

THE MAQĀṢIDI APPROACH IN ISLAMIC LEGISLATION ACCORDING TO IBN ‘ĀSHŪR IN *AL-TAHRĪR WA AL- TANWĪR*

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Abstract: *This study aims to reveal the codification of Islamic laws by the Prophet Muhammad who used the maqāṣidī method, which emphasizes the maqāṣid of Islamic law and the maqāṣid al-Qur’ān. This study uses the methods of library research and the thematic interpretation. We employ some aspects of library research with data sources of literacy related to manhaj maqāṣidī and al-Tahrīr wa al-Tanwīr, as well as works concerning maqāṣid al-sharī’ah and maqāṣid al-Qur’ān. This study reveals the crystallization of Islamic law by the Prophet Muhammad PBUH using the interpretation of al-Tahrīr wa Tanwīr, including (1) protecting religion, (2) protecting the soul, (3) protecting reason, (4) protecting descendants, and (5) protecting property. The maqāṣidī method used by the Prophet Muhammad in shaping Islamic law to emphasize the oneness of Allah, the sanctity of man, and human civilization.*

Keywords: *Maqāṣidī Method; Crystallization of Islamic Law; Ibn ‘Āshūr.*

Abstrak: Penelitian ini bertujuan untuk mengungkap kristalisasi syariat Islam oleh Nabi Muhammad SAW yang menggunakan manhaj maqāṣidī yang menitikberatkan pada maqāṣid shari‘ah dan maqāṣid al-Qurān. Penelitian ini menggunakan penelitian kepustakaan dan metode tafsir tematik. Metode penelitian ini menggunakan aspek penelitian kepustakaan dengan sumber data literasi terkait manhaj maqāṣidī dan tafsir al-Tahrir wa al-Tanwir serta karya-karya seputar maqāṣid al-shari‘ah dan maqāṣid al-Qurān. Penelitian ini mengungkap kristalisasi syariat Islam oleh Nabi Muhammad SAW dengan menggunakan al-Tahrir wa al-Tanwir, antara lain: 1) menjaga agama, 2) menjaga jiwa, 3) menjaga akal, 4) menjaga keturunan, 5) menjaga harta. Penelitian ini berkesimpulan bahwa manhaj maqāṣidī yang digunakan Nabi Muhammad SAW dalam mengkristalisasi syariat Islam menitikberatkan pada ketauhidan kepada Allah, kesucian manusia, dan peradaban manusia.

Kata Kunci: Metode Maqāṣidī; Kristalisasi Syariat Islam; Ibn ‘Ashūr.

Introduction

The *maqāṣidī* method uses the *maqāṣid al-Qurān* and *maqāṣid shari‘ah* methodology, which distinguishing it from non-*maqāṣidī* methods,¹ where the objectives of Islamic law and the Quran serve as the main basis for understanding the verses of the Quran, not only the legal verses but also all other parts. On the other hand, the non-*maqāṣidī* method is based on the idea that the Quran should only be interpreted as a guide, without paying attention to the historical and contextual background of its verses. Any interpretation that does not fall into this category, along with all its derivatives, should be wrong, heretical, and unbelieving. This tendency started with the emergence of the Khawārij’s interpretation during the *taḥkīm* event, with the argument QS. al-Mā‘idah/5: 44, this group calls people who have different understandings from them, who, as they believed it, have deviated from the Quran, as being infidels.²

The *maqāṣidī* method represents a kind of moderation between the contextualist-liberalist group, which seems to disembodify the text; and the textualist-scripturalist group, which seems to worship the text. The ‘claim of belief’ of a *mujtahid* based on a linguistic model states that the Hadith and the Quran have different linguistic meanings and both of them are clear texts. For example, the belief that renting agricultural land is forbidden with the argument of the Hadith of the Prophet:

عَنْ عُرْوَةَ بْنِ الزُّبَيْرِ، قَالَ: قَالَ زَيْدُ بْنُ ثَابِتٍ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِذَا
كَانَ هَذَا شَأْنُكُمْ فَلَا تُكْرُوا الْمَرْاعَ.³

There are other texts that can be a comparison for legal certainty—and that these texts have the same validity as the original text, according to al-

Amidi—it seems to have escaped the attention of *mujtahid*.

أَنَّ حَنْظَلَةَ بْنَ قَيْسٍ سَأَلَ رَافِعَ بْنَ خَدِيجٍ عَنْ كِرَاءِ الْأَرْضِ؟ فَقَالَ: نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ كِرَاءِ الْأَرْضِ، قَالَ: فَقُلْتُ: بِالذَّهَبِ وَالْفِضَّةِ، قَالَ: إِنَّمَا نَهَى عَنْهَا بَعْضُ مَا يَخْرُجُ مِنْهَا، أَمَا بِالذَّهَبِ وَالْفِضَّةِ فَلَا بَأْسَ.⁴

The interpretation of the Prophet's hadith is sometimes not intended as a definite command but a certain context that surrounds it (such as political, economic conditions), which seems to function as a specificity. For example, in the previous hadith, the Prophet forbade his companions from renting out agricultural land especially if there was a possibility of conflict.

The command of the Prophet's hadith is specific, but the context around the hadith only begs the question rather than providing an absolute certainty. There is a saying that "certainty will not be defeated by suspicion." How could not it be so? When the verses and hadith of the Prophet contain some commands, they do not always entail some explanations related to the explicit context. This can lead to two outcomes: certainty or suspicion from a linguistic point of view, which ultimately results in a narrow and contextually inappropriate formulation of Islamic law.⁵

This research applies the *maqāṣid al-shari'ah* approach and the qualitative method. We prefer the *maqāṣid al-shari'ah* because the subject of our investigation comes out from this approach. We would like to produce some descriptive data by employing the qualitative methods. We prefer the critical analysis method on this occasion. The selection of this critical analysis method is based on the fact that the subject of study in this research is a human idea or an idea expressed in the form of a manuscript or someone's writing. The critical analysis method is a research method based on the assumption that all human ideas are imperfect, and there are advantages and disadvantages in such imperfection.⁶

This research is based on library research. The data are in the form of Quranic verses and some authoritative *tafsīr*, and various written materials that have been published in the form of books, journals, and articles that are relevant to this research, both of which have direct and indirect connections to this research such as: (a) *Ibn 'Asyur's Maqāṣidii Interpretation Paradigm and its Moderation in Equality Discourses*.⁷ This article highlights the paradigm of *maqāṣidī* interpretation carried out by Ibn 'Ashūr and its application in several contemporary humanist issues; (b) *Tafsīr Maqāṣidi: Building Interpretation Paradigm Based on Mashlahah*.⁸ This article explains the stages of *maqāṣidī* interpretation as

a new interpretive approach, including 1) texts and laws depending on the purpose, 2) combining general conditions and specific arguments, 3) bringing benefits and preventing damages, and 4) considering the consequences of a law; (c) *Tafsir Maqāshidi for Maqāshid al-Syari'ah*.⁹ This article explains the interpretation pattern of maqāshidī which is positioned as the foundation in creating *maqāshid al-shari'ah*, which means all the benefits would lead to the *maqāshid al-Quran*. *Maqāshidī* interpretation has three ontological constructions: 1) *maqāshidī* interpretation as philosophy, 2) *maqāshidī* interpretation as methodology, 3) *maqāshidī* interpretation as a product of interpretation; (d) *Tafsir Maqāshidi and the Plurality of Religious People in the Quran from Jasser Auda's Perspective*. This study explains the application of Jasser Auda's *maqāshidī* interpretation in verses of religious plurality, which involve several steps such as: First, distributing verses that would serve as a means to achieve goals such as religious plurality; Second, the values of religious plurality would be configured, including equality and equality, religious unity, mutual recognition of differences, upholding justice, and realizing the mission of peace.

A Brief Overview of *al-Taḥrīr wa al-Tanwīr* and Ibn 'Āshūr

Muḥammad al-Ṭāhir ibn 'Āshūr was one of the modern interpreters who has a book of interpretation entitled *al-Taḥrīr wa al-Tanwīr*. In 1296 H/1879 AD, Ibn 'Āshūr was born near the capital of Tunisia. Ibn 'Āshūr grew up in a family that uphold education. He memorizes the Quran under the supervision of Muḥammad al-Khiyārī. He entered the Zaitunah University at the age of 14, after mastering the courses of *naḥw*, *ṣarraf*, *manṭiq*, and *kalām*. At this university, he learns the renewal of reason and how to refuse the mentality of *taqlīd*.

He continued his education at a relatively young age in 1310 AH at the Zaitunah University. At this university, Ibn 'Āshūr obtains various religious knowledge, including an understanding of the objectives of the Islamic law, the interpretation of the Quran, *qirā'ah*, *ḥadīth*, and *muṣṭalah ḥadīth*.¹⁰ Ibn 'Āshūr devotes all his attention and devotion to the Zaitunah University. During his tenure as a lecturer at the Zaitunah University in 1907 AD/1325 H, Ibn 'Āshūr actively proposed some ideas on the educational reform to the government.

Some of Ibn 'Āshūr's notable works are *Maqāshid al-Shari'ah al-Islāmīyah*, *al-Taḥrīr wa al-Tanwīr*, *Uṣūl Nidhām al-Ijtimā'ī fi al-Islām*, *Sharḥ al-Muqaddimah al-Adabīyah*, *Alaisa al-Subḥ bi al-Qarīb*, and *Naqdun 'Ilmīyyun li Kitāb al-Islām wa Uṣūl al-Ḥukm*.¹¹ Ibn 'Āshūr passed away on Sunday, 13 Rajab 1393 H, corresponding to August 12, 1973.

Ibn ‘Āshūr was one of the modern interpreters and legal experts, who set the foundation of his interpretation on the *maqāṣidi* interpretation. This is apparent in his interpretation of the Surah al-Nūr; he seems to really take into account reality with all its improvements, which he then calls the main goal of *sharī‘ah*, namely tolerance. When reading the Surah al-Nūr, he always applies the principles of *maqāṣid al-sharī‘ah*, as seen from his application to the five main inevitabilities.¹² Ibn ‘Āshūr apparently develops al-Shāṭibī’s ideas, which emphasize individual welfare, into the concept of *maqāṣid al-sharī‘ah* which places a higher priority on communal welfare.¹³

In his *maqāṣidi* interpretation, Ibn ‘Āshūr makes several signs: First, he defines the contextual interpretation as the interpretation that is based solely on cognition rather than the rules of the Arabic language or the goals of the *sharī‘ah* and its duties. Second, someone who does not meditate adequately might read a verse based solely on his personal interpretation, without considering other relevant components of the text. This interpretation could refer only to a small number of propositions or solely on a set of Arabic vocabulary. Third, there is a tendency to deviate from the original meaning of the Quran, and interpret it according to a particular philosophy or school of thought. Fourth, reading the Quran according to the rules.

Ibn ‘Āshūr, in writing his *tafsīr maqāṣidi*, pays attention to the following basics. In the second preamble to the *al-Tahrīr wa al-Tanwīr*, Ibn ‘Āshūr puts sciences as a tool in *tafsīr*. The tool in question is a science that already exists and has been developed previously. However, Ibn ‘Āshūr tends to limit the sciences that can be used. According to Ibn ‘Āshūr, the main tool is Arabic and its sub-discipline, such as *ṣarraf*, *badī‘*, *ma‘ānī* and *bayān*, as a means to reveal the linguistic aspect of the Quran. In other words, Ibn ‘Āshūr follows the habits of previous scholars who used Arabic poems to introduce some of the vocabulary of the Quran. Other tool sciences are *uṣūl al-fiqh*, *kalām*, *qirā‘ah*, and others. The fourth preamble in his interpretation describes the purpose of an interpreter, by explaining what an interpreter needs to face for the welfare of humanity in general, both in matters concerning individuals and those concerning societal problems. Ibn ‘Āshūr argues that an interpreter must understand the elements that constitute changes, such as reform of beliefs, ethics, and legal and political legislation for the organization of the community. Ibn ‘Āshūr justifies his claim based upon al-Shāṭibī’s theory of *maqāṣid al-sharī‘ah*, changing it from a focus on the individual to a focus on the community.

The Circle of *Maqāṣid al-Sharī'ah* in the Formulation of Shari'a

The word *sharī'ah* comes from the Arabic phrase *'sha-ra-'a*, which means 'source' (*warada*). It also comes from the word *'shir'ah*, or *'sharī'ah*, which means 'rule' and 'path'.¹⁴

Sharī'ah has two meanings in terms of terminology: 1) Broad meaning: First, ideology (*aqīdah*): belief in Allah SWT and all His Divine Attributes, belief in the prophethood and their miracles, belief in metaphysics (*al-sam'iyah*) such as belief to angels, the afterlife, and the supernatural world. Second, rituals (worship), such as the pillars of Islam, family law (*aḥwāl al-shakhṣiyyah*), and the *mu'āmalah* jurisprudence, which includes buying and selling and punishment (*hudūd*). Third, morality and ethics towards other living creatures. 2) Special meaning: Family law (*aḥwāl shakhṣiyyah*), the *mu'āmalah* jurisprudence, and ritual or worship.¹⁵

According to Ashmawi, there has been a dispute among Muslims about the definition of shari'a, which originally means a system or approach prior to being narrow down to a series of written laws or regulations.¹⁶ Islamic law is a comprehensive legal system, which covers individual and collective life in terms of geography and scopes. Due to the broad application of Islamic law, scholars can reformulate the law in the minimum limits (*al-ḥadd al-adnā*) and maximum limits (*al-ḥadd al-a'lā*) through *ijtihad*.¹⁷

The most important aspect of the history of Islamic law (*tārīkh tashri'*) is how the concept of *naskh* is applied in Islamic law. The passage in question refers to the divine laws that has existed prior to Islam and served to enforce those previous laws. One example is the punishment for intentional murder, where Islamic law enforces the law of Prophet Moses. Or, it could take the form of relaxing previous laws. For example, in the law of the Prophet Moses, adultery was punishable by stoning. Meanwhile, caning is a punishment according to the Islamic laws. Or, it might take the form of an amendment to previous shari'a, as in the case of inheritance law.

If we look at the limitations and restrictions of Islamic laws contained in the verses of the law, these limitations and restrictions should connect with some temporal and spatial dimensions. Islamic laws are a time-based legal system that includes not only the laws of the past but also the laws of the present and the future. Islamic laws have many limitations. Consequently, whoever opposes the many limitations of Islamic law, in essence, also opposes Q.S. al-Baqarah/2: 187 and 229:

تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ

There are at least two conflicting methods in interpreting legal verses: First, the perspective of the group that is very inclined towards the text of the hadith (*ahl al-hadīth*). Second, the methodology of the group that gives more space to rational interpretations (*ahl al-ra'y*). The conflict between these two schools of thought kept happening until the third century AD or the ninth century AH. Until the emergence of al-Shāfi'i (d. 204/820) and the publication of *al-Risālah*. After the Quran, hadith, and *ijmā'*, al-Shāfi'i's efforts to reconcile the two conflicting viewpoints through the process of analogy (*qiyās*) gave him an official legal status as a source of Islamic laws.¹⁸

Some analysts argue that the ethical message of the Quran (ethico religious) must also be linked to the verses of the law. In improving the *maqāṣid al-sharī'ah*, Thaha Abdurrahman emphasizes the values contained in the ethical framework. He argues in favor of spiritual values are at the top of the hierarchy of basic needs, followed by rational values and life values. Thaha Abdurrahman highlights the values of ethical framework as the basis for reforming the *maqāṣid al-sharī'ah*. He claims that spiritual values are in first place, then intellectual values, and finally life values in the hierarchy of essential needs.¹⁹

Discourse on Maqāṣidi from Maqāṣid al-Sharī'ah and Maqāṣid Al-Qur'an

The word *maqāṣidi* etymologically comes from *qaf-shad-dal*, namely the mother of all things (*al-umm*), moving towards (*al-tawajjuh*), rising towards (*al-nuhūd*) something special and permanent. In addition, the word *maqshad* in its plural form, refers to the main goal (*al-ghard*, *al-hadaf*, *al-mabda'*, *al-niyyah*, *al-ghāyah*, *al-ma'āl*).²⁰ *Al-qaṣdu* was replaced with *al-ma'nā*, which al-Jāhidh used to denote a name (*al-ism*), by Qādhi 'Abd al-Jabbār.²¹

Tracing the history of the application of *maqāṣid al-sharī'ah* as a basis for thinking for fiqh scholars, we can find the following figures:

Al-Burhān fī Usūl al-Fiqh by Al-Juwaynī (d. 478 H). The thesis of the 'hierarchy of basic needs' is available in this study. He divides it into five levels: First, the laws relating to basic needs such as the law of *qiyās*. Second, the laws relating to basic needs such as the law of rent. Third, the laws relating to upholding noble deeds and abandoning despicable deeds, such as the law of purification. Fourth, the laws relating to recommendations (*mandūbāt*). Fifth, the laws of fiqh that are not given special justification.²²

Scholars have different definitions of *Maqāṣidi*. *Maqāṣidi* for Al-Juwaynī is *maṣālih 'ammah* because what leads to the basic goal of the

shari'a, namely worship and not custom, is what Al-Ghazali calls *maṣālih mursalah*, while Al-Qarāfi calls it *al-maṣlahah*.²³ The words *maqāṣidi* and *maṣlahah* share the same meaning for the majority of uṣhul fiqh scholars.²⁴

Another work, *Ghiyāth al-Umam*, strengthens the theory of *maqāṣid al-shari'ah*. Unfortunately, this work is dominated by discussions of shari'a politics, which is a manifestation of his concern that many Islamic scholars will eventually go astray. Consequently, in the last chapter of his work, he dialogues on the subject to reach a conclusion about the definite laws (*al-muhkamat*), that is, laws that are unambiguous and subject to few interpretations. He then provides evidence to support his claim that *al-muhkamat*, or the goal of mutual agreement in transactions involving the purchase and sale of goods, or the goal of removing obstacles for the poor in Al-Juwaini's work is a new step in the science of Islamic jurisprudence that accommodates the *maqāṣid al-shari'ah*.

With his work *al-Mustafā fi 'Ilm Uṣūl al-Fiqh*, al-Ghazālī (d. 505 AH) continued the views of his teacher, al-Juwaynī. The following is Al-Ghazālī's ranking of basic needs: property, lineage, reason, religion, and life.²⁵ Al-Ghazālī was the first to introduce the concept of *hifzh* or safeguarding, in relation to needs. He did not articulate the philosophical meaning of the *maqāṣidis* in his in-depth explanation of *darūriyyāt*; instead, he referred to them as "temporary benefits" (*al-maṣālih al-mauhūmah*). This is because, unlike other written shari'a regulations, these *maqāṣidi* are derived from the implied verses of the Quran, not from the written verses. He based his rulings only on these *maqāṣidi*. al-Ghazālī also developed a theory that goes beyond the levels of *darūriyyāt*; if there is a difference in *darūriyyāt*, this principle gives priority to the greater *darūriyyāt* over the lesser *darūriyyāt*.

Al-'Izz bin 'Abd al-Salām (d. 660 AH) published two thin volumes which he named '*maqāṣidi* prayer' and '*maqāṣidi* fasting' in addition to his work *Qawā'id al-Aḥkām fi Maṣālih al-Anām*. He aimed to highlight the 'wisdom behind a law' in his major work mentioned above. His research focused on explaining the definition of benefit and harm. In addition, he linked the law to the related *maqāṣidi* and the wisdom underlying them.

The next contribution came from Shihāb al-Dīn al-Qarāfi (d. 684 H.), who distinguished between the actions of the Prophet and the goals of those actions. He expanded the definition of *maqāṣidi* and linked it to the purpose behind the actions of the Prophet. Ibn 'Ashūr (w. 1976) then changed Al-Qarāfi's stages in dissecting the actions of the Prophet into a separate discourse.²⁶ Another important breakthrough in the philosophy of *maqāṣid al-shari'ah* is Al-Qarāfi's writing on 'opening the door of excuse for the sake of benefit'. Therefore, he argues that all actions that can cause

harm must be avoided, and vice versa. Al-Qarafi allows consideration of benefit rather than stopping at the negation form *sadd al-dhara'i*.

Another contribution came from Ibn Qayyim (d. 748 AH) and the 'essence of shari'a', Since Ibn Qayyim studied under Ibn Taymiyyah (d. 728 AH), it can be concluded that his most significant contribution was in the critical study of fiqh manipulation, which he believed violated the *maqāṣid al-shari'ah*. In this context, 'manipulation' refers to unlawful contracts such as usury and settlement, even when they take the form of transactions that are in accordance with shari'a such as buying and selling, giving and receiving. In other words, he argued that the development of fiqh is based on human welfare, wisdom, justice and mercy. That is the basic guideline for understanding the characteristics of Islamic law. At this time, *maqāṣid al-shari'ah* emerged as a legal ideology and 'legal basis' based on the principles above.

Al-Shāṭibī (d. 790 AH) continued Ibn Qayyim's ideas in *al-Muwāfaqāt*. Al-Shāṭibī's general discourse about *al-maqāṣidiyyah* actually refers to the discourse of al-Juwayni and al-Ghazālī. From his book *al-Muwāfaqāt*, several conclusions can be drawn: First, *uṣūl al-shari'ah* replaces the discourse of *al-maṣāliḥ al-mursalah*; The pre-Shāṭibi concept remains associated with *al-maṣāliḥ al-mursalah*. Then he included *maqāṣid* diction, which initially emphasized that Allah had a special purpose in creating humans, the reason for sending the Messengers, and the reason for enforcing the shari'a in Islam. Then he included *maqāṣidi* as the basis of religion (*uṣūl al-dīn*), along with the provisions of the shari'a and general conventions of a religion. Second, the transition from the 'wisdom behind the law' to the 'rule of law'; Al-Shāṭibī introduced the concept of *maqāṣid* priority scale to provide *darūriyyāt* that is immune to certain laws (*al-juz' iyyāt*), and this has been applied in all classical books.²⁷

Even al-Shāṭibī stipulated that a correct understanding of the *maqāṣidi* of syari'ah is an absolute condition of correct ijihad. Third, the transition from assumption (*ẓanniyyah*) to certainty (*qat'iyyah*); to strengthen his argument about the *maqāṣid al-shari'ah* as *uṣūl al-shari'ah*, he began his work by stating that the inductive method (*istiqrā'i*), which he had used to establish the foundations of *maqāṣid*, is a scientific method. He then strengthened this claim in the introduction by providing an analysis of the available evidence. This became a methodological distinction from the previous classical methodology which was heavily influenced by Greek philosophy which always doubted the validity of induction as a scientific method. Al-Shāṭibī's work became the main reference in terms of *maqāṣid al-shari'ah* until the 20th century, although his idea to make *maqāṣid al-*

shari'ah the basis of shari'a was not followed by most scholars, and many even rejected it.

Maqāṣidi Method From Maqāṣid Al-Qur'ān

The *maqāṣidi* method in interpretation is a way of investigating, both in depth and briefly, the meaning of the words of the Quran and what is taken from it.²⁸ *Maqāṣidi* method is a style of interpretation that explains how a particular verse of the Quran is beneficial to humanity, while also examining the meaning and purpose of the passage in general. In constructing an understanding of the sources of religion, *Maqāṣidi* method, one type of *tafsīr bi al-ra'yi* which seeks freedom for the independence of reason, bases its application on the *naqli* and *'aqli* methods, and seeks a wider area for rational validation through rational and empirical measurements by considering the *maṣāliḥ al-mursalāh*.²⁹ However, the term "*maqāṣidi*" here refers to all the components that make up the shari'a, including the fatwas of the fiqh schools and the history of their formulation. This term also does not only refer to *maqāṣid al-shari'ah*. Because, every syari'a rule must be prepared with a narrative that is social, economic, political, demographic and scientific, and adapted to the demands of the state.³⁰

Meanwhile, the word *maqāṣidi*-before explaining the *Tafsīr Maqāṣidi*, Washfi 'Ashur connects *maqāṣidi* with *maqāṣid al-shari'ah*,³¹ in terminology, the welfare of humanity in this world and the hereafter is the main objective of formulating Islamic law.³² The main purpose behind Islamic law. The science that studies the wisdom of a law and the special secrets of an activity and its essence is called the secret science of religion.³³ The purpose and secret of every Islamic law has been determined by Allah.

There is a discussion about *maqāṣidi* as an epistemology if we trace its history. 'Abid al-Jābiri claims that although al-Shāṭibī has the same perspective as Ibn Rushd regarding the importance of *maqāṣid al-shari'ah*, he is different from Ibn Rushd in terms of its application in the field of *aqidah* because al-Shāṭibī applies Ibn Rushd's perspective to the study of *uṣūl al-fiqh*, by reconstructing the legal framework that has so far been based on the text of the verse. Al-Shāṭibī together with scholars from the Shāfi'ī school introduced a new epistemology known as *maqāṣid al-shari'ah*.³⁴

Tharabisyi claims that although al-Shāṭibī's *maqāṣid al-shari'ah* is a new scientific field and not the result of Ibn Rushd's thinking, this viewpoint seems to be less comprehensive.³⁵ He claims that al-Jābiri was being pushy, as if al-Shāṭibī was very enthusiastic about the location of Ibn Rushd, who was also from Andalusia, despite the fact that Ibn Hazm was also from

Andalusia and had studied under Dawud al-Zāhirī, the founder of the Zahiriyyah school. Tharabishi sticks to his claim that al-Ghazālī's name appears more than forty times in his works, including *Shifā' al-Ghālīl*, *Iḥyā' 'Ulūm al-Dīn*, *Jawāhir al-Qur'ān*, *Mi'yār al-'Ilm*, and *Mishkāt al-Anwār*, but al-Shāṭibī only used Ibn Rushd's name once in his work *al-Muwāfaqāt*.³⁶ Furthermore, the consistent use of *maqāṣidi* epistemology was initiated by Al-Juwaynī, he used the word *maqāṣidi* no less than dozens of times in various forms, such as: *maqṣad al-sharā'*, *maqṣūd al-sharī'*, *maqāṣid al-sharī'ah*, etc. Al-Shāṭibī actually used al-Juwaynī's classification when he divided the *maqāṣid al-sharī'ah* into three categories: *darūriyyāt*, *ḥajjiyyāt*, and *taḥsīniyyāt*. Likewise, al-Ghazālī classified *darūriyyāt* into five categories: *hiḍḍ al-dīn*, *hiḍḍ al-nafs*, *hiḍḍ al-nasl*, *hiḍḍ al-māl*, and *hiḍḍ 'aql*.³⁷

Tafsir al-Manār mentions the word *maqāṣidi* in thirty different derivatives: *al-ḥikmah* 763 times, *al-sabāb* 661 times, *al-maqṣad* 523 times, *al-talīl* 481 times, and *al-niyyāt* 447 times.³⁸

Al-Āmirī also began the process of developing a definition of *maqāṣidi* when he spoke about guarding offspring (*hiḍḍ al-nasl*), and imposing punishment on those who harm the guardian. Similar to this, al-Juwaynī created a theory of the punishment system using the word guarding (*al-iṣmah*), which al-Ghazālī referred to as guarding offspring (*hiḍḍ al-nasl*), until finally al-Shāṭibī continued it as the word used by al-Ghazālī.

The interpretive method known as *maqāṣidi* method highlights the differences between the *maqāṣidi* dimensions of the Quran and the shari'a. The practice of interpreting the Quran based on *maqāṣidi* has been carried out by the Prophet Muhammad. It is narrated from Ibn 'Umar that the Prophet advised his companions:

قال رسول الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ: لَا يُصَلِّيَنَّ أَحَدُكُمْ الْعَصْرَ إِلَّا فِي بَنِي قُرَيْظَةَ³⁹

“None of you should pray the Asr prayer except in the Jewish village of Bani Quraizbah.”

After hearing Prophet's message, the companions disagreed on two things: some of them performed the 'Aṣr prayer on time, even though they had not yet entered the village of Banī Qurayzah. And some of them performed 'Aṣr prayers in the village of Banī Qurayzah, even though the time had passed. On this basis, The Prophet really gave permission to his friends to understand this hadith by balancing the legal language with its historical context. Likewise 'Umar bin al-Khaṭṭāb ijtiḥad does not impose *hudūd* sanctions against theft committed in Medina during the crisis.⁴⁰

Fairuz Abadi (d. 817) conducted research on the main objectives of the Quran in his work *Baṣā'ir dhawi al-Tamyīz fi Laṭā'if al-Kitāb al-'Azīz*.⁴¹ In

this book, Fairuz Abadi provides an in-depth explanation of the *maqāṣidi* of each surah in the Quran. He regularly quotes four points in each surah: the primacy of the surah, the *nāsikh-mansūkh* verses, the *maqāṣidi* of the surah, and the *mutashābihāt* of the language and meaning of the verses.⁴²

Maqāṣid Al-Qur`an was also started by Burhān al-Dīn al-Biqā'i (d. 885) through his work *Mashā'id al-Nazar li al-Isbrāf 'alā Maqāṣidi al-Suwar*.⁴³ Each chapter of the Quran is mentioned by al-Biqā'i in his work three times: the number of verses, the *maqāṣidi* of the letter, and its quality.⁴⁴

Al-Ghazālī is considered as one of the main pioneers of the technique of interpreting the Quran in the *Jawāhir Al-Qur`ān*. He asserted that the verses of the Quran have seven levels of meaning, and Al-Ghazali argued that the symbolic meaning of a verse is a transcendent meaning (*ma'āni rūhaniyyah malakūtiyyah*).⁴⁵ He used the symbolic meanings of a number of sufi phrases to illustrate his point, such as *al-tiryāq al-akbar*, meaning “the greatest shield,” and *al-kibrīt al-ahmar*, meaning “red brimstone,” which refers to the Knowledge of God. Al-Ghazālī connected the realm of meaning to the realm of transcendence through a pattern in symbolic meaning, although the phrase itself remained the realm of reality. Al-Ghazālī's actions were the first steps towards the development of the sciences known as the *maqāṣidi* of the Quran.

Furthermore, contemporary interpreters continue to strive to advance the field of *maqāṣidi* in the Quran, including Abdullah Darraz in *al-Nabā' al-'Azīm*. Although he only discusses the *maqāṣidi* of al-Baqarah in his work, he provides a very thorough description of how tafsir *maqāṣidi* works. He emphasized that al-Baqarah has four *maqāṣid*. The spread of Islam to everyone is the first *maqāṣid*. Preaching to the people of the book to abandon their beliefs and embrace Islam is the second goal. A comprehensive explanation of Islamic law is found in the third *maqāṣid*. An explanation of Islamic teachings to consistently uphold Islamic law can be found in the fourth *maqāṣid*.⁴⁶

In his book *al-Asas fi al-Tafsīr*, Said Hawa organizes verse segments according to themes using a clear framework. He then explains that these separate segments together form one cohesive topic within a surah. With this systematicity, we can at least explain the systematics of interpreting surahs in the al-Quran based on *maqāṣidi* method.⁴⁷ In *Tafsīr Al-Qur`ān al-Karīm*, Mahmud Shaltūt emphasized the existence of *maqāṣidi* method. Even though his writing is full of thematic devices, he consistently provides *maqāṣidi* for each chapter. Mahmud Syaltut combines the *maqāṣidi* approach with the thematic method in this case. This shows the validity of *maqāṣidi* method as an interpretive methodology.⁴⁸ In *Tafsīr al-Manār`*,

Muhammad Abduh and Rasyid Ridha made significant contributions to the application of the principles of *maqāṣidi* by developing nine different methodologies for their interpretation, one of which is the unity of theme in a letter.⁴⁹

The *maqāṣidi* reading was introduced by Jamal al-Banna as an addition to the dogmatic reading (*qirā`ah ta`abbudī*). The *maqāṣidi* reading is a synthesis between the progressive reading (*qirā`ah al-wa`iyah*) and the dogmatic reading.⁵⁰ He gave an example of dogmatic reading in answering questions about the Quanic evidence regarding the obligation to wear the hijab. It seems that the person only used dogmatic reading an sich, even though He allows the *maqāṣidi* reading of the verses of the Quran.

In constructing his *maqāṣid al-sharī`ah* paradigm, al-Shāṭibi usually refers to two things: First, focus on the objectives of shari`a. Second, focus on the problem (*qaṣdu al-mukallaf*). He divided the objectives of shari`a into three categories: first, primary, secondary, and tertiary. The division of the stages of *maqāṣidi al-sharī`ah* is like humans perfecting each other.

The Maqāṣidi Approach In Islamic Legislation According To Ibn ‘Āshūr In *Al-Ṭabṛīr Wa Al-Tanwīr*

Maqāṣidi Method Considering to Hifẓ al-Dīn

One aspect of worship and *muāmalah* is mentioned in the Quran in the form of legal verses. Some of these verses have a clear ethical component, such as the verses about *nikāh mahārim* and *riba sadaqāt*. Other verses sound like commands or prohibitions, such as “*if al*” (do it) and “*la taf al*” (dont do it).

Many legal verses also describe faith, although this interpretation has experienced dark times. In particular, there are cases where the interpretation of a verse is forced to conform to the ideology of a particular sect or organization,⁵¹ for example, the interpretation of Iṣḥāq al-Marūzi (d. 286), one of the Hanbali scholars, on Q.S. al-Isrā’/17:79;

وَمِن لَّيْلِ فَتَهَجَّدَ بِهِ نَافِلَةً لَّكَ عَسَىٰ أَن يَبْعَثَكَ رَبُّكَ مَقَامًا مَّحْمُودًا

Frase “*maqāman mahmudā*” interpreted as the Prophet’s sitting on the throne on the day of resurrection, al-Ṭabarī criticized this interpretation which is based on the weak hadith.

Text and reality in *muāmalah* are like two sides of a coin that are interrelated and cannot be separated. Actually, studying the Quran involves two aspects, like the sides of a coin: studying the text of the Quran and studying the context of the Quran. Among the methodologies for interpreting *al-adabī al-ijtimā`ī* verses is *Tafsīr Maqāṣidi*. This method is

used as an analytical tool in understanding social verses.

The reality in question is the context when the Quran was revealed and the current context. Interpreters can usually trace it through the double movement of interpretation.⁵² Original scientific theories are needed to detect social reality; these theories must not only be derived from the conclusions of earlier and newer theories, but must also take the form of a real theorization of reality (*al-tandhīr al-mubshshir li al-wāqī*), which is more commonly associated with phenomenology.⁵³ The relationship between text and reality continues to merge into an interpretive methodology, so it is no wonder that Naṣr Abū Zayd calls the Quran a cultural product (*muntaj al-thaqafī*).⁵⁴ This is because he carries a contextual interpretation in understanding the Quran.

The author observes that there is a misinterpretation of the assumption that there has been a conflict between the text and reality. To align the text and reality, there are at least three stages that must be carried out: First, when examining the needs of society, the text must be taken into consideration. Second, the basis for understanding *maqāṣidi* must be the demands of society. Third, the relevant text takes into account the demands of society.⁵⁵

Maqāṣidi Method Considering to Hiḏz al-Nafs

Ibn ‘Āshūr returns the *maqāṣidi* of the Quran to its main objective, namely the Quran’s attention to difficult realities through a number of main objectives, such as the people’s effort to achieve a civilized society by exercising the *tazkiyah al-nafs*. In fact, Ibn ‘Āshūr came to a definite conclusion in his interpretation that there are at least 10 main objectives of interpretation, three of which are developing civilization, advancing individual welfare, and advancing the community welfare. He then continued to the fourth objective, which is the way to understanding the *maqāṣid al-Qur’ān*.⁵⁶ The ability to restore the dominance of the Quran over various classical academic writings (*al-turāth*); is a prerequisite for an interpreter. *Al-Turāth*, which is a science that accompanies the text of the Quran—that is, a science that is consistent with the *maqāṣid* of the Quran—is then developed into a basis for understanding the meanings related to the Quran.

To every interpreter, the ability to balance the dominance of the Quran over some classical literature (*al-turāth*); is a sacred duty. *Al-Turāth* is presented as a science that is consistent with the text of the Quran—that is, a science that is in line with the interpretation of the Quran—and then developed into a sophisticated understanding that is close to the Quran.

If a person is unable to instill in his soul the noble ideals of the shari'a—wisdom, justice, and goodness—he is not worthy of being called a caliph. One cannot attain these values if he is not accustomed to training himself before others. These admirable qualities of the shari'a can be attained by first learning wisdom, and then practicing sensitivity, kindness, generosity, and patience to gain a deeper understanding of what it means to be courageous, just, and able to improve matters.⁵⁷

Ibn Taymiyyah criticized the experts in *Uṣūl al-Fiqh* who always linked the 'illah of the shari'a with maintaining worldly interests only, but they forgot the aspect of improving the soul.⁵⁸ Even more than that, according to him, the fulfillment of the noble goals of the shari'a is a source of great happiness for a person's soul because it signifies that they have fulfilled their obligations as a result of the purification of the soul. Commenting on the choices issued by Ibn Taymiyyah, Abū Zahrah argued that Ibn Taymiyyah in explaining a shari'a with something that is close to human needs, and the fulfillment of all its benefits and justice, as if Ibn Taymiyyah after taking the source of the shari'a directly from the Quran and the Sunnah of the Prophet, he then chose the principle of something that is more just and relevant to its context, and in accordance with the needs of each.⁵⁹

Ibn Taymiyyah was concerned that a large number of people would reject this tolerant shari'a, as seen from their reluctance to fulfill this obligation, indicating that they had deep feelings towards it. Given the realities of modern life, he also recognized the importance of *maqāṣidi* that encourage people to embrace shari'a because many have difficulty understanding the strict rules of shari'a. This perspective also shows his focus on holistic and comprehensive principles when implementing *maqāṣid al-shari'ah*, focusing on the objectives of shari'a that benefit people both in this world and the hereafter. The fact that he linked material benefits to *maqāṣid al-shari'ah* is another indication. So that a *maqāṣidi* seems to be in a separate place and has no benefit at all for humans in this world and the afterlife, so whoever doesn't know how to build his worldly civilization, he definitely doesn't know how to prepare for the afterlife.

Maqāṣidi Method Considering to Hifẓ al-'Aql

In verse QS. Al-Ma'idah: 90

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْحَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلُمُ رَجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ
فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

Ibn 'Āshūr analyzes the verses above using a *maqāṣidi* approach. According to him, some of the primary objectives of prohibiting alcohol

are; 1) Preserving health: alcohol can harm physical health, both in the short and long term. It can lead to damage to internal organs and neurological disorders. Many diseases are linked to alcohol consumption, such as liver disease, cancer, and mental disorders. 2) Protecting mental health: alcohol can impair brain function, making it difficult for a person to think clearly and make sound decisions. Intoxicated individuals tend to engage in uncontrolled actions that harm themselves and others. 3) Maintaining social harmony: by preventing conflicts, alcohol often triggers conflicts and violence within society. It also disrupts public order, as intoxicated individuals tend to violate social norms. 4) Enhancing the quality of worship: alcohol can disrupt concentration during worship and distance a person from Allah. Alcohol is considered impure and can defile both the body and the soul. 5) Protecting self-respect: people who frequently consume alcohol tend to lose self-respect and are shunned by society. It can lead to despicable acts such as adultery, theft, and violence.

Ibn 'Āshūr believes that *qiyās* and *maqāṣid al-sharī'ah* can be linked flexibly to increase intellectual understanding. For example, the meaning of *maqāṣidi* in relation to the prohibition on drinking khamr as mentioned in Q.S. al-Ma'idah/5:90. That the real purpose of this prohibition, according to *maqāṣid al-sharī'ah*, is to maintain common sense (*hifẓ 'aql*). They then equate it (*qiyās*) with everything that harms the human mind, even if it is not in the form of intoxicating substances, such as superstitious ceremonies and practices carried out in the name of ancestral heritage or the use of amulets as a means of healing diseases and so on.⁶⁰

Maqāṣidi Method Considering to Hifẓ al-Nasl

The verse often associated with the prohibition of adultery is Quran 17:32:

وَلَا تَقْرُبُوا الزَّوَاجَ إِنَّمَا كَانَ فُحْشَةً وَسَاءَ سَبِيلًا

‘And do not approach unlawful sexual intercourse; indeed, it is an immorality and a bad road.’ Through the *maqāṣidi* approach, this verse is not only understood as a literal prohibition but also as an effort to protect honor, maintain health, build a harmonious society, and improve spiritual quality.

In terms of preserving descendants, at least it can be traced from the interpretation of the verse about *Īlā'*, Q.S. al-Baqarah/2:226-227:

لِّلَّذِينَ يُؤْلُونَ مِن نِّسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِن فَاءُوا فَإِنَّ لِلَّهِ عَفْوَ رَحِيمٍ وَإِن عَزَمُوا الطَّلُقَ فَإِنَّ لِلَّهِ سَمِيعٌ عَلِيمٌ

The word *Īlā`* literally means oath, namely a husband swearing not to have sexual relations with his wife for more than four months. If this verse is interpreted in a non-*maqāṣid* context, then this verse is understood to be limited to the prohibition of sexual intercourse. However, if this verse is interpreted in a *maqāṣidi* context, then this verse includes all actions intended to prevent the wife, such as not wanting to have sexual intercourse with him even without an oath or cutting off communication and not talking to him for a long period of time, even though the husband is still having sexual intercourse with her. The *maqāṣid al-ahkām* verse can be interpreted in two different ways.⁶¹

Historically, the law of *Īlā`* was established in a social and cultural context that was different from the modern era. The primary purpose of this law was to protect honor, justice, and order. *Maqāṣidi* interpretation provides room for dynamic interpretation, allowing this law to be adapted to the changing times without disregarding its fundamental values.

Maqāṣidi Method Considering to Hifẓ al-Māl

In verse QS. Al-Baqarah: 275, Ibn ‘Āshūr interprets with the *maqāṣidi* interpretation, such as:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ
بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

When interpreting verses on the prohibition of *riba*, Ibn ‘Āshūr not only considers the legal aspect, but also analyzes the economic and social impacts of *riba*. He concludes that *riba* can harm the economy and lead to social inequality.

Regarding the protection of property (*hifẓ al-māl*), the historical records of the companions, such as Umar bin al-Khaṭṭāb, contain some information about various measures he took as a Caliph, such as the laws related to land ownership and the prohibition of dividing land obtained through the war booty. Umar bin al-Khaṭṭāb uses *istidlāl* to establish land ownership rules for the people of Egypt and Iraq who are conquered by the Muslim forces at that time. In addition, other policies of Umar include the laws prohibiting the enslavement of women and testimony and evidence, which emerge when someone told him about the difficulty in presenting evidence in Iraq at that time, which led to many people being punished, then ‘Umar firmly said, “no one will be imprisoned in Islam except on the irrefutable testimony of witnesses.” Here, ‘Umar provides space for *maqāṣidi*’s interpretation of the social verses to be applied according to the context at that time.⁶²

Conclusion

In crystallizing the phase of shari'a established by the Prophet with the *maqāṣidi* method, based on two things; *maqāṣidi al-sharī'ah* and *maqāṣidi Al-Qur`ān*. This *maqāṣidi* method found its necessity in the hand of Ibn 'Āshūr through his disclosure of the history of Islamic law itself. *maqāṣid al-sharī'ah* is centered on three human needs according to Ibn 'Āshūr, to wit, basic, secondary and tertiary needs.

Based on the analysis of verses and hadiths surrounding Islamic law from Ibn 'Āshūr, we conclude several things: 1) that the Prophet's *manhaj* in crystallizing shari'a according to Ibn 'Āshūr in his interpretation of *al-Tahrīr wa al-Tanwīr* is the *maqāṣidi* method, namely by maintaining religion (*hifẓ al-dīn*), with his moderate teachings in terms of faith, shari'a and worship, 2) in the Prophet's *maqāṣidi* method, namely purifying the soul as another important goal, is a requirement to become an inhabitant of this universe (caliph), 3) the next *maqāṣidi* is in maintaining reason (*hifẓ al-aql*) namely by maximizing the role of reason, one of which is by implementing *qiyās*, 4) the Prophet's *maqāṣidi* method used in protecting descendants; does include the periodization of the prohibition of adultery, as a form of implementing the rule of *'illat* of a law (*hifẓ al-nasl*), 5) the *maqāṣidi* method is obvious in the policies of the Prophet's companions who served as caliphs in terms of economic and fiscal policies.

Endnote

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