

## **CONSIDERING DEBT IN THE PERSPECTIVE OF MAQASID AL-SHARIAH: MASLAHAH VERSUS MAFSADAH**

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**Abstract:** Debt in Islamic tradition is accepted as an instrument to fulfill necessities for the needy. Islam has made it explicit that one of the trial for man is poverty or having inadequate resources to pursue his living. Therefore, debt is considered as an essential instrument that should not be dismissed for various reasons. Instead of viewing it negatively or as something immoral, Islam comes to regulate the practice by envisaging some rules and ethics and highlighting the appropriate measurement in the light of its impact. This article attempts to explore the Islamic perspective on debt by using *maqāṣid al-Shari'ah* (objectives of Shariah). In this perspective, debt will be analyzed based on the impact on *maslahah* (benefit) and *mafsadah* (harm) in fulfilling the necessities of life and improving welfare. This study uses library research by systematically review the literature from the references for a comprehensive analysis of the discourse. The classification of objective and impact of having debt, proposed in this study, can be a framework of analysis for the justification of debt.

**Keywords:** Debt, Maqasid al-Shariah, *Maslahah*, *Mafsadah*

**Abstrak:** Hutang dalam tradisi Islam dianggap sebagai sesuatu yang lumrah dalam kehidupan manusia. Hutang tidak dapat dihindari dalam kehidupan manusia karena berbagai alasan. Oleh karena itu, Islam tidak melarang atau memandang hutang secara negatif sebagai sesuatu yang tidak bermoral, Islam justru mengatur praktik tersebut dengan menerapkan beberapa aturan dan etika serta pengukuran yang tepat dalam kaitannya dengan dampak yang ditimbulkan. Artikel ini mencoba mengeksplorasi

perspektif Islam tentang utang dengan menggunakan *maqāsid al-Shari'ah* (tujuan Syariah). Dalam perspektif ini, hutang akan dianalisis berdasarkan dampaknya terhadap *maslahah* (manfaat) dan *mafsadah* (keburukan) dalam pemenuhan kebutuhan hidup dan peningkatan kesejahteraan. Penelitian ini menggunakan studi kepustakaan dengan cara mengkaji literatur secara sistematis dari referensi untuk dilakukan analisis wacana secara komprehensif. Klasifikasi tujuan dan dampak memiliki utang yang diusulkan dalam penelitian ini dapat menjadi kerangka analisis justifikasi utang.

**Kata Kunci:** Hutang, Maqasid al-Syariah, Maslahah, Mafsadah

## INTRODUCTION

Debt is a form of socio-economic instrument of the community to fulfill the necessities of life by borrowing money from other parties. A person, sometimes does not have adequate money to fulfill his needs, hence has to ask or borrow from others. Living in poverty or having inadequate resources to face economic shocks are among the trials designated for man. Islam acknowledges the role of debt to serve as a tool to smooth consumption for the needy when facing economic calamities.

Thus, Islam does not consider debt in a negative perspective and thus denying its existence and significance. In fact, debt is considered as an imperative tool that could benefit the society if it put to use appropriately. Hence Islam stipulates rules governing the practice of debts and ethical values governing the relationship of the parties involve in debt, namely the debtor, creditor and other third parties if any.

The growth of monetary economy has turned debt into a basic transaction employed by man in his day-to-day life not only when facing difficulties in meeting his needs but especially in purchasing big ticket items such as houses and cars. The usage of debt has grown tremendously hence Shariah scholars have produced guidelines on debt transactions to ensure that its usage is limited to increase welfare and not to finance extravagance. Laldin, Dusuki and Bouheraoua, and Ahmed argue that Shari'ah attempts to regulate debt transactions to ensure the preservation of human property and its use as part of greater allocation of resources can be maintained as much as possible for human wellbeing.<sup>1</sup>

It is recognized that such an important transaction cannot be left unregulated. On the debtor side, there are possibilities for overborrowing and borrowing for extravagances as well as default. On the creditor side, there are possibilities of exploitation. Hence, the rules and ethics that Islamic teachings promote aims to create good and beneficial conditions (*maslahah*) and avoid injustice, exploitation, and other harms (*mafsadah*) that are possible to occur.

1 Ayraf Wajdi Dusuki and Said Bouheraoua, 'The Framework of Maqasid Al-Shari'ah and Its Implication for Islamic Finance' (2011) 2 ICR Journal 316 <<https://icrjournal.org/index.php/icr/article/view/651>>; and Mohammad Akram Laldin, 'Understanding the Concept of Maslahah and Its Parameters When Used in Financial Transactions' (2010) 2 ISRA International Journal of Islamic Finance 61 <<https://journal.inceif.edu.my/index.php/ijif/article/view/91>>; Habib Ahmed, 'Maqasid Al-Shari'ah and Islamic Financial Products: A Framework for Assessment' (2011) 3 ISRA International Journal of Islamic Finance 149 <<https://journal.inceif.edu.my/index.php/ijif/article/view/116>>.

In the pre-Islamic Arabs (*jahiliyyah*), debt has been used as a means of exploitation, degrading individual dignity without any rules or moral commitment.<sup>2</sup> At that time, lenders often apply compensation for delays in paying debts (*nasi'ah*) many times over (*ad'afan muḍā'afah*), which makes debtors suffer. Usury occurs in the form of adding value to the principal debt based on deferring repayment period of the loan, which causes the loan amount to be multiplied.<sup>3</sup> The practice of debts accompanied by compensation for usury occurs in money loans and in debts for deferring merchandise settlement. Ibn Jarīr Alṭabarī, reported that in debt trading transactions, usury is also practiced, where someone will make a transaction to buy a commodity with a deferred payment until a predetermined time. When the time is due, but the buyer cannot pay off the debt, the merchant will increase the price of the goods for the additional period for paying off the debt.<sup>4</sup>

This condition has become a socio-economic problem that is highly considered in both the Qur'an and Hadith by establishing some rules that aim to put fairness in the transaction and protect the dignity of the parties involved in the debt transaction. In Islamic perspective, debt should be used as a form of virtue with noble objectives.

In a modern life context, we can also see debt as an important instrument in the financial system. In line with development of capitalism that promotes market expansion and capital accumulation, sufficient capital is required for a large-scale production process. Since then, financial institutions, especially banking, have grown rapidly to support capital accumulation.<sup>5</sup> Likewise, with an increasing growth and changes in lifestyle, debts have turned into commercial tools carried out through financial institutions and implicates to various dimensions of human life.<sup>6</sup>

This article will explore the Islamic perspective of debt in the concept of *maqasid al-Shari'ah* (objectives of Shari'ah) of realizing benefits (*maslahah*) and avoiding harms (*mafsadah*) in debt transactions and activities.

## Methods

This study uses a qualitative methodology with discursive approach to analyse references related to the concept of debt in Islamic perspective and the implication of debt at individual and societal level in the perspective of *maqasid al-shari'ah* based on *maslahah* and *mafsadah* consideration. Using extensive literature in English and Arabic in this subject, the study will explore the perspective of scholars in a comprehensive analytical perspective.

## Results and Discussions

### *Debt Definition in Islamic Tradition*

In Arabic, the word of debt comes from the word *dayn*, which means everything that is not cash. The word *dayn* is the *maṣdar* form of the verb *dāna-yadīnu*, where *dān* is a

2 Timur Kuran, 'The Economic System In Contemporary Islamic Thought' in Jomo KS' in Jomo KS (ed), *Islamic Economic Alternatives: Critical Perspectives and New Directions* (Macmillan Publishers Limited 1992).

3 Ahmad Fāṭimah Zāhir Isma'īl, *Fiqh Al-Imām Sufyān Ibn 'Uyainah* (Islamic University of Ghaza 2015).

4 Jalāl Al-Dīn Al-Mahallī and Jalāl Al-Dīn Al-Sayūṭī, *Tafsīr Al-Jalālain* (Dār Al-Zfīkr al-Islamy 2017).

5 Peter L Berger, *The Capitalist Revolution* (Wildwood House Ltd 1987).

6 Karl Polanyi, *The Great Transformation* (Beacon Press 1971).

form of *fā'il* which means a person who gives a debt, and *madin* is a form of *maf'ūl* which means a person who is given a debt.<sup>7</sup>

Debt, terminologically, is defined in general and specific way. In general, debt is something that is in someone's responsibility (*zimmah*) as an obligation to be fulfilled. Debt in this general definition includes "property obligations" in relation to the rights of fellow human beings (*mu'amalah*) or also applies in the general form to all "religious obligations" that have not been fulfilled in the 'worship' dimension related to the rights of Allah SWT (*'ibadah*), such as the obligation to perform *salah* or *zakat* that is due and has not been paid, and so on.<sup>8</sup>

Debt in a specific definition is defined as "something that is under responsibility (*zimmah*) as a form of liability for assets that are in obligations of someone because there is a cause/reason that arises for it" in two forms namely:

- (1) Debt occurs due to the implementation of a contract that is not cash or deferred payment by one party to another. This can be in the form of unilateral transactions based on virtue (*'uqud al-tabarru'at*) such as in the form of *al-qard* (loans of money) and *al-'ariyah* (borrowing goods), and can also arise from non-cash transactions in exchange transactions for the benefit or profit (*'uqud al-mu'awadat*) such as in *bay' murabahah muajjal* (deferred payment sale), *bay' al-salam* (a contract with advance payment is made for goods to be delivered later) and *bay' al-istisna* (a sale by order of good/property which is to be constructed or manufactured and delivered at a specific future date. The sale and purchase transaction suspension occurs in one of the transaction objects, whether the price (*tsaman*) or goods (*mabi'*).
- (2) Debt can also arise due to an act that harms other people's assets. Debt in this case is a "compensation" for actions committed by someone who harms another party, such as destroying other's assets or property, and also including stealing (*ghashb*) other's assets or property.

Shariah permitted debt or non-cash transactions because of human needs for that type of transactions. It is acknowledged that individuals do not always have enough money to meet their needs and hence they often have to resort to borrowing from others. Therefore, Shari'ah provides rules to regulate their use and to prevent the abuses of debt. In this regard, Shari'ah puts the following measurements:<sup>9</sup>

- (1) Rules: Debt as a transaction is regulated by certain rules to protect the interest of both parties and benefits all parties (debtor and creditor).
- (2) Ethics: Shari'ah provides ethical guidelines for both the creditor and debtor for a just, fair, transparent and equal transaction.
- (3) Objectives: Debt transactions is allowed within the frame of objectives of the Shari'ah (*maqāṣid al-Shari'ah*) to ensure the realization of benefits (*maslahah*) and avoidance of harms (*mafsadah*) in society.

7 Ibnu Manzur, *Lisan Al-'Arab* (Dar Al-Ma'arif).

8 Ahmad Isawi, *Al-Mudāyanāt* (Jāmi'ah al-Malik 'Abd al-'Aziz 2008).

9 Abi Ishāq al-Syātibī Ibrāhīm bin Mūsā al-Lakhmī al-Gharnāṭī al-Mālikī, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'ah* (Dār al-Kutub al-'Ulumiyyah 2004). See also, Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69.

*Debt and Maqasid al-Shariah Framework*

*Maqāṣid al-Syari'ah* are the goals, wisdoms, and secrets contained in the laws prescribed and established by Allah SWT to achieve the wellbeing of individuals and society as well as progress and high civilization (Al-Zuhayli, 1997). *Maqasid al-Shari'ah* set standards and criteria, values and guidance rooted in divine revelation (*wahy*) to be applied in solving the problems that confront mankind and in guiding the direction of life, including debt transaction.<sup>10</sup>

*Maqasid al-Shariah* would ensure applicability of Shari'ah principles, values and objectives in human life. Aspects of this process have been identified in the literature as *taqrir al-maslahah* (confirming benefits), *sadd al-dhari'ah* (blocking lawful means that lead to harmful results), *raf' al-harj* (removing hardship), and repelling harm (*daf' al-mafsadah*) or changing it (*taghyir al-mafsadah*).<sup>11</sup>

The perspective of *maqāṣid al-Syari'ah* in debt transaction is intended as a methodological approach in the formulation of the value paradigm as a guide for Islamic economic and financial activities.<sup>12</sup> This is important, because according to Laldin and Furqani debt is allowed in Shariah not for the purpose of itself, but it is, like other transactions, are allowed as means (*wasail*) to achieve the objectives of Shariah, namely to fulfill the benefits of human life and to institute the smooth circulation of wealth in society.<sup>13</sup>

The benefits realization and harms prevention include all dimensions of human life as an individual and social system, namely *hifz al-din* (preserving religion), *hifz al-nafs* (preserving life), *hifz al-nasl* (preserving progeny), *hifz al-mal* (preserving wealth), *hifz al-bi'ah* (preserving environment) and *hifz al-'ird* (preserving dignity). All these protections, according to Ibn Ashur lead to the general objective of the Shari'ah (*maqasid al-'amm*) to preserve the social order (*hifz nizam al-ummah*) and ensure its healthy progress by promoting the wellbeing and righteousness of that which prevails in it, namely the human species.<sup>14</sup>

The transactions related to debt is usually classified in the dimension of protecting the wealth (*hifz al-māl*). However, debt which is something normal (usual?) in modern life, also has impact on other dimensions of life namely mental, health, family, and society. Rostow observes that at the age of high mass consumption most people enjoy luxury of consuming and debt is an important instrument to facilitate this. In this case, Debt is created based on lust and unnecessary needs that lead to economic waste.<sup>15</sup> However,

10 Wahbah Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuh* (Dar Al-Fikr 1997) and Al-Zuhaili Wahbah, *Nazariyah Al-Darurah Al-Syari'yyah Muqaranah Maa' Al-Qanun Al-Wadhi'* (Dar al Fikr 1997).

11 Muhammad al-Tahir Ibnu Ashur, *Treatise on Maqasid Al-Shari'ah* (International Institute of Islamic Thought 2006).

12 Sami Al-Daghistani, 'Semiotics of Islamic Law, Maṣlaḥa, and Islamic Economic Thought' (2016) 29 International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique; Wenny Setiawati, 'The Prospect of Channeling Dispute Between Labour and Foreign Investor' (2021) 6 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 65 <<https://petita.ar-raniry.ac.id/index.php/petita/article/view/113>>.

13 Mohamad Akram Laldin and Hafas Furqani, 'Developing Islamic Finance in the Framework Of' (2013) 6 International Journal of Islamic and Middle Eastern Finance and Management 278 <<https://doi.org/10.1108/IMEFM-05-2013-0057>>.

14 Muhammad al-Tahir Ibnu Ashur (n 11).

15 WW ROSTOW, 'THE STAGES OF ECONOMIC GROWTH' (1959) 12 The Economic History Review 1 <<https://doi.org/10.1111/j.1468-0289.1959.tb01829.x>>.

excessive, and uncontrolled debt could lead to financial difficulties, results in a decrease in a person's quality of life,<sup>16</sup> contribute to mental disorder,<sup>17</sup> trauma, stress, depression, anxiety, losing focus on work, and lowering self-esteem, and in fact, not infrequently, debt bondage can even lead to suicide.<sup>18</sup>

The *maqasid* in *hifz al-mal* in debt transaction should therefore be understood and discussed by looking at the nature, function, and role of debt in relation to the primary objective of realizing human wellbeing, individually and collectively, by acquiring benefit (*maslahah*) and preventing harm (*mafsadah*); by facilitating the circulation of wealth in the society; advocating fair and transparent practices and promoting socio-economic justice.<sup>19</sup>

#### *Debt and Needs: Darūriyyah, Hajiyyah, and Tahsiniyyah*

A person is in debt for certain reasons with varied motives. Shari'ah puts basic principles that the permissibility of debt transactions is for reason of achieving wellbeing (*maslahah*). In principle, benefit in the perspective of *maqāsid al-Shari'ah* consists of a benefit component (*muntafa' bih*) both according to common tradition ('urf) and *Syara'* guidance.<sup>20</sup>

The level of needs has been classified by scholars into three categories from the primary level of benefits (*maslahah*) to protect the individual and the community into the higher level that facilitate the improvement and perfection of the conditions of human life.

Scholars have attempted to clarify human needs in various dimensions based on urgency and scopes. Muhammad ibn Hasan Al-Syaibani divides human needs into three categories, namely obligatory needs (*farḍ al-'ayn*), additional requirements (*mandūb*), and permissible needs (*mubāh*).<sup>21</sup> Another well-known classification, as explained by Kamali, classifies *maslahah* into three categories, namely the essentials needs (*maslahah al-daruriyyah*), the complementary needs (*maslahah al-hājiyyah*) and the desirable or the embellishment needs (*maslahah al-tahsiniyyah*). Beyond permissible needs is considered as something unnecessary and discouraged to be fulfilled.<sup>22</sup>

The essential need (*maslahah al-daruriyyah*) is an obligatory need to be fulfilled (*farḍ al-'ayn*) because it is related to the survival and continuity of human existence. The

16 T Moore and K Fifield, 'What Stresses You out the Most?' (*Reader's Digest*, 2021) <[http://www.rdasia.com.my/what\\_stresses\\_you\\_out\\_the\\_most](http://www.rdasia.com.my/what_stresses_you_out_the_most)>; Imam Koeswahyono, Syahriza Alkohir Anggoro and Muhammad Dahlan, 'Old Wine in a New Bottle' [2022] *Journal of Southeast Asian Human Rights*; Vol 6 No 1 (2022): June 2022DO - 10.19184/jseahr.v6i1.29084.

17 Margreet Ten Have and others, 'The Bidirectional Relationship Between Debts and Common Mental Disorders: Results of a Longitudinal Population-Based Study.' (2021) 48 *Administration and policy in mental health* 810.

18 Elina Turunen and Heikki Hiilamo, 'Health Effects of Indebtedness: A Systematic Review' (2014) 14 *BMC Public Health* 489 <<https://doi.org/10.1186/1471-2458-14-489>>.

19 See al-Qur'an (*al-maidah*: 6).

20 (al-Qur'an, 2: 236)

21 Muhammad Hasan Al-Shaibani, *Al-Iktisab Fi Al-Rizq Al-Mustatab* (Dar al Kutub al Ilmiyah 1986).

22 Mohammad Hashim Kamali, *Maqasid Al-Shariah Made Simple* (International Institute of Islamic Thought 2008); See also, Ratno Lukito, 'Shariah and the Politics of Pluralism in Indonesia: Understanding State's Rational Approach to Adat and Islamic Law' (2019) 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah* 14 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/8>>; Ali Abubakar, 'The Chance on Islamic Family Law Study in Indonesia' (2019) Vol 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Yasrul Huda, 'Islamic Sharia in Aceh And Its Implication in Other Other Regions in Indonesia; Case Study During Implementation Aceh As Nanggroe Aceh Darussalam' (2020) 5 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

fulfillment of these basic needs includes meeting the needs of himself and his family, aspects of physical conditions that have food, clothing and housing, and other daily requirements, and these needs must be completed without exception. Al-Shaybani also added that the fulfillment of these basic needs becomes mandatory because not only related to one person's life (*hifz al-nafs*), but also their fulfillment is needed to implement obligatory worship (*hifz al-din*). Al-Shaibani refers to the rules of *fiqh* "What cannot be fulfilled perfectly, except with its existence, it becomes compulsory".<sup>23</sup>

Therefore, their fulfilment is obligatory. Shari'ah takes affirmative and punitive measures to promote and protect these values and a person is guided by divine guidance to fulfill this need. Debt to meet this need is not only allowed but obligatory if necessary to do so based on the hadith of the Prophet Muhammad SAW: "*a person does not owe unless it is due to a need.*"<sup>24</sup>

On other hand, Islam also encourages a capable person to provide debt loans without compensation of interest or any benefits for social purposes to help others meet their basic needs. It is an act of charity which is praised in the Qur'an as benevolence loan.<sup>25</sup>

At the next level, the necessities of life (*mandūb*) or *maslahah hājiyyah* (the complementary needs) facilitates human beings in making their life easier and lighten the burden of life. Al-Syaibani (1986) calls it as the *ma'ruf* level because their fulfilment will facilitate good quality of life and their absence will implicate difficulties in human life. The needs at this level are not much different from the level of basic needs (*ḍaruriyah*) but with more quantity and variety and better quality. These needs can be met after fulfilling basic requirements (*ḍaruriyah*) at the previous level. To meet these needs, Mahmud Shaltut believes that the act of borrowing is allowed not only to meet basic needs (*ḍarūriyah*) but also to cover the necessities of life (*hajiyyah*). For the reasons of necessity (*li al-hajjah*), lifting difficulties (*raf' al-haraj*), seeking convenience (*tahqīq al-taysīr*), or taking ease (*al-akhdz bi al-rukhas*), the scholars allow the act of debt (*dayn*) in the form of commercial transactions (*tijarī*) in the form of deferred payment (*mu'ajjal*) or credit sale (*salaf*). Those can provide flexibility for humans to meet their needs for a living (*hajiyyah*) to achieve a prosperous life through a deferred scheme.<sup>26</sup>

In the legal maxims (*qawa'id al-fiqhiyyah*) it is mentioned *al-ḍararu yuzālu* (difficulty must be eliminated) or *daḥḥ al-mafasid muqaddam 'ala jalb al-manafi'* (preventing evil takes precedence over obtaining benefits) and *al-darurah yudfa'u bi qadr al-imkan* (adversity must be anticipated as much as possible). So, there is a strong relationship between the legal ratio of the permissibility of debt and the purpose of the benefit to be achieved, namely the permitting of debt to meet urgent needs expected to maintain human wellbeing.<sup>27</sup>

The highest level is *maslahah tahsiniyah* (the desirable or the embellishment needs). Systematically Shari'ah aims to enhance human life by facilitating spaciousness, happiness, and wellbeing. The fulfillment of this level of *maslahah* improve quality of

23 Muhammad Hasan Al-Shaibani (n 21).

24 See Laldin (n 1).

25 See al-Qur'an (73: 20; 57: 11).

26 Mahmud Syaltout, *Al-Islam: 'Aqidah Wa Shari'ah* (Dar al- Qalam 1966).

27 Muhammad 'Utsman Syabir, *Al-Qawā'id Al-Kulliyah Wa Al-Dawabit Al-Fiqhiyah* (Dar Al-Nafais 2007). See also, Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525; Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse.



life and social wellbeing. The *maslahah tahsiniyah* include all dimensions of human life development from improving the appearance (*tahsin al-ṣūrah*), improving morals (*tahsin al-akhlaq*) and having good actions (*tahsin al-aʿfāl*).

However, scholars have different perspective on debt for *tahsiniyyah* fulfilment. The level of *tahsiniyyah* is not related to the reason for the urgent need (*lil hajjah*) justified by the *Syara'* for the act of debt. Debt for this purpose must be prevented because it will lead to the waste of resources (*israf*), lead to extravagant actions (*takatsur*), and unnecessary spending (*tabdzir*). The prohibition of debt for these needs aims to avoid damage (*mafsadah*) that could result from the extravagant lifestyle or to avoid disobedience purposes (*ma'siah*). Therefore, while these needs are classified as *mubahat* (permissible needs), Islam?? Or any scholar? stresses that one should limit the purpose of fulfilling this level of need to control excessive desires and desires for luxury. Debt for this purpose is undesirable.<sup>28</sup>

#### *Debt Between Maslahah and Mafsadah*

Having the above classification of needs and its relation to justification of having debt, in the perspective of *maqasid al-Shari'ah*, all judgments should be referred back to the very mission of Shari'ah namely "the accomplishment of benefits (*maslahah*) and the avoidance of harms (*mafsadah*)".<sup>29</sup>

Therefore, debt in the perspective of *maqāṣid al-Shari'ah* is viewed based on the justification of the motives and implications of the debt creation. In other words, while having debt is permissible in the perspective of *Shari'ah*, due to certain needs, individuals or countries at the macro level must consider the impact of having debt.<sup>30</sup>

Atiyyah in this regard expands the discussion by not only looking at the justification of having debt to meet various needs of the *daruriyyah*, *hajiyyah* and *tahsiniyyah* at the level of an individual *perse*, but to also include the assessment at the level of family, community, and humanity at large.<sup>31</sup> The examination in the *maqasid al-Shariah* perspective is between *maslahah* and *mafsadah* based on circumstances and situations.

There are several indicators that can be proposed to evaluate debt based on *maqasid al-Shari'ah* of having *maslahah* and *mafsadah* as follows:

- The basis of having debt is for *maslahah* of the individuals who are in need for it in order to support the benefit or to avoid harms inflicting in human life. Debt should not arise solely from the desire to fulfill personal satisfaction or other unsavory purposes.
- Debt should be used for clear and noble purposes of attaining wellbeing of having good quality of life (*maslahah*) instead of self-pleasure and satisfaction. In addition, humans also cannot be separated from their identity as moral beings (*homo moralists*) who place empathy for the conditions of other less fortunate people.

28 Adi Setia, 'Freeing Maqāṣid and Maṣlaḥa from Surreptitious Utilitarianism' (2016) 2 Islamic Sciences 134.

29 Ahmad Al-Raysuni, 'Theory of the Higher Objectives and Intents of Islamic Law' [2006] IIIT and IBT.

30 Mohamad Akram Laldin and Hafas Furqani, 'Innovation versus Replication: Some Notes on the Approaches in Defining Shariah Compliance in Islamic Finance' [2016] Al-Jami'ah: Journal of Islamic Studies; Vol 54, No 2 (2016)DO - 10.14421/ajis.2016.542.249-272 <<https://aljamiah.or.id/index.php/AJIS/article/view/54201>>.

31 Atiyyah, *Towards Realization of the Higher Intents of Islamic Law* (Islamic Book Trust 2010).



- The object of debt should be in the area of permissibility of Shari'ah (*mubahat*) that would bring benefit (*muntafa' bih*) both according to *Syara'* and tradition (*'urf*) and not for something impermissible (*muharrramat*) or sinful (*ma'siyyah*). These values are the measurements that form the basis for debt decisions so that no debt decision has an adverse impact. Meanwhile, from a positivist view, debt is created to attain self-pleasure in a continuous search for satisfaction without a meaningful goal with timeless effort. The debt made becomes of no use whatsoever and can even result in losses for the perpetrators.
- In principle, debt and loan are allowed as an instrument to facilitate mankind in fulfilling their needs for a good life and not as an instrument of profiteering and exploitation of man by man. Shari'ah promotes the concept of altruism, namely, prioritizing the needs or interests of others over the needs and interests of oneself. This concept is inseparable from the identity of humans as social beings (*homo socius*) who are willing to inflame the value of their economic satisfaction to meet the needs of life or help others.<sup>32</sup> While from a positivistic point of view, debtors cannot be separated from the principle of self-interest in the sense that humans are economic creatures (*homo economicus*) who aim rationally to fulfill their own needs and interests. Consequently, a lender will focus on his benefits in providing loans by setting interest compensation to earn profits.
- Both parties, debtor and creditor should observe Islamic values in debt transaction namely debt is for mutual benefit of both parties, for righteous purposes in the *halal* (permissible) and *tayyib* (good and beneficial),<sup>33</sup> avoiding consumerism and impulsive credit that would lead to *israf* (excessive spending), *tabdzir* (wasteful spending) and extravagant lifestyle.<sup>34</sup> Shari'ah preserve the right of debtor and creditor from the unilateral possession of the property. Debt should not be used as instrument for unilateral encroachment of other's right or obligation (*dzulm*). This is in line with the objectives of Shari'ah, preserving human dignity (*hifz al-'irdh wa al-murû'ah*) from humiliation and harassment, even though someone is in debt to meet urgent basic needs, and will threaten their survival if it cannot be fulfilled. Still, their dignity as human beings must be maintained. Thus, Islam stipulates institutional norms for debt-receiving cases by prohibiting the practice of usury on loans (*riba al-qard*) and establishes an ethical and moral foundation that regulates the relationship between lenders and borrowers regarding rights and obligations. Meanwhile, from a positivist perspective, it is not uncommon for debts accompanied by the imposition of excessive interest compensation, resulting in humiliation and harassment of human dignity.<sup>35</sup> Thus, often due to debt bondage accompanied by the obligation to

32 Irene Van Staveren, *Economics After the Crises: An Introduction to Economics from a Pluralist and Global Perspective* (Routledge Publishing 2015); Guy Davidov, 'Non-Waivability in Labour Law' (2020) 40 Oxford Journal of Legal Studies 482 <<https://academic.oup.com/ojls/article/40/3/482/5836752>>; Asdi, Edi Darmawijaya and Faisal Fauzan, 'Tinjauan Hukum Islam Terhadap Sistem Penyelesaian Wanprestasi Produk Arrum Di Pegadaian Syariah Aceh Besar' (2020) 3 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah.

33 See al-Qur'an (4:36-7).

34 See al-Qur'an (6:141; 17:27).

35 Constant Mews and Adrian Walsh, 'Usury and Its Critics: From The Middle Ages to Modernity' in Muhamad Ariff and Munawar Iqbal (eds), *The Foundations of Islamic Banking: Theory, Practice, and Education* (Edward Elgar Publishing 2011).

pay outrageous interest, the borrower is often entangled in slavery and mortgaging self-esteem and dignity just to fulfill debt obligations.<sup>36</sup>

The orientation of debt in Islam is to to attain benefit (*maslahah*) related to human life and survival to meet the urgent needs at the level of *ḍaruriyah* (basic needs) and *hajiyyah* (complementary needs). Meanwhile, from a positivist perspective, debt cannot be separated from the orientation of self-pleasure agenda without a clear understanding of urgent needs and necessary conditions.<sup>37</sup>

The implication of debt in the Islamic view is the fulfillment of urgent basic needs (*ḍarūriyah*) accompanied by the emergence of obligations (*iltizam*) and rights (*huquq*) for the debtor and creditor and the fulfillment of basic needs from threats to life (*hifzh al-nafs*) with maintenance of honor and dignity (*hifzh al-'irdh wa al-muru'ah*).<sup>38</sup> It should be noted that, excessive debt, can result in a loss of self-respect, mental illness and other psychological imbalances which are not welcomed in the perspective of attaining *maslahah* in the perspective of *maqasid al-Shariah*.

The comparison between benefit (*maṣlahah*) and harms (*mafsadah*) of debt in the perspective of *maqasid al-Shari'ah* can be summarized in the following table.

Table 1.1  
Comparison of *Maslahah* and *Mafsadah* of Debt

Aspect	<i>Maslahah</i>	<i>Mafsadah</i>
Basis	Urgent basic needs and other <i>ma'ruf</i> needs.	A mere wants satisfaction and other unsavory purposes.
Purpose	Attaining <i>maslahah</i> (wellbeing).	Self-pleasure and satisfaction.
Object	In the area of permissibility of Shari'ah ( <i>mubahat</i> ) in line with shari'ah rules <i>syara'</i> and tradition ( <i>muntafa' bih syar'an was 'urfan</i> ).	For something impermissible ( <i>muharramat</i> ) and sinful ( <i>ma'siyyah</i> ).
Principle	Debt is instrument for helping others in meeting their needs.	Debt is an instrument for profiteering and exploitation.
Values	<ul style="list-style-type: none"> <li>• Mutual benefit of both parties (<i>tabarru'</i> and <i>ta'awun</i>).</li> <li>• For righteous purposes in the <i>halal</i> (permissible) and <i>tayyib</i> (good and beneficial).</li> </ul>	<ul style="list-style-type: none"> <li>• Unilateral encroachment of other's right or obligation (<i>dzulm</i>).</li> <li>• Consumerism and impulsive credit lead to <i>israf</i> (excessive spending), <i>tabdzir</i> (wasteful</li> </ul>

36 Ali Riza Gül, 'Ribā (Usury) "Prohibition in the Qur'Ān: In Terms of Its Historical Context"' (2008) 116 Journal of Religious Culture; Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies; Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113.

37 Thorstein Veblen, *The Theory of The Leisure Class* (Oxford University Press 2007).

38 Wahbah Al-Zuhaili, *Al-Fiqh Al-Islāmi Wa Adillatuh* (Dār al-Fikr 1985).

	<ul style="list-style-type: none"> <li>• Maintenance of honor (<i>hifzh al-'irdh wa al-muru'ah</i>) and the right of debtor and creditor from the unilateral possession of the property.</li> </ul>	<ul style="list-style-type: none"> <li>• spending) and extravagant lifestyle.</li> <li>• Debt trap, control over other people's property in an unfair, and exploitative, and humiliation and harassment of human dignity.</li> </ul>
Orientation	Debt is oriented to attain benefit ( <i>maslahah</i> ) related to human life and survival.	Continual search for self-pleasure.
Implications	<ul style="list-style-type: none"> <li>• The obligations (<i>iltizam</i>) and rights (<i>huquq</i>) for the debtor and creditor.</li> <li>• Fulfillment of basic needs from threats to life (<i>hifz al-nafs</i>) with maintenance of honor and dignity (<i>hifz al-'irdh wa al-muru'ah</i>).</li> </ul>	<ul style="list-style-type: none"> <li>• Debtors can get into debt trap that accumulates if they are not wise in debt management.</li> <li>• If the debt is too much, it can result in a loss of self-respect, mental illness, and other psychological imbalances.</li> </ul>

Source: authors' own

### Conclusion

Debt (*dayn*) is defined as something in the form of property (*māl*) that is in one's responsibility (*ẓimmah*) and becomes an obligation to fulfill (*iltizam*). Debt in Islamic perspective is highly considered as one of important aspects in society' dealings (*mu'amalah*) that could help to fulfill necessities leading to an increase in welfare. Its role in smoothing consumption and impacts of economic shocks should not be simply dismissed. Hence, instead of annihilating its role and significance in human life, Shari'ah comes to regulate debt transaction.

Shariah has outlined certain objectives (*maqasid*), regulates certain rules (*ahkam*) and instituting ethics (*akhlak*) in debt arrangement so that benefits (*maslahah*) can be achieved, and harms (*mafsadah*) is prevented in the corridor that can help humans meet their needs, improve welfare, avoid deviations, exploitation, or harm to other parties.

The *maqasid al-shari'ah*, as argued in this article, provides a balance orientation for an individual, society or a state in the reason of having debt by looking at the basis of urgent needs and examine the impacts of debt for the quality-of-life improvement. This *maslahah* and *mafsadah* consideration could be the basis of how much debt can be tolerated.

### References

- Abī Ishāq al-Syātibī Ibrāhīm bin Mūsā al-Lakhmī al-Gharnāṭī al-Mālikī, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'ah* (Dār al-Kutub al-'Ulumiyyah 2004)
- Abubakar A, 'The Chance on Islamic Family Law Study in Indonesia' (2019) Vol 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Adi Setia, 'Freeing Maqasid and Maṣlaḥa from Surreptitious Utilitarianism' (2016) 2 Islamic Sciences 134
- Ahmad Al-Raysuni, 'Theory of the Higher Objectives and Intents of Islamic Law' [2006] IIIT and IBT
- Ahmad Fāṭimah Zāhir Isma'īl, *Fiqh Al-Imām Sufyān Ibn 'Uyainah* (Islamic University of Ghaza 2015)

- Ahmad Isawi, *Al-Mudāyanāt* (Jāmi'ah al-Malik 'Abd al-'Azīz 2008)
- Ahmed H, 'Maqasid Al-Shari'ah and Islamic Financial Products: A Framework for Assessment' (2011) 3 ISRA International Journal of Islamic Finance 149 <<https://journal.inceif.edu.my/index.php/ijif/article/view/116>>
- Akram Laldin M and Furqani H, 'Developing Islamic Finance in the Framework Of' (2013) 6 International Journal of Islamic and Middle Eastern Finance and Management 278 <<https://doi.org/10.1108/IMEFM-05-2013-0057>>
- Al-Daghistani S, 'Semiotics of Islamic Law, Maṣlaḥa, and Islamic Economic Thought' (2016) 29 International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique
- Al-Zuhailī W, *Al-Fiqh Al-Islāmī Wa Adillatuh* (Dār al-Fikr 1985)
- Ali Riza Gül, 'Ribā (Usury) "Prohibition in the Qur'Ān: In Terms of Its Historical Context"' (2008) 116 Journal of Religious Culture
- Armia MS, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse
- Armia MS, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies
- Armia MS, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113
- Armia MS et al, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525
- Asdi, Edi Darmawijaya and Faisal Fauzan, 'Tinjauan Hukum Islam Terhadap Sistem Penyelesaian Wanprestasi Produk Arrum Di Pegadaian Syariah Aceh Besar' (2020) 3 PETITA: Jurnal Kajian Ilmu Hukum dan Syari'ah
- Atiyyah, *Towards Realization of the Higher Intents of Islamic Law* (Islamic Book Trust 2010)
- Constant Mews and Adrian Walsh, 'Usury and Its Critics: From The Middle Ages to Modernity' in Muhammad Ariff and Munawar Iqbal (eds), *The Foundations of Islamic Banking: Theory, Practice, and Education* (Edward Elgar Publishing 2011)
- Davidov G, 'Non-Waivability in Labour Law' (2020) 40 Oxford Journal of Legal Studies 482 <<https://academic.oup.com/ojls/article/40/3/482/5836752>>
- Dusuki AW and Bouheraoua S, 'The Framework of Maqasid Al-Shari'ah and Its Implication for Islamic Finance' (2011) 2 ICR Journal 316 <<https://icrjournal.org/index.php/icr/article/view/651>>
- Huda Y, 'Islamic Sharia in Aceh And Its Implication in Other Other Regions in Indonesia; Case Study During Implementation Aceh As Nanggroe Aceh Darussalam' (2020) 5 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Ibnu Manzur, *Lisan Al-'Arab* (Dar Al-Ma'arif)
- Irene Van Staveren, *Economics After the Crises: An Introduction to Economics from a Pluralist and Global Perspective* (Routledge Publishing 2015)
- Jalāl Al-Dīn Al-Mahallī and Al-Sayūṭī JA-D, *Tafsīr Al-Jalālain* (Dār Al-Zfīkr al-Islamy 2017)
- Karl Polanyi, *The Great Transformation* (Beacon Press 1971)
- Koeswahyono I, Anggoro SA and Dahlan M, 'Old Wine in a New Bottle' [2022] Journal of Southeast Asian Human Rights; Vol 6 No 1 (2022): June 2022DO - 10.19184/jseahr.v6i1.29084
- Laldin MA, 'Understanding the Concept of Maslahah and Its Parameters When Used in

- Financial Transactions' (2010) 2 ISRA International Journal of Islamic Finance 61  
<<https://journal.inceif.edu.my/index.php/ijif/article/view/91>>
- Laldin MA and Furqani H, 'Innovation versus Replication: Some Notes on the Approaches in Defining Shariah Compliance in Islamic Finance' [2016] Al-Jami'ah: Journal of Islamic Studies; Vol 54, No 2 (2016) DO - 10.14421/ajis.2016.542.249-272  
<<https://aljamiah.or.id/index.php/AJIS/article/view/54201>>
- Lukito R, 'Shariah and the Politics of Pluralism in Indonesia: Understanding State's Rational Approach to Adat and Islamic Law' (2019) 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 14 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/8>>
- Mohammad Hashim Kamali, *Maqasid Al-Shariah Made Simple* (International Institute of Islamic Thought 2008)
- Muhammad 'Utsman Syabir, *Al-Qawā'id Al-Kulliyah Wa Al-Ḍawabiṭ Al-Fiqhiyah* (Dar Al-Nafais 2007)
- Muhammad al-Tahir Ibnu Ashur, *Treatise on Maqasid Al-Shari'ah* (International Institute of Islamic Thought 2006)
- Muhammad Hasan Al-Shaibani, *Al-Iktisab Fi Al-Rizq Al-Mustatab* (Dar al Kutub al Ilmiyah 1986)
- Muhammad Siddiq Armia and Bin-Armia MS, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i
- Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69
- Peter L Berger, *The Capitalist Revolution* (Wildwood House Ltd 1987)
- ROSTOW WW, 'THE STAGES OF ECONOMIC GROWTH' (1959) 12 The Economic History Review 1 <<https://doi.org/10.1111/j.1468-0289.1959.tb01829.x>>
- Setiawati W, 'The Prospect of Channeling Dispute Between Labour and Foreign Investor' (2021) 6 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 65  
<<https://petita.ar-raniry.ac.id/index.php/petita/article/view/113>>
- Syaltout M, *Al-Islam: 'Aqidah Wa Shari'ah* (Dar al- Qalam 1966)
- T Moore and Fifield K, 'What Stresses You out the Most?' (*Reader's Digest*, 2021)  
<[http://www.rdasia.com.my/what\\_stresses\\_you\\_out\\_the\\_most](http://www.rdasia.com.my/what_stresses_you_out_the_most)>
- Ten Have M and others, 'The Bidirectional Relationship Between Debts and Common Mental Disorders: Results of a Longitudinal Population-Based Study.' (2021) 48 Administration and policy in mental health 810
- Thorstein Veblen, *The Theory of The Leisure Class* (Oxford University Press 2007)
- Timur Kuran, 'The Economic System In Contemporary Islamic Thought' in Jomo KS' in Jomo KS (ed), *Islamic Economic Alternatives: Critical Perspectives and New Directions* (Macmillan Publishers Limited 1992)
- Turunen E and Hiilamo H, 'Health Effects of Indebtedness: A Systematic Review' (2014) 14 BMC Public Health 489 <<https://doi.org/10.1186/1471-2458-14-489>>
- Wahbah A-Z, *Nazariyah Al-Darurah Al-Syari'yyah Muqaranah Maa' Al-Qanun Al-Wadhi'* (Dar al Fikr 1997)
- Wahbah Al-Zuhaili, *Al-Fiqh Al-Islami Wa Adillatuh* (Dar Al-Fikr 1997)