



Uncovering Polygamy: A New Perspective from Al-Majmu' Syarh al-Muhadzdzab an-Nawawi through the Lens of Maqāṣid al-Sharī'ah by Jasser Auda

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Abstract

Polygamy remains a constantly debated issue in Islamic jurisprudence, intersecting with legal, ethical, and social dimensions. This study examines the concept of polygamy as articulated by Imāṣal-Nawawī in Al-Majmu' Syarh al-Muhadzdzab, a seminal encyclopedia work of Shā fi'ī fiqh, and evaluates it through the systemic framework of Maqāṣid al-Sharī'ah of Jasser Auda. Using a descriptive-analytical library research method followed by a comparative-analytical approach (muwāzanah), this study systematically analyzes primary and secondary sources to identify the convergence and divergence between classical jurisprudence reasoning and contemporary thought. These findings reveal that al-Nawawī permits polygamy for up to four wives, conditioning them strictly on material justice (qism and nafaqah) while explicitly recommending monogamy as a prudent preference to prevent injustice. Jasser Auda's systemic approach, which prioritizes human development, harm reduction (daf' al-mafāsid), and contextual holistic justice that includes emotional, psychological, and social well-being, provides a substantially expanded evaluative lens. Comparative analysis shows that, while both perspectives share a basic telos of justice and welfare, Auda's framework demands an empirical assessment of real-world outcomes, making polygamy a very limited exception rather than a common permissibility in contemporary contexts. This study contributes to the ongoing scholarly dialogue on Islamic family law reform by bridging classical and contemporary maqāṣid methodologies.

Keywords: Polygamy; Imām Al-Nawawī; Maqāṣid Al-Sharī'ah; Jasser Auda; Islamic Family Law Reform

Received May 11, 2026

Revised June 20, 2026

Published June 30, 2026



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Introduction

It is different from previous studies that generally discuss polygamy separately, either purely from the point of view of classical fiqh or purely from the point of view of *maqāṣid* Contemporary novelty (*novelty*) This research lies in three interrelated and distinct contributions from simply the research gaps that have been identified. *First*, theoretical contributions: this study formulates an analytical framework, *muwāzanah*, which explicitly aligns the argumentation structure of al-Nawawī (material-formal justice) with the systemic argumentation structure of Auda (holistic-substantive justice) in an equal unit of analysis, rather than simply presenting the two side by side. *Second*, Analytical contribution: This study shows, and this finding will be elaborated further in the Discussion section, that monogamy preferences are not a monopoly of contemporary reformist thought but rather have a normative

foundation in the classical fiqh of Shafi'ī itself, a point of convergence that has not been explicitly emphasized in the previous literature. *Third*, practical implications: this comparative framework offers a dual argument that can be used simultaneously by Islamic family law authorities in Indonesia: the conservative argument of classical fiqh and the Auda impact-based argument to strengthen the legitimacy of the restriction of polygamy without placing family law reform as a conflict between tradition and modernity. One of the most controversial and contentious issues of Islamic family law is polygamy, both among Muslim academics and the wider community. Because Islam permits polygamy on the condition that the husband must be fair to his wives, as affirmed in the Qur'an (QS. Nisan 4:3). However, these normative provisions are faced with a complex social reality: where the practice of polygamy is constantly in the spotlight due to the social and psychological impact it causes, especially for women. In Indonesia, this practice is regulated by the Marriage Law No. 1 of 1974, which requires court permission and fulfillment of justice requirements, reflecting the state's efforts to protect the rights of women and children (Al-Siyasah et al., 2020; Ameliah et al., 2023)

Previous research has consistently shown the impact of polygamy on women's mental health. A study in Kenya revealed that women in polygamous marriages face a much heavier psychological burden than monogamous women (Mwallau et al., 2024). This psychological dimension is exacerbated by cultural pressures that often place polygamous women in a position of dissatisfaction and distress (Santoso & Nasrudin, 2021). On a broader level, many women activists view polygamy as a manifestation of gender inequality and ignore women's basic rights (Frydenlund, 2022; Widjaja, 2023). In an academic context, the tension between the interpretation of scripture and the social realities experienced by contemporary Muslim women is so urgent that this research is urgent (Mangurkar & Rangaswamy, 2022; Onasch, 2020)

Although there has been a lot of research that has discussed polygamy from the perspective of positive law and classical fiqh, there is still a significant research gap. *First*, there has not been a systematic study that reconciles the views of Imāṣ al-Nawawī in *Al-Majmu' Syarh al-Muhadzdzab* with the systemic framework of Maqāṣid al-Sharī'ah. *Second*, the comparative-analytical approach (*muwāzanah*) that combines the analysis of classical fiqh texts with contemporary *maqāṣid* theory is still very limited in the literature on Islamic family law studies in Indonesian. *Third*, the integration of empirical data on the psychological and social impacts of polygamy into the framework of *maqāṣid* has not been extensively explored, although Auda himself emphasizes the importance of 'the critical study of literature and reality' in Islamic legal reasoning.

Book selection: *Al-Majmu' Syarh al-Muhadzdzab* and Jasser Auda's theory as an object of study is based on strong academic considerations. This is because the book *Al-Majmu'* is the largest encyclopedia work in the field of Shafi'ī fiqh, which not only explains the views of the Shafi'ī school in detail but also contains a comparison with the madhhab (*Fiqh Muqaran*) of other madhhabs, making it

a comprehensive and representative reference (Arifin & Haqqi, 2024). Sociologically, the dominance of the Shafi school in Indonesian Islamic society makes an exploration of al-Nawawi's views highly relevant and contextual. Meanwhile, the selection of Jasser Auda's theory is based on its innovative systemic framework that integrates systems thinking, social sciences, and public policy analysis, which allows for a holistic and impact-based evaluation of Islamic law (Muhammad Mattori & Rusdiana, 2023)

Jasser Auda in *Maqāṣid al-Sharī'ah as Philosophy of Islamic Law: A Systems Approach* (2008) and *Reimagining Islamic Jurisprudence* (2022) explicitly calls for the integration of social sciences and empirical impact analysis into Islamic legal reasoning. This approach has gained widespread recognition among contemporary Islamic law academics and has been the basis for family law reform in various Muslim countries (Zuhdi & Nasir, 2024).

Based on the identification of gaps in the above research, this study aims to: (1) identify and analyze Imām al-Nawawī's views on the laws, conditions, and preferences of polygamy; (2) describe the core principles of *Maqāṣid al-Sharī'ah* Jasser Auda's theory, especially the systemic approach, human development, and harm reduction; (3) conduct a comparative analysis between the two perspectives to identify common points and divergences; and (4) formulate implications and recommendations for the contemporary Islamic family law context.

Method

The selection of descriptive-analytical library research methods and comparative-analytical approaches (*muwāzanah*) in this study is based on explicit methodological reasons, not just fiqh study conventions. The descriptive-analytical library method was chosen because the primary object of the research of *Al-Majmu' Syarh al-Muhadzdzab* and the works of Jasser Auda is the written text, so that the relevant data can only be adequately accessed through in-depth textual reading, not through field surveys or experiments. Meanwhile, the *muwāzanah* approach was chosen specifically rather than just the usual descriptive comparison because it is methodologically designed to juxtapose two different traditions of Islamic legal reasoning and epistemology (13th-century classical fiqh and 21st-century systemic theory) on an equivalent unit of conceptual analysis, namely the concepts of justice (*'adl*), prevention of harm (*daf' al-mafāsīd*), and family welfare (*Hifz al-Ushrah*). Without *muwāzanah*, the comparison between al-Nawawī and Auda risks becoming a purely descriptive parallel exposition without analytical synthesis; with this approach, the two frameworks can be systematically juxtaposed to identify points of convergence and divergence, as formulated in research objectives (2) and (3). The combination of these two methods is directly aligned with the research objectives and strengthens the methodological coherence, validity, and rigor of the overall research design.

This study uses a descriptive-analytical library research method which is continued through a comparative-analytical approach (*muwāzanah*). A

descriptive-analytical approach is used to identify, describe, and analyze Imāṣ al-Nawawī's views on polygamy in depth as contained in the book *Al-Majmu' Syarh al-Muhadzdzab*, as well as to map the core principles of the Maqāṣid al-Sharī'ah Jasser Auda theory. A comparative-analytical approach (*muwāzanah*) is then applied to unify, compare, and critically analyze the two perspectives to produce a meaningful synthesis for the understanding of polygamy in the context of contemporary Islamic family law.

The methodological workflow of this research is systematically designed in 4 (four) sequential stages, as described in a narrative manner below. Each stage has specific functions that support each other to ensure the validity and depth of the analysis.

The four stages are as follows. The first stage is the collection of primary data, namely an in-depth search and reading of the text of *Al-Majmu' Syarh al-Muhadzdzab* and the core works of Jasser Auda. The second stage, a separate descriptive-analytical stage, is a systematic mapping of al-Nawawī's views on the law, conditions, and preferences of polygamy, as well as a mapping of the core principles of Auda's systemic theory, each as a stand-alone unit of analysis. The third stage, comparative analysis (*muwāzanah*), is juxtaposing the two results of the second stage description on an equivalent conceptual analysis unit (justice, harm prevention, family welfare) to identify points of convergence and divergence. The fourth stage, the synthesis and formulation of implications, is to draw analytical conclusions from the results of the third stage of comparison to formulate maqāṣid-based recommendations for contemporary Islamic family law reform.

The primary data sources of this study consist of 2 (two) types. First, *the book Al-Majmu' Syarh al-Muhadzdzab* by Imā mabū Zakariyā Muḥyīdīn Yaḥyā bin Syaraf al-Nawawī (d. 676 AH/1277 AD), especially the chapters dealing with marriage and polygamy. *Second*, the main works of Jasser Auda, especially *Maqāṣid al-Sharī'ah* as Philosophy of Islamic Law: A Systems Approach (2008) and Reimagining Islamic Jurisprudence (2022). Secondary data sources include articles of reputable international journals (indexed by Scopus and the Web of Science), scientific monographs, and relevant academic works that discuss polygamy from the perspectives of Islamic law, psychology, sociology, and gender studies, with an emphasis on publications in the last 5 (five) years (2020–2025).

Data collection techniques are carried out through documentation (documentary research), namely by reading, recording, classifying, and contextualizing data from relevant sources. Data validity is maintained through source triangulation and cross-referencing confirmation, ensuring that each analytical claim is supported by more than one relevant academic source.

Findings and Discussion

1. The Concept of Polygamy in Classical Fiqh: The Perspective of Imāmal-Nawawī in *Al-Majmu'*

Al-Majmu' Syarh al-Muhadzdzab Im's work and al-Nawawī's is a reference to fiqh The most authoritative Shi'a who formulate the laws, conditions, and preferences associated with polygamy in Islam. This book is written as about al-Muhadzdzab by Ab ū Ishāq al-Syī rā zī, and not only explains the views of the madhhab Shafi 'ī in detail, but also compares it with the views of other schools of fiqh, making it a comprehensive reference in the study *muqāran Fiqh*. al-Nawawī The position in this book reflects the conservative tendencies of the Shafi school but still considers the nuances of the law and the principle of prudence (El-Mesawi, 2020). Dominance of the Shafi school in Indonesia made an exploration of al-Nawaw's thought is very relevant to the discourse on Islamic family law in the archipelago.

Al-Nawawī, in describing the Shafi *madhhab*, states that Islam allows polygamy for a maximum of 4 (four) wives based on QS. An-Nis 4:3. This permit is accompanied by 2 (two) dimensions of justice requirements. *First*, Material and Measurable Justice (*Qism* and *Nafaqah*): the husband is obliged to fulfill justice in terms of maintenance in the form of food, clothing, and shelter; equal turn time division (*qism al-bayāt*); and the provision of a decent and separate place of residence for each wife. This material justice is mandatory and can be legally enforced without discrimination based on age, beauty, or social status. *Second*, emotional justice: al-Nawawī recognizes that justice in terms of feelings, love, and compassion is something that is impossible for humans to achieve perfectly, as the Qur'an affirms. An-Nis 4:129 (Muhammed-Mikaaeel, 2021). This recognition of the impossibility of emotional justice prompted al-Nawawī to unequivocally recommend monogamy, a preference that was also supported by Hanbali scholars such as Ibn Qudāmah, not as a prohibition, but as a recognition of human limitations and proactive actions to prevent potential injustice.

al-Nawawī's position reflects the profound wisdom of jurisprudence: it defends the propriety of polygamy as a legal option, yet actively promotes monogamy as a safer option and more in line with *the principles of daf' al-mafāsīd*. This recommendation is relevant to be considered in the context of contemporary Islamic family law reform, especially as the basis for the argument that classical fiqh itself has contained the seeds of restriction that can be further developed.

The historical justification of polygamy in classical fiqh is highly contextual and related to specific social situations, which opens up questions about its relevance in contemporary conditions. QS. An-Nis 4:3 is believed to have been handed down after the Battle of Uhud, when many Muslim men died and left behind widows and orphans in need of social and economic protection. Polygamy in this context is seen as a solution to prevent social damage and ensure that women's right to marry is fulfilled. Other justifications that have developed in fiqh literature include the infertility of the first wife, diseases that hinder the fulfillment of the husband's needs, or the need for the expansion of offspring (Khamdiyati & Mustafa, 2022).

A study of the texts of tafsir and fiqh shows that earlier scholars, including al-Nawawī, realized that permission for polygamy was not absolute and unconditional. The historical context of the Battle of Uhud with the very specific *maqāṣid* purpose of *hifz al-naḥs* (protection of the soul) and *hifz al-nasl* (protection of posterity) proves that polygamy was initially a response to a specific social emergency. Hamim (2022), in his comparative study, shows that Fazlur Rahman's theory of 'double movement' also concludes that the ethical message of the Qur'an actually leads to monogamy, with contextual and conditional polygamy permission.

This very specific historical context opens up a fundamental question: can this initially highly contextual polygamy allow for indefinite generalization to all conditions, or should it be limited to similar situations? This question is the entry point for Jasser Auda's *Maqāṣid al-Sharī'ah* analysis, which will then evaluate polygamy in terms of its actual impact in the contemporary context.

2. The Theory of *Maqāṣid al-Sharī'ah* Jasser Auda: A Systemic Approach

Jasser Auda has revolutionized understanding *Maqāṣid al-Sharī'ah* through a systems thinking-based systemic approach that offers a more holistic, contextual, and impact-oriented Islamic legal methodology. Auda criticizes US limitationsūl al-Fiqh classics that tend to focus too much on texts and precedents, so they often fail to realize the deeper purpose of Islamic law, namely justice (*'adl*), Compassion (*raḥmah*), and the common good (*butṣtheḥah 'aāmmah*). He also criticized the tendency to *maqāṣid* traditional to see legal objectives hierarchically and binarily (*dārūriyyāt, ḥājjiyyāt, taḥsīniyyāt*), which he said limits the flexibility and adaptability of Islamic law to modern socio-economic complexities (Muhammad Mattori & Rusdiana, 2023).

Jasser Auda's approach is built on several interrelated core principles. *First*, the principle of interconnectedness: Auda proposes that *maqāṣid* is seen as an interdependent element in a dynamic ethical network, rather than a fixed hierarchy. The achievement of one *maqṣad* should always be considered in relation to the other *maqāṣid*. *Second*, the principle of human development and harm reduction: the true measure of Islamic legal decisions is their contribution to human development and their ability to minimize harm (*daf' al-maf āsid*). *Third*, the principle of purposefulness: the text and the rule of law are inseparable from their purpose. The effectiveness of the Islamic legal system is measured by the extent to which it achieves the goals of its *maqāṣ id* in a tangible context.

Thus, Auda shifts the central question in Islamic legal reasoning from simply 'is this permissible?' to 'does this achieve the intended purpose of *maqāṣid* and contribute to human well-being, or does it actually cause harm?'. This paradigmatic shift from formal compliance to real impact-based evaluation is Auda's greatest contribution to the renewal of Islamic legal methodology and is the basis of the comparative analysis in this study.

Applied to polygamy cases, the Auda framework demands an evaluation that goes beyond the husband's ability to meet material justice and includes a holistic assessment of the real impact on all parties involved. Principle Openness within the framework of Auda allows Islamic law to adapt to new challenges based on empirical evidence. He emphasized that the Methodology *Maqāṣid* must start from real human life experiences, not from texts alone. This approach allows for consideration of trade-offs and the long-term consequences of legal decisions, including their impact on the wife, children, and the husband himself (Solikhudin et al., 2024; Zaprul Khan, 2018).

Auda explicitly calls for a critical study of literature and reality as well as the evaluation of real-world impacts as an integral part of the Islamic legal decision-making process. In the work *Reimagining Islamic Jurisprudence* (2022), he develops the argument that the reform of Islamic law requires integration between classical heritage and the contributions of contemporary social science, including psychology, sociology, and public policy analysis (Utsany et al., 2022; Zuhdi & Nasir, 2024).

The Auda framework provides methodological tools that are more responsive to contemporary social realities than classical fiqh approaches. If polygamy in a given context is shown to cause more harm than benefit to the wife, children, and family stability, then the Auda framework will consistently lean toward re-evaluation or restriction of its application. This is the most important meeting point between the classical *maqāṣid* and the Auda methodology on the issue of polygamy.

3. Comparative Analysis: Polygamy al-Nawawī through the Lens of *Maqāṣid* Auda

3.1 Justice as Central Telos: Classical versus Systemic Interpretations

Justice is the central telos agreed upon by Imā mal-Nawawī and Jasser Auda in evaluating the practice of polygamy, but the two have substantial differences in defining and operationalizing the concept of justice. Al-Nawawī emphasizes justice in external and material dimensions that can be legally measured and enforced: maintenance, division of turn time, and the fulfillment of the same physical needs. Emotional justice, although recognized as an ideal, is considered an enforceable mandatory requirement because it is impossible to achieve it perfectly. The monogamy recommendation was born from this awareness of human limitations. While Auda expands the concept of justice substantially by including the emotional, psychological, and social dimensions of the well-being of all parties as integral components of true Islamic justice.

In *Al-Majmu'*, al-Nawawī states unequivocally that emotional justice is impossible for humans to achieve (QS. An-Nis 4:129), so that the only enforceable condition is material justice. On the other hand, Auda is in the frame *maqāṣid* Its systemic id argues that if polygamy causes mental anguish,

destructive jealousy, or a reduction in women's agency, then *MAQ Objectivesāṣid* for justice and family welfare are not fully achieved even when material justice is officially fulfilled (Motiejune, 2025; Disturbūnè, 2024). Auda's integrated psychological data show that wives in polygamy consistently report lower levels of marital satisfaction, mental health, and quality of life than wives in monogamous marriages (Mwallau et al., 2024; Sholihin & Koentjoro, 2023).

These differences reflect a paradigmatic shift from measurable justice to holistic well-being. Classical Fiqh provides an operational and enforceable legal framework; Jasser Auda's *maq āṣid* offers a broader ethical lens, which suggests that the spirit of Islamic justice demands more than measurable equality. In a context where holistic justice has proven unattainable, the Auda framework provides a strong argument for limiting or even preventing polygamy.



Figure 1. Comparison of the Concept of Justice in Polygamy: Imām al-Nawawī vs. Jasser Auda (Author's Analysis, 2025)

3.2 Protection of Genealogy (*Hifz al-Nasl*) and Family Welfare (*Hifz al-Ushrah*)

Both perspectives recognize *hifz al-nasl* as an important goal, but Jasser Auda critically shifts the emphasis from the quantitative dimension (number of offspring) to the qualitative dimension (quality of family welfare) which has significant reformative implications.

In classical fiqh, polygamy is allowed, among other things, to fulfill *Hifz Al-Nasl* when the first wife was barren or sick, as well as to protect widows and orphans after the war. This justification focuses on a quantitative dimension: multiplying offspring and expanding the circle of social protection. Jasser Auda received *Hifz Al-Nasl* as an important goal, but directs attention to the quality of such protection: does polygamy really produce healthy and prosperous family conditions for all its members? (Darlis, 2019b; Darmawijaya & Sani, 2017; Hamim, 2022).

Contemporary empirical evidence paints a worrying picture. Research Motiejune (2025) revealed that children in polygamous families face a higher risk of psychological problems, decreased academic achievement, and social conflict than children in monogamous families. Sholihin & Koentjoro (2023) found that the satisfaction of wives in serial polygamy in Indonesia was much lower. The conflicts between wives and the financial tensions that often accompany polygamy also exacerbate this condition (Mwallau et al., 2024). These data are directly relevant to the evaluation *maqāṣid* in the form of *Hifz Al-Nasl* and *hifz al-ushrah*.

The shift in focus from "numbers" to "quality of life" has significant practical implications: *MAQĀṢID-Based Approach* Auda will prioritize the welfare and healthy development of existing family members over the expansion of family units. If polygamy is proven to damage the quality of life of children and wives, then *Hifz Al-Nasl* and *hifz al-ushrah* is not achieved optimally, and this becomes *MAQ ArgumentāṣStrong id* to limit such practices (Solikhudin et al., 2024).

3.3 Social, Psychological, and Economic Impact Considerations

The most important methodological difference between al-Nawawī and Auda lies in the role of social-psychological empirical data: al-Nawawī does not include them as legal requirements, while Auda explicitly integrates them as important legal inputs. Classical fiqh, including al-Nawawī, does not explicitly formulate the negative psychological or social impact of polygamy as a condition of legal prohibition. The focus is more on the husband's responsibilities that can be measured and legally enforced. When al-Nawawī recommends monogamy, it was born out of theological-ethical prudence based

on an acknowledgment of human limitations, not from a measurable evaluation of empirical impact. In contrast, Jasser Auda's methodology explicitly and systematically integrates social science and public policy analysis into Islamic legal reasoning.

Auda in his work calls for a critical study of literature and reality as well as the evaluation of real-world impacts as an integral part of the legal decision-making process. Within this framework, empirical data that consistently show the negative psychological and social impacts of polygamy are legitimate and important legal inputs. Research Mwallau et al., (2024) in Kenya, Motionūnē, (2024) about the psychological dynamics of wives in polygamous marriages, and Sholihin & Koentjoro (2023) about wife satisfaction in serial polygamy in Indonesia all consistently show significant negative impacts. For Auda, if real-world impacts consistently show significant losses, then *DAF Principles' Al-MafāSid* would strongly oppose such practices, even when technically permitted by the text (Sugianto et al., 2022).

This is a fundamental methodological shift: from a text-centered legal model to a human-centered model based on empirical evidence. This shift is Auda's most important contribution to contemporary Islamic law reform and provides a strong epistemological foundation for data-driven regulation or restriction of polygamy in a variety of national and local contexts.

3.4 Legal Flexibility and Contextualization in the Maq āṣFramework id

The Jasser Auda framework provides a methodological instrument for a more adaptive and responsive contextualization of Islamic law, allowing for a critical re-evaluation of the practice of polygamy based on contemporary conditions and evidence. Madhhab Shafi maintains its license of polygamy as a legitimate basic law, with flexibility lying in the emphasis on conditions of justice and the recognition that in certain emergencies polygamy can be an acceptable solution. Jasser Auda emphasizes the principles of Openness and purpose, which allow Islamic law to adapt to new challenges. He emphasized that the application of polygamy must be judged based on whether polygamy still serves the purpose of Sharia in the contemporary context (Solikhudin et al., 2024; Zuhdi & Nasir, 2024).

The Auda principle of purpose indicates that if the original purpose of the legal judgment is no longer relevant, or if the practice is now producing *mafāSignificant sid* In the new context, its application must be re-evaluated. The trend of Islamic family law reform in various Muslim countries reflects this spirit: Turkey has banned polygamy since 1926, Tunisia banned it in 1956, and various other Muslim countries have tightened their legal requirements. Al-Azhar under the leadership of Sheikh Aḥmad el-Tayyeb has also voiced a critical position against polygamy that does not meet the requirements of holistic justice (Maulida et al., 2022; Qurtuby, 2022).

Auda's systemic framework provides strong theological and methodological legitimacy for Islamic family law reforms that further restrict polygamy, in line with a growing trend in many Muslim countries. The shift from general permission to one that only applies under certain justifiable and proven conditions that serve *maqāṣid* is Auda's most significant normative contribution to contemporary Islamic family law reform discourse.

Criteria	Classical Perspective (al-Nawawī/Madhhab Syā fi'ī)	Contemporary Perspective (Jasser Auda/Modern Maqāṣid)
Source/Legal Thoughts	Al-Qur'an'ān, Sunnah, Ijtihād classical scholars, Fiqh	Al-Qur'an'ān, Sunnah, Maq ā ṣ id systemic, Social Sciences, Empirical Data
Main Justification	Protection of widows/orphans, biological/offspring needs, demographic imbalances	Social protection (if contextually relevant), holistic family well-being, harm prevention
Main Conditions	Material justice: alimony, turns, shelter	Holistic justice: material, emotional, psychological; consent of the wife; evidence of no adverse impact on Maqāṣid
Preferences	Monogamy is recommended due to emotional justice difficulties	Monogamy is strongly emphasized; polygamy is just a strict exception that has been proven to meet Maqāṣid
Response to Negative Impacts	Recognized (emotional justice difficulties), but not a condition of legal prohibition; More about prevention recommendations	Becomes a strong basis for restriction or prohibition if it is empirically proven to be detrimental to Maqāṣid

Table 1. Justification and Conditions of Polygamy: Classical versus Contemporary Perspectives (Author's Analysis, 2025)

4. Contemporary Challenges and *Maqāṣid* Based Recommendations

The application of the concept of justice in polygamy faces increasingly complex challenges in the modern era, which demands a more responsive and evidence-based response to Islamic law. The social context that has fundamentally changed reduces the urgency of polygamy as the main solution to social protection. In many modern societies, alternative social protection systems such as life insurance, widow's benefits, and state welfare programs can provide support for women and orphans without posing the risk of polygamy.

This change in context directly implicates the re-evaluation of the historical justification of polygamy through the lens of Auda's purpose.

Contemporary research has consistently uncovered the negative impacts of polygamy on a wife's mental health, including depression, anxiety, feelings of helplessness, and low life and marriage satisfaction. (Motiejune, 2025; Disturbūnė, 2024). Children in polygamous families also report lower mental, social, and academic achievement problems (Mwallau et al., 2024; Motiejune, 2025). Conflicts between wives and financial tensions further exacerbate this condition, especially when the family's economic resources are limited. From perspective *maqāṣid*, all forms of damage (*maḡāṣid*) is a valid legal consideration and should be seriously evaluated (Santoso & Nasrudin, 2021).

This contemporary reality requires Islamic legal authorities to respond with stricter evidence-based policies, rather than simply maintaining the status quo of formal capabilities. Auda's *maqāṣid* framework provides a strong theological justification for more progressive regulatory measures.

Based on the comparative analysis above, this study formulates 4 (four) main recommendations based on *maqāṣid* for Islamic family law policy reform. This recommendation is based on the point of convergence between al-Nawawī and Auda, namely a shared commitment to justice and harm prevention while integrating Auda's methodological contributions that allow for real impact-based evaluations. This recommendation also takes into account the trend of Islamic family law reform that has been successfully implemented in various Muslim countries.

First, prioritizing monogamy: strengthening al-Nawawī's recommendations about monogamy as the norm, with polygamy as a very limited exception, is only allowed if there is an urgent, objectively proven need and the ability for holistic justice (material, emotional, psychological) is guaranteed. *Second*, Enforcement of holistic justice: Polygamy arrangements should include not only material justice but also emotional and psychological justice, with stricter oversight mechanisms, including the possibility of requiring the free and non-coercive consent of the first wife (Ameliah et al., 2023; Masadah & Muhammad, 2023). *Third*, Hazard Prevention (*daf' Al-Maḡāṣid*): if polygamy is empirically proven to cause greater harm than its benefits, Islamic legal authorities should consider restrictions or prohibitions, in line with the examples of Turkey, Tunisia, and Iran. *Fourth*, education and awareness building: increasing public understanding of the true purpose of polygamy in Islam, the challenge of comprehensive justice, and the preference of monogamy as emphasized by Grand Imām Al-Azhar Shaikh Aḡmad el-Tayyeb that unfair polygamy is an injustice to women and children (Jafar, 2023).

These four recommendations reflect the synergy between the prudence of al-Nawawī jurisprudence and Auda's methodological innovations: both lead to the strengthening of the protection of women and children in the institution of marriage, albeit through different argumentative channels.

Discussion

The most significant finding of the above comparative analysis is the normative convergence between al-Nawawī and Jasser Auda on the principle of the prevention of injustice (daf' al-mafāsīd) and monogamous preferences, a common point that has not been sufficiently emphasized in the framework of the previous comparison. Al-Nawawī, which is generally positioned as a representation of classical fiqh that permits polygamy, and Auda, which is generally described as a contemporary maqāṣid scholar advocating a more rigorous approach, instead converge on the same normative conclusion albeit through a completely different argumentative path al-Nawawī through theological prudence based on the impossibility of perfect emotional justice, Auda through the evaluation of empirical impact based on systemic maqāṣid. These findings suggest that the restriction of polygamy not only derives from modern reformist thought, but also has a normative foundation in the classical fiqh tradition itself, a contribution that, so far as we trace, has not been directly explicit in the comparative literature of classical fiqh and contemporary maqāṣid before.

These findings confirm the results of the study (Hamim, 2022) which shows that Fazlur Rahman's 'double movement' theory also leads to the preference of monogamy with contextual and conditional polygamy permission, as well as broadening the argument Solikin & Wasik (2023) about the relevance of maqāṣid Auda to the Compilation of Islamic Law by showing that the Auda framework is also normatively compatible with classical Shafi'ī fiqh, not only with Indonesian positive law. At the same time, these findings challenge assumptions implicit in some of the literature on women's activism (Amallia, 2022; Frydenlund, 2022; Widjaja, 2023) which positions classical fiqh monolithically as a source of gender inequality; An analysis of Al-Majmu' shows that the seeds of caution against polygamy are already present in classical fiqh itself, so that contemporary Islamic family law reform can be built on the double arguments of classical prudence arguments and contemporary impact-based arguments rather than framing them as a conflict between tradition and modernity.

Further, the shift from quantitative *hifz al-nasl* to qualitative *hifz al-usrah* (see subsection 3.2) offers new insight into the debate on Islamic family law reform in Indonesia: the argument for restricting polygamy need not rely entirely on empirical data on psychological impact that can be considered an external input

that is foreign to some conservative fiqh authorities but can rather be built on the logic of *hifz al-usrah* already known in classical maqāṣid. Thus, the reformative argument acquires a dual legitimacy: both from within the fiqh tradition itself and from the framework of contemporary systemic maqāṣid. This position places this research within a broader discourse on classical fiqh reconciliation and contemporary Islamic family law reform (Darlis, 2019a; Zuhdi & Nasir, 2024) by offering the *muwāzanah* model as an analytical instrument that can be replicated on other issues of Islamic family law.

Conclusion

The study found that a comparative study of Imām al-Nawawī's views in the systemic theory of Maqāṣid al-Sharī' Jasser Auda yielded rich, complementary, and high-value insights into Islamic family law reform. The two figures share the same commitment to justice and harm prevention as the telos of Islamic law, although they differ substantially in methodology and evaluative scope. This convergence proves that the classical fiqh tradition and the innovation of contemporary maqāṣid are not two contradictory entities, but can reinforce each other in building an Islamic legal framework that is more responsive to contemporary social realities.

Imām al-Nawawī permits polygamy on the condition of strict material justice, but significantly recommends monogamy as an ethical preference due to its impossibility of achieving perfect emotional justice. This attitude reflects a deep jurisprudential prudence and has a strong resonance with the principles *daf' Al-Mafāṣid* in *maqāṣid*. Meanwhile, Jasser Auda offers a systemic lens centered on developing humans, Harm reduction, and holistic justice that transcends material dimensions. Auda's approach allows for the integration of empirical data on the real impact of polygamy in the form of wives' psychological distress, child development problems, and family conflicts into legal reasoning, resulting in a more comprehensive and responsive evaluation (Motiejune, 2025; Mwallau et al., 2024; Sholihin & Koentjoro, 2023).

The theoretical contributions of this study include: (1) proving the methodological conformity between the classical fiqh of Shafi'ī and the systemic maqāṣid Auda in producing mutually reinforcing conclusions, namely a strong preference for monogamy and a rejection of polygamy that does not meet the requirements of justice; (2) to offer a framework of comparative analysis (*muwāzanah*) that can be applied to other issues of Islamic family law.

The practical implications of these findings are relevant to three levels of Islamic family law policy in Indonesia. First, for the judges of the Religious Court, the *muwāzanah* framework developed in this study can be used as a double argumentative consideration of the prudence of classical fiqh and the evaluation of the impact based on *maqāṣid* in deciding on the application for a

polygamy license, especially to strengthen the assessment of emotional and psychological justice that has tended to be neglected in the face of material justice alone. Second, for the regulators (the Ministry of Religious Affairs and the framers of the Compilation of Islamic Law), the normative convergence between al-Nawawī and Auda offers an argumentative basis for tightening the administrative requirements of polygamy permits without having to frame them as concessions to secular or foreign pressures. Third, for Islamic family counselors and counselors, the contribution of this research can be integrated into premarital education materials to explain that monogamy preferences have a dual normative-classical and empirical-contemporary foundation so that it is more easily accepted by people who uphold traditional fiqh authority.

The limitations of this study lie in its exclusive focus on one classic fiqh book and one contemporary thinker, as well as in its completely bibliographically based nature without triangulation of empirical field data.

Further research is recommended to extend the research to classical fiqh works from other schools (Hanafi, Māliki, Hanbali) and triangulate with empirical field data on the impact of polygamy in Indonesia, to produce more comprehensive and evidence-based family law policy recommendations.

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