefits for humanity at large. Theoretically, this research enriches the body of Islamic legal knowledge by affirming the relevance of Ushul Fiqh in the global academic arena. Practically, the results of this research can serve as a reference for academics, scholars, and policymakers in developing more just, beneficial, and humanistic laws at the national and international levels.

Keywords: Ushul Fiqh, Legal Methodology, Maqāṣid al-Sharī'ah, Global Justice, Public Interest.

Introduction

Over the past two decades, various countries have faced increasingly complex global challenges. Humanitarian crises resulting from armed conflict, climate change, and rising socio-economic inequality have become pressing issues that require serious attention. The Poverty and Shared Prosperity Report 2022 shows that around 9.2% of the world's population still lives in extreme poverty, reflecting the persistence of structural inequalities in the global economic system (World Bank, 2022). This situation calls for a legal response that is not only technical and formal in nature, but also based on the values of justice and humanity. This phenomenon of global injustice is exacerbated by the weakness of the international legal system in anticipating the impacts of globalisation. The dynamics of international law are often unable to comprehensively address cross-border issues such as environmental exploitation, human trafficking, and religious discrimination, due to the dominance of positivistic and formalistic approaches to law (Media Hukum, n.d.). In this context, a legal methodology is needed that is capable of integrating normative aspects with an orientation towards substantive justice and universal welfare. Contemporary legal thinking also emphasises that law should function as an instrument of social transformation, not merely as a formal regulatory device.

The urgency of a legal methodology oriented towards justice and public interest has grown stronger with the emergence of the global agenda on human rights and sustainable development. The discourse on human rights in the perspective of international law often intersects with global ethical values that demand a more inclusive and equitable legal approach (Mukhis, 2017). In this perspective, Islamic law through the framework of Ushul Fiqh has great potential to make an important contribution, particularly in affirming the values of maqāṣid al-syarī'ah which are in line with universal humanitarian principles. Ushul Fiqh as an Islamic legal methodology has epistemological advantages in contextualising normative teachings so that they remain relevant throughout the ages. With the foundation of maqāṣid al-syarī'ah, Ushul Fiqh not only functions as a tool for interpreting positive law, but also as an instrument for directing law towards the principles of justice ('adl) and benefit (maṣlahah) (Yasid, 2019). The integration of maqāṣid al-syarī'ah in legal practice, including in the settlement of disputes in religious courts, shows that

this approach is capable of responding to the needs of substantive justice in society in a contextual manner (Suhaili, 2025).

Amidst the tide of globalisation, which has brought negative impacts in the form of homogenisation of values and marginalisation of tradition-based law, Ushul Fiqh can serve as a counterbalance by offering a legal perspective that respects diversity and public interest. The maqāsid syariah approach allows for flexibility in legal interpretation while remaining oriented towards ethical and social values, enabling it to respond to social and cultural challenges in the era of globalisation (Pahutar et al., 2024). In fact, within the framework of global ethics, maqāsid syariah can be understood as a dialectical bridge between Islamic law and universal human values (Rohmanu, 2021). Furthermore, the application of the principles of public interest and social participation in development shows that community-based legal values remain relevant and effective in facing global challenges, especially in the context of local communities with strong cultural characteristics (Bahar et al., 2022). Thus, Ushul Fiqh enables Islamic law to engage critically with globalisation, benefiting from progressive global ideas while maintaining ethical values that are in line with maqāsid al-syarī'ah.

This study seeks to fill this gap through a qualitative approach with textual analysis to explore the deeper meaning of the role of Ushul Fiqh in a global context. This study will reveal how Ushul Fiqh is understood, developed, and applied in responding to global issues, as well as examining its relationship with the concept of substantive justice in international law. Through comparison with modern legal theory, this study is expected to show that Ushul Fiqh is a relevant and competitive legal methodology in the global academic arena. The main objective of this research is to analyse the role of Ushul Fiqh as a legal methodology in realising global justice and benefit. This research is expected to not only enrich academic knowledge, but also provide practical contributions to the development of law, politics, and development, while strengthening the position of Islamic law in contemporary international legal dialogue.

Methods

This study employs a qualitative method with a descriptive analytical approach. This approach was chosen because the focus of the study is to understand the phenomena, ideas, and concepts of Ushul Fiqh as a legal methodology in relation to global justice and benefit. Qualitative research allows researchers to explore the deeper meanings of classical texts, contemporary academic works, and academic journals.

Definition of Ushul Fiqh

Etymologically, the term *ushul* comes from Arabic, meaning 'basis' or "foundation", while *fiqh* means 'deep understanding', so that *ushul al-fiqh* can be interpreted as the basis for understanding Sharia law. Terminologically, Ushul Fiqh is the science of the rules and methods used to derive Sharia law from its sources, namely the Qur'an and Sunnah, accompanied by *ijma'* and *qiyas*. In the context of Islamic legal scholarship, Wael B. Hallaq refers to Ushul Fiqh as the epistemological foundation of Islamic law, namely the methodological tools that enable scholars to construct a consistent and rational Islamic legal system (Hallaq, 1997). Therefore, Ushul Fiqh is not merely a collection of rules, but also a legal thinking system that ensures the accuracy of the *istinbat* process.

1. History of the Development of Ushul Fiqh

The history of Ushul Fiqh began during the time of the Companions, when legal rulings were made directly based on an understanding of the text. However, systematic formulation only took place in the 2nd century AH through the monumental work *al-Risalah* by Imam al-Shafi'i, which is considered the first written foundation of the discipline of Ushul Fiqh. Subsequently, rapid developments took place with the emergence of works by scholars such as al-Juwaini (*al-Burhan*), al-Ghazali (*al-Mustashfa*), and al-Syathibi (*al-Muwafaqat*), which emphasised *maqasid al-shari'ah*. Contemporary research confirms that the history of Ushul Fiqh did not stop at the classical

tradition, but continued to develop through integration with modern legal theory, including in debates on human rights and global ethics. (Basri, 2024)

2. Ushul Fiqh as Legal Methodology

Ushul Fiqh serves as the methodology of Islamic law because it provides analytical tools for interpreting texts, weighing *maslahat*, and accommodating social dynamics. In this context, Ushul Fiqh functions as a tool of reasoning that distinguishes between normative texts and their application in social reality. According to M. Kamali, this discipline is like a scientific methodology in Islamic law that connects normative sources with applicable legal practices. (Sodiqin, 2012) With the rules of *usul*, scholars can assess the validity of new laws, determine priorities, and adapt laws to the demands of the times.

3. The difference between Ushul Fiqh and Fiqh

The fundamental difference between Ushul Fiqh and Fiqh lies in their scope and function. Ushul Fiqh is the science of methodology that studies the principles and rules for deriving laws, while Fiqh is the legal product produced through that methodology. Al-Amidi emphasises that Ushul Fiqh is *al-‘ilm bi al-qawa‘id al-muwassilah ila istinbat al-ahkam al-shar‘iyyah*, while Fiqh is *ma‘rifah al-ahkam al-shar‘iyyah al-‘amaliyyah* produced from the process of *istinbat*. (Zaki, 2021) Therefore, Ushul Fiqh is epistemological and methodological in nature, while Fiqh is substantive and applicative. Understanding this difference is important so that Islamic legal disciplines remain dynamic in responding to global challenges.

4. Concepts in Ushul Fiqh

In the process of deducing laws in Ushul Fiqh, the first step that must be clear is to whom a legal argument or provision is directed, known as *mahkum ‘alayh*, which is the subject to whom the ruling applies. Determining the *mahkum ‘alayh* is a prerequisite before establishing whether an action is obligatory, forbidden, recommended, disliked, or permissible. If the identity or qualifications of the subject are not determined accurately, then the interpretation of the ruling may be incorrect and the application of the law may be potentially unfair. (Djalil, 2014)

The Theory of Determining Legal Issues

1. The Concept of Mahkūm ‘Alaih (Legal Subject)

a. Definition of Mahkūm ‘Alaih

Mahkūm ‘alaih or legal subject is a party, either an individual or an entity, who is the target or object of a Sharia command or prohibition in Islamic legal texts (Saputra, 2024). In *ushul fiqh* literature, this concept is distinguished in parallel with *mahkūm fih*. Mahkūm ‘alaih refers to the party subject to a legal command or prohibition (e.g., a person who is required to pray), while *mahkūm fih* refers to the object or action that is assessed by the law itself (e.g., the act of praying). These two concepts are complementary in understanding the normative structure of legal texts, which always contain the dimensions of subject (who) and object (what).

b. Mahkūm ‘Alaih in Islam (Mukallaf)

In Islamic legal tradition, the most central term to describe the subject of law is *mukallaf*, which is an individual who is subject to *taklīf* or the imposition of obligations and sharia responsibilities. *Mukallaf* is understood as a party who is legally eligible to receive sharia commands and prohibitions so that their actions have legal consequences (Tasliyah, 2021).

c. Classical Criteria for Taklif (Requirements for Mukallaf)

Classical *usul fiqh* scholars generally establish three basic requirements for a person to be categorised as mukallaf (Jamal, 2020). First, baligh or having reached biological maturity, marked by puberty according to the provisions of the madhhab. Second, 'aql or sound mind, i.e. not being in a state of mental disorder that eliminates the ability to understand and be responsible for one's actions. Third, idrāk or tamyīz in a specific context, namely the ability to distinguish and understand legal actions, especially in the field of muamalah. In addition to these requirements, scholars also discuss the existence of conditions that prevent taklīf (*awāriḍ al-ahliyyah*), such as coercion, intoxication, deep sleep, or emergencies, which can cause the law to be suspended (*munqaṭi'*) or leniency (*rukhsah*) to be applied.

2. Taklīfī Law

a. Definition of Taklīfī Law

Taklīfī law is a Sharia provision that imposes normative responsibility on mukallaf to perform or refrain from performing an act based on the argument of command (*amr*) or prohibition (*nahy*). This law is directly related to human will and provides a normative assessment of actions, such as obligatory, forbidden, recommended, disliked, and permissible (Aziz, 2025).

b. Classification of Taklīfī Law

Ushul Fiqh scholars generally agree that taklīfī law is divided into five main categories known as *al-aḥkām al-khamsah*, namely: obligatory or *fardhu*, such as the five daily prayers and fasting during Ramadan; *sunnah*, such as *rawātib* prayers and fasting on Mondays and Thursdays; *mubah* or *halal*, such as eating and drinking *halal* food, sleeping, and hunting; *makruh*, such as sleeping after Fajr prayer or neglecting *rawātib* *sunnah* prayers; and *haram*, such as drinking *khamr*, adultery, and stealing.

3. Waḍ'ī Law

a. Definition of Waḍ'ī Law

Waḍ'ī law is a Sharia norm that establishes the relationship between a particular fact, event, or condition and the legal consequences it entails. This law is often referred to as a secondary norm because it does not directly demand the will of the subject, but rather links the existence of a situation with certain legal consequences in a normative 'if ... then ...' pattern (Mahmudah, 2020). Examples are the *ijab qabul* contract as the cause of the emergence of rights and obligations, and birth as the cause of inheritance rights.

b. Elements of Waḍ'ī Law: Cause, Condition, and Māni'

The first element is the cause, which is a condition that is determined by the Sharia as a sign of the emergence of a taklīfī law, such as the arrival of time as the cause of the obligation to pray or the ownership of wealth reaching the *niṣab* as the cause of the obligation to pay *zakat*. The second element is the condition, which is a circumstance whose absence causes the law to not apply, even though its presence does not necessarily give rise to the law, such as *wudu* as a condition for prayer to be valid or the presence of two witnesses as a condition for a marriage contract to be valid. The third element is *māni'*, which is a condition that prevents the law from applying or perfects the cause, such as menstruation or post-natal bleeding, which prevent the obligation to pray and fast, and differences in religion, which prevent inheritance rights even if there is a blood relationship.

The Theory of Determining Legal Objectives

Etymologically, *maqāṣid* means purpose, intention, or orientation (Safriadi, 2017). Within the framework of Islamic law, *maqāṣid al-aḥkām* is understood as the specific objectives that Islamic law seeks to achieve when establishing normative provisions, whether in the form of commands, prohibitions, or the determination of specific legal consequences (Kholiluddin, 2025). Thus,

maqāṣid al-aḥkām focuses on the functional orientation of a particular legal provision, in contrast to maqāṣid al-sharī'ah, which represents the general and comprehensive objectives of Islamic law.

Classically, the scholars of Ushul Fiqh especially al-Shāṭibī and his followers classified maqāṣid into three main levels (Gumanti, 2018). The first level is ḍarūriyyāt, which are primary needs that must be maintained for the sake of religious and social life, including protection of religion (ḥifẓ al-dīn), life (ḥifẓ al-nafs), intellect (ḥifẓ al-'aql), offspring (ḥifẓ al-nasl), and property (ḥifẓ al-māl). The second level is ḥājiyyāt, which are secondary needs that serve to alleviate the difficulties of life and prevent hardship, such as leniency in certain legal circumstances or administrative convenience. The third level is taḥsīniyyāt, which are aspects of refinement related to manners, ethics, and moral beauty, both in worship and social life.

From the perspective of Ushul Fiqh as a methodology for establishing law, maqāṣid has a dimension that is not only internal to Muslims, but also relevant in a global context. Ushul Fiqh provides a set of linguistic and logical rules for extracting legal norms from the Qur'an and Sunnah (Yasid, n.d.). In the era of globalisation, the principles of maqāṣid enable Islamic law to respond to cross-border issues, such as social justice, human rights, and international peace (Pahutar, n.d.). The principle of economic justice distribution through zakat, the prohibition of usury, and contractual justice are relevant to the problem of global economic inequality, while the principles of protection of life and honour are in line with universal human rights values. In addition, the rule of dar'u al-mafāsid muqaddam 'alā jalb al-maṣāliḥ can be used as an ethical basis for conflict resolution and global peace efforts.

The orientation of maqāṣid cannot be separated from the concept of maṣlaḥah (public interest). In the terminology of Ushul Fiqh, maṣlaḥah is understood as everything that brings benefit and prevents harm in accordance with the objectives of sharia (Ayu, 2024). Al-Ghazali emphasises that true maṣlaḥah is to preserve the five fundamental objectives of Sharia, namely religion, life, intellect, lineage, and wealth. In a global context, maṣlaḥah is not limited to Muslims, but encompasses all of humanity as a manifestation of Islam as raḥmatan li al-'ālamīn. Therefore, Ushul Fiqh through the maqāṣid framework functions as a legal methodology that emphasises that Islamic law is not merely formalistic, but is oriented towards universal human welfare and justice (Pasaribu, 2016).

Methodological instruments of Ushul Fiqh such as maṣlaḥah mursalah, istiḥsān, sadd al-dharā'i, and 'urf demonstrate the flexibility of Islamic law in responding to social dynamics and global challenges without losing its basic principles. Through this approach, Ushul Fiqh has great potential to contribute to the resolution of global issues, such as economic inequality, humanitarian conflicts, human rights protection, and ecological justice. Thus, Ushul Fiqh not only functions as an internal legal methodology for Muslims, but also as a source of universal values capable of bridging classical scholarly traditions with contemporary world needs, as well as contributing to the realisation of global justice and universal humanity.

Conclusion

Ushul Fiqh holds a strategic position as the science of Islamic legal methodology, which not only functions in a normative context but is also relevant to addressing the challenges of global justice and public interest. Through the principle of maqāṣid al-sharī'ah, Ushul Fiqh emphasises the orientation of Islamic law towards the protection of religion, life, intellect, lineage, and property, which aligns with universal values of justice and the agenda of sustainable development. With its methodological framework, Ushul Fiqh is able to provide legal flexibility through instruments such as maṣlaḥah mursalah, istiḥsan, sadd al-dhara'i, and 'urf. This shows that Islamic law is adaptive to social dynamics while remaining consistent with the principles of sharia. Theoretically, Ushul Fiqh strengthens the epistemology of Islamic law as a dynamic discipline, while practically it has the potential to contribute to Islam in formulating ethical and humanistic solutions to global issues such as social injustice, humanitarian conflicts, and economic justice. Thus, Ushul Fiqh is not only the foundation of Islamic law, but also an important instrument in building universal justice and benefit.

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