

Discourse on Universal Religious Values: A Contemporary Paradigm from an Islamic Transitive Perspective

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Discourse on Universal Religious Values: A Contemporary Paradigm from an Islamic Transitive Perspective

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Abstract

The purpose of this study is to determine the reconceptualization of *al-dharuriyyah al-khamsah* in a transitive Islamic perspective. This study was conducted because the existing formulation of *al-dharuriyyah al-khamsah* has failed to explain those responsible for discourse protection and maintenance, such as individuals, society, and the country. Similarly, it was carried out because the related issue is only limited to maintenance without formulating the problem of the fulfillment of rights and obligations. This library research emphasizes the universality aspect of Islam and seeks to connect benefit to the reality of human life. Data was extracted from written sources using a transitive Islamic approach. This research proposes the concept of *al-dharuriyyah al-khamsah* with several developments, namely protecting life (*hifzh al-hayat*), protecting love (*hifzh al-mahabbah*), protecting faithful (*hifzh al-wafa'*), protecting dignity (*hifzh al-a'radh*) and protecting welfare (*hifzh al-shu'un al-ijtima'iyah*).

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Keywords: *maqashid al-shari'ah*, *al-dharuriyyah al-khamsah*, dignity, welfare, Transitive Islam

Introduction

Allah is the architect behind the shari'ah, and it was given to Muhammad PBUH as a guide for humans. The essence of God's laws (*al-ahkam al-shar'iyah*) is for guidance and reference for the benefit of mankind (*mashallah*), or in other words, to aid humans.¹ Therefore, *mashlahah* is the core goal of Islamic law, leading to the popular expression frequently used among *ushul* experts. It states: "where there is *mashlahah*, there is God's law" (*ainama kanat al-maslahah fa tsamma hukm Allah*).²

The concept of *mashlahah* as the intent of Islamic law (*maqashid al-shari'ah*) and a method of legal *istinbath* plays a major role in the study of Ushul al-Fiqh. From early Islam to contemporary times, several Islamic schools of thought have devoted their time and attention to this concept.³ According to Muhammad Khalid Mas'ud, there are at least six tendencies of *mashlahah* as the intent of Islamic law.⁴ First, some scholars, namely Shihabuddin al-Qarafi (d. 684 H), Jamaluddin al-Isnawi (d. 771 H), Tajuddin al-Subki (d. 771 H), and Sadr al-Shari'ah al-Mahbubi (d. 747 H), stated that this simple concept has specific boundaries and definitions. Second is the group that rejects *mashlahah* on valid reasoning unless it is supported by *nash*. This opinion is in line with Shaif al-Din al-Amidi (d. 631 H) and Ibn Hajib (d. 646 H). Third, Ibn Abd al-Salam (d. 660) linked *mashlahah* to the Sufism concept. Fourth, the group that neither rejects nor accepts *mashlahah* and their opinion was supported by Ibn Taymiyyah (d. 728 H) and Ibn Qayyim al-Jauziyyah (d. 751 H). Fifth, Najmuddin al-Thufi (d. 716 H) is of the opinion that this concept is a more dominant basic principle than *nash*. Sixth, al-Shathibi believes that *mashlahah* is a legal method and approach used to analyze *istinbath*. This was followed by several contemporary Ushul al-Fiqh thinkers, such as Muhammad Thahir Ibn 'Ashur (1879 to 1973 AD) and Allal al-Fasi.

According to al-Raysuni, the first Islamic scholar who stated that *mashlahah* has similar meanings to shari'ah (*maqashid al-shari'ah*) was al-Turmudzi al-Hakim, and this was recorded in the 3rd century H. This concept was voiced in his books entitled *al-Shalah wa Maqashiduhu*, *al-Haj wa Asraruhu*, *al-*

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¹ Muhammad Thahir Ibn 'Ashur (2004), *Maqashid al-Syari'ah al-Islamiyyah*, Vol. 11, Beirut: Muassasah Fuad, p. 297; Musthafa Dib al-Bug (2005), *Atsar al-Adillah al-Mukhtalif Fiha: Mashadir al-Tasyri' al-Tab'iyyah fi al-Fiqh al-Islami*, Beirut: Dar al-Imam al-Bukhari, p. 28; Abd al-Wahhab Khalaf (2000), *Ilm Ushul al-Fiqh*, Kuwait: Dar al-Qalam, p. 85; Muhammad Sa'id Ramadhan al-Buthi (1990), *Dhawabith al-Mashlahah fi al-Shari'ah al-Islamiyyah*, Beirut: Muassasah al-Risalah, p. 27; Abu Ishaq al-Shathibi, (2005), *al-Muwafaqat fi Usul al-Shari'ah*, Vol. 67 Beirut: Dar al-Ma'rifah, p. 19.

² Yusuf al-Qardhawi (1990), *Madkhal li Shar'at al-Shari'ah al-Islamiyyah*, Cairo: Maktabah Wahbah, 1990, p. 62.

³ Nad al-Raysuni (2013), *Nazhariyyat al-Maqasid 'inda al-Imam al-Shathibi*, Cairo: Dar al-Kalimah li al-Nashr wa al-Tawzi', p. 32.

⁴ Muhammad Khalid Mas'ud (1995), *Shathibi's Philosophy of Islamic Law*, Pakistan: Islamic Research International University Islamabad, pp. 224-246.

'Illah, 'Ilal al-Shari'ah, 'Ilal al-'Ubudiyyah and al-Furuq.³⁶ Afterward, Abu Mansur al-Maturidi (d. 333 H) published his work *Ma'khad al-Shara'* followed by Abu Bakr al-Qaffal al-Shashi (d. 366), who analyzed this concept in his books entitled *Ushul al-Fiqh* and *Mahasin al-Shari'ah*. Abu Bakr al-Abhari (d. 375 H), and al-Baqilani (d. 403 H), published their works, among others, *Mas'alah al-Jawab wa al-Dalail wa al-'Illah* and *al-Taqrir wa al-Irshad fi Tartib Thuruq al-Ijtihad*. After the death of al-Baqilani, al-Juwaini (d. 478 H) reviewed the following *al-Burhan*, *al-Waraqat*, *al-Ghiyatsi*, and *Mughits al-Khalq*. This was followed by al-Ghazali (d. 505 H), who published the following works *al-Mustafa*, *al-Mankhul*, *al-Wa'iz*, and *Shifa' al-Ghalil*. Then al-Razi (d. 606 H) further analyzed *mashlahah* in his books entitled *Mafatih al-Ghaib*, *al-Ayat al-Bayyinah*, *al-Mahsul*, and *Asas al-Taqdis*. Incidentally, al-Amidi (d. 631 H), with *al-Ihkam*,³⁷ *Ghayat al-Maram*, Ibn Hajib (d. 646 H), al-Baidhawi,³⁸ Asnawi (d. 771 H), Ibn Subki (d. 771 H), Ibn Abd al-Salam (d. 660 H), al-Qarafi (d. 684 H) with *Nafais al-Ushul*, *Sharh al-Mahsul*, *al-Furuq*, *al-Ihkam fi Tamyiz al-Fatawa'an al-Ahkam wa Tasarruf al-Qadhi wa al-Imam*, al-Thufi (d. 716 H) with *Mukhtasar al-Raudhah wa Sharhuhu* and *al-Iksar fi Qawa'id at-Tafsir*, Ibn Taimiyyah and Ibn Qayyim (d. 751 H) with *Zad al-Ma'ad*, *I'lam al-Muwaqqi'in*, *Shifa' al-'Alil* and *Miftah Dar al-Sa'adah*.⁶

In this modern era, the concept of *mashlahah* undergoes further formulation and remains the basis of *ijtihad* with respect to the changing times.⁷ However, *Ahd al-Anam*, a Tunisian reform document, was issued in 1857. Based on its preamble, *mashlahah* is the principle of legal interpretation. This is due to the fact that Allah has revealed certain laws in accordance with human interests (*mashalih al-nas*). The three principal components of the *mashlahah* concept, namely freedom, security, and equality, were stated in this document.⁸

Meanwhile, in 1867, Khairudin Pasa, in the book entitled *Aqwam al-Masalik*, reaffirmed that the principle of *mashlahah* needs to be adopted by the government because it is perceived as the highest guideline. According to Khairudin Pasa, this principle is important because it is used to justify institutional changes in the public interest and also condemns negative vices.⁹ Muhammad Abduh also emphasized that *mashlahah* is a guiding principle in law-making.¹⁰ Contemporary Islamic legal scholars also carried out diverse discussions, among which are Rashid Ridla, Shubhi Mahmasani, Abd al-Razzaq al-Sanhuri, Ma'ruf al-Duwalibi, Mushthafa al-Shalabi, Abd al-Wahhab Khallaf, Muhammad al-Khudlari, and Mushthafa Zaid.

²⁸ Ghazali stated that *mashlahah* tends to manifest when humans protect and care about five things, namely *hifzh al-din* (protecting religion), *hifzh al-nafs* (protecting soul), *hifzh al-'aql* (protecting reason), *hifzh al-nasl* (protecting offspring), and *hifzh al-mal* (protecting property). On the other hand, anything that threatens and contradicts these are called *mafsadah*, the antonym of *mashlahah*.¹¹ Furthermore, al-Ghazali's hypothesis was known as *al-dharuriyyah al-khamsah*, occasionally referred to as *al-ushul al-khamsah*, *al-kulliyah al-khamsah*, *maqashid al-khamsah*, and *maqashid al-dharuriyyah*. However, this research only uses the *al-dharuriyyah al-khamsah* nomenclature.

Al-Shathibi (730-790/1328-1388) frequently contributed to *al-dharuriyyah al-khamsah* based on certain considerations with respect to the Qur'an and Sunnah through a method known as *al-istiqrar al-ma'nawi al-Shathibi*.¹² According to him, all Islamic laws (commands, prohibitions, choices) derived from the shari'ah are intended to provide protection, avoid difficulties, and prevent harm to human life. These are grouped into three levels: **First**, *al-daruriyyat* (primary needs), **second**, *al-hajjiyyat* (secondary needs), and **third**, *al-tahsiniyat* (tertiary needs).¹³ It is evident that *al-dharuriyyah al-*

⁴¹ Ahmad Al-Raysuni, (2013), *Nazhariyyat al-Maqasid 'inda al-Imam al-Shathibi*, p. 26.

¹² 'Uf bin Muhammad al-Badawi (2000), *Dar al-Nafa'is*, Yordania: Dar al-Bayan al-'Arabi, p. 75-114.

⁵² Muhammad Khalid Mas'ud (1995), *Shathibi's Philosophy of Islamic Law*, p. 20.

¹² Hourani (1962), *Arabic Thought in Liberal Age: 1798-1939*, London: Oxford Press, p. 122.

⁸ Muhammad Khalid Mas'ud (1995), *Shathibi's Philosophy of Islamic Law*, p. 43.

¹⁰ Joseph Schacht (1967), *The Origins of Muhammadan Jurisprudence*, Oxford: Oxford University Press, p. 113.

¹¹ Abu Hamid Al-Ghazali, (1980), *al-Mustashfa min 'Ilm al-Ushul*, Beirut: Dar al-Kutub al-'Ilmiyah, p. 286.

¹² The use of this method by al-Shathibi is not only to remove the wrong views like the views above but more fundamentally that for him, *al-istiqrar al-ma'nawi* is a significant alternative method for establishing laws or legal rules and verifying them. Others also carried out partially using separate arguments, therefore, sometimes, they share other relevant arguments in solving certain legal problems. Duski Ibrahim (2017), *Metode Penetapan Hukum Islam: Membongkar Konsep al-Istiqra' al-Ma'nawi al-Syathibi*, Jogjakarta: Ar-Ruzz Media, p. 164.

¹³ Abu Ishaq al-Shathibi (2005), *al-Muwafaqat fi Ushul al-Shari'ah*, Vol. II, p. 7.

khamsah is in the first level category because *al-dharuriyah* denotes absolutely necessary (fundamental), unavoidable needs that must be met,¹⁴ including those that are essential for human existence.¹⁵

Based on the earlier mentioned description, this study assumes that to a larger extent, and with respect to the formulation of *al-dharuriyyah al-Khaimah*, the party most responsible for efforts to maintain and protect this principle is yet to be ascertained. The research question is whether it is an individual or a certain authority, such as the government of a country. Likewise, is the related issue only limited to the protective aspect without considering the fulfillment of rights and obligations? This led to the formulation of alternative answers to some of these problems.

Method

This is library research in which the data was extracted from written materials.¹⁶ Meanwhile, a qualitative method was employed, and the procedures based on published works and images were analyzed and described using unique steps and different designs.¹⁷ It is also referred to as using descriptive data either in written or oral form realized by the respondents or through observable behavior.

The primary source of legal materials used, besides from the Qur'an and Sunnah is legal thought in Transitive Islam. It expands *al-dharuriyyah al-khamsah* into several universal basic values that differ from the earlier mentioned literature. Transitive Islam assumes that benefit (*mashlahah*) is parallel to humanitarian welfare. This is realized with respect to five basics (*al-dharuriyyah al-khamsah*) that needs to be achieved, not just protected and maintained. It includes *hifzh al-hayat*, *hifzh al-mahabbah*, *hifzh al-wafaun*, *hifzh al-'arad*, and *hifzh al-shu'un al-ijtima'iyah*.¹⁸ Each of these basic values is further described in the following sessions.

The trilogy, such as ontology, epistemology, and axiology of Transitive Islam, refers to the idea that this religion is an umbrella that shields human life. In other words, Transitive Islam puts forward universal Islamic teachings that do not stop at the words "I" and "we" alone but involve the collaboration of the terms "you," "he," or "they" to form "us." This is used in various dimensions of their movement to protect and ensure the genealogical continuity of human life with respect to the socio-cultural, economic, political, scientific, and technological aspects, as well as all of God's creatures.¹⁹

The idea of Transitive Islam is a continuation of "Progressive Islam." This Islamic nomenclature does have a dynamic meaning, rather it has certain limitations. According to Omid Safi, Progressive Islam is a new term in contemporary Islamic studies, used by academics and activists to label the understandings and actions of Muslims who fight to enforce humanitarian values. These include the development of civil and democratic society, justice, gender equality, defense of the oppressed, and pluralism.²⁰

Generally, Progressive Islamic discourse is only a precondition or prerequisite paradigm. Meanwhile, Transitive Islam practically offers how to connect certain benefits with the reality of life. This deviates from the ontological aspect, which is perceived as a reasonable collaborative movement involving human effort in discovering engineering science and technology. Incidentally, this is realized through the production, distribution, and maintenance of genealogical continuity of life from the socio-cultural, economic, political, and religious perspectives and the connectivity of all living and non-living things.²¹

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¹⁴ Al-Fairuz Abadi (1998), *al-Qamus al-Muhith*, Vol. II, Beirut: Muassasat al-Risalah, p. 77; Ibrahim Anis (1972), *al-Mu'jam al-Wasith*, Vol. I, p. 68.

¹⁵ Majma' al-Lughah al-'Arabiyyah, p. 538.

¹⁶ Idris Muhammad Djamil (1995), *Metode Majelis Tarjih Muhammadiyah*, Jakarta: Logos, p. 40.

¹⁷ Jan (2010), *Metode Penelitian Agama Kualitatif Interdisipliner*, Yogyakarta: Paradigma, p. 134.

¹⁸ John W. Creswell (2014), *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, California: SAGE Publications, p. 183.

¹⁹ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, Jakarta: Kencana, pp. 33 and 49-76.

²⁰ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, p. 4.

²¹ Omid Safi (2003), "What is Progressive Islam?" *Islam News Letter*, 13 December, pp. 48-49.

²² Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, p. 11.

Reconceptualization of *al-Dharuriyyah al-Khamsah* in Transitive Islamic Perspective

After reviewing a series of methodologies, coherence validation of *maqashid al-shariah* reasoning based on factual verification of the realities faced by humans presently, the following describes the reformulation of the *al-dharuriyyah al-khamsah* concept in the perspective of Transitive Islam.

Hifzh al-Hayat (Protecting Life)

According to the Qur'an and Al-Sunnah, many sacred dimensions are inherent in life that have been formulated as part of basic human rights, and these are evident in various declarations. It includes *The Universal Declaration of Human Rights* (UDHR) and *The Cairo Declaration on Human Rights in Islam* (CDHRI). The first part of the basic human rights is *hifzh al-Hayat* (protecting life), and the essence is to protect one's soul (*hifzh al-nafs*) from being taken away by none other than God, such as putting oneself in danger, committing suicide, or killing others that according to Islam is a major sin.²² In respect to this, the government is obliged to protect its citizens, and, on the other side, everyone has the right to live, get a decent life, health, security, and welfare insurance.

Meanwhile, to protect life, every individual is also expected to fulfill the need for food and drinks (carbohydrates, proteins, fats, vitamins, minerals, fiber, and clean water). For Muslims, it is obligatory to ensure that these edibles are halal (*hifzh al-tha'am*).²³ The government or rulers need to ensure the availability and quantity of food stock, its state, and nutritional value to meet these basic needs of humans. There is a need to ensure that the Muslim community is permitted to consume *halal* food. The government is responsible for fulfilling the basic societal needs as the ruler.

The third part of *hifzh al-Hayat* is *hifzh al-'aql* (protecting reason), which means protection from something damaging one's mind, such as drugs, alcohol, etc.²⁴ Conversely, there is a need to create awareness in order to develop the mind. This is realized through education, which is part of the basic human rights in terms of acquiring knowledge. To meet these needs, on one side, the government is obliged to provide educational facilities; on the other, they also have the right to sanction any citizen who fails to participate in the initiative. In this case, the Indonesian 12-year compulsory education program is an ideal example. Based on the earlier mentioned elaboration, the protection of life (*hifzh al-Hayat*) is not only an individual obligation but also that of the government.

Hifzh al-Mahabbah (Protecting Love)

Mahabbah literally means love and attachment philosophically, it is understood as emotions, attitudes, activities, and values that are mysterious and multi-dimensional.²⁵ In addition, it is also a natural occurrence because there will be no form of existence without love.²⁶ It implies that this quality is extremely important and essential in life.

Islam always preaches about love, both its transcendental and profane forms. This term has at least several meanings in various verses of the al-Qur'an and the Sunnah (prophetic traditions). These include *al-hub*, which in the general sense refers to ambitious potentials (al-Qur'an, 89: 20), *al-mawaddah*, *al-rahmah* and *al-sakinah*, which depicts ethical human relations, sacrifice, and protection as well as peace of mind and feelings (al-Qur'an, 30: 21), *al-shaghaf* indicates an extremely deep, natural, original and intoxicating love (al-Qur'an, 12:30), *janahu* means inclination towards peace (al-Qur'an, 8: 61), *al-shab* is a sense of being enslaved (al-Qur'an, 12:33), *al-ra'fah* denotes a deep love that transcends the norms of truth (al-Qur'an, 24:2), *liqa'* is a sense of longing (al-Qur'an, 29:5), and *al-mayl* implies temporary love, and it tends to be discriminatory (al-Qur'an, 4:129).

²² Muhammad Ali al-Taskhiri (1997), *Huquq al-Insan bayn al-I'lanayn al-Islamiy wa al-'Alami*, Teheran: Rabithah al-Thaqafah wa al-'Alaqah al-Islamiyyah, pp. 53-60.

²³ Ansari Yamamah (2019), *Islam Transiif: Filsafat Milenial*, p. 52.

²⁴ Indonesia, for example, is currently experiencing a drug emergency that is being targeted by international narcotics networks. According to the official report of the National Narcotics Agency of the Republic of Indonesia, in 2019, BNN, together with the National Police, TNI, Customs duty, and Immigration, have succeeded in uncovering 33,633 narcotics cases with several evidences, namely marijuana type narcotics with a total of 112.2 tons, methamphetamine weighing 5.01 tons, 1.3 million Ecstasy pills and 1.65 million PCC pills which were confiscated from several places through 33 Indonesia. See "Kepala BNN: Jadikan Narkoba Musuh Kita Bersama!", BNN, updated 20 December 2019, accessed 23 February 2022, <https://bnn.go.id/konten/unggah/2019/12/DRAFT-LAMPIRAN-PRESS-RELEASE-AKHIR-TAHUN-2019-1-.pdf>.

²⁵ Ansari Yamamah (2019), *Islam Transiif: Filsafat Milenial*, p. 55.

²⁶ Ansari Yamamah (2019), *Islam Transiif: Filsafat Milenial*, pp. 55-56.

In this research, primary love (*al-mahabbah al-dharuriyyah*), is divided into four types, namely, *hifzh al-mahabbah fi al-'alaqah al-jinsiyah* (protecting love in sexual relation), *hifzh al-mahabbah fi al-'alaqah insaniyah* (protecting love in human relation), *hifzh al-mahabbah fi al-'alaqah al-kawniyyah* (protecting love towards the universe), and *hifzh al-mahabbah li al-wathan* (protecting love towards motherland).

a. *Hifzh al-Mahabbah fi al-'Alaqah al-Jinsiyah (Protecting Love in Sexual Relations)*

Sexual intercourse is a human right, which goes hand in hand with obligations. It was regulated in a marriage system in which a man and woman have the right to have intercourse and simultaneously carry out the obligations associated with this activity. This sexual act is not only matched with religious credos (*hifzh al-nasl*) but also with ethics and aesthetics of love because such a relation that violates love tends to result in chaos and uncertainty.

According to Islamic teachings, violating the sanctity of love in the relations between a man and woman must be avoided because it is a sin. Marriage is God's way of perfecting a life, as stated in the Sunnah of His Messenger. Therefore, man and woman must ensure this quality is kept sacred based on the reality of affection, empathy, peace, harmony, and passion. Through its transitive potency, love does not only lead to happiness, it also gives birth to spirit and courage to struggle, as well as make sacrifices for loved ones.

b. *Hifzh al-Mahabbah fi 'Alaqah al-Insaniyah (Protecting Love to Human Relation)*

One of God's divine provisions (*sunnatullah*) is to create human beings, with different skin colors, from diverse nations and belonging to various faiths. This is the reason every individual is bound to ethnicity, culture and tradition, and religious plurality with respect to the social perspective. To maintain this, a group of people in the society or *ummah*²⁷ are not allowed to dominate others. This is because it violates basic humanitarian rights, damages the life order, and destroys the divine provisions of God.

A nation is able to develop only because there is a sprouting love in the plurality of social relations. On the other hand, when there is a lack of awareness on the issue of love, it triggers evil intrigue, prejudice, revenge, and hatred, thereby destroying the nation's pride.

There is a need to refer to the basic postulate of Islam which is conceptualized as *maqasid al-shari'ah*. Islamic law does not only benefit a certain group, nation or *ummah*, rather it is universally applicable to all human beings, including the command to love everyone without exception. This is based on the teaching of Islam to protect and love its citizens or the *ummah* as it is inspired in the al-Qur'an with the term *al-ukhuwah* (brotherhood), both *al-ukhuwah al-Islamiyah* and *al-ukhuwah al-insaniyah*.

c. *Hifzh al-Mahabbah fi al-'Alaqah al-Kawniyyah (Protecting Love to Universe Relation)*

Based on a general perspective, the universal law of equilibrium is subject to the deterministic or probability law (*sunnatullah*). In addition to scientific explanations, al-Q³⁶an further stated that the source of the balance pattern is Allah (al-Qur'an, 54: 49). To Him belongs the dominion of the heavens and earth. He created all things while setting the measurements as neatly as possible (al-Qur'an, 25: 2). However, various disturbances have repeatedly violated the universe's equilibrium, which is evident in environmental crises.

Environmental crisis is triggered when humans interact economically with natural resources while ignoring conservation efforts.²⁸ As a result, environmental disasters have occurred in virtually all epicenters in the world, including Indonesia. This is undeniable evidence that humans and nature have

²⁷ The term "*ummah*" in the Qur'an and Sunnah, at least, can be classified as a nation; community or community group; religion or religious group; time or period; and also, leader or synonym with "*imam*." More broadly, "*ummah*" can also mean all human beings, even all living things. With these various meanings, nowadays, it is indeed more difficult to limit how the word "*ummah*" is functioned because since the emergence of the concept of the nation-state, at least for Muslims themselves, who are faced with the big problem of placing religion position in spatial-geographical political issues. This is a reality that Muslims must accept to enter a new phase of civilization. This also affects the reductionist meaning of the term "*ummah*" by some scholars: "all groups are gathered by something, such as religion, time or the same place, whether the collection is forced or at their will." At least, this last understanding can be used as a basis that "*ummah*" in the current context can be reduced to a group of people who live in one particular country (nation). For more information, see Dawam Rahardjo (2002), *Ensiklopedi al-Qura*²² Jakarta: Paramadina, p. 483. See also and M. Quraish Shihab (1996), *Wawasan al-Quran*, Bandung: Mizan, p. 326; F. M. Deny (1987), *Islam and the Muslim Community*, San Francisco: Harper and Row Publishers, pp. 10-11.

²⁸ A. Sonny Keraf (2010), *Etika Lingkungan Hidup*, Jakarta: PT Kompas Media Nusantara, pp. 57-53.

become increasingly hostile.²⁹ Indeed, these are not antithesis, neither are they perceived as dichotomous, rather humans nor their environment are recognized as a network of mutualistic symbiosis and compromising relationships. Therefore, the ability to structure, regulate, preserve, and maintain the relationship between these two (human and nurture), serves as a bridge to balance this harmonious relationship.³⁰ The capability to overcome the environmental crisis is no longer an individual obligation or just that of one or two countries, rather it is the shared responsibility of all nations globally. Religion also plays a significant role.

Islam has stated that the earth and everything in it were created for the benefit of humans. Therefore, they play an extremely important role in protecting their environment and maintaining a balanced universe. In nature, living and non-living organisms are closely related and influence each other in a system with a flow of energy. This is evident in the structure of food, biotic diversity, and the material cycle or the exchange of materials between living and non-living parts of an ecosystem.³¹

Fundamentally, Islam does not forbid humans from utilizing natural resources. Allah commands that they be taken care of, maintained, and preserved. This is a form of human responsibility and gratitude to those favored to utilize these resources. Islam asserts that human beings are not only allowed to utilize these resources but must also be responsible for protecting and maintaining their natural environment from exploitation (al-Qur'an, 7: 56).

d. *Hifzh al-Mahabbah li al-Wathan (Protecting Love for Motherland)*

To love motherland is not part of faith, rather it is the nature (*fitrah*) of every human being,³² for example, the Prophet Muhammad PBUH loved the city of Mecca, the place of his birth.³³ Even Allah reported that the level of abandoning the motherland is equivalent to suicide (al-Qur'an, 4: 66).³⁴ According to al-Qur'an, 9: 122, it is stated that defending one's motherland is also a sacred obligation.

Al-Tanthawi (1928-2010 AD) stated that patriotism (love) is the main trigger that causes a group of individuals to build an advanced society, which is realized through education. This is because the purpose of education is not only to increase knowledge but also to boost the nation's interests and patriotism.³⁵ To love one's motherland (*hub al-wathan*), is not only limited to material things, it also includes the movement of the nation and state. Surely, in this context, there are several ways to express love for one's motherland. One of the major attributes is how to protect the country from foreign powers and invasions from various forms of colonialism and imperialism. That is why, historically, virtually every nation has carved out or recorded countless names as heroes (*martyrs*) who have fused with the blood of their motherlands as proof of love.

Hifzh al-Wafa' (Protecting Faithful)

The third form of *al-dharuriyyah al-khamsah* is to protect the faithful, including those loyal and willing to make sacrifices for their religion (*hifzh al-din*). The classical version of *al-dharuriyyah al-khamsah* discourse was categorized in the first position, followed by *hifzh al-tsiqqah al-ijtima'iyah* (protecting social trust) and *hifzh al-wafa' li al-ummat wa al-dawlah* (protecting faithful for the nation and state building).

Linguistically, the term faithful is an adjective derived from the word "faith." It means belief, honesty, and trust, which is a trait that demonstrates loyalty, readiness to make sacrifices, maintain, strengthen, develop, and accomplish one's faith. In this case, the broad meaning of protecting the faithful (*hifzh al-wafa'*), both philosophically and sociologically, is not only related to religion but also to social trust and sustenance loyalty to the nation and state.

a. *Hifzh al-Din (Protecting Religion)*

One critical aspect of human nature is defending oneself, including their ideas and beliefs, which in this case is religion. The socio-psychological aspect has become the ideology of its adherents and, of course,

²⁹ Ahmad Thohari (2020), "Epistemologi Fikih Lingkungan Hidup: Revitalisasi Konsep Masalahah," *Jurnal Az-Zarqa'*, Vol. 5, No. 2, p. 146.

³⁰ Sukmawan (2016), *Ekokritik Sastra, Menangkap Sasmita Arcadia*, Malang: Brawijaya University Press, p. 6.

³¹ Zocri'aini Djamil Irwan (2005), *Tantangan Lingkungan dan Lanskap Hutan Kota*, Jakarta: PT Bumi Aksara, p. 23.

³² Quraish Shihab (2009), *Quraish Shihab Menjawab*, Jakarta: Penerbit Lentera Hati, pp. 424-425.

³³ Said Ismail Ali (2010), *Peta 8: Pendidikan Islam Paling Berpengaruh*, Jakarta: Pustaka Al-Kautsar, p. 281.

³⁴ Wahbah al-Zuhri (1996), *al-Munir fi al-'Aqidah wa al-Shariah wa al-Manhaj*, Damaskus: Dar al-Fikr al-Mu'ashir, p. 144.

³⁵ Hamka (1984), *Pandangan Hidup Muslim*, 3rd Edition, Jakarta: P.T Bulan Bintang, p. 220.

something that is inherent like every human being. Therefore, it is not surprising that people would always defend their ideology or what they believe, especially their religious belief (*al-iman*).

The problem emerges when the understanding of *hifz al-din* is overlapped with *shari'a*-based divine doctrines and *fiqh*-based intellectual products (between the sacred and the profane). This also includes when the intellectual products were ideologically packaged, which is believed to be final and absolute. Of course, this is counter-productive, and it, in turn, pullulates closed ideological understandings, thereby leaving no room for discussion. However, the essence is solely to attack or defend ideas apologetically.

Certainly, religious ideology is sacred and needs to be protected, although it requires absolute intelligence and wisdom to digest and sort out which are actually "sacred" and "profane," absolute and compromising. In other words, the obligation to protect religion (*hifz al-din*) is conditional and not something that needs to be defended blindly.

Even though religion for its adherents is the absolute truth, this does not mean that the practice should impose its will through violence. This common fact is known as a phenomenon of religious development in contemporary human relations, including the overstrung connections it has with the state, which is getting worse in various nations all over the globe. Therefore, religious moderation (*al-wasathiyah*)³⁶ is considered the solution to resolve this extreme atmosphere.³⁷ In the Indonesian context, for example, this approach in terms of being tolerant has been implemented in the people's lives with the protection of the government, especially since the acceptance of Pancasila as the basis of the state.³⁸

b. *Hifz al-Tsiqah al-Ijtima'iyah (Protecting Social Trust)*

In addition to the issue of protecting one's transcendental faith or belief, faithfulness can also be interpreted as some form of trust which appears in social relations built based on a shared belief in terms of social trust, which in turn creates mutual loyalty. It has become necessary to sustain and maintain this social trust, and in circumstances where it is not developed, then social relation becomes rigid, fragile, and easily terminated. This is because it is filled with suspicions, prejudice, and mistrust that cannot only hinder civilization but also cause conflict, resistance, chaos, and even war.³⁹

In the government's context, faithfulness in social trust is an important key to its sustainability. This is because if it fails to build social trust, its impact will be felt on the wheels of development. Furthermore, in certain circumstances, the government may face criticism, rejection, resistance, and even rebellion from the people when it fails to build social trust.

d. *Hifz al-Wafa' li al-Ummat wa al-Dawlah (Protecting Faithful for Nation and State)*

Another relevant form of faithfulness is loyalty to the nation and state. Any country that experiences its lack is bound to become weak certainly, their basic rights will be taken away, their dignity and authority will be trampled on by "foreigners," and they, in turn, will become enslaved people on their land, straying away, fragile, and even be perceived as humiliated travelers. Therefore, the existence of a nation and state can only be maintained by being faithful (loyalty), and this is strongly felt in its national values.⁴⁰

Among these national values found in the foundation and philosophy of the state, there are laid down constitutions, laws, and local wisdoms that exist and develop in the people's life. It is based on its foundation and philosophy that a country is developed and then regulated through enacted legislation that needs to be protected to avoid deviating from the basic national legal framework. In this case, it is not permissible to violate these laws because it can be considered some form of betrayal to the nation and state. For example, in Indonesia, it is not allowed for some persons or groups of people to do something contrary to the principles, forms, or policies of the state, such as trying to change the perceived ideology of the Pancasila, planning coup d'état, or rebelling against the constitutional government.

³⁶ Ali Muhammad al-Shalabi (2011), *al-Wasathiyah fi al-Qur'an*, Cairo: Maktabat al-Tabi'in, pp. 13-15.

³⁷ John L. Esposito (2005), "Moderate Muslims: A Mainstream of Modernists, Islamists, Conservatives, and Traditionalists," *American Journal of Islam and Society*, Vol. 22, No. 3, pp. 11-23.

³⁸ Ministry of Religion of the Republic of Indonesia (2019), *Moderasi Beragama*, Jakarta: Balitbang Kementerian Agama RI, pp. 43-46.

³⁹ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, p. 63.

⁴⁰ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, pp. 63-64.

Hifzh al-A'radh (Protecting Dignity)

The existence of *dignity* is inherent in human nature therefore, the urge to protect it becomes something that is *qath'iyah* (definite). Naturally, assuming a person wants to be honored or become honorable, they must make a maximum effort as well as is ready to sacrifice his own life. At the same time, the individual is obliged to maintain this attribute, although sometimes the honor being sought tends to be enjoyed later in a different world and time.

This research reported three dignity classifications in the *ad-dharuriyyah al-khamsah* based on the perspective of Transitive Islam. These are *hifz al-a'radh as-syakhshiyah* (protecting personal dignity), *hifz al-a'radh al-ijtima'iyah* (protecting social dignity), *hifz al-a'radh al-jaami'ah* (protecting institutional dignity).

a. Hifzh al-A'radh as-Shakhshiyah (Protecting Personal Dignity)

Every individual wants to be honored because they will not be able to socialize without self-respect or dignity. This is a reason why everyone always attempts to develop and create their capacities with various skills to obtain dignity. This is because it shows the position and existence of oneself among his social relation. Regarding the fact that dignity is strongly related to one's social position and existence, it needs to be protected and maintained, besides blood and property, as was reported by the Prophet Muhammad.⁴¹

An explanation of personal dignity related to self-respect can be viewed from various perspectives. For example, from the viewpoint of creation where humans were perfectly formed (QS. al-Tin: 4) with physical faculties, feelings, soul, and reason in the wrapping of a charming and aesthetic artistic God.⁴² All these must be protected, including respecting and appreciating one's social relations. This is because protection is a legal order to keep and save human rights according to God's laws and humanitarian policies.

In social, national, and state life, everyone has the basic rights both in the context of self-existence and fulfillment of personal needs and desires, which are not only a part of individual obligation but also institutional. However, in this case, the state is also obliged to provide certain facilities, such as job employment, for the people to earn a living, thereby fulfilling their basic rights, among others: foods, clothes, education, freedom of expression and speech, and these are a standard determinant of dignity.

It should also be understood that one's dignity is also dependent on moral and non-moral values that are directly felt by societies because it becomes existent when it is appreciated by the society. This is, indeed, one aspect of *dharuriyyah* in human life that must not only be protected and maintained but also has to be achieved and developed.

b. Hifzh al-A'radh al-Ijtima'iyah (Protecting Social Dignity)

This study divides *Hifz al-'Aradh al-Ijtima'iyah* (social dignity) into four types. **First**, *Hifz al-'Aradh al-Usrah* (Protecting Family Dignity). Several idioms are related to family dignity, frequently used in society. Among them is "*family is the first*" this expression implies that the family is the beginning of social life where the father, mother, and children (nuclear family) gathered in eternal love, share the same fate, joyful and sorrowful feelings, as well as make sacrifices to ensure a coveted future, both on earth and hereafter.⁴³ Its sustenance is related to the fulfillment of the quantity and quality of material and the immaterial things with the breath of love, future goals, norms, values, ethics, and family aesthetics wrapped with religiosity (Surah al-Tahrim: 6). Of course, a family's dignity is closely related to how much material and immaterial needs can be fulfilled. All efforts to obtain it become *dharuriyyah*. However, assuming any effort to degrade it, each family member must go against such an act.⁴⁴

Second: *Hifz al-'Aradh al-Tawashul al-Ijtima'iyah* (Protecting Community Dignity). Every individual is expected to interact with society because only by so doing can such a person develop. However, this

⁴¹ Muhammad ibn Ismail al-Bukhari (2006), *al-Jami' al-Musnad al-Shahih al-Mukhtasar min Umur Rasulullah Shallallahu 'Alaihi Wassalama wa Sunanihi wa Ayyamihi*, No. 7078, Riyadh: Maktabah ar-Rusyd, pp. 974-975.

⁴² Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, p. 66.

⁴³ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, pp. 67-68.

⁴⁴ Isdawati Siregar (2015), "Urgensi Konseling Keluarga dalam Menciptakan Keluarga Sakinah," *Jurnal Hikmah*, Vol. 2, No. 1, 81; Mufidah Ch. (2014), *Psikologi Keluarga Islam: Berwawasan Gender*, Malang: UIN-Maliki Press, pp. 43-44. See also Anung Al Hamat (2017), "Representasi Keluarga dalam Konteks Hukum Islam," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam*, Vol. 8, No. 1, pp. 151-152.

does not deprive them of certain basic ideas and reflections. This is because every community, ethnicity, or tribe has social instincts, even though they are already in a social amalgamation, striving to maintain their norms, values, ethics, aesthetics, and traditions that are existent and applicable in the community.

All concepts of this social reflection are something inherent in every individual or member of a community, ethnicity, or tribe. Of course, without being ordered, they already have a strong desire to maintain, preserve and defend it as a reflection of dignity. Furthermore, it is not justified to ignore or negate the dignity of any community (al-Qur'an, 49: 13).

Third, *Hifz al-'Aradh al-Qaumiyyah* (Protecting Nation Dignity). In the history of human civilization, a state is born and recognized for its dignity after the people must have passed through the struggles of life and death as a nation. These could be in the process of their formation, and they could also be in the process of maintenance and development.⁴⁵ The life-and-death struggle starts with an urge and desire to clarify and strengthen the nation's inner values that grow and bind each individual as a large community under one sovereignty (government order) to achieve their aspiration together.

These ideals constitute the noble values of a nation which are cyclically intertwined with national movements. Therefore, everything inherent and born with a mind, soul, power, and creativity, including national products, is perceived as valuable and must be protected and maintained. It need not be negated or despised by a single group of people. Therefore, in this case, loving, protecting, and maintaining various national products are regarded as the nation's pride and dignity.

Historically, maintaining a nation's dignity has been taught by the Prophet Muhammad through the Medina Charter. It defined freedom of religion, inter-group relations, and the obligation to maintain unity by building a stable order involving all groups, irrespective of the fact that they differ in race, lineage, class, and religion.⁴⁶

Fourth, *Hifz al-'Aradh al-Ummah* (Protecting Muslims Dignity). In the previous section, *al-Ummah* explained humanity in general, while in the present, its meaning places certain restrictions on the Muslim community. The Qur'an explicitly states "that the believers (Muslims) are bound in brotherhood" (al-Qur'an, 49:10). This is as strong as genealogical and fraternity brotherhood. Likewise, the Hadith of the Prophet says that Muslims are like a body that feels the same in health and sickness, pleasure and pain, happiness and suffering, etc.

The strength of the inner bound among the Muslims has been tied eternally. This confirms that they are devoted to a particular goal and are committed to an agreement to live by utilizing all the gifts from Allah to build a civilized nation. The fulfillment of this sacred agreement is closely related to the realities of life that are bound to the values of brotherhood. These include truth, justice, welfare, respect for basic rights, love and compassion, as well as mind and power (creativity-production), which are sociologically transformed into some form of dignity and, at the same time, are perceived as pride and existence of the *ummah*.

Therefore, the maximal operation of the *ummah* movement in the development of global competition is a necessity that every Muslim acknowledges. Irrespective of the fact that, in reality, some try to destroy it, it should not be used as a reason to stop. This is because maximization is an art of competing and, at the same time, risking self-respect and dignity to sustain the existence of the *ummah*, in this case, the Muslim people.

Maintaining the dignity of Muslims starts with the development of qualified individuals with strong faith and noble character and ready for total submission to Allah's will, as the Prophet historically illustrated when he visited Mecca. In the second stage, the formation of a *sakinah* household is reflected in the family's balance of rights and obligations. The formation of such a household allows a Muslim community to arrive at the characteristics of *khairah ummah*.⁴⁷

⁴⁵ Ansari Yamamah (2019), *Islam Transisi: Filsafat Milenial*, p. 68-69.

⁴⁶ (43) Had Sukardja (1995), *Piagam Madinah dan UUD 1945*, Jakarta: UI Press, p. 3.

⁴⁷ H. A. Djazuli (2007), *Fiqh Siyasah: Implementasi Kemaslahatan Umat dalam Rambu-Rambu Syariah*, Jakarta: Kencana, p. 259.

c. *Hifzh al-A'radh al-Jami'yyah (Protecting Institution Dignity)*

Protecting the dignity of an institution is important because, both naturally and sociologically, humans are social creatures who like to group themselves into a bound of institution, whether consciously or unconsciously. This aids them in executing the vision and mission statement in a unified and comprehensive manner. Even to some extent, a person can obtain his identity, dignity, and honor through an institution.⁴⁸

The phrase “humans are born alone” needs to be reexamined because this expression seems to have a psychological effect that promotes individualistic behavior for a person in the vortex of social relations. In fact, no individual was born alone, rather are usually preceded by a bond of institution between two persons of different genders and some people who are related by birth, regardless of whether or not it was expected.

Furthermore, humans need the involvement of various parties to obtain various needs, desires, and goals they want to achieve as individuals and as part of a social group. Of course, this collectivity or togetherness habitually appears in the form of an institution or other organized group.⁴⁹ Moreover, no one can virtually achieve his needs, desires, and goals without the presence of an institution. For example, the institution that facilitates the fulfillment of physiological and physical needs is a person's place of work.⁵⁰

Hifzh al-Shu'un al-Ijtima'iyyah (Protecting Social Welfare)

As previously explained, the fifth part or classical version of the concept of *al-daruriyyah al-khamsah* is *hifz al-mal* (protecting property). To a larger extent, *hifz al-mal* in this perspective, seems to be more individual and partial because not everyone has the opportunity to maintain or take care of his property. In circumstances where a person does not possess property, what item does he intend to protect? Therefore, the concept of *hifz al-mal* in respect to *al-daruriyyah al-khamsah* and the Transitive Islamic version was expanded with the term *al-shu'un al-ijtima'iyyah* (social welfare). In this section, welfare is distinguished into two types: individual (*as-syu'uni al-syakhsyiah*) and social (*as-syu'uni al-ijtima'iyyah*).

The term *welfare* is not only related to the protection of property rather it is closely associated with the needs and maintenance of various other aspects of life. These include social and psychological aspects, law enforcement-ethical norms, respect, care and fulfillment of rights, availability of jobs, as well as personal and communal forms related to the rationality and availability of these needs.⁵¹

Welfare is a problem that has become a major concern globally, in which countries and international institutions try to agree on certain standards of measurement. Therefore, the United Nations attempted to formulate a universally applicable welfare variable, often called the Human Development Index.⁵² This concept is increasingly complemented by other calculations with a broader scope in The Legatum Prosperity Index with indicators of 1) Economic Quality, 2) Business Environment, 3) Government, 4) Education, 5) Health, Security, 6) Individual freedom, 7) Social capital, and 8) Natural resources.⁵³ The welfare dreamed of by each individual cannot be realized with personal will and strength. A larger platform and pool of power through the state and government is required. The state must realize the welfare of all its citizens with the strength and power to avoid social inequality.⁵⁴

Interns of the nation-state, at least two proposals are always discussed on how people achieve a prosperous life: **First**, the state is expected to expand its responsibilities to overcome the social and economic problems faced by the people. Therefore, the state is not only responsible for protecting its citizens but also needs to ensure the social and economic welfare of the people.⁵⁵ In this case, the government is required to provide free social services, such as health and education, and cash assistance

⁴⁸ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, pp. 71-72.

⁴⁹ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, pp. 73-74.

⁵⁰ Ibn al-Qayyim al-Jawziyyah (2008), *L'lam al-Muwaq'i'in 'an Rabb al-'Alamin*, Vol. III, Riyadh: Dar Ibn al-Jawzy, p. 148.

⁵¹ Ansari Yamamah (2019), *Islam Transitiif: Filsafat Milenial*, pp. 75-76.

⁵² United Nations Development Programme, accessed on 22nd March 2022, <https://hdr.undp.org/>.

⁵³ “2016 Legatum Prosperity Index (10th Edition),” *Legatum Institute*, accessed 24th March 2022, <https://li.com/reports/2016-legatum-prosperity-index-10th-edition/>.

⁵⁴ C. S. T. Kansil and C. S. T. Kansil (2002), *Pemerintahan Daerah di Indonesia*, Jakarta: Sinar Grafika, p. 166.

⁵⁵ William A. Robson (2019), *Welfare State and Welfare Society: Illusion and Reality*, New York: Routledge, p. 14.

to the people when they cannot work. The roles, functions, and responsibilities of the state in prospering its citizens are one of the main goals of the welfare state government system.

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Second, to improve the welfare of the people, the state is obliged to create employment opportunities for its citizens and not by providing subsidies through a direct assistance scheme, such as contemporarily applied in Indonesia. This direct assistance model is suitably employed when the community is experiencing a disaster or a post-major situation. The second one is considered the government's effort to build an independent, creative, and hard-working society.⁵⁶

Not only in the West, but in Islam welfare is also in the spotlight of the scholars (*ulama*), and it is the epitome of all Islamic law. In other words, it is an aspect of *al-daruriyyah* that must be achieved and fulfilled. Moreover, when associated with the concept of *maqashid al-sharia*, it is evident that the aim of human motivation to engage in economic activities is to fulfill certain needs in the sense of obtaining the benefit (*mashlahah*) for the world and the hereafter. Others are bound to follow when these basic human needs have been met. In the Islamic conception, welfare is symbolized in *hayyat tayyibah* (happy life) and *falah* (victory),⁵⁷ as stated in al-Qur'an, 16:97, and 22:77.

Comprehensively, the conditions to realize both individual and social welfare in the critical reading of Transitive Islam can be measured with the following indicators income per capita, health, education, employment, consumption, housing, and socio-culture. However, this is not enough because some people who already have houses, vehicles, deposits, and other properties occasionally feel restless, uneasy, frightened, and some even end their lives by committing suicide. Therefore, aside from material welfare, emphasis should be placed on the moral-spiritual aspect. This is Islam's aspiration, namely, to comprehensively improve humanity's material (economic) and spiritual welfare. It tends to give birth to the social welfare of the society, nation, and state. This is, indeed, the only goal of the state.

Conclusion

In modern Usul Fiqh discourse, *maqashid al-shari'ah* is used as a research subject for secondary reasoning and as the final phase in validating legal findings based on linguistic (*lughawi*) and analytical (*tahlili*) methods. Until al-Shathibi, there has been no development of methodological aspects and postulations.

On the other hand, the concept of *al-dharuriyyah al-khamsah* presently exists does not clearly explain who is most responsible for fulfilling the *al-dharuriyyah* aspect. In fact, in the history of Islam, Prophet Muhammad emphasized the teachings of Islam unified as a whole to bring solutions to social problems. There are some additions to the concept of *al-dharuriyyah al-khamsah*, namely *hifzh al-bi'ah*, *hifzh al-ummah*, etc.. Still, these have not directly handled the growing problems faced by human beings in this post-modern era. A wider perspective of the *al-dharuriyyah al-khamsah* becomes a must, including a state's role, function, and obligation to take part in realizing the proposed concept in this research.

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²⁹ 16 Legatum Prosperity Index (10th Edition), "Legatum Institute, accessed 24th March 2022, <https://li.com/reports/2016-legatum-prosperity-index-10th-edition/>.

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