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Implementation of Al-Ghazali Maslahah Concept in Islamic Economic Activities*

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Abstract:

The article covers Al-Ghazali's view on the use of *maslahah mursalah* as the basis for establishing law in the field of sharia economics. The concept of *maslahah mursalah* is debated among ulama to be used as the basis for establishing law. The *maslahah* provides opportunities for the adoption of new innovations that were not previously discussed among ulama and were not rejected by religion. On the other hand, the economy needs sharia support to continue to run in accordance to religious guidance and adapt to the times. By comparing economic principles and *maslahah* theory, al-Ghazali's view that accepts the implementation of *maslahah* is found as a solutional view. Nevertheless, al-Ghazali provided conditions and restrictions on the use of *maslahah* in the economic field so that they will not be chaotic and uncontrolled.

Keywords: *maslahah mursalah*; al-Ghazali; Islamic economics; religious purpose

Abstrak:

Artikel ini mengulas pandangan Al-Ghazali tentang penggunaan maslahat mursalah sebagai dasar penetapan hukum di bidang ekonomi syariah. Konsep maslahat mursalah diperdebatkan di kalangan ulama untuk dijadikan dasar penetapan hukum. Maslahat ini memberi peluang adopsi inovasi-inovasi baru yang sebelumnya tidak dibahas di kalangan ulama dan tidak ditolak pula oleh agama. Di sisi lain, ekonomi membutuhkan dukungan syariah agar tetap berjalan sesuai tuntunan agama dan beradaptasi dengan perkembangan zaman. Dengan membandingkan prinsip ekonomi dan teori maslahat, ditemukan pandangan al-Ghazali yang menerima penerapan maslahat tersebut sebagai pandangan solutif. Meskipun begitu, al-Ghazali memberikan persyaratan dan pembatasan penggunaan maslahat tersebut dalam bidang ekonomi agar tidak liar dan tidak terkendali.

Kata kunci: Maslahat Mursalah; Al-Ghazali; Ekonomi Islam; Tujuan Keagamaan

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A. INTRODUCTION

Islamic economics has experienced a significant development both on international and national scale. Many countries established Islamic financial institutions, even the countries that do not have Muslim majority declare themselves to be centers of Islamic economics and halal centers, such as in the UK and Thailand. In Indonesia, the development of Islamic economics is marked by the growth and development of Islamic economics markets, halal products, Islamic financial institutions, and other Islamic business sectors.

Currently, the fastest growing Islamic financial institutions is sharia banking whose market share has reached 10% higher than national banks.² Another sector is Islamic capital market growth which offers various products such as sharia stock, sharia mutual funds, sharia securities crowdfunding, sharia-compliant bond. On the other hand, the development of Islamic economics in Indonesia is marked by Indonesia's halal market policies and the growth of Islamic businesses such as sharia hospitals, sharia tourism, and Islamic tiered direct selling.

One of the principles used in economic activities is that the basic principle of muamalah activities is permissible unless there is an argument that prohibits it (*al-ashl fi al-mu'amalah al-ibahah illa ma dalla al-dalil 'ala tahrimiha*). This principle provides space for innovation and development of various forms and implementations of Islamic economics.³ Therefore, Islamic economics has the opportunity to develop and respond to the times.⁴

The development of Islamic economics is also supported by the principle of religious purpose (*maqashid al-syari'ah*). Religion basically aims to create benefit and avoid harm.⁵ Based on this principle, the economy is directed to embody justice and prosperity and avoiding inequality. Therefore, every innovation and economic development that is oriented towards religious purpose must be supported.

Al-Ghazali is one of the leading Muslim thinkers who is concerned with the study of the objectives of sharia. He has theories and concepts about it, especially as outlined in his work *al-Mustashfa*. In his book, he describes the concept and classification of sharia objectives. He divides the concept of *maslahah* according to certain categories. This concept is very beneficial when applied in Islamic economic activities.

² Sharia banking assets in October 2021 reached more than 423 trillion from Islamic Commercial Banks and more than 210 trillion from sharia business units. Total ICB 12 banks and SBU 21 banks). OJK, *Statistik Perbankan Syariah*, (Jakarta: OJK, 2021), p. 4.

³ Asriaty. "Penerapan Maslahah Mursalah dalam Isu-isu Kontemporer". *Jurnal Madania*, Vol. 19, No. 1, 2015, p. 119.

⁴ Asmawi. "Konseptualisasi Teori Maslahah". *Salam; Jurnal Filsafat dan Budaya Hukum*, Vol.1 No. 2 2014, p. 311.

⁵ Mushtafa Dib al-Bugho, *Uşul al-Tasyrî` al-Islâmy: Aşar al-Adillah al-Mukhtalif Fiha (Masâdir al-Tasyrî` wat Tabaiyyah fil Fiqh al-Islâmy*, (Damaskus: Dâr al-Imâm al-Bukhâri, t.th.), 102.

B. METHODS

The method used in this research is a qualitative method, where the research sources come from scientific articles in the form of journals and books that are relevant to the research title. While the approach used is a qualitative descriptive approach. Qualitative research is a scientific approach that reveals certain social situations by properly describing reality, formed by words based on relevant data analysis techniques and obtained from scientific situations.

C. RESULTS AND DISCUSSION

1. Biography of al-Ghazali

Al-Ghazali, referred to by Muslims as *hujjatul Islam*, was the first figure before Izzuddin bin Abd. Salam (d. 660 AH/1261 AD) and Abu Ishaq al-Syathibi (d. 790 AH/1388 AD), who explained the concept of *maslahah* in more detail. He was born with the full name of Abu Hamid Ahmad ibn Muhammad al-Ghazali at-Thusi. Born in 450 AH / 1058 AD in Tus (now Meshed), a small town in the Khirasan area (now Iran). Died in 505 H / 1111 AD in the same place.⁶ His father worked as a wool spinner and sold his own produce to the markets around the neighborhood.⁷

Al-Ghazali lived in a fragile socio-political situation, in which the Abbasid dynasty split into several small empires. Al-Ghazali grew up under the rule of the Seljuk dynasty, which succeeded in seizing power from the Abbasid three years before his birth. In the reign of Sultan Malik Shah (1027-1092 AD) with his famous vizier, Nizam al-Mulk (1063-1092 AD), al-Ghazali got remarkable intellectual shift.

In terms of religious atmosphere, al-Ghazali's period was a period of disintegration due to group fanaticism that was consciously instilled by religious leaders, both from the leaders of the *fiqh madhhab* and the leaders of the theological school. Frequently, the government intervened in that matter, as al-Kunduri did, a vizier of the Seljuq dynasty who made the *Muktazilah* school of thought as the state's official theology. He implemented a policy to prohibit the growth and development of other theological schools by violent means. As a result, the *madhhab* of *Asy'ariyah* and the *Shafi'i* were pressed.⁸ The situation changed when Nizam al-Mulk assumed the power, with his policy, he made the *Ash'ariyah* as the official state theology and the *Shafi'i* as the official state *madhhab*. Despite, in the means to spread the ideas and *madhhab* he adhered to, he used subtler manners. Such as did propaganda through education. Several *madradas* were built and named after him, *Nizamiyah*.⁹ In this disharmony

⁶ Al-Ghazali, *Al-Munqidz min al-Dhalal*, (Beirut: al-Maktabah al-Sya'biyah, tt.), p. 21 – 22

⁷ M. Zurkani Yahya, *Teolog al-Ghazali*, (Yogyakarta: Pustaka Pelajar, 1966), cet. Ke-1, p. 64

⁸ M. Zurkani Yahya, *Teolog al-Ghazali*, p. 66

⁹ *Nizamiyah* is a *madrada* with a modern system that was first established in the Islamic world. This *madrada* inspires the development of *madradas* to the next stage). Husni Rahim, *Arah Baru Pendidikan Islam di Indonesia*, (Jakarta: Logos, 2001), hal. 97; Jurji Zidan, *Tarikh al-Tamaddun al-Islami*, (Beirut: Dar Maktabah al-Hayah, 1967), p. 473

situation, al-Ghazali grew and thrived into a philosopher who was quite responsive to the situation around him.

Al-Ghazali, who was known as a Sufi, was driven by to live in mightiness and prosperity. He was once very close to power and authority, wallowing in the luxury of wealth, fame, and position. He once led science council in Naisabut. Then he was appointed as a professor and led the Nizamiyah College in 484 AH/1091 AD. He also taught courses in kalam and fiqh.¹⁰

The works produced by al-Ghazali include, *Maqasid al-Falasifah* (completed in 484 AH) and *Tahafut al-Falasifah* (completed in 488 AH), *Fazaih al-Batiniyah wa Fazail al-Mustaziriyah* which was primarily aimed at countering the Batiniyah movement, which at that time was incessantly carrying out political action. His works in the field of fiqh include *al-wasit*, *al-Basit* and *al-Wajiz* (495 AH). In the field of theology, he wrote *al-Iqtisad fi al-I'tiqad* (488 AH), *Risalah al-Qudsiyyah* (488-489 AH), *Qawa'id al-'Aqaid* (488-489 AH).

Since the year 488 AH/1095 AD, he left all the prosperities and positions for Damascus to live a life as a Sufi, fakir and zuhud. While in the exile, he wrote works entitled *Jawahir al-Quran*, *Bidayat al-Hidayah*, *al-Qistas al-Mustaqim*, *al-Arba'in fi Usul al-Din and Ihya'Ulum al-Din* (489-495 AH). After his exile in Damascus, he returned home and gave lessons in his neighborhood. In this place he regenerated works with the title *al-Munqiz min al-Dhalal* (mid 1108 AD), *al-Mustashfa min 'Ilm al-Usul* was finished in 1109 AD, *Ijma' al-Awam 'an 'Ilm al-Kalam* (504-505 AH) and his last work *Minhaj al-'Abidin*.

2. Maslahah According to al-Ghazali

a. Definition of Maslahah

Maslahah according to al-Ghazali is the essence of the statement of benefiting and avoiding harm (عبارة الاصل لب دفع). The concept of *maslahah* which is rooted in benefiting and avoiding harm is not built upon human considerations, but is based on the *maslahah* determined by religion. *Maslahah*, according to al-Ghazali, is maintaining religious purpose (المحافظة على مقصود الشارع في الخلق). The purpose of religion for creatures includes five aspects; protecting religion, soul, mind, offspring, and wealth. Anything that contains preserving of these five things is considered as *maslahah*, as opposed to anything that might reduce the aspects is called *mafsada*, and avoiding *mafsada* is a *maslahah*.¹¹ Al-Ghazali places the nash as the basis of *maslahah*. A punishment of fasting for two consecutive months, for the wealthy perpetrator, for copulating during Ramadan. According to a decent consideration, it is considered to be more beneficial since it gives a more deterrent effect, than having to free slaves, which is easy for the perpetrator with his wealth. Such *maslahah*, for al-Ghazali is not justified, because the nash clearly stipulate the punishment to release slaves and fasting afterwards. In this case, al-Ghazali is of the view that nash must be prioritized in taking *maslahah* in this case, because *maslahah* that is determined by logic will be different to one another, as

¹⁰ M. Zurkani Yahya, *Teolog al-Ghazali*, p. 71 – 72

¹¹ Al-Ghazali, *al-Mustashfa*, j.I, p. 139 – 140

well as different conditions and time. Meanwhile, the benefits set by Allah are universal and in accordance with human needs.

Al-Ghazali with his concept of *maslahah* which is based on these five principles, later known as *al-dlaruriyyah al-khamsah*, has systematically formulated human rights. The five basic principles are the rights of human beings that must be respected in order to achieve prosperity and peace, i.e. (1) *hifzh al-din*, respecting freedom of religion and worship, (2) *hifzh al-nafs*, protecting human life from various dangers, threats and violence, (3) *hifzh al-'aql*, respecting dissent, (4) *hifzh al-nasl*, preserving the offspring, and (5) *hifzh al-mâl*, respecting the property and wealth of others.¹²

These five basic principles are the basic inherent norms in every human being born on earth as the human nature. Thus, the actualization of these principles may not distinguish between existing diversity, gender, race, religion, class, ethnicity, and skin color. The enforcement of these basic rights must focus on the principles of justice, independence, togetherness, egalitarianism, and equality before the law. The basic concept of implementing these basic rights is "*daf'ul al-mafâsid and jalbu al-mashâlih*" (دفع المفاسد وجلب المنافع), upholding the good or realizing the general welfare and abandoning or rejecting all things that are destructive.¹³

According to the concept, al-Ghazali clearly wanted to distinguish between purpose (*maqashid*) based on human's logic and goals (*maqashid*) determined by nash. The purpose of sharia is to make it as a guide for human life. Sharia, according to al-Ghazali, is nothing but the purpose of protecting human beings themselves. Therefore, as stated by Ibn al-Qayyim, Sharia is built on wisdom and human interests in the world and the hereafter. Sharia is fully benefit, fully wisdom. Everything that comes from justice to injustice, from grace to disfavor, from benefit to harm, and from wisdom to futility is not part of sharia (religion), even though it is attempted through systematic manipulations.¹⁴ On this basis, all thoughts and any system that legitimizes the practice of violence, discrimination, marginalization, misogyny, and oppression by and against anyone must be rejected for the sake of religion and humanity.

Man-made law can thus be justified as long as they are in accordance with the law built upon sharia. It means that every law and policy that is made to protect the five principles and to avoid reduction and violence against the five principles must be in accordance with sharia and must be supported in the implementation.

b. Classification of Maslahah

Al-Ghazali classified *maslahah* into three categories, i.e.:

1). *Maslahah based on endorsement of Islam*

¹² Al-Ghazali, *Al-Mustashfa*, p. 268.

¹³ Husein Muhammad, *Refleksi Teologis Tentang Kekerasan Terhadap Perempuan*, dalam Syafiq Hasyim (ed.), op.cit. p. 205.

¹⁴ Ibnu al-Qayyim al-Jauziyah, *A'lâm al-Muwaqqi'in 'an Rabb al-'Âlamîn*, Juz III, (Kairo: Maktabah al-Kulliyat al-Azhariyah, t.th.), p. 3.

On the first category, al-Ghazali divided it into three forms:

- a) *Maslahah* which status is endorsed by nash. Such *maslahah* can be used as legal evidence. For example, the determination of jihad and the capital punishment for apostates as a means of protecting religion and belief, as well as the stipulation of qishash is carried out to preserve the soul, because in qishash contains the protection of life. Creating a law with *maslahah* is done by using the analogy method (*qiyas*). Such *qiyas* are carried out based on the purpose of a nash or *ijma* provisions, as the prohibition of every intoxicating food and drink. The prohibition of food and drink is based on an analogy to the prohibition of *khamr* (alcoholic beverages). The prohibition of *khamr* by religion proves that religion maintains human *maslahah*, in the form of protection of the mind, which is the basis for humans to carry out religious orders (*taklif*).¹⁵
- b) *Maslahah* that is not endorsed by the sharia. For this category, al-Ghazali gave an example of a scholar who argued that a ruler who copulated during the month of Ramadan is obliged to fast for two consecutive months. Then the ruler refused to fast because it was hard for him. Such punishment, according to logic, is closer to deterring the ruler. If the ruler is punished by freeing the slaves, then it is very easy for him and it also underestimates Allah's decree regarding the prohibition of copulation. Therefore, the idea of fasting for two consecutive months contains *maslahah*, that is to deter the perpetrators.
- c) The view of these scholars is not suitable and contradicts the *maslahah* specified in religion, and opens convenience opportunities by changing other provisions that have been stipulated by the nash for the shift of situations and conditions, for instance. Indeed, nash has clearly stated that the first order of law is to free slaves. For al-Ghazali, the *maslahah* determined by the scholars was invalid, because it was not supported by the nash, even canceled.
- d) *Maslahah* which existence is not endorsed or canceled by a certain nash. Such *maslahah* is an area of *ijtihad* study. Such *maslahah* is referred to as *maslahah mursalah*, *maslahah* that is neither explicitly stated by a nash nor is it rejected by any text.¹⁶ In this case, al-Ghazali did not use the term *maslahah mursalah*, as is used by the Maliki madhhab, but rather *istishlah*. Imam Haramain uses the term *al-istidlal al-mursal* and the scholars call it *al-munâsib al-mursal*.¹⁷

2). *Maslahah based on the level of priority*¹⁸

According to the level of priority, *maslahah* is divided into three levels; *maslahah dharuriyah* (essentials), *maslahah hajiyah* (complimentary), and *maslahah tahsiniyah*

¹⁵ Al-Ghazali, *al-Mustashfa*, j.I, p. 139

¹⁶ Al-Ghazali, *Al-Mustashfa*, j.I, p. 139 etc

¹⁷ Wahbah al-Zuhaili, *Ushûl al-Fiqh al-Islâmy*, j.II, (Dimasq: Dar al-Fikr, 2006), p. 35

¹⁸ Al-Ghazali, *Al-Mustashfa*, j.I, p. 139; al-Syatiby, *al-Muwâfaqât*, j.II, (Kairo: Dar al-Salam, 2006), p.

(embellishment). The existence of each level of *maslahah* will be supported and completed by other *maslahah*.¹⁹

- a) *Maslahah dharuriyah* is the most important *maslahah* and occupies the top rank, protecting five main aspects; religion, soul, mind, offspring, and wealth. An example of religion protection is the stipulation of the capital punishment for infidels for his mislead and punishment for religious falsifiers, because these perpetrators can confuse religion. An example of protecting the soul is by stipulating *qishas* in murder, this provision might be able to protect others. The stipulation of punishment for drinking *khamr* is an effort to protect the mind and the stipulation of punishment for adultery is to protect the offspring. Examples of wealth protection is by enacting pinalties for extortion and thievery. With this punishment, people are expected to be deterred and not commit theft. To complete *Maslahah dharuriyah* other *maslahah* can be used as a completion, for example, the announcement of *qishash* punishment implementation which allows others to see so it creates a deterrent effect for others. It is also forbidden to drink *khamr* even if it is just a little, because a little can lead to a lot.
- b) *Maslahah hajiyah* is beneficial for protecting humans in general, such as the stipulation of guardianships in child marriage, which in fact there is no problem with it, but for the sake of protection for children, guardian is appointed in the marriage. *Maslahah hajiyah* can also be perfected with other *maslahah* that are not directly related to the essence of *maslahah*, such as the determination of *sekufu* (equivalent in terms of position, level and hierarchy) for child marriage and *mitsil* dowries. This stipulation is regulated even though it is not related to the subject of marriage.
- c) *Maslahah tahsiniyah* is beneficial to complement and strengthen the favor exists in life, such as the requirement for guardians and witnesses in marriage. With guardians and witnesses, the wedding favor that is being carried out can be publicized and kept, because people think that the marriage is good. It is indeed different when the marriage is carried out without a guardian and witnesses, the community perception will be negative.

3). *Maslahah based on the scope*

According to the scope, al-Ghazali divided *maslahah* into general *maslahah* (*mashlahah 'âmmah*) and special *maslahah* (*mashlahah khâshshah*). *Maslahah* is considered as general if it gives a wide impact in society and is considered to be special if the scope of the *maslahah* is more specific.

¹⁹ Al-Ghazali, *Al-Mustashfa*, j.1, p. 139 – 140

3. The Position of Istishlah as a Legal Proposition in Islamic Economic

Istishlah for al-Ghazali is the discovery of a legal substance that is in accordance with the *maslahah* of mind, but does not have nash as a foundation. In other words, *istishlah* or *maslahah mursalah* is a trait that correspond with the demands of the sharia and the purpose of religion, but there is no religious argument admits or denies its existence.²⁰

Istishlah can be used as legal evidence by al-Ghazali if it meets three conditions, *maslahah dharuriyah*, *qathiyyah*, and *kulliyah*. The requirement for *dharuriyah* is if it is part of the five *maslahah* principles that is sequentially protecting religion, soul, mind, offspring, and wealth. The *qathiyyah* required the benefit to actually produces *maslahah*. While the condition of *kulliyah* is *maslahah* contains goodness for Muslims.²¹ Al-Ghazali gave an example, when the source of the state treasury to finance the army is running low, while the activities of the army is escalating in order to protect the country against external attacks or avoid threats from in-country, the head of state can impose high taxes on the rich in order to meet the needs of the army. For al-Ghazali to impose high taxes is a *madharat* (tactical deceit), as well as letting the army lack of operational funds is considered as a *madharat*. In this context, the rule of "avoiding greater harm" is applied, by choosing to impose high taxes. That way, such *maslahah* is *kulliyah*, because it protects bigger community.

Scholars are splitted into two notions in addressing *maslahah mursalah* to be used as legal arguments; first, the notion that permits it such as the Malikiyah, Hanabilah, including al-Ghazali, and second, those who rejects the use of *maslahah mursalah* for legal evidence, such as Dhahiriyah, Shia, and Shafi'iyah.²²

Those who support *maslahah mursalah* concur with several considerations:

- a. The purpose of holding sharia law is to take goodness or benefit. *Maslahah* that is determined based on *maslahah mursalah* is considered as infallible *maslahah*, and to practice the infallible *maslahah* is obligatory. It is based on several nash, i.e.:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

“And We have not sent you except as a mercy to the worlds”²³

يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ

“Allah desire for you ease; He desire not hardship for you”²⁴

2. The current development led humans to a complex life. In such a situation, models and means of *maslahah* develop and change, and new *maslahah* is also

²⁰ Wahbah al-Zuhaili, *Ushûl al-Fiqh al-Islâmy*, p. 37

²¹ Al-Ghazali, *Al-Mustashfa*, j.I, p. 140 – 142

²² Wahbah al-Zuhaili, *Ushûl al-Fiqh al-Islâmy*, p. 40

²³ QS. Al-Anbiya [21] : 107

²⁴ QS. Al-Baqarah [2] : 185

discovered. If it is only based on *maslahah* described by the nash, it will trouble because the law does not develop and humans cannot advance.

3. Companions and followers use *maslahah mursalah* in their fatwas (legal notions) and *ijtihad* (legal term) to determine the law of an incident. The proposition of this law is based on consideration of *maslahah* that is considered superior, without the use of *qiyas* and there is no nash to support it, and no one denies it. In this kind of situation, consent has been taken between the companions and the followers in the matter of *maslahah* and *mursalah*. Meanwhile, doing good deeds with legal consent is obligatory. Examples of *maslahah mursalah* that have been determined by companions include the policy of collecting the Qur'an into one manuscript, which according to Umar is a virtue and *maslahah* for Muslims. Likewise, Abu Bakr's efforts to fight people who refuse to pay zakat. Another example is Umar's policy of not giving a share of zakat to converts, under consideration that they are no longer need to be given mercy while Muslims condition is already firm. This policy is based on the consideration of *maslahah mursalah*, while the nash determine if they shall receive a share of zakat.²⁵

From the explanation, it can be understood that there are three principles in the concept of *maslahah mursalah* developed by al-Ghazali, i.e: *first*, *maslahah mursalah* is not a prime and independent *maslahah*, but must be drew on the objectives of making the sharia. The objectives can be known through the Qur'an, hadith, and consent. *Second*, because *maslahah mursalah* is based on the objectives of making the sharia (*maqshd al-Syari'*), then *maslahah* is *qathiiyyah* and there should be no difference in it. Even if there is a difference, it occurs in the area of implementation and setting of goals, not on the foundation. *Third*, *maslahah* covers general favor that correspond with religious provisions.²⁶

D. CONCLUSION

Al-Ghazali can be said to be the formulator of the more detailed concept of *maslahah*. He determined the classification of *maslahah* according to the nash's endorsement, level of priority, and scope. *Maslahah mursalah* can be used as legal evidence when *maslahah* has *dharuriyyah*, *qathiiyyah*, and *kulliiyyah* qualities. In economic activities, the *maslahah* theory is very important as a means of economic dynamics. As is known, the economy has a progressive basis and is responsive to the times, so it requires flexibility. The concept of *maslahah* is a tool to adjust the development of Islamic economics with the times. Thus, Islamic economics will not be left behind from the recent changes.

²⁵ Wahbah al-Zuhaili, *Ushûl al-Fiqh al-Islâmî*, p. 44

²⁶ Husain Hamid Hasan, *Nazhariyat al-Maslahah fi al-Fiqh al-Islami*, (Cairo: Maktabah al-Mutanabbiy, 1981), p. 424 - 431

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