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## The Multicultural Fiqh Paradigm: Building Tolerance and Justice Amidst Indonesia's Cultural Diversity

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### ABSTRACT :

The Quran teaches that humans were created with diverse ethnic and cultural differences so that they could get to know one another. This demonstrates that Islamic teachings fundamentally invite all humanity to achieve common ideals within the framework of human unity, without distinction of race, skin color, ethnicity, culture, or religion. However, when this universalistic idea of the Quran is implemented in the form of Islamic jurisprudence (fiqh), in reality, fiqh often faces truth claims put forward by adherents of various schools of jurisprudence. As a result, a paradox arises between the local-particular truth claims of fiqh and the universal and substantive teachings of the Quran. These truth claims have the potential to give rise to conflict and violence between groups with differing understandings of fiqh. Therefore, it is crucial to develop a formulation of Islamic jurisprudence based on the principles of multiculturalism, which recognizes differences and places them within a framework of equality and tolerance. The discussion in this article concludes that multicultural Islamic jurisprudence must be built on the principle of mashlahah using the maqâshid al-syarî'ah approach. Consequently, universal values in the Qur'an are viewed as substantive and more important than local or particular values. With the maqâshid al-syarî'ah approach, values such as justice, benefit, equality, wisdom, and compassion become the primary principles that serve as sources and inspiration when the Qur'an establishes specific legal provisions in a given case.

**Keywords:** *Multiculturalism, fiqh, mashlahah, maqâshid al-syarî'ah.*

### INTRODUCTION

For the majority of Muslims, the science of fiqh plays a very important and strategic role. Komaruddin Hidayat argues that a mindset oriented towards fiqh has become a deep part of the history of Islamic thought and is almost dominant in all Muslim countries (Komaruddin Hidayat, 2006:28). There are two main reasons why fiqh is so dominant. First, Islam teaches norms of behavior and rules of worship that require practical and measurable actions. Second, fiqh is an essential need for scholars and rulers (umara) in regulating and guiding Muslims in social and political aspects. Because of this dominance of fiqh, Muhammad Abid al-Jabiri in his work *Bunyah al-'Aql al-'Araby* describes Islamic civilization as *hadhârah al-fiqh* and *hadhârah al-bayân*, both terms used to emphasize how crucial the science of fiqh is in shaping Islamic civilization (Muhammad Abid al-Jabiri, 2014:14).

Looking back at the history of the formulation of the science of fiqh, it can be concluded that the formulation of fiqh was greatly influenced by the responses of scholars to the social conditions they faced (Komaruddin Hidayat, 2006:134). In many cases, the thoughts of fiqh

scholars were the result of their interaction with the social realities around them. The thoughts of Imam Hanafi, the founder of the Hanafi school, were a direct reflection of the metropolitan environment of Baghdad, which became a center of trade and intellectual development in his era, which resulted in the formulation of Islamic sciences. This differs when compared to the thoughts of Imam al-Syafi'i, the founder of the Shafi'i school, who lived in a more agrarian Egypt. In fact, Imam al-Syafi'i's thoughts experienced a development from *qaul al-qadim* (old opinion) expressed while living in the city of Baghdad, to *qaul al-jadid* (new opinion) expressed while in Egypt. Some of the views of *qaul al-qadim* were later revised by *qaul al-jadid*, influenced by the stark contrasts in the social and political environments between Baghdad and Egypt. Thus, these differences in social and political conditions resulted in variations in the opinions of scholars in understanding *fiqh* (M. Atha Mudzhar, 2004:78, Ahmad Hasan, 2000:24-25).

Another important phenomenon in the formulation of classical *fiqh* is the tolerance of *fiqh* scholars toward diverse views and opinions. This indicates that they introduced a pluralistic model of reasoning in formulating Islamic law. The four leading schools of *fiqh*—Maliki, Hanafi, Shafi'i, and Hanbali—consistently adopted this approach. The essence of their thinking is that each school believes in the truth of its view, yet still recognizes the potential for truth in the arguments of other schools.

This phenomenon clearly demonstrates that Islamic jurisprudence scholars have a strong awareness of multiculturalism. They do not develop a single logic that emphasizes uniformity, but rather adopt a pluralistic approach that respects social diversity within the framework of Quranic teachings. This means that Islamic jurisprudence scholars view plurality as a historical reality and God's will.

This understanding aligns with the teachings of the Quran. For example, Surah Al-Hujurat verse 13 (QS. 49:13) explicitly explains that humans were created into various nations and tribes so that they might know and respect one another. Thus, the Quran has established a value system that views diversity positively and optimistically, accepts diversity as a reality, and encourages people to act optimally based on that reality. Furthermore, the Quran also emphasizes that differences in language and skin color are positive realities and a sign of God's greatness (QS. 30:22).

Given the importance of this issue, it is crucial to develop a jurisprudence formulation based on the principles of multiculturalism. This formulation must recognize and respect differences and place this diversity within a framework of equality and tolerance. Sociologically, multiculturalism itself rests on two core beliefs. First, socially, all cultural groups have the right to represent themselves and coexist harmoniously. Second, discrimination and racism can be

minimized by building a positive image of ethnic diversity and increasing understanding of other cultures.

The development of multicultural insight can be realized through the educational process. James Banks (1994) explains that multicultural education has five interrelated dimensions. First, content integration, which combines various cultures and groups to illustrate basic concepts, generalizations, and theories within a subject or discipline. Second, the knowledge construction process, which encourages students to understand the cultural implications of each subject. Third, an equity pedagogy, which is a teaching strategy that adapts methods to the learning styles of students who are diverse in terms of race, culture, and social background to support their academic achievement. Fourth, prejudice reduction, which involves identifying students' racial characteristics and determining teaching methods appropriate to this diversity. Furthermore, this pedagogy also includes efforts to train groups to actively participate in various activities and interact positively with staff and students from diverse ethnic and racial backgrounds, in order to create an inclusive academic culture.

Religious education, particularly in the field of fiqh (Islamic law), is a strategic tool for developing multicultural insights. This can be achieved by emphasizing religious teachings with a multicultural perspective. Some of these teachings include: Recognizing diversity as the essence of God's creation, the importance of appreciating and respecting differences, emphasizing politeness and humanity toward others, understanding that the ability to respect others reflects the greatness of one's religion, and believing that the fundamental principles of religion are kindness and compassion. Through this approach, religious education can foster a deep understanding of diversity as an integral part of religious values.

## **Methods**

This study employed a qualitative research design oriented toward conceptual analysis of various relevant literature sources. This design was chosen because the focus of the research lies in a deep understanding of the construction of Nusantara fiqh thought and its underlying philosophical roots. A qualitative approach allows researchers to explore meanings, principles, and epistemological frameworks that cannot be obtained through quantitative methods.

Specifically, this research is categorized as library research, that is, research that utilizes written texts as the primary source of analysis. The literature used includes academic books, scientific articles, classical manuscripts, and contemporary publications relevant to the discourse of Nusantara fiqh. This library study is combined with a philosophical approach, particularly the philosophy of science, as explained by Akmal Bashori (2020), which provides an analytical

framework for exploring the thought structures, rational basis, and philosophical foundations of the development of Nusantara fiqh.

The research data was obtained through a search of primary and secondary literature utilizing academic databases, digital libraries, and other scientific sources. The literature was selected purposively, based on its direct relevance to the themes of the construction of Nusantara fiqh, Islamic legal epistemology, and philosophical studies. Data collection techniques involved intensive reading, note-taking, theme categorization, and content analysis of the arguments and concepts emerging from each source.

The primary instrument in this study is the researcher herself, as is customary in qualitative research, using interpretive skills as a tool to analyze and interpret texts. The analysis process follows an interpretive-critical reading model, which seeks to identify thought patterns, philosophical assumptions, and epistemological structures within each piece of literature studied. A philosophy of science framework is used as a theoretical lens to assess the coherence, logic, and depth of Nusantara fiqh concepts.

Data analysis was conducted using structured content analysis techniques, starting with data reduction, data presentation, and drawing conclusions. Each literature was reviewed to identify key themes, relationships between concepts, and philosophical arguments that shape the construction of Nusantara fiqh. The results of the analysis were then synthesized to produce a comprehensive understanding of the philosophical foundations and paradigmatic development of Nusantara fiqh within the context of contemporary Islamic scholarship.

## **Result**

### **Islam and Multiculturalism**

Multiculturalism emerged as a response to deep concerns regarding the increasing social conflict stemming from differences in cultural, ethnic, religious, and other identities. In addressing this diversity of identities, which often gives rise to tensions, three main approaches have developed to understand and address these dynamics. First, the primordialist approach views differences in identity based on genetic factors such as ethnicity, race, and religion as the primary root of ethnic and religious conflict. This perspective asserts that these identities are immutable and fundamentally determine social interactions.

Second, the instrumentalist approach views these identities as strategic tools used by individuals or groups to achieve specific goals, both material and non-material. In this context, identity becomes a political instrument mobilized by elites to gain support, for example by

fostering religious solidarity. This approach assumes that conflict can be minimized if individuals are willing to set aside personal preferences for the collective interests envisioned by the elite.

Third, the constructivist approach rejects the view of identity as static and rigid. According to this view, ethnic and cultural identities are dynamic and can be shaped through ongoing social interactions. Identity is seen as a source of cultural richness that enables dialogue, mutual understanding, and enrichment between groups. From this perspective, diversity is not an obstacle, but rather a gift that enriches social life. The concepts of multiculturalism and multicultural education then emerged as spaces and practices that encourage tolerance and appreciation of differences in a pluralistic society.

The idea of multiculturalism actually has its theological roots in the Quran. The Quran teaches that humans were created diverse and ethnically so that they can get to know each other. This process of getting to know one another then becomes a central issue that emerges in the idea of multiculturalism. This view stems from the ontological-metaphysical perspective of Islam, which is rooted in the teachings of monotheism. Literally, monotheism is the unity of all creation, both humans and nature, in the relationship of life. In other words, monotheism implies the unity between God, humans, and nature (Nurcholis Madjid, 2008: 276). Thus, Muslims must acknowledge not only that God is one, but also understand that there is a connection between everything, including the unity that occurs among all of God's creation (Seyyed Hossein Nasr, 2003: 33).

In relation to humans, the concept of monotheism has profound implications for understanding the nature of humans as explained in the Quran. The Quran describes humans as theomorphic creatures, namely creatures who reflect divine attributes in their role in the world (Seyyed Hossein Nasr, 2000: 103-105). Humans are referred to as *Khalifah Allah fi al-ardl*, which means representatives or representatives of Allah on earth, as well as 'abd, namely servants of Allah who submit and obey him. As caliphs, humans have the responsibility as managers of natural resources on earth, which requires them to carry out managerial roles in maintaining and utilizing everything wisely and sustainably (Seyyed Hossein Nasr, 2003: 40-44).

In his role as caliph, humans have an obligation to develop knowledge, because knowledge is the main factor underlying the mandate given to him as God's representative on earth. This knowledge is what distinguishes Adam, as the ancestor of mankind, from the angels and other creatures who once questioned the appointment of humans as caliphs. The angels argued that they were more consistent in worshiping God than humans who often caused damage and bloodshed on earth (Yusuf Qardhawi, 2009:106). However, God answered that he knew things they did not know, then taught Adam the names of all things (Q.S. al-Baqarah: 30-

33). With this knowledge, humans were given the position of caliph on earth. As caliphs, humans are responsible for prospering the earth by competing in doing good (*fa astabiq al-khairat*). This concept of the caliphate basically reflects universal human values that transcend the boundaries of differences in ethnicity, race, religion, and other identities, thus emphasizing human responsibility to protect and manage the earth fairly and sustainably for all humanity.

Furthermore, the concept of *tawhid* itself is often interpreted as the oneness of God. This doctrine implicitly implies that besides God, there is certainly diversity or plurality. Thus, plurality is an undeniable historical necessity. Based on this reality, multiculturalism then develops a character of tolerance towards diversity, whether in the aspects of religion, tribe, ethnicity, culture, or diversity of religious beliefs within a religion. Not just tolerance, multiculturalism also develops an attitude of respect for that diversity (M Syafi'i Anwar, accessed on June 2, 2025). Therefore, the concept of multiculturalism is not merely tolerance, but rather leads to respect for the other.

This view aligns with a fundamental stance that essentially calls all humanity to a shared ideal within the framework of human unity without distinction of race, color, ethnicity, culture, or religion. This means that racial domination and discrimination in any name are antithetical forces to monotheism and are seen as polytheism and crimes against humanity. This message is contained in the Quran 3:64: "Say: O followers of all religions (and cultures)! Establish a manifesto of equality and justice (through dialogue) between us and you" (Zakiyuddin Baidhaw, accessed June 2, 2025).

A multiculturalist-based Islamic jurisprudence paradigm is a theological and sociological necessity in addressing the complexities of contemporary society. Studies of the Qur'an and Hadith emphasize that plurality is not merely a social reality but rather part of Divine design (*sunnatullah*) that demands mutual recognition and appreciation (*ta'aruf*), as highlighted by Azmi (2022) and Muttaqin (2021). Multiculturalism in Islam is rooted in universal principles such as absolute justice, humanity (*ukhuwwah insaniyyah*), and compassion (*rahmah*), which oblige Muslims to be open and respectful of the beliefs and ways of life of other groups. Thus, Islamic jurisprudence must shift from a single-minded framework to an inclusive and transformative one that positions diversity as social capital, not a source of conflict (Hanafi, 2020).

Furthermore, various recent studies (2023-2024) position multicultural Islamic education as a key instrument for internalizing these values, particularly in educational institutions. A study conducted by Basri and Wibowo (2024) shows that the integration of multicultural educational dimensions (such as content integration and fair pedagogy) in Fiqh and Islamic Religious Education (PAI) subjects successfully reduces prejudice and builds an understanding that

differences in schools of thought (as exemplified in classical times) are a reflection of the breadth (sa'ah) of Islamic teachings. Reconstructing the curriculum and teaching methods that are sensitive to cultural and religious diversity is crucial for producing a generation of Muslims capable of responding to global challenges with a moderate (wasathiyyah) and tolerant attitude, thereby realizing Islam Rahmatan Lil 'Alamin in everyday social practice (Nurhasanah, 2023).

Thus, the value of sawa' concerns the way humans encounter and understand themselves and the other world at the deepest level and opens up possibilities to explore and reach the myriad fundamental meanings of life individually and collectively in its various dimensions. Experimentally, this value of swa' appears to the surface and reaches the encounter between the vast multicultural world. When humans live through encounters with cultural, ethnic, racial, religious and other diversity, it is as if they are gaining intercultural experiences, as occurs in the historical patterns of conflict between various worlds.

### **Islamic Law Reform**

In the realm of Islamic jurisprudence, the development of multiculturalism must begin methodologically by establishing a paradigm of Islamic social interpretation that emphasizes dynamic, progressive, and tolerant interpretation. This approach allows for a mutually beneficial and crisis-free relationship between the world of texts and socio-empirical reality, without any subordination of one to the other. One relevant methodological foundation is the social hermeneutics paradigm, which can encourage diverse understandings of the interaction between religious texts and social constructs within society (Fajar Riza Ul Haq, accessed June 2, 2025).

Reformulation of classical Islamic legal methodology (usul fiqh) is crucial given that it is often unable to address the complexities of contemporary social reality. This is due to several key factors. First, classical methodology tends to underestimate the capacity of public reason to revise or invalidate irrelevant legal-formalistic provisions in Islamic law. When a conflict arises between public reason and the literal meaning of a text, this methodology prefers to subordinate public reason to the text absolutely. Second, the classical approach demonstrates skepticism about human capacity to formulate concepts of benefit, even for the benefit of humanity itself. Third, this methodology places the text in a sacred position (taqdis al-nushush) and ignores the dynamics of social reality. Ijtihad within this framework is only considered valid if it is text-oriented, as the text is considered the primary center for resolving legal issues. These three factors are at the root of the emergence of theocentric and ahissyorian forms of fiqh, which ultimately closes off space for the development of multicultural insights in the field of fiqh.

Methodologies that focus theocentrically on the text of the Quran tend to produce textual interpretations, without considering the substantive meaning behind the verses being

interpreted. This is evident in the interpretation of verses that discuss the concept of people of the book. In general, the Quran uses the term ahl al-koitab to refer to Jewish and Christian communities that have a religious relationship with Muslims. In fact, the Quran emphasizes that its arrival aims to strengthen some teachings of the Torah and the Gospel while correcting other deviant teachings. Furthermore, the Quran informs that the Prophet Jesus (peace be upon him) invited Jewish followers to follow the teachings he brought, which were a continuation of the teachings of the Prophet Moses (peace be upon him), and foretold the coming of the Prophet Muhammad (peace be upon him). Based on this historical and theological relationship, Islam recognizes the Prophet Moses (peace be upon him) and the Prophet Jesus (peace be upon him) as prophets and messengers of God, whose belief is obligatory for Muslims.

Although the Jewish and Christian communities are agreed upon by scholars as people of the book, according to Arkoun, this view of the people of the book has given rise to a long-running polemic because the people of the book are usually connoted as misguided people and are used to strengthen the uniqueness and authenticity of new revelations. This new image of new revelations gives the impression that Jews and Christians have changed and distorted the meaning of the holy book. In turn, they are considered not to follow God's law and are therefore labeled as infidels.

In the Quran, there is a concept that is not always the same regarding the people of the book. In QS. Ali Imran (3): 112-115, Allah gives an assessment of the people of the book as follows:

*"Wherever they (the Jews) are, they will always face humiliation, unless they adhere to the rope (relationship) from Allah and relationships with humans. And it is fitting that they will receive wrath from Allah and humiliation will be imposed on them. That is because they disbelieved in Allah's commandments and they killed the prophets without any justification. That is because they were disobedient and transgressed (QS. 3: 112). They are not the same. There is among the ahl al-kitab an honest group who read the verses of Allah at various times of the night and they prostrate themselves to Allah (QS. 3: 113). They believe in Allah and the Last Day. They command good deeds and prevent evil and they hasten to do pious deeds (virtue) and they are among the pious people (QS. 3: 114). them. And Allah knows people best who is devout (QS. 3: 115)"*

This verse shows that Allah's assessment of the people of the book is carried out proportionally and fairly. Allah did not send down His wrath on the people of the book because of differences in theological beliefs, but because of the violations of humanity they committed, such as anarchist acts, including killing their prophets without justifiable reasons. On the other hand, Allah gives praise to the people of the Bible who are honest, active in carrying out amar ma'ruf na munkar, and consistently carry out good deeds. Allah also promises a reward for those

who do so. Thus, this verse emphasizes that the path to salvation is not exclusive to Muslims alone, but is also open to the al-kitab, as long as both Muslims and people of the al-kitab show devotion to Allah.

The Quran itself has indeed criticized the people of the book as seen in QS. Al Maidah (5): 59, QS. Ali Imron (3): 69, QS. Al-Baqarah (2): 109.

*"Say, O abl al-kitâb: why do you hate us just because we believe in Allah, in the book that was revealed to us and in what was revealed before it and that most of you are people who are fasiq (QS. 5: 59). Some of the abl al-kitâb wish that they could lead you astray and they do nothing but mislead themselves and they do not feel (QS. 2: 69). Many people are more than abl al-kitab who want to turn you back into unbelievers after you have believed because of their own envy, after the truth has been revealed to them, then forgive and forgive, so that Allah will bring about His command.*

In these verses, it is clear that Allah condemns the behavior of the People of the Book. However, the Quran's condemnation of them is based on violations of social ethics, such as hostility, wickedness, and the imposition of rights that clearly violate basic religious rights, especially when they force Muslims to abandon their faith and return to being "infidels." However, the Quran shows a friendly attitude towards the People of the Book by teaching Muslims to forgive and pardon them, as emphasized in QS. Al-Baqarah (2): 109. Therefore, Muslims are also commanded to maintain good and harmonious relations with the People of the Book. This is reinforced in QS. Al-Ankabut (29): 46 which states: "And do not argue with the People of the Book except with something better, except with those who are unjust among them." And say to you all, we believe in what has been revealed to us and what has been revealed to you, moreover our God and your God are one, and we all submit to Him (QS. 29: 46).

Even in QS. Ali Imran (3): 64 Allah invites the people of the book to find common ground (kalimatun sawa') with the Muslim community. Say: O people of the book, let us hold fast to a word between us and you, that we should not worship except Allah alone, without associating anything with Him, and let us not take others as lords besides Allah. So if they turn away, say to them: Bear witness that we are all Muslims (QS. 3: 64).

Although the Quran upholds an egalitarian view, this principle has been simplified in classical Islamic legal formulations that tend to be discriminatory, particularly in the Islamic jurisprudence literature on mu'amalah (social relations). One example is seen in Islamic political law (fiqh siyasah), where scholars differentiate the treatment of Muslims towards non-Muslims based on territorial classification. In this literature, three categories of territories are recognized: dar al-islam, namely territories where Islam is the majority religion and Islamic law is used as the basis for regulating community life (Seyyed Hossein Nasr, 2003: 40-44). Dar al-shulh or the area

of peace, where Muslims live as a minority but can practice their worship and beliefs freely in a peaceful atmosphere. and dar al-harb, territories where Muslims are in a minority position facing social and political confrontation and must fight to maintain religious freedom. In the context of dar-al Islam, the ahl al-kitab group is given dhimmi status, namely a protected group but does not have full political rights, such as the right to vote and be elected. Thus, their position is practically equivalent to second class citizens in the classical Islamic political system (Munawir Sjadzali, 2017: 67).

In the author's view, this understanding does not reflect the reality taught by the Prophet. The appointment of the Prophet Muhammad as head of state in Medina was based on a mutual agreement, known in Jean-Jacques Rousseau's terms as a "social contract." This means that the citizens of Medina, consisting of Muslims, Jews, and Christians, collectively agreed to appoint the Prophet as their leader. Therefore, these three social groups had an equal role in determining their political rights. Therefore, the assumption that Jews and Christians were treated as "second-class" citizens in the Medina government system exemplified by the Prophet is inaccurate.

In munakahah jurisprudence regarding marriage, it is stated that a Muslim should marry another Muslim. The clerics forbid the marriage of a Muslim with a non-Muslim, including people of the Bible. Based on QS. Al-Baqarah (2): 221. And do not marry polytheist women until they believe and indeed, believing slaves are better than polytheist women, even though they are very tempting to you. And do not marry (your believing women) to polytheist men until they believe. Indeed, a male slave who is a believer is better than a male who is a polytheist, even though it tempts you. They (the polytheists) invite them to hell and Allah invites them to heaven and forgiveness with His permission. And Allah explained His verses to people so that they would remember (QS. 2: 221).

According to the author, this verse has been "takhshish" by QS. Al-Maidah (5): 5 which says: On this day it is lawful for you to eat delicious food and the food of the ahl kitab (Jews and Christians) is lawful for you and your food is lawful for them. And it is permissible (to marry) women who maintain honor (protected from adultery) among believing women and women who maintain honor among those who were given the Bible before you, as long as you pay the dowry to become a chaste husband, not with the intention of committing adultery or taking concubines... (QS. 5: 5).

In this context, Arkoun proposes a reexamination of the reasons for the emergence of certain interpretations among classical-scholastic Islamic thinkers. He argues that the thoughts of these scholars are heavily influenced by classical-scholastic epistemological discourses linked to specific social, cultural, and political backgrounds. Therefore, a process of deconstruction is

necessary to uncover "authentic Islam" so that its true essence is clearly visible, not merely a depiction of Islam shrouded in confusing layers of history.

According to Arkoun, the people of the Book, namely Jews and Christians, were the first to receive revelation. They were believers who received God's grace, just as Muslims received later revelation. These two groups share many similarities that can be traced back to the tradition of the Prophet Abraham, both in terms of lineage and theology. In the Qur'an, Abraham is depicted neither as a Jew nor as a Christian, but as a true Muslim—one who fully believed in and submitted to God. This perspective, which highlights spiritual history or salvation history, is very clear in the Qur'an and is an important dimension of modern theology of revelation.

The Qur'anic statement that calls Abraham a Muslim reflects the ideal religious attitude embodied in Abraham's behavior, which is in line with the covenant (*mitsâq*) contained in both the Bible and the Qur'an. For this reason, Abraham is known as the "Father of the Believers" (Mohammed Arkoun, 2004:18). This has important consequences for Muslims, namely that the entire contents of their holy book are a message from God that is as noble as the Qur'an, namely an invitation to always be pious. This message contains divine awareness (*rabbaniyah*), namely the awareness of God's presence in every aspect of the daily lives of Muslims. Thus, this message is universal and essential, conveyed through the Prophets and Messengers as a monotheistic revelation (*tawhid*) that demands an attitude of trust and faith in God and all its implications (Fazlur Rahman, 2000:109).

However, based on the development of Islamic discourse since the classical-scholastic era, Arkoun observed that the term *ahl al-kitab* contains theological and political polemics. In response, Arkoun proposed the concept of the "society of the book" as a new approach to reflecting on the meaning of *ahl al-kitab*. In his view, the concept of "society" encompasses all methodologies and issues used by modern social, political, and human sciences. Therefore, when Arkoun discusses the "society of the book," he is actually applying historical and anthropological methods to understand the revelation that gave birth to the three Semitic religious traditions (Mohammed Arkoun, 2003:56).

According to Arkoun, this approach can provide a deeper understanding of the historical context behind the emergence of holy books in revealed religions. However, he regrets that scholars of these religions have not yet adopted this method in rereading their holy books, because they still consider holy books to be outside the realm of history. However, according to Arkoun, religion is not only a system of beliefs (theology) and a system of values (ethics), but also interacts with the cultural, economic, and political conditions that develop in society. Thus,

in Arkoun's view, religion must be understood as an inseparable part of society and history, not as something that stands above them (Mohammed Arkoun, 2017:214).

Arkoun's concept, which defines the people of the Book as the community of the Book, can serve as a philosophical and theological basis for building multicultural awareness in developing the basic principles of Islamic sciences, including in the field of fiqh. By placing Jewish, Christian, and Muslim communities as shared and equal components, it will create opportunities for harmony among adherents of these heavenly religions.

Islamic legal reform in the past five years has increasingly focused on reorienting textual law (hukm) to ethical-philosophical objectives (Maqāṣid al-Sharī'ah) in response to the complexity of contemporary issues. Contemporary Islamic legal scholars and practitioners emphasize that fiqh formulations must transcend the framework of classical schools of thought and prioritize the principles of justice and universal benefit (al-mashlahah al-ammah). Muttaqin's (2021) research underscores the need for collective ijtihad (ijtihad jamā'i) and interdisciplinary inquiry, involving not only scholars but also experts in the scientific, social, and economic fields, to ensure the law's relevance to global issues such as digital ethics and integrated Islamic finance. This approach aims to produce progressive and transformative fiqh, so that Islamic teachings can be realized as just solutions for all humanity.

Furthermore, the reforms focused on recontextualizing classical texts (turāth) using a socio-historical lens. This approach, as analyzed by Hanafi (2020), attempts to distinguish between eternal fundamental principles (e.g., the prohibition of discrimination) and specific legal applications (qaul al-qadīm). Adopting this perspective is crucial to prevent the perception that fiqh is monolithic and static, emphasizing instead that Islamic law must be dynamic and able to accommodate social change (Nurhasanah, 2023). By placing multiculturalism and human rights as one of the highest objectives of Sharia (Maqāṣid), these reforms encourage the development of fiqh that is inclusive, tolerant, and aligned with the demands of a modern society that values diversity.

### **Multicultural Fiqh Paradigm**

After critiquing and rereading classical Islamic legal epistemology, it is time to formulate a methodological framework for multicultural fiqh. As explained, multiculturalism emerged in response to the failure of the modernist paradigm to build a socio-cultural system that prioritizes more humanistic and tolerant interactions. The modernist-positivism paradigm, which strictly separates subject and object, has given rise to discrimination and domination in the social and political spheres. This condition has led to inevitable social conflict at the local, national, and global levels. Therefore, a fiqh paradigm is needed that can accommodate the interests of various

social, cultural, political, religious, and racial groups, so that the potential for social conflict can be optimally minimized. Methodologically, this fiqh formulation can be based on the principle of mashlahah, which is one of the sources of law (mashâdir al-tasyri') in the Islamic legal tradition.

Mashlahah or mashlahah mursalah (public welfare) refers to aspects of welfare that are not explicitly regulated by Allah's sharia, and there is no clear evidence that supports or rejects its implementation (Abdul Wahab Khalaf, 2016:84). According to Ahmed An-Na'im, the concept of mashlahah has similarities with the idea of "public policy" or "legal policy" known in the Western legal tradition (Abdullahi Ahmed An-Na'im, 2017:51).

The concept of mashlahah was formulated by the fuqaha through the maqâshid al-syarî'ah approach, namely understanding the intent, purpose, principle of wisdom, or 'illat al-hukm in every aspect of Islamic law. This approach emphasizes the importance of assessing the values of mashlahah contained in every command of Allah's sharia (Abdul Wahab Khalaf, 2016:199). The assumption is that every sharia of Allah always contains benefits for humans, both for life in this world and the hereafter. According to al-Syathibi, laws that do not have the goal of mashlahah will lose social legitimacy in society, something that is impossible for God's law. In this context, al-Syathibi attempts to reveal the relationship between the meaning of God's law and human appreciation of the law (Wael B. Hallaq, 2001:89).

Furthermore, al-Syatibi said that maqâsîh al-syarî'ah in the sense of benefit can be found in all legal aspects,<sup>32</sup> meaning that if there are legal problems whose benefit dimension is not clear, then they can be analyzed through maqâshid al-syarî'ah which can be seen from the spirit of the sharia and the general purpose of the revelation of the Islamic religion.

Based on the concept of mashlahah, fiqh has undergone a significant paradigm shift. The first shift is from a textual approach to a more contextual one. When mashlahah is used as the benchmark for establishing law, priority is given to mashlahah in the face of conflicts between the text (nash) and the benefit (mashlahah). According to al-Syathibi, mashlahah has the authority to annul provisions in sacred texts, known as "naskh al-nushush bi al-mashlahah." The application of this principle is evident in the practice of gradually annulling a number of Islamic laws, known as the concept of nasikh-mansûkh.

History shows that the concept of nasakh applies not only to the sharia of pre-Islamic prophets, but also to the sharia of the Prophet Muhammad. Some Islamic laws that were initially implemented were later revoked within three to five years because they no longer brought benefits. This occurs because something considered good at one time and place can become useless or even harmful when the context changes. When conditions change, God may command an action because it contains benefits, then forbid it when those benefits disappear.

Thus, benefits become the primary basis for establishing sharia. This does not mean that Islamic teachings change opportunistically, but because the need for benefits objectively demands adjustment. All religious provisions are ultimately directed towards achieving the benefit of humanity. Therefore, the maqāshid al-shari'ah is considered the primary source of Islamic law. If any religious text—whether the Qur'an or the Hadith—no longer reflects the maqāshid al-shari'ah, then that text can be considered for disregard in order to maintain consistency with the objectives of sharia.

Second, there has been a shift from emphasizing accidental values to substantive and essential ones. As a consequence of this contextual approach, the concept of mashlahah places substantive and essential values in the Qur'an as far more important than accidental ones. In classical Islamic legal terminology, the general principles of the Qur'an ('āmm) are considered the most fundamental and worthy of guidance, compared to specific rules (khāshsh) that apply only to specific cases.

One example of the application of the law in the Qur'an is regarding murder (qisāsh). The Qur'an (2:178; 4:92) reinforces the existing law on murder in Arab society at that time. The solution offered by the Qur'an gives the victim's family the freedom to choose between exacting revenge with the appropriate punishment—kill for kill—or accepting a sum of money known as diyât. Furthermore, the Qur'an also encourages forgiveness from the victim's family, which is considered a highly valued policy. In this context, murder is seen as a personal crime against the victim's family, who have the right to seek revenge or receive diyât.

Another verse discussing the killing of human beings, the Qur'an states: "Therefore We ordained for the Children of Israel that whoever kills a human being without just cause, it is as if he has killed all mankind; and whoever saves a human life, it is as if he has saved all mankind" (QS. 5:32). This principle firmly states that murder is a crime against humanity universally, not merely a personal crime against the victim's family. Unfortunately, jurists generally do not apply this general principle to handling murder cases, but rather often view it as a personal crime. In fact, the Qur'anic principle that views murder as a universal crime against humanity is an essential value that must be the basis of law.

Al-Qarafi stated that some crimes not only harm individuals but also impact society at large. These crimes fall under the category of God's rights, unlike violations that only affect individual rights. In his view, theft is a clear example because it has an important social dimension. Therefore, even if the victim forgives the perpetrator and does not demand the return of the goods, the court must still impose a punishment because the thief has harmed

society. However, although this concept was formulated by al-Qarafi, there is no evidence that his view was widely accepted. Most scholars continue to consider theft a personal crime.

The Multicultural-Based Fiqh Paradigm developed in contemporary Islamic discourse (2020-2025) serves as a theological response to a pluralistic global social reality. Recent research emphasizes that the basic principles of Fiqh must be rooted in universal values that respect diversity (*ta'aruf*) and humanity (*ukhuwwah insaniyyah*), rather than in a single and rigid legal formulation (Azmi, 2022). This paradigm reinterprets the teachings of the Qur'an and Hadith by prioritizing *Maqāṣid al-Sharī'ah*—especially the protection of the soul, mind, and human dignity—over textual literalism. Its contribution to the present era is significant, providing a framework for Muslims to face modernity and multiculturalism without losing their religious identity. It encourages inclusive religious practices and rejects any form of understanding of Fiqh that could be used to legitimize discrimination, racism, or violence in the name of religion, thus enabling Fiqh to become a tool for creating social peace (Hanafi, 2020).

Furthermore, the Multicultural-Based Fiqh Paradigm provides a strategic contribution in formulating Islamic law relevant to the challenges of human rights and interfaith coexistence. Multicultural-oriented Fiqh (Basri & Wibowo, 2024) emphasizes that differences in views between schools of thought in the classical era (Maliki, Hanafi, Shafi'i, and Hambali) are historical evidence of flexibility and pluralism in Islamic legal reasoning, which should serve as the foundation for contemporary Fiqh. A real contribution in this era is creating a Fiqh that supports inclusive citizenship, where Muslims can interact and collaborate productively with non-Muslim communities within the framework of the nation-state. This paradigm plays a crucial role in combating religious extremism by instilling a moderate attitude through religious education that teaches respect for diversity as a divine reality (Nurhasanah, 2023).

## **Discussion**

### **Islam and Multiculturalism**

Research findings indicate that the concept of multiculturalism in Islam has a strong theological foundation, particularly through the teachings of monotheism, which emphasize the unity of all creation (Nurcholish Madjid, 2008). This view demonstrates that the diversity of human identities is not a threat but rather a gift that holds the potential for dialogue and cultural enrichment. This finding aligns with Nasr's (2003) argument that monotheism not only affirms the oneness of God but also implies the existence of plurality within creation. Thus, the ontological-metaphysical framework of Islamic multiculturalism has a strong normative basis for building inclusive and egalitarian social relations.

Multicultural interpretations in Islam are then evident in the concept of humans as khalifah and abd—two roles that emphasize human responsibility for maintaining social and ecological harmony (Nasr, 2000; Qardhawi, 2009). These findings support the conclusions of previous studies that human leadership on earth is always linked to knowledge, ethics, and social welfare. Furthermore, the process of teaching Adam the names (Quran 2:30–33) reinforces the idea that Islamic epistemology is humanistic and oriented toward the development of civilization. This emphasis on universal welfare provides space for progressive interpretations of identity diversity in the context of contemporary multiculturalism.

Multiculturalism emerged as an essential response to increasing social conflict rooted in differences in identity, such as ethnicity, culture, and religion. In addressing this diversity, there are three main approaches: Primordialists, who view identity as something fixed and genetic; Instrumentalists, who view identity as a strategic tool mobilized by elites for specific interests; and Constructivists, who reject the rigidity of identity, seeing it as a dynamic source of cultural richness shaped through social interaction. This constructivist approach is the foundation of multiculturalism, encouraging tolerance and respect.

The idea of multiculturalism has strong theological roots in the Islamic concept of Tawhid (the Oneness of God). Tawhid not only signifies the oneness of God, but also implies the unity of all creation, including humans and nature. By implication, Tawhid implicitly recognizes plurality as an undeniable necessity. This understanding leads to the affirmation that humans were created differently so that we can get to know each other (*li-ta'ārafū*), making diversity a blessing, not an obstacle.

The concept of Tawhid further defines the role of humans as Khalifah Allah fī al-ardl (God's Representative on Earth), which demands universal responsibility to manage and prosper the earth in a just and sustainable manner, transcending the boundaries of particular identities. As Khalifah, humans must compete in goodness (*fastabiqul khairat*). Therefore, multiculturalism based on Tawhid does not stop at mere tolerance, but demands respect and commitment to the principles of *sawa'* (equality and justice). Domination or discrimination based on race, ethnicity, or religion is seen as antithetical to Tawhid itself.

### **Islamic Law Reform**

Discussions on the relationship between Islam and the people of the Book reveal that the Qur'an adopts a proportional and just approach. Verses condemning the behavior of Jewish and Christian groups relate to violations of social ethics, not theological differences (Qur'an 3:112–115; 2:109). This finding is consistent with Arkoun's (2004) argument that classical discourse often contains theological-political polemics that do not fully reflect the Qur'an's

egalitarian message. The results of this study strengthen Baidhawiy's view that Qur'anic multiculturalism is dialogical and prioritizes the search for common ground (*kalimah sawā*) as the foundation for interfaith encounters.

A critical analysis of classical fiqh shows that many legal constructions are textually biased and inadequately address contemporary social dynamics. Factors such as the sacralization of texts, skepticism of public reason, and suspicion of the concept of benefit (*maslahah*) cause Islamic law to appear exclusive and less adaptive (Fajar Riza Ul Haq, 2025). This finding aligns with Hallaq's (2001) critique of the epistemological limitations of classical *ushul fiqh* in addressing social change. Therefore, this study affirms the urgency of fiqh reform through the paradigm of social hermeneutics and the *maqāṣid al-shari'ah* approach.

The development of multiculturalism in the realm of Islamic jurisprudence demands a reformulation of methodology by developing a paradigm of Islamic social interpretation that emphasizes dynamic, progressive, and tolerant interpretation, one approach being social hermeneutics. This need arises because classical Islamic legal methodology (*usul fiqh*) often fails to address contemporary social complexities. This failure is caused by three main factors: a tendency to underestimate the capacity of public reason in the face of absolute texts, skepticism toward the formulation of the concept of human welfare, and the ahistorical position of sacred texts (*taqdis al-nushush*). This theocentric and textual orientation results in a rigid form of Islamic jurisprudence, which in turn closes off space for the development of multiculturalism, particularly in issues of social and political interaction.

This criticism of textualism is evident in the interpretation of the People of the Book. Classical Islamic jurisprudence often simplifies and even discriminates against this concept, as seen in the literature on Islamic jurisprudence that places non-Muslims (*dhimmi*) as second-class citizens, contrary to the principle of equality exemplified in the Medina Charter. However, the Qur'an (Q.S. *\text{Ali Imran 3: 112-115}*) provides a proportionate and fair assessment, where condemnation is based more on violations of social and humanitarian ethics (such as wickedness and hostility), rather than solely on differences in theological beliefs. Furthermore, Q.S. *\text{Al-Maidah (5): 5}* shows legal flexibility that permits marriage to women of the People of the Book, emphasizes the command to maintain good relations, and seek common ground (*Kalimatun Sawa'*) as the basis for multicultural ethics.

Therefore, a process of deconstruction is necessary to uncover the authentic essence of Islam from the confusing layers of scholastic history. Mohammed Arkoun proposed the concept of the "society of the book" in response to the theological and political polemics of the People of the Book. This approach uses historical and anthropological methods to position religion

(revelation) as an inseparable part of society and history, rather than standing above it. This concept of the "society of the book" philosophically and theologically identifies that Jews, Christians, and Muslims share a spiritual unity in the tradition of Prophet Abraham, which entails equality among them. By placing these three components on an equal footing, this concept provides a solid foundation for building multicultural awareness in the development of the basic principles of Islamic sciences, including contemporary fiqh.

### **Multicultural Fiqh Paradigm**

In the context of fiqh reform, this study demonstrates that *maslahah* can serve as an effective methodological framework for formulating multicultural-based fiqh. The concept of *naskh al-nuṣūṣ bi al-maṣlahah* formulated by al-Syāṭhibi shows that *maslahah* can modify or even cancel textual provisions if they no longer fulfill the objectives of sharia (Abdul Wahab Khalaf, 2016). This finding is further strengthened when linked to the historical reality of the gradual and adaptive implementation of Islamic law. In a multicultural context, *maqāṣid* opens up space for the formation of a more inclusive legal system, respecting diversity, and responsive to the needs of all groups in a pluralistic society.

Furthermore, a study of the principles of universal justice in the Quran, such as in Surah 5:32, shows that the Quran positions crimes such as murder as violations against humanity, not just against a specific individual. This finding supports al-Qarafi's thinking regarding the concept of God's rights related to social crimes that harm the wider community. Therefore, this discourse strengthens the argument that Islamic law has the internal capacity to develop into a more humanistic and multicultural system.

The Multicultural-Based Fiqh Paradigm is a methodological necessity in response to the failure of modernism-positivism that separates subject and object, which has triggered discrimination and social conflict. Contemporary fiqh must be able to accommodate social, cultural, and religious diversity in a humanistic and tolerant manner. Methodologically, the formulation of this fiqh framework is based on the principle of *Maṣlahah* (*Maṣlahah Mursalah*), which refers to the general welfare not explicitly regulated in sharia, similar to the concept of "public policy" in Western law. This concept of *Maṣlahah* is formulated through the *Maqāṣid al-Syarī'ah* approach (the objectives of sharia), which asserts that all of God's laws necessarily contain benefits for humans. According to al-Syāṭhibī, laws that are not oriented towards benefits will lose social legitimacy. Thus, *Maqāṣid al-Syarī'ah* becomes the main source of Islamic law that enables Fiqh to prioritize collective interests and universal humanity.

The first crucial shift is from a textual to a contextual approach. When *Maṣlahah* is the primary benchmark, public interest (*maslahah*) is prioritized when faced with textual conflicts

(naṣṣ). The principle of "naskh al-nushush bi al-maslahah" (the nullification of the text by public interest) proposed by al-Syāṭibī indicates that a religious provision can be considered invalid if it no longer objectively reflects the goals of sharia—as exemplified by the concept of nāsikh-mansūkh in the history of Islamic law. The second shift is the emphasis on substantive and essential values (āmm) over accidental values (khāṣṣ). Ironically, although the Qur'an affirms murder as a crime against humanity universally (Q.S. \text{Al-Mā'idah 5:32}), most classical jurists still consider it a personal crime (the victim's family's right to qisās or diyāt). This inconsistency shows that classical fiqh often fails to link the general and essential principles of the Qur'an to legal formulations, a weakness that Multicultural Fiqh must address.

The adoption of Maṣlahah as a methodological framework for Multicultural Fiqh effectively breaks the deadlock created by ahistorical classical epistemology. By placing the objectives of the Shari'a (Maqāṣid) and human welfare at the center of legal reasoning, Fiqh becomes more responsive to the social, cultural, and political dynamics that give rise to diversity. The case of theft highlighted by al-Qarāfī—viewing the crime as a violation of the rights of God (social dimension), even if the victim forgives—is an early example highlighting the need for Fiqh to expand its scope from individual rights to universal public/societal rights. Therefore, this new Fiqh framework aims to minimize the potential for social conflict by prioritizing essential human values, which will ultimately accommodate the interests of various social, cultural, and religious groups, as mandated by the principles of Islamic universality.

The implications of these findings are significant for both the academic and practical realms of Islamic law. Theoretically, this research expands the epistemological framework of Islamic law by integrating the principles of plurality, maqāṣid, and social hermeneutics. Practically, the research findings open up opportunities for formulating contemporary fiqh (Islamic jurisprudence) that is more adaptive to the diversity of modern citizens, particularly in issues of citizenship politics, interfaith relations, and the establishment of public policies based on values of universal justice.

However, this study has limitations because it focuses only on theoretical and historical foundations without conducting an empirical analysis of the implementation of multicultural fiqh in the context of the modern state. This limitation opens up opportunities for further research, such as comparative studies of the practices of family law, citizenship law, and public law in Muslim-majority countries to examine the relevance and challenges of implementing multicultural fiqh in actual policy. Future research could also explore the integration of Western multiculturalism theory with the maqāṣid principle to formulate a more inclusive and contextual hybrid fiqh model.

## Conclusion

Based on the paradigm shift in the methodological construction of fiqh, the development of multicultural fiqh must be based on the principle of mashlahah and utilize the maqâshid al-syarî'ah approach. This means that the universal values contained in the Qur'an are prioritized as substantive and more important than local or particular values that are specific and limited.

By adopting the maqasid al-syari'ah approach, fundamental values such as justice, welfare, equality, wisdom, and compassion become the primary foundations and sources of inspiration when the Qur'an establishes legal provisions in a particular case. These universal values are highly relevant as a basis for building multicultural fiqh, as they encompass and respect all aspects of humanity without distinction of race, religion, skin color, culture, or other social factors.

Thus, multicultural fiqh based on these principles is not only able to address the needs of diverse societies but also promotes harmony and social justice amidst the diversity of humanity. This approach emphasizes that Islamic law is inclusive and adaptive to different social contexts, as long as it adheres to the universal values that are at the core of the maqâshid al-syarî'ah.

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