

## Maslahat (Benefits) in *Fiqh Awlâwiyât*: A Comparison between Yûsuf al-Qarâdhawî's View and Abdus Salam Alî al-Karbulî's

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**Abstract:** This article examines and compares the concept of *maslahat* in the *Fiqh Awlâwiyât* (fiqh of priority) in the view of Yûsuf al-Qarâdhawî and Abdus Salam Alî al-Karbulî. The aim is to find similarities and differences between the two views. *Fiqh Awlâwiyât*, which places *maslahat* as an important reference in determining the scale of priority, can be used to solve contemporary problems. Unfortunately, there are not many studies that discuss this in depth. This article is part of the results of normative legal research with a comparative approach. Data were collected through literature studies and analyzed using descriptive-comparative analysis techniques. This article finds similarities between Yûsuf al-Qarâdhawî's thought and Abdus Salam Alî al-Karbulî's in determining the types and levels of *maslahat* needed in the scale of priority. In constructing *Fiqh Awlâwiyât*, the two figures above are based on *Fiqh Muwâzanât*. The difference in their thoughts lies in determining the scale of priority. Al-Qaradhawî uses the rules of fiqh, while al-Karbulî uses the *al-Ta'âruddh* method. However, the substance of their thoughts is similar and interrelated. Thus, it can be elaborated in the context of developing *Fiqh Awlâwiyât*.

**Keywords:** *Maslahat*, *Fiqh Awlâwiyât*, al-Qarâdhawî, al-Karbulî

**Abstrak:** Artikel ini mengkaji dan membandingkan konsep *maslahat* dalam fikih *Awlâwiyât* menurut pemikiran Yûsuf al-Qarâdhawî dan Abdus Salam Alî al-Karbulî. Tujuannya untuk menemukan titik persamaan dan perbedaan antara dua pandangan tersebut. Fikih *Awlâwiyât*, yang menempatkan *maslahat* sebagai acuan penting dalam menentukan skala prioritas, dapat digunakan untuk menyelesaikan permasalahan kontemporer. Namun, sayangnya, belum banyak kajian yang membahas hal tersebut secara mendalam. Artikel ini merupakan bagian dari hasil penelitian hukum normatif dengan pendekatan komparatif. Data dikumpulkan melalui studi kepustakaan dan dianalisis dengan teknik analisis deskriptif-komparatif. Artikel ini menemukan fakta bahwa terdapat kesamaan pandangan antara pemikiran Yûsuf al-Qarâdhawî dan Abdus Salam Alî al-Karbulî dalam menentukan jenis dan tingkatan *maslahat* yang dibutuhkan dalam menentukan skala prioritas. Dalam mengkonstruksi fikih *Awlâwiyât*, kedua figur di atas sama-sama berdasarkan pada fikih *Muwâzanât*. Perbedaan pemikiran keduanya terletak pada metode dalam menentukan skala prioritas. Al-Qarâdhawî menggunakan kaidah-kaidah fikih, sedangkan al-Karbulî menggunakan metode *al-Ta'âruddh*. Meski demikian, substansi pemikiran keduanya memiliki kesamaan dan terkaits satu sama lain, sehingga dapat dielaborasi dalam rangka pengembangan Fikih *Awlâwiyât*.

**Kata kunci:** *Maslahat*, Fikih *Awlâwiyât*, al-Qarâdhawî, al-Karbulî

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## Introduction

The scholars agree that the Shari'a was revealed to realize the *maslahat* (benefits).<sup>1</sup> Although the concept of *maslahat* had not yet been formed theoretically in the early days of Islam, the concept had become the spirit of determining the law. The *ijtihâd* (law-finding efforts) of the Companions during the 'Asr Prayer in the village of Bani Quraidhah<sup>2</sup> and the *ijtihâd* of the Khulafâ' al-Râsyidîn, especially 'Umar bin Khaththâb,<sup>3</sup> clearly show that *maslahat* had been used as a consideration in *ijtihâd* (law-finding effort). The *mujtahids* (law finders) generally use the principle of *maslahat* to resolve problems for which there is no legal determination in the text.<sup>4</sup> Imâm al-Ghazâlî, who developed Imâm al-Juwaini's idea of *maslahat*, has made it one of the methods of determining the law under several specific requirements.<sup>5</sup> Later, the *maslahat* approach colored the study pattern of Imâm al-Ghazâlî's ushul fiqh more than the linguistic approach of previous scholars.<sup>6</sup>

Furthermore, in addition to the *Ijtihâd Bayânî* and *Qiyâsî* methods, there is also *Ijtihâd Istishlâhî* which is based on *maslahat*.<sup>7</sup> This latter method is considered effective and ideal in overcoming the reality of new dynamic problems that are not fully accommodated by *Nash* (text) of Syara',<sup>8</sup> especially for problems that have a priority scale.<sup>9</sup> This is

<sup>1</sup> Amir Syarifuddin, *Ushul Fiqh Jilid 2* (Banten: Logos Wacana Ilmu, 2001), p. 234.

<sup>2</sup> Syarifuddin, p. 236.

<sup>3</sup> Yûsuf al-Qarâdhawî, *Membumikan Islam: Keluasan dan Keluwesan Syariat Islam Untuk Manusia* (Bandung: Mizan, 2018), pp. 209–229.

<sup>4</sup> Akbar Sarif and Ridzwan Ahmad, 'Konsep Maslahat dan Mafsadah Menurut Imam al-Ghazali', *Tsaqafah: Jurnal Peradaban Islam*, 13.2 (2017): 353–68 (p. 355), doi:10.21111/tsaqafah.v13i2.1183. See also Agus Hermanto, "Konsep Maslahat dalam Menyikapi Masalah Kontemporer (Studi Komparatif al-Tufi dan al-Ghazali)." *Al-Adalah*, 14.2 (2017): 433-460.

<sup>5</sup> Al-Ghazâlî, Abû Hamid Muhammad ibn Muhammad, *al-Mustashfâ Fi 'Ilm al-Ushûl* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1993), pp. 174–76.

<sup>6</sup> Fahrur Rozi, Tutik Hamidah, and Abbas Arfan, 'Konsep *Maqâsid Syari'ah* Perspektif Pemikiran al-Juwaini dan al-Ghazali', *Iqtisodina: Jurnal Ekonomi Syariah dan Hukum Islam*, 5.1 (2022): 53–67 (p. 62).

<sup>7</sup> Wahbah Al-Zuhaili, *Ushûl al-Fiqh al-Islâmy* (Beirut: Dâr al-Fikr, 1986), p. 1041.

<sup>8</sup> Ahmad Munif Suratmaputra, 'Reorientasi Pemikiran al-Ghazali Tentang *Maslahah Mursalah* dengan Pembaruan Hukum Islam', *Jurnal Misykat*, 3.2 (2018): 29–64 (p. 56). See also Muhammad Rusfi, "Validitas Masalahah Mursalah Sebagai Sumber Hukum." *Al-Adalah*, 11.1 (2017): 63-74.

<sup>9</sup> Achmad Cholili, 'Urgensi dan Relevansi *al-Maslahah al-Mursalah* Sebagai Metode Ijtihad Kontemporer', *Jurnal At-Tahdzib*, 1.2 (2013): 203–19 (p. 216).

important so that Islamic law is always adaptive and flexible in adjusting to the development of the times.<sup>10</sup>

The concept of *maslahat* has an interrelated relationship with the *Fiqh Awlâwiyât* (Fiqh of Priority). Zuraidah Othman stated that the priority scale of *maslahat* must be guided by *Fiqh Awlâwiyât* which is based on considerations of revelation and reason.<sup>11</sup> Meanwhile, in the *ijtihad* of *Awlawiyat fiqh*, consideration of *maslahat* (benefits) and *mafsadat* (harm) is required based on *naqli* (textual) and *'aqli* (rational) arguments, which are determined through the rules of *ushûl fiqh* and *fiqh*.<sup>12</sup> This clearly shows that the concept of *maslahat* is used as a basis to determine the priority scale in *Fiqh Awlâwiyât*.

The urgency of priority scale is needed when there is a clash between *maslahat* (benefits), and *mafsadat*, both in terms of nature, type, level, and quality, where one of which must be prioritized.<sup>13</sup> According to Abdullah Jalil, analysis of *maslahat* is important to ensure the policies taken do not conflict with the general objectives of Sharia.<sup>14</sup> Nasrun Jauhari also concluded that *Fiqh Awlâwiyât* epistemologically plays a role in considering *maslahat* and *mafsadat*.<sup>15</sup> The existence of the *Fiqh Awlâwiyât* paradigm pattern is also identified in the epistemology of Huzaemah Tahido Yanggo's *fiqh* when she made the legal basis for the prohibition of homosexual behavior. This approach emphasizes the realization of *maslahat* which is the orientation of *maqâshid sharia* (Shari'a's objectives), especially in the aspects of the continuity of

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<sup>10</sup> Nasrun Jauhari, 'Fiqh Prioritas Sebagai Instrumen *Ijtihad Maqâsidi* Perspektif Yusuf al-Qarâdâwî dan Urgensinya di Era Kontemporer', *Maraji': Jurnal Studi Keislaman*, 3.1 (2016): 132–62 (p. 133).

<sup>11</sup> Zuraidah Othman, 'Fiqh al-Awlâwiyat: Memahami Keutamaan dalam Tindakan', *International Journal of Contemporary Education, Religious Studies and Humanities*, 1.2 (2021): 24–44 (pp. 26 & 29).

<sup>12</sup> Nur Inani Ismail and Wan Norhaniza Wan Hasan, 'Analisis Epistemologi Islam dalam Fiqh Keutamaan', *Jurnal Sultan Alauddin Sulaiman Shah*, 6.1 (2019): 16–29 (pp. 25–26).

<sup>13</sup> Amiruddin Aminullah, 'Urgensi Maslahat dalam Pengembangan Hukum Islam', *Dirasat Islamiyah: Jurnal Kajian Keislaman*, 2.2 (2021): 67–88 (p. 77).

<sup>14</sup> Abdullaah Jalil, 'The Significances of Maslahah Concept and Doctrine of *Maqâsid* (Objectives) *al-Shari'ah* in Project Evaluation', *The Journal of Muamalat and Islamic Finance Research*, 3.1 (2006): 171–202 (p. 198).

<sup>15</sup> Jauhari, pp. 158–59.

offspring regeneration (*hifz al-nasl*) and protection of honor (*hifz al-'ird*).<sup>16</sup> Therefore, *Fiqh Awlâwiyât* takes its role in prioritizing the order of *maslahat* to anticipate the emergence of difficulties and hardships, even falling into *mafsadat*.<sup>17</sup>

The development of *Fiqh Awlâwiyât* (Fiqh of Priority) is greatly needed in resolving social humanitarian issues and contemporary Islamic legal problems. According to Muhammad Hatta Diponegoro, Muslim society, today does not fully understand the urgency of *Fiqh Awlâwiyât*, which results in an imbalance in the value and level of a case.<sup>18</sup> In line with this, Muhamad Khoiril Umam revealed an imbalance in the priority scale because the role of *Fiqh Awlâwiyât* was increasingly sidelined.<sup>19</sup> Furthermore, Muammar M. Bakry argued that the stagnation of the determination of Islamic law was due to the neglect of the concept of *maqâshid sharia*.<sup>20</sup> The basis of thinking of *maqâshid sharia*, according to Akbar Sarif and Ridzwan bin Ahmad, is the achievement of *maslahat* (benefits) and the rejection of *mafsadat* (harms).<sup>21</sup> On the other hand, Husni Mubarak A. Latief stated that *Fiqh Awlâwiyât* (Fiqh of Priority) is related to *Maqâshid fiqh* (Fiqh of Objectives).<sup>22</sup> *Fiqh Awlâwiyât* provides considerations in formulating

<sup>16</sup> Ariyadi Ariyadi and others, 'Moderation of Homosexual Fiqh in Indonesia: A Study of The Huzaemah Tahido Yanggo's Thought', *Al-Istinbath: Jurnal Hukum Islam*, 7.2 (2022): 381–98 (pp. 391–92 & 394), doi:10.29240/jhi.v7i2.5462.

<sup>17</sup> Abdel Wadoud Moustafa Moursi El-Seoudi and others, 'Fiqh of Priorities in the Light of the Purposes of Share'ah', *The Social Sciences*, 7.6 (2012): 821–26 (p. 822).

<sup>18</sup> Muhammad Hatta Diponegoro, 'Pemikiran Hukum Islam Tentang *Fiqh al-Awlâwiyat*', *Syaikhuna: Jurnal Pendidikan dan Pranata Islam*, 9.1 (2018): 55–71 (pp. 56–57).

<sup>19</sup> Muhamad Khoiril Umam, 'Analisa Penerapan Konsep Pemikiran Yusuf Qardhawi Fiqh Prioritas di Era Post Modern', *Journal of Sharia Economic and Islamic Jurisprudence*, 1.1 (2022): 29–37 (pp. 29 & 35).

<sup>20</sup> Muammar M. Bakry, 'Asas Prioritas dalam *al-Maqâshid al-Syari'ah*', *Al-Azhar: Islamic Law Review*, 1.1 (2019): 1–8 (p. 8), doi:10.37146/ailrev.v1i1.4.

<sup>21</sup> Akbar Sarif and Ridzwan Ahmad, 'Konsep Maslahah dan Mafsadah Sebagai Asas Pemikiran *Maqâsid Syariat*: Satu Analisis', *Ijtihad: Jurnal Hukum dan Ekonomi Islam*, 10.2 (2016): 1–20 (pp. 12–15), doi:10.21111/ijtihad.v10i2.1241. About *Maslahah al-Mursalah*, see also Siamtina, Desi Norma, Muhammad Chairul Huda, and Sukron Ma'mun. "The Legal System of the All-You-Can-Eat Ticket System at Tlogo Argo-Tourism, Indonesia: A *Maslahah al-Mursalah* Perspective." *J. Islamic L.* 4 (2023): 88.

<sup>22</sup> Husni Mubarrak A. Latief, 'Studi Fiqh Prioritas dalam Sunnah Nabi', *Jurnal al-Mu'ashirah*, 16.1 (2019): 22–31 (p. 27), doi:10.22373/jim.v16i1.5738.

policies that are oriented towards the interests that are relevant to the development of the times, as well as creating a harmonious order of life.

The application of *Fiqh Awlâwiyât* is also relevant in various aspects, from considering the implementation of policies based on *maqâshid sharia* to analyzing many contemporary issues. One example of its application is in the analysis of the formulation of the priority scale of Nahdlatul Ulama (NU) fiqh regarding agrarian reform as a response to the implementation of the Agrarian Reform and Social Forestry (RAPS) policy.<sup>23</sup> The combination of *hifdz al-bi'ah* (environmental protection) and the *maslahah* (benefit) paradigm contained in Islamic law shows that a priority scale is needed in every government policy in building and empowering communities, particularly in the context of environmental conservation.<sup>24</sup> This signifies that *Fiqh Awlâwiyât* can be an important instrument in responding to the complexity of contemporary problems, especially when there is a clash between values and interests.

Previously, Yûsuf al-Qarâdhawî's thoughts regarding the concept of *maslahat* as a consideration in determining the priority scale in *Fiqh Awlâwiyât* was discussed by Murie Hassan, who concluded that the principles of priority fiqh not only be categorized as legal principles (*qawâ'id fiqhîyyah*) but it can also be included in the category of legal theory principles (*qawâ'id ushûliyyah*) as it is relevant to legal theory and its application in fiqh.<sup>25</sup>

One of the priority fiqh principles recommended by Yûsuf al-Qarâdhawî is to consider collective interests by prioritizing matters that are beneficial to the community. This principle is reflected in his thoughts

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<sup>23</sup> Herlindah Herlindah and others, 'The Deconstruction of Nahdlatul Ulama Activists Against the Concept of Agrarian Reform Based on Fiqh of Priorities', *JURISDICTIE*, 14.1 (2023): 106–26 (p. 109), doi:10.18860/j.v14i1.21037.

<sup>24</sup> Choirur Rois, Nur Jannani, and Moh Hoirul Mufid, 'Islamic Law Paradigm Responding Conflicts of Interest of Economic Development and Ecological Conservation *Hifdz al-Bi'ah* Perspective', *Al-Istinbath: Jurnal Hukum Islam*, 9.1 (2024): 193–210 (p. 205), doi:10.29240/jhi.v9i1.8660.

<sup>25</sup> Murie Hassan, 'Yusuf al-Qaradawi's Jurisprudence of Priorities', *American Journal of Islam and Society*, 40.1–2 (2023): 77–120 (p. 113), doi:10.35632/ajis.v40i1-2.3190.

on empowering the community's economy through productive zakat, which aims to overcome economic problems, such as unemployment and poverty, and improve the welfare of the community.<sup>26</sup> Furthermore, al-Qarâdhawî explained that in priority fiqh, we need to prioritize *dharûriyyat* (urgency) over *hajjiyyat* (need) and *hajjiyyat* over tahsinat and *kamâliyyat* (complementary). Based on the opinion of scholars, *darûriyyat* itself is divided into five types, namely religion, soul, descent, reason, and wealth, with some scholars such as Shihâb al-Dîn al-Qarâfî adding honor as the sixth point of *dharûriyyat*.<sup>27</sup> This presentation strengthens the concept of *maslahah* in *Fiqh Awlâwiyât*, providing an initial framework for using *maslahat* to determine the priority scale for implementing Islamic law appropriate to the context and needs of the people.

As far as the author manages to trace, similar studies analyzing the thoughts of Abdus Salam Alî al-Karbulî are still rare. This scarcity shows that the potential to find new perspectives in the development of *Fiqh Awlâwiyât* through comparative studies is still wide open. In addition, considering that both figures are contemporary scholars who focus on studying Awlawiyat fiqh and have contributed a lot of thought in the field of *maqâshid sharia*, efforts to compare the thoughts of the two figures above are important for further development.

## Research Methods

This study is included in normative legal research using a comparative approach. Data were collected through literature studies and analyzed using descriptive-comparative analysis techniques. The primary data sources are the *Fiqh Awlâwiyât* book by Yûsuf al-Qarâdhawî using the rules of fiqh in determining the priority scale as well as the work of Abdus Salam Alî al-Karbulî using the *al-*

<sup>26</sup> Maulida CKhasanah and Oggy Maulidya Perdana Putri, 'Empowering the Community's Economy through Productive Zakat (A Comparative Study of Yusuf al-Qardhawi's and Sahal Mahfudh's Thoughts)', *Al-Kharaj: Jurnal Ekonomi, Keuangan & Bisnis Syariah*, 6.1 (2022): 55–66, doi:10.47467/alkharaj.v6i1.2507.

<sup>27</sup> Salman Al Farisi, 'Childfree dalam Perspektif Fiqh al-Aulâwiyat', *MAQASID: Jurnal Studi Hukum Islam*, 10.2 (2021): 1–9.

*Ta'ârudh* (contesting) method. In addition, this study also uses other secondary data sources in the form of books and articles related to the topic discussed.

Finally, the author analyzes the concept of *maslahat* in the thinking of the two figures by comparing them using the parameters of *Fiqh Awlâwiyât* construction, definition of *maslahat*, classification of *maslahat*, level of urgency of *maslahat*, and method of determining the priority scale of *maslahat*.

### **Yûsuf al-Qarâdhawî's Thoughts on *Maslahat***

Muhammad Yusuf ibn Abdullah ibn Ali ibn Yûsuf al-Qarâdhawî was born on September 9, 1926, in Saft Turab, al-Gharbiyah province, Egypt.<sup>28</sup> He is a contemporary scholar focusing on the field of Islamic law. His intellectual journey from undergraduate to doctoral level was taken at the Faculty of Usûl al-Dîn, al-Azhar University. He completed his undergraduate education in 1952 and his master's degree in Hadith Interpretation in 1960. He successfully obtained his doctorate in the field of Hadith Interpretation in 1973. He died on September 26, 2022, and left behind more than 120 academic works.

One of al-Qarâdhawî's works in the field of *Fiqh Awlâwiyât* is the book *Fi Fiqh al-Awlâwiyât: Dirâsah Jadîdah fi Dhaw' al-Qur'ân wa al-Sunnah* (Priority Fiqh: New Studies in the Perspective of the Qur'an and Sunnah) which he formulated systematically in September 1994. Previously, he had long echoed the idea of *Fiqh Awlâwiyât* with the term *Fiqh Marâtib al-A'mal* (Fiqh of the Sequence of Deeds). He first raised the idea through his paper entitled *Awlâwiyât al-Harakah al-Islâmiyyah fi al-Uqud al-Tsalatsah al-Qadîmah* (Priorities of the Islamic Movement in the Next Three Decades) which was presented at the annual conference of the Arab Muslim Youth Association of North America in December 1989. The paper was then published in a book in April 1990 under the title *Awlâwiyât al-Harakah al-Islâmiyyah fi*

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<sup>28</sup> Sulaiman Ibn Shalih al-Khusairy, *Pemikiran Yûsuf al-Qarâdhawi dalam Timbangan* (Jakarta: Pustaka Imam Syafi'i, 2003), p. 7.

*al-Marhalah al-Qadimah* (Priorities of the Islamic Movement in the Future).<sup>29</sup>

*Maslahat* in al-Qarâdhawî's view is not at the same level but has different levels. He classifies *maslahat* hierarchically into three levels. First, *dharûriyat*, which is a very urgent *maslahat*, that life will be damaged without it. The levels of *dharûriyat* are again divided sequentially into five forms of maintenance (*al-Dharûriyat al-Khams*), namely maintaining religion, soul, mind, descendants, and property. According to his view, maintaining religion is the most important aspect and must be prioritized over other aspects.<sup>30</sup> In his other books, however, al-Qarâdhawî sometimes prioritizes descendants over reason.<sup>31</sup> The difference in the order of priority scale of *al-Dharûriyat al-Khams* among scholars is natural because the order is not *naqliyah* (based on the scriptural text) but *ijtihâdiyah* (reasons).<sup>32</sup> Secondly, *hajjiyat*, a necessary *maslahat* that without it life will experience difficulties. Third, *tahsîniyyat* or *kamâliyat*, namely *maslahat* functions as decoration and complement.<sup>33</sup>

On the other hand, *mafsadat* in al-Qarâdhawî's view also has different levels, both in terms of quality, quantity, intensity, and the risks incurred. He classifies *mafsadat* into three hierarchical levels, namely *mafsadat* which can damage *dharûriyat*, *mafsadat* which can damage *hajjiyat*, and *mafsadat* which can damage *tahsîniyyat*. In his view, *mafsadat* which can damage *dharûriyat* is more dangerous than *mafsadat* which can damage *hajjiyat* and *tahsîniyyat*. As for the level of *dharûriyat* itself, *mafsadat* that can damage religion is more dangerous than *mafsadat* that can damage the soul, mind, descendants, and property.<sup>34</sup>

<sup>29</sup> Jauhari, pp. 134–35.

<sup>30</sup> Yûsuf al-Qarâdhawî, *Fi Fiqh al-Awlawiyyah Wa Dirâsah Jadîdah Fi Dhau'î al-Qur'an Wa al-Sunnah* (al-Qâhirah: Maktabah Wahbah, 1996), pp. 27–28.

<sup>31</sup> Yûsuf al-Qarâdhawî, *al-Siyâsah al-Syar'iyyah Fi Dhau' al-Nushûsh al-Syar'iyyah Wa Maqâshiduha* (al-Qâhirah: Maktabah Wahbah, 1998), pp. 311–12.

<sup>32</sup> Busyro, *Maqâshid al-Syari'ah: Pengetahuan Mendasar Memahami Maslahah* (Jakarta: Kencana, 2019), pp. 127–28.

<sup>33</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlawiyyah Wa Dirâsah Jadîdah Fi Dhau'î al-Qur'an Wa al-Sunnah*, pp. 27–28; Yûsuf al-Qarâdhawî, *Dirâsah Fi Fiqh Maqâshid al-Syari'ah: Baina al-Maqâshid al-Kulliyah Wa al-Nushûsh al-Juz'iyyah* (Qâhirah: Dâr al-Syuruq, 2006), p. 29.

<sup>34</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlawiyyah Wa Dirâsah Jadîdah Fi Dhau'î al-Qur'an Wa al-Sunnah*, p. 29.



Al-Qarâdhawî also explained that *maslahat* and *mafsadat* can come together in one case simultaneously. In determining the priority between the two, one needs proper consideration. He asserted that the dominant part must be prioritized because the comprehensive law (*kully*) is contained in that part. If the *maslahat* (benefit) is greater than the *mafsadat*, it is prioritized to realize the *maslahat*, while the *mafsadat* can be ignored. On the other hand, if the *mafsadat* is greater than the *maslahat*, then *mafsadat* must be avoided even if you are forced to give up the benefit (*maslahat*).<sup>35</sup> However, when *maslahat* and *mafsadat* are in comparable conditions, this gives rise to disagreements. If there are differences between the two, al-Qarâdhawî tends to choose the one that is more dominant. On the other hand, if no difference is found, then he chooses to leave both of them alone.<sup>36</sup> As a basis for consideration in determining priorities between two *maslahat*, between two *mafsadat*, and between *maslahat*, and *mafsadat*, al-Qarâdhawî used the rules of fiqh formulated by the ulama as in the following table.

**Table 1. Yûsuf al-Qarâdhawî's Priority method of *Maslahat***

Maslahat vs Maslahat	Mafsadat vs Mafsadat	Maslahat vs Mafsadat
تَقَدَّمُ الْمَصْلَحَةُ الْمُتَبَيَّنَةُ عَلَى الْمَصْلَحَةِ الْمَظْنُونَةِ أَوْ الْمُؤَهَّمَةِ	لَا ضَرَرَ وَلَا ضِرَارَ	دَرْءُ الْمُنْكَدَةِ عَلَى جَلْبِ الْمَصْلَحَةِ
تَقَدَّمُ الْمَصْلَحَةُ الْكَبِيرَةُ عَلَى الْمَصْلَحَةِ الصَّغِيرَةِ	الضَّرَرُ يُزَالُ بِقَدْرِ الْإِمْكَانِ	الْمُنْكَدَةُ الصَّغِيرَةُ تُغْتَفَرُ مِنْ أَجْلِ الْمَصْلَحَةِ الْكَبِيرَةِ
تَقَدَّمُ مَصْلَحَةُ الْجَمَاعَةِ عَلَى مَصْلَحَةِ الْفَرْدِ	الضَّرَرُ لَا يُزَالُ بِضَرَرٍ مِثْلِهِ أَوْ أَكْبَرَ مِنْهُ	تُغْتَفَرُ الْمُنْكَدَةُ الْعَارِضَةُ مِنْ أَجْلِ الْمَصْلَحَةِ الدَّائِمَةِ
تَقَدَّمُ مَصْلَحَةُ الْكَثَرَةِ عَلَى مَصْلَحَةِ الْقَلَّةِ	يُرْتَكَبُ أَحْفَ الضَّرَرَيْنِ وَ أَهْوَنُ الشَّرَّيْنِ	لَا تُتْرَكُ مَصْلَحَةٌ مُحَقَّقَةٌ مِنْ أَجْلِ مَنْكَدَةٍ مُتَوَهَّمَةٍ

<sup>35</sup> Al-Qaradhawi, *Fi Fiqh al-Awlawiyyah Wa Dirâsah Jadîdah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 30.

<sup>36</sup> Al-Qaradhawi, *Fi Fiqh al-Awlawiyyah Wa Dirâsah Jadîdah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 31–32.

Maslahat vs Maslahat	Mafsadat vs Mafsadat	Maslahat vs Mafsadat
تَقَدَّمُ الْمَصْلَحَةُ الدَّائِمَةُ عَلَى الْمَصْلَحَةِ الْعَارِضَةِ أَوْ الْمُنْقَطِعَةِ	يُتَحَمَّلُ الضَّرَرُ الْأَدْنَى لِدَفْعِ الضَّرَرِ الْأَعْلَى	
تَقَدَّمُ الْمَصْلَحَةُ الْجَوْهَرِيَّةُ وَالْأَسَاسِيَّةُ عَلَى الْمَصْلَحَةِ الشَّكْلِيَّةِ أَوْ الْهَامِشِيَّةِ	يُتَحَمَّلُ الضَّرَرُ الْخَاصَّةُ لِدَفْعِ الضَّرَرِ الْعَامِ	
تَقَدَّمُ الْمَصْلَحَةُ الْمُسْتَقْبَلِيَّةُ الْقَوِيَّةُ عَلَى الْمَصْلَحَةِ الْآتِيَّةِ أَوْ الضَّعِيفَةِ		

Source: *Al-Qarâdhawî, Fî Fiqh al-Awlâwiyyâh Wa Dirâsah Jadîdah Fî Dhaw'i al-Qur'an Wa al-Sunnah*, 1996, 28-31.

The rules above have been applied by al-Qarâdhawî when discussing several models of *Fiqh Aulâwiyyât*, such as the priority of knowledge over charity, quality over quantity, priority in commands, prohibitions, deeds, fatwas and da'wah, reform, heritage of thought, and the preaching of reformers. Each priority model has an explanation of its form and specific examples extracted from the text. So, these rules have been indirectly applied to it.

### Abdus Salam Alî al-Karbulî's Thoughts on *Maslahat*

Abdus Salam Iyâdah Ali Isma'il al-Karbulî al-Dailamî was born in Iraq in 1973. He is a contemporary scholar who has expertise in the field of Islamic law, especially in *maqâshid sharia*. Al-Karbulî took his intellectual journey from undergraduate to doctorate at the Islamic University of Baghdad. There, he studied at the Faculty of Islamic Sciences until 1997. In 2004, he received a master's degree in Islamic law. Then, he immediately took further studies, taking a more specific concentration in the field of *maqâshid sharia*, and succeeded in obtaining a doctorate in 2006. Among his academic works is the book *Fiqh al-Aulâwiyyât fî Dhilal Maqâshid al-Shari'ah* (Priority Jurisprudence in the Shadow of the Purpose of Sharia).

The book is the result of his doctoral dissertation which was later published in 2008.<sup>37</sup>

According to al-Karbulî, *maslahat* is defined as everything that can be realized through *maqâshid sharia*, either by bringing benefits or rejecting harm, quickly or slowly, general or specific, and at present or in the future.<sup>38</sup> This definition is more comprehensive in covering the concept of *maqâshid sharia* because it is formulated from the results of his conclusions regarding the various opinions of previous scholars, such as Imâm al-Ghazâlî, Fakhr al-Dîn al-Râzî, Izz al-Dîn ibn Abd al-Salam, Ibn Taymiyyah, and Imâm al-Shatibî. In his view, *maslahat* has several types and levels. There are *maslahat* that are more important, important, prioritized, and not prioritized, large and small.<sup>39</sup> He then classifies *maslahat* based on its urgency and scope.

Based on its urgency, *maslahat* is divided into four hierarchical levels. Firstly, *dharûriyat* which becomes an emergency and the goal of Sharia must be maintained and protected. *Maslahat* at the *dharûriyat* level consists of five main points maintaining religion, soul, mind, descendants, and property. He considered that religious benefits have a higher degree and are superior to other benefits. According to his view, the command of the Sharia to guard against *dharûriyat* matters contains the command to guard the five things from two sides, namely: First, the existence (*al-Wujûd*) and non-existence (*al-'Adam*). Guarding from the side of existence means protecting its continuity, while guarding from the side of nothingness means avoiding and preventing things that can damage it. Secondly, *hajjiyat*, a type of benefit necessary to eliminate difficulties and hardships. If the benefit is not fulfilled, it will not cause great damage. Thirdly, *tahsîniyat*, the benefit of decoration in nature. Fourth, *mukammilat*, a benefit of perfecting the aspects of *dharûriyat*, *hajjiyat*, and *tahsîniyat*.<sup>40</sup>

<sup>37</sup> Abdus Salam Ali al-Karbulî, 'Dr. Abdus Salam Iyâda Ali Ismail al-Karbouli al-Dulaimi's Curriculum Vitae (CV)' <<https://portal.arid.my/CVFiles/2c8fca6d-14b3-46.docx>>.

<sup>38</sup> Abd al-Salam Iyadah Ali al-Karbulî, *Fiqh al-Awlâwiyah Fi Zilal Maqâshid al-Syari'ah al-Islâmiyyah* (Riyâdh: Dar Taiba, 2008), p. 27.

<sup>39</sup> Abd al-Salam Iyadah Ali al-Karbulî, p. 254.

<sup>40</sup> Abd al-Salam Iyadah Ali al-Karbulî, pp. 279–83.

Next, al-Karbulî divided *maslahat* based on its scope into two types, namely general and specific *maslahat*. General *maslahat* includes the interests of the wider community regardless of differences in race, ethnicity, tribe, and group.<sup>41</sup> Whereas, special *maslahat* only includes the interests of certain individuals, from which communal *maslahat* can be realized. For this reason, general *maslahat* must be prioritized over special *maslahat*.

In determining the priority of *maslahat*, al-Karbulî put forward five methods that must be carried out sequentially, namely *al-jam'u* (combining), *al-tarjîh* (strengthening), *al-takhyîr* (choosing), *al-iqrâ'* (drawing lots), and *al-tawaquf* (halting). Of the five methods, *al-Jam'u* is the most important method and must be prioritized. If there are several *maslahat*, then as much as possible they can be combined and practiced simultaneously. Because, according to his opinion, Shari'a was revealed to humans with the command to realize, maximize, and perfect the *maslahat*. If several of these *maslahat* conflict with each other, then the *al-tarjîh* method is used, namely by strengthening one of the greatest benefits. For this reason, it is necessary to examine and weigh the *maslahat*, in terms of their nature, type, level, quality, influence, and results. However, if several *maslahat* are in comparable conditions, then the *al-takhyîr* method provides the freedom to choose one of the *maslahat* that must be prioritized. If *al-takhyîr* is unsuccessful, one can use *al-iqrâ'* by randomly drawing one of the benefits.

The last method is *al-tawaquf*, keeping quiet, not choosing, and not practicing all of them until one can decide on the greater benefits. Al-Karbulî also believes that *mafsadat* has various types and levels, there are bad, and worse *mafsadat*, dangerous, and more dangerous, reprehensible, and very reprehensible. For that, the method he used in prioritizing *mafsadat* also consists of five types, namely *al-jam'u*, *al-tarjîh*, *al-takhyîr*, *al-iqrâ'*, and *al-tawaquf*.<sup>42</sup>

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<sup>41</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 284–86.

<sup>42</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 254–60.

In the context of a clash between *maslahat* and *mafsadat* at the same time, al-Karbulî mentioned that only one method can be used, namely *al-tarjih*. This condition requires considering the nature, type, level, and quality of each *maslahat* and *mafsadat*. If a greater *maslahat* clashes with a smaller *mafsadat*, then the priority is to realize the *maslahat*. Conversely, if a greater *mafsadat* clashes with a smaller *maslahat*, then the priority is to avoid the *mafsadat*.<sup>43</sup>

Regarding the situation where *maslahat* and *mafsadat* are of comparable type, level, and quality, scholars have differing opinions regarding the possibility of equality between *maslahat* and *mafsadat*. Some scholars are of the opinion that such equality is possible, while others are of the opinion that it is impossible.<sup>44</sup> Of the various opinions of scholars, al-Karbulî considers the opinion of Ibn Qayyim<sup>45</sup> and Imâm al-Shâtibi<sup>46</sup> as the strongest opinion stating that equality between *maslahat* and *mafsadat* will not occur, and emphasizes that *maslahat* and *mafsadat* will not come together at a comparable level. One must be greater than the other, whether in terms of nature, type, level, quality, or results. This can be known through research and correct assessment to weigh *maslahat* and *mafsadat*.<sup>47</sup>

In determining the priority scale, al-Karbulî formulated several standards. First, the differences in the perpetrators, and the circumstances surrounding them. Second, the differences in places and times change dynamically. Third, the motives and goals of the perpetrators must follow the objectives of the Sharia. Fourth, the results, impacts, and risks of an act.<sup>48</sup> The entire method used by al-Karbulî to determine the priority

<sup>43</sup> Abd al-Salam Iyâdah Ali al-Karbulî, p. 272.

<sup>44</sup> Abd al-Salam Iyâdah Ali al-Karbulî, p. 276.

<sup>45</sup> Abû Abdullah ibn Qayyim al-Jauziyyah, *Miftâh Dâr al-Sa'âdah Wa Mansyûr Wilâyah al-'Ilm Wa al-Îrâdah* (Beirût: Dâr al-Fikr), Juz 2, p. 16.

<sup>46</sup> Abû Ishâq al-Syâtibi, *Al-Muwâfaqat Fi Ushûl al-Syari'ah* (Beirût: al-Maktabah al-Ashriyah, 2003), Juz 2, p. 21. About al-Syâtibi, see also Fathurrahman, Fathurrahman, Abdul Qodir Zaelani, and Iskandar Syukur. "The Role of Penghulu in Harmonising the Marriage Age Limit Perspective of Imam As-Syatibi's Theory." *Nurani: Jurnal Kajian Syari'ah dan Masyarakat*, 23.2 (2023): 341-354.

<sup>47</sup> Abd al-Salam Iyâdah Ali al-Karbulî, p. 278.

<sup>48</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 289–300.

scale between *maslahat*, between *mafsadat*, and between *maslahat* and *mafsadat*, can be presented in the table below along with simple examples of its application.<sup>49</sup>

**Table 2. Abdus Salam Alî al-Karbulî's Priority Method of *Maslahat* and its Application**

Methods	Maslahat vs Maslahat	Mafsadat vs Mafsadat	Maslahat vs Mafsadat
<i>al-Jam'û</i>	Responding to greetings while reading the Qur'an	Thwarting two robberies against the Baitul Mal and the property of orphans simultaneously	(Non-applicable)
<i>al-Tarjih</i>	(al-Karbulî does not give examples))	Eating other people's property in an emergency to protect one's soul from destruction	Perform the prayer without covering the intimate parts if one cannot find anything that can cover it
<i>al-Takhyîr</i> <i>al-Iqrâ'</i> <i>al-Tawaquf</i>	Helping one of two Muslims who are attacked simultaneously	Damaging the property of one of the two people because of the threat of being killed if they do not do it	(Non-applicable)

Source: Author's compilation

### **Comparison of *Maslahat* in Yûsuf al-Qarâdhawî and Abdus Salam Alî al-Karbulî's *Fiqh Awlâwiyât***

The construction of *Fiqh Awlâwiyât* by al-Qarâdhawî and al-Karbulî is based on *muwâzanât fiqh* (comparative fiqh), which provides three forms of consideration, namely: consideration between *maslahat*, consideration between *mafsadat*, and consideration between *maslahat* and *mafsadat*.<sup>50</sup>

<sup>49</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 254–75.

<sup>50</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlâwiyah Wa Dirâsah Jadîdah Fi Dhau'i al-Qur'an Wa al-Sunnah*, pp. 33–34.

Al-Qarâdhawî elaborated *muwâzanât fiqh* with *waqî'iyat fiqh* (reality fiqh),<sup>51</sup> Whereas, al-Karbulî developed it based on *al-ta'ârudh wa al-tarjîh* (conflict and reinforcement). In his opinion, *Fiqh Awlâwiyât* can be used to determine two conflicting matters (*al-ta'ârudh*) and prioritize one of them (*al-tarjîh*). Compared to *al-ta'ârudh wa al-tarjîh*, *Fiqh Awlâwiyât* has a more comprehensive and holistic scope. Because, in addition to accommodating (*al-muta'âridhat*) and opposing (*al-mutanâqidhat*) conflicting matters, which are the domain of *al-ta'ârudh wa al-tarjîh*, *Awlâwiyât* jurisprudence can also accommodate comparable matters (*al-mutasâwiyat*).<sup>52</sup>

*Awlâwiyât* jurisprudence in the view of al-Qarâdhawî and al-Karbulî has a close relationship with the *maqâshid of sharia*. Al-Qarâdhawî stated that *Awlâwiyât* jurisprudence helps distinguish the constant objectives of Sharia with the changing methods of implementing Sharia. In addition, according to his view, *Awlâwiyât* jurisprudence is also related to *fiqh nash*. While al-Karbulî firmly stated that *Awlâwiyât* jurisprudence plays a role in determining the hierarchy of *maqâshid of sharia*. This role is apparent when determining the priority scale of *maslahat* and *mafsadat* that clash or in comparable conditions.

Regarding the definition of *maslahat*, al-Qarâdhawî did not mention it specifically. He only discussed the concept of *Fiqh Awlâwiyât* and its application. This differs from al-Karbulî who formulated it concretely and comprehensively by summarizing the opinions of previous scholars. However, both view *maslahat* in various types and levels, not at the same level.<sup>53</sup>

The classification of *maslahat* proposed by al-Qaradhawi into three levels (*dharûriyat*, *hajjiyat*, *tahsîniyat*, or *kamâliyat*)<sup>54</sup> equates *kamâliyat* with *tahsîniyat* because their functions are the same as

<sup>51</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlâwiyah Wa Dirâsah Jadidah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 36.

<sup>52</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 36–38.

<sup>53</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 36–38; Al-Qarâdhawî, *Fi Fiqh al-Awlâwiyah Wa Dirâsah Jadidah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 27.

<sup>54</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlâwiyah Wa Dirâsah Jadidah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 27.

decoration and complement. Meanwhile, al-Karbulî classifies it into four levels (*dharûriyat*, *hajjiyat*, *tahsîniyat*, and *mukammilat*)<sup>55</sup> He places *mukammilat* in a separate level below *tahsîniyat* because its function is to perfect the three levels above it. The difference in classification is the area of *ijtihâd* in interpreting the text. However, the majority of scholars only classify it into three levels. Regardless of the differences, both agree that hierarchically *dharûriyat* must be prioritized over *hajjiyat* and *tahsîniyat*. As for the level of *dharûriyat*, both rank *al-Dharûriyat al-Khams*: religion, soul, mind, descendants, and property.<sup>56</sup>

The use of fiqh rules in *ijtihâd* is seen in the process of *tathbîq al-abkâm*, namely by applying the law to new problems that do not have legal provisions in the text.<sup>57</sup> Whereas, al-Karbulî uses the *al-ta'ârudh* method and includes *al-jam'u*, *al-tarjîh*, *al-takhyîr*, *al-iqrâ'*, and *al-tawaqquf*.<sup>58</sup>

The differences in the construction of *Fiqh Awlâwiyât* of al-Qarâdhawî and al-Karbulî as explained above apparently affect the differences in methods for determining the priority scale. Al-Qarâdhawî uses fiqh rules as the basis for his considerations. Fiqh rules are formulated inductively (*istiqrâ'i*) from a collection of fiqh problems that have similar '*illat*', then verified based on the objectives of the shari'a in the text.<sup>59</sup> The use of fiqh rules in *ijtihâd* is seen in the *tathbîq al-abkâm* process, namely by applying the law to new problems that do not have legal provisions in the text. Meanwhile, al-Karbulî uses the *al-ta'ârudh* method, including *al-jam'u*, *al-tarjîh*, *al-takhyîr*, *al-iqrâ'*, and *al-tawaqquf*.

<sup>55</sup> Abd al-Salam Iyâdah Ali al-Karbulî, pp. 279–83.

<sup>56</sup> Al-Qarâdhawî, *Fi Fiqh al-Awlâwiyah Wa Dirâsah Jadîdah Fi Dhau'i al-Qur'an Wa al-Sunnah*, p. 28; Al-Qarâdhawî, *Dirâsah Fi Fiqh Maqâshid al-Syari'ah: Baina al-Maqâshid al-Kulliyah Wa al-Nushûsh al-Juz'iyah*, p. 29; Abd al-Salam Iyâdah Ali al-Karbulî, p. 283.

<sup>57</sup> Boedi Abdullah and Ahmad Saebani, *Perbandingan Kaidah Fiqhiyah* (Bandung: Pustaka Setia, 2018), p. 101.

<sup>58</sup> Abd al-Salam Iyâdah Ali al-Karbulî, p. 254.

<sup>59</sup> H. A. Dzajuli, *Kaidah-Kaidah Fikih: Kaidah-Kaidah Hukum Islam dalam Menyelesaikan Masalah-Masalah Yang Praktis* (Jakarta: Kencana, 2011), pp. 13 & 24.



Although different, it is clear that the two methods are interrelated. In addition to using the rules of *fiqh*, Al-Qaradhawi also used the *al-tarjih* method when there was a clash between *maslahat* and *mafsadat*. Meanwhile, al-Karbulî who used the *al-ta'ârudh* method also formulated the rules of priority in *tarjih* between *maslahat*, including: prioritizing large *maslahat* over small *maslahat*, general over specific, unlimited over limited, urgent over non-urgent, direct over indirect, essential over conjecture, present over future, obligatory over *sunnah*, and group interests over individual interests.<sup>60</sup>

Along with the development of the era and the complexity of contemporary problems, the al-Qarâdhawî priority rules formulated by previous scholars certainly require further development, both in terms of quality and quantity. However, this can be complemented by the *al-ta'ârudh* method which tends to be more comprehensive, solution-oriented, and relevant to the development of the era. Therefore, in the context of developing *Fiqh Awlâwiyât*, both methods can be elaborated to complement each other.

As an example of the application, the al-Qarâdhawî and al-Karbulî methods can be applied in analyzing the Fatwa of the Indonesian Ulema Council Number 31 of 2020 concerning the Implementation of Friday and Congregational Prayers to Prevent the Spread of the Covid-19 Outbreak,<sup>61</sup> especially in areas where transmission is vulnerable and uncontrolled. In this case, there is a clash between interests, namely maintaining religion (*hifdz al-dîn*) and maintaining the safety of life (*hifdz al-nafs*). Based on the analysis of Siti Hajar and Ahmad Zaeni, the MUI Fatwa clearly shows that *hifdz al-nafs* is prioritized over *hifdz al-dîn*, which seems inconsistent with the priority hierarchy of *maqâshid sharia* according to the majority of *Fiqh* scholars.<sup>62</sup>

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<sup>60</sup> Dzajuli, p. 258.

<sup>61</sup> Majelis Ulama Indonesia, 'Fatwa Majelis Ulama Indonesia Nomor 31 Tahun 2020 Tentang Penyelenggaraan Shalat Jum'at dan Jama'ah Untuk Mencegah Penularan Wabah Covid-19', in *Pub. L. No. 31* (Majelis Ulama Indonesia, 2020).

<sup>62</sup> Siti Hajar and Ahmad Zaeni, 'Moderasi Pemahaman Hirarki *Maqâshid al-Syari'ah* dalam Fikih Pandemi Perspektif *Fiqh al-Awlâwiyat* Studi Fatwa MUI', *Jurnal Asy-Syari'ah*, 24.1 (2022): 19–38 (p. 21), doi:10.15575/as.v24i1.16930.

Al-Qarâdhawî, who has a moderate view, prioritizes *hifdz al-nafs* over *hifdz al-dîn* based on the fiqh principle that rejecting *mafsadat* is prioritized over realizing *maslahat*. The *mafsadat* arising from performing congregational prayers in areas where the transmission of COVID-19 is uncontrolled must be avoided rather than simply achieving the *maslahat* of establishing congregational prayers. This is because the *mafsadat* not only has an impact on the safety of the soul, but also on the safety of the mind, descendants, and property. Thus, the *mafsadat* in this context is greater than the *maslahat*.<sup>63</sup>

Meanwhile, the results of *al-tarjih* as in the *al-ta'ârudh* method proposed by al-Karbulî also show that *hifdz al-nafs* must be prioritized over *hifdz al-dîn*. This is based on the difference in levels of the two *maslahat*. The implementation of congregational prayer in the mosque is included in the level of *mukammilat* for *hifdz al-dîn*, namely gaining rewards and calling for religious shi'ar. On the other hand, maintaining the soul is included in the level of *dharûriyat* of all human rights (soul, mind, descendants, and property).<sup>64</sup>

The case example above shows that the methods of al-Qarâdhawî and al-Karbulî produce the same conclusion. However, the results can also be different if applied to other cases. This is because the consideration of the priority of *maslahat* cannot be separated from the conditions of the perpetrators, differences in place, social reality, and developments in the era. The application of these two methods is a form of *ijtihad* in solving contemporary problems. In simple terms, a comparison of the thoughts of al-Qarâdhawî and al-Karbulî regarding the concept of *maslahat* in *Fiqh Awlâwiyât* can be formulated in the following table.

The thoughts of al-Qarâdhawî and al-Karbulî related to the concept of *maslahat* have made many positive contributions to contemporary Islamic legal thought, especially the study of *maqâshid sharia* and the development of *Fiqh Awlâwiyât*. The ideas of *Fiqh Awlâwiyât*

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<sup>63</sup> Hajar and Zaeni, pp. 32–33.

<sup>64</sup> Hajar and Zaeni, p. 32.

of previous scholars were significantly developed by al-Qarâdhawî to give them a systematic construction. In further developments, al-Karbulî formulated the *al-ta'ârudh* method between *maslahat* and *mafsadat* which had not been discussed in more detail by previous scholars. Although methodologically different, the thoughts of both have substantial similarities, namely realizing *maslahat* and rejecting *mafsadat*.

**Table 3. Comparison of the Concept of *Maslahat* in *Fiqh Awlâwiyât***

No.	Parameter	Yûsuf al-Qarâdhawî	Abdus Salam Alî al-Karbulî
1	Construction of <i>Fiqh Awlâwiyât</i>	Elaboration of <i>Muwâzanât</i> and <i>waqî'iyat</i> fiqh	<i>Muwâzanât fiqh</i> based on <i>al-ta'ârudh wa al-tarjih</i>
2	Definition of <i>maslahat</i>	Do not define <i>maslahat</i> , but rather elaborate on the definition and concept of <i>Fiqh Awlâwiyât</i>	Everything can be realized through <i>maqâshid sharia</i> , namely by bringing benefits or rejecting harm, whether fast or slow, general or specific, now or in the future.
3	Classification of <i>maslahat</i>	Based on its urgency	Based on urgency and scope (general-specific)
4	Level of urgency of <i>maslahat</i>	Divides <i>maslahat</i> into three parts: <i>dharûriyat</i> , <i>hajjiyat</i> , and <i>tahsiniyat</i> or <i>kamâliyat</i>	Dividing <i>maslahat</i> into four parts: <i>dharûriyat</i> , <i>hajjiyat</i> , <i>tahsiniyat</i> , dan <i>mukammilat</i>
5	Method of determining the scale of priority of <i>maslahat</i>	Using the rules of fiqh	Using the <i>al-ta'ârudh</i> method, including <i>al-jam'u</i> , <i>al-tarjih</i> , <i>al-takhyîr</i> , <i>al-iqrâ'</i> , dan <i>al-tawaquf</i>

Sumber: Author's compilation

## Conclusion

*Maslahat* in the views of Yûsuf al-Qarâdhawî and Abdus Salam Alî al-Karbulî has various types and levels, so it is necessary to determine the priority scale through *Fiqh Awlâwiyât*. The construction of *Fiqh*

*Awlâwiyât* is built on *muwâzanât fiqh*, which gives consideration to *maslahat*, *mafsadat*, and between *maslahat* and *mafsadat*. Al-Qarâdhawî elaborated *Fiqh Awlâwiyât* with *waqî'iyat fiqh*, while al-Karbulî developed *Fiqh Awlâwiyât* based on *al-ta'ârudh wa al-tarjîh*. This affects the difference in the method of determining the priority scale. Al-Qarâdhawî uses the rules of *fiqh*, while al-Karbulî uses the *al-ta'ârudh* method. Behind these differences, the thinking of *maslahat* of both has a similar substance related to each other, so it can be elaborated in the framework of developing *fiqh*.

### Author Contribution

Teguh Ifandy is responsible for the planning and implementation of the research, starting from the preparation of the proposal, data collection, and analysis, to writing the initial draft of the article manuscript. Idaul Hasanah supervises, completes comprehensive proofreading, completes data, checks revised edition articles, and acts as a corresponding author to manage communication with the Journal Publishers.

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