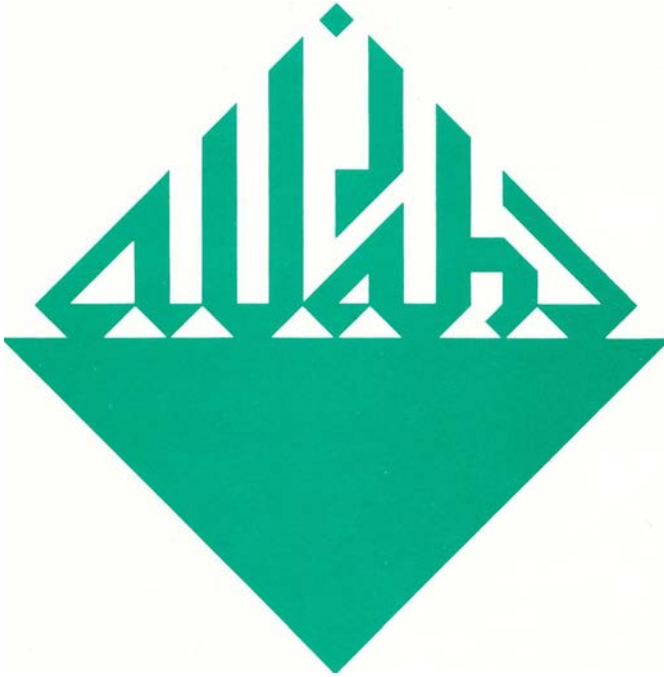


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INSTITUTIONALIZATION AND THE UNIFICATION
OF ISLAMIC COURTS UNDER THE NEW ORDER

Nur Ahmad Fadhil Lubis

THE MUHAMMADIYAH AND THE THEORY
OF *MAOASDAL-SHARIAH*

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the Biography of Mohammad Natsir

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Fathurrahman Djamil

The Muhammadiyah and the Theory of *Maqasid al-Shar'ah*

Abstraksi: Muhammadiyah adalah sebuah organisasi dan gerakan sosial-keagamaan di Indonesia yang berhubungan dengan reformasi (tajdid) Islam pada umumnya dan hukum Islam khususnya. Bagi Muhammadiyah, tajdid memiliki makna ganda: reformasi dan modernisasi. Untuk menjalankan tajdid secara benar, menurut Muhammadiyah, perlu menggunakan kekuasaan pikiran yang sesuai dengan ajaran Islam. Dalam hal ini, tajdid sangat berdekatan dengan ijtihad Muhammadiyah memandang bahwa ijtihad dapat dilakukan atas permasalahan yang belum ditetapkan oleh Qur'an dan Sunnah secara tegas dan juga terhadap masalah-masalah yang sudah ditetapkan oleh kedua sumber tersebut.

Terhadap masalah yang pertama Muhammadiyah menggunakan metodologi ijtihad yang dicanangkan oleh para usuliyyun, sementara terhadap masalah yang kedua, organisasi ini mencoba untuk menafsirkan al-Qur'an dan Sunnah sesuai dengan keadaan masyarakat Islam kontemporer. Tentu saja, dalam menyelesaikan masalah-masalah kontemporer, peran akal tidak dapat diabaikan.

Meskipun demikian, Muhammadiyah telah menerima banyak kritik dari kalangan sarjana Muslim Indonesia. Mereka menganggap Muhammadiyah telah berubah menjadi sebuah organisasi Islam yang "konservatif dan "tradisional". Kritik mereka menekankan bahwa Muhammadiyah tidak melibatkan diri dalam penanganan masalah-masalah kontemporer di Indonesia. Sementara itu, menurut mereka, masalah yang paling membutuhkan penanganan serius adalah yang berkaitan dengan persoalan kehidupan individu dan sosial. Persoalan

tersebut di antaranya menyangkut perkawinan antar agama, hak waris wanita dan lain sebagainya. Selain itu, persoalan ini juga mencakup hukum bunga bank, keluarga berencana dan rekayasa genetik. Sesungguhnya problem-problem ini sangat berkaitan dengan ijtihad di dunia modern.

Perlu ditegaskan bahwa Muhammadiyah telah melakukan ijtihad kolektif (ijtihad jama'1) dan bukan ijtihad individual (ijtihad fard1). Majelis Tarjih Muhammadiyah merupakan badan institusi yang paling bertanggungjawab mengenai persoalan ijtihad ini. Lembaga ini didirikan tahun 1928. Pada dasarnya, tugas lembaga ini adalah memecahkan pelbagai masalah yang menyangkut ibadah mahdah, seperti salat, zakat dan haji. Namun sejak tahun 1968, lembaga ini juga bergelut dengan persoalan-persoalan kontemporer yang berhubungan dengan masalah duniawi (al-umur al-dunyawiyah), seperti bunga bank, asuransi, bayi tabung dan perkawinan antaragama.

Muhammadiyah mempercayai bahwa sumber hukum Islam adalah al-Qur'an dan al-sunnah al-sahihah. Dalam menangani masalah-masalah kontemporer yang berhubungan dengan fiqh, yang tidak memiliki kaitan dengan ibadah mahdah, ijtihad dan istinbat, penjelasan tentang illat sa ngatlah penting. Hal ini menunjukkan bahwa, menurut Muhammadiyah, ijtihad tidaklah dipandang sebagai sumber hukum, tetapi hanya sebagai metodologi. Lebih dari itu, dapat juga dikatakan bahwa, menurut Muhammadiyah, peran akal dalam memecahkan persoalan fiqh kontemporer, sejauh ia berhubungan dengan masalah duniawi, tetaplah penting. Hal ini bukan berarti Muhammadiyah dapat menggunakan akal secara bebas terhadap masalah-masalah yang sudah dengan tegas ditetapkan oleh al-Qur'an dan Sunnah.

Maslahah, yang dipandang sebagai tujuan utama agama (maqasid al-shari'ah), sangatlah dihormati oleh Muhammadiyah. Peran akal dalam menentukan masalah sangatlah jelas. Pada sisi lain, wahyu merupakan sumber penentu utama atas masalah. Menurut Muhammadiyah, masalah juga diterima sebagai dasar ketetapan hukum, sejauh ia tidak bertentangan dengan nas. Berkaitan dengan teori maqasid al-shari'ah, terdapat tiga tingkat masalah yang harus dipertahankan: masalah daruriyyah, hajiyyah dan tahsiniyyah. Setiap tingkat memiliki fungsinya tersendiri. Pada dasarnya, masalah, pada tingkat apapun, mengandung apa yang dinamakan dengan "al-kulliyah al-khams" yaitu menjaga agama (al-din), kehidupan (al-nafs), akal (al-'aql), keturunan (al-nasl) dan kekayaan (al-mal). Sebaliknya, pelanggaran atas kelima prinsip dasar

ini dianggap sebagai mafsadah. Dengan kata lain, tujuan utama shar'ah adalah untuk memelihara masalah dan menghindari mafsadah Galb al-masalih wa daf' al-mafasid).

Dengan menggunakan teori maqasid al-shar'ah, Muhammadiyah mencoba untuk menangani masalah-masalah fiqhiyyah kontemporer, khususnya yang menyangkut kehidupan duniawi. Sejauh mengenai penerapan konsep masalah, Muhammadiyah tampaknya lebih mementingkan masalah dibandingkan nas.

فتح الرحمن جميل

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The Muhammadiyah is a socio-religious organization and movement in Indonesia dealing with the reformation (*tajd fd*) of Islam in general and of Islamic law in particular. For the Muhammadiyah, *tajd fd* has a dual meaning, viz. reformation as well as modernization. In order to perform *tajd fd* properly it is necessary, according to the Muhammadiyah, to employ reason ('*aq0*', in accordance with the teaching of Islam.¹ *Tajd fd*, in this sense, is closely related to *ijtihad*. For the Muhammadiyah, *ijtihad* can be undertaken in cases which are not mentioned explicitly in the Qur'an and the Sunnah, as well as in those cases which are explicitly mentioned in these two sources. In dealing with the former, the Muhammadiyah employs the methodology of *ijtihad* as formulated by *usuliyyun*, while for the latter, it tries to reinterpret the Qur'an and the Sunnah in accordance with contemporary Muslim society. Indeed, in solving contemporary problems, the role of reason can not be neglected.

However, the Muhammadiyah has been criticized by some Indonesian Muslim scholars. They consider it to be a "conservative" or "traditional" Islamic organization. Their criticism is that the Muhammadiyah does not adequately address contemporary Islamic issues in Indonesia. According to these critics, the problems that should be solved are those which mostly relate to the sphere of personal as well as social life. The primary issues include the problem of inter-religious marriages, women's rights in inheritance and so forth. The problems which come next include such questions as the permissibility of bank interest, birth control and genetic engineering.² Basically, such problems are closely related to the idea of *ijtihad* in modern society.

It is necessary to note that the Muhammadiyah has carried out *ijtihad* collectively (*ijtihadjama'*, not individually (*ijtihadJard*). Majelis Tarjih Muhammadiyah is an institution that is responsible for performing *ijtihad*. It was established in 1928. Initially, its task was to solve various problems relating to '*ibadah mahdah*, such as salat, zakat and hajj. Since 1968, however, it has also dealt with contemporary problems relating to worldly matters (*al-umur al-dunyawiyyah*), such as bank interest, insurance, in vitro fertilization and inter-religious marriages.

In this paper, I intend to discuss the methods used by the Muhammadiyah and to examine the relationship of these methods to the theory of *maqasid al-shari'ah*. Accordingly, I will refer to Islamic

legal theory to determine whether or not the Muhammadiyah has dealt with contemporary problems properly. My research focuses on the guidelines formulated by the Majelis Tarjih Muhammadiyah, and on its decisions relating to contemporary *fiqh* problems.

The Muhammadiyah and the Theory of *Maqsid al-Sharʿah*

The Muhammadiyah believes that the main sources of Islamic law are the Qur'an and *al-Sunnah al-Sdlihah*.³ In order to deal with those contemporary problems relating to *fiqh*, which have nothing to do with *'ibddahmahdah*, *ijtihdd* and *istinbdt*, examination of the *'illah* is very necessary.⁴ This indicates that *ijtihdd*, for the Muhammadiyah is not considered to be a source of Islamic law, but only as a methodology of *ijtihdd*.⁵ Moreover, it can be said that, according to the Muhammadiyah, the role of *'aql* (reason) in dealing with contemporary *fiqh* problems, as long as they relate to worldly matters, is significant.⁶ This does not mean that the Muhammadiyah prefers to use reason freely if some cases are explicitly regulated in the Qur'an and the Sunnah.

Maslahah, which is considered to be the main objective of *sharʿah* (*maqsid al-sharʿah*), is highly respected by the Muhammadiyah.⁷ The role of reason to determine the *maslahah* is quite significant. The revelation on the other hand, is the ultimate source for determining the *maslahah*. Accordingly, for the Muhammadiyah, *maslahah* is accepted as a basis of legal decisions, as long as it does not contradict the *nas*. In relation to the theory of *maqsid al-sharʿah*, the *maslahah* that should be preserved can be classified into three levels, i.e. *al-maslahah al-daruriyyah* (necessity), *hdjiyyah* (importance), and *tahsʿniyyah* (improvement). In this order each level has a special function. Basically, the *maslahah*, at whatever level, consists of the so-called "*al-kulliyydt al-khams*" (five universals), viz. The preservation of religion (*al-dʿn*), life (*al-nafs*), reason (*al-'aq0*), offspring (*al-nas0*) and property (*al-md0*).⁸ Conversely, harming these five principles is considered *mafiadah*. In other words, the main purpose of the *sharʿah* is to preserve *maslahah* and to prevent *mafiadah* (*jalbal-masdlh wa daf al-mafdsid*).

Based on this theory, every case, whether or not it is explicitly mentioned in the Qur'an and the Sunnah, should be examined in terms of *maslahah*, which is considered to be a fundamental element of *maqsid al-sharʿah*. In the case of a *maslahah* explicitly mentioned either in the Qur'an or the Sunnah, it is easy to trace it; and it should

be used as a basis of Islamic law. This kind of *maslahah* is called *maslahah mu'tabarah* (an indication provided by the revealed text). In other cases, the *mujtahid* has to find out the *maslahah* and use it as a basis for legal decisions. Muslim jurists, in this sense, are really in the position of exercising an independent value judgement.⁹ This is called *al-maslahah al-mursalah*. Various terms have, in fact, been used by *usuliyyun* to characterize *maslahah*. Some of them have used the terms *qiyas* or *istihsan*, while others use the terms *istislah* or *sadd al-dhari'ah*. All of these basically refer to the idea of preserving *maslahah* and avoiding *mafsadah*.

The Muhammadiyah regards *qiyas*, *istihsan*, *istislah*, and *sadd al-dhari'ah* as constituting the methodology of *ijtihad*. According to the Muhammadiyah, *ijtihad* can be conducted in three ways, viz. *ijtihad bayan*, *ijtihad qiyas*, and *ijtihad istislah*.¹⁰ The first method may be applied to cases which are explicitly mentioned in the Qur'an or Hadith. The second method may be applied to cases which are not mentioned in these two sources, but which are similar to cases mentioned in them. The third method may be applied to those cases which are not regulated by the Qur'an or Hadith, and cannot be solved by using analogical reasoning. In this case, *maslahah* is considered to be the basis for legal decisions. It may be assumed that the Muhammadiyah accepts the theory of *maqasid al-shar'ah* as well, because, for the Muhammadiyah, *maslahah*, as a basis of *maqasid al-shari'ah*, is a very important element in dealing with the *mu'amalah* aspect.¹¹ In order to prove this hypothesis, it is necessary to elaborate on the methods of *ijtihad* used by the Muhammadiyah on several contemporary problems relating to *fiqh* and to find out the relationship between these methods and the theory of *maqasid al-shar'ah*.

Qiyas

Qiyas is, to a great extent, accepted by the Muhammadiyah as a method of *ijtihad*. *Qiyas* may be defined as an attempt to arrive at legal decisions concerning those cases which are not explicitly regulated in the Qur'an and the Sunnah by comparing them to cases that are mentioned in these two sources. The idea of *qiyas* is based mainly on the assumption that there are some attributes (*sifat*) of the subject ruled upon, and that by determining the appropriate attribute, the rule can be analogically applied to other comparable situations.

The Muhammadiyah, for instance, has tried to deal with bank in-

terest, which is a characteristic of conventional banks, by using *qiyds* as a method. The essential element in *qiyds* is '*illah* (efficient cause). In this case, according to the Muhammadiyah, "human exploitation" (*zhulm*) can be considered as '*illah*, or the efficient cause why *riba* is not allowed in the Qur'an.¹² The question is, can this '*illah* be applied to the case of bank interest? It seems to me that the Muhammadiyah did not precisely determine whether or not this '*illah* exists in the case of bank interest. Basically, however, the Muhammadiyah recognized that human exploitation does occur, to some extent, in bank interest. Consequently, it came to the conclusion that *private* bank interest is unlawful (*haram*), while government bank interest is *mushtabihah*, neither *hardm* nor *halal*.

In spite of the decision made by the Muhammadiyah concerning bank interest, it is interesting to note, that to determine the '*illah* the Muhammadiyah had recourse to the conventional ways of doing so (*masdlik al-'illah*). One of the way of determining the '*illah* is *takhrij al-mandt*, i.e. collecting several attributes (*sifat*) which may possible be considered as '*illah*. Another is *tanqih al-mandt*, i.e. selecting the attribute which appears suitable to serve as the '*illah*. In order to determine the '*illah* from the *sifah*, it is required that this *sifah* should be suitable (*mundsib*) to the *maslahah*. This means that the *sifah* is based on *maslahah* which is supposed to be an objective of the *shari'ah* (*maqdsid al-shari'ah*).¹³ According to the Muhammadiyah, in the case in question, the aim of the law Giver (*shdri*) in prohibiting *riba* is to preserve personal property (*hifd al-ma0*).¹⁴ This aim is, in fact, one of the *maslahah daruriyyah* that should always be maintained.

Regarding to the idea of *maslahah* in the case of bank interest, the Muhammadiyah asserts that "if there is any public interest (*maslahah*) which is in accordance with the objectives of the *shari'ah* in general, then it is permissible to make a transaction with a bank that uses interest as a basic system".¹⁵ What the Muhammadiyah means by public interest in this case is the necessity to use bank as tool of economic development, particularly for muslims.¹⁶ The Muhammadiyah seems to invoke the aims of the *shari'ah* as a basis for its decision concerning bank interest. In other words, *maslahah*, which is considered to be an objective of Islamic law, is a basic factor in deciding the law through the use of analogical reasoning (*qiyds*). Furthermore, it can be said that the Muhammadiyah, in this case, has departed from *qiyds* to *istihsdn bi al-maslahah* (*bial-darurah*).

Istihsan

Istihsan, originally propounded by the Hanafi school, is accepted by the Muhammadiyah. In some cases, it takes the form of preferring what is called *qiyas khafi* (hidden *qiyas*), which are based on an indication intuitively sensed by the *mujtahid*. In fact, the hidden *qiyas* constitutes an appeal to a *maslahah*. In other cases, *istihsan* can be defined as a postponing (*tawaqqu'* of the general principles of evidence (*qawa'id al-'adillah al-kulliyah*) because the *maslahah* itself, at whatever level. The Muhammadiyah has used this method in relation to the problem of birth control.

According to the Muhammadiyah, the main purpose of marriage in Islam is procreation (*nas*).¹⁷ The Qur'an and the Hadith are quoted by the Muhammadiyah to support this idea. Consequently, every endeavor that attempts to damage this purpose is not allowed in Islam. For the Muhammadiyah, however, even though the Qur'an and the Hadith clearly recommend having many children, it is necessary to consider the condition of the parents, so that they can decide whether they want to have child or not. This consideration, according to the Muhammadiyah, should be based upon *maslahah*.¹⁸ In other words, the general idea of the Qur'an and the Hadith concerning procreation can be restricted by the *maslahah*. This is referred to by some scholars as a *istihsan bi al-maslahah*.¹⁹

In order to use *maslahah* as the basis for legal decisions concerning the birth control issue, the Muhammadiyah, which is followed by Muslim jurists, believes that it should be considered as *maslahah daruriyyah* (necessity), *qat'iyyah* (certain) and *kulliyah* (universal).²⁰ Birth control, according to Muhammadiyah, is permissible as long as it is a necessity, such as to avoid hardship either for mothers or fathers or even for the children themselves. Another condition is that it should be recommended by the medical expert, and it should be a universal for social welfare as a whole. Regarding the last condition the Muhammadiyah has not entirely followed Muslim jurists' opinion. Thus, for the Muhammadiyah, the decision in favor of birth control may possibly be based on individual considerations.²¹

Another indication of the Muhammadiyah's concern with the idea of the *maqasid al-sharh'ah* can be seen in its decisions on sterilization and abortion issues. For the Muhammadiyah, sterilization, either vasectomy or tubectomy, is not allowed in Islam, because it is contra-

dictory to the main objective of marriage according to the *shar£'ah*, viz procreation. Abortion may be viewed as forbidden in Islam, because it violates the other element of *maslahah*, viz to preserve life (*hifd al-na£i*). However, the Muhammadiyah asserts that both sterilizations and abortion are allowed, if other elements of *maslahah* can be maintained. For example, if the mother's life is endangered by giving birth, she may be sterilized. The justification is to preserve the life of mother (*hifd al-na£s*). In this case, so far as the *maqasid al-shar£'ah* are concerned, preservation of life should be favored over and above having offspring. The same reasoning can be applied to the abortion issue.

Al-Maslahah al-Mursalah

The Muhammadiyah believes that public interests should be taken into account in worldly matters (*al-umur al-dunyawiyyah*). Accordingly, the role of reason in dealing with *mu'amalah* problems is significant.²² This idea is similar to the idea of *al-maslahah al-mursalah* as propounded by Imam Malik. It may be defined as a textually unrevealed benefit or utility for man inherent in a principle of conduct or judgment. It should be based upon man's best interests and it is not ruled by the Qur'an or the Hadith. If mentioned in the two main sources of Islamic law, it is called *al-maslahah al-mu'tabarah*.

Most Muslim jurists accepted the method of *istislah*. They required certain conditions in order to employ this method. Malik himself, who was regarded as the "founding father" of this method, required three conditions. Firstly, the *maslahah* should be reasonable (*ma'qu* and suitable (*munasib*) to the case that is to be decided. Secondly, the aim of the *maslahah* is to preserve the necessity (*darur*) and to prevent or eradicate hardship (*rafal-hara;*) by avoiding injury (*madarrah*). Thirdly, it should not contradict the objectives of the *sharf'ah* (*maqasid al-shar£'ah*) nor definitive evidence (*al-dal£l al-shar£' al-qat'D*).²³ In other words, the method of *istislah* should refer to the objectives of the *shar£'ah*.

The Muhammadiyah has tried to apply the method of *istislah* to several contemporary questions, such as in vitro fertilization and organ transplants. In the case of the former, the Muhammadiyah decided that, as long as the semen is from the husband himself, in vitro fertilization is permissible in Islam.²⁴ The reason, according to the Muhammadiyah, is that the Qur'an and the Hadith do not rule on

this case explicitly, so on the basis of the principle of *maslahah*, it is permissible. In this case, *maslahah* for the Muhammadiyah, is considered to be *al-maslahah al-daruriyyah*, i.e. to preserve the offspring (*hifd al-nas*). So far as the *maqasid al-sharf'ah* are considered, the aim of marriage in Islam is to have offspring. Therefore, it is recommended that married couples to try to achieve this aim. One of the possibilities for those who cannot have a baby in the normal manner, is to make use of the test-tube baby program.

With regards to the question of organ donation, the Muhammadiyah goes further in applying the method of *istislah*. It is recognized by this organization, that there are many Qur'anic verses and Hadith which prohibit injury to the human body. On the other hand, there are other Qur'anic verses and the Hadith which advise Muslims to protect the human body and to cure it properly. By using the *maqasid al-sharf'ah* approach, the Muhammadiyah has come to the conclusion, that "living donation", i.e. organ donations from living human beings, is not allowed in Islam, while "dead donation", i.e. using organs from deceased persons, is permissible. The justification is again mainly based upon the *maslahah* which is considered to be the main element in the *maqasid al-sharf'ah*. As far as the *maqasid al-sharf'ah* are concerned, *maslahah* is divided into three levels, viz necessity (*daruriyyah*), importance (*hajiyyah*) and embellishment (*tahsiniyyah*). These three kinds of *maslahah* are considered in the aforementioned order. The Muhammadiyah has tried to follow this theory closely. According to this organization, preserving life, considered to be belong to the first level, should be favored over preserving the respect for the dead body, this being viewed as belonging to the third level.²⁵ The Muhammadiyah, in reaching a decision on this problem, seemed to employ the legal maxim: "*yurtakabu akhalfu al-dararain lidafi ashaddihim*". If the donor is still alive, the case is different from that discussed above. In this case, preserving the interests of the living donor should be preferred over the recipient's interests. Accordingly, it is prohibited to assist someone who is in critical condition, by donating part of one's body.

Sadd al-Dhan'ah

Another method that has been used by the Muhammadiyah in exercising its *ijtihad* is *sadd al-dhar'ah*. This is an effort of the *mujtahid* to prohibit some cases that are basically permissible (*mubdh*). The

prohibition is aimed at avoiding *fitnah* and *mafiadah*.²⁶ In other words, the main purpose of this method is to preserve the *maslahah* and to avoid the *mafiadah*. Preserving *maslahah*, as has been discussed, is a fundamental element of *maqasid al-shar'ah*.

The Muhammadiyah has applied the *sadd al-dharf'ah* method in dealing with the matter of interreligious marriage, particularly between Muslim men and women of the *ahl al-kitab*, i.e. Jews and Christians. Basically, according to the Muhammadiyah, it is allowed for a Muslim men to marry a women of the *ahl al-kitab*. There are many reason why such a marriage is allowed. Some are based on a Qur'anic verse (Al-ma'idah: 5). Another reason is because Muhammad himself married Maria al-Qibtiyyah, a Christian woman.²⁷ For the Muhammadiyah, *ahl al-kitab* is not considered as *mushrikah* with whom Muslim men are prohibited to marry.²⁸

Furthermore, the Muhammadiyah argues that the most important reason why such a marriage is allowed is that it provides an opportunity for the Muslim man to encourage his wife to become *muslimah*. The Muhammadiyah characterizes this reason as *hikmah*. Based on this *hikmah* the Muhammadiyah believes that it is permissible for Muslim men to marry a woman of *ahl al-kitab*. However, according to the Muhammadiyah, numerous examples from Indonesia society show that the aims behind interreligious marriages are not achieved. Many Muslim men become Christians because of interreligious marriages. Consequently, according to the Muhammadiyah, the status of interreligious marriage has changed from *mubah* to *haram* by using the method of *sadd al-dharf'ah*.

As has been indicated, the main purpose of using the method of *sadd al-dharf'ah* is to preserve the *maslahah* as well as to avoid the *mafiadah*. There are many *mafiadah*, according to the Muhammadiyah, caused by interreligious marriage. The first, according to the Muhammadiyah, is that many Muslims in Indonesia convert to another religion, because they follow their wives' religion. The second one, is that -generally speaking- the religion of their children is that of their mothers'. These two reasons, for the Muhammadiyah, are considered to constitute the major damage (*mafiadah asasiyyah*),²⁹ because preservation of religion (*hifd al-din*) is one of the basic elements in the "five universals" (*al-kulliyat al-khams*). Accordingly, prohibiting interreligious marriages should be classified as *al-maslahah al-daruriyyah*.

It is interesting to note that Muhammadiyah has preferred to use the concept of *maslahah* rather than the Qur'anic text itself. Qur'anic verses have explicitly declared that it is permissible for Muslim man to marry a woman of the *ah! al-k itab*. Nevertheless, the Muhammadiyah prohibits this kind of marriage. It seems that the Muhammadiyah "has departed from the Qur'anic verses", because of its use of *maslahah* as the basis for its decision.

Conclusion

Based on the previous discussion it can be concluded that the Muhammadiyah has applied the theory of the *maqasid al-sharḥ'ah* in its *ijtihad*. By using this theory, the Muhammadiyah has tried to deal with contemporary *fiqh* problems, particularly on worldly matters. However, this organization does not entirely follow the conditions that have been formulated by previous *usuliyun*. It has tried to reformulate and utilize the idea of *maqasid al-sharḥ'ah* on its own conditions. Furthermore, the Muhammadiyah has tried to establish a relationship between the theory of *maqasid al-sharḥ'ah* and various methods of *ijtihad*. As far as applying the concept of *maslahah* is concerned the Muhammadiyah appears, in fact, to prefer to use the principle of *maslahah* rather than the *nas*.

Notes

1. Central Board of the Muhammadiyah, *The Official News of Muhammadiyah* (special Edition), p. 47.
2. Rusli Karim, *Muhammadiyah dalam Kritik dan Komentar*, Gakarta: Rajawali, 1986), p. 17.
3. Central Board of the Muhammadiyah, *A Compilation of Majlis Tarjih's Decisions*, (Yogyakarta: Persatuan, n.d.), p. 278.
4. *Ibid.* See the Central Board of the Muhammadiyah Majlis Tarjih, "The Brief Ijtihad Methods that have been used by Majlis Tarjih Muhammadiyah", in *The Guidelines of the Majlis Tarjih Conference*, 1989, p. 21.
5. Central Board of the Muhammadiyah, "The Brief Methods ...", *Ibid.*
6. *Ibid.*, p. 23.
7. *lac. cit.*
8. Al-Shatibi, *Al-Muwdfaqdt fī Usul al-Ahkdm*, (Beirut: Dar al-Fikr, 1341 H.), vol. II, pp. 4-5.
9. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad 'Abduhand Rashid Ridd*, (Berkeley: University of California Press, 1966), p. 74.
10. Central Board of the Muhammadiyah, "The Brief Methods ...", in *The Guideline of Maj/Is Tarjih, op. cit., pp. 23-24.*
11. *Ibid.*
12. Central Board of the Muhammadiyah, *A Compilation of the Maj/Is Tarjih's Deci-*

- sions, p. 304.
13. Mustafa al-Shalabi, *Usul al-Fiqh al-Islam* (Beirut: Dar al-Nahdat al-'Arabiyyat, 1986), p. 234.
 14. Central Board of the Muhammadiyah, *lac. cit.*
 15. *Ibid.*, p. 305.
 16. *Ibid.*, p. 306.
 17. Central Board of the Muhammadiyah Majlis Tarjih, *Establishing a Harmonious Family* (Yogyakarta: Persatuan, n.d.), p. 44.
 18. *Ibid.*, p. 44
 19. Mustafa al-Shalaby, *op. rit.*, pp. 227-275.
 20. Central Board of the Muhammadiyah, *A Compilation of Majlis Tarjih's Decision, op. cit.*, pp. 309-310. Compare to Al-Ghazali, *al-Mustashfd min 'Ilmal-Usul* (n.p. Nur al-Saqafah al-Islamiyyat, n.d.), vol. I, p. 286.
 21. Central Board of the Muhammadiyah, *A Compilation ..., Ibid.*
 22. Central Board of the Muhammadiyah Majlis Tarjih, "The Brief Methods ..., in *The Guidelines of Majlis Tarjih ..., op. cit.*, p. 23.
 23. Shatibi, *al-I'tisdm*, (Kairo: al-Matba'ah al-Tijariyyat, n.d.), vol II, pp. 110-111 and 114.
 24. Mukhtar Tarjih's Decision on in vitro Fertilization, in *Bayi Tabung dan Pencangkokan dalam Sorotan Hukum Islam* (Yogyakarta: Persatuan, 1980), p. 85.
 25. *Ibid.*, pp. 101-103.
 26. Central Board of the Muhammadiyah, "The Brief Methods ...", *op. cit.*, p. 22.
 27. Muhammadiyah Jawa Barat, "A Guide to Establishing a Harmonious Family" (Article, presented at Majlis Tarjih Conference 1988), p. 15-17.
 28. Al-Baqarah : 221, see The central Board of Muhammadiyah, *op. cit.*, p. 7.
 29. Muhammadiyah Jawa Barat, *op. cit.*

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