

Understanding Immigration Law within the Islamic Legal Framework and Maqāṣid Al-Sharī‘Ah

Aly Umraan Aly Khalifa¹, Jasni Sulong²

¹Libyan Ministry of Defence, Sabha City Office, Libya

²School of Humanities, University Sains Malaysia Penang, Malaysia

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ABSTRACT

Immigration law is a fundamental component in protecting the sovereignty, stability, and security of a nation. It serves as a legal framework to regulate the entry and exit of individuals, ensuring such movements comply with national laws and do not pose risks to public safety or social harmony. Without effective regulation, uncontrolled immigration can lead to serious challenges, including threats to political order, economic imbalances, and demographic instability. From the Islamic legal perspective, immigration control aligns with the objectives of shariah particularly in safeguarding religion (*al-dīn*), life (*al-naḥs*), wealth (*al-māl*), intellect (*al-‘aql*), and lineage (*al-nasl*). This study examines the role of immigration law under Shariah and explores how its governance can be guided by the principles of Islamic governance (*siyāsah shar‘iyyah*) aimed at achieving communal welfare and justice. The research employs a qualitative doctrinal approach, supported by extensive literature review and classical Islamic legal texts. Methodologically, it incorporates inductive, deductive, and comparative analysis to interpret both classical and contemporary sources. The findings reveal that immigration governance, when aligned with Islamic legal principles, functions as a crucial instrument in achieving national integrity and upholding public interests. Furthermore, the study emphasizes the need for administrative flexibility in enforcing immigration policies to ensure that legal compliance does not compromise humanitarian obligations. Ultimately, the integration of Shariah-based governance into immigration law highlights the importance of structured, ethical, and accountable legal mechanisms for protecting state borders and ensuring fair and just treatment for all individuals within the jurisdiction.

Keywords: immigration law, maqāṣid al-sharī‘ah, siyāsah shar‘iyyah, national sovereignty, Islamic legal framework.

INTRODUCTION

Immigration governance and border control has become a subject of increased attention in many countries, as it plays a critical role in securing national boundaries and preventing misconduct or corruption among enforcement personnel (Utusan Malaysia, 2023). Recent developments have exposed serious flaws within the country's immigration control mechanisms, which have been systematically exploited by organized syndicates. The arrest of 49 immigration officers (Media Selangor, 2024) and the continued operation of the “Fly KLIA” syndicate (Astro Awani, 2025), for example, reveal the deep entrenchment of trafficking networks within enforcement agencies. These incidents raise critical concerns about the effectiveness of current governance, the robustness of monitoring systems, and the integrity of institutional accountability in addressing transnational migration challenges.

Immigration is not merely the movement of individuals across borders; it is a matter of national responsibility, social stability, and the preservation of ethical governance. Within the Islamic political framework of *siyāsah shar‘iyyah* (Islamic governance), the state is granted the authority to regulate entry and residence based on public interest (*maṣlaḥah ‘āmmah*) and in alignment with the *maqāṣid al-sharī‘ah*. This paper will examine how immigration policies can serve to protect the five essential matters in Shariah, namely religion (*al-dīn*), life (*al-naḥs*), property (*al-māl*), intellect (*al-‘aql*), and lineage (*al-nasl*). The role of the state in managing immigration

is thus not limited to ensuring territorial control but extends to the pursuit of a harmonious and divinely guided nation (*baldatun tayyibah wa rabbun ghafūr*). This paper seeks to examine the historical context of migration and explores three main questions: What is the historical terminology of immigration and its application? What are the contemporary challenges of immigration in relation to *maqāṣid al-sharīʿah*? And how are these issues reflected in a holistic approach toward ethical immigration management worldwide?

The Historical Contexts of Border Regulation

In pre-modern times, it is important to note that contemporary concepts of immigration law did not exist. Instead, movement and border regulations were governed by customs and traditions shaped by the prevailing social, economic, and political contexts. The intention is to protect the country and its people from anyone who may cause them harm. Within this framework, the experiences and historical practices of the Pharaonic, Babylonian, Roman and early Islam periods will be examined.

During the Pharaonic era, particularly under the Twelfth Dynasty of ancient Egypt (1991–1802 BCE), the state developed a highly structured approach to border security and immigration management. King Senusret III implemented a comprehensive border policy to regulate the movement of foreign groups (Shaw, 2000; Heidorn, 1999; Smith, 1995). These strategies not only safeguarded Egypt's economic interests but also helped preserve its cultural identity through systematic surveillance and documentation of non-Egyptian presence (Trigger et al., 1983). Centuries later, in the New Kingdom under Ramesses II, diplomatic instruments institutionalized foreign relations and included provisions governing movements between territories, marking the formal integration of population management into Egypt's broader framework of national security and diplomacy (Kitchen, 1982).

Then, the Code of Hammurabi, promulgated during the reign of King Hammurabi of Babylon (c. 1792–1750 BCE), is one of the earliest surviving codified legal texts and offers valuable insights into the regulation of movement and control over persons in ancient Mesopotamia (Roth, 1997; Van de Mieroop, 2005). While it does not constitute a comprehensive immigration code in the modern sense, several provisions reveal foundational principles relevant to migration governance. For example, Laws 15 and 16 impose severe penalties, including death, on those who assist or harbour runaway slaves' measures designed to restrict unauthorized movement and maintain social order within the city-states (Roth, 1997). These statutes, though concerned primarily with slavery, parallel modern legal provisions that criminalize the harbouring of undocumented migrants, albeit with far less severe punishments today (Westbrook, 2003).

Law 17 reinforces this control mechanism through a reward system for the capture and return of fugitives, reflecting a proto form of incentivized enforcement still seen in some modern anti-trafficking and border security contexts (Lafont, 2001). Meanwhile, Law 23 articulates the principle of state responsibility in upholding justice by requiring authorities to compensate victims when a perpetrator of theft cannot be identified an obligation that can be analogously extended to modern state duties toward citizens, migrants, and visitors within their jurisdiction (Westbrook, 2003). Contemporary immigration law has broadened this principle to include protecting migrants from exploitation and ensuring access to legal remedies. Although formulated in a vastly different social and political context, these ancient laws illustrate enduring concepts of state control over population movement and the obligation to maintain public order and security.

During the reign of Emperor Hadrian (117–138 CE), the Roman Empire undertook significant measures to secure its frontiers, particularly through the construction and reinforcement of fortified walls, forts, and checkpoints, most famously along the northern frontier in Britain with Hadrian's Wall and along the German limes (limes Germanicus) (Birley, 1997; Breeze & Dobson, 2000). These defensive installations not only protected Roman territories from external incursions but also acted as regulatory points for taxation, customs, and cross-border trade (Breeze, 2018). Such measures parallel modern border control systems, where physical barriers and immigration checkpoints regulate entry, ensure security, and oversee the flow of goods and people.

Hadrian's policies also reflected an interest in social integration. He reduced distinctions between Roman legions and auxiliary troops by expanding privileges and facilitating the granting of Roman citizenship to non-citizens who completed military service or embraced Roman customs (Sherwin-White, 1973). This reward-based integration was later expanded by subsequent emperors, contributing to the elevation of loyal provinces into

Roman colonies with full civic rights (Garnsey & Saller, 2014). The Roman approach to border defense and structured assimilation anticipated elements of modern immigration systems, balancing security concerns with cultural incorporation and social stability.

Meanwhile, in early Islamic history, regulations were also established to protect and safeguard the rights of outsiders and the vulnerable under the doctrines of safe-conduct (*amān*), neighbourhood protection (*jiwār*), and seeking asylum (*istijār*), particularly in cases of tyranny by the authorities. According to al-Shaybani (1975), *amān* granted protection to non-Muslims entering Muslim territory, thereby binding the Muslim community to respect their lives and property. Abu Yusuf (1979) likewise emphasized that even an ordinary Muslim could extend such protection, provided it did not compromise the security of the polity. Once granted, such protection became both a religious and legal obligation upon the state. In addition, the notion of *jiwār*, rooted in pre-Islamic tribal custom, was transformed by Islam into a universal ethical duty and a means of manifesting the beauty of Islam (Qur'ān, 9:6). Thus, Islam recognized the principle of asylum as a mechanism to safeguard life, intellect, and dignity (al-Shaybani, 1975). Likewise, *istijār* the act of seeking sanctuary was acknowledged as a legitimate claim. Denying it without just cause was strongly condemned, particularly when the seeker faced oppression (Abu Yusuf, 1979).

Terminology and Concepts of Immigration

Based on the above historical context, and in order to understand the concept of migration, it is essential to examine its linguistic origins and contextual interpretations. In Arabic, the term derives from the root word *hajara* (هَجَرَ), which forms the basis for *hijrah* (هِجْرَة), typically meaning to abandon or relocate. The meaning varies based on pronunciation: *hajrah* (هَجْرَة) signifies abandonment, *hijranan* (هَجْرَانًا) connotes separation, and *hujrah* (هُجْرَة) refers to moving from one land to another (Ibn Manẓūr, n.d.).

Meanwhile, in English, the term 'immigration' means the action of coming to live permanently in a foreign country (Oxford, 2024). According to Merriam-Webster (2024), 'immigration' means the act of entering and settling in a country or region to which one is not native. Both meanings share an identical conceptual theme with the Arabic term, namely, physical movement for specific purposes. In addition to this, in Islamic tradition, migration known as *hijrah* carries a deeper spiritual and moral significance, often associated with the pursuit of religious freedom, justice, and protection. It aligns with the objectives of *maqāṣid al-sharī'ah*, as migration serves the purpose of advancing Islamic goals such as seeking knowledge, preaching the religion of Islam, and escaping persecution or hostility. In this context, migration is viewed primarily as an individual movement from one place to another for social, demographic, or economic purposes. Whether motivated by the pursuit of safety, livelihood, or religious autonomy, migration remains essential to human survival and dignity, aligning with the Islamic legal objectives of protecting religion (*dīn*), life (*nafs*), property (*māl*), lineage (*nasl*), and intellect (*‘aql*).

Islam, as a religion founded upon the principles of human safety (*salāmah*), places great emphasis on the affairs of the state and the well-being of its people. Consequently, the law plays a vital role in protecting citizens from potential threats to their security. In this regard, the Qur'an affirms this concern, as Allah says:

Indeed, those whom the angels take [in death] while wronging themselves - [the angels] will say, "In what [condition] were you?" They will say, "We were oppressed in the land." The angels will say, "Was not the earth of Allah spacious [enough] for you to emigrate therein?" For those, their refuge is Hell - and evil it is as a destination .(Q4:97)

According to Al-Saadi (2002), one should not remain in a place that is hostile or harmful to them. It is impermissible to tolerate cruelty or to stay in a situation that endangers one's well-being, which aligns with the Islamic legal maxim *al-darār yuzāl* (harm must be eliminated). The passage highlights that God's earth is vast, providing believers with ample space to migrate and practise their faith freely, even when facing oppression in their own land. In such circumstances, a person is encouraged to migrate in search of peace and safety. Accordingly, every Muslim is obligated to leave a country where they are unable to fulfil their religious obligations or where their life and property are at risk. As Abu Zahra (1995) explains, the Qur'an requires believers to relocate rather than remain in a place where they are vulnerable and fear for their religion.

In other words, Ibn al-Qayyim (n.d.) emphasized the concept of spiritual migration for the sake of worship, directing the soul toward Allah and His Messenger, which he regarded as the true form of migration. Similarly, Imam Abu Zahra (n.d.) asserted that if a Muslim is unable to perform religious rituals freely or is exposed to threats to life and property, migration becomes obligatory. From these perspectives, it is clear that migration in Islam is not merely a physical or temporary relocation; it carries profound dimensions related to the preservation of religion and the advancement of Islamic civilization. Historically, migration played a vital role in spreading Islam and securing religious freedom.

From another perspective, immigration also concerns the protection of national sovereignty by preventing unauthorized or illegal entry without proper approval or permission from the legitimate authority. There are verses from Allah SWT that emphasize the safeguarding of national borders and preparedness against external threats. This is mentioned in the Holy Qur'an and can be understood as follows:

“And prepare against them whatever you are able of power and of steeds of war by which you may terrify the enemy of Allah and your enemy” (Q8:60).

Classical Islamic scholars have provided detailed interpretations of Qur'anic verses related to national defense and border security. Imam al-Qurtubi (d. 671H), in his Tafsir *al-Jāmi' li Ahkām al-Qur'an*, asserts that the command in this verse obligates the Muslim state to maintain military readiness, appoint qualified personnel, and ensure strategic preparedness. He emphasizes that the term *quwwah* (strength) includes not only traditional weaponry but also all forms of capacity relevant to modern defense, such as infrastructure, training, and technological advancement (al-Qurtubi, 2006). This may also encompass the development of robust and effective legal frameworks to support national security efforts.

This perspective can be observed during the establishment of the Madinan state, which marks a foundational precedent in the regulation of immigration control and public affairs. The *Sahifah al-Madinah* (Constitution of Madinah) included provisions that governed the movement and residence of various tribal and religious communities within the city, ensuring that no outsider (i.e., a non-resident) could be granted protection or allowed to settle without the consent of the community (*ahl al-sahifah*). This reflects an early example of regulated migration, where mutual agreement and communal interest guided the acceptance of newcomers into the polity. Islam emphasizes that transboundary movement must be governed by ethical and legal norms that ensure respect for legitimate authority, uphold social order, and safeguard the dignity and rights of both citizens and non-citizens. These principles are firmly rooted in the divine sources of Islamic law, the Qur'an and the Sunnah of the Prophet (pbuh).

By analogy, the requirement to obtain permission before entering a country can be compared to the need for approval when entering a private residence. A relevant Qur'anic verse states:

"O you who have believed, do not enter houses other than your own houses until you ascertain welcome and greet their inhabitants. That is best for you; perhaps you will be reminded" (Q24:27).

This verse underscores the necessity of obtaining prior permission before entering private domains, reflecting Islamic legal concerns with privacy, trust, and the prevention of suspicion or harm. According to the exegesis of al-Sa'di (2002), these rules are not merely matters of etiquette but serve a broader legal and ethical function: to protect individuals from harm, preserve social harmony, and establish clear boundaries between public and private spheres.

The Prophet Muhammad (pbuh) reinforced this principle of seeking permission through a hadith:

“If anyone of you asks for permission to enter three times and is not granted permission, he should return”. (al-Bukhari, no. 6245)

Al-Nawawi (1994), in his commentary on Sahih Muslim, notes that this hadith, alongside the Qur'anic injunction, forms a normative framework endorsed by the *Salaf*. The requirement to combine salutation with seeking permission three times reflects both respect for the host and adherence to communal norms. Analogically, this

principle extends to international relations and cross-border governance. Just as entering a private residence without permission is impermissible, entering another country without legal authorization constitutes a violation of public order and sovereignty.

The significant to safeguard the country compared to residence is not compromised. The impact is not just for one family, but to the whole community in a country. On the authority of Abu Hurairah, he said:

“A day and a night of *ribāt* (guarding in the path of Allah) is better than fasting for a whole month and standing in prayer during its nights. If he dies while in ribat, the reward for his deeds will continue to be recorded, his provision will be sustained, and he will be protected from the trial of the grave”. (*Sahih Muslim*, Kitab al-Imarah No. 1913)

The word “*ribāt*” in this hadith is linguistically derived from the Arabic root ر-ب-ط, which conveys meanings such as tying, fastening, or remaining stationed. In a legal and ethical context, “*ribāt*” denotes a state of continuous readiness and vigilance for the purpose of safeguarding the security and sovereignty of the Islamic state. More specifically, “*ribāt*” refers to the act of guarding and protecting the borders of Muslim territory (*dār al-Islām*) from potential external threats. Although it primarily falls under the defensive dimension of jihad, “*ribāt*” emphasizes preparedness, surveillance, and the prevention of aggression. It functions as a preventive mechanism against invasion and disorder, ensuring the safety of the Muslim community and the preservation of the five key *maqāṣid al-sharī‘ah* mentioned earlier.

Immigration Challenges Around the World

Immigration authorities worldwide face an acute dilemma in balancing border sovereignty with humanitarian obligations. People may migrate without complying with the laws of their own country or another country, whether in search of livelihood, in pursuit of safety and protection, or, in some cases, to engage in activities that are unlawful for personal benefit. In 2023 alone, more than 72,000 migrant deaths were recorded along irregular migration routes, revealing serious weaknesses in global migration governance (International Organization for Migration, 2024). Transit countries such as Greece, Libya, and Yemen remain key hotspots where limited state oversight or heavy-handed security measures heighten the risks faced by migrants. In South Asia and the Middle East, large-scale deportations of Afghan refugees from Pakistan and Iran have created humanitarian crises, as many were expelled without due process or adequate reintegration support (Associated Press, 2024). These developments show that border control policies, often shaped by political and security priorities, frequently overshadow Islamic and international ethical principles that emphasise the sanctity of life and the obligation of non-refoulement.

The increasing reliance on automated decision-making (ADM) systems in asylum and immigration processing raises profound legal and ethical concerns. While these technologies aim to streamline case management, evidence indicates that ADM systems often produce biased or inconsistent outcomes, particularly when used for biometric surveillance, risk profiling, or predictive deportation assessments (Shamsi et al., 2024). In the European Union and the United States, researchers have observed “refugee roulette” scenarios, where asylum outcomes vary significantly depending on adjudicator identity or jurisdiction rather than merit (Ramji-Nogales, Schoenholtz, & Schrag, 2009). Such inconsistency undermines procedural fairness and judicial integrity. From an Islamic legal lens, the principle of justice (*al-‘adl*) necessitates transparency and equitable treatment in legal determinations standards that ADM-based systems often fail to meet when unchecked by human oversight or ethical review mechanisms

Undocumented and stranded migrant populations continue to face systemic exclusion from essential services, especially healthcare, education, and legal aid. A recent scoping review by Suphanchaimat et al. (2024) found that undocumented migrants in both high- and middle-income countries experience persistent barriers to public healthcare access due to fear of arrest, cost, and lack of legal entitlements. The COVID-19 pandemic further exposed these inequities, leaving thousands of migrants without support during lockdowns or health emergencies (Mixed Migration Centre, 2023). These challenges disproportionately affect women and children, leading to worsening mental health, food insecurity, and vulnerability to trafficking. Islamic jurisprudence strongly affirms the principle of *ḥifẓ al-naḥs* (preservation of life) and mandates state responsibility in guaranteeing the welfare

of all within its territory, irrespective of legal status.

Public opinion and populist political discourse increasingly shape immigration policy across the Global North. In the United Kingdom and several EU member states, misinformation about migrant numbers and criminality has led to draconian policy shifts, including pushbacks at sea and offshoring asylum processes (Stierl, 2025). These strategies often serve symbolic functions rather than evidence-based solutions, aiming to project control rather than address root causes of displacement. As a result, immigration authorities face not only operational complexity but also declining public trust and legal legitimacy. Islamic ethics urge leaders to act upon justice (*‘adālah*), humanity (*ihsān*) and trustworthiness (*amānah*), principles that are undermined when governance is driven by fear and political expediency rather than truth and accountability.

These principles resonate strongly with contemporary norms of refugee protection, particularly the principle of non-refoulement codified in Article 33 of the 1951 Refugee Convention, which prohibits the return of asylum seekers to territories where they face persecution. Yet, the practical implementation of such norms remains a challenge in the modern world, as states often prioritize national security, border control, and domestic politics over humanitarian obligations. As An-Na‘īm (1987) has argued, the Islamic law of *amān* and *jiwār* anticipated many aspects of modern refugee law, underscoring that protection was not only a matter of generosity but a binding humanitarian and legal duty. In this respect, Islamic jurisprudence provides an ethical counterbalance to restrictive state practices that risk undermining refugee protection regimes.

Moreover, contemporary scholars such as Anver Emon (2012) highlight that Islamic legal history offers robust resources for grounding asylum policies within the *maqāṣid al-sharī‘ah* frameworks of justice (*‘adālah*) and mercy (*raḥmah*). However, translating these values into modern governance is complicated by fragmented legal systems, weak institutional capacity in some Muslim-majority countries, and the politicization of migration in global debates. Muslim states face the dual challenge of upholding their international commitments under refugee law while remaining faithful to their own legal and ethical heritage. Thus, while *amān*, *jiwār*, and *istijār* provide a strong foundation, their relevance today depends on overcoming barriers to align Islamic principles with global humanitarian standards.

Implimentation of Islamic Legal Framework Based on Maqāṣid al-Sharī‘ah

In this implementation, within the Islamic tradition, migration is not viewed merely through a physical lens such as safety, migration, or authorization but is closely aligned with the *maqāṣid al-sharī‘ah* concerning the well-being of humankind. These include the safeguarding of religion (*hifz al-dīn*), life (*hifz al-naḥs*), property (*hifz al-māl*), lineage (*hifz al-nasl*), and intellect (*hifz al-‘aql*). Accordingly, the following sections will examine various forms of migration and demonstrate how each type aligns with one or more of these overarching Islamic objectives. These safeguards ensure that all related activities and implementations are carried out in accordance with Shariah compliance:

Safeguarding of Religion (*hifz al-dīn*)

In classical Islamic legal theory, *hifz al-dīn* is considered the foremost objective within the five essential goals of *maqāṣid al-sharī‘ah*. This objective encompasses not only safeguarding freedom of belief and worship but also preserving the integrity of Islamic teachings and preventing religious harm or coercion. Contemporary Islamic legal scholars point out that *hifz al-dīn* remains relevant today in opposing ideological misrepresentation and ensuring that state policy does not undermine religious rights. For example, March (2011) critically engages with modern liberal conceptions of religious freedom to assess whether the actions or policies of a governing authority in a particular jurisdiction could compromise the sanctity of religion.

Within the Islamic tradition, the need to migrate (*hijrah*) is not only a social or economic act, but often a necessary means to preserve one’s faith and ability to worship. The obligation grounded in *hifz al-dīn*. Classical jurists maintained that Muslims are permitted, or even required, to relocate if their religious obligations are obstructed or their faith faces persecution. *Hijrah* thus becomes a legal mechanism for religious protection, serving both individual and communal *maslahah*. Migration under such conditions aligns with the higher objectives of Islamic law and fulfils the legal imperative to preserve religion in contexts where it is threatened

(Wan Mansor, 2016).

From a *maqāṣid al-sharī'ah* perspective, immigration-related injustices that violate the protection of religion include forced conversion, religious discrimination in asylum policy, and state mechanisms that restrict communal worship or religious education. When immigration systems deny individuals the freedom to practise their religion, particularly those fleeing persecution, such policies directly undermine *hifz al-dīn*. State institutions empowered by *siyāsah shar'īyyah* are therefore responsible for ensuring immigration governance does not compromise religious integrity, failing which they contravene core objectives of Islamic law. Ethical policy thus mandates that migration frameworks facilitate religious autonomy rather than inhibit it (Wan Mansor, 2016).

Safeguarding of Life (*hifz al-nafs*)

In Islamic jurisprudence, *hifz al-nafs* is a core objective of *Sharī'ah*, emphasizing the sanctity and protection of human life under all circumstances (Kamali, 2008). In the context of immigration, this principle plays a vital role, especially for nations grappling with refugee movements or migration crises. In Malaysia, although not a signatory to the 1951 Refugee Convention, Islamic legal scholars and NGOs have appealed to *hifz al-nafs* to justify humane treatment of the Rohingya and other displaced groups (Samuri, 2023; Haque, 2023). While Malaysia lacks formal legal refugee protections, the spirit of *Sharī'ah* demands that lives be safeguarded from harm and exploitation through administrative flexibility and compassionate policy. Furthermore, legal exceptions based on necessity (*darūrah*) in Shariah criminal law affirm that migrants coerced by hardship must not be penalized disproportionately (Kamali, 2008; Faisal Husen Ismail et. al., 2022).

In Libya, where no formal asylum law exists and political instability prevails, both state and militia actors often operate in ways that violate the Islamic principle of *hifz al-nafs*. Reports from the UN Human Rights Council (2018) and Human Rights Watch (2006) highlight widespread abuses including arbitrary detention, torture in holding centres, and denial of legal access to asylum procedures. The International Commission of Jurists (2025) has warned against collective expulsions, systemic violence, and hate speech targeting migrants, many of whom are already vulnerable. According to UNHCR (2025), over 20,000 migrants were intercepted or rescued in the Mediterranean from Libya in 2024 which evidence of the scale of this ongoing humanitarian emergency.

Furthermore, Al-Dayel (2023) provides a critical analysis of human trafficking networks operating in Libya, demonstrating how power structures exploit migrants through captivity, extortion, and violence. These conditions stand in direct contradiction to the Islamic legal imperative to safeguard human life and dignity. Despite the absence of a functioning legal system, Islamic jurisprudence holds all actors including non-state entities accountable for upholding *maqāṣid al-sharī'ah*, especially *hifz al-nafs*. The Libyan case thus illustrates a tragic neglect of a core *Sharī'ah* objective, where political goals and the lack of accountability override the obligation to protect vulnerable lives.

Safeguarding of Property (*hifz al-māl*)

Hifz al-māl is a key objective of the Islamic legal framework which emphasizes the protection of individuals' property and financial dignity. In the context of immigration, this principle becomes especially relevant, as migrants are often subjected to wage theft, asset confiscation, lack of access to banking systems, and exploitation through high smuggling or processing fees. According to Kamali (2008), protecting wealth is not limited to preserving physical assets, but includes ensuring justice in financial transactions and preventing unjust enrichment. These protections are crucial for migrants, who frequently fall victim to exploitative labour markets, especially in transit zones like Libya, where financial and human rights violations are widespread (Al-Dayel, Anfinson, & Anfinson, 2023).

UNHCR (2023) reports that migrants in Libya are frequently detained and extorted, with their money and belongings confiscated by smugglers, traffickers, or even local authorities. Such conditions not only violate international human rights norms but also directly contradict Islamic injunctions prohibiting the infringement of another person's rights over wealth. Therefore, the unlawful seizure of a migrant's property, whether through taking, damaging, or transferring ownership, constitutes a breach of property rights. In Libya and similar

conflict-affected regions, the institutional failure to protect migrant wealth is both a humanitarian and an Islamic legal concern, requiring urgent reform grounded in both ethical and legal obligations (UNHCR, 2023).

Safeguarding of Lineage (hifz al-nasl)

Hifz al-nasl mandates the protection of legitimate lineage, family dignity, and preservation of *nasab* (genealogical identity) (Al-Mabruri, 2021). Migration, especially in forced displacement or refugee contexts, often disrupts these aspects through family separations, unregistered births, and children born without legal documentation. Such disruptions undermine children's rights to inheritance, identity, and meaningful connection to parents or guardians. Islamic jurisprudence underscores the necessity of preserving *nasab* via proper birth registration and family reunification to uphold both individual dignity and social stability (Al-Mabruri, 2021; Thahir, 2020).

In refugee settings where birth records are absent or lost, children risk statelessness and loss of legal identity. This violates the objective of *hifz al-nasl*, since lineage cannot be confirmed, and legal and familial rights become inaccessible (UNHCR, 2021). Islamic ethical frameworks especially those concerned with vulnerable children stress the obligation on states and humanitarian actors to ensure every child's birth is documented, and family structures are preserved (Rotabi et al., 2017). Immigrants are also frequently subjected to sexual abuse while in detention and in similar circumstances, and this must be addressed and prevented by the government. Officials responsible for their management should be individuals of integrity who do not abuse their authority. Ensuring the protection of lineage through strict security measures in handling immigrants, especially children, and safeguarding human dignity is a pivotal responsibility of Islamic governance, reflecting the sanctity of Islam in implementing state regulations.

Safeguarding of Intellect (hifz al-‘aql)

As one of the fundamental objectives of Islamic law, the preservation of intellect emphasizes the protection of human reasoning, the safeguarding of mental health, and the promotion of access to knowledge. In migration contexts, displaced individuals especially children and youth often face prolonged disruption to education, psychological trauma, and lack of mental health support. These realities conflict with the Islamic imperative to nurture and preserve the intellect (Kamali, 2008). Research has shown that immigration detention is associated with high rates of depression, anxiety, and post-traumatic stress disorder, particularly among asylum seekers and refugees (Newnham et al., 2019). Denying such individuals access to education and mental health services violates the essence of *hifz al-‘aql*.

Islamic ethics demand more than physical survival as they require an environment conducive to cognitive and emotional well-being. Therefore, policies and systems that support trauma-informed care, continued education, and mental health access for displaced populations are not just humanitarian obligations they are Sharī‘ah-based duties (Nasution, 2023). A primary aspect of preserving the intellect is the provision of education, as knowledge nurtures the mind. Therefore, access for immigrants to pursue studies should be facilitated, and the welfare of those in detention for offences should be safeguarded so that they are not deprived of learning opportunities. Another important measure is ensuring adequate nutrition and an environment conducive to the development of a healthy mind.

Holistic Sharī‘ah Approach towards Ethical Immigration Management

Islamic jurisprudence offers an inclusive ethical stance that upholds the preservation of five essential human needs, namely religion, life, intellect, lineage, and property, as universal entitlements, not privileges restricted by citizenship or borders. Within this framework, sovereignty is not denied but guided by the *maqāsid al-sharī‘ah*, which affirms that the rights of all including refugees and migrants must be safeguarded in a way that respects both state authority and human dignity. Migration policies grounded in this perspective affirm that displaced persons are entitled to religious freedom, access to health and education, family unity, and the means for dignified livelihood. This reflects the dimension of welfare, ensuring that social cohesion and public good (*maṣlahah*) are not undermined by exclusionary policies. As Kamali (2008) emphasizes, the objectives of Shariah are to secure benefit and remove harm for all human beings, regardless of origin or legal status.

While states retain sovereign control over borders and immigration, *maqāṣid al-sharī'ah* offers a value-based governance model that balances national interests with moral responsibility. Governments are not only permitted but obligated to regulate migration to ensure security, social order, and economic sustainability. However, this sovereignty must be exercised with accountability to higher ethical goals. Policies that criminalize asylum-seekers, enforce arbitrary detention, or separate families at borders directly undermine both due process and welfare, as they disregard fairness, justice, and human dignity. Instead, *Sharī'ah*-informed governance calls for proportionality, fairness, and procedural justice, demonstrating that due process is an indispensable element of ethical migration management. In practice, this can take the form of independent oversight bodies, the integration of faith-based legal advisory councils into immigration courts, and legislation that upholds the dignity and rights of migrants in accordance with both international law and Islamic values (Nasution, 2023; UNHCR, 2023).

To actualize these principles, effective migration governance must be built upon transnational cooperation, strategic infrastructure investment, and compassionate diplomacy. This involves not only strengthening security through joint rescue operations and coordinated legal frameworks but also advancing welfare by providing inclusive housing, healthcare, and educational facilities that address the holistic needs of migrants. Muslim-majority nations, by exercising their sovereignty within the *maqāṣid* framework, can play a leading role in advocating for ethical migration practices at the global level, while embedding due process into regional legal systems to ensure accountability and justice. Such initiatives resonate with the Qur'ānic call to mutual assistance in goodness and piety (Q. 5:2), transforming faith into policy and compassion into action. Policies framed under these guidelines will embed Islamic values within governance structures, ensuring justice (*'adālah*) and respect for the rule of law.

Below is a table that clearly shows how sovereignty, security, due process, and welfare are balanced with *maqāṣid* values to guide ethical migration governance:

Table 1: Dimension and Maqāṣid Values for Ethical Governance

Dimension	State Interests & (Sovereignty Security)	Maqāṣid Obligations (Ethical & Legal)	Policy Implications
Sovereignty	Control over borders, regulate migration	Accountability to higher ethical goals, protection of human dignity (<i>karāmah insāniyyah</i>)	Sovereignty exercised with fairness, not exclusion
Security	Prevent crime, ensure social order, economic sustainability	Preservation of life (<i>ḥifẓ al-naḥs</i>) and property (<i>ḥifẓ al-māl</i>)	Proportional measures; avoid arbitrary detention or family separation
Due Process	Enforcement of laws, immigration procedures	Preservation of intellect (<i>ḥifẓ al-'aql</i>) and lineage (<i>ḥifẓ al-nasl</i>); uphold justice (<i>'adālah</i>)	Independent oversight, procedural fairness, integration of faith-based advisory
Welfare	Social cohesion, manage resources	Preservation of religion (<i>ḥifẓ al-dīn</i>) and dignified livelihood	Access to healthcare, education, family unity, inclusive welfare for migrants

The table illustrates how sovereignty, security, due process, and welfare can be balanced within the *maqāṣid al-Sharī'ah* framework. Sovereignty and security remain vital, but must be exercised with fairness, preserving life and property without harmful practices. Due process and welfare demand justice, dignity, and access to essential services for migrants. Aligning state interests with *maqāṣid* values enables migration governance that safeguards both national stability and universal human dignity.

To add, Islam is a religion built on safety (*salāmah*) and trust (*amān*). These principles mean that the protection of sovereignty, security, due process, and welfare is not optional but central to Islamic governance. Sovereignty

must be exercised fairly, showing that authority is a trust, not a tool of oppression. Security must protect life and property, because the sanctity of human existence is a divine command. Due process must guarantee justice and dignity, as Islam rejects arbitrary power and insists on accountability. Welfare must ensure that people's needs health, education, family unity, and livelihood are met, because human well-being is a right, not a privilege. When these four requirements are fulfilled together, the objectives of Islam (*maqāṣid al-sharī'ah*) are realized in their completeness. The result is a state that is tranquil, a community that lives in harmony, and a government that responds responsibly to its people. This integrated framework not only serves human needs but also brings divine blessing. In Qur'ānic terms, it becomes a good country under the mercy and forgiveness of God (*baladun tayyibatun wa rabbun ghafūr*).

CONCLUSION

In conclusion, the Islamic legal framework, grounded in the *maqāṣid al-sharī'ah* provides a comprehensive ethical foundation for immigration governance. Historical precedents from the Pharaonic, Babylonian, Roman, and early Islamic periods demonstrate that the regulation of movement across borders has always been tied to questions of security, justice, and the preservation of societal order. Islam, however, elevated these concerns by framing migration not only as a matter of political sovereignty but also as a moral obligation to protect religion, life, intellect, lineage, and property. This perspective situates immigration management within a divinely guided commitment to human dignity and justice, transcending the limits of nationalistic or exclusionary policies.

Contemporary challenges ranging from human trafficking and arbitrary detention to systemic denial of due process and welfare access reveal how modern governance often falls short of these ethical ideals. The reliance on securitized approaches or discriminatory practices contradicts the Islamic emphasis on proportionality, fairness, and the sanctity of life. By contrast, *maqāṣid*-based policies encourage governments to exercise sovereignty with accountability, ensuring that migration systems safeguard both national interests and universal human rights. In this sense, Islamic jurisprudence offers a corrective lens, reminding policymakers that protecting the vulnerable, including migrants and refugees, is not optional but a binding duty of governance.

Looking forward, the actualization of *maqāṣid* in migration governance requires strategic reforms and international cooperation. Muslim-majority states are well-positioned to lead by exercising their sovereignty responsibly through regional coalitions, ensuring that border control aligns with higher ethical goals rather than exclusionary politics. This leadership must also prioritize security, not only through safeguarding borders but also by protecting the lives of migrants via coordinated rescue operations and the dismantling of trafficking networks. At the same time, embedding due process into immigration law and practice through oversight mechanisms, transparent procedures, and fair adjudication ensures accountability and justice. Equally vital is the promotion of welfare, achieved by investing in inclusive infrastructure such as housing, healthcare, and education that addresses the holistic needs of refugees and migrants. Such initiatives would harmonize Islamic legal values with global humanitarian standards, advancing justice (*'adālah*), mercy (*rahmah*), and public good (*maṣlahah*) on a transnational scale. Ultimately, integrating the *maqāṣid* framework into immigration governance not only strengthens national stability but also affirms Islam's universal call to uphold human dignity and transform compassion into action.

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