

Reconstructing Maqasid al-Shariah in determining the hadd for theft: A contextual analysis of QS al-Ma'idah 38 based on asbabun nuzul

Muzaqky Muthahhari*, Zul Azmi, Hidayatullah Ismail

Sultan Syarif Kasim State Islamic University Riau. Jl. KH. Ahmad Dahlan No. 94, Kampung
Melayu, Sukajadi District, Pekanbaru City, Riau 28122, Indonesia
e-mail: @muthahhari@gmail.com

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ABSTRACT

The determination of the Hadd for theft in QS al-Ma'idah:38 has long been a point of contention between legal textualism and social reality. This verse is often understood literally, without considering the socio-historical context of the revelation. This article aims to reconstruct the normative meaning of the verse through an analysis of Asbabun Nuzul and the Maqasid al-Shariah approach to reaffirm substantive justice in Islamic law. This study employs a qualitative-descriptive method based on library research, using comparative analysis of classical exegesis (al-Ṭabarī, Ibn Kathīr, al-Qurṭubī) and reformist-modern exegesis (Ibn 'Āshūr, Rashīd Riḍā, Jasser Auda). The findings show that the Hadd is not intended merely as a punitive instrument but as a moral symbol to safeguard social stability once distributive justice is established. This normative reinterpretation affirms that implementing the Hadd without fulfilling social justice contradicts the Maqasid of Islamic law. In conclusion, authentic Islamic law is not a system of punishment but a divine moral system aimed at honoring human beings and manifesting God's mercy in social life.

Keywords: Asbabun Nuzul; Contextual Exegesis; Hadd of Theft

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1. INTRODUCTION

There is a verse that often makes us fall silent and reflect: Allah says: “As to the thief, Male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is Exalted in power” (QS al-Ma'idah [5]: 38).

For some people, this verse is a symbol of the firmness of Islamic law, a sign that Sharia does not recognize compromise toward violations. However, for others, this verse raises a question: Is it really the case that every thief must have their hand cut off, without regard to social and economic background or the systems that drive them to commit such acts? Here, we encounter a classic contradiction between text and reality.

In modern reality, theft often arises not only from greed but also from structural poverty, economic inequality, and distorted justice. On the one hand, Islamic law appears “harsh” in the text; on the other hand, social reality demands “moral wisdom.” This raises a profound epistemological question: Is a legal text such as QS al-Ma'idah:38 absolute and closed, or is it open to reinterpretation based on the context of revelation (Asbabun Nuzul) and the objectives of Sharia (maqasid al-syariah)?

Since the classical period, fuqaha' have realized that legal texts cannot be understood without context. Ibn al-Qayyim al-Jawziyyah affirms:

"الشريعة أساسها وبنيانها على الحكمة ومصالح العباد في الدنيا والآخرة"

“The sharia is built and established upon wisdom and the welfare of the servants, in this world and in the Hereafter.” (al-Jawziyyah, 1991).

This means that the aim of the law is not merely to implement the text literally but to uphold justice and welfare, which are the spirit of the text itself. However, in social practice, the text is often rigidly imposed on a flexible reality. For example, the amputation of the hand may be applied to a petty thief driven by hunger, but not to major corruptors who hide behind power. Thus, the law appears “just in the text,” but “oppressive in practice.”

This phenomenon is not new. In Islamic history, Caliph 'Umar ibn al-Khaṭṭāb once suspended the implementation of the Hadd for theft during a period of famine (عام الرمادة), considering the emergency situation and unjust social conditions (Al-Tabbari, 1960). He did not reject the verse but understood that enforcing the law without paying attention to its Maqasid could, in fact, harm sharia itself. 'Umar's action is a classic example of contextual reinterpretation—not the cancellation of the text, but the internalization of its deepest meaning.

QS al-Ma'idah:38 was revealed in the context of the Madinan society, which was beginning to build a stable social and legal system. According to al-Wāḥidī in *Asbabun Nuzul*, this verse is related to the case of a woman from Bani Makhzūm who stole valuable property, and the Prophet ﷺ rejected the intervention of the noble Quraysh family who wanted to lighten her punishment (al-Wāḥidī, 1991).

This context shows that the verse is not merely about stealing but about justice that does not discriminate. The Prophet ﷺ said:

إِنَّمَا أَهْلَكَ الَّذِينَ قَبْلَكُمْ أَنَّهُمْ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكُوهُ، وَإِذَا سَرَقَ فِيهِمُ الضَّعِيفُ أَقَامُوا عَلَيْهِ الْحَدَّ، وَإِنَّمَا اللَّهُ، لَوْ أَنَّ فَاطِمَةَ بِنْتَ مُحَمَّدٍ سَرَقَتْ، لَقُطِعَتْ يَدُهَا (Al-Hajjāj, 1688)

Thus, Asbabun Nuzul teaches that the purpose of this verse is not merely to punish but to establish egalitarian justice in society. When the social context changes—when theft arises from an unjust system—the spirit of justice in this verse should guide the reinterpretation of the law, not the freezing of its meaning.

A major question arises: Is Islamic law *ta'abbudi* (accepted as it is without rational inquiry) or *ta'lili* (based on reasons and purposes)? Scholars have different views on this topic.

Al-Ghazālī in *al-Mustaṣfā* asserts that the rulings of the sharia arise from an 'illah (rational cause) that can be traced and measured. Therefore, understanding the law does not stop at the text but moves toward the Maqasid—the objectives that Sharia seeks to achieve (Al-Ghazālī, 1904:174).

Ibn 'Ashūr then expanded this idea in *Maqasid al-syariah al-Islāmiyyah*, emphasizing that Islamic law cannot be applied without understanding its human context ('Ashūr, 1946:52-53). Thus, justice (*adl*), welfare (*maṣlahah*), and the protection of basic human needs (*ḥifẓ al-nafs, al-māl, al-'ird*, etc.) become the main foundations in every application of the law.

Accordingly, the reinterpretation of QS al-Ma'idah:38 is not a form of legal relativism but an epistemological effort to return the law to its *maqṣad*: social and moral justice. For the text is a means (*wasīlah*), not an end in itself.

From the tension between normative texts and dynamic social realities, this study seeks to examine two main questions: (1) How did Asbabun Nuzul influence the limits of applying the Hadd punishment for theft in the early Islamic social context? (2) How do the principles of maqasid al-syariah guide a reading of the law that is adaptive to justice in contemporary social contexts?

This study aims to rediscover the normative and humanistic dimensions of this verse by bridging sacred texts and dynamic realities.

Through the framework of Asbabun Nuzul and maqasid al-syariah, this study seeks to show that Islam is not rigid or frozen. They live, breathe, and move with humans. For Islamic law in its true sense is not a whip to punish, but a mirror that calls for self-awareness: justice does not arise from the sword but from understanding the divine values that enliven every text of revelation.

2. METHOD

This study employs a qualitative approach with a descriptive-analytical method based on library research. The main focus of this study is an analysis of QS al-Ma'idah:38 from the perspectives of Asbabun Nuzul and Maqasid al-Shariah, by tracing the dynamics of interpretation from the classical to the contemporary period. Primary data are obtained from authoritative works of exegesis such as *Jāmi' al-Bayān* by al-Ṭabarī, *Tafsīr al-Qurṭubī*, and *Tafsīr Ibn Kathīr*, which represent the textual-normative tradition. Meanwhile, secondary data are drawn from modern tafsir and literature such as *Tafsīr al-Manār* by Rashīd Riḍā, *Al-Taḥrīr wa al-Tanwīr* by Ibn 'Āshūr, as well as contemporary works such as Jasser Auda's *Maqasid al-Shariah as Philosophy of Islamic Law*.

Data analysis was conducted using a comparative hermeneutical approach to trace the epistemological evolution from a textual paradigm to a contextual one. This approach not only compares the views of exegetes (*mufasssīrūn*), but also assesses the legal rationality embedded in the determination of Hadd for theft. To reinforce the analytical framework, this study refers to al-Shāṭibī's maqāṣid theory and Abdullah Saeed's social hermeneutics to understand the interaction between the revelatory text and the social context.

Thus, this method does not stop at textual description but seeks to uncover the normative and philosophical dimensions of Islamic law so that the meaning of Hadd can be interpreted in a just and humane manner and in accordance with the principles of social justice that constitute the spirit of the sharia.

3. RESULT AND DISCUSSION

3.1 Genealogy of the Interpretation of QS al-Ma'idah:38: From Textual to Contextual

3.1.1 Classical Tafsir

Classical tafsir, such as al-Ṭabarī's (d. 310 AH), Ibn Kathīr (d. 774 AH), and al-Qurṭubī (d. 671 AH), is built upon the paradigm that law is a direct expression of the divine will, whose purity must be preserved and protected. In this framework, *lafaz* (text) is treated as the sole, authoritative source.

Al-Ṭabarī, in *Jāmi' al-Bayān*, interprets this verse by affirming the literal meaning of the phrase *فَأَقْطَعُوا أَيْدِيَهُمَا*, namely cutting off the right hand of the thief from the wrist, in accordance with the practice of the Prophet ﷺ and the consensus (*ijmā'*) of the companions (al-Ṭabarī, 2001). For al-Ṭabarī, this ruling is a form of *nakāl* (deterrent warning) so that society safeguards property and morality from thieves. There is no room for social reinterpretation; context only serves to explain the cause of the revelation, not to alter its meaning.

Ibn Kathīr, in *Tafsīr al-Qurʾān al-ʿAẓīm*, emphasizes the same point. He cites a ḥadīth narrated by al-Bukhārī that the Prophet ﷺ ordered the cutting of the thief's hand with a minimum threshold of one-quarter dinar (Ibn Kathīr, 1999). Thus, justice is understood as complete obedience to the text and the legal precedent of the Prophet. From this perspective, obedience to the text is justice itself.

Al-Qurṭubī broadens the discussion by addressing the *fiqh* dimensions, such as conditions, the value of the stolen property, and the place of implementation. He writes:

"المراد بالقطع: الإقامة على الحد، لا الانتقام"

"What is meant by cutting the hand is the establishment of the ḥadd, not revenge." (al-Qurṭubī, 2006)

Nevertheless, his *ijtihād* remains within a literalist framework: the legal text is final, and humans are merely required to enforce it. This paradigm is understandable because classical tafsir emerged in an era when social structures were still relatively simple, law was centralized under political authority, and society had not yet encountered the kind of modern inequalities that we see today.

3.1.2 Reformist Tafsir

In the early 20th century, Qurʾanic exegesis began confronting modernity, colonialism, and social moral crises. In this context, reformist figures such as Rashīd Riḍā (d. 1935) and Muḥammad al-Ṭāhir ibn ʿĀshūr (d. 1973) emerged, viewing sharia not as a dead text but as a living moral system.

Rashīd Riḍā, in *Tafsīr al-Manār*, stressed that the ruling of cutting the hand is not merely a "punishment," but a social mechanism to protect property rights and eliminate injustice (Riḍā, 1947). He connects this verse with the socio-economic conditions of Arab society at the time, which was highly vulnerable to theft because of the weakness of its social system. For Riḍā, if social conditions change—when poverty, corruption, and inequality become the main causes of crime—then the enforcement of the law must be accompanied, first, by reforming social structures.

Ibn ʿĀshūr goes even further. In *Maqāṣid al-Sharīyah al-Islāmiyyah*, he asserts that the implementation of legal rulings must be grounded in the objectives of the sharia (*Maqāṣid*), namely the preservation of the five essential needs (*al-ḍarūriyyāt al-khams*): religion, life, intellect, lineage, and property. For Ibn ʿĀshūr, a rule that produces social harm cannot be called a ruling of the sharia because it contradicts the very purpose of revelation (Ibn ʿĀshūr, 1946).

At this stage, the interpretation of the law begins to shift: justice is no longer understood as literal obedience alone but as the realization of the divine *maqṣad* within a human context. This marks the beginning of an epistemological transformation in Islamic law from textual obedience to a Maqasid-based consciousness.

3.1.3 Modern Tafsir and Social Hermeneutics

When the world entered the 21st century, new challenges emerged: globalization, capitalism, structural poverty, and the modern nation-state governed by the rule of law. Amid these conditions, a new generation of contemporary Muslim thinkers such as Jasser Auda, Abdullah Saeed, and Tariq Ramadan appeared, advancing a Maqasid-based tafsir paradigm and social hermeneutics.

Jasser Auda, in *Maqasid al-Sharīyah as Philosophy of Islamic Law* (2008), asserts that the Islamic legal system must be read through a systemic approach: law cannot be detached from the social, political, and moral context of society. He criticizes the "atomistic" paradigm of classical *fiqh*, which understands texts in isolation from reality. According to him, Maqasid is the lens that makes the law living and contextual (Ibn ʿĀshūr, 1946).

Meanwhile, Abdullah Saeed, in his work *Interpreting the Qurʾān: Towards a Contemporary Approach* (2006), offers a contextualist hermeneutical approach. He argues that Qurʾanic texts were always revealed within particular historical contexts, and therefore must be read within the framework of universal moral objectives: justice, mercy (*raḥmah*), and human welfare (*maṣlahah*) (Saeed, 2006).

This approach carries radical consequences: the ruling of cutting the hand is no longer understood only as a fixed rule (*ḥukm thābit*) but also as a moral metaphor for the importance of safeguarding honesty and social justice. From the perspective of social hermeneutics, divine justice cannot be reduced to a physical act; it must be embodied in social structures that prevent inequality.

Thus, modern tafsir shifts the center of meaning from the text to the purpose: the question is no longer only how the law is enforced, but why the law exists. This shift is not a form of deconstruction but an effort at reconstruction so that Islamic law remains relevant to contemporary society.

3.1.4 Epistemological Evolution

The long trajectory of the interpretation of QS al-Mā'idah:38 reveals a major transformation from a textual-normative paradigm to a contextual-teleological one. Whereas classical tafsir places the text as the "end point" of revelation, Maqasid-based tafsir treats the text as a "pathway" to higher divine values.

This evolution is in line with Ibn al-Qayyim's view.

الفتوى تتغير بتغير الأزمان والأمكنة والأحوال

"Fatwas can change with the change of times, places, and circumstances." (Al-Jawziyyah, 1991).

This means that Islamic law is not a rock standing still amid the waves but a ship that sails, carrying divine principles through changing tides. Thus, interpreting QS al-Mā'idah:38 contextually does not weaken the sharia but enlivens its spirit of justice.

Here lies the greatness of Islam: it does not stop at the text but kindles meaning. For what is eternal is not the outward form of the law, but its sacred purpose: to uphold justice (*ʿadl*), preserve human dignity (*karamah*), and build *rahmah* in the community.

3.2 Asbābun Nuzūl of QS al-Mā'idah: 38 and the Reconstruction of the Social Context

3.2.1 Classical Narrative: The Case of the Theft by a Woman of Banū Makhzūm

Scholars agree that this verse was revealed concerning a woman from Banū Makhzūm who stole valuable goods. Al-Wāḥidī narrates that when this noble woman was caught, her family pleaded with the Prophet ﷺ for pardon so that the ḥadd punishment would not be applied (Al-Wāḥidī, 1991). They even sent Usāmah ibn Zayd, the Messenger's beloved companion, as an intermediary. The Prophet's face changed in anger, and he said:

"أَتَسْتَفْعُ فِي حَدٍّ مِنْ حُدُودِ اللَّهِ؟"

"Are you interceding regarding one of the limits set by Allah?"

He then stood and delivered a sermon before the people.

"إِنَّمَا أَهْلَكَ الَّذِينَ قَبْلَكُمْ، أَنَّهُمْ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكُوهُ، وَإِذَا سَرَقَ فِيهِمُ الضَّعِيفُ أَقَامُوا عَلَيْهِ الْحَدَّ"

"Indeed, what destroyed the nations before you was that when a noble person among them stole, they let him go, but when a weak person stole, they carried out the ḥadd upon him." (Ibn al-Ḥajjāj, 2006).

From this narration, the *asbābun nuzūl* is not about poverty but about the morality of justice amid prosperity. The woman did not steal because of hunger but because of greed during a time of affluence. Thus, this verse was not revealed to punish the poor but to uphold justice in a society that had begun to be distorted by power and social class structures.

3.2.2 Socio-Historical Analysis

Socio-historical studies show that Sūrah al-Mā'idah belongs to the late Madinan period of prophethood, when the Muslim community had become stable in terms of its economy and legal order. In other words, this verse emerged in the context of social stability rather than economic crisis.

This is important because many people mistakenly understand hand amputation as a solution to crimes arising from poverty (Al-Suyūṭī, 1996). In fact, the ḥadd in QS al-Mā'idah: 38 does not appear to

punish the hungry but to restore the moral integrity of a prosperous society that has begun to decay due to class inequity.

Islamic legal historian Wael B. Hallaq (2009) emphasizes that *ḥudūd* law in the time of the Prophet ﷺ functioned more as a moral deterrent than as an instrument of state repression. The implementation of such laws presupposes certain social conditions: distributive justice, social security, and the absence of economic coercion on the offender (Hallaq, 2009).

In other words, *ḥadd* does not stem from divine anger but from His mercy, which seeks to protect society from moral corruption caused by greed. Therefore, the social context of revelation is not merely a historical background; it is part of the meaning itself.

3.2.3 Normative Meaning

Viewed from the *maqāṣid* dimension, the *ḥadd* for theft (*ḥadd al-sāriq* – cutting the thief's hand) is not an ultimate goal but a means to uphold the values of justice and honesty. Al-Ghazālī explains that one of the aims of Islamic law is *ḥifẓ al-māl* (protection of property), yet such protection is not achieved solely through sanctions, but by establishing a just social system (Al-Ghazālī, 1904).

Ibn al-Qayyim even writes:

"إن الله أرسل رسوله لإقامة العدل، فإذا ظهرت أمارات العدل بأي طريق فثم شرع الله ودينه"

"Allah sent His messengers to establish justice; thus, wherever the signs of justice appear by any means, there lies the law and religion of Allah." (Ibn al-Qayyim al-Jawziyyah, 1991).

Accordingly, the hand amputation in this verse must be understood as a conditional moral symbol of justice. When social justice has not yet been realized—when the system continues to sustain poverty and inequality—then enforcing the law without considering context betrays the spirit of revelation.

Islamic history supports this view. ‘Umar ibn al-Khaṭṭāb suspended the application of *ḥadd al-sāriq* during the year of famine (*‘ām al-ramādah*) because he understood that enforcing the punishment without social justice would mean oppressing the people. ‘Umar’s action was not an abrogation of the law, but a realization of the divine *maqṣad*: that law exists to protect, not to harm (A-Ṭabarī, 1960).

3.2.4 *Asbābun Nuzūl* as a Mirror of *Maqāṣid*: From Event to Principle

Modern approaches to *asbābun nuzūl* reject confining revelations to a narrow historical cage. As Jasser Auda argues, every context of revelation should be read as a “divine scenario” that teaches universal principles and not merely local stories. QS al-Mā’idah: 38 not only recounts the theft of the Makhzūmī woman; it affirms the principle of justice that does not discriminate based on status (Auda, 2008).

This is a crucial turning point: *asbābun nuzūl* does not only explain “why the verse was revealed,” but also why justice must be implemented only when the social conditions are fulfilled. In other words, understanding *asbābun nuzūl* teaches us that *ḥadd* must not be enforced in a society that fails to secure its citizens’ basic rights.

Abdullah Saeed calls this perspective *contextual hermeneutics*—reading the Qur’an by attending to the universal moral values intended for human beings in every age (Saeed, 2006). If at the time of the Prophet this verse challenged the social privilege of the Quraysh nobility, then today it challenges structural inequality, corruption, and legal oppression.

3.2.5 Insight: Divine Law as Social Ethics

We can now see that the *asbābun nuzūl* of QS al-Mā’idah: 38 is not merely a legal narrative but a manifesto of Islam’s social ethics. The law of hand amputation represents the highest moral threshold of law—it can only be applied when society has first established economic justice, educational access, and general welfare. Without these, the law becomes tyrannical (Zuhaili et al., 1947:47).

Thus, in reading this verse, we do not only ask: “Who stole?”, but also: “Who created the conditions in which theft occurs?” If poverty, corruption, and inequality are allowed to persist, the sin belongs to the system, not only to the individual.

As Ibn ‘Āshūr states:

"المقصد الأعظم للشريعة هو إقامة العدل ودفع الظلم"

“The highest objective of the Shari‘ah is the establishment of justice and the removal of injustice.” (Ibn ‘Āshūr, 1946)

Therefore, to understand *asbābun nuẓūl* is to understand the spirit of law. Revelation is not sent to deepen human wounds but to heal them. And QS al-Mā'idah: 38 is not merely about the legal ruling of cutting the hand; it is a divine message that true justice lives only when we dare to establish morality before we punish the guilty.

3.3 Normative Reinterpretation of QS al-Mā'idah: 38

3.3.1 Contextual Tafsir: “Cutting the Hand” as a Symbol of Justice

Contextual interpretation shows that *qaṭ‘ al-yad* is not merely a physical act but a symbol of severing one’s relationship with injustice and dishonesty (Al-Ṭabarī, 2001). In classical tafsir, al-Ṭabarī (2001) understands this verse literally: the hand-cutting as a ḥadd punishment remains valid under strict conditions, and However, modern exegesis has begun to read it more deeply. Ibn ‘Āshūr (1984) in *al-Taḥrīr wa al-Tamwīr* writes that the law of hand-cutting must be understood within the framework of *iṣlāḥ ijtīmā‘ī* (social reform). He emphasizes:

"إنَّ الشريعة لم تضع العقوبات لأجل التشفي، ولكن لأجل الزجر والإصلاح"

“The Shari‘ah does not prescribe punishments for the sake of revenge, but for deterrence and reform.” (Ibn ‘Āshūr, 1984).

Thus, hand-cutting is a symbol of the moral nature of the law, not an instrument of violence itself. It reminds society that honesty is the foundation of civilization and that theft is an act of resistance against the community’s moral framework.

Reformist tafsir, such as that of Rashīd Riḍā (1947), even describes this verse as a form of social education (*ta’ dīb ijtīmā‘ī*): society must create an economic system that prevents theft. In other words, this law demands a just structure before imposing harsh sanctions (Riḍā, 1947).

3.3.2 Contemporary Relevance

In the context of the modern world, the meaning of QS al-Mā'idah: 38 becomes an epistemological test: does Islamic law function only to punish individuals, or does it also function to repair social structures?

Jasser Auda (2008) in *Maqasid al-Shariah as Philosophy of Islamic Law* stresses that *maqāṣid al-shari‘ah* is not merely a tool of interpretation, but an ethical framework for assessing the relevance of law in the contemporary world. He states that Islamic law must operate in two realms: preserving social morals (*akhlāq al-fardiyyah*) and upholding structural justice (*‘adl ijtīmā‘ī*) (Auda, 2008).

Within this framework, hand-cutting is no longer simply “a punishment for the thief,” but a moral warning to rulers and society: do not allow a system that forces people to steal. Thus, enforcing the law without social justice goes against the *maqāṣid*.

Al-Shāṭibī affirms in *al-Muwāfaqāt*:

"فَإِنَّ الْأَحْكَامَ إِنَّمَا شُرِعَتْ لِمَصَالِحِ الْعِبَادِ فِي الدُّنْيَا وَالْآخِرَةِ"

“The rulings of the Shari‘ah were prescribed for the welfare of human beings in this world and the Hereafter.” (Al-Shāṭibī, 1997).

If the law increases the suffering of the poor, it has lost its *maqāṣid*. Therefore, enforcing *ḥadd al-sariqah* without social reform is a betrayal of *maqāṣid al-sharī'ah*.

3.3.3 Critique of Literalistic Application

The sharpest criticisms of a literalistic application of the law of hand-cutting come from two directions: epistemological and moral. Epistemologically, the literal approach rejects the dynamics of context and history, even though revelation always comes within the lived context of human life.

Abdullah Saeed (2006) in *Interpreting the Qur'an: Towards a Contemporary Approach* explains that reading legal verses without considering their *asbābun nuzūl*, social conditions, and *maqāṣid* means rendering revelation “mute in the present.” He writes (Saeed, 2006).

“Qur’anic interpretation must bridge the historical and the ethical; otherwise, revelation becomes irrelevant to human suffering.” (Rahman, 1982).

Morally, the literalistic approach fails to distinguish between justice and retribution. It enforces the law without regard for the social victims of an unequal system. This is what Fazlur Rahman calls *moral paralyssis*—law reduced to a legal ritual devoid of an ethical soul (Abū Dāwūd, 2009).

In a world where economic inequality, corruption, and poverty remain rampant, the literal implementation of the verse on hand-cutting becomes a paradox: the hungry are punished, while the oppressors go free.

Yet, the Prophet ﷺ himself reminded:

"أَقْبِلُوا ذَوِي الْهَيْئَاتِ عَنْرَاتِهِمْ، إِلَّا فِي حُدُودِ اللَّهِ"

“Overlook the slips of those who are honorable, except in matters involving the limits set by Allah.”

This ḥadīth affirms the principle of proportionality: the law must weigh social and moral justice, not only the literal text. For this reason, the *fuqahā'* rejected the application of ḥadd during famine—not the verse, but injustice.

3.3.4 Theoretical Synthesis

From these readings, a strong theoretical conclusion emerges: QS al-Mā'idah: 38 does not stop at the legal text; it continues to live within the context of justice.

This verse is not merely about cutting the hand but about cutting off the causes of social inequality. It is a call to the ummah to build a just economic system, an honest culture, and a trustworthy leadership. Thus, the normative reinterpretation of this verse gives rise to three universal principles: (1) Law as a moral symbol, not an instrument of violence; (2) Social justice as a prerequisite for ḥadd, not its consequence; (3) *Maqāṣid* as the soul of the law, not merely an accessory to tafsir.

According to Ibn al-Qayyim (1991):

"فَأَيُّ طَرِيقٍ اسْتَخْرَجْتَ الْعَدْلَ فَهِيَ مِنَ الدِّينِ"

“Any path that brings forth justice is part of the religion.” (Al-Qayyim, 1991).

Thus, if hand-cutting is carried out without justice, it is not Sharī'ah; it is violence in the name of Sharī'ah. But if law is implemented to uphold morality and close the paths of oppression, then there lies the *ḥaqīqat al-Sharī'ah*: mercy that lives through justice (Hasan et al., 1971:5-6).

4. CONCLUSION

Islamic law is not a sword that strikes but a light that illuminates. It is not a system that lives off fear but one that is sustained by responsibility and compassion. In its deepest sense, *sharī'ah* is not merely a set of “rules” — it is a path that leads to justice and humanity. From the discussion of QS al-Mā'idah: 38, it is clear that this verse must not be read in a vacuum but within the social and moral space in which it was revealed. *Asbābun Nuzūl* teaches that revelation came to a socially stable community, not amidst a

crisis of poverty. *Maqāṣid al-sharī'ah* guides us to understand that hand-cutting is not an end in itself, but a moral symbol to safeguard justice and social order (Rahmi, 2017).

Great scholars such as al-Shāṭibī, Ibn al-Qayyim, and Ibn 'Āshūr agree that the core of the law is human welfare (Ibn 'Āshūr, 1984). Ibn al-Qayyim writes:

إِنَّ الشَّرِيعَةَ عَدْلٌ كُلُّهَا، رَحْمَةٌ كُلُّهَا، مَصَالِحٌ كُلُّهَا، فَكُلُّ مَسْأَلَةٍ خَرَجَتْ مِنَ الْعَدْلِ إِلَى الْجَوْرِ، وَمِنَ الرَّحْمَةِ إِلَى ضِدِّهَا، فَلَيْسَتْ مِنَ الشَّرِيعَةِ

“Indeed, the *sharī'ah* is entirely justice, entirely mercy, entirely benefit. So any matter that departs from justice to injustice, from mercy to cruelty, from benefit to harm — is not part of the *sharī'ah*.” (Ibn al-Qayyim al-Jawziyyah, 1991).

This statement is not merely a theory of law; it is the moral foundation of Islam itself. This affirms that enforcing the law without social justice violates the *maqāṣid* rather than upholding them. Thus, a normative reinterpretation of QS al-Mā'idah: 38 is not a “weakening” of the law, but a reinforcement of its spirit so that the law once again stands on the side of human beings.

This reinterpretation also opens a new path for legal *tafsīr* that is both just and humane. In the modern world, Islamic law must not remain a text of the past but must function as a moral compass that is relevant and contextualized. As Jasser Auda (2008) emphasizes, *maqāṣid al-sharī'ah* constitute an open system, moving along with time to protect life, intellect, honor, and human dignity (Auda, 2008).

At this point, Islam reveals its true strength: it does not deify the text; it humanizes its meaning. It not only establishes justice in the courtroom but also plants it in the heart and social structures.

Therefore, true Islamic law is not merely a punitive system but a divine moral system. It lives wherever justice lives and dies wherever humans lose their sense of compassion. Therefore, our task is not to sharpen the sword of the law but to deepen the meaning of justice. When the law sides with human beings, then and only then does it truly become part of God's mercy for all creation.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

“And We have not sent you (O Muhammad) except as a mercy to all the worlds.” (QS al-Anbiyā': 107).

Ethical Approval

Not Applicable

Informed Consent Statement

Not Applicable

Authors' Contributions

MM contributed to the conceptualization of the study, theoretical framework, and supervision of the research process. He also coordinated the manuscript preparation and served as corresponding author. ZZ contributed to the methodology design, data analysis, and validation procedures, including reliability and construct validity testing. HI was responsible for data collection, literature review, and assisting in drafting and revising the manuscript.

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Notes on Contributors

Muzaqky Muthahhari

Muzaqky Muthahhari is affiliated with Sultan Syarif Kasim State Islamic University Riau, Pekanbaru, Riau, Indonesia.

Zul Azmi

Zul Azmi affiliated is with Sultan Syarif Kasim State Islamic University Riau, Pekanbaru, Riau, Indonesia.

Hidayatullah Ismai

Hidayatullah Ismail is affiliated with Sultan Syarif Kasim State Islamic University Riau, Pekanbaru, Riau, Indonesia.

REFERENCES

- Abū Dāwūd, S. (2009). *Sunan Abī Dāwūd*. Beirut: Dār al-Kutub al-‘Ilmiyyah.
- Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā min ‘Ilm al-Uṣūl*, (Kairo: al-Maktabah al-Tijāriyyah al-Kubrā, 1904)
- al-Qurṭubī, M. A. (2006). *Al-Jāmi‘li Ahkām al-Qur‘ān* (Vol. 6). Beirut: Dār al-Kutub al-‘Ilmiyyah.
- al-Shāṭibī, I. (1997). *Al-Muwāfaqāt fi Uṣūl al-Syariah* (Vol. 2). Beirut: Dār al-Kutub al-‘Ilmiyyah.
- al-Suyūṭī, J. (1996). *Al-Itqān fi ‘Ulūm al-Qur‘ān*. Beirut: Dār al-Fikr.
- al-Ṭabarī, M. J. (2001). *Jāmi‘al-Bayān ‘an Ta’wīl Ay al-Qur‘ān* (Vol. 10). Beirut: Dār al-Fikr.
- Al-Ṭabarī, *Tārīkh al-Umam wa al-Mulūk*, (Kairo: Dār al-Ma‘ārif, 1960).
- al-Wāḥidī, A. (1991). *Asbābun Nuṣūl al-Qur‘ān*. Beirut: Dār al-Kutub al-‘Ilmiyyah.
- Auda, J. (2008). *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach*. London: IIT.
- Hallaq, W. B. (2009). *An Introduction to Islamic Law*. Cambridge: Cambridge University Press.
- Husin Hamid Hasan, Nazariat al Maslahah fi al Fiqh al Islami, (Kairo: Dar al Nahdah al ‘Arabiah, 1971), hal. 5-6.
- Ibn ‘Āshūr, M. (1984). *Al-Taḥrīr wa al-Tanwīr* (Vol. 6). Tunis: Dār Sahnūn.
- Ibn ‘Āshūr, M. T. (1946). *Maqasid al-syariah al-Islāmiyyah*. Tunis: Dār al-Sahnūn.
- Ibn al-Qayyim al-Jawziyyah, *I‘lām al-Muwaqqi‘in ‘an Rabb al-‘Ālamīn*, (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1991).
- Ibn Kathīr, I. (1999). *Tafsīr al-Qur‘ān al-‘Aẓīm* (Vol. 3). Riyadh: Dār Ṭayyibah.
- Muḥammad al-Ṭāhir ibn ‘Āshūr, *Maqasid al-syariah al-Islāmiyyah*, (Tunis: Dār al-Sahnūn, 1946).
- Muslim ibn al-Ḥajjāj. (2006). *Ṣaḥīḥ Muslim*. Beirut: Dār al-Fikr.
- Rahman, F. (1982). *Islam and Modernity: Transformation of an Intellectual Tradition*. Chicago: University of Chicago Press.
- Rahmi, N (2017). Maqasid Al Syari'ah: Melacak Gagasan Awal. *Syariah: Jurnal Hukum Dan Pemikiran*, jurnal.uin-antasari.ac.id, <https://jurnal.uin-antasari.ac.id/index.php/syariah/article/view/1970>
- Riḍā, R. (1947). *Tafsīr al-Manār* (Vol. 6). Cairo: al-Hay‘ah al-Miṣriyyah al-‘Āmmah li al-Kitāb.
- Saeed, A. (2006). *Interpreting the Qur‘an: Towards a Contemporary Approach*. London: Routledge.
- Wahbah Zuhaili, Nazariat al Darurah al Syar’iyyah, Muqaranah Ma’a al Qanun al Wad’I, edisi Indonesia, Konsep Darurat dalam Hukum Islam, terj. Said Agil Hasan al Munawwar dan M. Hadri Hasan, (Jakarta: Gaya Media Pratama, 1997), hal. 47