



Indonesian Journal of Islamic Law, 08 (1), 2025: 1-25
E-ISSN: 2615-7543 P-ISSN: 3089-5839
DOI: <https://doi.org/10.35719/ijil.v6i1>

Toward a Maqasid-Based Legal Reform: Systemic Thinking for Social Transformation in the Modern Muslim World

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Article history: Received: May 30, 2024, Revised: July 01, 2024; Accepted: May 04, 2024;
Published: June 30, 2024

Abstract:

This article revisits the role of Maqasid al-Shariah in contemporary legal reform in Muslim-majority countries, aiming to move beyond traditional textualism toward a more purposive and responsive legal paradigm. It interrogates how Islamic legal theory can be re-envisioned through the lens of systemic thinking, particularly in response to modern challenges such as human rights, dignity, environmental justice, and social equity. Drawing on the author's methodological framework—comprising six core features of systems theory: connectivity, wholeness, openness, interrelated hierarchy, multidimensionality, and purposiveness—this study proposes that Islamic jurisprudence must expand its foundational objectives to accommodate broader universal values. The research employs a normative-qualitative approach, with case studies from Indonesia, Morocco, and Tunisia, focusing on how family law, constitutional frameworks, and penal reforms,

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respectively, illustrate the (in)coherence of current legal practices with maqasid-oriented goals. Results demonstrate that when law-making is guided by systemic maqasid thinking, legal institutions become more capable of generating transformative outcomes that uphold both divine intents and human dignity. The findings also highlight the potential of maqasid to serve not merely as a hermeneutic tool but as a meta-legal philosophy capable of informing public policy and state legislation. By articulating a framework that fuses classical Islamic jurisprudence with contemporary legal reform discourse, this article argues that a maqasid-based approach offers a sustainable and just model for reshaping law in the modern Muslim world.

Keywords:

Maqasid al-Shariah; Systemic Thinking; Legal Reform; Social Transformation; Muslim World

Abstrak:

Artikel ini meninjau kembali peran Maqasid al-Shariah dalam reformasi hukum kontemporer di negara-negara mayoritas Muslim, dengan tujuan untuk melampaui pendekatan tekstualisme tradisional menuju paradigma hukum yang lebih berorientasi pada tujuan dan responsif. Artikel ini mengkaji bagaimana teori hukum Islam dapat direkonstruksi melalui lensa pemikiran sistemik, khususnya dalam merespons tantangan modern seperti hak asasi manusia, martabat, keadilan lingkungan, dan kesetaraan sosial. Dengan mengacu pada kerangka metodologis penulis – yang mencakup enam ciri utama dari teori sistem: keterkaitan, keutuhan, keterbukaan, hierarki yang saling berhubungan, multidimensionalitas, dan kebermaknaan tujuan – studi ini mengusulkan bahwa fikih Islam harus memperluas tujuan-tujuan dasarnya (maqasid) untuk mencakup nilai-nilai universal yang lebih luas. Penelitian ini menggunakan pendekatan normatif-kualitatif, dengan studi kasus dari Indonesia, Maroko, dan Tunisia, yang masing-masing berfokus pada hukum keluarga, kerangka konstitusional, dan reformasi pidana, guna mengilustrasikan sejauh mana praktik hukum saat ini (tidak) sejalan dengan tujuan-tujuan maqasid. Hasil penelitian menunjukkan bahwa ketika perumusan hukum dipandu oleh pemikiran maqasid yang sistemik, institusi hukum menjadi lebih mampu menghasilkan perubahan yang transformasional, yang tidak

hanya mencerminkan maksud ilahi, tetapi juga menjunjung tinggi martabat kemanusiaan. Temuan juga menegaskan bahwa maqasid berpotensi menjadi bukan sekadar alat hermeneutis, melainkan juga filsafat meta-hukum yang mampu menginformasikan kebijakan publik dan legislasi negara. Dengan merumuskan sebuah kerangka kerja yang menggabungkan fikih klasik Islam dengan diskursus reformasi hukum kontemporer, artikel ini menyatakan bahwa pendekatan berbasis maqasid menawarkan model hukum yang berkelanjutan dan adil untuk membentuk ulang sistem hukum di dunia Muslim modern.

Kata Kunci:

Maqasid al-Shariah, Pemikiran Sistemik, Reformasi Hukum, Transformasi Sosial, Dunia Islam

Introduction

The legal systems across the Muslim world are increasingly confronted with a dual tension: on one side is the persistence of classical fiqh frameworks that emphasize rigid textualism, and on the other is the growing demand for legal modernity aligned with global norms such as human rights, social justice, and sustainable development (Abou El Fadl, 2014; Allal dkk., 2018; Jasser, 2008). This tension is not simply a theoretical conundrum but a lived legal reality in many Muslim-majority countries, where legal reforms remain superficial, often confined to codification or partial reinterpretations without a coherent epistemological shift (An-Na'im, 2008; Zafar & Mustafa, 2017). As a result, Islamic law appears simultaneously resistant to change and fragmented in its engagement with contemporary ethical and legal paradigms.

Recent scholarship, including my own work such as *Maqasid al-Shariah as Philosophy of Islamic Law* and *Al-Maqasid wa al-Nazariyah al-Nidhamiyyah*, has suggested that an epistemic reorientation is required to resolve this tension—a reorientation that moves beyond the classical five purposes of Sharia (*ḥifẓ al-dīn, al-nafs, al-'aql, al-nasl, al-māl*) and towards a broader set of objectives that reflect universal human values such as dignity, freedom, justice, development, and

environmental balance (Auda, 2022; Auda dkk., 2019). This expansion is not a rejection of tradition, but a fulfillment of its highest intent (*maqṣad*) in alignment with the ethical imperatives of the present age (Aswadi dkk., 2022; Nabilah dkk., 2024).

Despite these developments, practical frameworks that systematically embed *maqāṣid* into contemporary legal structures remain underdeveloped. Most current efforts are fragmented, lacking an integrated methodology that can respond to the complex socio-legal conditions of modern Muslim societies. This article seeks to fill this gap by offering a *maqāṣid*-based framework rooted in systemic thinking, derived from six features of systems theory: connectivity, wholeness, openness, interrelated hierarchy, multidimensionality, and purposiveness (Athambawa, t.t.; Auda, 2022). These features are not merely philosophical abstractions, but analytical tools that can inform the restructuring of legal reasoning, legislation, and institutional practices.

To test the viability of this systemic *maqāṣid* approach, I examine three case studies: family law reform in Indonesia, the constitutional embedding of *maqāṣid* in Morocco, and penal reform in post-revolution Tunisia. These cases illustrate how Islamic legal norms interact with democratic governance, social pluralism, and human rights discourses (Arrasyid dkk., 2024; Merone, 2017; Roslaili dkk., 2021a). Each case is mapped against the six systemic features to evaluate the extent to which *maqāṣid*-based reform enhances coherence, justice, and societal responsiveness.

This study lies in its operationalization of *maqāṣid* through a systems-theoretical lens, allowing for a more dynamic, ethical, and inclusive vision of Islamic legal reform (Kamali, t.t.-a). The core hypothesis advanced is that a systemic *maqāṣid* paradigm can transform Islamic law from a reactive discipline into a proactive philosophy of governance that promotes human flourishing in contemporary Muslim societies.

Methods

The methodological framework of this study is informed by the six core features of systems theory that I have proposed in prior works to reframe Maqasid al-Shariah. These six features – connectivity, openness, wholeness, interrelated hierarchy, multidimensionality, and purposiveness – are used here not as abstract concepts but as analytical criteria through which legal texts, reforms, and institutions can be evaluated (Bidabad, 2018; Shabana & Taiba, 2023). These criteria form the basis for coding and analyzing qualitative data drawn from legislative documents, constitutional texts, reform policies, and secondary literature on legal reform in Indonesia, Morocco, and Tunisia.

Data for this study were obtained through a purposive selection of legal texts and reform documents that reflect attempts to engage with maqāṣid discourse. In Indonesia, I focused on revisions to the Marriage Law and supporting regulations issued between 2010 and 2022. For Morocco, I examined constitutional provisions following the 2011 constitutional reform, particularly articles referencing Islamic identity and public rights. For Tunisia, the study concentrated on penal code amendments and transitional justice policies post-2011 revolution.

I employed a coding process where each reform text or provision was analyzed in relation to the six systemic features: **First, Connectivity** – Identifying whether the law establishes interconnections between rights, institutions, and societal actors.

Second, Openness – Assessing whether the legal provision allows for ethical engagement beyond fixed literalism.

Third, Wholeness – Examining whether the provision integrates multiple objectives (e.g., justice and welfare) rather than isolated aims.

Fourth, Interrelated Hierarchy – Understanding how various legal principles are prioritized and how foundational maqāṣid guide lesser ones.

Fifth, Multidimensionality – Investigating whether the reform accounts for multiple social domains (e.g., gender, economy,

environment).

Six, Purposiveness – Determining whether the law reflects intentionality aligned with higher objectives of Shariah.

Each coded result was then tabulated and compared across the three national contexts to evaluate how deeply embedded the systemic maqāṣid framework is in each case. This comparative matrix enables an empirical assessment of legal reform depth, coherence, and ethical consistency (Laksana dkk., 2025a).

The reason for employing this systems-based maqāṣid approach is its capacity to transcend the limitations of both textualist fiqh and positivist legal codification. By operationalizing these six features, the research offers a practical and replicable model for aligning Islamic legal reform with the complexities of contemporary governance, social justice, and ethical pluralism.

Result and Discussion

Case Studies and Systemic Maqasid Mapping

Indonesia: Between Codification and Moral Pluralism – Can Maqasid Reframe Family Law Reform?

Indonesia represents one of the most dynamic and contested terrains for Islamic legal reform in the contemporary Muslim world. As the world's largest Muslim-majority democracy, Indonesia has long attempted to harmonize state law, local adat traditions, and Islamic jurisprudence within its legal architecture. The latest revisions of Indonesia's Marriage Law (*UU No. 1 Tahun 1974*, t.t.; *UU No. 16 Tahun 2019*, t.t.) offer a critical case for examining how maqāṣid-oriented frameworks intersect with legal pluralism and gender equity (Azhar, 2024; Kholiq & Halimatusa'diyah, 2023; Roslaili dkk., 2021b).

To assess the systemic embedding of maqāṣid, I analyzed five legislative and regulatory instruments, including Law No. 1/1974, its 2019 amendment, and supporting Constitutional Court rulings (notably MK Decision 22/PUU-XV/2017). Complementary to these were fatwas from the Indonesian

Ulema Council (MUI), National Strategy Documents for Child Marriage Prevention (*Permen PPN/Kepala Bappenas No. 14 Tahun 2020*, t.t.), and reports from the Indonesian Commission on Violence Against Women (Komnas Perempuan, 2021).

Each text was manually coded using qualitative data analysis software (NVivo 14), based on a six-dimensional coding matrix informed by systemic features of maqāṣid. The coding focused on language markers (e.g., “kemaslahatan,” “kepentingan terbaik anak,” “kesejahteraan keluarga”), jurisprudential sources cited, and cross-sectoral involvement in policy design. In-depth content analysis revealed the following alignment with the six systemic features:

Systemic Feature	Evidence in Indonesian Family Law Reform	Evaluation
Connectivity	Legal changes were driven by public advocacy (especially women's NGOs), Constitutional Court interventions, and Ministry of Religion inputs.	Moderate
Openness	Constitutional jurisprudence opened space for reinterpretation of classical rulings based on evolving social norms.	Strong
Wholeness	Reforms narrowly focused on child marriage age without a holistic overhaul of gender bias in fiqh-based family provisions.	Weak
Interrelated Hierarchy	The reform lacked prioritization among competing maqāṣid (e.g., between protection of lineage and dignity of women).	Weak

Multidimensionality	Partial, as reforms discussed psychological, educational, and economic impacts of early marriage, but did not revise dowry, guardianship, etc.	Moderate
Purposiveness	The reform explicitly referenced public interest (maslahah) and international human rights treaties (CEDAW), indicating purposive intent.	Strong

The results suggest that while Indonesia has made some strides in integrating maqāṣid, the reforms remain fragmentary and reactive. A full realization of systemic maqāṣid would require legal transformations that reconfigure the epistemology of fiqh, institutionalize gender equity, and prioritize dignity and wellbeing over ritual formalism (Nurlaelawati, 2016; Padela, 2025a).

While the reform reflects elements of purposiveness and openness, it fails to restructure the epistemological core of Islamic family law in Indonesia. Current policies address symptoms rather than systemic causes of gender inequity and social harm. This is partly due to the entrenched dualism between fiqh authority (held by MUI and pesantren networks) and constitutional-legal authority (held by state courts and ministries) (Butt & Lindsey, 2018; Feener, 2013).

Furthermore, the legal reasoning in the MK ruling remains couched in “maslahat” language without redefining the maqāṣid hierarchy. For example, while citing international norms, the justices avoided directly challenging polygamy or male guardianship frameworks as violating women's dignity (Catatan Tahunan, 2022).

For systemic maqāṣid to succeed in Indonesia, reform must shift from ad hoc regulatory responses to a broader integration of maqāṣid within the national curriculum of Islamic

legal education (KMA Nomor 657 Tahun 2021 tentang PPID Kementerian Agama dan Atasan PPID Kementerian Agama - *Pustaka Sumber Hukum KUA*, 2021) (Kementerian Agama, 2021), policy planning, and public fatwa processes. This requires a paradigmatic transformation in how the state, civil society, and religious authorities co-author Islamic norms for a plural society.

Morocco: Engineering Constitutional Maqasid – A Model for Embedding Normative Ethics in Governance?

Morocco presents a rare instance in the Arab-Islamic world where maqāṣid have been embedded not only in statutory law but at the very core of the constitutional order. The 2011 Constitution, ratified in the wake of the Arab Spring, introduces a nuanced equilibrium between Islam as a state religion and universal human rights norms (Ezzerouali dkk., 2025; Nabilah dkk., 2024). This section investigates whether Morocco’s model successfully integrates the six systemic features of maqāṣid into public law, particularly in the domain of gender, identity, and institutional reform.

The analysis is based on primary legal texts – particularly the Preamble and Articles 1, 19, 41, and 175 of the 2011 Constitution – supported by policy documents from the Moroccan National Human Rights Council (CNDH), Royal speeches, and civil society position papers (notably from the Moudawana reform debates) (Abourabi, 2019; Preamble, t.t.). The texts were coded using the same matrix as in the Indonesian case.

Systemic Feature	Evidence in Moroccan Constitutional Framework	Evaluation
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Connectivity	Broad participatory drafting process; dialogue among monarchy, Islamist parties (PJD), feminist movements, and Amazigh rights groups.	Strong
Openness	Language of maqāṣid used to justify evolving ijtihād within monarchy-led religious councils (Al Majlis al-Ilmi al-A'la).	Strong
Wholeness	Constitutional text integrates human rights, gender equity, Islamic values, and Amazigh identity in a single moral-political architecture.	Strong
Interrelated Hierarchy	Clear maqāṣid prioritization: human dignity and justice placed above traditionalist interpretations of ḥudūd or gender roles.	Moderate
Multidimensionality	Rights discourse spans economic, linguistic, religious, gender, and political freedoms – a genuinely multi-sectoral maqāṣid vision.	Strong

Purposiveness	Constitution makes explicit reference to “advancing the values of justice, equity, liberty, and participatory democracy.”	Strong
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Morocco’s constitutional maqāṣid model demonstrates a unique fusion of Islamic legal heritage and universalistic values. While some scholars critique its top-down nature (given the King’s religious authority), its systemic coherence remains unmatched in the region (Hashas, 2024; Kamali, t.t.-b; Maghraoui, 2013). The constitutional framework enables both legislative and jurisprudential bodies to derive purposive norms that reflect public interest and evolving social needs.

However, challenges persist. Despite constitutional promises, actual legislative reform (e.g., reform of inheritance laws or family courts) often lags behind due to entrenched patriarchal structures within the judiciary and ulama councils (Hashas, 2024; Khochtali dkk., 2021). Moreover, while the term *maqāṣid* appears in official religious discourse, its operationalization in public budgeting, education, or labor law remains symbolic rather than substantive.

Morocco’s approach offers an instructive example of how maqāṣid can serve as a moral-legal compass in constitutional governance—so long as institutional checks, public deliberation, and *ijtihād*-based reasoning remain vitalized.

Tunisia: From Revolution to Revelation? – Reimagining Penal Law through Systemic Maqasid after 2011

Tunisia stands as a paradigmatic case for observing the potential of maqāṣid-based reform in a post-revolutionary context. After the 2011 Jasmine Revolution, Tunisia embarked on a bold transition from authoritarianism to democratic constitutionalism, initiating broad reforms across the legal spectrum, including penal law. Tunisia’s engagement with

maqāṣid, however, has been less textual and more performative, manifesting through policies targeting transitional justice, anti-torture legislation, women’s rights, and freedom of belief (Ben Achour dkk., 2016; Helal, 2024).

To understand how systemic maqāṣid features are reflected in Tunisia’s legal reform, this study analyzed a set of post-2011 documents: the 2014 Tunisian Constitution (particularly Articles 1, 6, 23, and 49), the Organic Law on Transitional Justice (2013), the establishment of the Truth and Dignity Commission (IVD), and the Law on the Elimination of Violence against Women (y Camarasa, 2023; Zaki, 2018). Additionally, penal code revisions (drafts proposed in 2016–2019) were examined alongside fatwas and public statements from the Ministry of Religious Affairs. The texts were coded using the six systemic maqāṣid dimensions.

Systemic Feature	Evidence in Tunisia’s Post-Revolution Legal Reform	Evaluation
Connectivity	Civil society, especially women's groups and transitional justice actors, played a central role in drafting and monitoring implementation.	Strong
Openness	Public debates on Islamic ethics were permitted, and plural religious opinions were considered in judicial interpretations.	Strong

Wholeness	Reforms approached criminal justice holistically, connecting legal, psychological, spiritual, and social harm dimensions.	Moderate
I n t e r r e l a t e d Hierarchy	Legal reforms prioritized human dignity and protection from torture over classical notions of ḥudūd or qadhf (defamation-related penalties).	Moderate
Multidimensionality	Addressed women’s safety, memory justice, institutional corruption, and economic discrimination – linking various societal domains.	Strong
Purposiveness	Framed in explicit reference to principles such as karāmah (dignity), ḥurriyyah (freedom), and iṣlāḥ (rectification), showing high purposive alignment.	Strong

A deeper look into Tunisia’s transitional justice law (Organic Law No. 53/2013) reveals a maqāṣid-driven approach to collective healing and moral reconstruction (Kazemi, 2018; Robins dkk., 2022). The law recognizes crimes committed by the state and grants victims moral and material reparations while emphasizing reconciliation grounded in justice and truth. These

align with maqāṣid values of dignity, justice, and societal coherence (iṣlāḥ dhāt al-bayn). The Truth and Dignity Commission's findings further advocated structural reforms in security, judiciary, and education sectors (Yerkes & Muasher, 2017).

One striking innovation is the 2017 anti-violence law, which redefines violence against women not merely as physical harm but includes psychological, political, and economic violence. It institutionalizes support centers, special prosecutors, and education programs—embodying a multidimensional maqāṣid approach (Moghadam, 2019).

Nonetheless, despite the proliferation of maqāṣid-aligned legislation, Tunisia faces an implementation gap due to political instability, judicial conservatism, and insufficient clerical engagement with the maqāṣid discourse (Cimini, 2024; Olson, 2024). Moreover, the maqāṣid rhetoric in Tunisia remains more rooted in secular universalist language than classical Islamic terminology, which may limit long-term religious legitimacy.

In short, Tunisia demonstrates that maqāṣid-based reform is not only feasible in penal law but also transformative when linked to a broader ethical vision. Yet, for this vision to endure, legal changes must be accompanied by pedagogical renewal within Islamic education and long-term institutional safeguards. Tunisia's experience urges a reconceptualization of fiqh al-jināyāt (criminal jurisprudence) that prioritizes rehabilitation and human dignity over retribution (Karimullah dkk., 2025; Laksana dkk., 2025b).

From Fragmentation to Framework—Comparative Lessons in Systemic Maqasid Reform

The preceding case studies illustrate diverse trajectories of Islamic legal reform under the lens of systemic maqāṣid thinking. Each national context offers distinct innovations, limitations, and institutional pathways (Ahmed, 2025; Padela, 2025b). To distill comparative insights, we juxtapose the

performances of Indonesia, Morocco, and Tunisia across the six systemic features of maqāṣid in the table below:

Systemic Feature	Indonesia	Morocco	Tunisia
Connectivity	Moderate: driven by advocacy and judiciary	Strong: monarchy - civil society synergy	Strong: post-revolution civic engagement
Openness	Strong: constitutional and internationalist	Strong: plural ijtihād and interpretive law	Strong: inclusive public religious debate
Wholeness	Weak: piecemeal reform of family law	Strong: constitution integrates all domains	Moderate: multidomain but fragmented
Interrelated Hierarchy	Weak: maqāṣid not explicitly ordered	Moderate: values above rituals	Moderate: dignity prioritized over ḥudūd
Multidimensionality	Moderate: socio-educational lens only	Strong: human rights + identity + economy	Strong: transitional justice + gender
Purposiveness	Strong: child rights and maslahah invoked	Strong: equity and liberty explicitly stated	Strong: reform framed in karāmah, iṣlāḥ

Drawing from these findings, we propose a model for maqāṣid-based legal reform that operates not only at the interpretive or doctrinal level but at the structural, institutional, and civic levels (Duderija, 2014). A sustainable model of maqāṣid reform must combine three interlocking components:

First, Epistemological Realignment – Reforming Islamic legal education to teach maqāṣid not as abstract ideals but as jurisprudential priorities embedded in public policy, comparative law, and systems theory (Abou El Fadl, 2014; Jasser, 2008).

Second, Institutional Infrastructure – Embedding maqāṣid discourse into the judiciary, parliamentary review boards, and ministries via independent ethics councils, Shariah audit mechanisms, and multidisciplinary training (Kamali, 1990, 1999) (Kamali, 2019).

Third, Civic Co-production – Encouraging participatory norm-making processes, through dialogue with women's groups, youth organizations, religious minorities, and professional legal associations (Cimini, 2024; Mir-Hosseini, 2007).

Systemic maqāṣid thinking transcends textual reformism or individual fatwas. It emphasizes dynamic connectivity among ethical principles, legislative design, and social realities. A successful legal reform must thus treat maqāṣid as **living systems**, not static lists. For Muslim-majority nations navigating between tradition and transformation, this offers a moral and institutional grammar for rethinking Islamic law in the modern world.

Conclusion

This study has demonstrated how systemic maqāṣid thinking offers a viable epistemology and methodology for Islamic legal reform in contemporary Muslim societies. Through the comparative analysis of Indonesia, Morocco, and Tunisia, it is evident that the integration of maqāṣid into lawmaking and governance must go beyond rhetorical invocation. It requires structural embedding within legal reasoning, institutional design, and public participation.

The main findings affirm that while each of the three countries exhibits varying degrees of alignment with the six systemic features of *maqāṣid*—connectivity, openness, wholeness, interrelated hierarchy, multidimensionality, and purposiveness—none has yet achieved full systemic realization. Morocco excels in constitutional integration, Tunisia in transitional justice and penal reform, and Indonesia in civil society engagement and partial codification of family law reform. Yet all three face epistemological, institutional, or political constraints that hinder the full expression of a *maqāṣidic* legal order.

The implications of this study are threefold. First, it shows that *maqāṣid* must be reimagined not as a legal checklist but as a living systems framework capable of responding to socio-political complexities. Second, it confirms that any meaningful reform must include a reconfiguration of Islamic legal education, jurisprudential authority, and civic discourse. Third, the study contributes to the growing literature that sees *maqāṣid* as an ethical-institutional grammar for pluralist Muslim societies grappling with modernization, human rights, and sustainability.

By repositioning *maqāṣid* as both a legal philosophy and a systems methodology, this article opens the door for a jurisprudence that is not only rooted in Islamic tradition but also responsive to the ethical, developmental, and environmental challenges of the modern world. Such a transformation is not merely a reform of texts but a re-envisioning of Islamic law as a dynamic, dialogical, and dignified system for collective human flourishing.

Acknowledgment

The author would like to express sincere gratitude to **Dr. Rosidin & Dr. Ishaq** (Indonesia), whose insights on Islamic legal pluralism and civil society engagement significantly shaped the Indonesian case study. Deep appreciation is also extended to **Dr. Rached El Fassi** (Morocco), whose reflections on constitutional ethics and *maqāṣid* helped clarify key aspects

of the Moroccan model. Special thanks to **Dr. Hichem Bouazizi** (Tunisia) for his constructive critiques and expertise in transitional justice and penal reform in post-revolution Tunisia. Their intellectual generosity and regional perspectives were indispensable in refining the comparative framework of this paper. All errors remain the author's own.

Example:

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