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الجامعة الإسلامية العالمية ماليزيا  
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بَوْتِ شَرِيْطَتِيْ اِسْلَامِيَّةٍ اَنْبِيَاؤًا رِجْسًا مُلَدِيْنِيَّا

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## ABSTRACT

This study is aimed at investigating the criteria for preference of one of the two harms based on *Maqāṣid al-sharī'ah* (objectives of Islamic law) and applying them to some contemporary problems concerning the family and hygiene. The study examines the definition of “*al-ḍarar*” (the harmful) followed by highlighting the fact that removing the harmful is the basis of *al-ijtihād*. Then, the concept and criteria of “*al-tarjīh*” (the preference) are explained in the light of *Maqāṣid al-sharī'ah* as elaborated by scholars of jurisprudence. Finally, the researcher applied the said criteria of preference to certain contemporary problems; three on family matters and three related to medicine. The study is based on the inductive approach in collecting relevant juristic opinions of early and contemporary scholars, including the views expressed in *al-fatāwā al-mu'āṣirah* (the contemporary legal opinions). As for the analysis of these different opinions on *Maqāṣid al-sharī'ah*, analytical and critical methods were also applied in establishing the strongest view on the matter concerned. The conclusion of this study comprises various findings, the most important being the determination and application of some of the criteria of preference so as to know the strongest harms between the permissibility and non-permissibility of particular problems. The legislative principles consulted in this study are *al-Qurān*, *al-Sunnah*, *al-Qawā'id al-Uṣūliyyah*, *Qawā'id al-Maqāṣid* and *al-Qawā'id al-Fiqhiyyah*.

## **APPROVAL PAGE**

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Usul Fiqh).

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Ghalia Bouhedda  
Supervisor

I certify that I have read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Usul Fiqh).

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Bachir Soualhi  
Examiner

This thesis was submitted to the Department of Fiqh and Usul Fiqh is accepted as partial fulfillment of the requirement for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Usul Fiqh).

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This thesis was submitted to the Kulliyyah of Islamic Revealed Knowledge and Human Sciences and is accepted as partial fulfillment of the requirement for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Usul Fiqh).

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Hazizan Md. Noon  
Dean,  
Kulliyyah of Islamic Revealed  
Knowledge and Human Sciences

## DECLARATION

I hereby declare that this thesis is the result of my own investigations, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references and a bibliography is appended.

Name: Zakiah Binti Yusoff

Signature: \_\_\_\_\_

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