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### Online Wedding During Pandemic the Perspective of Maqāṣid al-Syar'ah Imam al-Ghazāli

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**Abstract:** Marriage is a primary and sacred need that is specifically regulated by religion. The sacred process in legalizing the relationship between men and women to prevent adultery and heinous acts. The multi-needs nature of marriage as a biological need and a social need must face problems with the Covid-19 virus that has hit all over the world and has stopped all social activities, including marriage. This article aims to examine how al-Ghazali with the construction of Maqāṣid al-Sharīah explores new laws in determining the permissibility of online marriage as a marriage solution during the Covid-19 pandemic. This research method uses a qualitative approach with the document study. The findings of this study: consideration of 4 (four) emergency arguments and “very Ḍarar” dalil, and belongs to category categories of sensory Ḍarar indrawi and Ḍarar ‘ājilan. Assumptions offered by al-Ghazali include Al-Ḍarar Yazālu, Al-Ḍarar Yudfa’u Biqadri al-Imkāni considering the emergency conditions in which Al-Ḥāḓaḓ Tunzilu Manzilat al-Ḍarūrat ‘Āmat Kānata au Khāṣah and its Daf’a al-Qawāṭi’a. The conclusion of this study is that need for an online marriage that requires immediate action in the Covid-19 emergency because it is included in public and private problems around the world.

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**Introduction**

Marriage is a sacred and sacred process that legalises the relationship between a man and a woman following religious rules, social norms, and state law (Fallahchai dkk., 2021). There is no other way in any religion that allows a male and female relationship legally except marriage (Nasir, 2020). *Akad* is a ritual in the marriage that justifies what was previously forbidden (Almabrouk dkk., 2012). In Indonesia, marriage is a very important thing that requires special regulations. Even though there is already Islamic law that fully regulates marriage matters, various conditions of the times and changes in Muslim society, especially Indonesia as the largest Muslim population in the world, require such regulation.

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The regulation is regulated in Law Number 1 of 1974 concerning marriage. It is stated that a marriage is valid if it is under the rules of each religion and belief. This shows that there are opportunities to change the dynamic conditions of the times, including the procedures for implementing marriage. But for Islam, apart from being regulated by State Law, it is also regulated through the Compilation of Islamic Law. This law lasted for 45 years until the era of President Jokowi changed the regulations into Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning marriage. The emphasis of this change is on the generalisation of the age of marriage for men and women of at least 19 years (Ilma, 2020).

But what has happened recently, especially at the beginning of 2020, is the world is being hit by a deadly virus that has completely stopped all social, religious, economic, educational, and other activities (Iachini dkk., 2021). Social restrictions hamper the wedding procession in Indonesia. The government's ban called PSSB (*Pembatasan Sosial Berskala Besar* - Large-Scale Social Restrictions) and PPKM (*Pemberlakuan Pembatasan Kegiatan Masyarakat* - Enforcement of Restrictions on Community Activities) has completely stopped community activities, including weddings. Many wedding plans that were supposed to be held that year had to be cancelled. This, of course, led to social conflicts and religious polemics that had to be resolved immediately. Not only that, but the problem of marriage is also faced with other problems such as the long-distance separation, which requires people to use online media as a means of marriage.

The problem is that Islamic law and positive law (Law No. 1 of 1974 concerning Marriage, amendments to 2019, and the Compilation of Islamic Law) do not accommodate or specifically regulate marriage rules or laws through telecommunications technology, while the development of information technology is faster and faster. When compared with the development of legal substance. Recently, the Indonesian Ministry of Religion forbade people to hold marriage contracts online (CNN Indonesia, 2020). The marriage contract via information technology is a case that has never happened at the time of the Prophet Muhammad, his companions, and the *tabi'un*. Until now, Islamic law experts (*fuqaha*) have different opinions (*ikhtilaf fuqaha*) in this case (Hafidh Ahmad al-Hakami, 2002; Mahmud al-Tahhan, 2010; Muhammad Shalih al-'Ustaimin, 1994; Mushthafa bin al-'Adawi, 1990). Among the sources of differences in legal status are the concepts of *ittihad al-majlis* (unity of place) and *al-isyahad* (witness). To answer this case, Imam al-Ghazāli with his *maqāṣid al-sharī'ah* theory deserves to be used as a reference. Imam al-Ghazāli, who in the book *Siyar A'lām al-Nubalā'* is nicknamed "Ḥujjah al-Islām", the caretaker of Islam (Khairu al-Din Sayib, 2012). In Indonesia, especially among pesantren, he has an excellent reputation and significant influence, because of the fame of his scientific works, especially the books of *Ihyā' 'Ulūm al-Dīn* and *Bidāyah al-Hidāyah* (Hamat, 2021; Vasalou, 2021). Imam Ghazali was made the primary reference by Nahdlatul Ulama (NU), the largest religious organisation in the world in guiding Sufism (Howell, 2014).

This article examines what Abraham did not examine where virtual marriage in Indonesia is influenced by the illusion of intimacy formed by

online dating platforms (Abraham, 2016). The continuation of this research was continued by Dalton, who found that online konkatsu became a trend for teenagers and adults in Japan who had difficulty getting married because of the principles of gender and career (Dalton, 2016). This study gave birth to new findings that the construction of virtual marriages is not based on a strong legal basis, thus causing ambiguity tolerance in the acceptance of virtual marriages as Abraham's findings. In Indonesia, Islamic law is the main foothold after legislation, where the jurisprudential answer affects regulations formed by the state. Through the excavation law of *maqāṣid al-sharī'ah* al-Ghazālī contributed really that the marriage procedure under certain conditions became a suggestion that represented that Islamic law was very dynamic and flexible with the times.

### Research Method

This research uses a qualitative approach with the document study method (Aspers & Corte, 2019; Salminen dkk., 1997). Because of the documents studied, this research is classified as a literature study. The documents excavated were the books and statements of al-Ghazali in his *Maqāṣid al-Sharī'ah* concept of extracting marriage law in times of emergency. The second document of the book discusses marriage and contemporary books and scientific journals. These documents were analysed using the document triangulation technique (Natow, 2020).

### Discussion and Results

#### Al-Ghazali and Maqāṣid al-Sharī'ah Construction

Abu Ḥāmid Muḥammad bin Muḥammad al-Ghazālī al-Ṭusī al-Shafīī popularly known as imam al-Ghazālī is a famous 'in the Islamic world and a philosopher, theologian, and Islamic thinker from Thus, Persia. In the Latin tradition, imam al-Ghazālī is known as *Algazel* (Minnema, 2014). This term is then also popular in the Western world. The name al-Ghazālī became increasingly popular after he wrote a phenomenal book of philosophy and Sufism called *Ihyā' Ulūm al-Dīn* (Janssens, 2011). This book is considered a representation of al-Ghazālī as a 'ulamā who is respected by the world and has religious authority over the legitimacy of Islamic laws (Ibrahim, 2016).

Maqāṣid al-Sharī'ah are ideas, ideas, and concepts in Islamic law that reinforce that Islamic teachings (sharī'a) were revealed to achieve certain goals (Alhammedi, 2020; Kamali, 1999). The idea is extracted from two primary sources (al-Qur'ān dan Ḥadīth) to decide cases or problems in Islamic law for which there is no evidence that mentions it. The purpose in the decision's idea was taken based on *al-Uṣūl al-Khamsah* which pivots on the benefit of religion, namely *ḥifẓu al-dīn* (guarding religion), *ḥifẓu al-nafs* (guarding the soul), *ḥifẓu al-naṣl* (keeping offspring), *ḥifẓu al-'aql* (guarding reason), dan *ḥifẓu al-māl* (guarding property). The formula used in every effort to maintain al-Uṣūl al-Khamsah is called *maṣlahah* and vice versa. Anything that destroys al-Uṣūl al-Khamsah is called *maṣadah*.

The law extracted from Maqāṣid al-Sharī'ah can be used as ḥujjah because Prophet Muhammad PBUH was sent for the benefit of the in an infinite reality. The rules in the principle of extracting the law of Maqāṣid al-

Sharī'ah are sorted from *ḍarar* (damage, loss), emergency conditions that require handling, taking advantage and preventing damage, minimising risk, and prioritising benefit. Meanwhile, the division of maṣlaḥah rules is based on the objectives of *al-maṣṣud al-dīny* and *al-maṣṣud al-duniyawy* with the power of emergency essence, desire (hajāt), and tahsinat/tazyinat/taisirat/tausiat. The reinforcing arguments used in Maqāṣid al-Sharī'ah range from *al-mu'tabarrah*, *mulghah*, *ghāribah*, and *maṣlaḥah mursalah*. Maqāṣid al-Sharī'ah cannot be used in every condition. The conditions for the application of Maqāṣid al-Sharī'ah are if there are no arguments in the main texts of Islamic law and are not contradictory, meet the criteria of al-Uṣūl al-Khamsah, do not violate sharia principles, are in an emergency, and are *maṣlaḥah* safeguards to prevents *maḥṣadah*.

In Maqāṣid al-Sharī'ah, al-Ghazālī is considered a “reformist” who restores Islamic religious knowledge to its former glory (Belhaj, 2015), where previously there had been confusions in Islamic studies influenced by Greek philosophy and Western science (Kock, 2011; Marmura, 1965). As the book claims, he wrote; *Tahāfut al-Falāsifah*, al-Ghazālī opposes the claims of epistemological, philosophical superiority put forward by Muslim philosophers quoted from the West (Aini, 2016). Baderin assessed that the theory of Maqāṣid al-Sharī'ah had a powerful influence in his era until Islam entered modern times (Baderin, 2007). The illustration of the strong influence Maqāṣid al-Sharī'ah al-Ghazālī theory is used within the framework of Islamic law method to al-Shaṭībī as well Thahā Jābir al-'Alwānī who quotes Maqāṣid al-Sharī'ah al-Ghazālī in translating the verses of the al-Qur'ān on religious freedom (Fawaid, 2017). For his actions and thoughts, al-Ghazālī received recognition from the Muslim community, which gave legitimacy that what al-Ghazālī brought was a normative role model that must be carried out in religion.

The DCT (Divine Command Theory) theory proposed by the West in the 13th century has also been answered by al-Ghazālī long before (Malik, 2021). The influence of *Ghazaliyah* has echoed in the Western world as a reconstruction of confused thinking in overcoming the problems of society. The use of Naqli and 'Aqli used by al-Ghazālī in Islamic jurisprudence has brought a balance where the combination of the two was separated and abandoned by Muslims in several centuries (Hamat, 2021).

For this balance, al-Ghazālī uses 4 (four) concepts of Maqāṣid al-Sharī'ah in his Uṣūl Fiqh book (*al-Qiyās, al-Mankhul, Shifā' al-Ghalil, dan al-Mustaṣfa*) (Badawī, 2000). The concept that was born by al-Ghazālī at least got opposition from several groups. The first group is from among Ibn Hazm and Dzahiri who consider that Maqāṣid al-Sharī'ah is just an imaginary expectation and does not deserve to be used as a basic guideline for Islamic law. The second group accepts Maqāṣid al-Sharī'ah but with various conditions and considerations. The second group was driven by jurists from the Hanafi, Malikiyah, and some Hambaliyah and Shafiiyyah circles. Meanwhile, the last group that fully accepted Maqāṣid al-Sharī'ah as evidence in Islamic jurisprudence was followed by Najmuddin al-Ṭufī dan al-Shaṭībī. For Najmuddin al-Ṭufī, there is a stronger proposition than al-Qur'ān, Ḥadīth and Ijmā' namely *al-Maṣlaḥah* which according to him is an

independent legal proposition, even if the three sources are relevant, the priority is *al-Maṣlaḥah (dalil shar'i mustaqil)* (al-Thufi, 1993).

According to Tabrani, the renewal of Islamic family law through Maqāṣid al-Sharī'ah is a must where the problems of the ummah in an era full of change require quick solutions and are in line with the substance of the problem. It is impossible to use outdated arguments that are very irrelevant to the substance of the problem, which results in the inaccuracy of the expected solution (Tabrani, 2018). Besides al-Qur'ān, Ḥadīth, Ijmā', Qiyās there are also *Istihṣān, Maṣlaḥah Mursalah, Shar'u man Qablanā,* and *'Urf* as approaches to understanding the context of increasingly complex problems of Islamic law (Maulidizen & Raihanah, 2019). Therefore, Maqāṣid al-Sharī'ah imam al-Ghazālī and his legal exploration as a solution to marital problems in an era that requires things like this are carried out.

### Online Marriage Law from the Perspective of Maqāṣid al-Sharī'ah Al-Ghazali

Online marriage law must consider the assumption of emergency, with the aim of *ḍarar* to be eliminated immediately, preventive in taking the law and reconstructing the concepts of *ittihad majlis* and *ishhad*. The explanation of each step is explained in the following explanation.

#### a. Emergency Condition

Al-Ghazali in his Maqāṣid al-Sharī'ah must be at an emergency level (*الواقع في رتبة الضرورات*) with the assumption that the emergency is by sharia rules, and not the will of human lust. Emergency (*الضرورات* atau *al-ḍarūrāt*) has the meaning of a need or difficulty that cannot be prevented (Jizani, 1428). In the terminology of the fuqaha, the emergency has a comprehensive meaning (*shāmil wa jāmi'*) namely:

“a condition when humans experience danger, difficulty, crossing boundaries that can interfere with mental health, body, self-esteem, the reason so that they take actions or leave or end obligations in implementing Islamic law” (Zuhaili, 1985).

Dalam In Islamic law, the emergency has provisions (*dawābiṭu*) as requirements that make the condition called emergency: (1) the condition called emergency is based on actual conditions and not assumptions; (2) performs a prohibited act to eliminate harm, and does not intend to enjoy it; (3) does not violate the limits of shari'ah rules; (4) eliminating danger with a certain measure and time, not obeying lustful desires; (5) eliminating a hazard is not followed by a similar hazard; (5) the emergency in question is in a public problem.

Some of the fiqh rules that explain emergency conditions include:

- (1) *Al-Ḥājat Tunzilu Manzilat al-Ḍarūrat 'Amaṭ Kānata au Khāṣah (الحاجة (تنزل منزلة الضرورة عامة كانت أو خاصة*) which means a need that requires and is in an emergency position, both in the public and private spheres (Suyuthi, 1983).

- (2) *al-Ḍarūratu Tubīhu al-Maḥzūrāti* (الضرورات تبيح المحظورات) which means it is an emergency condition that allows doing unlawful or forbidden acts (Isma'il, 1997).
- (3) *Mā Ubīhu Liḍḍarūratu Yuqaddaru Biqadrihā al-Ḍarūratu Tuqaddaru Biqadrihā* (ما أبيع للضرورة يقدر بقدرها/الضرورات تقدر بقدرها) which means performing unlawful acts in emergency conditions is measurable or modest (Bahisaini, 2011).
- (4) *Al-Mashaqqat Tajlib al-Taysir* (المشقة تجلب التيسير) so difficulties can bring ease (Hariri, 1998).

b. Ḍarar (Damage)

Ḍarar means less or *nuqṣān* (نقصان), *ḍayyiq* or narrow (ضيق) and *sū' al-Ḥalī* or bad condition (سوء الحال) (Muwafi, 1997). Al-Ghazali in Maqāṣid al-Sharī'ah states that ḍarar must be prevented and eliminated. The assumption put forward by al-Ghazali is *al-Taḥṣīli Bijalbi al-Manfa'ati al-Ibqāu Bidafi al-Muḍarati* (التحصيل بجلب المنفعة، الإبقاء بدفع المضرة). Next al-Ghazali prefers *ḍarar* which is stronger or more beneficial with the assumption that *Galabaṭ al-Zanni wa Tarjih al-Aqwā* (غلبة الظن و ترجيح الأقوى), also assumes that preventing ḍarar intending to minimise risk or *sal-Ḥasmu wa al-Taqlīlu* (الحسم والتقليل).

In Islamic law, ḍarar has a classification, among others. First, based on its scope, there are *ḍarar general* by most society (the public), and *ḍarar specific* only by individuals. Second, based on the legal liability: there is *ḍarar mashru'* which is not prohibited by sharia, for example, sharia punishment (*ḥudūd*); and *ḍarar ghair mashru'* namely ḍarar which is forbidden because it can harm oneself and others. Third, based on the place, there are sensory *ḍarar indrawi* (*mādiy* atau مادي) is ḍarar that occur in physical things such as bodies, objects, and property; *ḍarar meaningful* namely ḍarar meaningful things such as religion, morals, social, and ethics. Fourth, based on the material content such as fast ḍarar (*ḍarar ājilan* or ضرر عاجل) is ḍarar whose level of danger spreads quickly, such as poison, fire, and enormous waves, and others; Slow ḍarar (*ḍarar ajil* or ضرر أجل) is ḍarar whose effects run slowly, such as consuming unhealthy drinks and food, inhaling air pollution, and so on.

Some of the fiqh rules that explain the conditions of ḍarar include:

- (1) *Al-Ḍarar Yazālu* (الضرر يزال) that ḍarar must be removed immediately.
- (2) *Lā Ḍarar walā Ḍirāra* (لا ضرر ولا ضرار) that ḍarar does not cause damage or harm to other people
- (3) *Al-Ḍarar Lā Yuzālu Bimithlihi* (الضرر لا يزال بمثله) that ḍarar the damage is still the same.
- (4) *Al-Ḍarar Yudfā'u Biqadri al-Imkāni* (الضرر يُدفع بقدر الإمكان) that ḍarar should be rejected as much as possible.
- (5) *Al-Ḍarar al-Ashaddu Yuzālu Bi al-Ḍarari al-Akhaffi* (الضرر الأشد يزال بالضرر الأخف) that ḍarar is more damage that can be eliminated as much as possible with less damage.
- (6) *Dar u al-Mafāsidi ūla man Jalab al-Maṣaliḥa* (درء المفسد أولى من جلب المصالح) that resisting damage is better than bringing benefits.



- (7) When there are two simultaneous damages, then prioritise dealing with the lighter one.

### **Online Marriage in the Covid-19**

As previously mentioned, at the beginning of 2020, Indonesia was hit by a deadly virus called Covid-19 which has hit the entire world since late 2019. The prohibition of interacting with other people, even with their relatives, has given rise to a big phenomenon called social distancing (Qian & Jiang, 2020). In Indonesia, *Pembatasan Sosial Berskala Besar* or Large-Scale Social Restrictions (PSBB) have been imposed and followed by *Pemberlakuan Pembatasan Kegiatan Masyarakat* or the Restrictions on Community Activities (PPKM) which are currently in effect in 2021. The social prohibition has also cancelled the wedding agenda in several areas, and even led to the failure of marriages. This led to mass conflict where marriage was one of the urgent needs advocated by religion. Saving lives is the top priority.

In some areas, there have been internal family conflicts that have led to public polemics, which require that marriage in this pandemic period be immediately given a solution. For example, the first case of online marriage during the pandemic occurred with the wedding couple, Kardiman bin Haeruddin (the groom) and Febrianti bin Hasanuddin in Kolaka Regency, South Sulawesi. The chronology of the marriage contract had to be carried out online because the marriage contract had been determined on March 25, 2020, while the initial occurrence of the Covid-19 virus spread in Indonesia on March 2020. Febrianti is a woman from Kolaka, while Kardiman is a Bajoe, South Sulawesi employee who is an employee in Surabaya, East Java. Three days before the wedding, Kardiman was blocked by the closure of access to Kolaka to prevent the virus link and quarantine for 14 days. The reason for the absence of spread and prohibition of access to the area was forced Kardiman and his extended family to decide to hold the marriage contract via video telephone which was approved by the families of the bride and groom, the head of the village, and the local government.

The second case occurred in a partner who tested positive for the Covid-19 virus. Dessy Fauziah is the bride who was exposed to the virus and was forced to undergo quarantine for healing at Rusunawa IAIN Tulungagung, East Java. The marriage ceremony was carried out by Andri Ansyam as the groom at the KUA in Pakel District, Tulungagung, East Java. The moment of Ijab Qobul is carried out separately with online help. The process was solemn and several parties, including the KUA and Dessy and their families, watched the wedding online during an emergency because of a deadly virus.

In response to this, the government, as the one responsible for deciding the solution to the problem, issued several policies. The Directorate General of Islamic Community Guidance (Directorate General of Islamic Guidance) issued a circular letter of online marriage registration on April 1, 2020, through a website provided by the Director General of Islamic Guidance. Previously on March 19, 2020, the Director General of Islamic Community Guidance issued Circular No. 2 of 2020 concerning the Appeal and

Implementation of Health Protocols in Handling Covid-19 in Public Areas which states: “Postponing all forms of mass gathering activities such as wedding receptions and religious events to avoid crowds” (point E number 1 letter d). Then on April 2, 2020, following up on various community problems in marriage problems during the pandemic, the Director General of Islamic Guidance issued Circular Letter No. 3 of 2020 concerning Amendments to Circular No. 2 of 2020 which states: “The implementation of the marriage contract can be carried out online, either by telephone, video calls, the use of other information and communication technology devices” (point A number 1).

As the rules of fiqh in Al-Ghazali’s Maqāṣid al-Sharī’ah, the Covid-19 pandemic is a hard condition and is included in the categories of sensory *ḍarar indrawi* and *ḍarar ‘ājilan*. Based on experts such as Kutter, et.al, Shang, et.al, and the Covid-19 virus that spreads massively and deadly makes the world’s condition in a very emergency (Kutter dkk., 2021; Machhi dkk., 2020; Shang dkk., 2020). While marriage is an urgent matter and an urgent need for human survival. If the marriage is delayed or cancelled, it can be fatal and cause social polemics in the community.

The assumptions offered by al-Ghazali are *Al-Ḍarar Yazālu* (الضرر يزال) that *ḍarar* must be eliminated immediately, and *Al-Ḍarar Yudfa’u Biqadri al-Imkāni* (الضرر يُدفع بقدر الإمكان) that *ḍarar* should be rejected as much as possible. The next assumption that the Covid-19 pandemic emergency condition has *dawābiṭu*: (1) Covid-19 is an actual condition and not an assumption; (2) online marriage does not violate the limits of shari’ah rules; (3) Covid-19 is an emergency that is felt by the entire public and even the entire world. These three have the assumption of *Al-Ḥājat Tunzilu Manzilat al-Ḍarūrat ‘Āmat Kānata au Khāṣah* (الحاجة تنزل منزلة الضرورة عامة كانت أو خاصة) which means the need for online marriage which requires immediate action in the Covid-19 emergency because it is a public and private problem in the entire world.

### Al-Ghazali’s Preventive Fiqh

Al-Ghazali offers in his Maqāṣid al-Sharī’ah has preventive rules in cases of online marriage, namely *Dafa’ al-Qawāṭi’a* (دفع القواطع) with the meaning of preventing obstacles. In the realm of Islamic legal method (*uṣul fiqh*), this kind of principle is known as *sadd al-dzarī’ati* (سدّ الذريعة) which means closing or holding back something that causes problems (Burhani, 1985; Jabir, 2011).

*Sadd al-dzarī’ati* is a preventive measure for prevention by holding back or blocking the way of destruction or destruction. For example, preventing adultery by immediately getting married is an effort to hold back or close the doors of potential adultery. In the Covid-19 pandemic, marriage is very urgent and urgent. With the basis of *Dafa’ al-Qawāṭi’a*, provides a solution that marriage must be carried out immediately to prevent heinous acts that lead to adultery. In addition, the annulment of marriage creates social problems in the family and society that can damage kinship and brotherhood relations. So *Dafa’ al-Qawāṭi’a* preventive fiqh offers a solution so that a middle point can be reached that does not violate Islamic sharia law.



## Tarjih

Al-Ghazali in his Maqāṣid al-Sharī'ah also has the principle of *tarjih* which favours something more dominant or stronger in maslahah (ترجيح الأقوى) when dealing with phenomena and conditions that contain two contradictory elements (maslahah-mudarat).

*Tarjih* means firm (*razānah* or رزانة), strengthening (*taqwīyah* or تقوية), strengthening (*thiql* or ثقل), superior (*tafḍīl* or تفضيل), and dominant (taghlīb or تغليب) (Naham, 2011; Sha'igh, 2010). In terms of Maqāṣid al-Sharī'ah, *tarjih* is to favour one of the contradictory arguments because it prioritises its strong benefit.

In marriage during a pandemic, marriage is a very urgent need. The principle of protecting oneself from all spaces of disgraceful acts, including adultery, is a top priority. However, the pandemic condition where the Covid-19 virus is deadly is also a top priority in the principle of *ḥifẓu al-nafs* (keeping the soul). However, al-Ghazali used the principle of *tarjih* where the advantage was the proposition of marriage, even in conditions of exposure to a deadly virus. The reason is that the use of strict health protocols in the marriage's procession contract and remotely via online can be pursued for the conditions and pillars of marriage are met. So, according to al-Ghazali in Maqāṣid al-Sharī'ah online marriage during the Covid-19 pandemic is still legal according to Islamic law.

## Maqāṣid al-Sharī'ah Al-Ghazali and Renewal of Islamic Family Law

In the contemporary era, recent problems continue to emerge, especially problems in Islamic family law. The door to *ijtihad* remains open in contemporary contexts that require quick solutions, especially in emergency conditions such as the Covid-19 pandemic, which has caused millions of people to die because of the outbreak of a deadly virus. It takes a mufti or expert giving fatwas (mufti), both individually and at the institutional level (Syaqirat, 2019).

The trend of modern society is supported by scientific discoveries and sophisticated technological and communication devices that have a strong influence on extracting Islamic law (Crone, 2017), so that Islamic law explorers (*mujtahid*) must plan new laws in answering every problem faced by modern society. Because the results of *ijtihad* in the past are not by current facts (Badr, 1987; Syaikh, 2006), both in terms of indicators, sources, tools, and the solutions they expect. Because this problem has never happened in the past (لم تكن تحصل من قبل) and there is no evidence from the al-Qur'ān, Ḥadīth and Ijmā' that explains the problem.

To answer the problems of modern society, scientific and technological help is needed to explore legal status or change old laws that are no longer appropriate to contemporary conditions. So *Ijtihād Istiṣlahy* (اجتهاد إستصلاحي) or *Ijtihād Maṣlahy* (اجتهاد مصلحي) are used as instructions and needs in exploring new laws. Nuruddin 'Abbasi and Ahmad Raisuni stated that these two *ijtihad*'s are guided directly by Maqāṣid al-Sharī'ah by attracting benefit and preventing evil in the presence or absence of texts (*nash*) (سواء كان فيه نصّ أو لا نصّ) ('Abbasi, 1990; Raisuni, 2010). *Ijtihād Istiṣlahy* has the principle of eliminating damage (نفي الضرر), eliminating difficulties (دفع المشقة), mitigating

and facilitating (تقرير التيسير والتخفيف) in analysing legal reasons (تعليل الأحكام) (Khadimi, 1998).

Islam does not at all forbid its people to explore Islamic law in answering all the problems of society that are so complex. Maqāṣid al-Sharī'ah al-Ghazali is a basic guide in exploring Islamic law, especially online marriage, during a pandemic that requires a direct and fast solution.

### Conclusion

Marriage is a primary and urgent need that aims to give birth to additional benefits guaranteed by religion. The sacred and sacred process legalises the relationship between men and women to prevent adultery. Marriage is a multi-needs, besides being a biological need, it is also a social need that can strengthen and expand the relationship. But what has happened lately, especially at the beginning of 2020, the world is being hit by a deadly virus that has completely stopped all social activities (social distancing), including weddings. Many wedding plans that have been scheduled have to be cancelled. This, creates social conflicts and religious polemics that must be resolved immediately. The regulations offered by the government and the 'ulama' as legislation and the Compilation of Islamic Law as a legal umbrella have not accommodated and specifically regulated the rules or laws of marriage through telecommunications technology. To answer this case, Imam al-Ghazālī with his maqāṣid al-sharī'ah theory deserves to be used as a reference.

The findings of this article are: considering 4 (four) emergency arguments and "very ḍarar", and fall into the categories of sensory *ḍarar indrawi* and *ḍarar 'ājilan*. First assumption is online marriage during a pandemic is *Al-Ḍarar Yazālu* (الضرر يزال) and *Al-Ḍarar Yudfā'u Biqadri al-Imkāni* (الضرر يُدفع بقدر الإمكان). Second assumption that the Covid-19 pandemic emergency condition has *dawābiṭu*: (1) Covid-19 is an actual condition and not an assumption; (2) online marriage does not violate the limits of shari'ah rules; (3) Covid-19 is an emergency that is felt by the entire public and even the entire world. These three have the assumption of *Al-Hājaṭ Tunzilu Manzilat al-Ḍarūrat 'Āmat Kānata au Khāṣah* (الحاجة تنزل منزلة الضرورة عامة كانت أو خاصة). With the basis of *Daf'a al-Qawāṭi'a*, provides a solution that marriage must be carried out immediately, to prevent heinous acts that lead to adultery and widen social conflicts in the family and society with the principle of *tarjih*.

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