

**MAQASID AL-SHARIAH GUIDELINES ON THE CONSERVATION OF MARINE LIFE**

**FINAL REPORT FOR III-T STRATEGIC RESEARCH PROJECT (SRP) 2020 'APPLIED  
MAQASID STUDIES'**

**BY:**

**NORMAWATY MOHAMMAD NOOR  
ABDUREZAK ABDULLAHI HASHI  
SHAHBUDDIN SAAD  
JULIANA MOHAMAD**

**2022**

## 1.0 INTRODUCTION

The ocean and sea cover about 70% of the earth and tremendous house biodiversity of organisms. Therefore, the ocean provides food, jobs for millions of people, a source for medicinal and pharmaceutical industries, petroleum and cultural identification (FAO, 2011). The presence of the ocean plays an important role in maintaining climate and marine eco-systems. For example, the ocean is a carbon sink and absorbs more carbon dioxide than it releases. Other cycles, such as the water cycle, nitrogen cycle and phosphorus cycle, help to maintain the marine environment in good health for the benefit of the human being.

Unfortunately, the ocean and sea face tremendous problems from anthropogenic activities, which leads to the deterioration of marine eco-systems. In the long run, the marine environment will collapse and if this happens, the human being will face a great impact. To help minimizing the impact of anthropogenic activities, many acts and guidelines have been developed at national and international levels. In Malaysia, three acts are related to marine conservation, viz. the Fisheries Act 1985, the Environmental Quality Act 1974 and Wildlife Conservation 2010.

Currently, these acts, guidelines and approaches toward achieving the goal of sustainable marine life are based on the secular view of life, but the Maqasid al-Shariah based approach to sustainable marine life is yet to be developed. Since marine science is not common among modern Muslim academics, Islamic guidelines on healthy and viable marine life are given less attention. Hence, this research addressed this gap by providing Maqasid based guidelines for sustainable and viable marine life.

Furthermore, Maqasid al-Shariah is an essential principle of Islamic jurisprudence that refers to the preservation of order, the achievement of benefit and the stop of harm or corruption, set up of equality among people, causing the law to be revered, obeyed and effective in order to support the ummah to promote positive values in all aspects of life. In addition, Maqasid Shariah also comes to serve the public interests and prevent harm. This main aim of Shariah is controlled by the principles and concepts of mercy and guidance (al-Anbiya',

21:107 & Yunus, 10:57). Therefore, everything concerning human life should follow the aim of Shariah based on its priorities, viz. essentials (*dharuriyyah*), complimentary (*hajjiyyah*) and embellishment (*tahsiniyyah*).

The outcome of this research suggesting Maqasid based guidelines on sustainable and healthy marine life for the acts. As this study would be the first of its kind, it will function as a significant milestone for integrating Islamic teachings with marine science for researchers, learners, and the public.

## **2.0 OBJECTIVES**

1. To study the scope of Shari'ah guidelines on the conservation of marine.
2. To identify the application of Shari'ah principles in the conservation of marine life.
3. To compare and contrast Maqasid Shariah principles with conventional law in conserving marine.

## **3.0 METHODOLOGY**

This research was carried out through a systematic review of 3 acts, i.e. Fisheries Act 1985, the Environmental Quality Act 1974 and the Wildlife Conservation Act 2010. For each act, the contents were gone through for the elements of Maqasid Shariah and identified the potential for Maqasid Shariah principles to be embedded in the Acts.

## **4.0 RESULTS AND DISCUSSION**

### **4.1 Acts Related to Marine life and Conservation**

Three acts have been looked into, i.e. the Fisheries Act 1985, The Environmental Quality Act 1974, and Wildlife Conservation Act 2010. These acts cover various aspects of the conservation and protection of marine life.

#### **4.1.1. Fisheries Act 1985**

The Fisheries Act 1985 is the most comprehensive legislation introduced to the Federal to help support fisheries conservation through good administration and management, maritime development, fishing in estuarine and fisheries in Malaysian waters, saving the aquatic mammals and turtles and riverine fishing in Malaysia and anything related to the establishment of the marine park and marine reserves. The act consists of 3 main aspects, which are:

1. The act to prohibit people from performing and/or possessing and/or knowing activity that may lead to the killing of fish or being caught,
2. The act prohibits humans from harming marine life as well as aquatic mammals and turtles in Malaysian waters,
3. The act provides guidelines for managing and conserving all marine life, including aquatic mammals and turtles.

#### **4.1.2 Environment Quality Act 1974**

The Environment Quality Act 1974 inhibits anyone from discharging or spilling environmentally hazardous substances, pollutants, or waste into Malaysian waters. According to the act, environmentally hazardous substances refer to all-natural and artificial substances such as raw materials in the form of solid or semi-solid or liquid form or in the form of gas or vapour or in a mixture of at least two of these materials or any living organisms used as environmental protection, conservation and control activity, which can lead to pollution.

The act defines a pollutant as all-natural or artificial substances, whether in a solid, semi-solid or liquid form, or the form of gas or vapour, or a mixture of at least two of these substances, or any objectionable odour or noise or heat emitted, discharged or deposited or is likely to be emitted, discharged or deposited from any source which can directly or indirectly cause pollution and includes any environmentally hazardous substances.

Finally, waste is defined by the act as any matter prescribed to be a scheduled waste or any matter, whether in a solid, semi-solid, or liquid form or in the form of gas or vapour, which is emitted, discharged, or deposited in the environment in such volume, composition, or

manner as to cause pollution. The act also regulates the placing, depositing, or handling scheduled wastes. Any receiving or sending or transit through false, misrepresentation or fraud approval will be an offence.

#### **4.1.3 Wildlife Conservation Act 2010**

The Act covers the ownership rights, obligations and protections of the wildlife, whereby it provides for the regulation, protection, conservation and management of wildlife in Peninsular Malaysia and the Federal Territory of Labuan.

The Act is aligned with international efforts, including the International Union for Conservation of Nature and the Convention on International Species of Fauna and Flora (CITES).

#### **4.2 Maqasid Al-Shariah principles on marine life.**

##### **4.2.1 Introducing *Maqasid Al-Shariah*.**

The word *Maqsid* (plural: *maqasid*) refers to a purpose, objective, principle, intent, goal or end (Ibn 'Ashur, 2006). While defining *Maqasid Shariah* from the Islamic law perspective, most of the classical Islamic scholars and *Usuliyyun* did not explain in detail the understanding of the *Maqasid Shariah*. Al-Shatibi, who is considered the leading figure in this field, did not develop any specific definition (al-Raysuni, 1992). But Al-Shatibi, when he was discussing this topic through his masterpiece called *Muwafaqat*, said that *Maqasid al-Shariah* is the achievement of good, welfare, advantage, benefits and warding off evil, injury, and loss of the creatures (Khan, 1985).

There are several definitions of Maqasid al-Shariah by a number of contemporary scholars. Among them is a contemporary Tunisian scholar, Muhammad Al-Tahir ibn Ashur, who stated that the main aim of Islamic law is "the meanings and wise purposes on the part of the Lawgiver which can be discerned in most or all of the situations to which the Law applies" (Ibn 'Ashur, 2001). In addition, the definition can also be read as 'wise purpose' (*hikmah*) and 'meaning' (*ma'na*), and *hikmah* is used synonymously with 'intention' (*qasd*). *Hikmah* is referred to as the Lawgivers' intention by the body of law and others (Al-Raysuni,

2013). A Moroccan scholar, Allal al-Fasi, called *Maqasid al-Shariah* “the underlying reasons the Lawgiver has placed within each of its rulings” (Allal al-Fasi, 1963).

Although several Islamic jurists are using different expressions to explain the understanding of the *Maqasid al-Shariah*, the meaning in the phrase comes with the same meaning, which is understood as wisdoms that God emphasized through his rulings (Al-Yubi, 1998). In other words, to elaborate the definition more clearly, *Maqasid al-Shariah* are guidelines developed to support and benefit the needs of human beings and can be addressed in several objectives, i.e. 1) the guideline intends to fulfil most of the areas of legislation, 2) for the specific objective of *Maqasid*, the guideline aims to cover a specific area or covering a limited number of areas comparable of Islamic law and 3) the for a specific objective, Lawgiver expects through each particular legal ruling. (Al-Raysuni, 2013).

*Maqasid al-Shariah* is also interrelated with another *Usul al-Fiqh* term; *maslahah*, which contains a few meanings like well-being, advantage, or interest (Sano, 2000). Al-Ghazali is one of the leading Islamic jurists who started to explain the five principles of *Maqasid al-Shariah*. He used the word *Maslahah* and discussed *Maslahah* as God’s general purpose in telling the divine law to promote the well-being of all mankind, which the specific aim was to protect five essential elements in life, including *din* (religion), *nafs* (human self), *aql* (intellect), *nasab* (posterity) and *maal* (property). (Al-Ghazali, 1992). Later, Al-Qarafi proposed a better understanding of *Maslahah* when he linked *Maslahah* and *Maqasid* by a fundamental rule that stated: “A purpose (*maqasid*) is not valid unless it leads to the fulfilment of some interest (*maslahah*) or the avoidance of some mischief (*mafsadah*) (al-Qarafi, 1994) (Figure 1).

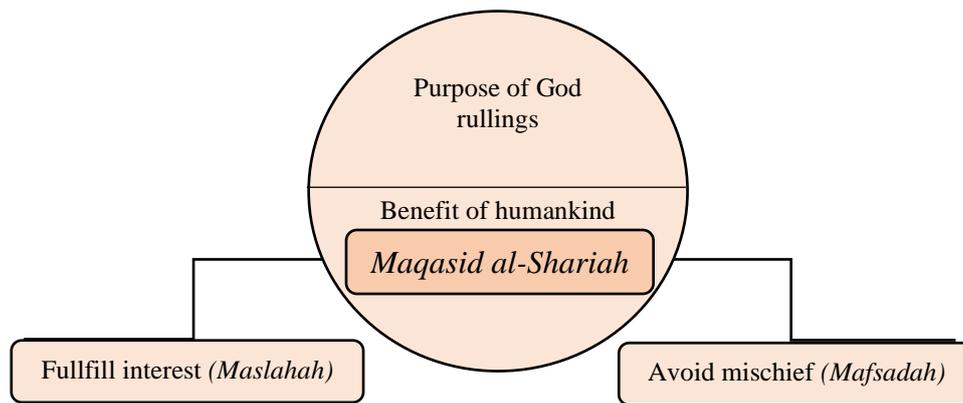


Figure 1: An Illustration of Maqasid's rule

While al-Shatibi, explained the term *maslahah*, he mentioned how it reflects the core of humans' life in achieving their livelihood and gaining the quality of emotion and intellect that require them to be in an absolute sense (Al-Shatibi, 2004). Later, Ibn 'Ashur concludes on the previous understanding and describes *maslahah* as an attribute of an action that realizes goodness; which is always or usually benefiting the public or individuals. In contrast, *mafsadah* is an attribute of an action in which it is always or usually leads to corruption or harm towards the public or individual

#### 4.2.2. Dimensions of Maqasid Al-Shariah

*The Maqasid Al-Shariah*, or purposes of Islamic law, can be divided into several ways based on a number of dimensions. One of the dimensions of Islamic law's purposes is levels of necessity, which is referred to as the traditional classification. This kind of classification of *Maqasid A-Shariah* is interesting and distinctive because it also links directly to the holistic view of human life that is very practical. It has been categorized into three levels of necessity, which are necessities (*daruriyyah*), needs (*hajiyyah*), and luxuries (*tahsiniyah*) (Figure 2).

*Daruriyyah* is the most crucial requirement for human survival and well-being, which is further classified into what preserves one's faith (*din*), human self (*nafs*), intellect (*aql*), and posterity (*nasab*) and property (*maal*) (Al-Ghazali, 1992). Some Islamic Jurists have proposed adding the preservation of honour (*murū'ah*) as the sixth necessity, considering its value in

our human society. However, from the perspective of priorities, *Daruriyyah* should be must be accomplished first before humans can accomplish *hajiyyah* and *tahsiniyyah* (Al-Ghazali, 1937 as cited in Oladapo and Rahman, 2016) and the order must be followed to prevent fasad (conflict) to rise (Meera and Lalbani, 2006). It is also important to note here that these five principles, which are known as the five necessities (*al-daruriyat al-khams*), are not considered good and beneficial from the perspective of Islamic law only, but they were also categorized as basic and essential matters for human being itself (Audah, 2008). This argument is clear when practically observance of these five *daruriyyat* will benefit mankind, and not be limited to Muslim life only. For example, marriage is considered one of the necessities for the human being, and it will protect posterity and preserve the system of human society.

The second necessity is *Hajiyyah* which refers to supplementary for humans to complement *daruriyyah*. The *tahsiniyyah* (the last level) is the refinement for humans related to masalah or human survival and well-being.

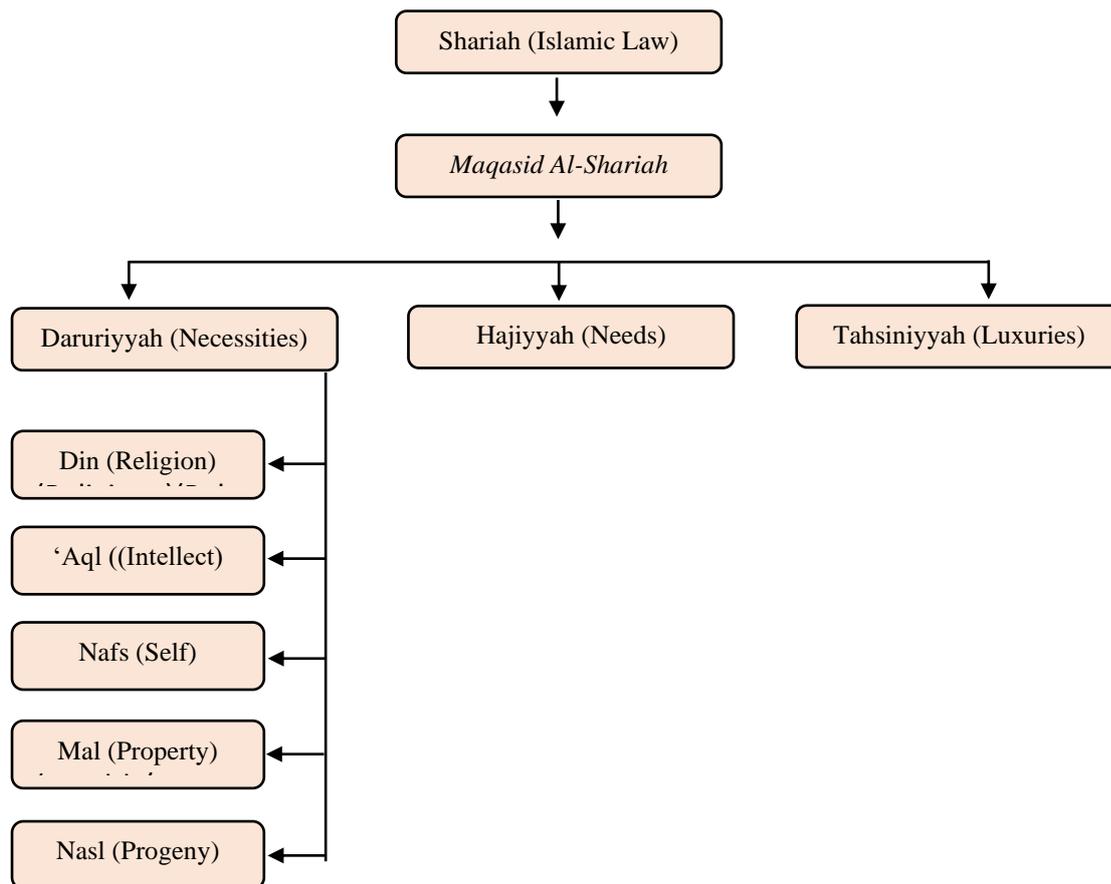


Figure 2. Maqasid Al-Shariah can be categorized into three levels of necessity, which are necessities (*daruriyyah*), needs (*hajiyyah*), and luxuries (*tahsiniyah*).

#### 4.2.2.1 Marine Life and Preserving the life (*Hifz Nafs*).

One of the most important *Maqasid Al-Shariah* principles related to marine conservation is protecting life (*Hifz Al-Nafs*). The word *Nafs* means ‘soul’, ‘life’ and ‘person’. The word originates from the verb (*na-fu-sa*), meaning to be ‘precious’, ‘valuable’ and ‘priceless’. Based on the meanings, it indicates the importance of humans to appreciate the concept of life from an Islamic perspective and that it needs to be protected. According to Ibn Manzur (1968), the word *nafs* in Arabic is used in two ways, i.e. sense of life and refers to the overall meaning of something, including the personal self. All human being has two *nafs*, *nafs* mind and *nafs* ruh. Without the *nafs* mind, humans cannot think but remain alive. For example, during sleeping and without *nafs* ruh, the human being is dead (Ibn Manzur, 1968)

From the meanings explained, it is clear to mention here that the term *Nafs* refers mostly to human beings. *Nafs* can be translated into different meanings: the soul, the self, someone's person, and the heart. As a soul, *the nafs* is regarded as spiritual powers, internalization and actualization in human.

But according to some scholars, the *nafs* refer to the living thing created by Allah, hence the *nafs* can die. In addition, *Nafs* can be defined as a process of interaction between spirits and bodies, not a fixed structure. From this perspective of this understanding of *Nafs*, then the term *nafs* can also be associated with all the life other than human beings like animals, plants, etc. Therefore, the objective of the *maqasid SShariah* is not only to protect the human life (*nafs*) from dying, but it comes with a comprehensive view which is also to ensure the survival of human lives with others by preserving this natural eco-system, including marine life which is the main need of human life.

In our Islamic tradition on Jurisprudence of Waters (*Fiqh al-Miyah*), most Islamic Jurists discussed the concept of impurity of water due to changes in color, odor and taste. They agreed that if water is not exposed to any changes in the following three characteristics, it is still suitable for self-purification, especially in the purpose of worship (*Ibadah*). However, some of the modern Islamic scholars propose ideas that are more practical and appropriate to the current system. Therefore, water conservation is not only limited to the issue of color, smell, and taste changes, but it encompasses all water conditions that cause harm to human self (*nafs*), human health and animals that use water as the source of life. Modern technological developments show that many human activities cause water pollution. Examples are nuclear radiation, bacterial contamination, and acid rain waters. Such pollution is closely related to the principle of preserving life. Preservation of water is not limited to the issue of water impurity only, but also to the preservation of human life, animals, birds, plants, environment from any damage.

Among the early models of preservation of life (*Al-Nafs*) with using water resources, when the early Muslims migrated to Medina with the Prophet (S.A.W), they found the water there difficult to drink as they were accustomed to drinking the relatively sweeter Zamzam water

in Makkah. It was quite difficult for them to pay for their water, who were already struggling financially. At that time, the dry season befell Madinah and the Prophet offered to the Muslim community if anyone could afford to buy a well-known *Biru Rummah* belonging to a Jew, who used to sell the water for profits. *Bir Rummah* was considered the only freshwater source in Medina at the time. Eventually, Uthman bought it and endowed it to the Muslims for free use and as a charity to use the benefits for the Muslim community. The request of the Prophet and the purchase of Uthman Al-'Affan show that the source of water is very important to take care of the public good in preserving their lives (*Hifz Al-Nafs*) and the necessities of human life.

#### **4.2.2.2. Marine Life and Preserving the Property (*Hifz Mal*).**

The second principle of *Maqasid Al-Shariah* on preserving marine life is to lead to the preservation of property (*Hifz al-Mal*). Seawater and other types of water are treasures that Allah has given to human beings to be well cared for. The Islamic Jurists have divided water resources into two categories: general ownership (*milkiyah 'ammah*) and specific ownership (*milkiyah khassah*). The first category of water sources is a public property, such as seawater, river and all branches of water that flow from these two sources. They also asserted that the original owner of this earth's water was public property, as the Prophet said in a hadith. From the perspective of Islamic law, this kind of water should be used (*mubah*) for all because of its widespread and long-lasting benefits in providing survival to human life.

The second category of water is considered specific ownership of a particular organization or individual. The main reason for Islam to recognize it as special ownership is because of the efforts made by the party to absorb water, store it, process it, move it, and manage all the equipment to take care of it. Whether it is public ownership or private ownership, all the Islamic Jurists agree on the property (*Al-Mal*) that can be traded, be preserved, and endowed for the benefit of many to fulfill the objective of preserving life (*Hifz Al-Nafs*) as one of the *Maqasid Al-Shariah*.

Therefore, the conservation of seawater and marine life is not just a means (*wasilah*) for human self-preservation (*Hifz Al-Nafs*), but it is also a means to preserve the property (*Hifz Al-Mal*). As mentioned that seawater is categorized as belonging to public ownership, then Islamic Jurists have stated that the government has a responsibility to ensure seawater and marine life are well preserved and distributed to humans to protect their basic needs and therefore ensure better health and environment. Nowadays, the conservation of marine life also gives importance and benefits to the country's economic growth because water resources are also needed for other sectors such as agriculture, property development, tourism, entertainment, and improving newly explored lands. In conclusion, any policy and law determined by the government must comply with the guidelines presented in the principles of Maqasid Al-Syariah to preserve human life and public property.

#### **4.3 Marine Conservation From The Perspective of *Maqasid Al-Shariah***

Based on the previous al-Qarafi theory, which stated that *Maqasid Al-Shariah* aims to provide some benefit or avoid some misconduct, it has been shown the fundamental role of Maqasid Al-Shariah is applied through two essential components. The first component is *Tahsil*, which means securing benefits and maintaining its existence, and the second component is *Ibqa* which means preventing suffering and injury. From this part of sense, it clearly shows the importance of Maqasid Al-Shariah in preserving the environment for the benefit of human being. Thus, marine life is one of the beautiful environments, a God's gift to mankind, and was ordered to protect and preserved. In addition, the existence of various plants and animals on land and in the sea, as mentioned in the Al-Quran request for the human being to treat their existence with care and this, is supported by Sunnah, which pleads humans to engage with the environment (Saged et al., 2017)

The teachings of the *Shariah* place great emphasis on the preservation of the marine ecosystem and its life. It is included in the human responsibility to preserve the environmental sustainability, which is always in sync with the objectives of the *Shariah*, that are playing the roles to protect the five necessities (*al-daruriyat al-khams*), and is considered as basic human needs that maintaining human life sustainability. One of the basics of argumentation is when the Prophet mentioned in one *hadith* that using the seawater is permissible (*halal*)

in Islam and its carcasses are allowed to be eaten. Generally, this hadith is categorized as the basics (*usul*) for marine conservation and forms the various guides on how humans should interact with marine life and preserve it. However, there are various verses of the Qur'an and the hadith of the Prophet which show that Islam gives the attention to preserving the marine life. It can be applied from the aspect of *Tahsil*, which means securing benefits and maintaining its existence, and also from the aspect of *Ibqa*, repelling harm and saving the environment from collapse.

#### **4.3.1. Tahsil or Jalb al-Maslahah, to secure the benefits.**

##### **a) To appreciate water as an invaluable gift for human life.**

Allah says: *'Have not those who disbelieve known that the heavens and the earth were of one piece, then We parted them, and We made every living thing of water? Will they not then believe?'* [Al-Anbiya': 30]

The Quranic verse stressed the importance of water to humans and all living organisms, as proved through scientific study. The sea contains high biodiversity and serves human beings in various ways, such as food, medicine, and jewels. Furthermore, it also explains that conserving water will protect the human self (*hifz nafs*), because water is essential (*daruuri*) for human life.

##### **b) To secure the country and preserve the public property**

Allah says: *"Allāh does not forbid you from those who do not fight you because of religion and do not expel you from your homes – from being righteous toward them and acting justly toward them. Indeed, Allāh loves those who act justly"*. (Al-Mumtahanah, 8)

Islam has taught people to be good citizens. Everyone has to understand that each country has their borders, including the sea borders, which signify the security and property of the country. Thus, this verse of the Qur'an can be used as a guideline to protect the sea area of each country as national property in accordance with the recommendations of one of the *Maqasid al-Shariah* to protect public property (*hifz al-mal*).

### **c) Save the need for animal protection is an ongoing charity**

The Prophet says: *'There is no Muslim who plants a plant or a tree, except that whatever is eaten from it is a charity for him. Whatever is stolen from that is a charity for him. Whatever is eaten from it by an animal is a charity for him. Whatever a bird eats is a charity for him, no one suffers a loss except that it will be a charity for him till the Day of Judgement.'* (Muslim)

This wonderful statement from the Prophet mentioned the importance of preserving the environment and the welfare of animals, which is considered a charity and for those who feed the animals and relieve any misery, harm, or hunger from them. The meaning to be conveyed through this hadith is general to all forms of plants and animals, whether on land or in the ocean. The *Maqasidi* message from this statement is to preserve animal and plant eco-systems and preserve one's religion (*hifz deen*) and take advantage as a Muslim when it is categorized as a continuous charity.

### **d) To conserve the natural breeding grounds**

Allah says: *"(He is) the One who made the earth a cradle for you, and made in it pathways for you to move, and sent down water from the heavens; and We brought forth with it pairs of different vegetations"*. (Taha, 53)

This Quranic explanation emphasizes that human beings have a responsibility to ensure the sustainability of nature which is a gift of Allah for their life. The keyword from the statement is when Allah says 'made the earth.. for you', which indicates the role of human beings in preserving the environment and human resources, including marine life, as it can be considered holistic protection of life (*hifz nafs*).

#### **4.3.2. To protect marine life.**

Allay says: *"Allah has created every animal of water. Of them is (a kind) that goeth upon its*

*belly and (a kind) that goeth upon two legs and (a kind) that goeth upon four. Allah created what He will. Lo! Allah is Able to do all things.” [Al-Nur: 45]*

Through this verse of the Al-Quran, Allah explains how He has created various types of marine life, which are God’s gifts for this nature. And we, as humans, reciting this verse, have to understand our responsibility to do the purpose and objective behind this creation, by preserving this marine eco-system well.

#### **4.3.2.1. *Ibqa or Dar’u Mafasid*; to repel any harm and injury.**

##### **a) Do not make the animal suffering**

*The Prophet said: “Verily Allah has prescribed ihsan (proficiency, perfection) in all things. So if you kill, then kill well; and if you slaughter, then slaughter well. Let each one of you sharpen his blade and let him spare suffering to the animal he slaughters.” (Muslim)*

The hadith described a way to deal with animals softly and mercifully during slaughtering, called *Ihsan*. Logically, when the Prophet forbade to cause pain when slaughtering an animal, it is not permissible to hurt the animal while still alive, and it is necessary to take good care of it.

##### **b) Do not kill animals without reason**

It was narrated from 'Abdullah bin 'Amr that the Prophet said: anyone who kills a small bird or anything larger for no just reason, but Allah, the Mighty and Sublime, will ask him about it. It was said: "O Messenger of Allah, what does just reason;' mean?" Her said: "That you slaughter it and eat it, and do not cut off its head and throw it aside." (Al-Nasaie)

Islam prohibited his followers from killing animals intentionally without a valid reason. This emphasizes the importance of living things created by Him to form a balanced eco-system that finally will benefit a human being.

**c) Do not damage the plants**

Abu Bakar al-Siddiq said: “Do not cut down fruit-bearing trees. Do not destroy an inhabited place. Do not slaughter sheep or camels except for food. Do not burn bees and do not scatter them. Do not steal from the booty, and do not be cowardly”. (Al-Bukhari)

**d) Do not commit abuse on the earth**

Allah says: “Eat and drink from the provision of Allah, and do not commit abuse on the earth, spreading corruption.” (Al-Baqarah, 60)

The verse stresses sincerity and no misconduct activities to prevent harm to humans and the environment.

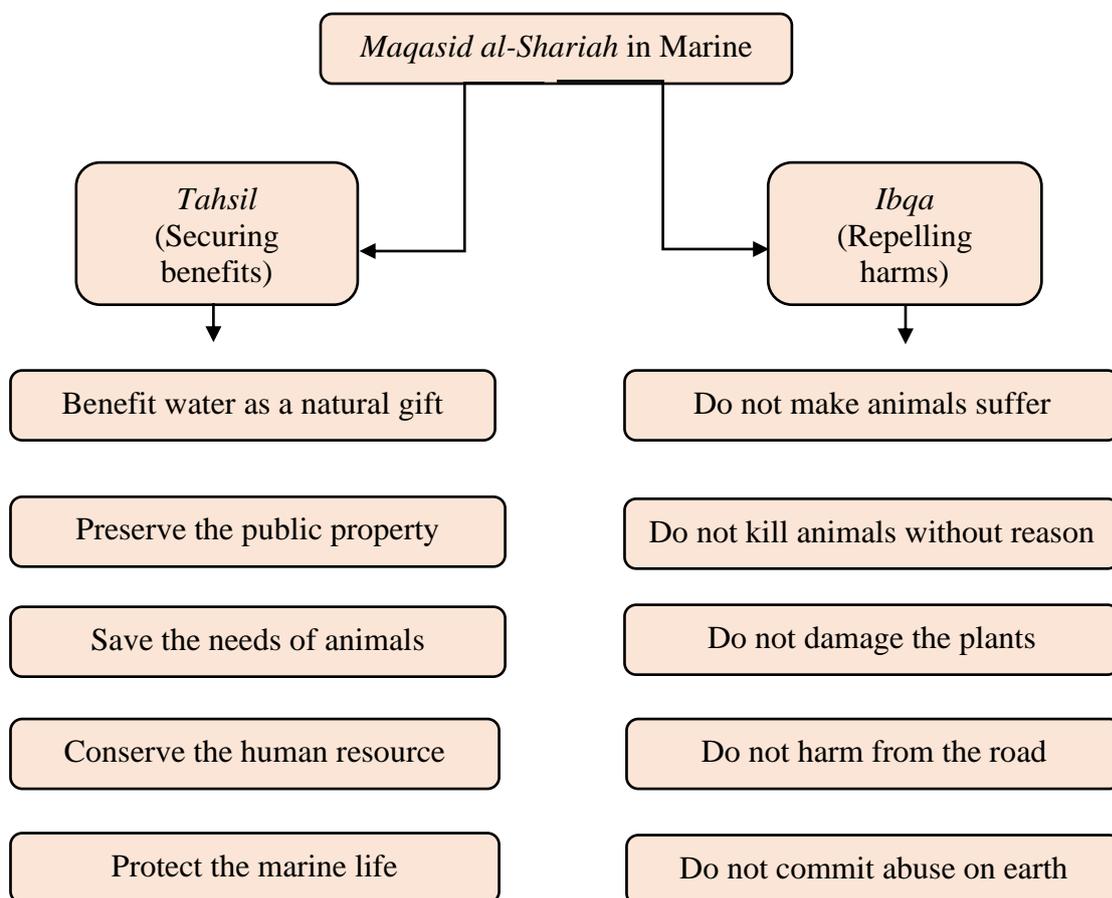


Figure 3. Maqasid Al-Shariah in Marine.

#### **4.4. The Application of Shari'ah Principles in the Conservation of Marine Life**

##### **4.4.1. Fisheries Act 1985**

###### **4.4.1.1 Being merciful with animals (*Ihsan*) is a way to achieve *Maslahah*.**

Fishing is permissible according to Islam teaching because the Prophet taught us that using seawater is permissible (*halal*) in Islam and its carcasses are allowed to be eaten. Fishing also can be an act or worshiping God because it is a *halal* work to earn a better life. However, the situation is not an excuse for the human to harm the fish by any means as mentioned by the act to who use any explosive, poison or pollutant, or any apparatus utilizing an electric current, or any prohibited gear, for the purpose of killing, stunning, disabling or catching fish. Such action contradicts the Prophet's teaching about *Ihsan*, while *Ihsan* means being kind to the animal, and it is an ethic of dealing nicely or being merciful with the animal. Understanding on Prophet forbade humans to cause any pain when slaughtering an animal, and it is also not permissible to harm the animal while it is still alive. Therefore, this act is considered the way or means to achieve the *Maslahah* for the marine life, and the objectives must be fulfilled with the right and correct ways and means (Al-Jauziyyah, 2016), which means that the method is very important as long as it achieves the *Shariah* goals.

The act covers fisheries, including protection and prohibition of harming aquatic mammals and turtles in Malaysian waters. For example, section 27 mentions that no person shall fish for, disturb, harass, catch or take any aquatic mammal or turtle found beyond the jurisdiction of any State in Malaysia. The provisions of the relevant State law shall apply in respect of aquatic mammals and turtles found within such jurisdiction (Fisheries Act 1985). Furthermore, the act covers almost every aspect, including who to report if the aquatic mammal and turtle catch die, while the live one should be released back to the sea. The offense to the prohibited action will face a fine not exceeding five thousand ringgit.

###### **4.4.1.2 Protecting humans from destruction (*tahlukah*)**

When Allah mentions to eat and drink from the provision of Allah and do not commit abuse on the earth, spreading corruption (Al-Baqarah, 60), it means that human has the rule to maintain the food sources for human being and deserves a fine if he still does damage and

harm to other living. Therefore, when anyone is found guilty and subject to a fine as mentioned in the acts, it is in sync with the purpose of Shariah, to protect himself from destruction for not doing the illegal operation. *Shariah's* order through the Quran (Al-Nisa, 29) is not to devour one another's possessions wrongfully and also shall not harm yourselves while doing things to protect life.

#### **4.4.1.3 Serving the public property (*hifz al-maal*)**

In addition, this kind of activity is considered a way to avoid any mischief (*mafsadah*) and to serve the public property (*hifz al-maal*), which is one of the five necessities of *Maqasid al-Shariah*, because the marine areas protected by the government by law, are counted as a public property.

#### **4.4.2 The Environmental Quality Act 1974**

The Environmental Quality Act 1974 is one of the Malaysian acts that play an important role in increasing environmental quality and maintaining sustainable marine conservation. The act is concerned about maintaining environmental quality for marine life.

##### **4.4.2.1. Harm must be eliminated (*al-darar yuzal*).**

Section 25 mentions providing restrictions to those who do not have a license to release anything dangerous and pollute inland waters. In addition, section 27 specifically prohibits any person from discharging or spilling any oil or mixture containing oil into Malaysian waters (Environment Quality Act 1974). This statement clearly shows its uniformity with the principle of *Maqasid al-Shariah*, which is to conserve natural resource for the necessities of human life. This act also plays its role in applying a legal maxim of the Islamic law that 'harm must be eliminated' (*al-darar yuzal*), as a way to preserve the marine ecosystem and human life (*hifz al-nafs*). This legal maxim that Islamic Jurists explained is comprehensive, applying to any harm or injury towards humans, animals, plants and other living, except in situations permitted by Islam.

#### **4.4.2.2 Understanding the priority (*fiqh al-awlawiyat*)**

However, under certain circumstances on Section 28, a special defence is granted to any person who can prove the action taken is for certain good reasons. One of the exceptions mentioned is to save other human lives, which explains that human life is more important than preserving marine life from any harm. In Quran, the value of human life is mentioned, Allah says; “Whoever kills a soul unless, for a soul, or corruption [done] in the land, it is as if he had slain mankind entirely” (Al-Maidah, 32). On the other side, this act has taught humans to better understand priority (*fiqh al-awlawiyat*) within the framework of *Maqasid al-Shariah* to protect the life system (*hifz al-nafs*), in which human life is more important to be preserved compared to other living things.

#### **4.4.2.3. Avoiding harm is a religious advantage (*hifz al-diin*)**

The Act not only prevents releasing oil into Malaysian waters, but regarding section 29, even a prohibition is also imposed on any person against discharging environmentally hazardous substances, pollutants, or wastes into the Malaysian waters (Environment Quality Act 1974). It is clear to note that this stipulation is in sync with the objective of *Shariah* to save the need of our living and nature. The Islamic Jurists say, “Should a duty not be fulfilled except by a matter, so that matter also becomes a duty”. Therefore, setting a good policy or act is also considered a duty because it would help humans achieve the objective of *Shariah* in fulfilling the interest and avoiding any harm. For Muslims, this kind of act is for the benefit of living life and charity (*hifz al-diin*), as mentioned by the Prophet (Al-Bukhari).

#### **4.4.2.4 Public interest is over than private interest.**

The section also mentioned the punishment or the fine and stated that whoever did the discharge shall be guilty of an offence and shall be liable to a fine or imprisonment for not exceeding five years or both (Environment Quality Act 1974). However, this penalty for those who contravene section 29, which covers different discharges, is similar to that implemented in section 27. From the perspective of the objectives of *Shariah*, a very significant *Maqasid* principle regarding this action is that ‘public interest (*maslahah*

*'ammah*), is more important and takes precedence over the private interest (*masalah khassah*) (Ma'lama Zayed, 2013). This action against those guilty because of causing damage to marine life is very important because its role in protecting the public interest (*masalah 'ammah*) must be prioritized in drafting any law or policy.

#### **4.4.3 Wildlife Conservation Act 2010**

##### **4.4.3.1. Remove the damage (*mafsadah*) is the priority**

Marine life has high value because it is one of the main sources of human needs. Therefore, such acts and laws are needed to control the occurrence of cruelty and oppression of some wildlife. From the perspective of *Maqasid al-Shariah*, removing any damage (*mafsadah*) is more important and takes precedence than acquiring the benefit (*masalah*). This *Maqasid* principle is applied when humans think that what he is performing is benefit (*masalah*), but his action actually can also lead to the impact of damage (*mafsadah*) to marine life.

##### **4.4.3.2. Right means (*wasilah*) is used to achieve the right objectives (*maqasid*)**

Maybe those who hunt dugong and turtles for the purpose of their meat, oil and egg is considered good (*masalah*) for human, but in fact, the impact on the damage (*mafsadah*) is more obvious because of two reasons; firstly, their population is approaching extinction and second, because it was done in the wrong way. Referring to the *Maqasid* principle, which is a permissible objective (*maqasid masyru'ah*) does not justify the wrong way (*wasilah mamnu'ah*) (Al-Qaradhawi, 1994). Therefore, we can only use the right way to achieve the right objectives.

##### **4.4.3.4. Precedence must be given to necessities (*daruriyyat*)**

In addition, chapter 4 of Act mentions the prohibitions related to the manner, place and time of hunting. This prohibition applies to anyone, whether he is a special permit holder, a licensed hunter or otherwise. Among the prohibitions is not to hunt any wildlife, take or destroy or damage the nest or egg of any wildlife. Such hunting often threatens marine wildlife such as turtles. In Islamic tradition, the prophet has warned not to kill animals, even

a small bird, without any reason as Allah, the Mighty, will ask him about it (Al-Nasaie). Destroying the nest or egg without any legal excuse is an unethical act that contradicts Maqasid al-Shariah's principles to protect life (*al-nafs*). As stated before, Islamic Jurists stated that necessities Daruriyyah must be complied with before humans can obtain *hajiyyah* and *tahsiniyyah*. Therefore, it is a necessity (*daruriyyat*) to protect the whole system of the wildlife population that is facing extinction (*hifz al-nafs*) from any harm or destruction, and it must take precedence other than needs (*hajiyyat*) and luxuries (*tahsiniyyat*).

#### **4.4.3.5. A transitive benefit is more important**

Similarly, there is a ban on hunting wildlife at prohibited hours. Even if the wildlife is protected during the closing season, it is also included in the prohibition from being hunted. One of the *Maqasid al-Shariah* perspectives related to the act that has limited such a time for the permitted hunting is to gain more benefits and advantages (*masalih*). There is a principle in Maqasid al-Shariah, i.e. ' A transitive benefit (*al-naf' al-muta'addi*) must take precedence other than minor benefit (*al-naf' al-qasir*). (Ma'lamah Zayed, 2013). Because doing legal hunting at the allowed times is more beneficial and good than the prohibited hours and not harmful for the hunter.

#### **4.5 Gap of Knowledge between Conventional Law and Maqasid Al-Shariah principles**

After the inductive reading of the acts, i.e. The Environmental Quality Act 1974, The Fisheries Act 1985 and Wildlife Conservation Act 2010, some apparent knowledge gaps have been identified. The conventional law mostly mentions the prohibitions on certain acts and the punishment that will be imposed on the perpetrators, but some of it lacks provisions of the act in the form of a guideline that can be referred to preserve marine life. This explains a gap in knowledge between the acts and the principle of Maqasid Shariah in general. This is because the principle of Maqasid Shariah has two components, i.e. *Tahsil*, which is securing the benefits and *Ibqa*, which means preventing harm and injury (Rosly, 2008). Thus, it is significant to include the principle in the guidelines for marine life conservation to secure the benefits for both marine and human life (Tables 1 and 2).

Table 1. The legal acts that contain Maqasid al-Shariah's values need to be improved to align with the principles.

1	<b>The Environmental Quality Act 1974</b>	<b>Gap of Knowledge</b>
1.1	<p><b>Section 25. Restrictions on pollution of inland waters.</b></p> <p>(1) No person shall unless licensed, emit, discharge or deposit any environmentally hazardous substances, pollutants or wastes into any inland waters in contravention of the acceptable conditions specified under section 21.</p> <p>(2) Without limiting the generality of subsection (1), a person shall be deemed to emit, discharge or deposit wastes into inland waters if –</p> <p>(a) he places any wastes in or on any wastes or in a place where it may gain access to any waters,</p> <p>(b) he places any waste in a position where it falls, descends, drains, evaporates, is washed, is blown or percolates or is likely to fall, descend, drain, evaporate or be washed, be blown or percolated into any waters, or knowingly or through his negligence, whether directly or indirectly, causes or permits any wastes to be placed in such a position; or</p> <p>(c) he causes the temperature of the receiving waters to be raised or lowered by more than the prescribed limits.</p> <p>(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand ringgit or to imprisonment for a period not exceeding five years or to both and to further fine not exceeding one thousand ringgit a day for every day the offence is continued after a notice by the Director General requiring him to cease the act specified therein has been served upon him.</p>	<p>This legal statement generally need to be extended to cover the seas as environmentally hazardous substances, pollutant, or waste are an important problem which can deteriorate the marine eco-system and cause many negative impacts to human indirectly</p> <p>The improvement aims to ensure that the laws enacted to eliminate the harm (al-darar yuzal), not only any inland and cover all Malaysian waters to ensure the sea to preserve human life, their health, and the property developing the economy of society.</p>
1.2	<p><b>Section 27: Prohibition of discharge of oil into Malaysian waters</b></p>	<p>Among the gaps that need to be improved is that most of the punishments and fines imposed are</p>

	<p>(1) No person shall, unless licensed, discharge or spill any oil or mixture containing oil into Malaysian waters in contravention of the acceptable conditions specified under section 21.</p> <p>(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine exceeding five hundred thousand ringgit or to imprisonment for a period not exceeding five years or to both.</p> <p><b>Section 29: Prohibition of discharge of wastes into Malaysian waters.</b></p> <p>(1) No person shall, unless licensed, discharge environmentally hazardous substances, pollutants, or wastes into the Malaysian waters in contravention of the acceptable conditions specified under section 21.</p> <p>(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand ringgit or to imprisonment for not exceeding five years or to both.</p>	<p>almost the same and have no difference, while the principle of <i>Maqasid Al-Shariah</i> emphasizes justice (<i>Al-'Adl</i>).</p> <p>Therefore, the punishment for general damages (<i>Mafsadah 'Ammah</i>) offences differs from the law relating to individual damage (<i>Mafsadah Khassah</i>). Similarly, large harms require more punishment than smaller harms.</p> <p>From the perspective of the objectives of <i>Shariah</i>, the Islamic Jurists have mentioned a very significant <i>Maqasid</i> principle regarding to this action, which is that 'public interest (<i>maslahah 'ammah</i>) is more important and takes precedence over the private interest (<i>maslahah khassah</i>) (Ma'lama Zayed, 2013).</p>
1.3	<p><b>Section 28. Special defences.</b></p> <p>Where any person is charged for any offence under section 27 it shall be a defence to prove that such a discharge or spillage was –</p> <ul style="list-style-type: none"> <li>(a) for the purpose of securing the safety of the vessel.</li> <li>(b) for the purpose of saving human life.</li> <li>(c) the result of damage to the vessel and that all reasonable steps were taken to prevent, to stop or to reduce the spillage ;</li> <li>(d) the result of a leakage, which was not due to want of care, and that all reasonable steps have been taken to stop or reduce the leakage; or</li> <li>(e) The result of an effluent produced by</li> </ul>	<p>This section of the law does not describe in detail what situations can be considered saving human lives or securing the vessel's safety. There is a gap in knowledge because any action harms humans or animals is considered in conflict based on <i>Maqasid al-Shariah's</i> principles. Therefore. An explanation is required so that the decision made is clearer to prioritize the preservation of human life is more important than the lives of marine life and other property (<i>Hifz Al-Mal</i>) like a vessel.</p>

	operation for the refining of oil, that all reasonable steps had been taken to eliminate oil from the effluent and that it was not reasonably practicable to dispose of the effluent otherwise than by discharging or spilling it into the Malaysian waters.	
2.	<b>The Fisheries Act 1985</b>	
2.1	<p><b>Section 26 of Fisheries Act 1985</b></p> <p>(1) Any person who :</p> <p>(a) uses or attempts to use any explosive, poison or pollutant, or any apparatus utilizing an electric current, or any prohibited gear for the purpose of killing, stunning, disabling or catching fish, or in any other way rendering such fish more easily caught ;</p> <p>(b) or carries or has in his possession or under his control any explosive, poison or pollutant, or any apparatus utilizing an electric current, or any prohibited gear, with the intention of using such explosive, poison or pollutant, or apparatus, or prohibited gear, for any of the purposes referred to in paragraph (a) ; or</p> <p>(c) knowing or having reasonable cause to believe that any fish is a prohibited species or has been taken in contravention of the provisions of this Act, receives or is found in possession of such fish, shall be guilty of an offence</p> <p>(2) Any explosive, poison, pollutant, apparatus or gear referred to in subsection (1) found in the possession or under the control of any person shall be presumed to be intended to be used for any of the purposes referred to in paragraph (1)(a) unless the contrary is proved.</p>	<p>This section of the act categorizes such offenses against the perpetrator if he intends to kill a fish, sting, mutilate or catch a fish using the stated actions. Meanwhile, in the <i>Maqasid Al-Shariah</i> principle, any harm or threat to marine life is prohibited. For example, people who use explosives, poisons, or pollutants for other purposes, such as manufacturing, shipping, but also cause harm and damage to sea water and marine life, are also prohibited as <i>Maqasid Al-Shariah</i> principle is to preserve the life (<i>Hifz Al-Nafs</i>)</p>
2.2	<b>Section 27 of Fisheries Act 1985</b>	Regarding fishing activities, most of the prohibitions provided in the act for

	<p>(1) No person shall fish for, disturb, harass, catch or take any aquatic mammal or turtle which is found beyond the jurisdiction of any State in Malaysia.</p> <p>(2) The provisions of the relevant State law shall apply in respect of aquatic mammals and turtles which are found within such jurisdiction.</p> <p>(3) Where any aquatic mammal or turtle which is found beyond such jurisdiction is caught or taken unavoidably during fishing, such aquatic mammal or turtle shall, if it is alive, be released immediately or, if it is dead, the catching or taking thereof shall be reported to a fisheries officer and the aquatic mammal or turtle shall be disposed of in accordance with his directions.</p> <p>(4) Any person who contravenes subsection (1) or subsection (3) shall be guilty of an offence and shall be liable to a fine not exceeding five thousand ringgit.</p>	<p>the protection of fish, with only one section emphasizing the prohibition of harming aquatic mammals and turtles in Malaysian fisheries waters. Therefore, it indicates an imbalance in the conservation of marine life. In addition, some living things such as dugongs and turtles are endangered species that need better conservation, in accordance with the principles of Maqasid Al-Shariah in maintaining the eco-system of life as a part of preserving life.</p> <p>When Allah mentions to eat and drink from the provision of Allah and do not commit abuse on the earth, spreading corruption (Al-Baqarah, 60), it means that human has the rule to maintain the food sources for human being human and deserves a fine if he still damage and harms other living. Therefore, when anyone is found guilty and shall be liable to a fine has also been mentioned in other acts, it is in sync with the purpose of Shariah, for protecting himself from destruction for not doing the illegal operation. The <i>Shariah's</i> order through the Quran (Al-Nisa, 29), is not to devour one another's possessions wrongfully and also shall not kill yourselves with doing things that are harmful to life.</p>
3	<b>Wildlife Conservation Act 2010</b>	
3.1	<p><b>Power of Director General to prescribe rules</b></p> <p><b>34.</b> The Director General may, by rules published in the <i>Gazette</i>, prescribe the methods and means of disposal, disease control or quarantine of, any wildlife, to be complied with by an operator of a zoo, commercial captive breeding, circus or wildlife exhibition.</p> <p><b>Power of Director General to prescribe conditions</b></p>	<p>This section of the act allocates full power to the Director General to make decisions or prescribe rules.</p> <p>However, there is a gap between the statement and the principle of Maqasid al-Shariah because the basis of the principle of Maqasid al-Shariah is to decide a decision based on</p>

<p><b>35.</b> The Director General may, with the approval of the Minister, by order published in the <i>Gazette</i>, prescribe conditions with respect to the granting of licences, permits and special permits and without prejudice to the generality of the foregoing may in particular prescribe :-</p> <p>(a) the open season and close season in respect of protected wildlife ;</p> <p>(b) the number of -  (i) wildlife which may be hunted; and  (ii) part or derivative of wildlife which may be taken;</p> <p>(c) the methods or means by which any wildlife may be hunted, including the type of arm or trap to be used ;</p> <p>(d) the times during which, and the places where, any wildlife may be hunted, or the nest or egg of any wildlife may be taken ;</p> <p>(e) the quota of licences and permits to be granted for —  (i) each of the activities specified under sections 9 and 10;  (ii) each year or open season; and  (iii) each State, in respect of each protected wildlife or any part or derivative of wildlife; and</p> <p>(f) the standard of maturity of wildlife which may be hunted.</p>	<p>deliberation among those who are members.</p> <p>In addition, the lessons of Maqasid al-Shariah also teach to refer to expert members as it leads more to maslahat and goodness.</p> <p>Therefore, among the points that are proposed to be also be added to the condition that the power given can be done after doing the <i>musyawarah</i> (discussion and meeting) with experts in the field of wildlife, and also if the decision can lead to benefits and avoid harm, same as were mentioned in the principles of Maqasid al-Shariah</p>
---	---

3.2	<p><b>Hunting wildlife during prohibited hours</b></p> <p><b>77.</b> Any person who, whether he is a licensed hunter, holder of a special permit or otherwise, hunts any wildlife other than during the hours prescribed commits an offence and shall, on conviction, be liable to a fine not exceeding thirty thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p> <p><b>Hunting protected wildlife during close season</b></p> <p><b>78.</b> Any person who, whether is a licensed hunter or otherwise, hunts any protected wildlife during the close season commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding one year or to both.</p>	<p>A prohibition on hunting wildlife during certain hours and times is very good and has its merits and benefits for the people and animal life. However, among the points that need to be added is detail of the time prohibited the act of hunting, for example, nighttime.</p> <p>This is in accordance with the words of Allah in surah al-Falaq to say: "I seek refuge in the Lord of daybreak, from the evil of that which He created to seek and from the evil of darkness when it settles". (Al-Falaq, 1-3)</p>
3.3	<p><b>Aborigines may hunt certain wildlife</b></p> <p><b>51.</b> (1) Notwithstanding anything in this Act, an aborigine may hunt any protected wildlife as specified in the Sixth Schedule for his sustenance or the sustenance of his family members.</p> <p>(2) Any protected wildlife hunted under subsection (1) shall not be sold or exchanged for food, monetary gains, or any other things.</p> <p>(3) Any aborigine who contravenes this section commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both.</p>	<p>This section of the act allows aborigine people to hunt any protected wildlife for their survival. From one perspective, this permission coincides with the Maqasid al-Shariah to keep alive by obtaining food sources appropriate to their standard and living conditions in the forest.</p> <p>However, on the other hand, there is a gap between the situation and the principle of Maqasid Al-Shariah, whereby there is a balance between the need for food to sustain life and the obligation to protect wildlife from any threats.</p> <p>Therefore, among the points proposed to be added in the section of the act is the need to be given an exemption of permission to hunt any protected wildlife but limited to a certain duration and number.</p>
3.4	<p><b>Power of the Minister to exempt</b></p> <p><b>133.</b> By order published in the Gazette, the Minister may exempt any person or class of</p>	<p>There is a gap between this statement and the principle of Maqasid al-Shariah because the basis of the</p>

	<p>persons or any activity or class of activities relating to wildlife from all or any of the provisions of this Act or any of its subsidiary legislation.</p> <p><b>Power to amend Schedules</b></p> <p><b>134.</b> The Minister may, by order published in the <i>Gazette</i>, amend the Schedules to this Act</p>	<p>Maqasid al-Shariah is to decide a decision based on deliberation among members and experts.</p> <p>Decisions made with the experts will leads to maslahat and goodness.</p> <p>Therefore, among the points that are proposed to be added to the condition that the power to amend should be done after the <i>musyawarah</i> (discussion or asking) with experts in the field of wildlife, and the decision should lead to benefits and avoid harm, as mentioned in the principles of Maqasid al-Shariah.</p>
--	--	--

Table 2. The legal acts that **do not contain** Maqasid al-Shariah's values need to be improved and enhanced following *Maqasid al-Shariah's* principles.

1.	<b>The Environmental Quality Act 1974</b>	
1.2	<p><b>Section 34B. Prohibition against placing, deposit, etc., of scheduled wastes.</b></p> <p>(1) No person shall-</p> <p>(a) place, deposit or dispose of, or cause or permit to place, deposit or dispose of, except at prescribed premises only, any scheduled wastes on land or into Malaysian waters;</p> <p>(b) receive or send, or cause or permit to be received or sent any scheduled wastes in or out of Malaysia; or</p> <p>(c) transit or cause or permit the transit of scheduled wastes without any prior written approval of the Director General.</p>	<p>Among the aspects that need to be added in this section in order to comply with the principles of Maqasid al-Shariah is to mention that the prohibition from placing or disposing of something that poses harm or threat to marine life. This is because the principle of Maqasid al-Shariah is very clear against anything that threatens the environment and marine life, which is a prohibition in Islam.</p>

2	<b>The Fisheries Act 1985</b>	
2.1	<p><b>Director General's decision not reviewable</b></p> <p>23. The decision of the Director General under section 21 or 22 shall not be reviewable or called into question in any court on the ground that such decision was not necessary or expedient for the proper management of fisheries.</p>	<p>The statement in this section which says that the Director General's statement is not reviewable needs to be improved to fit the principles of Maqasid al-Shariah. From a more precise perspective, a director's decision can be reviewed if it contradicts Maqasid al-Shariah's principles, contradicts the law, or clearly harms marine life. Therefore, some gaps need to be improved and added to be more in line with the principles of Maqasid.</p>
3	<b>Wildlife Conservation Act 2010</b>	
3.1	<p><b>Hunting by means of shooting</b></p> <p>26. A licence or special permit to hunt any wildlife by means of shooting shall only be granted if the person applying for the licence or special permit holds an arms licence issued under the Arms Act 1960 and the arms licence is produced when applying for the licence or special permit.</p>	<p>Among the point that must be inserted in the section is that hunting by shooting is permitted with strong reasons to achieve the maslahah and a priority for general interest.</p> <p>It is because in Islam killing animals without reason is prohibited. Destroying the nest or egg without any legal excuse is an unethical act that contradicts Maqasid al-Shariah's principles to protect life (al-nafs).</p> <p>As stated before that, for human necessities, following order: first Daruriyyah, then hajiyyah and finally tahsiniyyah.</p> <p>Therefore, the wildlife population that is facing extinction means it is a necessity (daruriyyat) to protect the whole system of their life (hifz al-nafs) from any harm or destruction, and it is must be takes precedence other than needs (hajiyyat) and luxuries (tahsiniyyat).</p>

<p>3.2</p>	<p><b>PROTECTED WILDLIFE</b></p> <p><b>Interpretation of the First Schedule</b></p> <p>1. Species included in this Schedule are referred to—</p> <p>(a) by the name of the species; or</p> <p>(b) as being all of the species included in a higher taxon or designated part thereof.</p> <p>2. The abbreviation “spp.” is used to denote all species of a higher taxon.</p> <p>3. Other references to taxa higher than species are for the purposes of information or classification only. The common names included after the scientific names of families are for reference only. They are intended to indicate the species within the family concerned that are included in this Schedule. In most cases this is not all of the species within the family.</p> <p>4. Where there is conflict between a scientific term and a common term in the use of the name of any species in this Schedule, the scientific term shall prevail.</p> <p>List of species is provided in the act.</p> <p><b>TOTALLY PROTECTED WILDLIFE</b></p> <p><b>Interpretation of the Second Schedule</b></p> <p>1. Species included in this Schedule are referred to—</p> <p>(a) by the name of the species; or</p> <p>(b) as being all of the species included in a higher taxon or designated part thereof.</p> <p>2. The abbreviation “spp.” is used to denote all species of a higher taxon.</p> <p>3. Other references to taxa higher than species are for the purposes of information or classification only. The common names included after the scientific names of families are for reference only. They are intended to indicate the species within the family concerned that are included in this Schedule. In most cases this is not all of the species within the family.</p> <p>4. Where there is conflict between a scientific term and a common term in the use of the</p>	<p>The first and second schedules listed species under protection. Nevertheless, very few marine species have been listed. Therefore, including these species in the list will stress the importance of protecting and conserving to minimize the damage (<i>mafsadah</i>) to the species and marine ecosystem. Besides, protected species, protected species and controlled species should also be considered marine species.</p>
------------	--	--

	<p>name of any species in this Schedule, the scientific term shall prevail. List of species is provided in the act.</p>	
--	---	--

## 5.0 CONCLUSION

The acts studied in this research showed the considerable role and value of *Maqasid Al-Shariah* in developing and applying marine-related regulations. The acts can be improved by adding *Maqasid Al-Shariah* elements to strengthen the acts in terms of setting the laws' goals and comprehensiveness and applying the laws. With *Maqasid al-shariah* elements, the marine not only functions as applicable and binding laws but also religiously and ethically enriched rules. It provides the spiritual and ethical foundation of marine regulations. Furthermore, with *Maqasid* elements, marine laws focus not only on the conventional aspects of protecting marine life but also on health, the honour and dignity of the marine life consumed, and the larger environment.

## References

- Al-Ashūr, M.,2001, *Maqāshid al sharī'ah al-islāmiyyah*. Edited by M. Al-Misāw. Dār al-Nafāis.
- Al-Fasi, A.,1993, *Maqasid al-shariah al-slamiyyah wa makarimuha*, Dar al-Gharb al-Islami, Lebanon.
- Al-Ghazālī, M. ,1992, *Al-mustaṣfa min 'ilm al-ūṣūl*. Edited by H. Hāfiḏ. Syarikah al-Madinah al-Munawwar lil ṭiba'ah.
- Al-Jauziyyah, I.Q., 2016, *l'lam al-muwaqqi'in 'an rabb al-'alamin*, Dar 'Alam Fawaid,
- Al-Raysuni, A. (1997) *Nazariyyat Al-Maqasid 'inda Al-Imam Al-Shatibi* (Dar Al-Kalimah, Mansoura, Egypt, p. 129). Cited in: el-Gamal, Mahmoud A. (2006). *Islamic Finance : Law, Economics, and Practice*
- Al-Shātībī, I. ,2004, *Al-Muwāfaqāt fī Usūl al-Sharī'ah*. Edited by 'A. Al-Darraz. Dār al-Kutub al-'Ilmiyah, as cited in Ifwat, 2021
- Al-Yūbī, M., 1998, *Maqāshid al-Sharī'ah al-Islāmīyyah wa 'alāqatuhā bi al-Adillah al-Shar'īyyah*. Dār al-Hijrah.

Al-Qarafi, S., 1994. Al-Dhakheerah, Dar al-Arab, Beirut, vol. 5, p. 478.

FAO, 2011. Review of the state of world marine fishery resources, No. 569. Rome

Khan, M.F. and Ghifari, N.M. 1985, Shatibi's Objectives of Shariah and some Implications for Consumer Theory. Islamabad: International Institute of Islamic Economics and International Islamic University.

Meera, A. K. M., & Larbani, M. (2006). Part I: Seigniorage of fiat money and the maqasid al-Shari'ah: the unattainableness of the maqasid. *Humanomics*, 22(1), 17-33.

Oladapo, I. A., & Rahman, A. A. (2016). Re-counting the determinant factors of human development: a review of the literature. *Humanomics*, 32(2), 205-226.

Sano, Q.M., 2000, Mu'jam mustalahat Usul al-Fiqh, Dar al-Fikr, Damsyik.

The Fisheries Act 1985. Law of Malaysia.

The Environmental Quality Act 1974. Law of Malaysia.

The Wildlife Conservation Act 2010. Law of Malaysia Act 716

## **Achievements**

### **1. Conference**

3<sup>rd</sup> World Congress on Integration and Islamicisation 2021: Mental health and well-being in the 4<sup>th</sup> industrial revolution. 4-6 June 2021, International Islamic University Malaysia, Kuantan, Pahang, Malaysia.

### **2. Publication**

Normawaty Mohammad-Noor, Abdurezak Abdulahi-Hashi, Muhammad Mursyid Al-Amien Kayati, Julian Mohamed and Shahbudin Saad. 2021. Conservation of marine biodiversity from plastic pollution for the health and well-being of society: a Maqasidic Approach. *Revelation and Science*. 11: 15-20.