CHAPTER 7

Islamic Family Law Reform in Indonesia Perspective Maqasid Shariah Jasser Auda: Study of Counter Legal Draft Analysis - Compilation Of Islamic Law

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Introduction

The emergence of an offer of transformative Islamic law made to replace the Compilation of Islamic Law (KHI) or Fikih Indonesia in the form of the Counter Legal Draft of Compilation of Islamic Law (CLD-KHI), attracted the attention of academics, scholars and Islamic jurists in Indonesia. The reform is a challenge to present Islamic Shari'ah building with respects to Indonesia with all its national character, culture and progress in democratizing and upholding human rights, including women's rights. There are six basic legal visions, namely pluralism, nationality, human rights enforcement, democratic, maslahat and gender equality. These six principles constitute the framework that animates the entire provisions of Islamic law CLD-KHI version. This article is a library research oriented using the maqasid shariah perspective of Jasser 'Auda as an analysis. This article attempts to answer the following questions: (a) how is the legal *istinbat* method used in formulating the Counter Legal Draft of Compilation of

Islamic Law (CLD-KHI)? (b) how is the Counter Legal Draft of Compilation of Islamic Law (CLD-KHI) seen from the perspective of maqasid syariah of Jasser 'Auda? The results of the research indicate that the reformation of Islamic family law offered in CLD-KHI in *istinbat* method is not contradictory to the concept of maqasid syariah of Jasser Auda. However, the application of CLD-KHI as a substitute for Indonesia's legal law (KHI) is still stalled due to some political factors.

Islamic family law reform in Indonesia is the amendment of the Islamic family law in Indonesia (KHI) by Counter Legal Draft Compilation of Islamic Law (CLD-KHI). The transformative Islamic law which is supposed to replace the Compilation of Islamic Law (KHI) or Fikih Indonesia, is termed as the Counter Legal Draft of Compilation of Islamic Law (CLD-KHI). It has attracted the attention of a number of academics, scholars and Islamic jurists. Many of them are objecting and do not agree with the proposal.

The update, according to the CLD-KHI team, is a challenge to present the Islamic Shari'ah concept that respect the national character of Indonesia, its culture and progress in democratizing and upholding human rights, including women's rights. In the explanation of the CLD-KHI team, which is the Working Group of Gender Mainstreaming (Pokja PUG) of the Department of Religious Affairs of Indonesia in 2004, argued that the formation of this law is based on the Islamic law that it aspired. The CLD-KHI team stated that there are six basic legal visions, namely pluralism (*ta'adudiyah*), nationality (*muwathanah*), human rights enforcement (*iqamat al-huquq al-Insaniyah*), democratic (*dimuqrathiyah*), benefit (*maslahat*) and gender equality (*al-musawah al-jinsiyah*).

These six principles constitute the framework that animates the entire provisions of the Islamic law CLD-KHI version. Therefore, in accordance with the perspective, the principles and vision that it aspired, CLD-KHI not only offer principles that are different from the Islamic legal provisions of the KHI, but it also changes the view of the concept of marriage, male and female relations, divorce, and reconciliation (*rujuk*) to become a so-called just, democratic and pluralist relationship between husband and wife, parents and children, as well as between family and community.

This concept will stir a controversy in the society. Opponents of this concept generally come from the Shari'ah formalis advocates, while their supporters come mostly from groups persistently championing gender equality and gender justice, democracy, pluralism and human rights. Most academics still appreciate the CLD-KHI concept, although they only approve some of these proposals. The rejection of this draft is more due to the use of less common perspectives applied in Islamic law, such as democracy, gender, and human rights which are regarded as the Western intervention against Islamic law, so that it is no longer original from the Qur'an and Hadith.

KHI which has been regarded as a static and rigid fiqh product needs to be updated in reading through the contextual fiqh perspective by reforming Islamic law in Indonesia. Furthermore, the emergence of CLD-KHI itself is an indication of the dynamics of law that is always evolving in a society involving issues such as unregistered marriage, polygamy, and marriage different religions that are still causing debate in the Indonesian society.

On the other hand, there is a contemporary Muslim thinker who is concerned about the reform of Islamic legal philosophy (*Usūl al-Fiqh*) namely Jasser ‘Auda, who uses the maqasid shariah as the basis for his philosophy. It is regarded as a novel approach that has for use in discussions about Islamic law and Ushūl al-Fiqh.

Why must KHI be changed?

According to the CLD-KHI Team, there are some reasons why it is necessary to conduct a critical review of KHI and ultimately to consider the CLD formula. First, in 2001 the Government of Indonesia through the Ministry of Women’s Empowerment announced a national policy to eliminate violence against women known as the Zero Tolerance Policy in the form of National Action Plan for the Elimination of Violence Against Women (RAN PKTP). For example, the incompatibility between Shariah and the Universal Declaration of Human Rights (DUHAM) in relation to the status of women and non-Muslims. One of the important points in the RAN-PKTP is the elimination of violence against women in the socio-cultural or socio-cultural aspects through the revision of the Compilation of Islamic Law (KHI).

Second, because the formulation of Islamic law contained in the KHI has been changed for various reasons, as follows; (1) KHI has a major weakness in the formulation of vision and mission. Some articles of KHI are in principle contrary to the basic principles of Islam, such as equality (*al-musawah*), brotherhood (*al-ukhuwwah*), and justice (*al-’adalah*). (2) a number of articles of KHI are no longer in accordance with prevailing laws and regulations and international conventions that have been ratified.

(3) from the point of view of methodology, KHI still impressed the replica of the legal jurisprudence of the early scholars. The legal construction of KHI has not yet been fully understood in the viewpoint of the Indonesian Islamic community, as it is regarded as a reflection of the ongoing adjustment process that the Jurisprudence of the Middle East and the rest of the Arab world is going through.

Third, the Directorate of Religious Courts in 2003 (before becoming part of the Supreme Court) proposed an Applied Draft Law on Marriage for Religious Court (RUU HTPA) to replace the marital law position in the KHI. In addition to proposing changes to the legal status of the presidential instruction (Inpres) into law (UU), it also proposes the addition of new articles on sanctions for each violation, for example, a violation in the case of marriage registering. For those who do not register their marriage in the authorized institution will be subject to punishments in the form of jail and fine. This is due to the data recorded in Department of Religious (DEPAG), that shows about 48% of marriages that take place were not registered. This is of great concern because the absence of records is clearly detrimental to the rights of wives and children.

Fourth, The existence of KHI has been recognized by the state and it is often used as a reference by Religious Court (PA) judges and Religious Affairs Office (KUA) officers. Some communities and religious leaders want to change the KHI. They reasoned that the KHI should be replaced by proposing the following arguments; (1) KHI is in Indonesian language, so it is easy to be understood and it would also provide legal certainty because it does not offer more than one legal choice as in the fiqh tradition referred to in Indonesia as the *Kitab Kuning*. (2) The

result of Directorate of Religious Affairs research, in 2001 about the “Application of KHI to Religious Courts / Religious High Court” mentioned that 1008 Religious Court decisions in Jakarta, Bandung, Semarang, Yogyakarta, Surabaya and Bandar Lampung area showed that almost 100 % all judges’ decisions using KHI as a reference implicitly, and 71% of the judge’s decision mentioned KHI explicitly. This shows that although in the context of KHI law is already institutionalized. Consequently, the CLD-KHI team continues to face the challenge to finding Islamic Shari’ah perspectives that are compatible with the national character of Indonesia and in reconciliation with human rights, including women’s rights.

Fifth, there are strong demands to formalize the Shari’ah in some areas, such as West Sumatra, South Sulawesi, Cianjur, and Madura. Unfortunately, in the formalization of Islamic Shari’ah , these areas do not have a clear concept of Islamic Shari’ah that will be used. To answer that need, one of the alternatives that can be proposed is to offer the use of KHI that is tailored to the needs and local wisdom in their respective regions.

Sixth is the need to compare KHI with the family law existing in different Muslim countries, such as Tunisia, Jordan, Syria, Iraq, and Egypt. These Muslim countries have repeatedly renewed their family law. Syria has amended the Qanun al-Ahwal al-Syakhsyah in 1953 to become Law No.3 of 1975 with the aim of guaranteeing women’s rights in the view of Islamic law. In the same vein, Egypt also has reformed Islamic family law related to polygamy, mandatory will, inheritance and child rearing. Family law reforms undertaken in Jordan are related to marital age, marriage appointment, religious marriage, marriage recording, divorce, and mandatory will (*wasiat wajibah*).

There are two things to note from the comparative study of family law: first, the spirit of Islamic law reformation in the field of family law is always meant to protect and improve the status and position of women and to protect children. Second, the reformed family law is in many ways contrary to the provisions of the classical fiqh books. For example, the family law in Tunisia was renewed in 1959 to emphasize the necessity of announcing the divorce in the Court and the absolute prohibition of polygamy.

Seventh, survey results in five areas: Aceh, West Sumatra, West Java, South Sulawesi and West Nusa Tenggara, has found that the majority of respondents consisting of judges in the Religious Courts, who are heads of KUA, religious leaders wanted to change the KHI due to these reasons: (1) KHI has been around for 13 years (1991-2004) and was being applied ever since without being evaluated critically (2) KHI needs to have a certain legal force and binding and can be used as legal codification (3) legal materials contained in the KHI equipped and refined to suit the increasingly complex needs of Indonesian society.

These reasons are the basis and argument by the CLD-KHI team on the importance of developing and formulating new KHIs with new approaches that are responsive to social developments, new regulations, and reflecting equity and gender equality. The renewal of Islamic law compilation needs to be done.

The Concept and The Legal Istinbat of the CLD-KHI

The CLD-KHI is an effort to renew the Compilation of Islamic Law (KHI) which is deemed to be no longer relevant to the

current context. CLD-KHI was initiated by the Working Group for Gender Mainstreaming of the Ministry of Religious Affairs (Pokja PUG Depag), called CLD KHI team, on 4 October 2004.

The team is divided into two groups, namely the drafting team or CLD KHI (core team) and the Contributor Team. The drafting team consists of Dr. Hj. Siti Musdah Mulia, MA; Drs. H. Marzuki Wahid, MA; Drs. Abd. Abd Moqsiith Ghazali, MA; Dra. Anik Farida, MA; Drs. Saleh Partaonan, MA; Drs. Ahmad Suaedy; Drs. H. Marzani Anwar; H. Abdurrahman Abdullah, MA; Dr. KH. Ahmad Mubarak, MA; Drs. Amirsyah Tambunan, MA; Drs. Asep T Akbar, MA. The Active Contributors Team is KH. Drs. Husein Muhammad; KH. Afifuddin Muhajir; Drs. Lies Marcoes-Natsir, MA; Dr. H. Zainul Kamal, MA; Dr. Ahmad Luthfi; Drs. Syafiq Hasyim, MA; Drs. Faqihuddin Abdul Qadir, MA; Drs. Imam Nakhai, MHI; Dr. Hamim Ilyas, MA; Dra. Badriyah Fayumi, Lc; Dra. Umi Khusnul Khatimah MA; Dra. Mesraini, MA; Dra. Hindun Anisah; MA, Dra. Fatma Amelia.

Based on KHI manuscripts, the CLD-KHI team changed the thinking framework to establish Islamic law “from theocentric to anthropocentric, from elitist to populist, from deductive to inductive”. Changes were made after considering the reality of the culture of Indonesian society which is different from the Arab and the Middle East populace. In addition, it also pays attention to the condition of many Indonesian women who are currently able to finance themselves and their families from productive employment and the increasing number of women who contribute in the public arena, including the leadership positions. Having in mind this framework of thinking, the CLD-KHI team proceed to interpret the verses of the Qur’an and Hadith with a welfare

approach, local wisdom, *maqasid al-Shari'ah* h, and public wisdom. This is reflected in the *usul* jurisprudence rules used in formulating the provisions of Islamic law.

Nevertheless, CLD-KHI team keeps on digging Islamic law from the classical Islamic intellectualism from various jurisprudence schools. Thus, all the provisions of Islamic law in CLD-KHI are extracted and formulated from authoritative Islamic sources, the Qur'an and al-Sunnah, as well as the classical Islamic intellectual treasures through an examination of the needs, experiences and traditions who live in Indonesian society, and experience civilization of Muslim and Western societies in other countries.

The principal difference between CLD-KHI's reasoning and that of KHI lies in the perspective and the approach used as well as the legal landscape of the legal basis. The CLD-KHI team explicitly mentions that the perspectives used in formulating Islamic family law are based on the concepts of gender justice, pluralism, human rights, and democracy. This approach will, in addition, bring Shari'ah h Islam into contact with public law that can be accepted by all circles, and will also be compatible with modern democratic life.

The results of the reasoning are then "grounded" into the landscape of Indonesian-ness, especially the context of applicable legislation. It relates to the principle of legislation that the coming law provisions should not be contradictory to previous legal provisions. Before CLD-KHI was made, the MPR had amended the Constitution 1945 four times. The most important substance of the amendment is to place democracy, equality and human rights in a very strategic position. A number of important

laws have also been established, such as Law No. 7 of 1984 on CEDAW Endorsement, Law No. 39 of 1999 on Human Rights, Law No. 23/1999 About 2002 on Child Protection, Law No. 23 of 2004 on the Elimination of Domestic Violence, Law Number 12 Year 2005 on Ratification of the International Covenant on Civil and Political Rights (ICCPR), Law Number 11 Year 2005 on Endorsement of ICESCR (International Covenant on Economic, Social, and Cultural Rights, International Covenants on Economic, Social and Cultural Rights). Within the framework of the legislation, CLD-KHI's version of Islamic law is redacted in the form of articles and verses.

The formation of this law works based on the vision of Islamic law as expected by the CLD-KHI. The CLD-KHI team stated there were six visions of Islamic law to adhere to, namely “pluralism (*ta’addudiyyah*), nationality (*muwâthanah*), the enforcement of human rights (*iqâmat al-huqûq alinsāniyyah*), democratic (*dîmûqrathiyyah*), benefit (*mashlahat*), and gender equality (*almusâwah al-jinsiyyah*).” These six basic principles form the framework that animates all the provisions of Islamic law in the CLD-KHI version.

Musdah Mulia said that family law reform in the form of the CLD-KHI seeks to offer a just and democratic marital law based on Islamic teachings that upholds humanitarian values. The purpose is to establish a marriage full with love and affection (*mawaddah wa rahmah*) and encourage the upright behavior of the husband and wife (*mu’asharah bil ma’ruf*), and mutual respect and understanding. They may also complete with each other to obtain happiness in family life.

The CLD-KHI has to be seen as an *ijtihad* to promote the Islamic teachings which emphasize love and respect for all human being and strives to eliminate all forms of domination, discrimination, exploitation, and violence, particularly in domestic life (marriage life). It is actually an effort to seek the solution for a number of contemporary social problems faced by Indonesian's society.

Maqasid Shariah of Jasser Auda: An Analysis

Jasser 'Auda classifies the trends in Islamic thought, namely (a) traditionalism; (b) modernism, and; (c) postmodernism. (a) Traditionalism includes the streams of scholastic traditionalism, scholastic neo-traditionalism, neo-literalism, and ideology-oriented theories. (b) Then, Islamic modernism includes the 'streams' of apologetic reinterpretation, reformist reinterpretation, dialogue-oriented reinterpretation, interest-oriented theories, and *usul* revision. Key contributors to Islamic modernism integrated their Islamic and western education into new proposals for Islamic reform and 're-interpretation.' (c) Islamic postmodernism included streams of post-structuralism, historicism, critical legal studies, post-colonialism, neo-rationalism, anti-rationalism, and secularism. The common method in all these postmodern approaches is 'deconstruction,' in a Derridean style. The post-structuralist stream aims to 'free people from the authority of the script,' and applies semiotic theory to the text of the Qur'an in order to 'separate the implication form the implied.' The historicist postmodern stream views the Qur'an and hadith as 'cultural products,' and suggests modern declarations of rights as sources

for ethics and legislation. Neo-rationalists take a historicist approach to the Islamic law, and they refer to the conventional Mu'tazilaah/Rational school for a traditional reference for their views.

The CLD KHI team want to offer an Islamic law reform with the re-interpretation to classic interpretation of fiqh. The CLD-KHI team use pluralism (*ta'adudiyah*), nationality (*muwathanah*), human rights enforcement (*iqamat al-huquq al-Insaniyah*), democratic (*dimuqrathiyah*), benefit (*maslahat*) and gender equality (*al-musawah al-jinsiyah*) as their basic legal vision.

Jasser 'Auda assumes that *usul al-fiqh* (fundamental of Islamic law) is a system. As a system, it will be analyzed based on 6 features of the system approach. The six system features offered by Jasser 'Auda are cognition, wholeness, openness, hierarchical interrelation, multidimensionality, and goal-oriented. These six features will be used to analyze the CLD-KHI formation. It will be given in the following explanation:

1. Cognitive nature of the systems of Islamic law

From an Islamic theological perspective, Islamic law or fiqh is the result of human reason and reflection (*ijtihad*) towards nash/text in order to reveal its hidden meaning or its practical implications. The fuqaha and the Muslim theologians agree that God can not be called a *faqih* because nothing is hidden from God. Therefore, fiqh is solely part of human cognition (*idrak*) and human understanding (*fahm*), rather than the literal manifestation of God's command. By referring to al-'Aini, Jasser Auda says that fiqh is an understanding that requires good perception. To

reinforce al-Aini's opinion, Jasser Auda also quotes al-Baidhawi suggesting that fiqh is a possible perception (*lān*). Therefore fiqh is not something that can be said in God's opinion. The cognition feature occupies an important position to validate the pluralistic view for all fiqh schools.

Thus, fiqh is a subjective perception and interpretation of a person. Subjective here means not only limited to individuals but more so are groups, classes, schools, religious social organizations, not to mention *al-firqah al-Islamiyyah* (various groups living in the internal environment of Muslim life). Unfortunately, the method of ijtihad fiqh and the result is often perceived by Muslims as God's inviolable rule. The building of traditional Muslim epistemology is very difficult to understand and distinguish that the verses of the Qur'an are the revelation, but the interpretation of the clergy or faqih against those verses is not a revelation. These erroneous perceptions are often deliberately preserved and confirmed, in order to preserve the interests of a small number of people, leaders or powerful organizations.

The compilation of Islamic law, the fiqh of Indonesia, is the result of the ijtihad of Indonesian scholars, not the unchangeable Shari'ah of God. Therefore, when the jurisprudence was considered no longer relevant to the demands of the times it is necessary to do updates by way of ijtihad. Ijtihad conducted by the CLD-KHI team is a step, which, if associated with the cognition system, is an attempt to fiqh, which is the perception and interpretation of the scholars, may change with the changing times, places and circumstances.

2. Wholeness of the System of Islamic Law

According to Jasser ‘Auda, who is a researcher in the field of natural sciences, the social sciences have shifted extensively towards the explanation of all phenomena in terms of the holistic system. Therefore, his view of developing a holistic and systematic way of thinking in the context of *usul al-fiqh* development is greatly helpful. Based on theological and rational arguments, the holistic evidence (*al-dalil al-kulli*) can be taken into consideration stronger in *usul al-fiqh* than the partial evidence. Moreover, to develop *usul-fiqh*, a holistic approach is also useful as for the development of religious philosophy (*‘ilm al-kalam*). Jasser ‘Auda implicitly stressed the importance of mastering both the natural sciences and the social sciences.

Thus, the wholeness of the system of Islamic law has the following characteristics; (a) intact in understanding the arguments, not fragmentary, not partial. There is a relationship between “part” and “whole”; (b) There are basic principles, fundamental values, apart from the description of those values in the realm of praxis; (c) fundamental values such as beautiful, fair, love, compassion can not defeat social conflicts based on race, skin, religion (socio-historical problems).

In the concept of CLD-KHI formulation, the above-mentioned features have been met. In addition to taking the propositions of the Qur’an and hadith, CLD KHI’s team also reviewed a number of Islamic classical literature as it was done in *pesantren* (Indonesian traditional religious school). There are 41 Islamic classical books read, analyzed and cross referred to a number of Muslim family law reforms as proposed by the CLD KHI team. The Islamic classical book subjects (yellow book)

studied are the fiqh, the *tafsir*, the hadith, *qawaid al-fiqh*, and *usul fiqh*, both written in the classical and contemporary century.

In addition, they also conducted field studies in four regions, namely South Sulawesi, West Sumatra, West Java, and West Nusa Tenggara. These four locations represent the struggle of Islam with Indonesian culture because the communities in these four areas are still following local traditions strongly in their practice of Islamic teachings.

3. Openness of the System of Islamic Law

System theory differentiates between open and closed systems. The living system is an open system. Living systems are implemented by turning an organism as systematically as possible to survive. According to Bertalanffy's theory, that open systems have the ability to derive the same objectivity from different initial conditions through valid balanced ways out. So open systems are very interactive with the environment outside the system, unlike closed systems that are isolated from the outside world.

Islamic legal system is included in the open system. However, there are still some jurists who are still calling for the 'closing of the doors of *ijtihad*', which automatically imparts Islamic law to death by metamorphosis. All the institutions of Islamic jurisprudence, however, and most of the *faqih*s of all time believe that *ijtihad* is indispensable for Islamic law because the text (the Qur'an) is very limited and events are infinite.

Thus the Islamic legal methodology has developed a mechanism to adapt to the development of times, in the terminology of the system theory it is called interaction with the environment (interactive) and not isolated. Examples of

such mechanisms are analogical reasoning (*qiyas*), *maslahah*, and accommodate customs (*ittib' al-'urf*). However, it can be seen that such mechanisms require further development to make Islamic law more flexible in keeping with the times. Thus the nature of Islamic law is no longer Ghetto-minded, but world citizenship. In its *ijtihad*, CLD KHI team has implemented this feature. They realize that Islamic law (*fiqh*) must be seen in an open way. So that there is the need for renewal and adjustment, depending on the context, time, and social circumstances.

4. Interrelated hierarchy of the systems of Islamic law

This feature provides improvements to the two dimensions of the *maqasid*. First, the improvement of *maqasid* range. If previously, the study of *maqasid* is particular or specific, then this feature classifies *maqasid* hierarchically which includes; general *maqasid* (study of all parts of Islamic law), special *maqasid* (study of observation of the entire contents of certain 'chapters' of Islamic law, and particular *maqasid* (derivation of a *nash* or a particular law) Secondly, Improvement of the range of people covered by *maqasid*. *maqasid* only reaches individual objects, then this feature makes the reach of *maqasid* extends to social and public dimension. Since they advocate for the spirit of pluralism (*ta'adudiyah*), nationality (*muwathanah*), human rights enforcement (*iqamat al-huquq al-Insaniyah*), democratic (*dimuqrathiyah*), benefit (*gender*) and gender equality (*al-musawah al-jinsiyah*), the formulation of CLD KHI in this sense is the application of *maqasid* in the social and public sphere.

5. Multi-dimensionality of the systems of Islamic law

A system is not something single as it consists of several interrelated parts between one another. Inside the system, there is a structure that coherent. Because a system consists of parts that are quite complex, then it has a dimension spectrum that does not single. Islamic law can be analogous to such a system.

Islamic law is a system that has many dimensions. This principle is used by Jasser ‘Auda to criticize the roots of binary opposition thinking in Islamic law. Binary Paradigm opposition must be eliminated to avoid reducing methodological, as well as reconcile some contentious arguments by putting forward the maqasid aspect (purpose main law). For example, differences of the proposition in sunnah about worship that appears should be seen from the maqasid li taysir, differences in hadith related to ‘urf must be seen from the maqasid perspective of the universality of law, and the existence of the naskh should be seen as a legal determination is gradual. The CLD KHI team is trying to get out of that legal dichotomy. They want to bring the law in accordance with the needs and demands of the times by looking at the multidimensionality of the Islamic law.

6. Purposefulness of the systems of Islamic law

Purposefulness is a feature that includes the previous five features, so purposefulness is a core methodology of systematic analysis. The realization of maqasid is an important and fundamental basis for the Islamic legal system. Excavating maqasid should be returned to the main text (al-Qur’an and hadith), not an opinion

from the mind of faqih. Therefore, the realization of purpose (*maqasid*) becomes the benchmark of the validity of each *ijtihad*, without relating it to any particular tendency or *madhhab*. The purpose of the establishment of Islamic law should be returned to the welfare of the people in the vicinity.

We can understand together that the fresh idea of Jasser ‘Auda which offers the philosophy of the system as an approach in the development of this study of *maqasid*, indirectly encourages Muslims to be literate with the building of episteme studies of the previous *maqashid* that is ‘out of date’, it needs a fresh *ijtihad* contextual so that the Islamic legal system can be applied according to the demands of the times and able to accommodate and bring the right solution to the target of all human problems that increasingly complex humanity. In this idea, Jasser ‘Auda asserts that *maqashid* of Islamic law (*maqashid Shari’ah*) is the core objective of all linguistic and rational methodology of *ijtihad*. The process of *ijtihad* is a process of endeavor to realize *maqasid* in Islamic law, as well as the CLD KHI team that present a transformative legal offer to address the increasingly complex legal issues.

Conclusion

In conclusion, what has been done by the CLD team of KHI can be seen as to be in accordance with the theory of *maqasid shariah* Jasser Auda. Jasser Auda uses systems theory, approach and analysis to reformulate and build the epistemology of Islamic law in a more pro-ethical global era. The CLD KHI team also uses a similar approach to *maqasid shariah* theory. Because without involving and using relevant ideas and thoughts from other disciplines,

such as sociology, anthropology, psychology, communication and science in general, research relating to the fundamental theory of Islamic law will remain ‘trapped’ the boundaries of traditional literature and its manuscripts, and Islamic law will continue to be “outdated” in establishing its theoretical basis and practice of law enforcement in the field, in daily life in a multicultural society such as in the current global era. Therefore, the relevance and the need to use a multidisciplinary, interdisciplinary, and even transdisciplinary approach to responding to fundamental issues in Islamic law in the contemporary era is essential.