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Analysis of Najmuddin al Thufi's Concept of the Supremacy of Maslahah Against the Postulates of Islamic Law

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Abstract

As the religion of rahmatan lil alamin, the arrival of Islam means a blessing and a gift to mankind. Therefore, the mujtahids agree that the formulation of Islamic law must refer to the interests of the wider community (maslahah al-ummah). In its development, there are differences of opinion among scholars about whether maslahah should be prioritized over texts and ijma when there is a conflict. This study aims to analyze al Thufi's opinion about the supremacy of maslahah against other legal arguments. The method used is literature study to comprehensively analyze the concept of maslahah supremacy according to al Thufi. From the results of the study, it was found that al Thufi viewed maslahah as the strongest proposition compared to other arguments, but when al Thufi put maslahat first, it did not mean that at that time al Thufi ruled out texts, because al Thufi viewed the position of mashlaha as bayan takhshish.

Keywords: Maslahah, al Thufi, Islamic Law

Abstrak

Sebagai agama rahmatan lil alamin, kedatangan Islam berarti berkah dan anugerah kepada umat manusia. Oleh karena itu para mujtahid sepakat bahwa perumusan hukum islam harus mengacu pada kepentingan masyarakat luas (mashlahah al-ummah). Pada perkembangannya terjadi perbedaan pendapat ulama tentang mashlahah apakah harus lebih dikedepankan dibanding nash dan ijma ketika terjadi pertentangan. Penelitian ini bertujuan untuk menganalisis pendapat al Thufi tentang supremasi mashlahat terhadap dalil-dalil hukum lainnya. Metode yang digunakan adalah studi kepustakaan untuk menganalisis secara komprehensif konsep supremasi masalah menurut al Thufi. Dari hasil penelitian ditemukan bahwa al Thufi memandang masalah sebagai dalil yang paling kuat dibanding dalil-dalil lainnya, namun Ketika al Thufi mendahulukan masalah bukan berarti pada saat itu al Thufi mengesampingkan nash, karena al Thufi memandang kedudukan masalah sebagai bayan takhshish

Kata kunci: *Mashlahah*, al Thufi, hukum Islam

Introduction

New challenges arose as a result of societal shifts that accompanied the progression of time. Muslims employ a variety of strategies while confronting novel issues. Among these are requests to reply to text messages (al-Quran and Sunnah).¹ Others contend that simply returning to the texts is insufficient; ushul fiqhi, a legal approach, is required.² In practice, however, ushul fiqhi cannot remedy the challenges people face. Traditional ushul fiqhi, the foundation for problem-solving approaches, is no longer applicable to fulfill contemporary needs.³ Therefore, it is vital to reformulate ushul fiqh so that it can accommodate the evolution of contemporary society.

Several Islamic philosophers have contributed to the reconstruction of Islamic law structures that anticipate the modern world's evolution. Muhammad Sahrur with his hudud theory, Fazlurrahman with his double movement theory, Khalid Abou Fadl with his hermeneutics, and others, are among them.⁴

One of the major concepts and fundamental laws of Islam is that the primary objective of Islamic law is to realize *maslahah* (jalb al-maslah), which gives rise to a famous idiom: "the purpose of Islamic law is to realize *maslahah*." : *أينما كانت المصلحة فثم حكم الله* (where there is *maslahah*, Allah's law exists). This indicates that *maslahah* that does not contradict Islamic law's principles can be considered for

¹ Idaul Hasanah, 'Konsep Mashlahah Najamuddin Al-Thufi Dan Implementasinya', *Ulumuddin Journal of Islamic Legal Studies*, 7.1 (2011).

² Imam Syaukani, *Rekonstruksi Epistemologi Hukum Islam Indonesia Dan Relevansinya Bagi Pembangunan Hukum Nasional* (RajaGrafindo Persada, 2006).

³ Hasan Al-Turabi, 'Fiqh Demokratis; Dari Tradisionalisme Kolektif Menuju Modernisme Populis', *Bandung: Arasy*, 2003.

⁴ Hasanah.

deciding Islamic law.⁵

The majority of scholars divide *maslahah* into three kinds, namely *mashlahah mu'tabarah*, *mashlahah mulghah* and *mashlahah mursalah*. In this instance, however, al-Thufi said that the separation was unnecessary because, in his view, the objective of Islamic law was *maslahah*. Therefore, all sorts of *maslahah* must be accomplished without being specified. He is also of the opinion that the strongest Islamic law arguments are texts and *ijma* if they are compatible with *maslahah*, but *mashlahah* should take precedence over texts and *ijma* if they are incompatible with *maslahah*.

At Thufi's statement allowed Islamic jurists to criticize him. Sheikh al-Jalil Muhammad Zahid al-Kausari, for instance, stated that the remark regarding Sharia principles in the sphere of *muamalah*, which is based on masculinity, is an example of modifying Islamic law based on lust. Whenever there is a contradiction between the text and the *mashlahah*, the *mashlahah* takes precedence. People who assert that *Maslahah* serves as the foundation for their "new Shari'ah" are ignorant.

Muhammad Abu Zahrah considers at-thinking Thufi's to be excessively radical, and he prefers to perceive at-position Thufi's as influenced by Imamiyyah Shia thought. As the Imami Shia believe that the text can still be canceled, this statement is true. As a result, al-ideas Tufi's were controversial among Muslims in general and Hanbali thinkers in particular. Abdul Wahab Khallaf believed that the perspective of al-Tufi *mashlahah* that the book is null and void or that *ijma*' is a highly harmful viewpoint for Allah's shari'ah and *tasyri*' in general. And there are many more contemporary scholars that evaluate al-philosophy Tufi's both positively and negatively since it has upset the conventional scholars' structured and crystallized system.

Several studies on *mashlahah* according to at Thufi have been conducted, including Idaul Hasanah's "The Concept of *Mashlahah Najamuddin Al-Thufi* and Its Implementation." Is the word *qath'i* or *zhanny*? Or either or both⁶ Maimun's research titled "The Concept of the Supremacy of *Maslahat Al-Thufi* and Its Implementation in Renewing Islamic Legal Thought" concludes that the essential concept of *maslahah al-Thufi* is to place *maslahat* as a priority and requirement at the forefront of the formulation of the law. Rusdaya Basri's research entitled "At- and tufi's Ash-Views Syatibi's on *Maslahat* (Comparative Analysis Studies)" indicates that the theory of *mashlahat al Thufi* can help to the modernization of Islamic law.⁷

Methodology

In this study, the author employed a qualitative technique approach to research. In accordance with the purpose of performing a literature review when gathering research data, a literature review is conducted to write and clarify various

⁵ Ahmad Munif Suratmapura, *Filasafat Hukum Islam Al-Gazaly, Mashlahah Mursalah Dan Relevansinya Dengan Pembaruan Hukum Islam* (Jakarta: Pustaka Firdaus, 2018), p. 1.

⁶ Hasanah.

⁷ Rusdaya Basri, 'Pandangan At-Tufi Dan Asy-Syatibi Tentang *Maslahat* (Studi Analisis Perbandingan)', *DIKTUM: Jurnal Syariah Dan Hukum*, 9.2 (2011), 176–86.

types of data collected from books, theses, journals, articles, news, and other written works.

Results and Discussion

Biography of Al-Thufi

Najamuddin al-Thufi is a Hambali school fiqh cleric and ushul fiqh who was born in the Iraqi village of Thufa, Sharshar.⁸ His full name is Abu al-Rabi' Sulaiman Ibn Abdu al-Qawiy ibn Abdul Karim ibn Sa'id. Al-Thufi is a name related with his birthplace, which is Thufa.⁹ He was born in 675 AH (1276 AD) and died in 716 AH (1316 AD).¹⁰

Al-Thufi studied fiqh to Sharshar with Sheikh Zainuddin Ali ibn Muhammad al-Sarsari al-Buqi and memorized the fiqh book Mukhtasar al-Kharaqi. After relocating to Baghdad in 691 H, he memorized al-Muharrar fi al-Fiqh al-Hanbali and discussed it with the Hanbali cleric of the time, Sheikh Taqiyuddin al-Zarzirati.¹¹

In addition, he had the Arabic novel al-Luma by Ibn Jani committed to memory. Additionally, he studied Arabic with Abu Abdillah bin Muhammad al-Maushuli, ushul fiqh with Nasr al-Faruqi, and Hadith with Rashid ibn al-Qasim, Ismail ibn al-Tabbal, and Abdurrahman ibn Sulaiman al-Harrani. It is hardly unexpected that al-Thufi is regarded a disciple of the Hambali school, as the majority of his teachers belong to that school.¹² In addition to the aforementioned studies, al-Thufi also studied mantiq, kalam, hadith, interpretation, faraid, and jadal science (how to discuss). Al-Thufi, armed with the knowledge he had gained, attempted to deepen his thoughts and urged the scholars of his time to seek the truth by adhering straight to the Qur'an and sunnah, without being bound by the opinions of others or any school of fiqh.¹³

As a polymath, al-Thufi contributed numerous scientific works, however the majority of his works were still in the form of manuscripts scattered around the Middle East, including Egypt, Iraq, Iran, and Turkey. Included among his works are:

- a. The fields of ulumul qur'an and ulumul hadith, which include al-signal al-Ilahiyah ila al-Mabahis al-Ushuliyah and Iddah al-Bayan 'an Ma'ani Umm al-Qur'an.
- b. The aqidah, fiqh, and ushul fiqh domains include Bughyah as-Sa 'il fi Ummaha t al-Masa il and al-Intisyara t al-Islamiyyah fi Daf Syubhah an-Nasra niyyah (field of ushuluddin). Mukhtasar ar-Raudhah al-Qadamiyyah and Ma'arij al-Ushul ila 'ilm al-Ushul, Mi'raj al-Wusu l fi Usul al-Fiqh, al-

⁸ Abdul Wahab Khallaf, *Mashadir Al-Tasyri' Al-Islamiy Fi Ma La Nashsha Fi Hi* (Kuwait: Dar al-Qalam, 1972), 96.

⁹ Mushtafa Zaid, *Al-Mashlahah Fi Al-Tasyri' Al-Islamiy Wa Najmuddin Al-Thufi* (Mesir: Dar al-Fikr al-Arabi, 1964), p. 67.

¹⁰ There are differences of opinion about the exact year of his birth. According to Ibn Hajar al-Asqalani al-Thufi was born in 657 H, while Ibn Rajab and Ibn Imad say that al-Thufi was born in 670 H or later. As for Mushtafa Zaid, who determined the year of birth of al-Thufi as mentioned above, after researching various sources, especially the book of al-Thufi

¹¹ Mushtafa Zaid, *Al-Mashlahah Fi Al-Tasyri' Al-Islamiy Wa Najmuddin Al-Thufi*, p. 70

¹² Abdul Aziz Dahlan, 'Ensiklopedi Hukum Islam', *Jakarta: Ichtar Baru Van Hoeve*, 1996, p. 1836.

¹³ Nasrun Haroen, 'Ushul Fiqh I, Jakarta', 1996, p. 124.

Analisis Konsep Najmuddin al

Bulubul fi fi Us ul al Fiqh (the field of ushul fiqh), and ar-Riyad an-N (field of fiqh)

- c. Included among the fields of Arabic literature are Daf al-Malam'ain ahl al-Mantiq wa al-Kalam, ar-Risalah al-Alawiyah in al-Qawaid al-Arabiyyah, and Tuhfah ahl al-Adab in Ma'rifah Lisan al-'Arab.

Despite the fact that many of his works have been produced, just two of his literary works have been certified and published to yet. While his other works exist only in the form of manuscripts, and a number of them have yet to be discovered. Amongst these pieces are:

1. Syarh Mukhtasar ar-Raudah, which has been tahqiq and published, was tahqiq by Abdullah bin Abdul Muhsin.
2. His partially confirmed and published work is Syarh al-Arba'in al-Nawawiyyah, translated by Mushtafa Zaid.
3. Isharat al-Ilahiyah Ila al-Mabahits al-Usuliyyah is the name of his certified but unpublished work

Syarh al-Arba'in an-Nawawiyyah is the most significant of al-works. Thufi's In this text, al-Thufi discusses mashlahah. Al-Thufi gave his opinion regarding the hadith "la darara wala dirr." Al-anti-mainstream Thufi's views differ from those of other researchers.

Maslahah in Al-Thufi's view

According to Al-Thufi, Maslahah can be viewed from two perspectives: urf and syara. According to 'urf, mashlahah refers to "the reason that delivers and gives birth to profits," such as trade, which is a cause that brings and gives birth to profits.¹⁴ The preceding definition of mashlahah in 'urf is consistent with the meaning given in Arabic dictionaries.¹⁵ According to linguistics and 'urf, mashlahah signifies advantage, usage, and goodness, whereas mafsadah means the opposite (damage).

Thus, because al-Thufi used the word al-sabab (cause) in his definition, it is possible to say that he presented the definition of al-mashlahah in a majazi manner. In other words, according to Al-Thufi, almashlahah includes not only the concept of benefits and goodness, but also the causes that give rise to benefits and goodness, because logically speaking, those who are the causes of goodness and benefits are viewed as benefits, particularly goodness and benefits themselves. In other words, al-Thufi cannot deny that goodness and advantages are maslahah since he considers the origin of goodness and benefits to be maslahah.¹⁶

As for mashlahah in the syar'i sense, it refers to the reason that brings and gives birth to the syar'i intention (aim) in terms of worship and muamalah (al-adah).¹⁷ In accordance with the definitions of mashlahah in language and 'urf, he continues to use "cause" while defining mashlahah in words. This also indicates

¹⁴ Abd. Rahman, *Konsep Al-Mashlahah Menurut Najmuddin Al-Thufi Disertasi Doktor Dalam Ilmu Agama Islam* (Jakarta: IAIN Syarif Hidayatullah, 1998), p. 141

¹⁵ Abd. Rahman, , *Konsep Al-Mashlahah Menurut Najmuddin Al-Thufi Disertasi Doktor Dalam Ilmu Agama Islam*, p. 141.

¹⁶ Qusthoniah, 'Al-Mashlahah Dalam Pandangan Najmuddin Al-Thufi', *Jurnal Syari'ah*, 2.2 (2013).

¹⁷ Zaid. p. 211.

Analisis Konsep Najmuddin al

that, when articulating the definition of syar'i, he continues to employ the concept of majazi. Even though Al-Thufi presented the meaning of al-mashlahah in a majazi manner, this does not imply that he denied the core meaning of mashlahah in a Syar'i manner.

Al-stance Thufi's on mashlahah is regarded as the most audacious and controversial. He conveyed his view on mashlahah when he presented al-Arabai n an-Nawawiyah and recited the thirty-second hadith, "la darara wala dirir."¹⁸ Al-Thufi provided a comprehensive study of maslahah in his explanation of the hadith. Even though maslahah is included under the category of mashlahah mulgah, which is accepted by the vast majority of academics, it cannot be utilized as a legal basis; nonetheless, it can be used as a reference to determine the law. In fact, according to him, mashlahah must take precedence if the scriptures and ijma clash with it. In addition to contradicting the consensus of the ulama, Al-viewpoint Thufi's is deemed harmful since it threatens the existence of laws established by scriptures and ijma.¹⁹

Al-declaration Thufi's that syar'i emphasizes the maintenance of human wellbeing is one of the underlying assumptions that allow him to infer that maslahah is the strongest shari'a argument. This is evident from the several reasons he presented, including al-Baqarah: 178, al-Maidah: 38, an-Nur: 2, and others. The preceding verse indicates that Allah protects human excellence in the realms of spirit, property, and dignity. Because the text mentions the qishas law for murderers, the amputation of hands for thieves, and the whipping for adulterers.

According to Al-perspective, Thufi's Allah's revelations are primarily intended for the benefit of humanity. Therefore, mashlahah must take precedence in all circumstances. This perspective is consistent with the belief held by the vast majority of scholars, namely that all Shari'a provisions and provisions are geared toward the welfare of humanity. Imam Al-Syatibi further underlined that all syara' regulations are formed based on research for the welfare of Allah's slaves, both in this world and the next.²⁰

Al-Thufi splits Islamic law into two sections when discussing mashlahah. First, the law of 'ibada t, hudu d, and muaddara t, the objective of which cannot be attained through logic. Second, rationally attainable muamalah t, siya sah dunyawiyah and similar concepts. Only in the fields of muamalah and traditions, according to al-Thufi, can mashlahah be considered a syar'i argument. In the fields of worship and muqadblood, however, mashlahah cannot be used as evidence.

Al-Thufi highlighted the relationship between mashlahah and other legal reasons, stating that when both are consistent, then both must be taken as guidance, which is the best case scenario, as when the text is consistent with maqashid sharia. If the two are not aligned and a compromise is possible, a compromise should be made so long as it does not harm the maslahah or interfere with the reasoning. Nonetheless, mashlahah must take precedence over other legal

¹⁸ The sharh of the hadith in question has been confirmed by Dr. Mustafa Zaid, and made an appendix in al-Murasalah fi al-Tasyri 'al-Islami wa Najm ad-Din at-Thufi

¹⁹ Abdul Aziz Abdul Rahman, *Adillah At-Tasyri' Al-Mukhtalaf Fi Al-Ihtijaju Bihaa* (Beirut: Muassasah al-Risalah, 1979), p. 196.

²⁰ Abu Ishaq Al-Syatibi, 'Al-Muwafaqat Fi Ushul Al-Syari'ah', Vol. II (Beirut: Dar Al Kutub Al Ilmiyah, Tt), 2003, p. 6.

reasons if it cannot be compromised.²¹

According to Al-Thufi, *mashlahah* is the most compelling evidence that can be employed independently as a legal basis. Al-Thufi did not separate *mashlahah* in his discussion of the notion, as did Judhur Ulama. According to Al-Thufi, this separation is unnecessary given that the objective of Islamic law is to benefit. Therefore, all sorts of *mashlahah* must be accomplished without their specifics being specified in the Jumhur Ulama. This disagreement arises due to Al-adoption Thufi's of four ideas about *mashlahah*, which causes his perspective to diverge from that of Jumhur:

1. إستقلال العقول بإدراك المصالح والمفاسد (The intellect can locate and differentiate between *maslahah* and *kemafसान*.) Al-Thufi limits the freedom of reason exclusively in the fields of *muamalah* and customs; this is the basic pillar around which his thought pyramid is constructed. This premise has ramifications for judging *mashlahah* sufficiency with human reason in the absence of revelation. This perspective differs from that of the Jumhur Ulama, who contend that although *maslahah* and *kemafساد* can be attained through reason, *maslahah* must be supported by texts and *ijma'* in form, nature, and kind.
2. المصلحة دليل شرعي مستقل عن النصوص (Mashlahah is an independent argument used to determine the law.) This perspective has ramifications for the proof that *mashlahah* is independent of texts. According to Al-Thufi, *mashlahah* can be obtained through customs and *tejribah* without the need for text confirmation.²²
3. مجال العمل بالمصلحة هو المعاملات والعبادات دون العبادات والمقدورات (The practical scope of *mashlahah* is confined to matters pertaining to *muamalah*, non-worship practices, and *muqaddara t*. According to al-Thufi, *mashlahah* can only be a valid proposition in the fields of *muamalat* and customs. For the sphere of worship and *muqaddara t* to proceed, the texts and consent must be revisited.
4. المصلحة اقوى أدلة الشرع (Maslahah is the strongest legal proposition of Islam. According to al-Thufi, *mashlahah* is the absolute strongest legal proposition. *Mashlahah* is not only a proof when there is no evidence found in the texts and also *ijma*, but *mashlahah* must be prioritized or prioritized when there is a contradiction between texts and *mashlahah*. In terms of prioritizing the texts of al-Thufi using the *takhshish* and *bay'an* methods, not by leaving the texts, such as when prioritizing the *sunnah* over the Koran by way of *bay'an*. This can be seen because al-Thufi in presenting the concept of *mashlahah* based on the hadith "'la d}arara wala d}ira r" this hadith becomes a solid foundation in realizing *maslahah* and avoiding mischief. Thus, prioritizing *mashlahah* over texts according to al-Thufi is a method of compromise between the arguments (al-Thufi). *jam'u bayna al-adillah*).²³

On the basis of these four criteria, Al-Thufi developed an argument for

²¹ Zaid, p. 235.

²² Muhammad Wahyuni Nafis Dkk., *Rekualisasi Ajaran Islam* (Jakarta: IPHI-Yayasan Waqaf Paramadina, 1955), p. 254

²³ Zaid, p. 208-210.

Analisis Konsep Najmuddin al

giving *maslahah* precedence over texts and *Ijma'*. Among the contentions are:

1. Al-Thufi favors *maslahah* over *ijma'* since, in his opinion, *ijma'*'s authenticity is contested. While *mashlahah* is accepted, even by people opposed to *ijma'*. According to Al-Thufi, it is more vital to prioritize what is agreed upon (*mashlahah*) over what is disputed (*ijma'*).
2. The text contains numerous inconsistencies. According to the viewpoint of *syara'*, this is the source of legal disagreements, which are reprehensible. While sustaining *mashlahah* in a substantial manner is an uncontested necessity. Thus, upkeep is necessary for *syara'*. Therefore, maintaining what has been agreed upon is more vital than maintaining what generates disagreements.
3. According to Al-Thufi, there are *sunnah* texts that are challenged by *maslahah* in multiple ways, such as the opinion of Ibn Mas'ud, which opposes the texts and *ijma'* in the instance of *tayammum* on the basis of *maslahah* (prudence in worship). According to the scriptures and *ijma'* (consensus) of the companions, *tayammum* may be administered in the event of illness or inability to locate water. Ibn Mas'ud, however, believes that sick individuals should not perform *tayammum* because, if permitted, it is anticipated that there may be individuals who simply feel ill or have a minor cold and do not wish to conduct ablution.

Analysis of Al-Thufi's View of the Supremacy of *Maslahat*

Al-conception Thufi's of the *mashlahat*'s preeminence. The approach proposed by Al-Thufi is not supported by case examples demonstrating a contradiction between texts and *maslahat*. Because al Thufi's claims have not yet reached the level of *fiqh*, the concept of al Thufi must be carefully examined.

In his dissertation titled "Dhawabitu al-Maslahah in al-Syariah al-Islamiyah," Sheikh Ramadhan al Buthi questioned the concept of *mashlahah* al-supremacy. Thufi's Al Buthi claimed that the contradiction between *maslahat* and the holy books of the Qur'an, Hadith, and *ijma'* is an issue that cannot exist because the benefit is proper and appropriate. In accordance with the Quran, Hadith, and *Ijma'*. Furthermore, al Buthi claimed that *Maslahah* is not a *mustaqil* argument, whereas the holy writings of the Qur'an, Hadith, and *ijma'* are *mustaqil* arguments, hence they cannot be ruled out on the basis of *Maslahah*. Al Thufi's stance also pertains to *ijma'* because, in his view, *ijma'*'s validity is contested. Although *mashlahah* is generally accepted, particularly by those who reject *ijma'*, al-Buthi considers it to be incorrect because it is not necessarily the consensus of academics about benefit.²⁴

The view of al-Thufi which states that إن النصوص مختلفة متعارضة Al-Thufi considers it a grave error that the book is riddled with contradictions, as the holy Qur'anic text cannot be refuted due to its sanctity and position as *kalamullah*. Likewise, the words of the Prophet, because the substance of the Prophet's words is Allah's revelation. In the meantime, the difference between experts regarding Islamic law lies in their interpretation of the text, not in its incompatibility with the

²⁴ Said Ramadhan Al-Buti, 'Dhawabit Al-Maslahah Fi Al-Shariah Al-Islamiah', Beirut: Muassasah Al-Risalah, 1982.

Quranic sacred books.

There are two requirements applicable to the interaction between mashlahah and texts:

1. إثبات نص الشرعي على المصلحة (mashlahah in accordance with the texts) or popularly known as mashlahah mu'tabarah, mashlahah incorporates maqashid sharia in this instance.
2. مراعاة المصلحة في غياب النص (considering mashlahah in the absence of a text) According to at Thufi, if there is a dispute between the text and mashlahah, also known as mashlahah mursalah, then mashlahah must take precedence.

According to the author, what at Thufi said about the contradiction between texts and mashlahah is the attitude of at Thufi in making mashlahah the primary objective of Islamic law, as per the idiom *أينما تكون المصلحة فثم حكم الله* (whenever there is mashlahah, there is Islamic law), but in reality it is impossible to establish a disagreement between the Koran and mashlahah, as mashlahah is always right and in conformity with the Koran, at Thufi convince that *يؤمن بشيئ ولم يكن قادرا على تصريحه* (believes in something about the value of prayer but is unable to specify precisely what he believes).

Conclusion

According to al-Thufi, *mashlahah* is an Islamic law concept whose blasphemy is stronger and more significant than 19 other strong justifications. *Maslahah* is central to the Shari'ah's primary objective because it is the axis of the law. Texts and *ijma* are, in essence, the strongest arguments; nonetheless, they are sometimes consistent with *mashlahah* and sometimes inconsistent with it. If they are congruent, there is no need to contradict; if they are inconsistent, the *mashlahah* must take precedence over the scriptures and *ijma*. Al-perspective Thufi's of *mashlahah* takes precedence over texts and *ijma*'. However, this does not imply that he disregards or rejects texts and *ijma*'; rather, he views *mashlahah* as a pardon of *takhsish* for the verses of the Qur'an.

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