

## War Crimes and Human Rights Violations through the Lens of *Maqāṣid al-Syarī'ah*: A Normative and Ethical Analysis

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### ABSTRACT

The crime of war is one of the most egregious violations of international humanitarian law and basic human rights (HAM), significantly affecting individual lives and global stability. From an Islamic perspective, human rights violations—especially in the context of armed conflict—can be analyzed through the lens of *Maqāṣid al-Syarī'ah*, which seeks to protect five fundamental principles: religion (*din*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and wealth (*mal*). This research aims to examine war crimes from the perspective of *Maqāṣid al-Syarī'ah* and evaluate the extent of human rights violations in warfare that contradict sharia values. Utilizing a qualitative approach and normative descriptive analysis of various international legal documents along with both classical and contemporary Islamic literature, this study concludes that war crimes—including mass killings, torture, rape, and the destruction of civilian infrastructure—directly undermine the primary objectives of sharia, which are to safeguard life and uphold human dignity. Ultimately, this research affirms that Islam categorically prohibits all forms of destructive violence against human values. Furthermore, *Maqāṣid al-Syarī'ah* can serve as a normative framework for developing ethical solutions to war crimes on an international scale.

### ABSTRAK

Kejahatan perang merupakan salah satu bentuk pelanggaran serius terhadap hukum humaniter internasional dan hak asasi manusia (HAM) yang membawa dampak luas terhadap kehidupan individu dan stabilitas global. Dalam perspektif Islam, pelanggaran terhadap HAM, terutama dalam konteks konflik bersenjata, dapat dikaji melalui pendekatan *Maqāṣid al-Syarī'ah*, yang bertujuan untuk melindungi lima prinsip dasar: agama (*dīn*), jiwa (*nafs*), akal (*'aql*), keturunan (*nasl*), dan harta (*māl*). Penelitian ini bertujuan untuk menganalisis kejahatan perang dari sudut pandang *Maqāṣid al-Syarī'ah* serta mengkaji sejauh mana pelanggaran HAM dalam perang bertentangan dengan nilai-nilai syariah. Dengan menggunakan pendekatan kualitatif dan metode analisis deskriptif normative terhadap berbagai dokumen hukum internasional dan literature keislaman klasik maupun kontemporer, studi ini menemukan bahwa kejahatan perang, seperti pembunuhan massal, penyiksaan, pemerkosaan, dan penghancuran fasilitas sipil, merupakan pelanggaran langsung terhadap tujuan utama syariah dalam menjaga kehidupan dan martabat manusia. Kesimpulan dari penelitian ini menegaskan bahwa Islam secara tegas melarang segala bentuk kekerasan yang merusak nilai-nilai kemanusiaan, dan *Maqāṣid al-Syarī'ah* dapat menjadi kerangka normative dalam merumuskan solusi etis terhadap kejahatan perang di tingkat internasional.

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## A. INTRODUCTION

War is a social phenomenon that has been a part of human history for a long time. Armed conflict has extensive and destructive impacts, including loss of life, damage to infrastructure, and disruptions to the stability of nations. War crimes, such as mass murder, torture, rape, the use of prohibited weapons, and the destruction of civilian facilities, are classified as grave violations of international humanitarian law and basic human rights.<sup>1</sup>

International law has established firm regulations regarding the prohibition of war crimes through various instruments, such as the Geneva Conventions, Additional Protocols, and the Rome Statute. These legal provisions aim to protect civilians and ensure humane treatment for all parties involved in a conflict. However, violations of these provisions continue to occur in various armed conflicts around the world. These conditions demonstrate that the positive approach of law has not yet fully succeeded in preventing atrocities in warfare.<sup>2</sup>

Drafting ethics and morals is essential when responding to the phenomenon of war crimes. In Islamic scholarship, Sharia plays a crucial role in maintaining order and justice in human life, whether in times of peace or during conflict. The *Maqasid al-Sharia*, or the primary objectives of implementing Islamic law, aims to protect five fundamental aspects of human life: religion (*dīn*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and wealth (*māl*). These objectives serve as ethical guidelines for assessing both individual and collective behavior, including actions taken during armed conflict.<sup>3</sup>

Islam emphasizes the importance of humanity as a foundational principle in the implementation of Sharia. Prophet Muhammad provided a strong role model for ethical conduct during wartime. Throughout various incidents during his prophethood, he forbade the killing of women, children, the elderly, and non-combatants. He also issued orders against damaging places of worship, torturing prisoners, and emphasized the need to protect the honor of all parties involved. These teachings demonstrate that Islam greatly values human dignity in all situations.<sup>4</sup>

The crime and violence perpetrated by certain armed groups in the name of Islam often contradict the values taught by Sharia. Acts of extreme violence, murder, and terror against civilians represent a serious deviation from the principles of *Maqāṣid al-Syarī'ah*. A superficial understanding of Islamic teachings, without considering *Maqāṣid*, can lead to the misuse of these teachings to justify actions that are not aligned with the values of justice and humanity.<sup>5</sup>

This research examines the issue of crime in the context of war from the perspective of *Maqāṣid al-Syarī'ah*. The main objective of the study is to analyze how violations of basic human rights occur in the context of armed conflict, viewed through the framework of *Maqasid*. A normative approach is employed in this study to explore classical and contemporary Islamic literature related to Sharia, the ethics of war, and basic human rights.<sup>6</sup>

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<sup>1</sup>S N Halima et al., "Peranan Dewan Keamanan Pbb Terhadap Kasus Kejahatan Perang Dalam Konflik Bersenjata Non Internasional Di Nigeria," *Diponegoro Law Jurnal* 5, no. 3 (2016).

<sup>2</sup>D Iriani, "Penanggulangan, Pencegahan Dan Penerapan Hukuman Mati," *Justitia Islamica* 12, no. 2 (2015).

<sup>3</sup>Wahidul Anam, "Penetapan Hukum Perang," *Tribhakti* 14, no. 2 (2005).

<sup>4</sup>Anam.

<sup>5</sup>Anam.

<sup>6</sup>Z F Alashti and A J J Bojnordi, "Islam and Iran's Post-Revolution War on Drugs: A Durkheimian Analysis," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (2021), <https://doi.org/10.18326/ijims.v11i2.327-350>.

The application of *Maqāṣid al-Syarī'ah* in issues of war and crime is important as it offers an alternative approach that is not only based on law but also includes ethical and spiritual dimensions. This approach plays a crucial role in fostering moral awareness among Muslims, emphasizing that war is not merely a physical conflict but also a test of the integrity of values upheld by Sharia, reflecting a commitment to high standards of humanity.<sup>7</sup>

There is an urgent need to study the current global reality, which highlights significant improvements in addressing armed conflict and human rights issues. In various conflict areas such as Palestine, Syria, Yemen, and several countries in Africa, civilians are often the primary victims of brutal warfare. This situation calls for a contribution from the sciences, including insights from Islamic perspectives, to comprehensively respond to the challenges facing humanity.<sup>8</sup>

Understanding the *Maqāṣid* provides an opportunity for the development of Islamic law that is not rigid but responsive to the dynamics of society and the global challenges facing humanity. In this context, Islamic Sharia has significant potential to be part of the ethical solution to the war on crime and to serve as a moral foundation for achieving justice and world peace.<sup>9</sup>

Several previous studies have addressed the issue of war crimes and human rights violations. Gunawan & Pane highlighted the infrastructure damage caused by the Russian attack on Ukraine, demonstrating the weakness of international humanitarian law protection.<sup>10</sup> Siahaan & Dewi examined the 2022 Russian invasion of Ukraine from an international humanitarian law perspective.<sup>11</sup> Halima et al. examined the role of the UN Security Council in the war crimes case in Nigeria, while Situngkir discussed the challenges of the International Criminal Court's jurisdiction in prosecuting war crimes.<sup>12</sup> Pardede et al. addressed the issue of proxy legal accountability for international crimes.<sup>13</sup> Meanwhile, Junaedi highlighted the relevance of *Maqāṣid al-Syarī'ah* in the formation of regional regulations,<sup>14</sup> while Ni'ami & Hamidah and Suhaimi & Hakim developed the concept of contemporary *Maqāṣid al-Syarī'ah* as a humanist value system.<sup>15</sup> Saidun compares Sayyid

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<sup>7</sup>S Saidun, "Konsep Jihād Dan Qitāl Perspektif Sayyid Quṭb Dan m. Qurash Shihab (Telaah Penafsiran Ayat-Ayat Jihād Dan Qitāl Dalam Kitab Tafsīr Fī Zilālil Qur'ān Dan Tafsīr Al Miṣbah)," *JUPE : Jurnal Pendidikan Mandala* 7, no. 1 (2022), <https://doi.org/10.58258/jupe.v7i1.2969>.

<sup>8</sup>T Arifin, *Antropologi Hukum Islam* (Pusat Penelitian dan Penerbitan UIN Sunan Gunung Djati, 2021).

<sup>9</sup>M Winario, "Masalah Hukum Islam Perspektif Sosiologi Antropologi Hukum," *Jurnal Al Himayah* 1, no. 2 (2017): 261–76.

<sup>10</sup>Yordan Gunawan and Mhd. Ervival Rizqy Pane, "Responsibility for Excessive Infrastructure Damage in Attacks: Analys Ing Russia'S at Tack in Ukraine," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (2024).

<sup>11</sup>D N B Siahaan and T.I.D.W.P. Dewi, "Invasi Rusia Ke Ukraina 2022 Dalam Perspektif Hukum Humaniter Internasional," *Jurnal Kertha Negara* 11, no. 4 (2023).

<sup>12</sup>S. N Halima, M Idris, and N Dwiwarno, "Peranan Dewan Keamanan PBB Terhadap Kasus Kejahatan Perang Dalam Konflik Bersenjata Non-Internasional Di Nigeria," *Diponegoro Law Journal* 5, no. 3 (2016); D A Situngkir, "Eksistensi Kedaulatan Negara Dalam Penerapan Yurisdiksi Mahkamah Pidana Internasional," *Lex Librum: Jurnal Ilmu Hukum* 4, no. 1 (2018).

<sup>13</sup>J N Pardede, M R N Hafizh, and W T Asih, "Pertanggungjawaban Hukum Proksi Atas Kejahatan Internasional Melalui "Taylor's Doctrine," *Jurnal Penegakan Hukum Dan Keadilan* 2, no. 1 (2021), <https://doi.org/10.18196/jphk.v2i1.10401>.

<sup>14</sup>M Junaedi, "Maqāṣid Syarī'ah Upaya Membentuk Peraturan Daerah: Pendekatan Sistem Perspektif Jasser Auda," *Syariati: Jurnal Studi Al-Qur'an Dan Hukum* 3, no. 2 (2017), <https://doi.org/10.32699/syariati.v3i02.1152>.

<sup>15</sup>M F Ni'ami and T Hamidah, "Reformulasi Maqāṣid Al-Syarī'ah Kontemporer: Sistem Nilai Sebagai Tawaran Jasser Auda Menuju Hukum Islam Humanis," *Bidayah* 15, no. 1 (2023),

Qutb and Quraish Shihab's interpretations of jihad and qital,<sup>16</sup> while Rofii examines the globalization of human rights in Islamic family law.<sup>17</sup> Yamamah also highlights the philosophical-sociological aspects of Islamic legal stipulations. These studies demonstrate serious attention from both international and Islamic legal perspectives in responding to the issue of war crimes and human rights violations.<sup>18</sup>

However, these studies generally focus on normative juridical aspects or conceptual analysis without comprehensively integrating international legal principles with the Islamic normative framework, particularly the Maqasid Sharia. This article differs from previous research by specifically analyzing war crimes by combining two perspectives: international humanitarian law and Islamic ethics through the maqasid approach. Thus, this study not only describes human rights violations but also interprets their meaning within the framework of the five main objectives of sharia: safeguarding religion (*hifz al-dīn*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), posterity (*hifz al-nasl*), and property (*hifz al-mal*).

The novelty of this study lies in its proposed integration of the Maqasid values of Sharia with international law as an ethical and spiritual framework that can strengthen law enforcement against war crimes. This article asserts that Islamic sharia, through its maqasid, aligns with universal human rights principles and can even provide moral contributions and ethical solutions in responding to the humanitarian tragedies caused by war. With this approach, the research is expected to provide a new perspective that is not only formal and legal, but also based on the values of public welfare and substantive justice.

## B. METHODS

This research employs a qualitative approach with descriptive-analytical methods, aiming to describe, interpret, and analyze the phenomenon of war crimes from the perspective of *Maqāṣid al-Syarī'ah* and its connection to violations of basic human rights. This approach was chosen because it is aligned with exploring the normative and ethical principles found in Islamic teachings regarding war, while also relating these principles to international legal regulations that protect human rights in armed conflict situations.<sup>19</sup>

This type of research falls into the category of library research, employing a normative-theological and normative-juridical approach to explore the values of Islamic teachings that underlie ethical warfare, particularly through the *Maqāṣid al-Syarī'ah* framework. Meanwhile, a normative-juridical approach is used to understand the international legal framework on war crimes and compare it substantively with sharia principles.<sup>20</sup>

The data used in this study is based on both primary and secondary sources. Primary data includes the Qur'an, hadith, and classical literature related to jurisprudence that directly pertains to the theme of the discussion. Additionally, this data encompasses international legal documents concerning war crimes. Meanwhile, secondary data is obtained from

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<https://doi.org/10.47498/bidayah.v14i1.1557>; Rezi Suhaimi, M., and M R Hakim, "AL-MAQĀSHID AL-SYARĪ'AH; Teori Dan Implementasi," *Sahaja: Journal Shariah And Humanities* 2, no. 1 (2023).

<sup>16</sup>Saidun, "Konsep Jihād Dan Qitāl Perspektif Sayyid Qutb Dan M. Qurash Shihab (Telaah Penafsiran Ayat-Ayat Jihād Dan Qitāl Dalam Kitab Tafsīr Fī Zilālil Qur'ān Dan Tafsīr Al Miṣbah)," *JUPE: Jurnal Pendidikan Mandala* 7, no. 1 (2022): 18–41.

<sup>17</sup>Ahmad Rofii, "Globalisasi Dan Hukum Keluarga Islam Di Malaysia," *Al-Manahij* 9, no. 2 (2015).

<sup>18</sup>A Yamamah, "Hikmah At-Tasyri' Al-Islami: Capaian Filosofis Sosiologis Penetapan Hukum Islam," *Urnal Jurisprudensi (Jurnal Ilmu Syari'ah, Perundang-Undangan Dan Ekonomi Islam)* 7, no. 2 (2015).

<sup>19</sup>Muhaimin, *Metode Penelitian Hukum* (Mataram University Press, 2020).

<sup>20</sup>Ani Purwati, *Metode Penelitian Hukum Teori Dan Praktek* (Surabaya: Cv. Jagad Media Publishing, 2020).

scientific journals, academic books, articles, and reports from international humanitarian organizations such as Human Rights Watch, Amnesty International, and the International Committee of the Red Cross (ICRC).<sup>21</sup>

Data collection was conducted through an in-depth review of library sources, with strict selection criteria to ensure the relevance and validity of the information. Data analysis was performed descriptively and qualitatively, following several steps: data reduction, issue classification, text interpretation, and conclusion drawing. This research aims not only to describe facts but also to provide theological and ethical meaning to the phenomenon of war crimes through a *maqasid* approach. To ensure data validity, a triangulation technique was employed, which involved comparing various classical and contemporary Islamic sources with international law documents and expert opinions in the fields of humanitarian law and sharia. The researcher aimed to maintain objectivity in interpretation by referencing authoritative opinions and established views within academic discourse.<sup>22</sup> Through this method, the research aims to contribute to scientific arguments that Islam, via *Maqāsid al-Syarī'ah*, explicitly rejects all forms of war crimes and consistently upholds high values of humanity in accordance with basic human rights principles.

## C. RESULTS AND DISCUSSION

### 1. Drafting War Crimes in International Law

In wartime, violations of international regulations can lead to serious crimes that impact those involved in armed conflicts. Such actions reflect a breach of universally recognized humanitarian norms. War crimes not only harm one party but also undermine the fundamental values of humanity upheld by the global community. International humanitarian law, as outlined in the Geneva Conventions of 1949 and their Additional Protocols of 1977, provides essential protections for individuals who do not or no longer participate in hostilities. This includes civilians, medical personnel, humanitarian volunteers, and prisoners of war, all of whom must be safeguarded. The conventions prohibit actions such as murder, torture, inhumane treatment, and unnecessary destruction that does not serve a military purpose.<sup>23</sup>

The Statute of 1998 expanded the coverage of war crimes through the establishment of the International Criminal Court (ICC). This statute provides a clear definition of war crimes and establishes that every individual who commits such violations can be held legally accountable, regardless of their political, military, or social status. War crimes include various acts, such as murdering civilian inhabitants, attacking civilian structures like places of worship and homes, using forbidden weapons, committing mass rape, recruiting children as soldiers, and torturing prisoners. Each of these actions has a far-reaching impact, both physically and psychologically, on the victims and the affected communities.<sup>24</sup>

Enforcement of laws against perpetrators of war crimes faces various obstacles. Not all countries are parties to the Rome Statute, which limits the jurisdiction of the International Criminal Court. Many countries refuse to extradite their citizens for trial at the international level, citing reasons related to sovereignty. Additionally, gathering evidence in war-torn areas

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<sup>21</sup>Muhaimin, *Metode Penelitian Hukum*.

<sup>22</sup>E R Nasution, "Mendesain Penulisan Ilmiah Dalam Penelitian Hukum," 2024.

<sup>23</sup>Siahaan and Dewi, "Invasi Rusia Ke Ukraina 2022 Dalam Perspektif Hukum Humaniter Internasional."

<sup>24</sup>Siahaan and Dewi.

is often hindered by unstable security conditions, limited access, and the potential disappearance of witnesses or important documents.<sup>25</sup>

Global awareness of the importance of accountability in armed conflict has led to positive developments. The atrocities of wars in Rwanda, Bosnia, Sudan, and Syria have garnered worldwide attention and have pushed for the formation of ad hoc courts to prosecute the perpetrators. This initiative demonstrates the commitment of the international community to enforce justice and provide a deterrent effect against future crimes.<sup>26</sup>

Modern conflicts are increasingly complex because they involve both state and non-state actors. This situation blurs the line between combatants and non-combatants, leading to a higher risk of violations of the laws of war. In this context, it is crucial that all parties involved in the conflict understand the limits that must be respected when drafting war crimes.

The implementation of international law regarding war crimes serves not only as a legal instrument but also as a moral mechanism to protect humanitarian values. Violent acts carried out systematically and deliberately during wartime cannot be justified under any circumstances. Enforcing the laws related to war crimes is an important step in maintaining human dignity and preventing similar acts of cruelty in the future.<sup>27</sup>

## 2. Violations in the Context of War

War has far-reaching and complex effects on many aspects of human life, particularly on basic human rights. In armed conflict situations, the rights guaranteed by national and international law become highly vulnerable to violation. Civilians, who should remain outside the battlefield, often become the primary victims of violence, forced displacement, hunger, and loss of shelter.<sup>28</sup>

Concrete cases demonstrate that these violations are not merely legal theories, but realities experienced by people around the world. For example, the 1994 Rwandan genocide killed approximately 800,000 people within a hundred days, mostly Tutsis. In Bosnia in 1995, the Srebrenica massacre killed more than 8,000 Muslim men and boys. The conflict in Syria since 2011 has seen systematic torture in Assad regime prisons, the use of chemical weapons, and airstrikes targeting hospitals and civilian facilities. In Myanmar, the violence against the Rohingya since 2017 has been categorized by the UN as a form of systematic ethnic cleansing. Meanwhile, Russia's invasion of Ukraine since 2022 has seen indiscriminate attacks on civilians, including the bombing of a maternity hospital in Mariupol and the destruction of vital infrastructure.

These cases starkly illustrate that violations in the context of war are not merely breaches of formal laws; they represent profound human tragedies. Children lose their right to education as schools are reduced to rubble, leaving entire generations deprived of learning and development. Women often become targets of sexual violence, suffering not only physical harm but also long-lasting psychological trauma. Refugees are uprooted from their homes,

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<sup>25</sup>I Satriaji, "Eksistensi Konvensi Internasional Hak Asasi Manusia Dalam Sistem Hukum Indonesia Berdasarkan Peristiwa Hukum Paniai 2020," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 2, no. 1 (2022), <https://doi.org/10.15642/sosyus.v2i1.153>.

<sup>26</sup>Satriaji.

<sup>27</sup>Pardede, Hafizh, and Asih, "Pertanggungjawaban Hukum Proksi Atas Kejahatan Internasional Melalui "Taylor's Doctrine."

<sup>28</sup>A Rofii, "Globalisasi HAM Dan Hukum Keluarga Islam Di Malaysia," *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 2 (1970), <https://doi.org/10.24090/mnh.v9i2.504>.

facing the daunting challenges of displacement, while civil society lives under the oppressive shadow of fear and uncertainty. This grim reality underscores the fact that war systematically strips individuals of their dignity and fundamental rights, aligning with the principles of *Maqāṣid al-Syarī'ah*, which emphasize the vital protection of life, intellect, lineage, religion, and property.

Human rights encompass the right to life, personal security, legal protection, as well as access to education and healthcare. However, in wartime conditions, many of these essential rights are egregiously compromised. Numerous documented cases reveal the systematic perpetration of atrocities, including the murder of civilians, torture of captives, widespread sexual assault, and the deliberate destruction of vital public infrastructure. Such actions are clear and grave violations of basic human rights principles, representing an affront to humanity itself and demanding urgent attention and action from the global community.<sup>29</sup>

Armed conflict not only causes physical casualties but also leads to long-term mental and social suffering. Children lose access to education and are forced to live amidst violence. Women become targets of sexual violence, used as a tool to weaken the enemy community. Health services are destroyed or targeted in attacks, preventing civilians from obtaining adequate medical treatment and assistance.<sup>30</sup>

Violations in the context of war are generally committed by both state and non-state actors. Groups that are not subject to the laws of war often employ cruel tactics to achieve their political or ideological objectives. Conversely, governments engaged in internal conflicts may also commit violations under the pretext of maintaining national stability or security. In practice, the boundary between efforts for self-defense and repressive actions often becomes blurred.<sup>31</sup>

International legal instruments, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), play a crucial role in safeguarding human rights around the world, even in times of armed conflict. These documents outline fundamental rights—such as the right to life, freedom of expression, and the right to a fair trial—serving as essential guidelines for protecting individuals against abuses.

However, the effectiveness of these instruments in promoting and enforcing human rights often hinges on the political will and legislative capabilities of each participating nation. In many instances, systemic weaknesses in the justice system, unclear jurisdictional boundaries, and inadequate access to international legal frameworks hinder the ability to hold violators accountable. As a result, numerous human rights violations, including torture, arbitrary detention, and discrimination, may go unaddressed. Furthermore, prolonged conflicts can exacerbate humanitarian crises, leading to mass displacement and the emergence of refugee populations. When people are forced to flee their homes due to violence or persecution, they often lose their rights to residency, legal identity, and state protection. Refugees frequently find themselves in dire living conditions within overcrowded camps, where access to basic necessities such as food, clean water, sanitation, and healthcare is limited. These

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<sup>29</sup>N Savitri, *HAM Perempuan Kritik Teori Hukum Feminis Terhadap KUHP* (Refika Aditama, 2008).

<sup>30</sup>M A Hasbullah, *Politik Hukum Ratifikasi Konvensi HAM Di Indonesia: Upaya Mewujudkan Masyarakat Yang Demokratis* (Pustaka Pelajar, 2005).

<sup>31</sup>Ni'ami and Hamidah, "Reformulasi Maqāṣid Al-Syarī'ah Kontemporer: Sistem Nilai Sebagai Tawaran Jasser Auda Menuju Hukum Islam Humanis."

circumstances create a bleak reality for many, leaving them without guaranteed safety and uncertain about their future, as they face challenges such as discrimination, lack of employment opportunities, and emotional trauma from their experiences.<sup>32</sup>

Protection of human rights has become a significant challenge that requires the attention of the entire international community. Efforts to prevent violations and protect the victims of war must be an integral part of conflict resolution. It is not sufficient to focus solely on military or political aspects, as the humanitarian impact of war is both extensive and profound.<sup>33</sup>

The importance of protecting human rights in times of war demonstrates that no conflict can be justified if it sacrifices the principles of humanity. Depriving individuals of their rights to life, dignity, and liberty must be recognized as a form of crime that cannot be tolerated. The fulfillment of human rights must not be compromised for strategic, ideological, or power-related reasons.

### 3. Principles of *Maqāṣid al-Syarī'ah* and Its Relevance to Conflict and Violence

*Maqāṣid al-Syarī'ah* is a fundamental concept in Islamic law that refers to the main goals of Sharia. This concept aims to realize welfare and prevent harm for all of humanity. Imam al-Ghazali and al-Syatibi, prominent figures in the development of the theory of *Maqāṣid al-Syarī'ah*, identify five key objectives of Sharia: safeguarding religion (*hifz al-din*), soul (*hifz al-nafs*), intellect (*hifz al-'aql*), descendants (*hifz al-nasl*), and wealth (*hifz al-mal*). These principles serve as a foundation for evaluating policies, actions, and laws in Islam, particularly in the context of conflict and violence.<sup>34</sup>

The principles of *Maqāṣid al-Syarī'ah* are currently facing significant challenges due to the realities of war and armed violence. Actions such as mass murder, torture, rape, public facility destruction, and the forced displacement of individuals from their residences constitute clear violations of these principles. The act of taking human life directly contravenes the principle of the protection of life. Furthermore, the destruction of schools and places of worship undermines the protection of intellect and religion. Sexual harassment and the dismantling of family structures contradict the principle of safeguarding lineage. Additionally, looting and the destruction of public assets violate the principle that protects wealth.<sup>35</sup>

Sharia is not solely a set of ritual rules; it also serves as a moral and social system aimed at safeguarding stability, justice, and human dignity. In times of war, Sharia provides firm guidelines to limit the negative impacts of conflict. Prohibitions against killing civilians, destroying the environment, torturing prisoners, and attacking places of worship are integral to the ethics of Islamic warfare, rooted in the concept of *Maqāṣid al-Syarī'ah*. This principle emphasizes that even in emergency situations, the conduct of war must have limits. The primary goal of all actions must be directed towards maintaining welfare and preventing further harm.

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<sup>32</sup>M Abas et al., *Sosiologi Hukum: Pengantar Teori-Teori Hukum Dalam Ruang Sosial* (PT. Sonpedia Publishing Indonesia, 2023).

<sup>33</sup>S H Serlika Aprita, *Sosiologi Hukum* (Jakarta: Prenada Media, 2021).

<sup>34</sup>Abu Hamid Muhammad bin Muhammad Al-Ghazali, *Al-Mustashfa Fi 'Ilm Al-Usul*, Cet. 1 (Beirut: Dar al-Kutub al-Ilmiyah, 1993); Asy Syatibi, *Al Muwafaqat Fi Ushul Al Akhkam, Jilid I* (beirut: Darr Kutub Ilmiyyah, 2004).

<sup>35</sup>G E Munthe, *Antropologi & Sosiologi Hukum* (Antropologi & Sosiologi Hukum, 2024).



The relevance of *Maqāṣid al-Syarī'ah* to conflict and violence lies in its ability to evaluate actions substantively rather than just formally. In contemporary complex conflicts, many violent actions are justified in the name of ideology or political interests. Understanding maqasid can provide an objective and ethical framework for assessing whether certain actions are truly justified according to Islamic principles. Acts of violence that do not protect life, intellect, and human dignity cannot be claimed as jihad or a defense of religion, as they contradict the very essence of *Maqāṣid al-Syarī'ah*.<sup>36</sup>

The concept of maqasid provides an opportunity for contextual reinterpretation of Islamic law. In today's world, applying maqasid enables Islamic law to address global humanitarian issues, such as human rights violations, the plight of refugees, and humanitarian crises arising from armed conflict. The values of maqasid can serve as a moral foundation for promoting resolution, peace, and the cessation of violence.<sup>37</sup>

*Maqāṣid al-Syarī'ah*, when understood thoroughly, serves as an ethical and spiritual foundation that rejects destructive violence in order to promote a peaceful life. This principle not only helps Muslims maintain a state of peace but also serves as a guide in critical situations, such as during war. The core of *Maqāṣid al-Syarī'ah* lies in the rejection of actions that are destructive and exceed the limits of humanity. Therefore, any conflict that causes significant harm to the five fundamental goals of Sharia should be viewed as a serious violation of Islamic moral teachings.

#### 4. The Importance of Integrating *Maqāṣid al-Syarī'ah* a Values into International Law

The values of *Maqāṣid al-Syarī'ah* play a significant role in the pursuit of a fair, civilized system that upholds the law and respects human dignity. In the context of international law, especially regarding armed conflict and violations of basic human rights, the principles of Sharia can provide highly relevant moral and ethical contributions. Maqasid Sharia not only addresses formal legal provisions but also emphasizes the protection and preservation of fundamental human rights, aligning with the ideals of modern international law.<sup>38</sup>

International law, despite its development through various instruments such as the Geneva Conventions and the Rome Statute, continues to face numerous challenges in its implementation and enforcement. Many basic human rights violations during wartime are not handled fairly due to political factors, power dynamics, or weaknesses in the global justice system. Integrating the values of maqasid into the approach to international law can strengthen the ethical and spiritual dimensions of the applicable legal norms.<sup>39</sup>

Principles in *Maqāṣid al-Syarī'ah*, such as the protection of the soul, honor, wealth, and mind, provide a universal foundation that extends beyond Islamic tradition and is also recognized in international human rights doctrines. The affirmation of human protection as a primary objective of the law makes *Maqāṣid al-Syarī'ah* highly compatible with the efforts to strengthen international humanitarian norms. In this context, *Maqāṣid al-Syarī'ah* can serve as

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<sup>36</sup>Yamamah, "Hikmah At-Tasyri' Al-Islami: Capaian Filosofis Sosiologis Penetapan Hukum Islam."

<sup>37</sup>Junaedi, "Maqāṣid Syarī'ah Upaya Membentuk Peraturan Daerah: Pendekatan Sistem Perspektif Jasser Auda."

<sup>38</sup>Junaedi.

<sup>39</sup>Suhaimi, M., and Hakim, "AL-MAQĀSHID AL-SYARĪ'AH; Teori Dan Implementasi."

a bridge between Islamic law and international law, contributing to the development of a more inclusive and equitable system.<sup>40</sup>

Many Muslim-majority countries are still facing conflicts or are involved in global political dynamics related to war and human rights violations. In light of this situation, it is crucial to understand the concept of *maqasid*, as Islamic law should not be misused to legitimize violence. Integrating *maqasid* into international legal discourse can encourage Muslim countries to actively contribute to building a global order based on substantive justice, rather than merely pursuing geopolitical interests.<sup>41</sup>

The role of religious figures, academics, and institutions in Islam is crucial for promoting *Maqāṣid al-Syarī'ah* (the objectives of Islamic law) as a constructive approach to diplomatic law and international humanitarian efforts. By using *Maqāṣid al-Syarī'ah* as a normative reference to address global conflicts, Muslims can demonstrate that the values of Sharia are not contrary to the principles of global justice; rather, they are in harmony with it and can even strengthen those principles.<sup>42</sup>

The need to unite *maqasid* in the realm of international law is not only related to the spirit of coexistence between civilizations but also to the effectiveness of conflict resolution. International law that relies solely on formal legal aspects often loses moral legitimacy, especially in the eyes of those who feel oppressed. The inclusion of *Maqāṣid al-Syarī'ah* can help fill this void by providing a moral perspective that prioritizes humanity, justice, and the protection of vulnerable groups.<sup>43</sup>

Integrating the values of *Maqāṣid al-Syarī'ah* into international law is a strategic step in addressing global justice challenges. This approach not only strengthens the framework of positive law but also serves as a constructive bridge for ethical international relations in responding to humanitarian tragedies. In an era where conflict and violence continue to be a concerning reality, the principles of *Maqāṣid al-Syarī'ah* offer values that can enrich and balance international law with a focus on welfare and the protection of life.

#### D. CONCLUSION

The war on crime represents a violation of the law, international humanitarian rights, and basic human rights, leading to significant suffering for individuals, especially among civilian populations not directly involved in the conflict. Actions such as murder, mass killings, torture, rape, the destruction of facilities, and the forced displacement of civilians and refugees reflect clear violations of the values of humanity that international law aims to protect. The war on crime is not only contrary to the law but also contradicts the moral and spiritual principles of Islam. Any violation against the right to life, property, intellect, lineage, and religion constitutes a breach of the five foundational principles of *Maqāṣid al-Syarī'ah*. Islamic Sharia, through its *Maqāṣid al-Syarī'ah*, emphasizes the protection of human life and dignity, even in emergency situations. A deep understanding of *Maqāṣid al-Syarī'ah* provides a robust ethical framework and norms for addressing violence during armed conflict and

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<sup>40</sup>Y Gunawan and M E Rizqy Pane, "Responsibility for Excessive Infrastructure Damage in Attacks: Analysing Russia's Attack in Ukraine," *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (2020), <https://doi.org/10.22373/petita.v9i1.213>.

<sup>41</sup>Siahaan and Dewi, "Invasi Rusia Ke Ukraina 2022 Dalam Perspektif Hukum Humaniter Internasional."

<sup>42</sup>Pardede, Hafizh, and Asih, "Pertanggungjawaban Hukum Proksi Atas Kejahatan Internasional Melalui "Taylor's Doctrine."

<sup>43</sup>Situngkir, "Eksistensi Kedaulatan Negara Dalam Penerapan Yurisdiksi Mahkamah Pidana Internasional."

human rights violations. These principles align with the universal values recognized in international law and can play a vital role in fostering a more just, humane, and welfare-based legal approach. Integrating the values of *Maqāṣid al-Syarī'ah* into international law represents a strategic step that can enhance the ethical dimensions of law enforcement concerning war crimes. This approach not only affirms that Islam upholds fundamental human rights but also demonstrates that Sharia can contribute to global solutions for the humanitarian consequences of armed conflict.

However, this study has limitations; it primarily employs a qualitative approach based on literature, which means it does not explore the empirical perspectives of victims or perpetrators directly affected by armed conflict. Additionally, it lacks an in-depth comparison of the application of *Maqāṣid al-Syarī'ah* in Muslim countries experiencing contemporary war. Therefore, future research is recommended to adopt an empirical approach through interviews, case studies, or field analysis to provide a more comprehensive understanding of how maqasid principles apply in the context of conflict. Future investigations could also examine the roles of international institutions and Islamic organizations in integrating maqasid values into legal practices and global policies related to war crimes.

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