



The Practice of *Ḥilah* in Contemporary Islamic Transactions and Finance: Between Legal Engineering and Sharia Objectives

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Abstract

Ḥilah is one of the essential concepts in the corpus of Islamic law, referring to a legal strategy employed to circumvent specific prohibitions without explicitly violating the textual provisions. In the contemporary context, particularly within Islamic commercial law and modern Islamic finance, the concept of *ḥilah* has been extensively applied in financial products such as *murābahah*, *tawarruq*, and *ijārah muntahiyah bi al-tamlīk*. This article aims to critically examine the implementation of *ḥilah* in modern Islamic economic practices and assess its alignment with *maqāṣid al-syarī'ah*. The research adopts a normative juridical approach, employing content analysis of classical fiqh literature, contemporary fatwas issued by authoritative bodies such as the National Sharia Council-Indonesian Ulema Council and the Accounting and Auditing Organizations for Islamic Financial Institutions (AAOIFI), along with case studies from Islamic financial institutions. The findings reveal that although *ḥilah* may serve as a flexible legal instrument that offers certain benefits under specific circumstances, its manipulative use, particularly when driven solely by economic gain, can undermine the integrity and spirit of Islamic law. In practice, excessive reliance on *ḥilah* risks disguising forms of usury and compromising core principles of Islamic finance, such as justice, transparency, and protection for vulnerable parties. Therefore, strengthening regulatory and ethical frameworks in the development of Islamic financial products is imperative. Emphasis must be placed on a *maqāṣid*-oriented approach in assessing the validity of contracts, considering both formal legal compliance and substantive ethical and economic impact. This article recommends formulating fatwa guidelines grounded in *maqāṣid* and enhancing sharia literacy among practitioners in Islamic finance.

Keywords: *Ḥilah*; Islamic business law; *Maqāṣid al-Syarī'ah*; *Murābahah*; *Tawarruq*.

Abstrak

Ḥilah merupakan salah satu konsep dalam hukum Islam yang merujuk pada strategi hukum untuk menghindari larangan tertentu tanpa secara langsung melanggar ketentuan eksplisit dalam nash. Dalam konteks kontemporer, khususnya dalam bidang hukum bisnis Islam dan keuangan syariah, konsep *ḥilah* banyak diimplementasikan dalam produk-produk keuangan seperti akad *murābahah*, *tawarruq*, dan *ijārah muntahiyah bi al-tamlīk*. Artikel ini bertujuan untuk mengkaji secara kritis implementasi *ḥilah* dalam praktik keuangan syariah modern serta menilai sejauh mana kesesuaiannya dengan *maqāṣid al-syarī'ah*. Penelitian ini menggunakan pendekatan yuridis normatif, dengan metode analisis isi terhadap literatur fikih klasik, fatwa-fatwa kontemporer dari lembaga otoritatif seperti DSN-MUI dan AAOIFI, serta studi kasus dalam praktik lembaga keuangan syariah. Hasil kajian menunjukkan bahwa meskipun *ḥilah* dapat dipahami sebagai instrumen keluwesan hukum yang memiliki nilai maslahat dalam situasi tertentu, namun penggunaannya yang bersifat manipulatif atau berorientasi semata pada kepentingan keuntungan ekonomi, dapat merusak integritas dan ruh hukum Islam. Dalam praktiknya, penggunaan *ḥilah* secara berlebihan berpotensi menyamarkan bentuk riba dan memanipulasi prinsip-prinsip dasar keuangan syariah yang mengedepankan keadilan, transparansi, dan perlindungan terhadap pihak lemah. Oleh karena itu, dibutuhkan penguatan aspek regulasi dan etika dalam pengembangan produk keuangan syariah, dengan menekankan pentingnya pendekatan *maqāṣid* dalam menilai keabsahan suatu akad, bukan hanya dari sisi formal legalitas, tetapi juga dari sisi substansialnya. Artikel ini merekomendasikan pentingnya penyusunan pedoman fatwa yang berorientasi pada *maqāṣid* serta peningkatan kapasitas literasi syariah di kalangan praktisi bisnis syariah.

Kata Kunci: *Ḥilah*; Hukum Bisnis Islam; *Maqāṣid al-Syarī'ah*; *Murābahah*; *Tawarruq*.



Introduction

In the development of Islamic economic law, the concept of *hilah* has emerged as a legal mechanism designed to provide flexibility in implementing Sharia,¹ particularly in addressing the complexities of the financial and social lives of Muslims.² Etymologically, *hilah* derives from Arabic, meaning a strategy, method, or device for achieving a particular objective, often cleverly or indirectly. In the terminology of *fiqh*, *hilah* refers to a technique or legal loophole employed to circumvent a prohibition through means that may, at times, conflict with the objectives of Sharia, even though, on the surface (*zāhir*), they do not contravene the explicit provisions of the sacred texts (*nuṣūṣ sharʿiyyah*).³

This concept developed in response to the needs of Muslims to adapt the law to practical realities, especially in the field of muamalah, which is constantly changing. In the tradition of *fiqh*, scholars differ in their views on the legitimacy of using *hilah*.⁴ The Hanafi school of thought permits the use of *hilah* under certain conditions, as long as it aims to avoid real difficulties (*ḥarj*) and maintain the public interest.⁵ In some cases, *hilah* is even considered a legitimate means of *ijtihad* in accommodating economic dynamics such as sales transactions and financing.

Conversely, the Maliki and Hanbali schools view the concept of *hilah* more critically and restrictively. They emphasise that Sharia is not only based on the outward form of an action but also on its intent and purpose. Therefore, *hilah* is seen as potentially undermining the integrity of Islamic law if used as a manipulative tool to avoid the burdens of Sharia, such as in cases of usury disguised through fictitious sales transactions. Scholars from these two schools of thought consider such *hilah* to weaken trust in the authenticity of Islamic law and potentially distort the *maqāṣid al-syarʿiah*.⁶

The Shafiʿi school of thought adopts a more moderate and balanced position. This school permits the use of *hilah* within certain limits, provided it does not contradict the fundamental principles of Sharia and does not violate the noble objectives of Islamic law. Imam al-Shafiʿi himself strongly criticised the practice of *hilah* used to circumvent Allah's prohibitions for worldly gain or to justify actions that are fundamentally contrary to the values of Sharia. He emphasised the importance of intention (motive) as the foundation of law and rejected any form of legal manipulation that weakens the essence and morality of Sharia. For al-Shafiʿi, the integrity of Sharia lies in the alignment between purpose, intention, and action, not merely in compliance with the formal structure of the law.⁷

This research aims to address these ongoing debates and critically examine the concept of *hilah* in contemporary Islamic economic law. By exploring the varying interpretations of *hilah* across different schools of thought and analysing its application in modern Islamic finance, this study seeks to contribute to the broader discourse on the compatibility of Islamic law with contemporary economic practices. Additionally, it will examine how *hilah* interacts

¹ Elimartati, "Hilah Al-Syarʿiah Sebagai Upaya Dalam Mengujudkan Maqashid Syarʿiah," *Juris* 9, no. 1 (2010): 21–31, <https://doi.org/10.1234/juris.v9i1.735>.

² Ehsanullah Agha Syed and Mustafa Omar, "Hiyal in Islamic Finance: A Recognition of Genuine Economic Need or Circumvention of Riba?," *Qualitative Research in Financial Markets* 9, no. 4 (November 6, 2017): 382–90, <https://doi.org/10.1108/QRFM-05-2017-0041>.

³ Wahbah az-Zuhaili, *Al-Fiqh Al-Islāmy Wa Adillatuhu* (Beirut: Dār al-Fikr, 1985), 5.

⁴ Muhammad Masum Billah, "The Prohibition of Ribā and the Use of Hiyāl by Islamic Banks to Overcome the Prohibition," *Arab Law Quarterly* 28, no. 4 (2014): 392–408.

⁵ az-Zuhaili, 7.

⁶ Ibn Qudamah, *Al-Mughnī* (Riyadh: Dar al-Kutub al-ʿIlmiyyah, 2004), 134.

⁷ Al-Syafiʿi, *Al-Umm* (Beirut: Dar al-Maʿrifah, 1996), 223.

with the *maqāṣid al-syarī'ah* and assess its ethical implications in light of current financial systems. This research will provide valuable insights into the evolving nature of Islamic economic law and offer recommendations for ensuring that legal mechanisms such as *hīlah* continue to serve the best interests of the Muslim community while upholding the integrity and moral principles of Sharia.

The concept of *hīlah* represents a critical point of intersection between Islamic law and contemporary economic practice. As such, its study is essential for understanding the flexibility of Islamic legal systems in adapting to changing economic and social contexts while safeguarding the core values of Sharia. This research, by providing a comprehensive analysis of *hīlah*, its various interpretations, and its application in modern contexts, will contribute to a deeper understanding of Islamic economic law and its ongoing evolution in the face of global financial dynamics.

Method

This study employs a qualitative approach utilising a normative-juridical research method, focusing its analysis on the concept of *hīlah* within Islamic economic law and its application in contemporary Sharia-compliant finance. The research data comprise two principle categories. Firstly, the primary data consist of both classical (*turāth*) and contemporary literature in the field of fiqh *al-mu'āmalah*, including the works of scholars from various madhhabs such as al-Syāṭibī, Ibn Taymiyyah, and Ibn al-Qayyim, as well as modern scholars like Wahbah al-Zuhaylī. Secondly, the secondary data encompass regulations pertinent to the application of the *hīlah* principle in Islamic financial products, including fatwas from the National Sharia Council-Indonesian Ulema Council, standards set by the Accounting and Auditing Organizations for Islamic Financial Institutions (AAOIFI), and guidelines issued by financial authorities across different jurisdictions.

Data collection is conducted through library research, involving a comprehensive review of classical fiqh texts, reputable journal articles, academic reference books, and regulatory documents pertaining to Islamic banking. The analysis employs content analysis techniques to identify the definition, typology, and validity criteria of *hīlah* from a fiqh perspective, as well as to examine its compliance with the principles of *maqāṣid al-sharī'ah*. The analytical process is descriptive-analytical, encompassing: (1) an exposition of the concept of *hīlah* from the perspectives of different fiqh schools; (2) a classification of *hīlah* into *ṣaḥīḥah* and *fāsidah*; (3) a mapping of the application of *hīlah* in modern Islamic financial products such as *murābahah*, *īnah*, and *tawarruq*; and (4) an evaluation of the extent to which these practices align with *maqāṣid al-sharī'ah* based on indicators of justice, public benefit (*maṣlaḥah*), transparency, and the prevention of exploitation. Through this framework, the study transcends a mere formal assessment of legality to explore the substantive and ethical dimensions of *hīlah* practices in Islamic economics, thereby providing a comprehensive analysis oriented towards fulfilling the higher objectives of Islamic law.

Theoretical basis and classification of fiqh on *hīlah*

In Islamic legal terminology, *hīlah* is understood as a legal manoeuvre or attempt by an individual to alter the applicable legal provisions to achieve a specific goal, without explicitly violating the *nash shar'i*. This understanding is based on the views of several fiqh scholars, including Imam al-Syāṭibī, who explained that *hīlah* is an action that appears permissible on the surface, but aims to nullify or circumvent other legal provisions. Al-Syāṭibī does not outright reject all forms of *hīlah*, but distinguishes them based on the extent to which *hīlah*

brings benefit or conflicts with the objectives of Sharia. According to him, if the practice of *ḥīlah* can produce greater benefit than the formal implementation of legal provisions, then it can be justified within the framework of *maqāṣid al-syarī'ah*. Conversely, if *ḥīlah* is used to evade the burdens of Sharia or to gain worldly benefits without considering moral values and the objectives of Islamic law, it is categorised as a reprehensible and prohibited act. Thus, the validity of *ḥīlah* depends heavily on the context, the intent of the perpetrator, and its impact on the *maqāṣid of Sharia*, which encompass justice, public interest, and the integrity of Islamic law as a whole.⁸

Ibn Taymiyyah defines *ḥīlah* as a clever strategy employed by an individual to achieve certain goals, which may be either good or bad.⁹ In line with al-Syatibi and Ibn Taymiyyah, Ali Hasaballah defines *ḥīlah* as "an activity that causes a person to move from one condition to another. This meaning has since been narrowed down to refer to a hidden method used by a person with intelligence and ingenuity to achieve specific legal motives."¹⁰

Meanwhile, Mukhtar Yahya and Fatchurrahman, drawing from al-Syatibi's concept of *maqāṣid al-syarī'ah* (the objectives of Islamic law), define *ḥīlah* as a specific method employed by an individual to avoid fulfilling certain Sharia obligations. According to their interpretation, the activity or transaction conducted through *ḥīlah* may, on the surface, be permissible (*mubāḥ*) under Islamic law. However, the primary intention behind employing *ḥīlah* is to circumvent or prevent the fulfilment of certain Sharia prohibitions, such as the avoidance of *ḥarām* (forbidden) elements like *ribā* (usury) or other legal constraints that may be perceived as burdensome.¹¹ In essence, the act itself does not inherently contradict the outward legal forms of Sharia but is designed to achieve a result that avoids the essence and ethical purpose of the law.

Drawing on al-Syatibi's framework, *ḥīlah* is seen as a tool that can be manipulated to disguise or bypass the true objectives of Sharia, which are primarily concerned with the promotion of justice, fairness, and the welfare of society. In the view of both Yahya and Fatchurrahman, such use of *ḥīlah* is problematic as it may lead to a situation where legal formalities are adhered to, but the underlying spirit and moral purpose of Islamic law are undermined. Therefore, while *ḥīlah* may not directly violate the explicit provisions of the sacred texts, its use can be seen as counterproductive to the broader goals of Sharia, especially when it is employed merely as a means to avoid fulfilling the law's intended prohibitions or ethical imperatives. Thus, the ethical concerns surrounding *ḥīlah* lie in the potential for legal manipulation, which may distort the integrity and purpose of Islamic law itself.¹²

From a formal perspective, classical scholars categorise *ḥīlah* into several types, each reflecting a distinct relationship between the form of a legal act, its permissibility, and the purpose it seeks to achieve. First, there is the type of *ḥīlah* that serves as the cause for permitting a legal act that was originally prohibited. Ali Hasaballah illustrates this with the contract of sale, which legitimises the transfer of ownership, and the marriage contract, which renders lawful sexual relations. Second, there is *ḥīlah* in the form of carrying out a legal act permitted by the Shari'ah to realise an objective likewise sanctioned by it. An example is removing a stone or tree branch from the road, a lawfully permitted act to protect others from harm or travel disruption, which is itself a Shari'ah-endorsed goal. Third, there is *ḥīlah* in the

⁸ Al-Syatibi, *Al-Muwafaqat Fi Ushul Al-Ahkam* (Beirut: Dar a-Fikr, 1996), 378-85.

⁹ Ibn Taimiyah, *Al-Fatawa' Al-Kubra'* (Beirut: Darul Kutub Ilmiyyah, 1998), 17-9.

¹⁰ Ali Hasaballah, *Ushul Al-Tasyri' Al-Islami* (Kairo: Dar al-Maarif, 2006), 360.

¹¹ Billah, "The Prohibition of Ribā and the Use of Ḥiyāl by Islamic Banks to Overcome the Prohibition."

¹² Abdul Azis Dahlan, *Ensiklopedi Hukum Islam*, (No Title) (Jakarta: Ichtiar Baru van Hoeve, 1996), 553.

form of a permissible (*mubāḥ*) act undertaken to achieve an outcome prohibited by the Shari'ah, such as spending wealth that has reached the zakat threshold (*niṣāb*) at the end of the zakat year (*ḥawl*) to avoid the obligation of paying zakat. Fourth, there is *ḥīlah* involving a prohibited act or contract undertaken for an equally prohibited purpose, such as divorcing one's wife on the false accusation of apostasy to deprive her of inheritance rights. Fifth, there is *ḥīlah*, a prohibited act or contract pursued for an otherwise legitimate purpose, such as requesting false testimony in a debt contract to compel a debtor who denies his obligation to repay it. This classification demonstrates that the forms and objectives of *ḥīlah* may fall along a spectrum from those fully aligned with the Shari'ah to those in apparent contradiction with it.¹³

Ibn al-Qayyim al-Jauziyah, as cited by the compilers of the *Encyclopedia of Islamic Law*, classifies *ḥīlah* (legal stratagem) into four principal categories. First, *ḥīlah* is a prohibited legal act to achieve a prohibited objective. An example is a person who deliberately avoids the obligation of prayer by consuming alcoholic beverages (*khamr*) before the prayer time begins. Second, *ḥīlah* in the form of a legally permissible act employed to nullify another ruling of the Shari'ah. For instance, reducing one's zakat-eligible wealth near the end of the *ḥawl* period to evade the obligation of zakat, such as by making a gift or donation. Third, *ḥīlah* in the form of a legal act that is permissible, even recommended, yet carried out for a purpose forbidden by the Shari'ah. A notable example is a contrived marriage by a *muḥallil* to a woman divorced with a *ṭalāq bā'in kubrā*, solely to enable her remarriage to her former husband. Fourth, *ḥīlah* aimed at securing benefits or preventing harm. This type may involve legal measures to obtain one's rights or to avert injustice.¹⁴

From the various categories of *ḥīlah* outlined above, scholars generally divide them into two main categories, *ḥīlah ṣaḥīḥah* (lawful legal engineering) and *ḥīlah fāsidah* (unlawful legal engineering). *Ḥīlah ṣaḥīḥah* refers to efforts or methods employed to achieve specific objectives within Islamic law while adhering to the principles of Sharia, even if the methods used may appear indirect or unconventional. In this case, *ḥīlah* does not violate Sharia, because the goal to be achieved is valid and the methods used remain within the framework of permissible law. Examples of *ḥīlah ṣaḥīḥah* in Islamic legal practice can be seen in some instances in business transactions, such as the use of valid contracts even if they are in an indirect form. For example, in a sale and purchase transaction, one may use an *ijārah* (lease) contract to purchase something with the actual intention of reselling the item. This is permissible because, although the primary purpose is sale and purchase, the method used remains valid according to Islamic law.¹⁵

In addition, *ḥīlah ṣaḥīḥah* can also be used in the context of worship, for example, in avoiding difficulties or lightening the burden on the people, as long as it does not conflict with the objectives of Sharia. One example is the use of specific valid methods in the performance of worship that do not undermine the validity of the worship itself.¹⁶

Conversely, *ḥīlah fāsidah* is an effort or method used to achieve a specific goal, but in a manner that contradicts Sharia. In *ḥīlah fāsidah*, although the goal may appear legitimate or desirable, the methods used violate Sharia principles and may lead to prohibited actions.¹⁷

¹³ Hasaballāh, *Uṣūl Al-Tasyrī' Al-Islāmi*, 344-66.

¹⁴ Dahlan, *Ensiklopedi Hukum Islam*, 555.

¹⁵ Mansūr bin Yūnus al-Baḥuṭī Al-Ḥanbali, *Kasyf Al-Qina' 'an Matn Al-Iqna'* (Beirut: Dar a-Fikr, 2005), 212.

¹⁶ Syamsuddin Al-Sarakhsi, *Al-Mabsūṭ* (Beirut: Dar al-Ma'rifah, 1989), 181.

¹⁷ Muḥammad Mustafā Al-Zuhayli, *Al-Qawā'id Al-Fiqhiyyah Wa Tatbīqātihā Fi Al-Mazāhib Al-Arba'ah* (Beirut: Dar a-Fikr, 2006), 792.

One of the most common examples of *hilah fāsidah* is the use of deceptive strategies in financial transactions aimed at avoiding zakat, riba, or other legal obligations. For example, someone who attempts to evade zakat by making transactions that appear to be legitimate but are intended to avoid paying zakat or other commitments. In this case, although the intended goal (such as preventing zakat) may seem legitimate, the method used is considered *fāsidah* because it contradicts the provisions of Islamic law.¹⁸ In terms of worship, an example of *hilah fāsidah* is someone who unlawfully circumvents certain worship practices, for instance, performing worship in a manner that contradicts Sharia norms solely for convenience or personal gain.¹⁹

The main difference between *hilah ṣaḥīḥah* and *hilah fāsidah* lies in the conformity of the method used with the principles of Sharia. *Hilah ṣaḥīḥah* is a method that is lawful and adheres to the principles of Sharia, even though its purpose may not be immediately apparent in the existing rules. On the other hand, *hilah fāsidah* is an invalid method that contradicts the provisions of Islamic law, even though its purpose may appear valid.

In practice, *hilah ṣaḥīḥah* is commonly employed as a means of facilitating economic and religious activities in accordance with Islamic law, without breaching its fundamental principles. This legal mechanism enables individuals to navigate complex situations while remaining within the bounds of Sharia, promoting convenience and ease in daily life. However, *hilah fāsidah*, in contrast, undermines the legitimacy of such actions. It is viewed as an unlawful manipulation that distorts the true objectives of Sharia, potentially resulting in negative legal consequences, both in this world and the hereafter.²⁰

Hilah ṣaḥīḥah is deemed legally acceptable because it fosters the achievement of legal objectives while remaining faithful to the core principles of Sharia. It seeks to reconcile individuals' practical needs with Islam's overarching ethical guidelines. On the other hand, *hilah fāsidah* is considered a deviation from the true spirit of Sharia, as it manipulates the law in a way that obscures its intended purpose. This kind of legal loophole is seen as detrimental, as it contradicts the values and moral intentions embedded in the Islamic legal system.²¹

Islam strongly emphasises the importance of intention (motive) and method (*kaifiyyah*) in achieving goals. In this context, good intentions cannot be justified if they are carried out incorrectly or contrary to Sharia. Therefore, *hilah ṣaḥīḥah* is highly valued in Islamic law, as long as it maintains the objectives of Sharia. Conversely, *hilah fāsidah* not only invalidates the action but may also result in sin due to violating the fundamental principles of Islamic law.

In light of the perspectives provided by Al-Sarakhsi and Ibn Qudamah, the author positions the theory of *hilah* within Sharia as a nuanced concept that requires careful consideration of both intent and method. Al-Sarakhsi acknowledges that *hilah* can be permissible when it arises out of necessity and is designed to preserve fairness, such as in situations where an individual seeks to protect his property from unjust seizure. However, he also recognises that *hilah* can become problematic if it is employed for mere preservation of wealth, as seen in the example of a transfer of ownership to avoid harm, which he categorises as *hilah fāsidah*. On the other hand, Ibn Qudamah emphasises the potential dangers of *hilah* when it is used to disguise prohibited transactions, such as *bay' al-ʿinah*, which deceptively mimics a lawful transaction while effectively functioning as a form of usury. This highlights the distinction between *hilah* that resolves legal issues in alignment with Sharia principles and

¹⁸ Qudamah, *Al-Mughny*, 224.

¹⁹ Al-Nawāwī, *Al-Majmūʿ Syarh Al-Muhadzdzab* (Beirut: Dar a-Fikr, 1995), 56.

²⁰ Al-Syāḥibī, *Al-Muwāḥḩāt Fī Uṣūl Al-Syarīʿah* (Cairo: Dar al-Turats al-Arabi, 2004), 74.

²¹ Al-Sarakhsi, *Al-Mabsūṭ*, 284.

hīlah that manipulates the law for personal gain. The theory of *hīlah* within Sharia must be carefully delineated. While it can be an instrument for achieving legal outcomes within the scope of Islamic law, it becomes problematic when used to circumvent prohibitions or alter the substance of the law in a way that contradicts its foundational objectives. Thus, the key lies in ensuring that *hīlah* is not a tool for deceit but rather a legitimate means of navigating legal challenges while upholding the spirit of Sharia.

The application of *hīlah* in contemporary Sharia transactions and finance

An illustrative example of the application of *hīlah* within contemporary Islamic business and financial systems can be observed in the practice of *murābahah* financing in Islamic banks. Consider a scenario in which a customer intends to purchase a vehicle but is unable to procure a conventional loan due to the prohibition of usury (*riba*) in Islam. In such a case, the Islamic bank enters into a *murābahah* agreement with the customer. Under this arrangement, the bank acquires the vehicle from the dealership at the prevailing market price and subsequently sells it to the customer at a higher price, which includes the bank's predetermined profit margin. The bank ensures transparency by openly disclosing the cost price of the vehicle and the associated markup.

Although this transaction may superficially resemble a conventional loan with an interest rate, it circumvents *riba* because it is structured as a sale rather than a loan. The customer consents to repay the total price of the vehicle, inclusive of the markup, in instalments. The structure of the *murābahah* contract exemplifies a form of *hīlah*, enabling the bank to offer financing that mirrors conventional credit transactions while remaining compliant with Islamic law by reframing it as a sale rather than a loan.

In a similar vein, in the *tawarruq* contract allows the customer to purchase an asset (such as a commodity) from the bank on a deferred payment basis. The customer subsequently sells this asset to a third party in order to obtain immediate liquidity. This mechanism is frequently utilised to provide cash flow, but it is specifically designed to avert the direct provision of interest, thereby serving as another instance of *hīlah* employed in Islamic finance to navigate around prohibitions while satisfying the financial requirements of customers.

In practice, Islamic banks first acquire an asset or item desired by a customer and subsequently resell it to the customer at a price that incorporates a specific profit margin. Theoretically, this transaction alligns with the requirements for a valid sale and purchase in Islam, as it encompasses ownership, transfer of risk, and mutual consent between the parties involved. However, in practice, if the bank does not possess ownership of the item or does not assume the risk of loss, this agreement may resemble the prohibited practice of interest-based lending. This has attracted criticism from certain scholars, who contend that such forms of *murābahah* merely function as a *hīlah* to legitimise usury in a more subtle form, thereby undermining the principles of justice and accountability in sharia transactions. Consequently, it is imperative for sharia financial institutions to ensure that the substance of the contract remains consistent with the *maqāṣid al-syarī'ah*.²²

In Indonesia, the practice of *hīlah* within the Islamic banking system frequently manifest in various financing products, particularly in *murābahah*-based home ownership financing schemes. In practice, Islamic banks typically engage in only the administrative or symbolic process of purchasing a house from a developer, without any substantial involvement in the actual ownership of the transaction object. The house is then resold to the customer at a price

²² Muhammad Ayub, *Understanding Islamic Finance* (John Wiley & Sons, 2009).

that encompasses a profit margin. Although this contract is formally a sale and purchase agreement, its substance and mechanism tend to resemble an interest-bearing loan, as the bank does not assume the ownership risk as mandated by the principle of *al-gunmu bi al-gurmi* (profit must be commensurate with risk).²³ This principle is an integral aspect of Islamic legal philosophy in financial transactions, which underscores that the party benefitting from a transaction must also be prepared to bear potential losses. When banks do not assume the risk associated with the goods being traded, the essence of the sale and purchase agreement becomes ambiguous, and the fairness of the transaction is called into question. This situation has the potential to undermine the spirit of Sharia, as an agreement that ostensibly complies with Sharia on the surface may, in substance, deviate from the objectives of Sharia (*maqāṣid al-syarī'ah*). Therefore, it is essential for participants in the Islamic finance industry to not solely concentrate on formal legal compliance but also to uphold the integrity of Islamic values that emphasise honesty, justice, and responsibility in every transaction.

In the realm of consumer financing within Islamic banking, the implementation of multi-contract schemes, such as *murābahah–mudārabah* or *wakalah–murābahah*, frequently serves as an administrative formality. Conceptually, however, each contract possesses distinct characteristics, pillars, and functions, necessitating that they are not treated uniformly. The artificial combination of two or more contracts is often employed to construct a financing structure that mimics an interest-bearing loan, albeit cloaked in Islamic terminology to render it valid and legal. Such practices may lead to contractual confusion (*talāḏub al-'uquḏ*), a deviation from the principle of clarity, and inconsistency with the intended purpose of the contract.

Within the framework of Islamic law, the amalgamation of contracts that do not support one another or contradict Sharia principles raises concerns regarding the potential for manipulation of intent and the blurring of the parties' responsibilities, ultimately compromising the integrity of the Sharia transaction itself.²⁴ This issue arises from the fact that each contract in Islamic law has distinct conditions, pillars, and legal consequences; thus, if they are combined without clarity regarding their relationship, structure, and legitimate purpose, it leads to confusion regarding responsibility, ownership rights, and the contractual intentions of the parties involved. A *murābahah* contract is characterised as a sale-purchase agreement with a fixed profit margin, while *mudārabah* is a business partnership agreement predicated on trust, with profit sharing according to a specified ratio. Conversely, *wakalah* constitutes a representative agreement of trust, wherein the representative is not liable for losses except in instance of negligence. When these three contracts are merged without well-defined boundaries, the legal liabilities become ambiguous, particularly concerning who assumes the risk in the event of a loss or when ownership rights to the transactional object are genuinely transferred.

This situation creates opportunities for the emergence of hidden motives (*al-niyyah al-khafiyyah*), which refer to intentions that do not align with the outward form of the contract, whereby profits are realised through means that ostensibly comply with Sharia but, in fact, diverge from the spirit of Sharia.²⁵ In other words, the amalgamation of these contracts is not aimed at enhancing the values of Sharia in transactions, but rather at circumventing the explicit prohibition of usury. From an economic perspective, the outcomes of such transactions

²³ Al-Zuhaily, *Al-Fiqh Al-Islāmy Wa Adillatuhu*, 387.

²⁴ Yūsuf Al-Qarādāwy, *Fiqh Al-Mu'āmalāt Al-Māliyah* (Kairo: Maktabah Wahbah, 2001), 211.

²⁵ Al-Qarādāwy, 208-11.

can undermine the integrity of the contract and deviate from the *maqāṣid al-syarīʿah*, which encompass justice, transparency, and honesty in business dealings.

In practice, Islamic banking frequently employs *hīlah* (legal engineering) within the financing process, particularly in the acquisition of motor vehicles. A commonly utilised scheme is the *murābahah* contract, which may, in certain instances, be combined with the *wakālah–murābahah* contract. In this mechanism, the bank designates the showroom or vehicle dealer as a permanent representative (*al-muwakkil*) authorised to purchase the vehicle on behalf of the bank. Once the vehicle is formally "acquired" by the bank through its representative, it is subsequently resold to the customer via an instalment plan based on a mutually agreed profit margin.

This process ostensibly alligns with Sharia principles as it adheres to stages involving a sale and purchase agreement and temporary ownership by the bank. However, the bank's ownership is frequently regarded as a mere formality. The bank does not take physical possession of the vehicle, does not assume the risk of damage or loss during the transaction process, and does not conduct inspections or manage the item directly. This has attracted criticism from various parties, as it is perceived to contravene the fundamental principles of Islamic commercial law, particularly the requirements of *tamalluk* (actual ownership by the seller) and *dʿamān* (responsibility for the risks associated with the goods prior to their transfer). Indeed, under a *murābahah* contract, the seller is required to own the goods and assume the corresponding risks before the transaction with the buyer is executed.²⁶ When banks fail to fulfil these requirements, the contract is deemed invalid under Sharia, as the essence of the transaction does not reflect the principles of fairness and responsibility central to Sharia muamalah. Such practices are regarded as a violation of *maqāṣid al-syarīʿah* in terms of preserving fairness and transparency in economic transactions.²⁷

In contrast, the approach is more straightforward within conventional motor vehicle financing systems, such as leasing, compared to Islamic financing models. In this structure, the financial institution leases the vehicle to the consumer for a predetermined period, with fixed instalments established at the outset of the contract. During this duration, the leasing company retains ownership of the vehicle, and the consumer is granted only the right to use it. Full ownership (*al-milk al-tām*) is transferred to the consumer only upon payment of the final instalment.

One key feature of such contracts is that the leasing company does not need to physically possess the vehicle at the commencement of the agreement. This contrast with Islamic finance, where ownership and possession are integral to the transaction's validity. The interest rate applied to the instalments is fixed from the outset, irrespective of market fluctuations. This fixed interest rate resembles the debt-based agreements prevalent in conventional banking systems.

From an Islamic perspective, this structure contains elements of *riba* (usury), which is prohibited under Sharia law. The interest on the instalments represents an additional charge on the principal amount, which is considered an unjustified financial gain. Under Islamic law, any extra value added to a debt, beyond the original principal, is not permissible unless it directly relates to a legitimate sale or exchange, as outlined in Islamic finance principles such as *mudarabah* or *musharakah*. Therefore, the fixed profit margin on the principal debt in

²⁶ Andi Asruni, "Analisis Fatwa DSN-MUI Nomor: 4/DSN-MUI/IV/2000 Tentang Akad Murabahah Dalam Penerapan Hak Milik (Studi Pada Bank Muamalat KCP Parepare)" (IAIN Parepare, 2021).

²⁷ Ömer Faruk Gençkaya, "Islamic Law from Historical Foundations to Contemporary Practice" (JSTOR, 2006), 156.

conventional leasing contracts is regarded as a form of usury, as it generates profit without a legitimate exchange of goods or services.

Conversely, within the sharia leasing system, the Indonesian Ulema Council's National Sharia Board (DSN-MUI), through Fatwa No. 27/DSN-MUI/III/2002, has established the concept of *Ijārah Muntahiyah bi al-Tamlik* (financial lease with purchase option) as a scheme permissible under Sharia. This concept is a combination of a lease agreement (*ijārah*) and a transfer of ownership agreement (*tamlik*), which are conducted separately.²⁸ Islamic financial institutions, such as banks or finance companies, must first acquire ownership of the goods or vehicles. Once ownership has been established, the goods are leased to customers for a specified period, and the lease payments are calculated based on the value of the benefits provided by the goods, rather than on the principal amount or interest. At the end of the lease period, ownership of the vehicle may be transferred to the customer through a separate sale or gift agreement, at an agreed price or potentially without additional payment, depending on the initial agreement.

However, in practice, there are often deviations from the fundamental principles of financial leasing with a purchase option. For instance, showrooms or dealers may directly transfer vehicles to customers without any substantial involvement from the bank in the initial ownership process. In such instance, the bank does not assume the risk of damage or loss of the vehicle prior to the commencement of the lease period, thereby failing to uphold the principles of *tamlik* (absolute ownership) and *daman* (risk responsibility). Consequently, the *ijārah* contract may devolve into a mere administrative formality, devoid of the genuine substance of Sharia. If this phenomenon occurs systematically, Sharia-compliant leasing could evolve into a form of *hilah* (legal engineering) that merely alters terminology without modifying the essence of *riba*. In this context, the integrity of intent and adherence to the objectives of Islamic law (*maqasid al-shari'ah*) are paramount to ensuring that financing practices authentically reflect the values of justice, responsibility, and honesty as espoused in the Islamic economic system.

The *tawarruq* contract is among the most contentious forms of transactions in contemporary Islamic jurisprudence. This contract is executed through a mechanism whereby an individual purchases a commodity or item on credit from a first party, subsequently reselling the item to a third party for cash at a reduced price. The primary objective of this transaction is to acquire liquidity or cash expeditiously. In practice, the party engaging in *tawarruq* does not genuinely require the commodity for consumption or use; rather, it is utilised solely to secure cash from the second buyer, coupled with the obligation to repay an amount exceeding the cash value received. Although such a contract may appear valid at first glance, as it involves a sale-purchase transaction and a third party, scholars hold divergent views regarding its validity under Islamic law.

Most Hanbali scholars permit *tawarruq* contracts, provided that all transactions are conducted separately, do not involve deception, and have no hidden agreements between the parties. Modern Islamic financial institutions have widely adopted this opinion to permit the structured *tawarruq* scheme, particularly in consumer financing or short-term liquidity. However, some scholars from the Maliki school of thought and some from the Shafi'i school of thought argue that *tawarruq* is invalid because it constitutes a form of *hilah* (a legal loophole) to circumvent the prohibition on usury. They contend that the primary purpose of such

²⁸ Nun Harrieti, "Penerapan Prinsip Syariah Pada Pembiayaan Ijarah Muntahiya Bittamlik Dengan Janji (Wa'd) Hibah Pada Perbankan Syariah," *Al-Awqaf: Jurnal Wakaf Dan Ekonomi Islam* 10, no. 2 (2017): 201–13.

transactions is to obtain a cash loan with a higher return, which is substantively similar to usury practices.

One of the most pointed criticisms came from Ibn Taymiyyah, a prominent scholar from the Hanbali school of thought, who strongly rejected *tawarruq*, despite its origins in a school of thought that generally permitted it. Ibn Taymiyyah asserted that *tawarruq* was a deception worse than *'īnah* because *tawarruq* involved a more subtle and challenging-to-detect element of disguise.²⁹ In the practice of *'īnah*, the transaction occurs between two equal parties: the seller sells the goods on credit and then repurchases them in cash at a lower price, thus making the element of usury apparent. In contrast, *tawarruq*, which involves three parties and a series of seemingly legitimate sales and purchases, conceals the form of usury behind a seemingly lawful legal structure.

According to Ibn Taymiyyah, the primary danger of *tawarruq* lies in its ability to disguise usury through a formal legal structure, even though its economic objectives and contractual intentions contradict the *maqāṣid al-syarī'ah*. He emphasises that in assessing the validity of a transaction, it is insufficient to consider its outward form alone; one must also weigh the intent, economic consequences, and moral values inherent within the contract. *Tawarruq* that is not based on a genuine need for the goods and is solely aimed at obtaining cash undermines the integrity of the Islamic economic system, which is founded on honesty, justice, and the avoidance of usury in all its forms.

A straightforward example of a *tawarruq* contract within Islamic banking practice can be elucidated through the following scheme: a customer requires cash for consumption or specific financing purposes. To address this need, the Islamic bank initially acquires a commodity that hold value and is tradable, such as precious metals or agricultural products, from the market at a cash price of Rp. 90 million. Subsequently, the bank sells the commodity to the customer through a *murabahah* contract, which is a sale and purchase agreement that includes an agreed profit margin, for Rp.100 million, with payment to be made in instalments over a period of 12 months. Upon legally obtaining ownership of the commodity, the customer resells it to a third party (often pre-arranged by the bank) at a cash price of Rp.90 million. Through this process, the customer receives cash amounting to Rp.90 million and is obligated to pay instalments totalling Rp.100 million.

Although, from a technical perspective, the contracts in *tawarruq* appear to be valid due to their involvement of ownership transfer and two distinct sales transactions, Muslim jurists and economists frequently scrutinise their economic substance. In Islamic banking, customers primarily seek cash, rather than the goods or commodities being traded. Consequently, the sale and purchase of commodities often act merely as a formal intermediary to obtain cash, accompanied by an obligation to repay a greater amount in the future. While two separate sales transactions ostensibly occur, the essence of the arrangement is that the customer receives Rp 90 million in cash and is obliged to repay Rp. 100 million within a designated timeframe. This scheme closely resembles interest-based lending, which is prohibited in Islam, and is consequently regarded as a form of disguised usury.

Some scholars permit the practice of *tawarruq*, provided it is conducted in strict adherence to the stipulations of the contract, including lawful ownership of the goods, the absence of concealed agreements between the parties involved, and the prohibition of simultaneous transactions occurring within the same assembly. However, many contemporary scholars criticise the practice of organised *tawarruq* (*tawarruq* orchestrated by

²⁹ Taimiyah, *Al-Fatāwā Al-Kubrā*, XXIX: 432.

financial institutions), as it effectively formalises fiqh concepts without adequately considering the substantive value of a transaction. Furthermore, *tawarruq* is susceptible to fostering dishonesty and exploitation within transactions. When the contract serves merely as a legal instrument to obscure usury, it loses the fundamental essence of Sharia. Such *tawarruq* is regarded as undermining the integrity of the Islamic financial system, as it fails to reconcile formal compliance with fiqh norms and the ethical objectives of Islamic economics.

Evaluation of *hilah* practices using the *maqāṣidi* approach

From the perspective of *maqāṣid syarī'ah*, the utilisation of *hilah* must consider the higher objectives of Islamic law, including justice (*al-'adl*), honesty (*al-ṣidq*), and public interest (*al-maṣlahah*). When *hilah* is employed solely to attain profit without regard for ethical values, it diverges from *maqāṣid syarī'ah* and creates a disconnect between formal compliance and the substantive application of Islamic law.³⁰ In practice, excessive reliance on *hilah* may reduce Islamic finance to a mere replication of the conventional system, albeit cloaked in Islamic terminology. Al-Ghazali underscored that the outward form of a contract must not disregard its essence, particularly if it encompasses elements of deception or manipulation of intent.³¹ In this context, the intention of the parties to the contract constitutes a critical aspect that differentiates between *hilah ṣaḥīḥah* and *hilah faṣīdah*. Classical scholars, such as Imam Malik, rejected forms of *hilah* intended to circumvent Allah's prohibitions, even if they appeared valid on the surface.³² Imam Syafi'i also asserted that an agreement may be valid in terms of text, but if the intention is to evade Sharia, the agreement will not yield blessings.³³

Contemporary scholars, including Wahbah al-Zuhaili, assert that *maqāṣid al-syarī'ah* is not solely fulfilled through formal legal procedures, but also through the sincerity of the intentions of those who implement the law.³⁴ Jasser Auda further posited that a *maqāṣid* oriented Islamic legal system cannot be realised if actors operate with intentions that deviate from the principles of justice and honesty.³⁵ Therefore, assessing the intentions and socioeconomic impact of contracts is vital to preserving the integrity of Sharia and preventing the misuse of *hilah* as a mechanism for legal exploitation.

In legal fiqh, there exists a rule that states:

العبرة في العقود للمقاصد والمعاني، لا للألفاظ والمباني³⁶

This principle elucidates that the legal value of a contract lies in its purpose and substance, rather than its wording and structure. For instance, when a merchant states "you can take anything" to a buyer, if the intent behind the statement is to facilitate a purchase, then the buyer is obliged to compensate for the items taken, as this constitutes a sale and purchase contract. In another example, if an individual informs a friend who operates a car rental business, "I'll borrow the car for four days," this can also be interpreted as a rental agreement, where the term 'borrow' effectively denotes "rent." Based on this premise, Al-Zuhayli posits that the phrasing of a contract can alter its meaning and legal implications when the involved parties possess differing intentions. He cites the example of a gift contract (*hibah*) that includes

³⁰ Jasser Auda, *Maqāṣid Al-Sharī'ah as Philosophy of Islamic Law A Systems Approach* (London: The International Institute of Islamic Thought, 2008), <https://doi.org/978-1-56564-424-3>.

³¹ Abu Hamid Muḥammad al-Ghazali, *Al-Mustaṣfā Min 'Ilm Al-Uṣūl* (Lebanon: Dār al-Huda, 1994), 41.

³² Al-Qarāfi, *Al-Furuq* (Beirut: Dar al-Kutub al-'Ilmiyyah, 2001), IV:240.

³³ Al-Syafi'i, *Al-Umm*, III: 252.

³⁴ Wahbah Al-Zuhaili, *Nazāriyyat Al-Darūrah Al-Syar'iyyah* (Beirut: Dar a-Fikr, 1998), 71.

³⁵ Auda, *Maqāṣid Al-Sharī'ah as Philosophy of Islamic Law A Systems Approach*, 98.

³⁶ Al-Zuhaili, *Nazāriyyat Al-Darūrah Al-Syar'iyyah* I: 55.

a condition necessitating compensation (*'iwaḍ*), which transforms its legal status into that of a purchase contract. Similarly, a loan contract that carries an obligation to pay may be reclassified as a rental contract.³⁷

Furthermore, the practice of *hīlah* (legal engineering) that diverges from Islamic finance principles has the potential to undermine the social and spiritual mission of Islamic law. The Islamic finance system is fundamentally designed as a more ethical, equitable, and morally grounded alternative to conventional economic practices, which are often characterised by usury, uncertainty, and exploitation. Should Islamic financial institutions, in their implementation, rely exclusively on legal engineering mechanisms to achieve economic outcomes that are fundamentally analogous to those of the usurious system, this would constitute an internal contradiction that undermines the spirit and ideals of Islamic finance itself. In this context, the practice of *hīlah* not only risks injustice to economically disadvantaged parties but also diminishes public trust in the credibility of Islamic institutions.

Public trust is a vital asset in the development of a sustainable Islamic financial system. Therefore, it is imperative for every Islamic institution to not only concentrate on procedural compliance and contract documentation but also to consider the substantial impact of the transactions conducted. Sharia supervision, particularly by the Sharia Supervisory Board (SSB), must enhance its approach by adopting the *maqāṣid al-syarī'ah* paradigm, ensuring that transactions are not only legally valid but also promote justice, transparency, public welfare, and blessings in the economic life of the community. Thus, the integrity of the Sharia financial system can be upheld, continuing to serve as a crucial pillar in the establishment of a just Islamic economic order.

Within the framework of *maqāṣid al-syarī'ah*, Islamic law is not perceived merely as a collection of formalistic normative rules, but rather as a strategic instrument for realising the overall welfare and benefit of the ummah, both at individual and societal levels. The primary objective of Sharia is to safeguard five fundamental pillars: religion (*din*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and property (*mal*).³⁸ Consequently, every legal practice, including those within the financial sector, must consistently aim to achieve these foundational values. When *hīlah* or legal engineering is employed in a manner that deviates from these noble objectives, such practices not only lose their ethical value but may also mislead the public away from the true ideals of Sharia.

In this context, it is essential to differentiate between "Sharia in text" and "Sharia in *maqāṣid*." A transaction can be deemed compliant with Sharia in text if it meets the requisite pillars and conditions of the contract and adheres to explicit arguments such as *nash* and fiqh rules. However, compliance with Sharia in terms of *maqāṣid* necessitates that the transaction also embodies the core values of Sharia, including justice, transparency, honesty, and the avoidance of exploitation. This implies that formal legality does not automatically guarantee the spiritual acceptability of a contract.

Therefore, a collective awareness is required among various stakeholders: scholars, regulators, academics, and practitioners in the Islamic finance industry, to construct a financial system that not only adheres to the text but also upholds the spirit and objectives of Sharia. Only then can the essence of religiosity and moral legitimacy of the Islamic economy be genuinely realised in a comprehensive and sustainable manner.

³⁷ Al-Zuhaily, *Al-Fiqh Al-Islāmy Wa Adillatuhu*, 162.

³⁸ Afif Noor et al., "Maslahah-Based Protection of Fund Recipients in Fintech Lending Through Empowerment and Justice," *El-Mashlahah* 15, no. 1 (June 11, 2025): 1–20, <https://doi.org/10.23971/el-mashlahah.v15i1.7786>.

The five principal tenets of *maqāṣid al-syarī'ah*, namely the preservation of religion (*hifz al-dīn*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and wealth (*hifz al-māl*), serve as the foundational bases for determining the direction and objectives of Islamic law.³⁹ These principles not only function as a normative framework in the formulation of law but also act as an ethical benchmark for evaluating the validity of legal practices, including the employment of *hīlah* or legal engineering. When *hīlah* is utilised manipulatively, that is, solely to disguise usurious or exploitative transactions in a manner that appears legitimate, it betrays the essence of *maqāṣid*.

Specifically, such *hīlah* practices can compromise the objective of safeguarding property (*hifz al-māl*), thereby facilitating hidden exploitation through inequitable schemes. Additionally, the integrity of the soul (*nafs*) and intellect (*'aql*) is adversely affected, as individuals are conditioned to circumvent the law rather than uphold Islamic ethical principles.⁴⁰ Furthermore, if this occurs systematically, it may erode public trust in Islamic law and Sharia institutions, ultimately undermining the very purpose of *hifz al-din* itself.

Consequently, a *maqāṣid*-based assessment should not merely remain a theoretical discourse within academic circles but must be adopted as a tangible evaluative framework for assessing the validity and benefits of contemporary muamalah practices, particularly within the Islamic finance and business sectors. This approach will preserve the spirit of justice and public interest at the core of Islamic law.

Conclusion

Hīlah in Islamic law can be understood as a legal construction or engineering that formally remains within the confines of sharia legality, yet is employed to circumvent specific prohibitions or facilitate the implementation of a provision. Within the historical tradition of fiqh, *hīlah* functions as an adaptive response to the complexities of social, economic, and cultural realities, serving as an instrument of flexibility in the application of Sharia amidst the dynamics of changing times. Theoretically, *hīlah* can be viewed as a component of the ijtihad mechanism, oriented towards resolving legal problems, provided that its application is consistently grounded in *maqāṣid al-syarī'ah*, which encompasses the fundamental principles of Sharia that prioritise justice, public interest, and the protection of the community.

In contemporary Islamic finance, the practice of *hīlah* has become a significant subject of debate. On one hand, it offers flexibility in the design of Islamic financial products, enabling them to remain competitive in the context of the prevailing conventional systems. Conversely, excessive or manipulative application of *hīlah*, particularly when utilised merely as a legal trick to justify usury or exploitative practices, poses a risk undermining the essence of Islamic values and jeopardising the integrity of the Islamic financial system itself. Consequently, stringent oversight mechanisms are necessary to ensure formal compliance with the pillars and conditions of contract, as well as their alignment with the substantive values Islamic finance.

Empirical studies examining the implementation of *hīlah*-based financial products, such as *tawarruq, bai' 'inah*, or *ijārah muntahiyah bi al-tamlīk*, are essential to assess the extent to which

³⁹ Sanuri et al., "Epistemological Transformation of 'Urf in the DSN-MUI Fatwa on E-Commerce: A Maqāṣid Al-Sharī'ah Based Analysis," *Al-Manahij: Jurnal Kajian Hukum Islam*, July 10, 2025, 167–90, <https://doi.org/10.24090/mnh.v19i2.13145>.

⁴⁰ Agus Sunaryo and Ahmad Hadidul Fahmi, "Evaluation of the Maqāṣid Al-Sharī'ah Liberalization: An Examination of the Notion of 'Prioritizing Public Interest over Textual Evidence,'" *Al-Manahij: Jurnal Kajian Hukum Islam*, March 13, 2024, 1–16, <https://doi.org/10.24090/mnh.v18i1.9886>.

these practices yield benefits or perpetuate economic injustice. The findings of such evaluations can serve as a basis for formulating clear fatwa guidelines and uniform regulations across different countries and authorities. Initiatives undertaken by authorities such as Malaysia and international institutions, including the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), illustrate a progressive direction through the strengthening of regulatory frameworks and the standardisation of fatwas. Ultimately, prioritising *maqāṣid* must remain the primary orientation to ensure that *ḥilāh* practices do not become ensnared in legal formalism that erodes the moral and spiritual legitimacy of Islamic finance.

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