THE CONTEXTUALIZATION OF ḤIFZ AL-‘IRD ON HOAX NEWS
(A Study on Imam Tājuddīn al-Subkī’s Maqāṣīd al-sharī’a)

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Abstract: This study examines Tājuddīn al-Subkī’s concept of ḥifz al-‘ird, as an essential part of maqāṣīd al-sharī’a, and uses it to analyze hoax news. To limit this study, the authors focus on two crucial aspects. First, what is the concept of ḥifz al-‘ird according to Imam Tājuddīn al-Subkī? Second, how to contextualize ḥifz al-‘ird in the contemporary time to approach hoax news? This library research uses content and critical analysis to Tājuddīn al-Subkī’s thoughts, which are contained the works written by himself and those written by scholars after him. This study argues that al-Subkī initiated the concept of ḥifz al-‘ird (maintaining honor). As an essential part of maqāṣīd al-sharī’a, ḥifz al-‘ird must be held in addition to five other main purposes, namely maintaining the soul, religion, reason, lineage, and treasure. According to al-Subkī, defending honor can be equated with keeping the lineage because the two have a close and robust relationship, especially when discussing adultery and qadhf/قذف (accusing people of committing adultery). The spread of hoaxes today is like qadhf in Islamic law. The hoax spread must be stopped because it causes damage to the life of society, nation, and state. Preventing injury and realizing benefits are at the core of maqāṣīd al-sharī’a.

Keyword: maqāṣīd al-sharī’a, ḥifz al-‘ird, maslaḥah, al-ḍarūriyyāt, hoax

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Introduction
FIQH AND UŚUL FIQH scholars have agreed that the core objective of Islamic law (maqāṣīd al-sharī’ah) is to achieve the benefit,¹ so that a

¹ Imam al-Shāṭibī clearly stated that Allah’s intention to bring down the sharī’ah (the rule of law) is nothing but to take advantage of and avoid damage (jalb al-maṣašiḥ wa dar’ul maḥāṣis). In simpler language, the legal rules that Allah
popular expression emerged among them: “aynāma kānat al-maslahatu fathammā hukmū Allāh.” 2 (where there is maslahat, there is the law of Allah). Maslahat, which is in line with Islamic law principles, can be used to consider the establishment of Islamic law. The obligations in shari’ah must pay attention to maqāṣid al-shari’ah, which aims to protect humans’ benefit. 3

Furthermore, al-Ghazālī stated that the maqāṣid al-shari’ah that must be maintained is in five forms, namely: maintaining religion (ḥifz al-dīn), guarding the soul (ḥifz al-nafs), maintaining reason (ḥifz al-‘aql), claiming descent (ḥifz al-nasl), and safeguarding property (ḥifz al-māl). The five items that must be guarded or maintained are known as al-kulliyāt al-khamsah or al-ḍaruriyyāt al-khamsah. If someone does an action to support the five aspects of the maqāṣid al-shari’ā, it is called maslahah. Also, the attempt to reject all wickedness related to the five elements maqāṣid al-shari’ah is called maslahah.

Historically, in the seventh-century hijriyah, al-Imām Tājuddīn al-Subkī gave rise to the concept of ḥifz al-‘irḍ as a vital part of maqāṣid al-shari’āh. Al-‘irḍ which means excellent or praiseworthy character must be maintained and guarded. 4 According to al-Subkī, the concrete form of ḥifz l-‘irḍ in the classical tradition appears in the form of sanctions for qazf perpetrators, namely people who accuse others of adultery. In this context, the imposition of sanctions aims to prevent a person from accusing others of committing religious prohibitions, arbitrarily, without clear and authentic evidence. Although the concept of al-Subkī has been raised for a long time and was “forgotten”, Subkī’s thought

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2 Yūsuf Al-Qaraḍāwī, Al-Ijtihād al-Mu‘āṣir (Cairo: Dār al-Tawzī‘ wa al-Nashr al-Islāmiyyah, 1994), 68.
3 Yudian W. Asmin, Filsafat Hukum Islam dan Perubahan Sosial (Surabaya: Al-Ikhlas, 1995), 229.
4 Ahmad Warson Munawir, Kamus al-Munawwir Arab-Indonesia (Yogyakarta: Pustaka Progresif, 1984), 917.
deserves to be reincarnated”, in order to revive the maqāṣid al-sharī‘a in the world.⁵

One of the manifestations of hifż al-‘ird in the contemporary context is to keep speech from spreading hoaxes. Hoaxes have spread massively in society, along with the increasing use of technology today. Hoaxes can apply in the form of text, photos, and videos. A study revealed that hoax news has an impact on the mental health of people exposed to it, such as post-traumatic stress syndrome (PTSD), anxiety, and even acts of violence.⁶

In religious terms, hoaxes can be equated with slander because both are conveying fake news. Islam insists that slander is crueler than murder.⁷ Therefore, Islam prohibits slander, and the perpetrator can be punished in the form of ḥad or ta‘zir.⁸ Lately, hoaxes have been rampant in the cultural, social, economic, political and even religious fields. Hoaxes can destroy the life of society, nation and state.

To prevent the destructive effects of hoaxes’ spread, Islam through maqāṣid al-sharī‘a prohibits hoaxes from protecting and preserving human dignity and honor. To strengthen the maqāṣid al-sharī‘a, al-Subkī specifically came up with a brilliant idea, namely including hifż al-‘ird (maintaining honor) as one of the essential parts of maqāṣid al-sharī‘a that must be guarded and maintained, especially in this modern age. Even though al-Subkī’s idea has

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⁵ ‘Abdurrahmān Al-Shurbaynī, Ḥāshiyyah al-‘Allamāh al-Bannānī ‘alā Sharḥ al-Jalāl Shamsuddin Muḥammad bin Aḥmad al-Maḥālī “al-Maṭnī Jam’ al-Janvāmī’ li al-Imām Taqṣīd al-Subkī, Juz 2 (Beirut: Dār al-Fikr, 1982), 280.

⁶ Faried F Saenong et al., Fikih Pandemi: Beribadah di Masa Wabah (Jakarta: NUO Publishing, 2020), 87.

⁷ Al-fitnatu ashaddu min al-qaṭl…(Q.s. Al-Baqarah (2): 191 and al-fitnatu akbaru min al-qaṭl…(Q.s Al-Baqarah (2): 217).

⁸ The punishment of “ḥad” has been determined in the Qur’an and hadith, as in the case of qadhf. Qadhf is accusing another person of committing adultery. If the accuser cannot present four witnesses against the person accused of cheating, he will be punished 80 times, as said by Allah SWT in Surah al-Nur verses 4, 6, and 23. Ta‘zir is a punishment given by the government for violating the provisions that have been made by the government. In the context of this hoax, the government issued ITE Information and Electronic Transaction Law Number 19 of 2016, amending Law Number 11 of 2008 concerning Article 28 Paragraph 1.
been raised for a long time and was forgotten for a relatively long time, the author thinks it deserves to be revived.

Several researchers have studied on the thoughts of scholars such as al-Gazâlî, al-Shâ’tibi, ‘Izzuddîn Ibn ‘Abd al-Salâm, Ibn ‘Âshûr, Jasser Auda, in the field of Maqasid al-Shari’ah. Among these researchers are al-Raisuni, Abdurrahman Kasdi, Moh. Toriquddin, and Suansar Khatib. The results of their study show that classical scholars such as al-Gazâlî and al-Shâ’tibi constructed the maqasid sharia as guardianship of the five principles. The five principles are hifz al-dîn (guarding religion), hifz al-nafs (guarding the soul), hifz al-aqîl (guarding reason), hifz al-nasl (guarding descent), and hifz al-mâl (guarding property). Meanwhile, the results of Zul Anwar Ajim Harahap’s research showed that the thought of ‘Izzuddîn ibn ‘Abd al-Salâm can be applied to the fields of worship, social, and morals. Other researchers such as Chamim Tohari stated that Ibn Asyur elaborated on the Maqasid Sharia with more universal contemporary themes such as fithrah, tolerance, benefit, equality, freedom. In addition, Retna Gumanti, and Muhammad Faisol elaborated on Jasser Auda’s thoughts on the importance of an

9 Ahmad Al-Raysuni, Nazariyah al-Maqâsid ‘Inda al-Imâm al-Shâ’tibi (Washington, USA: al-Ma’had al-Fikr al-Islâmi, 1990).
10 Abdurrahman Kasdi, “Maqasid Syari’ah Perspektif Pemikiran Imam Syatibi dalam Kitab al-Muwafaqat,” YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam 5, no. 1 (2014): 46–63.
11 Moh Toriquddin, “Teori Maqâshid Syarî’ah Perspektif al-Syatibi,” Journal de Jure 6, no. 1 (June 2014): 33–47.
12 Suansar Khatib, “Konsep Maqashid al-Syari’ah: Perbandingan Antara Pemikiran Al-Ghazali dan al-Syathibi,” Mizani: Wacana Hukum, Ekonomi dan Keagamaan 5, no. 1 (2018): 47–62.
13 Zul Anwar Ajim Harahap, “Konsep Maqasid Al-Syariah Sebagai Dasar Penetapan dan Penerapannya dalam Hukum Islam Menurut ‘Izzuddin Bin ‘Abd Al-Salam (W.660 H),” TAZKIR: Jurnal Penelitian Ilmu-ilmu Sosial dan Keislaman 4, no. 1 (2018): 171–190.
14 Chamim Tohari, “Pembaharuan Konsep Maqasid Al-Shari’ah Dalam Pemikiran Muhammad Tahir Ibn ‘Ashuri,” Al-Mashlahah 13, no. 1 (2017): 465–488.
15 Retna Gumanti, “Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem dalam Hukum Islam),” Jurnal Al Himayah 2, no. 1 (March 2018): 97–118.
16 Muhammad Faisol, “Pendekatan Sistem Jasser Auda Terhadap Hukum Islam: Ke Arah Fiqh Post-Postmodernisme,” KALAM 6, no. 1 (June 2012): 39–64.
approach in studying Islamic law which includes six important components, namely cognitive nature, interrelatedness, wholeness, openness, multi-dimensionality, and meaningfulness. In addition, Hasamuddin MZ in his research attempted to include Hifzh al-'Irđ as part of dharuriyyat.\(^{17}\)

Several previous studies on al-Subkī’s thoughts regarding the contextualization of hifż al-'ird as maqāṣid sharī‘a have not received serious attention. It cannot be denied that hifż al-'ird is an inseparable part of the maqāṣid sharī‘a. The concept of hifż al-'ird can be applied as a conceptual basis for preventing the spread of hoaxes that are rife today, as a side effect of the development of information and communication technology. This study aims to complement the shortcomings of existing studies. This study was conducted by analyzing the concept of hifż al-'ird according al-Subkī and how the contextualization of hifż al-'ird with hoax news that widely spread today.

This study assumes that al-Subkī has a distinction of thinking about hifż al-'ird as part of maqāṣid al-sharī‘a that can be contextualized with human behavior today. If hifż al-'ird is contextualized with hoaxes, maqāṣid sharī‘ah, in the perspective of al-Subkī, can be used as a conceptual basis. So, it can prevent the spread of hoax news that has the potential to damage the joints of social, national, and state life in the cultural, social, economic, political, and even religion. This preventive effort is carried out to maintain human dignity, which is the benefit values of the maqāṣid sharī‘a.

This study is a qualitative research based on library research that is carried out by relying on library data without an empirical examination. By applying a descriptive-analytical approach, the authors critically describe the substance of al-Subkī’s thoughts on maqāṣid sharī‘a.\(^{18}\) The primary data of this study were books written by al-Subkī about maqāṣid sharī‘a. Meanwhile, secondary data were books written by others related to al-Subkī’s thoughts

\(^{17}\) Husamuddin Mz, “Hifżh al-'Irđ dalam Transformasi Sosial Modern (Upaya Menjadikan Hifzhu Al-'Irđ Sebagai Maqāshid Al-Dharūrīy),” At-Tasyri: Jurnal Ilmiah Prodi Muamalah 11, no. 2 (2019): 119–132.

\(^{18}\) Noeng Muhadjir, Metode Penelitian Kualitatif (Yogyakarta: Rake Sarasin, 2000).
about maqāsid sharī‘a. The author analyzes the collected data using content analysis methods. The author applied a content analysis approach to analyzing the collected data through three stages: description, interpretation, and reflection.

A Short Biography of al-Subkī

Tājuddīn-al-Subkī or known as Imam al-Subkī, has the full name Tājuddīn Abd al-Wahhāb bin Taqiy al-Dīn ‘Alī bin Abd al-Kāfī al-Subkī. He is the son of Imam Taqiy al-Dīn al-Subkī (died in 756 AH / 1355 AD), who had served as a judge in Damascus. Imam al-Subkī was born in Cairo, Egypt, in 727 H / 1327 AD and passed away on Tuesday, the seventh of Dhulhijjah, in 771 H / 2 July 1371 AD in Damascus.

Al-Subkī’s journey to gain knowledge began in Egypt with a few shaykhs, including his father, a Damascus judge. From his father, al-Subkī studied fiqh, usūl fiqh, and Sufism. After he studied in Egypt, he continued his studies to Sham (Syria) to be precise in Damascus, where at that time, was known as the city of knowledge. He studied hadith from Imam Jamāl al-Dīn Yusuf bin Abd al-Raḥmān al-Mizzī al-Shāfī‘ī. He also learned from Imam al-Dzahabī and Shaykh Shams al-Dīn bin Naqīb. Even though al-Subkī was still very young, namely eighteen years old, his capability and depth of religious knowledge were not in doubt. Therefore, Shaykh Shams al-Dīn bin Naqayb gave ijāza (permission) to al-Subkī to teach and issue fatwas and was even appointed to be a judge and preacher at Umawiy Damascus Mosque. At that young age, he could carry out duties as a scholar, judge, and high priest in Damascus. Important positions that al-Subkī held showed extraordinary achievements which were quite rare at that time.

19 Imam Suprayogo and Tobroni, Metodologi Penelitian Sosial-Agama (Bandung: Remaja Rosdakarya, 2003), 71.

20 “Biografi Imam Tajuddin As-Subki (727-771 H/1327-1370 M),” Facebook, Menapaki jejak Para Ulama Madzhab Syafe‘i, March 24, 2017, accessed January 3, 2020, https://web.facebook.com/1957544357810315/photos/biografi-imam-tajuddin-as-subki-727-771-h1327-1370-mnama-lengkap-beliau-adalah-a/1958584834372934/?_rdr=1&_rdr.
When al-Subkī’s father was ill, al-Subkī was appointed to replace his father as a judge in Damascus. al-Subkī was the most prominent judge of his time. He is also a historian and researcher. Shihāb al-Dīn bin Hajjī praised him by confessing that Imam al-Subkī was a scholar who mastered various sciences, such as fiqh, uṣūl fiqh, hadith, and balāghah. Besides, al-Subkī is also an expert in poetry. Al-Subkī composed multiple essays quickly and distributed them during his life and people distributed them after he died. Among the works of Imam al-Subkī are Ṭabaqātus Shāfi‘iyyah al-Kubrā, Ṭabaqātus Shāfi‘iyyah al-Wuṣṭā, Ṭabaqātus Shāfi‘iyyah al-Ṣughrā, Jam‘ al-Jawāmi’, Man‘u al-Mawāni’ alā Jam‘ al-Jawāmi’, Al-Ashbāh wa al-Nazā‘ir, Raf‘u al-Hājib min Mukhtaṣār Ibn Ḥājib, Sharḥ Minhāj Baidawī in the field of uṣūl fiqh which was later named al-Ibḥāj fī Sharḥ al-Minhāj, Qawā'id al-Dīn wa 'Umdat-ul-Muwahhidīn, Al-Fatāwā, and Al-Dalālah‘alā 'Umūm al-Risālah.21

Jam‘ al-Jawāmi’, one of al-Subkī’s works, is one of the famous books in uṣūl fiqh, which is widely studied in Pesantren in Indonesia. Besides, the book of Jam‘ al-Jawāmi’ has the sharh (explanation), which many scholars have written. One of the scholar is Jalāl al-Dīn al-Mahālī (died 884 AH), with the name of his book Sharḥ Jam‘ al-Jawāmi’. al-Zarkashī (died 794 AH), with the title of his book Tashnīf al-Masāmīn sharḥ Jam‘i al-Jawāmi’, Imam ‘Izzu al-Dīn Ibn Jamā‘ah al-Kinānī (died 819 AH), Imam al-Ghazzī (died 822 AH), and Ibn Ruslān (died 884 AH).

While serving as judge and high priest, al-Subkī had received slander from the Damascus government, resulting in al-Subkī being imprisoned for eighty days. Ibn Kathīr related that Imam al-Subkī experienced severe trials that had never been experienced by the previous judges. However, he also served as a judge several times, which no one had previously achieved in Damascus. He was known as a judge who specialized in balāghah and poetry. He was also known as a generous and patient person. As well as being a judge in Damascus, al-Subkī also taught at several

21 Budi, “Riwayat Hidup Imam Tajuddin As-Subki,” LADUNI.ID (laduniid, October 3, 2018), last modified October 3, 2018, accessed January 3, 2020, https://www.laduni.id/post/read/46118/biografi-imam-tajuddin-as-subki.html.
Madrasas schools in Damascus, such as Madrasah al-'Azizah, Madrasah al-'Adiliyyah al-Kubro, Madrasah al-Ghazaliyyah, Madrasah al-Udhrawiyyah, Madrasah al-Nasiriyah, and Madrasah al-Aminiyah. On the 7th of Dzulhijjah in 771 H., al-Subkī passed away. At that time, he was 44 years old. al-Subkī died because of his illness.

Dialectic of Ḥifẓ al-‘Irāḍ in Maqāṣid Theory

Maqāṣid theory did not just appear, but it was manifested through serious efforts and efforts (ijtihād) of the scholars in reading “God’s thoughts,” which contained in the texts of the al-Qur‘an. This effort is strengthened by the hadith, the second source of authentic Islamic law after the Holy Quran. The use of maqāṣid al-shari‘a as a spirit in establishing law has been practiced since the Prophet Muhammad’s lifetime, the companions’ era (ṣaḥābah), and tabi‘īn.

Al-Juwaynī was the first to classify maqāṣid into three levels namely ẓarūriyyāt, ḥājiyyāt, dan taḥsīniyyāt. Al-Juwaynī also formulated the scope of al-ẓarūriyyāt which was known as al-ẓarūriyyāt al-khams, namely ḥifẓ al-din (guarding religion), ḥifẓ al-nafs (guarding the soul), ḥifẓ al-‘aql (guarding the mind), ḥifẓ al-nasl (guarding descent), and ḥifẓ al-māl (guarding wealth). The concept of al-Juwaynī was matured by his student, Abū Ḥamīd al-Ghazālī (d. 505 H).

Al-Ghazālī strengthened and developed his teacher’s ideas, but it is still with his unique methodology and independent academic characteristics. Therefore, al-Ghazālī deserves to be considered in the history of jurisprudence science in general and al-maqāṣid in particular. The significant contribution of al-Ghazali in the field of maqāṣid is very evident in his work, al-Mustashfā min ‘Ilm al-‘usūl. In this book, al-Ghazali discusses ta‘līl al-akhir al-shar‘iyyah, whose orientation is focused on jalbu al-mašlahah (gain benefit) or daf‘u al-mafsadah (prevent damage). The focus of ta‘līl al-

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[22] The author uses this term as the term Paul Davies used to explain cosmic events in nature using a scientific approach. Read, Paul Davies, The Mind of God The Scientific Basis for a Rational World (New York: Touchstone, 1993), ix–xiv.

[23] Asmuni Mth, “Studi Pemikiran al-Maqashid (Upaya Menemukan Pondasi Ijtihad Akademik yang Dinamis),” Jurnal Al-Mawarid 14 (2005): 158.
ahhkām (legal justification) developed by al-Ghazālī is ta’līl al-maṣlaḥah, which includes the protection of maqāṣid al-shārī’. Al-maṣlaḥah, according to al-Ghazālī, is the protection and maintenance of the objectives of the shari‘ah. All forms of maṣlaḥah that do not aim to protect the shari‘ah are called maṣlaḥah al-gharibah, namely benefits that are not in line with the shari‘ah. Therefore, maṣlaḥah al-gharibah must be discarded. On the other hand, all maslahas that aim to protect the meaning of shari‘ah, as understood from the Qur’an, Sunnah and ijmā‘ can be used as evidence.24 Al-Ghazālī, following the method of his master, Imam al-Juwaynī, divided al-maṣāliḥ in terms of strength and clarity, namely ḍarūriyyāt, ḥājiyyāt, and taḥsīniyyāt. Descriptions of each level, along with examples, are unambiguous and detailed.

After al-Ghazālī, Fakhru al-Dīn al-Rāzī followed (d.606 H) with his work, al-Maḥṣūl. The maqāṣid theory that al-Rāzī offers is a reduplication of the concepts of al-Juwaynī and al-Ghazālī. However, a precious contribution from al-Razi is to defend the method of ta’līl al-ahhkām argumentatively. It has been criticized and doubted by some of the jurisprudence scholars. Al-Rāzī’s concept of the al-ḍarūriyyāt al-khamsah hierarchy is different and inconsistent with the idea that has been put forward by al-Ghazālī. Al-Rāzī occasionally mentions the order of al-ḍarūriyyāt with single words, namely al-nafs, al-māl, al-nasab, al-dīn, and al-‘aql. And once upon a time using the plural form, namely al-nufūs, al-‘uqūl, al-adīyān, al-amwāl, and al-ansāb. Also, al-Razī used the term al-nasab instead of al-nasl, even though the word al-nasl was more precise and valid. The word al-nasl is at the level of ḍarūriyyāt al-‘āmmah, while the protection of al-nasab is a complement to the protection of al-nasl.25

After al-Rāzī, al-‘Amīdī (d.631 H), Ibn Hājib (d.646 H), al-Baydāwī (d.685 H), and al-Asnāwī (d.772 H) followed to see the term. They developed the maqāṣid theory with the tarjīḥ (weighting) pattern, which aims to do weighting when there is a conflict between one of the existing ḍarūriyyāt al-khamsah. When the hierarchy of al-ḍarūriyyāt is mentioned, the scholars after al-
‘Amīdī tend to be free, not tied to anyone’s systematization. Al-Asnāwī, for example, he sometimes uses the systematization that al-Amidi did in order; religion, spirit, ancestry, and property. On the other hand, he also uses the order that Ibn Hājib offers, namely; religion, soul, mind, descent, and property.

In the following period, Imam al-Subkī came and made some modifications in ordering ḍarūriyyāt al-khamsah. Al-Subkī followed al-Ghazālī, but he replaced the term al-nasab with al-nasal similar to al-Rāzī. Apart from that, another critical thing that al-Subkī did was to include al-‘ird as an essential part of ḍarūriyyāt. So with these additions, ḍarūriyyāt became six, namely: hifż al-dīn, hifż al-nafṣ, hifż al-‘aql, hifż al-nasab, hifż al-māl, and hifż al-‘ird. The inclusion of al-‘ird as part of the ḍarūriyyāt had caused polemics among ulamā afterward. Some of them agreed, and some objected to the inclusion of hifż al-‘ird into ḍarūriyyāt. Ibn ‘Āshūr, for example, did not agree with these additions. According to Ibn ‘Āshūr, al-‘ird falls within the scope of al-hājiyyāt. Ibn‘ Āshūr also did not accept that hifż al-nasab was included in the range of ḍarūriyyāt unless it was meant to protect al-nasl. In contrast to Ibn ‘Āshūr, al-Shawkānī supported al-Subkī’s opinion that stated the addition of al-‘ird to be part of ḍarūriyyāt so that the number becomes six. Al-Shawkānī argued that most people spent all their power and effort in maintaining their honor as they guarded themselves and their property. Furthermore, al-Shawkānī concluded that based on hifż al-‘ird, Allah established and enforced criminal law for actors of qadhf because he tarnished the dignity of someone who could be more urgent than others.26 Al-Bannānī tried to mediate the difference of opinion by explaining that al-‘ird was an addition to al-Subkī by ordering them using waw al-‘atf. This method shows that al-‘ird has the same level as al-māl. At the same time, the other sorting uses the letter fā’,27 which indicates that each element stands alone and is at an independent level. The debate regarding al-‘ird among the scholar is fascinating. However, al-

26 Muḥammad ibn ‘Alī Al-Shawkānī, Irshād al-Fuhul ilā Tahqīq al-Ḥaq min ‘Ilm al-Uṣūl (Beirut: Dār al-Fikr, 1972), 216.

27 Al-Bannānī describes the editorial used by al-Subkī in sorting the dharuriyyat problem in the book Jam’ al-Jawāmi’, namely “wa al-dharūri: ka hifż al-dīn, fa al-nafṣi, fa al-‘aqli, fa al-nasabi, fa al-māli, wa al-‘ird,”
Subkī’s view of al-‘irḍ deserves to be considered an essential part of the theory of maqāsid particularly when the maqāsid approach is related to the current millennial era. The idea of hifż al-‘irḍ (maintaining honor) that is forgotten can be actualized again under the times’ demands and developments.

**Tajuddin Al-Subki’s Thoughts on Hifż Al-‘Irḍ**

According to Tajuddin Al-Subki, hifż al-‘irḍ is an important part of the maqāsid shari’ah theoretical framework, especially in the al-darūriyyāt category. Al-Subki argues that al-darūriyyāt is a very imperative because it directly relates to the needs of human life, both in the world and the hereafter. It is the first rank, which must be fulfilled and maintained, and is followed by the hājiyyāt and tahsiniyyāt. The darūriyyāt includes, first, hifż al-dīn (protecting religion). Second, it also covers hifż al-nafs (protecting the soul) which aims to be able to enforce the qisās law for the perpetrators of the crime of murder. Third, hifż al-‘aql (protecting mind) which underlies the stipulation of liquor sanctions, in the form of punishments as much as 80 times of flogging for drinkers of liquor (khamr/wine). Fourth, hifż al-nasab (protecting descendants) underlies the punishment for the adulterer, namely whipping 100 times for the muhsan adulterer and stoning for the gairu muḥṣan adulterer. Fifth, hifż al-māl (protecting property) underlies the law of amputation of hands for thieves and robbers. Sixth, hifż al-‘irḍ (maintaining honor) underlies the establishment of qazf sanctions for people who accuse others of committing adultery without strong evidence.28

The prohibition of qazf, as part of hifż al-‘irḍ in al-Subkī’s view, can now be transformed into various forms of crime, such as slander, lying (hoax), insulting, mocking, inciting, bullying and the like. These forms of crime can disturb the honor of others, so that they have the potential to create conflict and a very large negative impact, both individually and collectively. Therefore, the position of hifż al-‘irḍ as part of darūriyyāt within the theoretical framework of maqāsid shari’a has a very significant role, to create and preserve peace and harmony in people’s lives.

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28 Al-Shawkānī, *Irshād al-Fuhul*, 216.
Contextualization of Imam al-Subkī’s thought of Ḥifz al-‘Irḍ in the Contemporary Era

In his work, Jamʿ al-Jawāmi’, al-Subkī clearly states that Ḥifz al-‘Irḍ is in the sixth place, which is included in the ʿal-ḍarūriyyāt category. Al-Subkī said wa al-ḍarūriyyu; Ḥifz al-din, fa al-nafs, fa al-aql, fa al-nasab, fa al-māl, wa al-‘ird (which is included in the category of ʿal-ḍarūriyyāt is protecting religion, soul, mind, lineage, property, and honor). The position of al-‘ird (honor) in sixth place was considered new at that time. Previous scholars such as al-Juwaynī, al-Ghazālī, al-ʿAmīdī, al-Rāzī, and the ulamā afterward like Ibn Taymiyah, Ibn al-Qayyim, al-Shāṭibī, even the scholars who live today, stated that the category of darūriyyāt is five, namely Ḥifz al-din, al-nafs, al-nasl, al-aql, and al-māl. These five are known as ʿal-ḍarūriyyāt al-khams.

Some scholars interpret al-Subkī’s idea of Ḥifz al-‘ird, saying that the word al-‘ird, which is preceded by wāwu (wa al-‘ird), shows that Ḥifz al-‘ird has the same level or position as safeguarding property. Thus, it can be understood that al-‘ird is not included in the group of ʿal-ḍarūriyyāt but belongs to the level of ḥājiyyāt because al-‘ird is complementary (mukmilah) of ʿal-ḍarūriyyāt. On the other hand, ‘Abdurrahman al-Sharbīnī, who quoted al-Zarkashī’s ideas, said that al-‘ird was near related to maintaining descendants in general. Maintaining offspring is higher than protecting property. According to al-Sharbinī, keeping al-‘ird (honor) is in two conditions, namely closely related to the prohibition of adultery and prohibition of qadhf (قذذف) so that al-‘ird is more closely related to maintaining the nasab. Therefore, according to al-Sharbini, protecting offspring takes precedence over protecting property if someone is required to choose between guarding offspring or property.30

By looking at the opinions that have been put forward, the writer argues that the word al-‘ird can also be read al-‘araḍ. The
word ‘arad means wealth (al-matā’). Thus, al-’aradh is a synonym for the word al-māl (treasure) as Allah says in al-Qur’ān surat al-Anfāl verse 67:

“It is not fit for a prophet that he should take captives unless he has fought and triumphed in the land; you desire the frail goods of this world, while Allah desires (for you) the hereafter; and Allah is Mighty, Wise.”

The word al-’ird means a praiseworthy character or honor. The two words, both the word al-’ird and a’rād, have the same plural form, namely a’rād. In this regard, it seems that there is a disagreement among scholars about whether hifz al-’ird is included in the category hifz al-māl or hifz al-nasab. These differences of opinion need not be contested. Still, it can be combined that hifz al-’ird does not stand alone as a component in darūriyyāt, but it falls into the hājiyyat category of completing the position of hifz al-māl or hifz al-nasab.

Regardless of the differences that the authors describe, the authors view that the placement of the word al-’ird is parallel to the five crucial points mentioned earlier. The alignment of al-’ird’s position shows that al-’ird is a part that has a substantial and high place in the maqāṣid stratification that must be maintained and maintained. Honor is faithfulness in living the truth, which can bring out dignity, and dignity makes everything honorable. Due to the importance of integrity, every Muslim is not only obliged to maintain his honor but also to protect the honor of others. An example of maintaining one’s honor is keeping one’s viewpoint from things that are forbidden to be seen. Meanwhile, an example of preserving others’ recognition is not allowed to accuse other people of committing adultery (qadhf) without four witnesses confirming the accusation.

In addition to this point, the reason for the addition of hifzal-’ird by Imam al-Subkī is that the destruction of honor has significant consequences and impacts in individual and social lives. This impact must be prevented as early as possible so that life in the world can run safely, peacefully, and prosperously. Therefore, one of the wisdom of hifz al-’ird, according to al-Subkī, is the prohibition of qadhf (accusing other people of committing adultery). If a person’s accusation is not proven, the accuser can be
subject to punishment in the form of had (criminal sanction). Moreover, the perpetrator of *qadhf* can be punished with as many as 80 whips, as mentioned in the Qur’an:

“Surely those who accuse chaste believing women, unaware (of the evil), are cursed in this world and the hereafter, and they shall have a grievous chastisement.”

“...And those who accuse free women then do not bring four witnesses, flog them, (giving) eighty stripes, and do not admit any evidence from them ever; and these it is that are the transgressors.”

An accusation attitude is a despicable act, mostly when an accusation is made without valid evidence. In this case, accusing is equivalent to saying something that is not true or spreading fake news (hoaxes), rife in this digital era. Hoax means information that is engineered to cover up real information. A hoax is a form of cybercrime that looks simple and easy to do but has an extraordinary impact.

There are fundamental similarities between *qadhf* and hoaxes. Both are accusations or spreading news without clear evidence by using oral as the medium. However, along with the development of technology and information, the media for spreading hoaxes also developed. The spread of false messages is not only through verbal but also through print and electronic media.

The media is a practical, transparent, and efficient communication tool that plays an essential role in reform and change. The emergence of hoaxes cannot be separated from the development of media technology. The media have changed the means of communication to be faster to form what is often called a global village. The speed of communication tools affects the growth of social media. Social media has substantially changed the way of communication between people and individuals.

However, nowadays, social media is filled with fake and

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31 Q.s. al-Nur/24: 23.
32 Q.s. al-Nur/24: 4.
33 Hensi Septanto, “Pengaruh Hoax dan Ujaran Kebencian Sebuah Cyber Crime dengan Teknologi Sederhana di Kehidupan Sosial Masyarakat,” *Jurnal Sains dan Teknologi* 5, no. 2 (2018): 157.
34 Luthfi Maulana, “Kitab Suci dan Hoax: Pandangan Alquran dalam Menyikapi Berita Bohong,” *Wawasan: Jurnal Ilmiah Agama dan Sosial Budaya* 2, no. 2 (December 2017): 211.
irresponsible news to achieve specific goals in terms of politics, education, economics, and even religion.

The impact of irresponsible accusations and rampant hoax news is that many parties feel offended, hurt, and wronged. These feelings lead to fighting, even murder. All damage caused by hoax news, regardless of the medium, must be stopped and given punishment, as is the punishment for qadhf actors.

In Indonesia, all forms of crime in hoax spread are regulated in Law Number 19 of 2016, amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) Article 28 Paragraph 1. The contents are about criminal threats for anyone who deliberately and without the right to spread fake news and harm individuals or groups. It is stated in Article 28, Paragraph 1, as follows:

"Every person who deliberately and without right spreads false and misleading news that results in losses, will be sentenced to a maximum imprisonment of 6 (six) years and / or a maximum fine of Rp. 1,000,000,000, - (one billion rupiah)." 35

In this article, it is implied that the prohibition of hoax news is an effort to maintain and guard against oral. The language of the media has the potential to spread the hoax news. Likewise, on the other hand, someone's demand to keep speech means the opposite. It is prohibited for anyone to lie, spread hoax, or slander. It can damage someone's honor. There are many verses of the Qur'an 36 which affirms the importance of good, trustworthy, and honest speech. Likewise, a few hadiths of the Prophet emphasize keeping oral as an integral part of maintaining honor.

One of the traditions that is closely related to the prohibition of hoaxes is as follows: “Whoever is guarding (the limbs) that lies between the mustache and beard, that is, his mouth, and guards the one lying between his thighs, that person is guaranteed to enter Paradise.” The hadith was narrated by al-Hakim and al-Tirmidhi from the

35 See, Law Number 19 Year 2016 Regarding Electronic Information and Transactions
36 Read, Q.s. al-Ahzāb: 32, 70, Q.s. al-Nisā’: 5-9, Q.s. al-Baqarah: 235, Q.s. al-Isrā’: 23.
hadith of Abū Hurayrah, with saḥīḥ degrees collected from two ways.

Two critical things in this hadith destroy one’s honor, namely the tongue (speech) and farj (genitals). Therefore, these two things must be maintained properly so that the goals of sharī‘ah are maintained. According to al-Subkī, keeping oral as a medium in maintaining honor is an important way, as is the importance of preserving five other essential items. Keeping religion means keeping from apostasy, keeping the soul is the consequence of prohibiting killing without justified reasons, taking care of the offspring causes the prohibition of committing adultery, maintaining motivation leads to the banning of drinking liquor. Safeguarding property means prohibiting stealing. Keeping oral as a vital part of ḥifẓ al-‘ird causes the ban of qadhf. According to al-Subkī, keeping oral as a medium in maintaining honor is an important way, as is the importance of preserving five other important items. Keeping religion means keeping from apostasy; keeping the soul is the consequence of prohibiting killing without justified reasons, taking care of the offspring causes the prohibition of committing adultery. Maintaining motivation leads to a ban on drinking liquor. Safeguarding property means prohibiting stealing and keeping oral qadhf important part of ḥifẓ al-‘ird causes the prohibition of qadhf, gossip, ridicule, lies, slanders, etc.

In Islam, the hoax is classified as an act that is detrimental to others that can be subject to hudud punishment. Still, hudud is specifically for qadhf actions or spreading false news about someone who commits adultery. According to the Islamic perspective, ta’zīr can be imposed on all accusations forbidden for every Muslim. Among the accusing accuses other people of theft, accusing others of drinking alcohol or making fake news against other people, individuals, and institutions, prohibiting hoax and qadhf. The following sanctions given to the perpetrators show Islam’s consistency and concern in maintaining the honor of both individuals and groups for humanity’s welfare in the world and the hereafter.

37 al-Subkī, Hāshiyah, 280.
Conclusion

In the context of *maqāṣid al-shariʿa*, one of the bright ideas that al-Subkī thought is to include the concept of *ḥifz al-ʿird* (maintaining honor) as an inseparable part of the five main things (*al-darūriyyāt al-khams*) which must be guarded and preserved. Al-Subkī included the concept of *ḥifz al-ʿird* in the structure of *al-ḍarūriyyāt*. In addition to maintaining five other main things, namely protecting the soul, religion, mind, descent, and property, according to al-Subkī, maintaining *al-ʿird* is the same as preserving *al-nasab*. The two have a close and robust relationship, especially when discussing *zinā* (adultery) and *qadhf* (false accusation of cheating).

In today’s modern life, the case of *qadhf* can be likened to hoax news. Both are raising issues or news that are not valid. Hoax perpetrators can be given sanctions by the law. Using al-Subkī’s ideas, perpetrators of *qadhf*, includin the ones spread out from hoax news about somebody’s rumour of having affairs, are liable for punishment in Islamic law. Along with the development of science and technology, hoaxes’ spread is not only carried out through oral speech but often through print and electronic media. The media plays a big role in spreading hoax news, causing anxiety and damage in the community. Therefore, all forms of hoaxes must be stopped because that is the purpose of Islamic law or *maqāṣid al-shariʿa*, to prevent damage and to reach maslahat (*darʿu al-mafāsid wa jalb al-maṣāliḥ)*.

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