The Urgency of the *Maqāṣid Al-Syarī'Ah* in Reasoning Islamic Law

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Abstract:
This paper aims to present several theories about how important to understand *maqāṣid al-syarī'ah* when someone wants to study a law in Islam, someone cannot be separated from that context. *Maqāṣid al-syarī'ah* is a barometer or the main standard of consideration in the formulation of shari'ah with the aim of the benefit of the Ummah, and Islam consistently makes *maqāṣid al-syarī'ah* in all its rules. The thinking of Ibn ‘Āsyūr about *maqāṣid* is built on this principle, that it’s imperative to accept the concept of ta’līl. The theory of *maqāṣid* rests on three basic concepts: (a). *Maqāṣids* are sometimes qath’i and danni (assumptive). (b). *Maqāṣid* ‘āmmah and khaṣṣah (c). Al-maqām, al-istiqārā ‘and distinguish between wasilah and purpose in the application of fiqh law. Every phenomenon that has great potential for maslahah it can be stated to be included in the *maqāṣid al-syarī'ah*. On the other hand the human need is not to know the *maqāṣid al-syarī’ah* itself, but to find a law for a new case that has no prescribed text. Ontology of *maqāṣid al-syarī’ah* al-khāssah is also a value, because knowing the law for that case is complete with the text, now the needed for a new case, so the ontology of *maqāṣid al-syarī’ah* in this dimension is a transcendent value to refer when conducting *tahqīq al-manāt*.

Keywords:
*maqāṣid al-syarī’ah*; reasoning; islamic law

I. Introduction

In an effort to understand *maqāṣid al-syarī’ah* someone cannot be separated from both contexts. That’s means, the determination of the *maqāṣid* contained in the text must go through socio-political and cultural considerations in which the text appears and is contemporary and takes into account the language context by involving fiqh, balaghah (literary), and linguistic knowledge. *Maqāṣid al-syarī’ah* is a barometer or the main standard of consideration in the formulation of *shari'ah* with the aim of the benefit of the Ummah, and Islam consistently makes *maqāṣid al-syarī’ah* in all its rules.

According to al-Ghazali *maqāṣid al-syarī’ah* aiming at realizing benefit and rejecting harm to humans in achieving their life goals, this is one of the *maqāṣid al-syarī’ah* which includes: preserving religion, preserving souls, preserving mind, preserving offspring and preserving wealth and preserving wealth. Al-Syāṭībi defines *maqāṣid al-syarī’ah* as a *shari'ah* goal in realizing benefit for humans both in the world and the hereafter. Al-Syāṭībi distributes *maqāṣid al-syarī’ah* in three categories namely, *iḥārīyyāt*, *ḥajjīyyāt* and *tahsinīyyāt*. *Maqāṣid al-syarī’ah* is found from the results of understanding the substance of the legal recitation based on the Qur'an and the Hadith can also be understood from the methods of determining the law applied by the Messenger of Allah.

Alyasa 'Abubakar in his writing "The Divine Method" explains that; Al-Qur'an and Sunnah can be understood (interpreted) through the principles of lughabiyāt, the rules of *ta’līlīyyah* and the rules of *tisalabīyyah*. There is no doubt that the Qur'an and hadith are the main sources in the study
of Islamic law and all those who carry out the study of Islamic law and daily practice are required to refer to it.

II. Review of Literature

2.1 Definition of Maqāṣid al-syarī'ah

According to al-Ghazālī, the purpose of Shari'ah (Maqāṣid al-syarī'ah) is to realize benefit and deny harm to humans in achieving their life goals. This includes preserving Religion, preserving souls, preserving mind, preserving offspring, and preserving wealth. Al-Syāṭībi defines Maqāṣid al-syarī'ah as a goal of the Shari'ah in realizing benefit for humans both in the world and the hereafter. Al-Syāṭībi distributes Maqāṣid al-syarī'ah in three categories: urururiyat, ḥajjijiyat, and tahsiniyat. These three terms will be explained further specifically.

Maqāṣid al-syarī'ah is divided into three main categories. Namely: (1). Maqāṣid al-ḍaruriyat, which is maqāṣid to preserve the five basic principles in human life which include preserving religion, soul, decent, reason, and wealth. (2). Maqāṣid al-ḥajjiyyat, which is maqāṣid to eliminate difficulties or make the maintenance of the five basic azazes even better. (3). Maqāṣid al-tahsiniyat, which is intended so that humans do their best for the maintenance of the five basic azazes. Establishment of law based on the maintenance of human interests and benefit, then, is known as mašlahāh, but the use of mašlahāh as a stand-alone term was not yet popular in the days of Imām Mālik and Imām Syafi’ī, but the theory of mašlahāh is often associated with Imām Mālik. The reason is of course because among the four founding figures of the school, Imām Mālik is most often used the term mašlahāh.

The scholars of uṣuliyyin gave the definition of mašlahāh by giving sharia law ‘to a case that is not contained in the text or ijma’ulama on the basis of maintaining benefit. The use of the term mašlahāh requires very binding conditions so as not to be separated from the values of Maqāṣid al-syarī'ah. Mašlahāh is not allowed to conflict with the objectives of sharia. Benefits There should be a rational discussion of research so that it can reach the conclusion that actually mašlahāh can provide benefits and reject kemudharat. Health is general and 4). Its implementation does not cause unnatural difficulties. If we look at the division of mašlahāh, this indicator belongs to the type of mašlahāh mu’tabarah. Imām al-Ghazālī in discussing mašlahāh does not provide a detailed limit on the meaning of Maqāṣid al-syarī'ah except to say only that;

وَمَعْنَى الشَّرْعُ مِن الْخَلْقِ خَمسَةٌ وَهُوَ أَنْ يُحْفَظُ عَلَيْهِمْ دِينَهُمْ وَنَفْسَهُمْ وَعِلْمَهُمْ وَنَسْلَهُمْ وَمَالَهُمْ فَكَلَّمَا مَاتَتْ هَذِهِ الأَصُولُ الخَمسَةُ فَهُوَ مَسْلُوحٌ

Meaning: What we mean by the purpose of the syara' of the creatures there are five, namely maintaining their religion, soul, intellect, descent, and property. Anything that contains an effort to preserve these five principles is called mašlahāh, and every one that removes these five principles is called mafṣadat and rejects it is called mašlahāh.

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1 See Al- Syāṭībi, Al- Muwāfaqāt..., jld II. p.30

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2.2 Correlation of Maqāṣid al-Syarʿī’ah with Maṣlahāh according to Al-Ṣyāṭībī

The correlation between maṣlahāh and maqāṣid in the view of Al-Shaṭibī, is as follows; According to al-Ṣyāṭībī, the intended maṣlahāh is (maṣlahāh mursalāh, istislahiyyah) which is considered by ulema jumhur as maṣlahāh which is not mentioned in the Qurʾan and sunnah directly, but does not mean it has no connection with the Qur’anic verses or the traditions of the Messenger of Allah. According to al-Shafiʿi, this maṣlahāh still has a relationship with the Qurʾan and the hadith of the Messenger of Allah, if it can be seated or given a place in the categories of maqāṣid al-syarʿī’ah which he systematically introduces. According to him all taklif (burdens, orders and prohibitions) sent down by Allah to humans, either to fulfill needs or to provide protection or to avoid hardship and prevent harm, can be grouped into maqāṣid al-syarʿī’ah (the aim of the Shari’a of a law). As mentioned earlier, the levels of the al-syarʿī’ah maqāṣid are al-ḍarūriyyah, al-ḥajjīyyah and taḥsinīyyah.²

Maqāṣid al-syarʿī’ah can be known by paying close attention to verses and traditions, both those that are specific (specific, specific texts) that are the argument for a problem and also which are general (general texts) containing principles, it will be known that there are benefits to be achieved and protected by the Qurʾan in every command, prohibition or permission given by God. This is what is called a maṣlahah that wants to be preserved, fulfilled and protected by the Qurʾan, or more precisely what will be the maqāṣid al-syarʿī’ah, according to the concept presented by al-Ṣyāṭībī.³ In other words the Shariah law is determined based on the maṣlahāh contained therein, this benefit is also found in productive plants when zakat is taken.

This series of activities is named as reasoning for mursalāh or istislahiyyah, namely reasoning that relies on maṣlahāh. So the problem of mursalāh is not just the subjective thought of the mujtahids without the guidance of the text. Maṣlahāh mursalāh is a conclusion made based on the determination of the position of an action in the category of maqāṣid al-syarʿī’ah. According to al-Ṣyibid and the scholars agree to divide maṣlahāh into three types (mu’tabarabah, muqābah and mursalāh).

III. Discussion

The Process of Formulation of the Study of Islamic Law

1. Understanding Islamic Law

Abd al-Wahab Khallaf shared Islamic law into five characteristics.⁴ 1). Perfect, perfection in Islamic law can be seen from the Islamic Shari’a which is revealed in its general form and global problems, where the stipulation of the Qur’an regarding Islamic law globally aims to give freedom to the scholars in performing jihad according to the demands of the situation and conditions.2). Islamic law is universal covering all of nature without limits and is not limited by certain regions and regions. Elastic and dynamic, Islamic law that is elastic which covers all fields and fields of human life, humanitarian issues, physical and spiritual life, the relationship of interaction between creatures and creatures and the demands of life in the world and the hereafter. Ta’abudi and ta’quli, Islamic law can be divided into two forms namely; (1).The form of worship whose main function is to bring people closer to God. (2).The form of muamalah contains ta’quli nature, meaning that it can be understood by the human mind in doing work through the process of human reason and thought itself. The five Islamic laws are systematic. Abū Ishāk Al-Ṣyāṭībī in his book al-Muwāfaqāt Fi Uṣul al-Ahkām mentions that the shari‘at actually sets a strict limit for the believers in all their

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² Al-Ṣyāṭībī, Al-Muwāfaqāt..., jld.III, p.30-48

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deeds, words and creeds. Muhammad Ali al-awhawī in his book *Kasyf al-Termi al-funūn* said the *shari‘ah* that Allah had implied for his servants ranging from the laws that had been brought by a Prophet to the way they were carried out.

2. Stages of Islamic Law Formulation

Stages of the formulation of Islamic law in the historical trajectory of the development of Islamic law precisely diera friends and *tabi‘in*. At the time of the Prophet there was no methodological problem in understanding the Qur'an because the Companions were directly under his guidance and if necessary they could ask directly about problems that were considered unclear to them.

From history we know that soldiers in the time of Messenger of Allah and Abu Bakar were not paid because they were part of the spoils of war. But, in the era of ‘Umar, regular soldiers were provided and given permanent benefits. Because of this ‘Umar did not give war booty to the soldiers but Sawad's land was used by ‘Umar for public purposes such as allowances for underprivileged fighters and border maintenance costs, and others.

During the *tabi‘in* and thereafter *ijtihad* activities increasingly developed with various tendencies respectively. Differences are increasingly developing and *ijtihad*’s style is greatly influenced by regionalism. The Iraqis are considered more inclined to use ratios, while the people of Medina prefer the traditions or traditions of the community as well as the traditions that develop in society. In the period of mujtahid priests in the II H century to the middle of the IV H century, there was a rapid development of *ijtihad*, schools of law also progressed so that the methods of understanding the Qur’an and hadith began to be developed even to be recorded.

One of the most prominent figures in the field of legal development is Imām al-Shāfi‘ī (W. 204 H.) marked by the compilation of the book *al-Risālah* until it becomes the first reference in the methodology of understanding the law and in the methodology of the Hadith. Even in the disciplines of the sciences *shari‘ah* methodology is still relevant and maintained until now. *Al-Risālah* holy book is the first book written by Usul Fiqh systematically as a guide in *istinbath* Islamic law, also very relevant if used to develop new laws in accordance with the times.

3.3 *Usul al-Khamsah* as the Foundation for Establishing *al-Maqāṣid al-Šyari‘ah* in Islam

a. *Maqāṣid al-Ḍarūriah*

1. Preservation of Religion

Etymologically, *al-dīn* (religion) means retaliation (*al-jaza‘*), calculation (*al-hisāb*), and obedience (*al-tā‘ah*). According to *Ibn ‘Ᾱsyūr*, this word changes to *haqīqah ‘urfiyyah* for a collection of creeds and actions, taught by the Messenger of Allah who came from Allah. Therefore, what is meant by preserving religion is maintaining Islam, faith, and ihsan. Maintaining religion as a *maqāṣid* is realized by the *Shari‘a* by setting means (*wasā’il*). Yūsuf Hamid al-‘Alim divided it into two levels. First is the origin (*al-ḍarūrah*), which is in the form of faith in Allah and the Day of Judgment. Second, a level below it (*al-ḥājah*), is a consummation for the purpose of preserving religion itself. Such as orders to establish prayers, pay alms, perform fasting, and pilgrimage. Some of them are also complementary (*al-tahsiniyyah*), such as the good for which the law is circumcised.

2. Maintenance of the soul
Preservation of the soul means guarding the soul from actions that can damage, eliminate and extinction, both individually and in groups. The purpose of preservation here does not merely refer to the existence of qisas laws but qisas also include juz‘iyyah from forms of soul care. While maintenance of the most important soul is the act of salvation, including treating the sick.

Ahmīdān, clarifying the purpose of caring for souls in terms of wujūd, the Shari‘a by setting four conditions as wasā'il namely; marriage, making a living for children and parents, allowing forbidden eating and drinking in an emergency. While maintenance of the soul from the side of ‘adām is divided into two types of wasā'il.

3. Maintenance of Intellec

Al-Jarjani clarified that; the word ‘aql is taken from ‘iqal al-bair (donkey's bridle), meaning to keep its owner from bad things. While Yūsuf Hamid al-‘Alimi, defines that reason is a potential in humans who in their own way are able to gain knowledge. That is the potential for intellect (al-qurwab al-idrākiyyah) which accompanies the potential of the senses, not by way of revelation. The Ahmīdān justifies that the maqāṣid al-ḍarūriyyah in the context of maintaining mind from the aspect of being is carried out with one wasā’il, namely the obligation to fulfill knowledge. Many verses and traditions that command studying, and talk about the advantages of knowledge.

As for the maintenance of reason from the side of ‘adām, it is done with two wasā’il. First, prohibiting drinks. that damages the mind, Second, the prohibition of food that damages the mind, the sanction is in the form of ta’zīr which is repatriated to ijtihad and government regulations. The above explanation inspires us that the laws that are ta’akkuli and which relate to the community require regulations from the government so that they become strong in value and have a binding nature in their enforcement, as is the urgency of government regulations regarding the obligation of alms on plants and seeds that have economic potential both in terms of collection and distribution to the community.

4. Maintenance of Heredity

The scholars differed in explaining the purpose of raising offspring. As al-Juwayni refers to it as a means of reproduction (wa al-furūj ma‘sumat bi al-hudūd), al-Ghazālī mentions it with the word al-nasl berartil which means reproduction (al-khalq), also implies the offspring (al-ḍarūriyyah) while al-Raazi calls it the word al-nasab which means a close relative (al-qarabah) from the father's line. Another case with Ibn ‘ᾆsyūr who chose the sentence al-nasl as al-ūarūriyyah, because it is related to the reproductive system (al-khalq) which neglects to cause damage.

5. Maintenance of Assets

Ibn Manzūr in Lisān al-‘Arabī states, that al-māl (property) is a variety of items that are usually owned. As for the terms, Ziyād Muhammad Ahmīdān, interpreting property is something that tends to be liked by human characters and can be stored for use at any time, whether it is movable or fixed objects. The preservation of wealth from the aspect of existence is carried out by al-syari in an effort to seek sustenance. As for the maintenance of property from the side of ‘adām, realized by al-syari through two wasilah. First, al-syari ‘prohibits the destruction of property. Second, al-syari ‘establishes sanctions for wrongdoing and destruction of property.

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5 Ibn Manzu, Lisan al-‘Arabī, jld.VIII, p. 540.
b. Al-Ḥajjīyyāt

After seeing how al-maqāṣid al-ḍarūriyyah concluded in ḥistīrāt 'from the Shari'a texts, the following will be examined about al-ḥajjīyyāt. maqāṣid al-ḥajjīyyah is one level below al-maqāṣid al-ṣarūriyyah and under certain conditions can rise to ḥarūriyyah level. This is the reason for the importance of al-maqāṣid al-ḥajjīyyah so that the ulama paid great attention to it. The scholars have formulated many rules in the context of al-maqāṣid al-ḥajjīyyah. al-Tirmidhi in his book Sunān al-Tirmidhi, titled, Ḥudūdubā wa Qawā 'iduba, expresses twenty-one qawā'ids, both al-qawā' id al-uṣūliyyah, al-fiq̄iyyah al-ḥajjīyyah found in naḥb, covering the twenty-one qawā'ids, both al-qawā 'id al-uṣūliyyah, al-fiṣḥiyyah al-ḥajjīyyah found in the texts, covering the field of worship, such as lightening (rukhsaab) may break the fast for people who are sick or traveler. Qasr Prayers for traveler. It is also true to eat pork during an emergency.

c. Al-Taḥsiniyyah

The concept of maqāṣid in the field of al-taḥsiniyyah aims for the perfection of the mukallaft, therefore al-Syārī ib maintains it by establishing various legal provisions. Maintenance of al-Taḥsiniyyah in the Shari'a includes worship, customs, muamalah, and jinayat.

d. Maqāṣid al-Syarī'ah Based on Fitrah

The discussion above shows how that al-kulliyāt al-ḵhans is formulated by generalizing from various juṣ'ī propositions that are ṭasīrī inductively. This theory of maqāṣid was developed before al-Shafi‘ī, as seen from al-Ghazālī’s acceptance of the validity of the kullī rules. Then al-Shāḥi did the development by looking at maqāṣid from four aspects: (1). From the aspect of the goal of al-syārī ‘establishing the Shari'a; (2). From the aspect of the aim of al-syārī untuki to be understood by humans. (3). From the aspect of al-syārī's goal to develop taklīfī. (4). Of the aspects of the goal of Shari‘a.

IV. Conclusion

The development of the theory of maqāṣid underwent three phases. First as a beginning phase that began since the time of the Companions, tabi‘in, tabi‘t tabi‘in, and ended until the time of Imam al-Ḥaramayn al-Juwayni (w.478H / 1085M). This phase of maqāṣid is still discussed together with the topic of other studies not yet becoming an independent science, both in the study of Fiqh, and Uṣūl al-Fiqh. The second phase then begins from the time of Imam al-Juwayni, and ends at the time of Ibn Abd al-Salam (d. 660 H / 1262 AD). This phase of maqāṣid has become a separate discussion and is beginning to be distinguished from other discussions. Phase Three. Starting from the time of Ibn ʿAbd al-Salam, to the present era. However, according to Yusuf Ahmad Muhammad al-Badawi, he stated that Imam al-Shafi‘ī (d. 204 120 AD) as the composer of the Uṣūl-al-fiqh science, as well as the foundation of the theory of maqāṣid, this can be understood from the pattern of legal reasoning that it follows, Al-Shafi‘ī is a part of the muntakalāmin ulama whose reasoning uses the ta'līl method and divides the law into ma’qul and ghayr ma’qul. This separation is the basis of the theory of maqāṣid, so al-Shafi‘ī’s efforts in these two things become the basis for the building of the theory of maqāṣid so that it can be stated as laying the foundations of the theory of maqāṣid.
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