ACTUALIZATIONS OF MAQĀṢID AL-SHARI’AH IN MODERN LIFE; MAQĀṢID AL-SHARI’AH THEORY AS A METHOD OF THE DEVELOPMENT OF ISLAMIC LAWS AND SHARI’AH ECONOMICS

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Abstrak: Artikel ini bertujuan mengkaji pemikiran Imam al-Syatibi tentang maqāṣid al-sharī’ah dan aktualisasinya dalam kehidupan modern. Metode yang digunakan adalah kualitatif, sedangkan analisis data yang digunakan adalah content analysis yakni sebagai sebuah upaya menganalisis substansi pemikiran maqāṣid al-sharī’ah, kemudian dikorelasikan dengan konteks kehidupan masyarakat sekarang. Hasil penelitian menunjukkan bahwa teori maqāṣid al-sharī’ah yang digagas oleh Imam al-Syatibi telah menghadirkan shariah dalam wajahnya yang elastis. Maqāṣid al-sharī’ah telah mentransformasikan teori-teori shariah ke dalam nilai-nilai kemanusiaan universal, seperti kemaslahatan, keadilan dan kesetaraan dalam kehidupan umat Islam. Hal ini setidaknya bisa dilihat dalam dua hal: pertama, maqāṣid al-sharī’ah sebagai metode pengembangan hukum Islam. Pengembangan teori-teori maqashid al-sharī’ah mengilhami filsafat hukum Islam dan menjadi pangkal berpikir serta analisis yang pokok untuk pengembangan pemikiran hukum Islam pada era globalisasi dan perubahan sosial sekarang ini. Kedua, maqāṣid al-sharī’ah dalam membangun ekonomi shariah. Teori maqāṣid al-sharī’ah menempati posisi yang sangat sentral dan vital dalam merumuskan metodologi pengembangan ekonomi sharī’ah. Dalam konteks ekonomi sharī’ah, tujuan maqāṣid al-sharī’ah adalah menjaga kemaslahatan manusia. Seorang muslim didorong untuk memproduksi dan mengkonsumsi barang/jasa tentu dengan pertimbangan kemaslahatan.

Kata Kunci: Aktualisasi, Maqāṣid al-Sharī’ah, Kehidupan Modern, Reinterpretasi

Abstract: This article aims to examine the thoughts of Imam al-Syatibi on maqāṣid al-sharī’ah and its actualizations in modern life. The method used is qualitative, while the data analysis technique used is content analysis as an effort to analyze the substance of maqāṣid al-sharī’ah, in which it is then correlated with the context of current human’s life. The results of the study show that the theory of maqāṣid al-sharī’ah initiated by Imam al-Syatibi has presented shariah in its elastic face. Maqāṣid al-sharī’ah has transformed Islamic theory into universal human values, such as benefit, justice and equality in the life of Muslims in the world. This can be seen at least in two ways: first, maqāṣid al-sharī’ah as a method of developing Islamic
laws. The development of the theory of maqāṣid al-sharīʿah has inspired the philosophy of Islamic laws and becomes the basis of thinking and analysis which is fundamental to the development of Islamic legal thinking in this globalization era and dynamic social changes. Second, maqāṣid al-sharīʿah in building sharia economics; maqāṣid al-sharīʿah’s theory occupies a very central and vital position in formulating a sharīʿah economic development methodology. In the context of sharia economics, the purpose of maqāṣid al-sharīʿah is to safeguard human benefits. A Muslim is encouraged to produce and consume goods/services of course within beneficial considerations.

Keywords: Actualization, Maqāṣid al-Sharīʿah, Modern Life, Reinterpretation

INTRODUCTION

The purpose of maqāṣid al-sharīʿah is dar 'al-mafāṣid (preventing damage) and jalb al-mashālīh (bringing benefits). This goal will be achieved when maqāṣid al-sharīʿah’s theory can be implemented in modern society. Therefore, the actualization and interpretation of maqāṣid al-sharīʿah is very important to do.

Regarding the study of maqāṣid al-sharīʿah, all Islamic scholars agree that Imam al-Syatibi was the first initiator as well as the founder of maqāṣid al-sharīʿah. However, it does not mean that before him, the science of maqāṣid al-sharīʿah did not exist. Imam al-Syatibi is more accurately called the first person to compile it systematically. The theory of maqāṣid al-sharīʿah al-Syatibi are seen as more systematic and complete compared to the formulations from previous scholars. The formulations are considered inspiring the following scholars such as Muhammad Abduh, Muhammad Rashid Rida, Abdullah Darraz, Muhammad at-Thahir bin Asyur, and others afterwards.

Some scholars have compared the thought of al-Syatibi to be equal to the great views (madzhab) in usūl fiqh. He made a new paradigm regarding the tendency of madzhab in Islam in the science of usul fiqh. Previously, only there were only two madzhab known in the ushul fiqh, namely Mutakallimin Madzhab and Madrasah of Fuqaha or Syafi’iyyah and Hanafiyyah. Then, Mustafa al-Khin divided it into five streams, namely: Mutakallimin, Hanafiyyah, al-Jam‘i, Takhrij al-
Furu’ ʿala al-Ushul and Syatibiyyah. Even Thahir bin Asyur, in his book *Maqāṣid al-Sharīah al-Islamiyyah*, was confident enough of making this *maqāṣid al-sharīah* a science of *mustaqil* which was detached from the science of ushul fiqh.

According to al-Jabiri, Imam al-Syatibi had diverted the study of *Uṣūl Fiqh* from *al-mumāṣilāt al-qiyyāsīyah al-dzanniyah* (the practices, principles and equality in *qiyaṣ* that are relative) in the framework of *bayani*, to become *al-mumārasat al-istidlāliyyah al-qath’īyah* (absolute inferential practices) in the framework of *burhāni* epistemology. This was done by expanding the discussion of *maqāṣid al-sharīah* with new themes that were directly related to Al-Quran, and the study was not found in the works of previous scholars. These themes include benefits (*mashlahat*) and limitations, *qashd* (purpose) in doing deeds, intentions in law and *maqāšid*, *maqāṣid* and reason, *maqāṣid* and *ijtihād*, and general objectives of *maqāṣid al-sharīah*.

We can observe how important the position of al-Syatibi is. He wrote *al-Muwafaqat* half a century before the fall of Granada which was the last Muslim city in Andalusia. The main purpose of this book is to revive the spirit of Islamic *sharīah*, to invite Muslims to prioritize general concerns, and direct them to pay attention to reality. This is where the significance of the discussion of *maqāṣid al-sharīah* initiated by al-Syatibi and its relevance to the current modern life.

The study of the *maqāṣid al-sharīah* has been carried out by several researchers, such as Jasser Auda. *Maqāṣid al-Sharīah as Philosophy of Islamic Law: A Systems Approach*. London: The International Institute of Islamic Thought, 2007. He highlighted the condition of Muslims living in the present era who are still poor, lagging behind other countries. According to him, the development

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1 *Al-Kāfī al-Wāfī fi Uṣūl al-Fiqh al-Islāmī* (Beirut: Muassasah Risalah, 2000), 80.
2 Muhammad al-Tahir Ibn Asyur, *Maqāṣid al-Syarī’ah al-Islāmiyyah*, vol. II (Kairo: Dar al-Nafais, 2001), 180.
3 Asafri Jaya Bakri, *Konsep Maqashid Syari’ah Menurut Al-Syatibi* (Jakarta: PT. Raja Grafindo Persada, 1998), 57.
4 Hammadi Al-Ubaydi, *Asy-Syātibiy wa Maqāṣid asy-Syari’ah* (Mansyurah: Kulliyat ad-Dakahwah al-Islamiyyah wa Lajnah al-Huffadz ‘ala at-Turats al-Islami, 1992).
5 Hassan Hanafi, “Maqāṣid al-Syarī’ah wa Ahdāf al-Ummah, Qirā’ah fi al-Muwāfaqāt li al-Syahiby,” *Cairo-Egyp* vol. 26, no. 103 (2002): 66.
of Islamic law using the maqashid al-sharia theory is urgent, because the Islamic law must be able to provide answers to contemporary problems, especially social problems of humanity. A legal case is related to one-sided value and reality on the other side, it needs to be analyzed holistically with an interaction-interconnection approach.⁶

Likewise, a study conducted by Duski Ibrahim, "Method of Determining Islamic Law According to al-Syatibi: A Study of the Concept of Istiqra 'al-Ma'nawi." Doctoral Dissertation in the Post-Graduate Program UIN Syarif Hidayatullah, 2006. He conducted scientific genealogy tracking and historical development of maqāṣid al-sharī‘ah. According to him, reviewing the maqāṣid al-sharī‘ah cannot be separated from the role of Imam al-Syatibi, a scholar who is an expert in various scientific fields who spends his age for the development of the maqāṣid al-sharī‘ah. Imam al-Syatibi was part of the Andalusian scholar who compiled the book of al-Muwāfaqāt, to bridge the tensions that had occurred at that time between the Hanafi and Maliki Madhhabs.⁷

The next study was carried out by Wael B. Hallaq, "The Primacy of the Qur'an in Syathibi Legal Theory." In Islamic Studies. Leiden: EJ. Brill, 1991. According to him, Imam al-Syatibi played a major role in affirming the role of the Qur'an in the development of the maqāṣid al-sharī‘ah theory. It is because maqāṣid al-sharī‘ah it self seeks to express emphasis on the relationship between God's will in the verses of the Qur'an with human aspirations so that by developing the theories of maqāṣid al-sharī‘ah means that they have applied the contents of the Qur'an.⁸

If it is analyzed, the previous studies have not been comprehensive. The study carried out by Jasser Auda is too specific, only related to Islamic law and did not address the modern aspects of

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⁶ Jasser Auda, Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach (London: The International Institut of Islamic Thougth, 2007), 1–10.
⁷ Duski Ibrahim, “Metode Penetapan Hukum Islam Menurut al-Syatibi: Suatu Kajian Tentang Konsep Istiqrā’ al-Ma‘nawi” Disertasi (Program Pasca Sarjana UIN Syarif Hidayatullah, 2006), 29–40.
⁸ Wael B. Hallaq, “The Primacy of The Qur’an in Syathibi Legal Theory,” dalam Islamic Studies (Leiden: EJ. Brill, 1991), 89–95.
the actualization maqāṣid al-sharīah, while the dissertation research conducted by Duski Ibrahim limited the discussion on the concept of al-istiqrāʾ 'al-maʾnawī. Moreover, the research carried out by Wael B. Hallaq stressed on the Qur’anic view with maqāṣid al-sharīah of Imam Syatibi. Herein lies the significance of the discussion of this article, by examining the theory of maqashid al-sharia and its relevance to modern life. We can observe how important the position of al-Syatibi is. He wrote al-Muwāfaqāt half a century before the fall of Granada, which was the last Muslim city in Andalusia. The purpose of this book is reviving the spirit of Islamic law, inviting the Muslims to prioritize general concerns, and directing them to pay attention to reality.

The method used in the research was qualitative. Meanwhile, the data analysis used was content analysis,9 which was an attempt to analyze the substance of Imam al-Syatibi's maqāṣid al-sharīah thinking, and correlated with the current contexts of people's life. The analysis of the sources written by Imam al-Syatibi was done objectively and scientifically, to find the meaning and definitions of his thoughts.

The study of Imam al-Syatibi and his thoughts was historical, related to phenomena and socio-cultural backgrounds. The steps to be taken in this study were: collecting and analyzing the research data, describing the background of the life of Imam al-Syatibi, identifying research data and themes of thoughts, and determining the parts related to the thinking about maqāṣid al-sharīah and its actualization in modern life.

IMAM SYATIBI AND HISTORY OF MAQĀṢID AL-SHARĪAH

The appearance of a figure cannot be separated from the influence of his surrounding environment, both in his current time and previous period. Likewise Imam al-Shatibi, who lived in Granada, was greatly influenced by Umayyad civilization in

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9 W. Lawrence Neuman, Social Methods, Qualitative and Quantitative Approaches (Buston: Ally and Bacon, 1997), 21.
Andalusia.\textsuperscript{10} Granada, in the 14th century, experienced various changes and political, socio-religious, economic and legal developments which would later influence the mindset and legal products of Imam al-Syatibi.\textsuperscript{11}

Imam Syatibi has the full name Abu Ishak Ibrahim ibn Musa ibn Muhammad al-Lakhmi al-Gharnathi. He was born in Granada in 730 H/ 1328 AD and passed away on Tuesday the 8th of Sha’ban in 790 H/ 1388 AD.\textsuperscript{12} The name Syatibi is nisbat (sign) to the place where his father's birth in Syathibah, an area in eastern part of Andalusia.\textsuperscript{13} Imam al-Syatibi grew up in Granada at the end of the Andalusian Islamic kingdoms and his intellectual history was formed in the city which became the capital of Banu Nasr's kingdom.

The Islamic scholars estimate that Imam al-Syatibi lived between the era of two caliphs, Yusuf Abu al-Hajaj (1333-1354 AD) and Sultan Muhammad V al-Ghani Billah (1354-1391 AD) which was the golden age of Granada.\textsuperscript{14} This estimation is based on the year of his death, 790 H / 1388 AD,\textsuperscript{15} and if there is a comparison between the year of al-Syatibi's death and the reign of the two caliphs, there will be a meeting point.

Imam al-Syatibi started his educational history by studying Arabic and its grammar. In this field, it is noted that al-Syatibi studied to a great scholar in the linguistic field, Abu ‘Abdillah ibn Fakhkhar al-Birri (d. 754 H / 1353 AD). He studied until his teacher passed away. Furthermore, in the same field, al-Syatibi studied to Abu al-Qasim al-Sharif al-Sabti (d. 760 H / 1358 AD), a famous mufassir (commentator) who held the title from king of Arab in his time. Furthermore al-Syatibi also deepened Arabic, especially the

\textsuperscript{10} Abdurrahman Kasdi, “Maqashid Syari’ah Perspektif Pemikiran Imam Syatibi dalam Kitab al-Muwafaqat,” \textit{Yudisia} vol. V, no. I (2014): 48–49.

\textsuperscript{11} Andriyaldi Andriyaldi, \textit{Teori Maqashid Syari’ah dalam Perspektif Imam Muhammad Thahir Ibnu ‘Asyur} (Bukittinggi: P3M STAIN Bukittinggi, 2013), 46.

\textsuperscript{12} Al-Ubaydi, \textit{Asy-Syatibiyy wa Maqāṣid asy-Syari’ah}, 11.

\textsuperscript{13} Abdul Aziz Dahlan (ed.), \textit{Ensiklopedi Hukum Islam} (Jakarta: PT. Ichtiar Baru van Hoeve, 1997), 169.

\textsuperscript{14} Andriyaldi, \textit{Teori Maqashid Syari’ah dalam Perspektif Imam Muhammad Thahir Ibnu ‘Asyur}, 45.

\textsuperscript{15} Bakri, \textit{Konsep Maqashid Syari’ah Menurut Al-Syatibi}, 17.
books of Imam Sibawaih and Alfiyah Ibn Malik to Abu Ja‘far Ahmad al-Syarqawi (d. 762 H / 1360 AD).\(^{16}\)

In the field of commentaries, Imam al-Syatibi studied on Abu ‘Abdillah al-Balansani (d. 765 AH / 1363 AD), a well-known commentator and writer on his time. Whereas in the science of hadith, al-Syatibi studied on Abu al-Qasim ibn al-Bina and Syamsu al-Din al-Tilmisani (d. 767 AH / 1365 AD), who taught the books of *Jami‘ as-Saḥīḥ al-Bukhari* and *al-Muwatta* *by Imam Malik*. Then in the field of *uṣul fiqh*, he studied on Imam Abu ‘Abdillah ibn Ahmad al-Maqarri (d. 761 H / 1359 AD), a diplomat and expert *taḥqiq* in Maliki view, who came to Granada in 757 H / 1356. From him, al-Syatibi was introduced to al-Razi's thoughts regarding *uṣul fiqh* as stated in the book of *al-Maḥṣul*.

Imam al-Syatibi also studied *uṣul fiqh* to Abu ‘Abdillah Muhammad ibn Ahmad al-Sharif al-Tilmisani (d. 771 H), who also taught him about rational theology. Based on several sources, during studying to al-Tilmisani, al-Syatibi had a colleague who was later known as an Islamic scientist, ibn Khaldun. Furthermore Imam al-Syatibi studied to Khatib ibn Marzuq regarding *uṣul fiqh*.\(^{17}\)

In the field of philosophy and *kalam*, he studied to Abu ‘Ali Mansur al-Masyzali (d. 770 AH / 1369 AD), who visited Granada in 753 H / 1352 AD, and received an award from ibn al-Khathib as a Vizier of Granada. Through his teacher, Imam al-Syatibi was familiar with Mu'tazilah's theological thinking and other rational thoughts.\(^{18}\)

With this complete educational background, Imam al-Syatibi became a great scholar who was an expert in various scientific fields. Imam al-Syatibi was part of famous Andalusian scholars. As a *fuqaha* who had profound knowledge, Imam al-Syatibi recorded several times straightening the thoughts and practices of the scholars of his time, and often disagreed with the Granadian scholars that made him "ostracized" by them. Regarding this, Imam al-Syatibi told, "I have

\(^{16}\) Hamka Haq, *Al-Syatibi, Aspek Teologis dalam Kitab al-Muwaafaqat* (Jakarta: Penerbit Erlangga, 2007), 18.

\(^{17}\) Ibid., 19.

\(^{18}\) Ibid., 18–19.
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come into several general professions, such as sermons and prayers. When I want to straighten the road, I find myself like a stranger among the majority of my friends. Customary practices have dominated their professions, and additional stains have covered original sunnah.¹⁹

Imam Syatibi rose up against and challenged the Granadian scholars at that time. He tried to straighten and restore the understanding of sunnah and bring people from the wrong to the truth. The fierce dispute between Imam Syatibi and the Granadian scholars was inevitable. Every time Imam Syatibi enacted lawful matters, they would do contrarily, establishing haram rule without seeing the text (nash) first. For this reason, Imam Syatibi was later harassed, reviled, ostracized and considered leaving his belief.

Another thing highlighted by Imam Syatibi was the practice of tasawwuf which had been deviated from original rules. They gathered at night, then they had dzikr together in a very loud voice and ended up with dancing and singing until the end of the night. Some of them beat their breasts and even their own heads. Imam Syatibi rose to forbid this practice because it was deemed had deviated from the true teachings. According to Imam Syatibi, every way of getting closer to Allah which was not as practiced by the Prophet and his companions were wrong and forbidden.²⁰ Syatibi’s fatwa on the deviant practice of tasawwuf was also reinforced by one of the scholars of tasawwuf at that time, Abul Hasan an-Nawawi. He said that whoever saw a person who drew near to Allah by the way that went out of sharia was forbidden to get close to him.

Imam Syatibi also highlighted the excessive ta’ashub practiced by Islamic scholars and the Andalusian community at that time against the Maliki view. They saw that everyone who did not implement Maliki view was misguided. As was well known, Andalusians held this Maliki view closely since their Caliph Hisham

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¹⁹ Abu Ishaq Al-Syatibi, Al-I’tisām (Beirut: Dar al-Ma’rifah, 1982), 25.
²⁰ Ibid., 264.
al-Awwal ibn Abdurrahman ad-Dakhil who ruled from 173-180H made this view an official foundation of the state.\(^{21}\)

Since then, as if it were an official envoy, the Andalusians held firmly on Maliki view. Due to their excessive understanding, they no longer knew even became unfriendly to other view holders, especially Hanafi, so Muhammad Fadhil bin Asyur described them: "They no longer know anything other than Al-Qur'an and al-Muwafaṭta 'Imam Malik." At that time, the scholars who were not adherent to Maliki had not been separated from the scorn, and even they were tortured as experienced by al-Allamah Baqa 'bin Mukhlid, a great scholar of Hanafi view.

Even though Imam Syatibi is a Maliki cleric,\(^{22}\) but he still respected the other Islamic scholars, including those holding on Hanafi view, which at that time was always the number one target to be terminated. In fact, on various occasions, he often flattered Abu Hanifah and other scholars. The book of al-Muwafaqāt itself was deliberately written by Imam Syatibi in order to bridge the tensions that occurred at that time between the Hanafi and Maliki view holders.

Imam Syatibi was a productive scholar in writing religious books. His works all refer to two fields of science which according to the term of Hammadi al-Ubaidy, ulūm al-wasīlah and ulūm al-maqāṣid. Ulūm al-wasīlah is an Arabic language which is a wasīlah to understand Maqashid Science. For more details, the following is the summary of the works of Imam Syatibi.

First is the book of al-Muwafaqāt. This book is the most monumental and best known work among other works of Imam Syatibi. This book consists of 4 chapters (juz), and initially this book was entitled al-Ta’rīf bi Āsrār al-Taklīf. Then, after Imam Syatibi experienced a dream, it was changed to al-Muwafaqat.

The second is the book of al-I’tisham. This book consists of two juz and is written after al-Muwafaqat. This book explores detail about

\(^{21}\) Muhammad al-Tahir Ibn Asyur, A’lām al-Fikr al-Islāmi (Tunisia: Maktabah al-Najah, n.d), 10.

\(^{22}\) Muhammad Makhluf, Syajarah an-Nūr az-Zakiyyah (Beirut: Dar al-Kutub al-Araby, 1349), 231.
bid'ah and its ins and outs. It is written by Imam Syatibi on a special trip and he had passed away first before completing this book.

Third is the book of al-Majalis. This book is a syarah from the book of al-Buyu’ which is found in Shahih al-Bukhari. Attanbakaty saw the benefit of this book by calling it: “minal fawaid wa al-tahqiqat ma la ya’lamuhu illallah.”

Fourth is Syarah al-Khulashah. This book is a book of the science of nahwu which is syarah from Alfiyyah Ibn Malik. It consists of 4 large juz and according to Attanbakaty, this book is the best of syarah Alfiyyah Ibn Malik in terms of the depth and breadth of the knowledge he explained.

Fifth is Unwan al-Ittifaq fi ‘Ilm al-Isytiqaq. This book is about the science of sharf and lughah fiqh. It is comparable to Ibn Jinny's book al-Khulashah. It's just that, unfortunately, this book was lost since Imam Syatibi was still alive.

Sixth, Usul an-Nahwu. This book discusses qawaid lughah in sharf science and nahwu science. In it is discussed qawaid ashliyyah about the knowledge. It's just that, unfortunately, this book has been lost since a long time ago.

The seventh is Al-Ifadat wa al-Insyadat. This book is specifically written as the descriptions of the life story of Imam Syatibi as well as the list of his teachers and students.

The eighth is Fatawa al-Syatibi. This book is the latest one. It's just that this book is not written directly by Imam Syatibi, but is a collection of fatwa scattered in the book of al-I’tisham and al-Muwafaqat.

Among the many works of Imam Syatibi, only three are printed, namely al-Muwāfaqāt, al-I’tiṣām and al-Ifadāt wa al-Insyādat.

Until the end of his life, according to some of his students, Imam al-Syatibi had held several positions. First, Imam al-Syatibi became a priest and also preacher in several mosques. Abu Ajfan said a number of scholars' statements regarding al-Syatibi's works.\textsuperscript{23} He

\textsuperscript{23} Muhammad Abu Al-Ajfan, Min As\'ar Fuqahā’ al-Andalus: Fatūwā al-Imam asy-Syatibi (Tunisia: Matba’ah al-Kawakib, 1985), 56.

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was a priest, *al-Shaykh al-ustadz* (great teacher), legal expert, researcher, *‘allamah* and a righteous person.\(^{24}\)

Secondly, Imam al-Syatibi was a *mufti* (*fatwa* expert). This is known from the existence of several *fatwas* which he issued to answer the issues raised to him. It's just that, according to Mas'ud Khalid Imam al-Syatibi, was an unofficial *mufti*, because a legal *mufti* appointed by the state got the title of *al-Musawwir* call attached after his name, while Imam al-Syatibi did not. However, Hamka Haq noted that even though it might not be the state *mufti*, some of his *fatwas* were used as the references in implementing government policies, for example in the tax enforcement for the benefit of the public.\(^{25}\)

Whereas the third is Imam al-Syatibi was a great teacher. This is shown from the students of Imam al-Syatibi who later became important figures in Andalusia, such as Ibn ‘Asim who became the chairman of the *qadi* in Granada. There was also Abu Bakr al-Qadi, a Granada jurisprudent expert, Abu Ja'far Ahmad, a student and discussion partner of al-Syatibi.\(^{26}\)

**Actualization of *Maqāṣid al-Shari‘ah* in Modern Life**

The emergence of *maqāṣid al-shari‘ah* was originated from the anxiety of Muslim intellectuals, especially Imam al-Syatibi so that Islamic laws were able to face the challenges all over the time. The renewal of *maqāṣid al-shari‘ah* as an *istinbat* method through a new breakthrough with a philosophical approach to the system is considered an important to be applied by the scholars of *ushul* in current modern age. This is the starting point of Islamic legal thinking, according to Jasser Auda, which is increasingly firm and

\(^{24}\) Ibrahim, “Metode Penetapan Hukum Islam Menurut al-Syatibi: Suatu Kajian Tentang Konsep Istiqrā’ al-Ma’nawi,” 29.

\(^{25}\) Haq, Al-Syatibi, Aspek Teologis dalam Kitab al-Muwafaqat, 20.

\(^{26}\) Ibrahim, “Metode Penetapan Hukum Islam Menurut al-Syatibi: Suatu Kajian Tentang Konsep Istiqrā’ al-Ma’nawi,” 32.
extends from the religious equality horizon (musāwah diniyah) towards the social equality horizon (musāwah ijtima‘iyah).27

Etymologically, maqāṣid al-shari‘ah consists of two words, maqāṣid and al-shari‘ah. Maqāṣid has the meaning of intention or purpose. Maqāṣid is the plural form of maqṣud which comes from the qashada syllable which means ‘will’. Maqāṣid means things that are desired and intended.28 Whereas, shari‘ah terminologically means the road to a water source. The road to a water source can also be interpreted as walking towards the source of life.29

In al-Qur’an, Allah has stated some words of “shari‘ah” such is in the following verse: “Then We set you upon a pathway of faith, so follow it, and do not follow the inclinations of those who do not know.” (QS. Al-Jatsiyah: 18).

In another verse, it is also shown that, “He prescribed for you the same religion He enjoined upon Noah, and what We inspired to you, and what We enjoined upon Abraham, and Moses, and Jesus: “You shall uphold the religion, and be not divided therein.” (QS. Asy-Syuura: 13).

From the two verses above, it can be concluded that "shari‘ah " is the same as "religion", but in the current development, there is a reduction in the meaning of shari‘ah. Therefore, Sheikh Mahmud Syaltout tried to restore the spirit of the knowledge of shari‘ah, saying that the shari‘ah is the rules created by Allah SWT to guide the humans in regulating their relations with their Lord, with both fellow Muslims and non-Muslims, nature and all aspects in this life.30

Terminologically, maqāṣid al-shari‘ah is the objectives of Islamic laws contained in each of its rules. Imam al-Syatibi revealed about shari‘ah and its functions for human being as stated in the book al-Muwāfaqāt, that in fact, shari‘ah aims to realize human welfare in the

27 Abdul Basith Junaidi, Islam dalam Berbagai Pembacaan Kontemporer (Yogyakarta: Pustaka Pelajar, 2009), 254.
28 Ibnu Mandzur, Lisān Al-‘Arab (Kairo: Darul Ma‘arif, 1999), 3642.
29 Ahmad Warson Munawwir, Al-Munawwir; Kamus Arab-Indonesia, vol. 14 (Surabaya: Penerbit Pustaka Progressif, 1997), 712.
30 Syaikh Mahmud Syaltut, Al-Islām Aqidatun wa Syar‘i‘atan, vol. 18 (Cairo: Dar asy-Syuruq, 2001), 13–16.
world and the hereafter. In another part, he mentioned that laws are enacted for the benefits of humanity.\(^{31}\)

Actually al-Syatibi did not specialize himself in defining *maqāṣid* in the form of *jami 'mani'* and was limited. However, he only introduced *maqāṣid al-sharī'ah* through the elaboration of its broad theory. Al-Syatibi focused more on the study that *maqāṣid al-sharī'ah* is the benefits or goodness and welfare of humanity, both in the world and in the hereafter. Therefore, Imam al-Syatibi placed the benefit (*maslahah*) in the position as the law of ‘*illat* or the reasons for the enforcement of Islamic laws.

Imam al-Amidi in his book, *al-Ihkām*, stated that the real purpose of the law was to achieve benefits and avoid the evil or combination of both.\(^{32}\) Then, Imam Tahir ibn Asyur provided a definition related to *maqāṣid al-sharī'ah*, namely meanings and wisdom that is desired by Allah in all conditions of *Tasyri*’. This desire is not only limited to one type of *sharī'ah* law, but all forms of *sharī'ah* law whose purposes and meanings are included within, and also legal meanings that are not recorded in various kinds of laws, but are recorded in other forms.\(^{33}\)

Meanwhile, Yusuf al-Qardawi defined *maqāṣid al-sharī'ah* as the desired goals by the texts of Al-Quran (*nash*), both in the form of orders, prohibitions and permissible things. The aim is to direct *juzī’yyah* (partial) laws in all aspects of the life of a *mukallaf*.\(^{34}\)

The benefit (*maslahah*) that will be achieved in *maqāṣid al-sharī'ah*, according to al-Syatibi, is divided into three levels, namely: first, *djarūriyyah* (primary) needs *djarūriyyah* needs must exist and must be met to fulfill the benefits of the world and the hereafter. If the needs are not fulfilled, there will be no prosperity in the world, even

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31 Abū Ishaq Al-Syatibi, *Al-Muwāṣfaqāt fi Uṣūl al-Syari’ah*, vol. 1 (Kairo: Dar al-Taufiqiyah, 2003), 30.
32 Ali ibn Muhammad Al-Amidi, *Al-Ihkām fi Uṣūl al-Ahkām*, vol. 3 (Kairo: Dar al-Sami’i, n.d), 271.
33 Ibn Asyur, *Maqāṣid al-Syari’ah al-Islāmiyyah*, II:10.
34 Yusuf Al-Qardawi, *Dirāsah fi Fiṣḥ Maqāṣid al-Syari’ah*, *baina al-Maqāṣid al-Kulliyah wa al-Nuṣūs al-Juziyyah* (Kairo: Dar al-Syuruq, 2006), 20.
damage in life. The human will lose pleasure and will feel a clear loss in the hereafter.\textsuperscript{35}

There are five things that are included in the category of darūriyyah needs, namely maintaining religion (hifdz al-din), protecting the soul (hifdz al-nafs), nurturing reason (hifdz al-'aql), protecting offspring (hifdz al-nasl), and keeping up properties (hifdz al-mal). To maintain these five points, Islamic law is revealed. Every legal verse, if examined carefully, contains the reasons for its formation which is none other than maintaining the five points above.

Second, hajjiyyah (secondary) needs. Hajjiyyat needs are the secondary needs, where if they cannot be realized, they do not threaten the human’s safety, but they will experience difficulties.\textsuperscript{36} The existence of rukhsah (relief) law is an example of Islamic shari'ah concern for hajjiyyat. In term of worship, Islam mandates several rukhsah laws when in reality, it is difficult to carry out the commands of shari'ah. In the case of muamalah, there are many types of contracts, various types of buying and selling, leasing, syirkah (companies) and mudharabah (trading with other people's capital through collective agreements for mutual profit) and some rukhsah laws in muamalah. In the matter of ‘uqubat, Islam prescribes fine for accidental killing and suspending the hand cut sentence for someone who has stolen something to save his life from starvation. Certain problems that cause relief in Islamic law are drawn from the verses of Al-Qur’an which inspires maqāṣid al-sharī’ah.

Third, tahsiniyyah (additional) needs. Tahsiniyyat does not reach the level of dharuriyat and hajjiyyah. This level of necessity is only complementary.\textsuperscript{37} Matters which are propriety according to customs, avoid things that are not pleasing to the eye and are decorated with beauty in accordance with the demands of norms and morals.

Allah has ruled everything related to the needs of tahsiniyyah in various fields of life, such as worship, muamalah and ‘uqubah. In the

\textsuperscript{35} Al-Syatibi, Al-Muwafaqat fi Usūl al-Syar’īah, 1:6.

\textsuperscript{36} Mahmud Bilal Mahran, Mausū’āt al-Tasyri’ al-Islāmi (Kairo: Majlis al-A’la, 2009), 619.

\textsuperscript{37} Ibid., 620.
field of worship, Islam implies purification, either from unclean (najis) or from hadats, physically and from surrounding places and environment. Islam recommends us to always look nice and neat when we are going to go to the mosque and perform sunnah worships more. In relations with other people (Muamalah), Islam prohibits being wasteful, miserly, raising prices, monopoly and others. In the case of uqubah, Islam forbids killing children and women in a war.

MAQĀŠID AL-SHARĪAH AS A METHOD OF THE DEVELOPMENT OF ISLAMIC LAWS

According to Yusuf al-Qardhawi, the reality of the infertility of Islamic jurisprudence (fiqh) is characterized by the systematization of jurisprudence which begins with discussions about worship. According to him, the characteristics of jurisprudence like this have spelled out the perspective of fiqh on legal, social, political and economic problems. In order for flexible fiqh to respond to the upcoming challenges, *ijtihad* is always needed by Muslim intellectuals.38

There is no word “final” for the *ijtihad* process, because Islamic law must be flexible in accordance with the dynamics of the wheel rotation of civilizations that never has the word “stop”. Regarding the position of Maqāšid's theory as the basis of the process of *ijtihad*, Imam al-Syatibi introduced two steps in the process of *ijtihad*, i.e. *ijtihad istinbathi* and *ijtihad tathbiqi*. This division carried out by Syatibi can make it easier to understand the mechanism of *ijtihad*. In *ijtihad istinbathi*, a Muslim mujtahid focuses his attention on efforts to extract ideas conceived in the holy texts (Al-Qur'an and Sunnah). After obtaining these ideas, then he should apply the ideas to the problems that occur on the field; this is what is called *ijtihad tathbiqi* or "applied *ijtihad."

Therefore, the object of *ijtihad istinbathi* is text, while the object of *tathbiqi* study is human being with the dynamics of changes and development they experience. Thus, it makes sense if Imam al-Syatibi

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38 A. Qodri Azizy, *Membangun Fondasi Ekonomi Umat: Meneropong Prospek Berkembangnya Ekonomi Islam* (Yogyakarta: Pustaka Pelajar, 2004), 175–199.
called *ijtihad tathbiqi* as *ijtihad* which will never stop until the end of time.\(^{39}\)

Through this *ijtihad*, *maqāṣid al-sharīʿah* is present as a system and dynamic approach in Islamic laws.\(^{40}\) With *maqāṣid al-sharīʿah*, Islamic laws are able to provide answers to solve contemporary problems, especially social and humanity ones. Not just the opposite as lately, where Islam is reflected as terrorism, war, fighting with each other, intolerant, fanatical and fundamentalist and impressed that the quality of life or resources of Muslims is at low level, compared to other beliefs.

The development of *maqāṣid al-sharīʿah* theory has inspired the philosophy of Islamic laws and becomes main basis of the basic thinking and analysis, for the development of Islamic legal thinking in the current era of globalization and social changes.\(^{41}\) Al-Syatibi’s Kulliyat al-Khamsah is very popular in the field of *usul al-fiqh* and *fiqh* in Islamic legal thought.

Jasser Auda asked important questions addressed to Muslims who live in the present era. If *Kulliyat al-Khams* al-Syatibi is indeed important and functional in the contemporary era today, why in the world of everyday reality in Muslim-majority countries are still poor, lagging behind other countries that are also together undeveloped well? The annual report of the United Nations Development Program (UNDP) states that the Human Development Index (HDI) of the countries with Muslim population majority is still low in terms of literacy level, education, political and economic participation, women empowerment, not to mention the standard and quality of life that is feasible.\(^{42}\) The second question he posed is why in countries with Muslim populations whose income per capita is quite high, but the

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\(^{39}\) Bakri, *Konsep Maqashid Syari’ah Menurut Al-Syatibi*, 127–128.

\(^{40}\) Asmuni et al., *Pribumisasi Hukum Islam: Pembacaan Kontemporer Hukum Islam di Indonesia* (Yogyakarta: PPS FAI UII, 2012), 10.

\(^{41}\) Budiarti Budiarti, “Analisis Yuridis Perkawinan Beda Agama dengan Pendekatan Maqashid al-Syari’ah dalam Konteks Negara Hukum Pancasila,” *Justicia Islamica* vol. 5, no. 1 (2018): 36–39.

\(^{42}\) Maulidi Maulidi, “Maqasid Syariah Sebagai Filsafat Hukum Islam: Sebuah Pendekatan Sistem Menurut Jasser Auda,” *Al-Mazāhib* vol. 3, no. 1 (2015): 8.
level of distribution of justice, women's empowerment, political participation and equal opportunities to all of the citizens is still low.\textsuperscript{43}

For this reason, the development of Islamic laws using the maqāşid al-shari'ah theory is very important, because the Islamic laws must be able to provide answers to contemporary problems, especially in terms of social and humanity problems.\textsuperscript{44} A legal case is related to one-sided value and to reality on the other side, thus it is necessary to conduct a holistic analysis (wholeness). With the existence of scientific multidisciplinary interactions, it then becomes a holistic approach in solving the issues of Islamic jurisprudence.

**MAQĀŞID AL-SHARĪAH IN DEVELOPING SHARĪAH ECONOMICS**

The presence of Islamic economics in many aspects is a reincarnation of fiqih mu'amalat.\textsuperscript{45} Therefore, shari'ah economics should restore the elasticity of fiqh by making maqāşid shari'ah the ultimate goal in the process. The shari'ah economics can be built without denying the existing reality, but still in the frame of maqāşid al-shari'ah. This is because maqāşid al-shari'ah itself seeks to express emphasis on the relationship between the content of God's will (rules) and human aspirations.\textsuperscript{46}

Up to this point, we can draw a connection that the theory of maqāşid al-shari'ah occupy very central and vital position in formulating the methodologies of developing shari'ah Economics. Even Syatibi himself stated that maqāşid al-shari'ah is the mother of ushul fiqh.\textsuperscript{47} This means that writing usul fiqh as a methodology cannot be separated from maqāşid al-shari'ah. This is because Maqāshid’s theory can deliver the mujtahid to determine the standard of benefit in

\textsuperscript{43} Auda, Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach, xxii.

\textsuperscript{44} A. Bahruddin, “Implementasi maqasid al-shari'ah sebagai solusi problematika sosial dan kemasyarakatan kontemperor,” Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan vol. 17, no. 1 (30 Juni 2017): 3–10, https://doi.org/10.18326/ijithad.v17i1.1-18.

\textsuperscript{45} Azizy, Membangun Fondasi Ekonomi Umat: Meneropong Prospek Berkembangnya Ekonomi Islam, 175–179.

\textsuperscript{46} Hallaq, “The Primacy of The Qur’an in Syathibi Legal Theory,” 89.

\textsuperscript{47} Al-Syatibi, Al-Muwafaqât fi Uṣūl al-Syari’ah, 1:32.
accordance with shariah.\textsuperscript{48} Even more so, according to al-Tufi, only on the field of 
muamalat can the rationalization of this benefit be applied. 

To compile a solid sharia economic building, it cannot be 
separated from the theory of maqāsid al-shariah. Even Syaikh 
Muhammad Thahir ibn ur Assyria once said that "Forgetting the 
importance of the maqāsid side in Islamic shariah is the main factor 
causing stagnation in jurisprudence.\textsuperscript{49} Reviving the shariah economics 
which has been buried for a long time and almost becomes a fossil, is 
one work on ijtihadi. This means that it requires the hard work of 
Muslim economists to look for economic values contained in Islamic 
teachings.

\textit{Maqāsid al-shariah} is one of the stimulants that needs to be 
developed by Muslim economists to develop shariah economics. It 
should be emphasized on the importance of understanding the values 
contained in the shariah rules, which makes fiqh maqāsid interpretable 
in the field of shariah economics. Maqāsid al-shariah is an 
understanding that is built on the purpose of establishing a law. 
Technically, this method aims to understand and study shariah texts 
which are juz’i in the context of maqāsid al-shariah and bind a law 
within its main, which is protecting the benefit of all human beings.\textsuperscript{50}

Thus, the theory of maqāsid al-shariah should have implications 
for the economic behavior of every Muslim. In addition, Muslim 
economists should also pay attention to these implications when 
conducting economic analysis within shariah framework. Compiling 
and describing the implications of maqāsid in economic theories is a 
very difficult challenge and task, which Muslim economists must 
always strive for.

In the context of shariah economics, maqāsid al-shariah's goal is to 
safeguard human benefits. A Muslim is encouraged to obtain or 
produce beneficial goods/services that. Goods / services can be

\begin{itemize}
\item \textsuperscript{48} Muhammad Khalid Mas’ud, \textit{Islamic Legal Philosophy} (Islamabad: Islamic Research Institute, 1977), 223–224.
\item \textsuperscript{49} Ahmad Al-Raysuni, \textit{Nadzariyat al-Maqāsid ‘inda al-Imam asy-Syathibi} (Beirut: International Islamic Publishing House, 1995), 10.
\item \textsuperscript{50} Yusuf Al-Qardawi, \textit{As-Siyāsah asy-Syar’īyyah fi Dhau’i Nuṣūh asy-Syari’ah wa Maqāṣidihā} (Kairo: Maktabah Wahbah, 1998), 45.
\end{itemize}
measured for their benefit level relatively on the ability of goods / services to develop benefits. For shariah economists, the concept of maslahah is more objective than the concept of utility to analyze the behavior of economic actors. Even though maslahah (benefits) might leave a little subjectivity, but it does not rise any vague as happens in the concept of utility.

Arguments regarding the aspect of benefits/maslahah which are more superior to the utility are: first, maslahah is subjective, because each individual can determine something good /beneficial for themselves. However, the criteria for determining this maslahah are clearer and more directed, rather than subjectivity in the concept of utility. In the concept of utility, alcohol may contain utility, but it may or may not be, relative to each individual. But in Islamic economics, because alcohol does not contain any benefit and is clearly contradictory to al-kuliyah al-khamsah, then it can be obviously concluded that alcohol is illegal.

Second, there is a correlation between individual and social interests that can be avoided, or at least minimized. This is because the criteria for maslahah between individuals and social can be synchronized, according to what is stated in the syar'i rules. In the view of Asad Zaman, Muslim people’s consumption behavior is related to three things, namely, altruism, rejection of the concept of satiation; and feeding the poor.51

Third, the concept of maslahah applies to all economic activities in the society, both in the production and consumption processes. It is not like the conventional economics; where utility is the purpose of consumption; while profit is the goal of the production process

CONCLUSION

Armed with the comprehensive and strong Islamic knowledge he had, Imam al-Syatibi is a reference for the public and the authorities in resolving various religious problems. This predicate

51 Asad Zaman, “Towards Foundation for an Islamic Theory of Consumer Behaviour” in F.R. Faridi (ed.), dalam Essays in Islamic Economic Analysis (New Delhi: Genuine Publication & Media Pvt Ltd., 2002), 40–42.
brought him the enthusiasm to interact with the community, and encouraged him to deepen his knowledge through self-taught Islamic studies. The logical consequence of his expertise and interaction with the society made him an important role as a mufti, imam (khatib), productive teacher, and writer. As a mufti, Imam al-Syatibi gave many religious fatwas to the requesters. As a teacher, Imam al-Syatibi taught and developed his knowledge for all of his students. As an Imam and Khatib, Imam al-Syatibi often led congregational prayers and conducted sermons in many mosques.

Imam al-Syatibi succeeded in breaking the deadlock and freezing of shariah sciences with the concept of maqāṣid al-shari’ah. In fact, this concept has been successfully actualized in modern life, through maqāṣid al-shari’ah's interpretation as a method of developing Islamic laws and maqāṣid al-shari’ah in developing shari’ah economics. Through a holistic-humanistic approach in viewing fiqh and shariah, as the grand design of the methods of developing shari’ah sciences, maqāṣid al-shari’ah is able to respond to the times. The renewal of maqāṣid al-shari’ah as a method of istinbath in Islamic sciences is a new breakthrough and method which is now significantly important, and is used widely by the scholars of ushul in the modern era nowadays.

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