

Tracing the Genealogy of *Maqāṣid al-Sharī'ah* Concept: A Historical Approach

Amir Tajrid

Fakultas Syariah dan Hukum Universitas Islam Negeri Walisongo Semarang – Indonesia

amir@walisongo.ac.id

Abstract

This paper aims to explore the emergence, continuity and shifting of the meaning of *maqāṣid al-sharī'ah*. Initially, *maqāṣid al-sharī'ah* entered into the study of *uṣūl al-fiqh* and later became an independent scientific discipline. Historically, the journey of *maqāṣid al-sharī'ah* has four periods, namely, the pre-codification era, the first development era, the second development era, and the maturation era as a scientific discipline. This paper is qualitative with a descriptive-analytic method, namely exploring the concept of *maqāṣid al-sharī'ah* in various literature. The findings in this paper are, first, the history of the emergence and development of *maqāṣid al-sharī'ah* is closely related to the enforcement of Islamic law. Second, the continuity of *maqāṣid al-sharī'ah* is an ideological concept because it is based on the prevailing paradigm

Keywords: *maqāṣid al-sharī'ah*; historical tracking; *maṣlaḥah*; *uṣūl al-fiqh*

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Tulisan ini bertujuan untuk mengeksplorasi kemunculan, ketersambungan, dan pergeseran makna *maqāṣid al-sharī'ah*. Awalnya, *maqāṣid al-sharī'ah* masuk ke dalam studi *uṣūl al-fiqh* dan kemudian menjadi disiplin ilmu mandiri. Secara historis, perjalanan *maqāṣid al-sharī'ah* dapat dikelompokkan menjadi empat periode, yaitu, era prakodifikasi, era perkembangan pertama, era perkembangan kedua, dan era pematangan sebagai disiplin ilmu. Tulisan ini bersifat kualitatif dengan metode deskriptif analitik yaitu menelusuri konsep *maqāṣid al-sharī'ah* dalam berbagai literatur. Adapun temuan dalam tulisan ini yaitu, pertama, sejarah kemunculan dan perkembangan *maqāṣid al-sharī'ah* erat kaitannya dengan penetapan hukum Islam. Kedua, bentuk rantai *maqāṣid al-sharī'ah* merupakan konsep ideologis karena berpijak pada paradigma yang berlaku.

Kata Kunci: *maqāṣid al-sharī'ah*; pelacakan sejarah; *maṣlaḥah*; *uṣūl al-fiqh*

Introduction

The study of *maqāṣid al-sharī'ah* (*maqāṣid*) is currently the concern of Islamic jurists. Among the main problems in the study, the forum is the chain of birth and its development into separate disciplines, such as *fiqh*, *uṣūl al-fiqh*, *tafsīr*, *kalām*, and others. This question raises the pros and cons of Islamic jurists, especially those dedicated to the study of *maqāṣid al-sharī'ah*. The pros and cons above can be mapped into three types: the emergence of the term *maqāṣid*, its relation to *'ilm al-fiqh*, and terms of its development.¹

Maqāṣid has existed since even the prophetic era and is developing until now.² It has grown significantly in the period of *ṣaḥābah*, *tābi'īn*, *tābi' al-tābi'īn*, and continues to be matured by Islamic jurists until today.³ This era gave birth to *maqāṣid* figures who represented his era. There is a chain of thought between one another. In such a context and over time, *maqāṣid* thinking becomes very dynamic. The discourse, both from the *maqāṣid* bearers as an independent scientific discipline and the opponents so that *maqāṣid* remains a part of *uṣūl al-fiqh* science.⁴

Historical facts scattered in the works written by scholars in the field of Islamic law are a way to find the continuity of the concept of *maqāṣid al-sharī'ah*. Through this tracing, it is known that *maqāṣid* has existed long before Imam al-Ḥaramayn, who is considered to be the foundation of the concept of *maqāṣid*. This concept was then developed more comprehensively by the scholars afterwards.

The phenomenon of the continuity of the *maqāṣid* concept above encourages researchers to conduct more in-depth research. New thinking is not born without context. He was born with the influence of pre-existing ideas and

¹ Muḥammad al-Ṭāhir Ibn 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah* (Qatar: Wizārah al-Awqāf wa al-Shu'ūn al-Islāmiyyah, 2004), vol. II; 179.

² Iffatin Nur, Ali Abdul Wakhid, and Lestari Handayani, 'A Genealogical Analysis on the Concept and Development of Maqāṣid Syarī'ah', *Al-'Adalah: Jurnal Syariah dan Hukum Islam* 17, no. 1 (30 November 2020): 1–30, <https://doi.org/10.24042/adalah.v17i1.6211>; Amin Farih, 'Reinterpretasi Maṣlaḥah Sebagai Metode Istinbāt Hukum Islam: Studi Pemikiran Hukum Islam Abū Ishāq Ibrāhīm Al-Shāṭibī', *Al-Ahkam* 25, no. 1 (25 April 2015): 43, <https://doi.org/10.21580/ahkam.2015.1.25.193>.

³ Nūr al-Dīn Mukhtār Al-Khādīmī, *Al-Maqāṣid fi al-Madhhab al-Mālikī* (Riyād: Maktabah al-Rushd, 2003), 37.

⁴ 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, vols II; 185.

then made changes from the previous concept. Therefore, this study aims to clarify the genealogy (*sanad*) concept of *maqāṣid* in terms of its continuity and change.

This research is in the form of library research that relies on print and internet resources.⁵ Primary data were collected from works related to *maqāṣid al-sharī'ah*, which were produced from classical to modern eras. Meanwhile, secondary data were collected from works related to *maqāṣid al-sharī'ah*, which were used to strengthen this theme. The approach uses a historical approach. It is used to understand the dynamics of emergence, development and changes in the meaning of *maqāṣid al-sharī'ah*. To analyze the data, the writer used analytic descriptive.⁶

History of the Emergence and Development of *Maqāṣid*

1. The Emergence of the *Maqāṣid*

Maqāṣid appears simultaneously with the existence of Islamic law. It was at the same time as the revelation that was sent to the Prophet. Its presence is scattered in the texts and contained in regulations and directives with different degrees of clarity and designation. However, there was no urgent need to present *maqāṣids* in writing and bookkeeping form at that time. More than that, it is represented in a particular field of study and discipline, complete with its ontology, epistemology, and axiology foundation. Of course, at that time, *maqāṣid* was only limited to information, data, and judgments that the scholars had in mind. They present the *maqāṣid* in understanding, *ijtihād*, and decisions which he has established.⁷

There are three *maqāṣid* arguments as follows. First, the Prophet sent as a blessing and goodness for all humanity (QS. 21: 107). Second, the Koran as a guide to the path of truth (*aqwām al-manāhij*), the glory of life in the world and the hereafter (*afḍal aḥwāl al-ma'āsh wa al-ma'ād*), and the goodness of life (*aḥsan al-khawātīm wa al-mawāzin*) (QS. 17: 9). Third, the existence of the

⁵ Mestika Zed, *Metode Penelitian Kepustakaan* (Jakarta: Yayasan Obor Indonesia, 2008), 3.

⁶ Nyoman Kutha Ratna, *Metodologi Penelitian: Kajian Budaya dan Ilmu Sosial Humaniora Pada Umumnya* (Yogyakarta: Pustaka Pelajar, 2010), 336.

⁷ Allāl Al-Fāsī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa Makārimuhā* (Maktabah al-Wahdah al-'Arabiyyah al-Dār al-Bayḍā', 1963), 3.

Koran and *ḥadīths*. The main purpose of both is to provide goodness and benefit to humans in the world and the hereafter (QS. 8: 24).

2. The Development of the *Maqāṣid*

Maqāṣid al-sharī'ah began to develop during the *ṣaḥābah*, *tābi'īn*, and the era after that. The development of *maqāṣids* in each generation has different characteristics from one another. An explanation of the story and the various attributes of this *maqāṣid* is presented below.

a. *Maqāṣid* in the *ṣaḥābah* era

Maqāṣid in this era can be seen from the method used by the companions. They use an analogy (*qiyās*), reasoning (*ra'y*), ratio-legis (*'illah*), custom (*'urf*), benefits (*maṣlaḥah*), and legal determination based on both. Aḥmad bin Ḥanbāl categorized the use of *ra'y* and *qiyās* as forms of *maqāṣid al-sharī'ah*. He stated:

وهما من باب فهم مراد الشارع^٨

"Both -*qiyās* and *ra'y*- are means of knowing God's will"

b. *Maqāṣid* in the *tābi'īn* era

The *tābi'īn* era is a continuation of the *ṣaḥābah* period. The *tābi'īn* are in direct contact with the *ṣaḥābahs*. They live by *ṣaḥābah*, receive *ḥadīth*, decrees, fatwas, *ijtihād*, methods of legal *istinbāt*, and legal reasons (*ta'lilāt*) namely *maqāṣidī* and *istiṣlāḥī* from *ṣaḥābahs*. These methods are to guard and explain various legal problems.⁹

The determination of *maqāṣid* in the *tābi'īn* era uses three methods. First, the *tābi'īn* determine something according to the knowledge of the *ṣaḥābahs*. Second, they refer to texts, *maṣlaḥah*, and *qiyās*. Al-Khafīf emphasized that the *tābi'īn* in answering a problem which has no evidence in the texts, use the method of *maṣlaḥah*, *qiyās*, and other forms. Al-Khafīf stated:

نظروا فيما كانوا يراعونه من مصالح^٩

⁸ Ibn Taymiyah, *Majmū' al-Fatāwā* (Mamlakah Sa'ūdiyyah al-'Arabiyyah, n.d.), vols. XIX; 286.

⁹ Shah Waliyullāh Al-Dihlawī, *Hujjatullāh al-Bāligah*, (Beirut: Mu'assasah al-Risālah, 1984), vols. I; 412–13; Muhammad Abū Zahrah, *Tārīkh al-Madhāhib al-Islāmiyah fī al-Siyāsah wa al-'Aqā'id wa Tārīkh al-Madhāhib al-Fiqhiyyah* (Kairo: Dār al-Fikr al-'Arabi, 1989), 256.

¹⁰ Al-Shaykh Al-Khafīf, 'Al-Ijtihād fī al-Sharī'ah al-Islāmiyah', in *Majallāt al-Ijtihād fī Sharī'ah al-Islāmiyah wa Buḥūth Ukhrā* (Riyad, n.d.), 221.

"They practice to maintaining benefit"

Third, the characteristics of *maqāṣid* in this era are divided into two schools, the Iraqi school and the Ḥijāz school.

On the other hand, the *tābi'īn* faced a different problem from that of their friends. Regional expansion and differences, and cultural acculturation cause these differences. Moreover, many new issues arise, but there is no legal answer in the text. This situation demands that the *tābi'īn* perform *ijtihād* to find legal solutions from the readers. In doing *ijtihād*, the *tābi'īn* use their power of reason wisely and rid themselves of all worldly interests. They realize that Islamic law is not a game but for the sake of the realization of the good of the people.¹¹

c. *Maqāṣid* in the era of the *imām mujtahid (kubār al-a'immaḥ)*

Ibrahīm al-Nakhā'ī (d. 95 H), a teacher of Abū Ḥanīfah, was one of the *mujtahid* priests who used reasoning (*aṣḥāb al-ra'y*). He used *qiyās* and *ta'līl*. In this regard, al-Nakhā'ī stated:

إن أحكام الله تعالى لها غايات هي حكم ومصالح راجعة إلينا¹²

"Indeed, the law of Allah SWT has many objectives in the form of *ḥikmah* and goodness for us".

The priests of the *fiqh* madhhab also use *maqāṣid* in their *ijtihād*. The method of *ijtihād* is known as *al-naẓariyah al-maqāṣidi* and *al-ijtihād al-maṣlaḥī*. Of course, with different levels of importance and use of *maqāṣid*. It depends on the method and the reality they come across.¹³

1) Abū Ḥanīfah

The full name Abū Ḥanīfah, as described by Muḥammad 'Alī al-Sāyis, is Nu'mān bin Thābit bin Zuṭā' bin Maḥīn bin Tha'labah. A person of Persian descent. He was born in 80 H and died in 150 H.¹⁴ In his method of *ijtihād*, Abū Ḥanīfah did not use *qiyās*. This rejection of *qiyās* is based on four reasons, first, because of *darūrat*. Second, the existence of the famous *athar*. Third, there is a general argument that must be prioritized. Fourth, there are

¹¹ 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, vols II; 180–188.

¹² Al-'Ubaydī, *Ibn Rushd wa 'Ulūm al-Sharī'ah*, I (Beirut: Dār al-Fikr al-'Arabi, 1991), 102.

¹³ Jamāl al-Dīn 'Atiyyah, *Al-Tanzīr al-Fiqhī*, I (Maṭba'ah al-Madīnah, 1987), 60.

¹⁴ Muḥammad 'Alī Al-Sāyis, *Tārīkh al-Fiqh al-Islāmī*, ed. Muḥammad al-Fātiḥ bin Waliyyudin Al-Farfur, I (Damaskus: Dar al-Farfur, 2002), 207.

stronger *qiyās (istiḥsān)*.¹⁵ *Fuqahā'* in the Ḥanafi school constitutes most scholars who provide '*illah* (legal reasons) in almost all legal matters. They include the discussion of '*illah* and issues relating to *maqāṣid* in the study of *fiqh* and its parts.¹⁶

2) Mālik bin Anas

His full name is Mālik bin Anas bin Mālik bin Abī 'Āmir al-Aṣḥabī. He was born in Medina in 93 H and studied with the scholars there. 'Abd al-Raḥmān bin Hurmuz was his first teacher in Medina for quite a long time.¹⁷ Mālik bin Anas built his madhhab (*uṣūl al-madhhab*) on twenty arguments, namely, the text of the Koran, *ẓāhir al-naṣṣ* (general meaning), *mafhūm mukhālafah*, *mafhūm muwāfaqah*, *al-tanbīh* (commemoration of the Koran), al-Sunnah, *ijmā'* (consensus), *qiyās*, '*amal ahl al-Madīnah*, *qawl al-ṣaḥābī*, *istiḥsān*, *sadd al-dhārī'ah*, *murā'āt al-khilāf*, *istiḥbāb*, *al-maṣāliḥ al-mursalah (istiṣlāḥ)*, and *shar' man qablanā*. Of the twenty principles of Madhhab, five basics have a significant influence and have substantial differences with other schools of thought. The five are '*amal ahl al-Madīnah*, *al-maṣāliḥ al-mursalah (istiṣlāḥ)*, *qawl al-ṣaḥābī*, *al-Sunnah*, and *istiḥsān*.¹⁸

3) Al-Shāfi'i

His full name is Abū 'Abdullāh Muḥammad bin Idrīs bin 'Abbās bin 'Uthmān bin Shāfi'i al-Hāshimī al-Muṭṭalibī. He was from the Bani Muṭṭalib bin 'Abdi Manāf. He met the Holy Prophet at 'Abdi Manāf. He was born in Guzzah (Gaza), the region of Sham, in 150 H. Regarding the basics of his madhhab (*uṣūl al-madhhab*), in *al-Umm*, he stated that the source of law is the Koran and al-Sunnah. If not found in both, then with *qiyās*. If you find the *ḥadīth* of the Holy Prophet and his *sanad* is correct (*ṣaḥīḥ*), then that is the legal answer (*al-muntahī*). For him, *ijmā'* is stronger than *ḥadīth aḥad*

¹⁵ Al-Sāyis, 213–14.

¹⁶ Ika Yunia Fauzia Fauzia and Abdul Kadir Riyadi, *Prinsip-Prinsip Ekonomi Islam: Perspektif Maqāṣid as-Syarī'ah*, (Jakarta: Prenadamedia Group, 2015), 56.

¹⁷ He has the laqab Abū Dāwud and a *ḥāfiẓ* and *qāri'* *Madīnah*. He met Abū Hurayrah and took *ḥadīth* from him. He is very knowledgeable about the history of the origins of Arabia (*ansāb al-'Arab*), reliable, and broad knowledge. He died and was buried in Alexandria in 117 H. See for more details in Khayr al-Dīn Al-Zurkuli, *Al-'A'Lam*, (Beirut: Dar al-'Ilm li al-Malayin, n.d.), vols. III; 340.

¹⁸ Al-Sāyis, *Tārīkh al-Fiqh al-Islāmī*, 226–28.

(*khābar al-munfarid*). *Ḥadīth* practice is based on the explicit meaning (*ẓāhir*) of it. If the meaning of *ḥadīth* is unclear or contains multiple interpretations (*iḥtimāl*), then the meaning closest to the explicit meaning takes precedence. If several *ḥadīths* are of the same degree, then the truest *sanad* is the main one. Whereas *ḥadīth munqaṭi'* has no value at all except *ḥadīth munqaṭi'* Ibn al-Musayyab.¹⁹

The explanation above provides an understanding that in addition to the Koran and al-Sunnah, *ijmā'* and *qiyās* are sources of law used by al-Shāfi'i. He did not mention *al-maṣāliḥ al-mursalah* as the source of direction, thus proving that al-Shāfi'i rejected him. However, he still includes the dimension of benefit in every legal decision. For example, when he spoke of 'illah as one of the pillars of *qiyās*. This dimension of benefit (*maṣlahah*) is seen in his old opinion (*qawl qadīm*) and new opinion (*qawl jadīd*).

Al-Shāfi'i does not use *ḥadīth mursal* except *ḥadīth mursal* Ibn al-Musayyab whose validity has been agreed. He was the first to give *ḥadīth mursal* a disability rating. This statement contradicts the opinion of Sufyān al-Thawrī, Mālik bin Anas, and the followers of the Ḥanafi school of thought. Al-Shāfi'i also did not use *qawl al-ṣaḥābī*. The reason is, *qawl al-ṣaḥābī* may arise from wrong *ijtihād* results. He also did not give the same assessment to *ḥadīth* who was left by *ṣaḥābah*, other than *ṣaḥābah*, or residents of an area because they were considered disabled.²⁰

Apart from rejecting *ḥadīth mursal* and *qawl al-ṣaḥābī*, Al-Shāfi'i also rejects *istiḥsān* as evidence. He denied and left the *istiḥsān* which were widely used by the Māliki and Ḥanafi schools. He said: *من استحسّن فقد شرع*, (whoever uses *istiḥsān*, he plays the

¹⁹ Al-Sāyis, 233–38.

²⁰ Al-Sāyis, 238.

law).²¹ Specifically, al-Shāfi'ī wrote a rebuttal to the *istihsān* entitled *Ibtāl al-Istihsān*.²²

About *qiyās*, he does not apply it unless the '*illah* is clear (*munḍabit*). He also refused to make collisions with '*amal ahl al-Madīnah*. This refusal he wrote in detail in the book of *al-Umm*.²³ In this book, there are differences of opinion between al-Shāfi'ī and other scholars on several *fiqh* issues.²⁴

4) Aḥmad bin Ḥanbal

His full name is Abū 'Abdillāh Aḥmad bin Ḥanbal bin Hilāl bin Asad al-Shaybānī al-Marwazī al-Baghdādī.²⁵ Ibn al-Qayyim, in *I'lām al-Muwaqqi'īn*, asserts that the fatwa of Aḥmad bin Ḥanbal is constructed in several ways as follows.²⁶

- a) Religious texts (*al-nuṣūṣ*) include Koran and *ḥadīth marfū'*
- b) The *ṣaḥābah* fatwa. If one fatwa is found from a *ṣaḥābah* and there is no rejection from another *ṣaḥābah*, then one cannot turn to that other *ṣaḥābah* fatwa. Such *ṣaḥābah* fatwas cannot be said to be *ijmā'*. *Ṣaḥābah* fatwas must be preceded by action ('*amal*), *ra'y* (reasoning), and *qiyās* (analogy).
- c) When there is a difference of opinion among the *ṣaḥābahs*, one must choose the closest statement to the Koran and al-Sunnah and must not be out of his thought.
- d) Using the methods of *al-maṣāliḥ al-mursalaḥ (istiṣlāḥ)* and *ḥadīth ḍa'īf*, when there are no arguments against them.
- e) *Qiyās* is only used in a forced state (*ḍarūrāt*), i.e. when *ḥadīth*, *qawl ṣaḥābī*, *al-maṣāliḥ al-mursalah (istiṣlāḥ)*, and *ḥadīth ḍa'īf* are not found.

²¹ 'Abd al-Wahhāb Khallāf, *Maṣādir al-Tashrī' fī Mā lā Naṣṣa Fih* (Kuwait: Dār al-Qalam li al-Nashr wa al-Tawzī', 1994), 89; Maskur Rosyid, *Implementasi Konsep Maslahat Al-Tūfī dalam Fatwa MUI (2005-2010)*, 1st ed. (Magelang: Ngudi Ilmu, 2013), 4.

²² Muḥammad Yūsuf Mūsā, *Tārīkh al-Fiqh al-Islāmī* (Kairo: Dār al-Kutub al-Ḥadīthah, 1958), 259; Al-Sāyis, *Tārīkh al-Fiqh al-Islāmī*, 238.

²³ Al-Sāyis, *Tārīkh al-Fiqh al-Islāmī*, 239.

²⁴ 'Abd al-Ḥayy Ibn al-'Imād Al-Ḥanbalī, *Shadharāt al-Dhahab fī Akhbār Man Dhahab* (Kairo: Maktabah al-Qudsi, n.d.), vols. VII; 277-88.

²⁵ Al-Sāyis, *Tārīkh al-Fiqh al-Islāmī*, 242.

²⁶ Ibn al-Qayyim Al-Jawziyyah, *I'lām Al-Muwaqqi'īn 'an Rabb Al-'Ālamīn*, ed. Muḥammad Muḥyiddin 'Abdul Majīd (Beirūt: Dār al-Fikr, n.d.), 32.

Tracing the Concept of *Maqāṣid al-sharī'ah*

1. The term *maqāṣid al-sharī'ah* in the era of the Prophet

The era of *risālah* ended when the Prophet died. In that era, *maqāṣid* appeared at the same time as the law. The Holy Prophet, in this case, conveyed and established legal status. *Maqāṣid* is a consideration and a basis for doing charity and exploring the law. *Maqāṣid* exists in every word, deed, and stipulation of the Prophet, and the strengthening of practice by *ṣaḥābahs*.²⁷

In this era, *maqāṣid* is depicted in the sunnah. This existence is evident from several '*illah*, *ḥikmah*, and *sirr* associated with specific laws. For example, the prohibition of keeping sacrificial meat for more than three days as food supplies for the Bedouins (*al-a'rābī*) needs it. Then the Prophet allowed it when they did not need it anymore. Another example is the reason ('*illah*) obligation to ask permission (*al-isti'dhān*) to enter someone else's house to maintain dignity and avoid disclosing household secrets prohibited from being seen by others.²⁸

2. Expressions of *maqāṣid al-sharī'ah* in the *ṣaḥābah* era

The expression of the *maqāṣid* in this era is more evident than in the previous period. This clarity is because the situation and conditions are different from the time of the *risālah*. In this era, the need to reveal and explain new problems and events due to the expansion of Islamic territory is urgent. The facts prove that *ṣaḥābahs* have carried out the maintenance of *maqāṣid* in some legal decisions. They put forward the principle of ease (*al-taysīr*), lightness (*al-takhfīf*), softness (*al-rifq*), avoiding stiffness (*al-taysīr*, *al-tashaddud*, *al-tanaṭṭu'*, *al-ta'ammuq*), avoiding excess in giving excessive burdens (*al-mubālaghah*; *al-takalluf*), and so on. The actions of these friends are by the meaning of the *ḥadīth*, which prohibits providing undue burdens. *Tanaṭṭu'* and *ta'ammuq* have the same purpose, namely rigid and harsh in words and deeds. Meanwhile, *takalluf* means giving a responsibility beyond one's ability. These three words (*tanaṭṭu'*, *ta'ammuq*, and *takalluf*) are terms related to the *maqāṣid* used at that time.

3. Several terms refer to the meaning of *maqāṣid*

²⁷ 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, 185–88.

²⁸ Muḥammad Muṣṭafā Shalabī, *Ta'līl al-Aḥkām* (Beirut: Dār al-Naḥḍah al-'Arabiyah, 1981), 23–24; Muḥammad Shārīf Al-Raḥamūni, *Al-Rukhaṣ al-Fiqhiyyah min al-Qur'ān wa al-Sunnah al-Nabawiyah* (Tunis: Maṭba'ah al-'Arabiyah, 1986), 344–45; Al-Dihlawi, *Hujjatullāh al-Bāligah*, vols I; 30.

Before describing the genealogy of the *maqāṣid al-sharī'ah* concept, the author first explains the terms used by scholars in expressing the sense of *maqāṣid al-sharī'ah*. Classical scholars used different words when describing the nature of *maqāṣid*. The use of these other terms and phrases has a different level of relevance to the designation, name and meaning of *maqāṣid al-sharī'ah*. Their primary attention is focused on the method of presenting *maqāṣid al-sharī'ah* and its application in performing *ijtihād*. They do not try to codify (*tadwīn*), define (*ta'rīf*), depiction (*tamthīl*), basic argumentation (*ta'ṣīl*), etc.

The following descriptions are terms often used by scholars, classical and modern. They use these terms to describe the purpose of the lawmaker (*al-Shāri'*), the purpose of revelation (*maqṣūd al-wahy*), the benefit of humanity (*maṣāliḥ al-khalq*). Besides that, they are also used to shape the content, theory, and development of this discipline. Some of these terms are as follows.

- a. الحكمة المقصودة بالشريعة (*ḥikmah* intended by *sharī'ah*).²⁹
- b. المصلحة (*al-maṣlahah*, benefit).³⁰
- c. نفي الضرر, رفع الضرر, وقطع الضرر (negating, eliminating and canceling the danger).³¹
- d. دفع المشقة ورفع المشقة (rejects and removes difficulties).³²
- e. رفع الحرج والضييق وتقرير التيسير والتخفيف (eliminates difficulties and constraints while establishing convenience and lightness)³³
- f. العلل الجزئية للأحكام الفقهية ('*illat* which is particular for the rule of law).³⁴

²⁹ Abū al-Wālid Muḥammad Ibn Rushd, *Faṣl al-Maqāl wa Taqrīru ma Bayn al-Sharī'ah wa al-Ḥikmah Min al-Ittiṣāl* (Beirut: Dār al-Mashriq, 1982), vol. IV; 49; Maskur Rosyid, 'Membincang Kembali Hubungan Syariah dan Filsafat', *Istigha* 2, no. 1 (2019): 53–54.

³⁰ Al-Jawziyyah, *l'lām al-Muwaqqi'in 'an Rabb al-'Ālamīn*, vol. III; 14.

³¹ Abū al-Wālid Muḥammad Ibn Rushd, *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid* (Beirut: Dār al-Fikr, n.d.), vols II; 335.

³² Abū Bakr Ibn Al-'Arabī, *Aḥkām al-Qur'ān* (Beirut: Dār Al-Kutub Al-'Ilmiyyah, 2003), vols I; 200; Rushd, *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid*, vols I; 143.

³³ Al-Raḥamūni, *Al-Rukhaṣ al-Fiḥiyyah min al-Qur'ān wa al-Sunnah al-Nabawiyyah*, 120–21.

³⁴ Initially, the use of the word 'illat' referred to the meaning of *ḥikmah* and *maṣlahah*. However, on the next journey, when it is in the hands of *uṣūliyyūn*, it leads to understanding the nature / state that is real / clear and measurable. The truth is that the word 'illat' is used in two senses which have a real connection.

- g. ما يتفرع عن العلة كالموجب والسبب والمؤثر وغيره (other terms of 'illah namely *al-mūjib*, *al-sabab*, *al-mu'thir*, and others).³⁵
- h. معقولية الشريعة وتعليقاتها وأسرارها (logic, consideration, and *sharī'ah* secrets).
- i. لفظ المعاني (*ma'ānī* means meaning). The scholars express the word *ma'ānī* to denote the goal (*maqāṣid*) and benefit (*maṣāliḥ*) contained in *sharī'ah* and the laws of Allah SWT.³⁶
- j. كلمات الغرض والمراد والمغزى (purpose words meaning substance). The scholars expressed *maqāṣid al-sharī'ah* with these expressions.³⁷

4. *Maqāṣid al-Sharī'ah* in the terminology of the scholars

Initially, none of the scholars defined *maqāṣid al-sharī'ah*. The definition of *maqāṣid al-Sharī'ah* only emerged when contemporary scholars gave its meaning. Terms like المعاني, الحكم, الغاية, الاسرار, الغايات, الشارع, التشريع, المصلحة, المصالح are keywords in several definitions. The following are *maqāṣid* terms put forward by scholars.

- a. Muḥammad Ṭāhir Ibn 'Āshūr (1366 H), defines *maqāṣid* as several meanings and pearls of *ḥikmah* described by the lawmaker [*al-Shāri'*] in the whole or most of the laws that are enacted. These meanings and *ḥikmah* do not refer to a particular type of sharia law. Included in this category are some characteristics and general objectives of sharia, as well as many meanings that cannot be abandoned in the application of shara' [*al-tashrī'*] law. Likewise, many meanings and pearls of *ḥikmah* are also not explained in their entirety in *fiqh*, but several meanings and pearls of *ḥikmah* are explained in most laws.³⁸

That is, on the one hand, 'illat is related to a clear and measurable nature / state, on the other hand' illat is also related to the disclosure of the *ḥikmah* of this nature / state, demeanor (*maṣlaḥah*), and its enactment (*masyru'iyah*). Abū Ishāq Ibrāhīm bin Mūsā Bin Muḥammad Al-Shāṭibī, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah* (Beirut: Dār al-Ma'rifah, 1975), 265; Aḥmad Al-Raysūnī, *Nazarīyyāt al-Maqāṣid 'Ind al-Imām al-Shāṭibī* (Rabāṭ al-Magrib: Dār al-Amān, 2003), 10.

³⁵ Shalabī, *Ta'līl al-Aḥkām*, 158.

³⁶ Al-Raysūnī, *Nazarīyyāt al-Maqāṣid 'Ind al-Imām al-Shāṭibī*, 14.

³⁷ Al-Raysūnī, 15.

³⁸ The terminology of Ibn 'Asyur has been quoted by a number of other *maqāṣid* thinkers such as: al-Khādimi, Muḥammad al-Ḥabīb Ibn al-Khawjah, and Abdūl Azīz Ibn 'Abd al-Raḥmān Ibn 'Alī ibn Rab'ah Nūr al-Dīn Mukhtār Al-

- b. 'Allāl al-Fāsi states that *maqāṣid al-Sharī'ah* is the aim and secret of the law that has been laid by the lawmaker [*al-Shāri'*].³⁹
- c. Raysūni defines *maqāṣid al-sharī'ah* with the objectives that *al-Shāri'* has laid out to be investigated for the benefit of humankind.⁴⁰
- d. Muḥammad bin Sa'ad al-Yūbī defines it with several meanings, *ḥikmah*, and the like that are guarded by *al-Shāri'* in enacting laws, both general and specific, which aim for the benefit of humans.⁴¹
- e. Al-Khādimī defined *maqāṣid* with several meanings described in *shara'* law and the meanings that resulted from it. Sometimes, several meanings are in the form of *ḥikmah: juz'ī* (particular), and in the form of benefit, *kullī* (general). A number of these meanings have the same goal, namely ensuring obedience to Allah SWT and realizing the benefit of humankind in this world and the hereafter.⁴² Al-Khādimī emphasized that there are several types of benefit, namely *maṣlaḥah fardiyyah* and *maṣlaḥah āmmah*, *maṣlaḥah* which are *qaṭ'ī-yaqīnī* and *ẓanni-ih̄timālī*, and so on.⁴³

Continuity of the Concept of *Maqāṣid al-Sharī'ah*

The theory of Continuity and Change states that existing concepts influence the emergence of a concept. In this context, Karl Mannheim (Hungary, 1893-1947), as quoted by Muhyar Fanani, stated that new thoughts, concepts and theories can be ideological or utopian when linked to pre-existing thoughts, concepts and theories. When new thoughts, concepts and theories are based on the prevailing paradigm, that thought is called ideology, so that new thinking is

Khādimī, *ʿIlm al-Maqāṣid al-Sharʿiyyah* (Riyad: Maktabah al-ʿUbayyikān, 2001); Muḥammad al-Ḥabīb Ibn Al-Khawjah, *Bayn ʿIlmay Uṣūl al-Fiqh - Maqāṣid al-Islāmiyyah* (Qatar: Wizārat al-Awqāf wa Al-Shuʿun al-Islāmiyyah, n.d.); ʿAlī Ibn Rabīʿah, *ʿIlm Maqāṣid al-Shāriʿah* (Riyāḍ: al-Mamlakah al-ʿArabiyyah al-Suʿūdiyyah, 2002).

³⁹ Al-Fāsi, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa Makārimuhā*, 3.

⁴⁰ Al-Raysūnī, *Nazarīyyāt al-Maqāṣid ʿInd al-Imām al-Shātibī*, 7.

⁴¹ Muḥammad Sa'ad Al-Yūbī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa ʿAlāqatuhā bi al-Adillah al-Sharʿiyyah* (Riyad: Dār al-Hijrah, 2002), 37.

⁴² Al-Khādimī, *ʿIlm al-Maqāṣid al-Sharʿiyyah*, 17.

⁴³ Nūr al-Dīn Mukhtār Al-Khādimī, *Al-Maqāṣid al-Sharʿiyyah wa Ṣilatuhā bi al-Adillah al-Sharʿiyyah wa al-Muṣṭalaḥāt al-Uṣūliyyah* (Riyad: Dār Isybilia, 2003), 29.

ideological. This section will present a chain of concepts of *maqāṣid al-sharī'ah* based on a specific period based on the description above.

1. Pre-codification (prophetic era until early III century H)

The pre-codification era includes the era of *risālah*, *ṣaḥābah*, *tābi'īn*, and the *a'immāt al-madhāhib*. Traces of *maqāṣid al-sharī'ah* have appeared in this era, along with the existence of *sharī'ah* and its instructions. However, in this era, *maqāṣid al-sharī'ah* is categorized as scientific facts rooted in the Prophet (s), the *ṣaḥābahs*, and the scholars. *Maqāṣid al-sharī'ah* is scattered among his fatwas, sources of reference, works, and thoughts. This is because the word *maqāṣid* is intertwined with the word *ṣyarī'ah*.⁴⁴

The existence of *maqāṣid al-sharī'ah* in this era has not shown the perfect format and structure to be called a concept or theory. It is only a marker of the birth of general *maqāṣid* thoughts. It does not have a basis and rules and is still free from bookkeeping, division and argumentation. This condition becomes the basic assumption that the development of *maqāṣid* in the next period depends on the continuity of scientific work, the continuity of *ijtihād*, and the establishment of law (*tashrī'*). This is the most tangible result of scientific work in the current era of *fiqh*.

The existence of *maqāṣid*, which is only limited to information, data, and legal rulings for the ulama, resulted in two important facts. First, *maqāṣid* until the end of the 3rd century H has not been of particular concern and has not become a separate scientific topic. The *maqāṣid* understood by the scholars is still shrouded in their studies of *ḥikmah*, *'illah*, *munāsabah*, and *ma'nā*. Therefore, *maqāṣid* can only be found in a number of the methods of reasoning they use, such as *qiyās*, *istiḥsān*, and considerations of benefit. Second, the terms *maqāṣid* and *maqāṣidiyyūn*, which are based on concepts or theories and experts in the field of *maqāṣid* have not been found. Meanwhile, in that era, the terms *tafsīr-mufasssīrūn*, *fiqh-fuqahā'*, *uṣūl-uṣūliyyūn*, which were based on a concept or theory from experts in these fields, already existed.

2. The era of the first development (early 3rd to 5th century AH): The emergence of the *maqāṣid* theory

⁴⁴ 'Aṭīyyah, *Al-Tanzīr al-Fiqhī*, 69.

The development of *maqāṣids* during this era was not clearly defined as it is known today. However, scholars in this era have expressed the early theories of *maqāṣid al-sharī'ah*. Among them are:

- a. Al-Ḥākim al-Tirmīdhī Abū 'Abdillāh Muḥammad bin 'Ali (d. 296 H/908 M). Al-Ḥākim al-Tirmidhi was not a jurist (*faqīh*) and *uṣūlī*, but he was better known as a Sufi and a philosopher. However, he first used the term *maqāṣid* and made it the title of his work. Among these books are: *al-Ṣalāh wa Maqāṣiduhā*, *al-Ḥajj wa Asrāruh*, *al-'Ilāl*, *'Ilāl al-Sharī'ah*, and *'Ilāl al-'Ubūdiyyah*.⁴⁵
- b. Abū Zayd al-Balkhī (d. 322 H/933 M) was the first character to reveal the *maqāṣid mu'āmalah*, *al-'Ibānah 'an 'Ilāl al-Diyānah* (Explanation of the Purposes Behind Worship Practices). He examines the *maqāṣid* behind the Islamic juridical laws. He also wrote a remarkable book about benefit with the title *Maṣāliḥ al-Abdān wa al-Anfus* (Some Benefits of Body and Spirit). He explained that Islamic practices and laws contribute to health, both physically and mentally.⁴⁶
- c. Abū Manṣūr al-Matūrīdī (d. 333 H) who is better known as the kalam scholar. He was the founder of the al-Matūrīdīyah school, which the Ḥanafī school of thought followed. He is one of the *imām ahl al-sunnah* who has several works in the field of *uṣūl al-fiqh*. Among his works that talk about *maqāṣid* is *Ma'khadh al-Sharī'ah*.⁴⁷
- d. Abū Bakr al-Qaffāl al-Shāshī (d. 365 H) is one of the central figures of classical *uṣūl al-fiqh*. He is a follower of al-Shāfi'ī and one of the writers of *al-Risālah*. Among his works related to *maqāṣid al-sharī'ah* is *Maḥāsin al-Sharī'ah* (The beauties of the Shari'ah). According to him, one cannot possibly bring out the beauties in Islamic law except by exposing *ḥikmah* and objectives.⁴⁸ In the book, he wrote an introduction (about 20 pages) and continued with the division of chapters as in traditional *fiqh* books. He mentions each law briefly and elaborates on the *maqāṣid al-*

⁴⁵ Al-Raysūnī, *Nazariyyāt al-Maqāṣid 'Ind al-Imām al-Shātibī*, 27–28.

⁴⁶ Jasser Awdah, *Membumikan Hukum Islam Melalui Maqāṣid As-Syari'ah* (Bandung: Pustaka Mizan, 2015), 46.

⁴⁷ Al-Raysūnī, *Nazariyyāt al-Maqāṣid 'Ind al-Imām al-Shātibī*, 28–29.

⁴⁸ Ibn al-Qayyim Al-Jawziyyah, *Miftāḥ Dār al-Sa'ādah wa Manshūr Wilāyāt al-'Ilm wa al-'Irādah* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), 42.

sharī'ah and the *ḥikmah* behind them. This work marked an essential step in the development of the theory of *maqāṣid al-sharī'ah*.⁴⁹

- e. Abū Bakr al-Abharī (d. 375 H) is a character who combines *fiqh* with *uṣūl al-fiqh*. The two fields he compiled simultaneously. Al-Khāṭib al-Bagdādī emphasized that al-Abharī has several works that review the Mālikī school of thought by providing support for the arguments used and rejecting all opposing views.⁵⁰ Among the works of al-Abharī are *Kitāb al-Uṣūl*, *Ijmā' Ahl al-Madīnah*, and *Mas'alāt al-Jawāb wa al-Dalā'il wa al-'Ilal*. The last book has an essential meaning in topics related to the study of *maqāṣid al-sharī'ah*,⁵¹
 - f. Al-Baqillāni (d.403 H), he was nicknamed *Syaykh al-Sunnah wa Lisān al-Ummah* (al-Sunnah teacher and mouthpiece of the ummah). He is categorized as Mujaddid al-Mi'ah al-Rābi'ah (reformer of the 4th century H). If al-Shāfi'ī was the first compiler of the science of *Uṣūl al-fiqh*, then al-Baqillāni was the first to expand the scope of the study material of *uṣūl al-fiqh* science. He incorporated the elements of kalam science into it, namely the study of *tahṣīn wa taqbiḥ* (good and bad).⁵² Evidence that shows that al-Baqillāni made a significant contribution to the development of the study of *uṣūl al-fiqh* is through his work entitled *Al-Taqrīb wa al-Irshād fi Tartīb Ṭuruq al-ijtihād*. This book he then summarized himself into two, namely *Al-Irshād al-Mutawassiṭ* and *Al-Irshād al-Ṣaghīr*.⁵³
3. The second development era (5th century to 8th century AH): The emergence of Islamic legal philosophy

‘Abd al-Raḥmān bin Bayyah stated that the fifth century was the century where Islamic legal philosophy emerged. In this century, literal and nominal methods are considered incapable of answering the complexity of problems faced by the ummah. The development of the theory of *al-maṣlaḥah al-mursalah*

⁴⁹ Awdah, *Membumikan Hukum Islam Melalui Maqāṣid As-Syarī'ah*, 47.

⁵⁰ Al-Qādī ‘Iyād, *Tartīb al-Madārik wa Taqrīb al-Masālik li Ma'rifāt 'A'lām Madhhab Mālik* (Wizārat al-Awqāf al-Maghrabiyyah, n.d.), vols. VII; 183–92.

⁵¹ ‘Iyād, 185.

⁵² Al-Raysūnī, *Nazariyyāt al-Maqāṣid 'Ind al-Imām al-Shāṭibī*, 31.

⁵³ ‘Iyād, *Tartīb al-Madārik wa Taqrīb al-Masālik li Ma'rifāt 'A'lām Madhhab Mālik*, 69–70.

was carried out to cover the shortcomings of the *qiyās* method and to encourage the emergence of the *maqāṣid al-sharī'ah* theory.

Al-Burhān fi Uṣūl al-Fiqh by al-Juwaynī is the first work of *uṣūl al-fiqh* which introduces the theory of *al-ḍarūriyah* (emergency level; *al-kulliyah al-khamsah*). This theory is similar to Abraham Maslow's theory of levels of need. According to al-Juwaynī, there are five levels of emergency, namely, first, relating to *ḍarūrāt* (necessity), such as *qiyās*. It was second, related to *al-ḥājāt al-'āmmah* (public interest), such as leasing contracts and third, related to *al-taḥallī bi al-mukarramāt wa al-taḥallī al-naqā'idihā* (moral behavior), such as cleanliness or purity and fourth, related to *al-mandūbāt* (suggestions). Fifth, related to *mā lā yazhar ta'līl wāḍiḥ wa la maqṣad muḥaddad* (something that is not included for a specific reason). According to him, the purpose of establishing Islamic law is for *al-'iṣmah*, namely the maintenance of faith, soul, mind, family and property.⁵⁴

Abū Ḥāmid al-Gazzālī (d. 505 H/1111 M), in the book *Al-Mustaṣfā*, further developed the *maqāṣid* theory. He called it *al-kulliyāt al-ḍarūriyyat wa al-istiṣlāh*.⁵⁵ He arranged the levels of emergency (*tartīb al-ḍarūriyyāt*), namely religion, soul, mind, descent, and property. He was the first to use the term *al-ḥifẓ* (guardianship). He refuses to give legitimacy to any *maqāṣid* or *maṣāliḥ*, and even he calls it pseudo benefit (*al-maṣāliḥ al-Mawhūmah*).⁵⁶ According to him, *maqāṣid* has been tested by texts and *maqāṣid* is not something that gets the legitimacy of the texts.⁵⁷

Apart from these two figures, several *maqāṣid* thinkers emerged from the mainstream. They try to get out of existing study patterns and avoid repeating studies. They are not mastering of *uṣūl* (*uṣūliyyūn*) in the strict sense. They are both *uṣūl* experts and jurists (*al-uṣūliyyūn al-fuqahā*). It is just that their study of *maqāṣid* is still fleeting in the middle of discussion around the issue of *fiqh* or *uṣūl al-fiqh*. *Maqāṣid* thinkers of this category are; 'Izz al-Dīn bin 'Abd al-Salām (d. 660

⁵⁴ Al-Juwaynī, *Al-Burhān fi Uṣūl al-Fiqh*, ed. 'Abd al-'Azīm Al-Dīb (al-Manshurah: al-Wafā', 1998), vols. II; 621–22, 747; Saim in his writing's states that *maqāṣid al-sharī'ah* includes seven things, namely religion, soul, mind, descent, property, honor, and state. Saim Kayadibi, 'The State as an Essential Value (*Ḍarūriyyāt*) of the *Maqāṣid al-Sharī'ah*', *Ahkam : Jurnal Ilmu Syariah* 19, no. 1 (9 July 2019), <https://doi.org/10.15408/ajis.v19i1.6256>.

⁵⁵ Abū Ḥāmid Muḥammad Ibn Muḥammad Al-Ghazzālī, *Al-Mustaṣfā min 'Ilm al-Uṣūl* (Beirut: Dār al-Fikr, n.d.), vols I; 139.

⁵⁶ Al-Ghazzālī, vols I; 172.

⁵⁷ Jasser Awdah, *Maqāṣid Dalīlun li al-Mubtadī* (London: al-Ma'had al-'Ālamī li al-Fikr al-Islāmī, 2011), 45–46.

H./1261 H.), Shihāb al-Dīn al-Qarāfi (d. 684 H. / 1285 AD), Ibn Taymiyah, Ibn al-Qayim al-Jawziyah (d. 751 H/1350 M).⁵⁸

After 'Izz al-Dīn bin 'Abd al-Salām, there were figures who were regarded as pioneers in the study of *maqāṣid al-sharī'ah*. They try to make it a separate and independent scientific discipline from the science of *uṣūl al-fiqh* with its definition, discussion framework and target of study. Al-Shāṭibī (d. 790 H/1388 M), a thinker from Andalusia (Spain) is one of the pioneers of the *maqāṣid al-sharī'ah*.⁵⁹ In the book of *Al-Muwāfaqāt*, he has written a particular chapter on *maqāṣid* comprehensively. In this context, he deserves to be called the figure who initiated the science of *maqāṣid al-sharī'ah*. He has laid the foundation for this study by categorizing the *maqāṣid* into two parts; *maqāṣid al-shāri'* and *maqāṣid al-mukallaf*. Al-Jayyidi stated that such a study had never existed before. This study should be a separate work outside the book *Al-Muwāfaqāt*. Al-Shāṭibī's scientific work in the field of *maqāṣid* can be likened to the scientific work done by al-Shāfi'ī in the field of *uṣūl al-fiqh*.⁶⁰

4. Era of maturation (16th century H until now): *Maqāṣid al-sharī'ah* as independent science⁶¹

After al-Shāṭibī, scientific discourse regarding *maqāṣid al-Sharī'ah* as an independent scientific discipline had experienced a vacuum. Until the end of the XX century AD, the scientific discourse was raised again. Two reformers emerged, namely Muḥammad Ṭāhir ibn 'Āshūr (d. 1393 H/1973 M), a thinker from Tūnis and Muḥammad Allāl al-Fāsī (d. 1394 H/1974 M), a thinker from Morocco (Magribī).⁶² The two of them continued the mega project of al-Shāṭibī. Both of them not only poured their ideas into a particular book about *maqāṣid al-sharī'ah* but also into other books. 'Allāl al-Fāsy expresses his ideas in *Maqāṣid*

⁵⁸ Abū 'Abdullāh Muhammad Al-Maqārī, *Al-Qawā'id*, ed. Ahmad bin 'Abdullāh bin Hāmid (Makkah: Ma'had al-Buḥūth wa Iḥyā' al-Turāth al-Islāmī Jāmi'ah Ummu al-Qurā, n.d.), vols I; 53; Al-Khādīmī, *Al-Maqāṣid fī al-Madhhab al-Mālikī*, 29.

⁵⁹ Al-Khādīmī, *Al-Maqāṣid fī al-Madhhab al-Mālikī*, 29; Alfa Syahriar and Zahrotun Nafisah, 'Comparison of Maqasid Al-Shari'ah Asy-Syathibi and Ibn 'Ashur Perspective of Usul Al-Fiqh Four Mazhab', *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 3, no. 2 (30 April 2020): 185, <https://doi.org/10.30659/jua.v3i2.7630>.

⁶⁰ 'Umar Al-Jayyidī, *Al-Tashrī' al-Islāmī Uṣūluh wa Maqāṣiduh* (Manshūrāt 'Ukāz: Maṭba'ah al-Najāh al-Bayḍā', 1987), 30.

⁶¹ Mahsun Mahsun, 'Rekonstruksi Pemikiran Hukum Islam Melalui Integrasi Metode Klasik dengan Metode Saintifik Modern', *Al-Ahkam* 25, no. 1 (25 April 2015): 1, <https://doi.org/10.21580/ahkam.2015.1.25.191>.

⁶² Al-Khādīmī, *Al-Maqāṣid fī al-Madhhab al-Mālikī*, 30.

al-Islāmiyah wa Makārimuhā, Difā' an al-Sharī'ah, and *al-Naqd al-Dhātī*. Meanwhile, Ibn 'Āshur poured his ideas into *Maqāšid al-Sharī'ah al-Islāmiyah*, *Tafsīr al-Taḥrīr wa al-Tanwīr*, *Uṣūl al-Nizām al-Ijtimā'ī*, *Alaysa al-Ṣubḥ bi Qarīb*, and *Kashf al-Mughṭā*.

After these two figures, the study of *maqāšid al-sharī'ah* was increasingly prevalent in various Islamic worlds. Nūr al-Dīn Mukhtār al-Khādīmī from Tunis and Aḥmad al-Raysūnī from Morocco are two crucial figures after Ibn 'Āshur and 'Allāl al-Fāsi.⁶³ Through both ideas and ideas, currently, the study of *maqāšid al-sharī'ah* continues to move dynamically. Al-Khādīmī is a professor of *maqāšid al-sharī'ah* at the University of Zaitūnah al-Ma'mūr-Tunis. He is also active as a speaker in national and international forums in the field of *maqāšid al-sharī'ah* studies. He was the successor to Ibn 'Āshur's idea who tried to make *maqāšid* an independent scientific discipline. He proved his seriousness by writing books in the field of *maqāšid al-sharī'ah*. Meanwhile, Raysūnī is a *maqāšid* thinker and senior lecturer at Moḥammad V Rabat University, Morocco. Like al-Khādīmī, he also poured the ideas of *maqāšid al-sharī'ah* into several books.⁶⁴

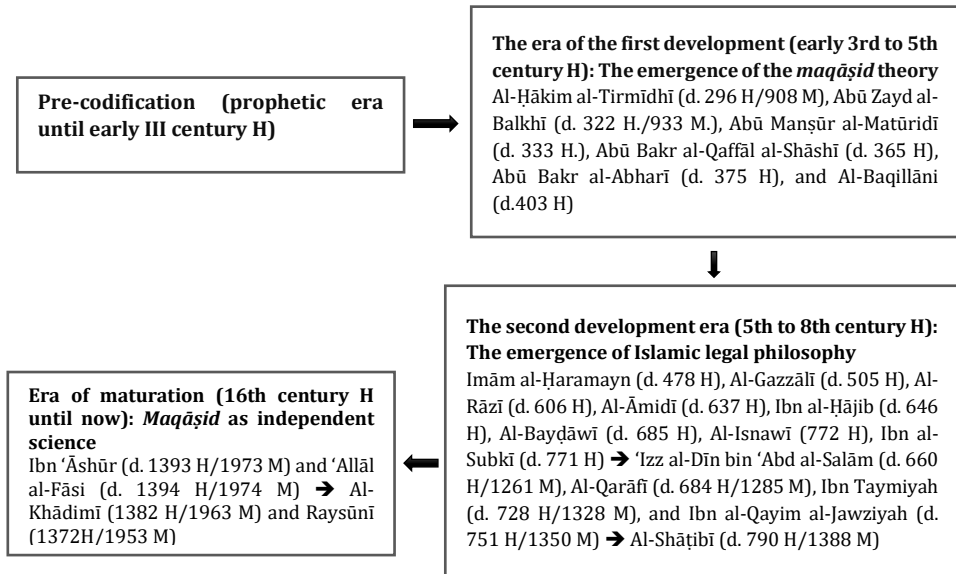


Figure 1. The conceptual journey of *maqāšid al-sharī'ah*

⁶³ Aḥmad Al-Raysūnī, *Al-Fikr al-Maqāšidī: Qawā'iduh wa Fawā'iduh* (Beirut: Dār al-Hādī, 2003), 123.

⁶⁴ Usman Betawi, 'Maqashid Al-Syariah Sebagai Dasar Hukum Islam dalam Pandangan Al-Syatibi dan Jasser Audha', *Jurnal Hukum Responsif* 6, no. 6 (2019): 32–43.

Conclusion

This study found that the journey of the *maqāṣid al-sharī'ah* was divided into four eras through historical tracing. First, the pre-codification era that occurred in the prophetic era until the early 3rd century H. In this first era, the names of *maqāṣid* figures did not explicitly display. Second, the era of the first development, namely at the beginning of the 3rd century H. to the V H. other. Third, the second development era, namely in the V H. to VIII H. century. The emergence of Islamic legal philosophy marked this era. Fourth, the era of maturation, namely the XIV H century until now. This era is the era of the independence of *maqāṣid al-sharī'ah*.

The *maqāṣid* concept of figures representing their era was initially only in the form of terms that contained the meaning and substance of the *maqāṣid*, such as the word *tanatṭu'*, *ta'ammūq*, *takalluf*, *maqṣūd al-Shāri'*, *aghrād*, *asrār*, *maṣāliḥ*, *mafāsīd*, *samāḥah*, and others. After that, the *maqāṣid* conception is described in terms of meaning, as suggested by Ibn 'Āshūr, 'Allāl al-Fāsī, Raysūnī, Muḥammad bin Sa'ad al-Yūbī, and others. The concept of *maqāṣid* was later upgraded to a new discipline. Its main characteristic is by providing a foundation ontology, epistemology, and axiology.[a]

BIBLIOGRAPHY

- Al-'Arabī, Abū Bakr Ibn. *Aḥkām al-Qur'ān*. Beirut: Dār Al-Kutub Al-'Ilmiyyah, 2003.
- 'Āshūr, Muḥammad al-Ṭāhir Ibn. *Maqāṣid al-Sharī'ah al-Islāmiyyah*. Qatar: Wizārah al-Awqāf wa al-Shu'ūn al-Islāmiyyah, 2004.
- 'Aṭiyyah, Jamāl al-Dīn. *Al-Tanzīr al-Fiqhī*. Maṭba'ah al-Madīnah, 1987.
- Awdah, Jasser. *Maqāṣid Dalīlun li al-Mubtadī*. London: al-Ma'had al-'Ālamī li al-Fikr al-Islāmī, 2011.
- . *Membumikan Hukum Islam Melalui Maqāṣid As-Syarī'ah*. Bandung: Pustaka Mizan, 2015.
- Betawi, Usman. 'Maqashid Al-Syariah Sebagai Dasar Hukum Islam aalam Pandangan Al-Syatibi dan Jasser Audha'. *Jurnal Hukum Responsif* 6, no. 6 (2019): 32-43.
- Al-Dihlawi, Shah Waliyyullāh. *Ḥujjatullāh al-Bāligah*. Beirut: Mu'assasah

al-Risālah, 1984.

Farih, Amin. 'Reinterpretasi Maşlahah Sebagai Metode Istinbāt Hukum Islam: Studi Pemikiran Hukum Islam Abū Ishāq Ibrāhīm Al-Shāṭibī'. *Al-Ahkam* 25, no. 1 (25 April 2015): 43. <https://doi.org/10.21580/ahkam.2015.1.25.193>.

Al-Fāsī, Allāl. *Maqāşid al-Sharī'ah al-Islāmiyyah wa Makārimuhā*. Maktabah al-Waḥdah al-'Arabiyyah al-Dār al-Bayḍā', 1963.

Fauzia, Ika Yunia Fauzia, and Abdul Kadir Riyadi. *Prinsip-Prinsip Ekonomi Islam: Perspektif Maqāşid as-Syarī'ah*. Jakarta: Prenadamedia Group, 2015.

Al-Ghazzālī, Abū Ḥāmid Muḥammad Ibn Muḥammad. *Al-Mustaşfā min 'Ilm al-Uşūl*. Beirut: Dār al-Fikr, n.d.

Al-Ḥanbalī, 'Abd al-Ḥayy Ibn al-'Imād. *Shadharāt al-Dhahab fī Akhbār Man Dhahab*. Kairo: Maktabah al-Qudsi, n.d.

'Iyād, Al-Qāḍī. *Tartīb al-Madārik wa Taqrīb al-Masālik li Ma'rifāt 'A'lām Madhhab Mālik*. Jilid VII. Wizārat al-Awqāf al-Maghrabiyyah, n.d.

Al-Jawziyyah, Ibn al-Qayyim. *I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn*. Edited by Muḥammad Muḥyiddin 'Abdul Majīd. Beirut: Dār al-Fikr, n.d.

———. *Miftāḥ Dār al-Sa'ādah wa Manshūr Wilāyāt al-'Ilm wa al-Irādah*. Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.

Al-Jayyidī, 'Umar. *Al-Tashrī' al-Islāmī Uşūluḥ wa Maqāşiduh*. Manshūrāt 'Ukāz: Maṭba'ah al-Najāḥ al-Bayḍā', 1987.

Al-Juwaynī, Imām al-Ḥaramayn. *Al-Burhān fī Uşūl al-Fiqh*. Edited by 'Abd al-'Azīm al-Dīb. al-Manshurah: al-Wafā', 1998.

Kayadibi, Saim. 'The State as an Essential Value (Ḍarūriyyāt) of the Maqāşid Al-Sharī'Ah'. *Ahkam: Jurnal Ilmu Syariah* 19, no. 1 (9 July 2019). <https://doi.org/10.15408/ajis.v19i1.6256>.

Al-Khādimī, Nūr al-Dīn Mukhtār. *'Ilm al-Maqāşid al-Shar'iyyah*. Riyad: Maktabah al-'Ubayyikān, 2001.

———. *Al-Maqāşid al-Shar'iyyah wa Şilatuhā bi al-Adillah al-Shar'iyyah wa al-Muştalahāt al-Uşūliyyah*. Riyad: Dār Isybilia, 2003.

———. *Al-Maqāşid fī al-Madhhab al-Mālikī*. Riyad: Maktabah al-Rushd, 2003.

Al-Khafif, Al-Shaykh. 'Al-Ijtihād fī al-Sharī'ah al-Islāmiyah'. In *Majallāt al-*

- Ijtihād fī Sharī'ah al-Islāmiyah wa Buḥūth Ukhrā*. Riyad, n.d.
- Khallāf, 'Abd al-Wahhāb. *Maṣādir al-Tashrī' fī mā lā Naṣṣa fih*. Kuwait: Dār al-Qalam Li al-Nashr wa al-Tawzī', 1994.
- Al-Khawjah, Muḥammad al-Ḥabīb Ibn. *Bayn 'Ilmay Uṣūl al-Fiqh - Maqāṣid al-Islāmiyyah*. Qatar: Wizārat al-Awqāf wa Al-Shu'ūn al-Islāmiyyah, n.d.
- Mahsun, Mahsun. 'Rekonstruksi Pemikiran Hukum Islam Melalui Integrasi Metode Klasik dengan Metode Saintifik Modern'. *Al-Ahkam* 25, no. 1 (25 April 2015): 1. <https://doi.org/10.21580/ahkam.2015.1.25.191>.
- Al-Maqrī, Abū 'Abdullāh Muḥammad. *Al-Qawā'id*. Edited by Aḥmad bin 'Abdullāh bin Ḥāmid. Makkah: Ma'had al-Buḥūth wa Iḥyā' al-Turāth al-Islāmī Jāmi'ah Ummu al-Qurā, n.d.
- Mūsā, Muḥammad Yūsuf. *Tārīkh al-Fiqh al-Islāmī*. Kairo: Dār al-Kutub al-Ḥadīthah, 1958.
- Nur, Iffatin, Ali Abdul Wakhid, and Lestari Handayani. 'A Genealogical Analysis on the Concept and Development of Maqāṣid Syarī'ah'. *Al-'Adalah: Jurnal Syariah dan Hukum Islam* 17, no. 1 (30 November 2020): 1–30. <https://doi.org/10.24042/adalah.v17i1.6211>.
- Rabī'ah, 'Alī Ibn. *'Ilm Maqāṣid al-Shārī'Ah*. Riyāḍ: al-Mamlakah al-'Arabiyyah al-Su'ūdiyyah, 2002.
- Al-Raḥamūni, Muḥammad Shārīf. *Al-Rukhaṣ al-Fiqhiyyah min al-Qur'ān wa al-Sunnah al-Nabawiyyah*. Tunis: Maṭba'ah al-'Arabiyyah, 1986.
- Ratna, Nyoman Kutha. *Metodologi Penelitian: Kajian Budaya dan Ilmu Sosial Humaniora Pada Umumnya*. Yogyakarta: Pustaka Pelajar, 2010.
- Al-Raysūnī, Aḥmad. *Al-Fikr al-Maqāṣidī: Qawā'iduh wa Fawā'iduh*. Beirut: Dār al-Hādī, 2003.
- . *Nazariyyāt al-Maqāṣid 'Ind al-Imām al-Shāṭibī*. Rabāṭ al-Magrib: Dār al-Amān, 2003.
- Rosyid, Maskur. *Implementasi Konsep Maslahat Al-Tūfī dalam Fatwa MUI (2005-2010)*. 1st ed. Magelang: Ngudi Ilmu, 2013.
- . 'Membincang Kembali Hubungan Syariah dan Filsafat'. *Istigha* 2, no. 1 (2019): 53–54.
- Rushd, Abū al-Wālid Muḥammad Ibn. *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid*. Beirut: Dār al-Fikr, n.d.

Amir Tajrid

- . *Faṣl al-Maqāl wa Taqrīr ma Bayn al-Sharī'ah wa al-Ḥikmah min al-Ittiṣāl*. Beirut: Dār al-Mashriq, 1982.
- Al-Sāyis, Muḥammad 'Alī. *Tārīkh al-Fiqh al-Islāmī*. Edited by Muḥammad al-Fātiḥ bin Waliyyudin Al-Farfur. Damaskus: Dar al-Farfur, 2002.
- Shalabī, Muḥammad Muṣṭafā. *Ta'līl al-Aḥkām*. Beirut: Dār al-Nahḍah al-'Arabiyyah, 1981.
- Al-Shāṭibī, Abū Ishāq Ibrāhīm bin Mūsā Bin Muḥammad. *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*. Beirut: Dār al-Ma'rifah, 1975.
- Syahriar, Alfa, and Zahrotun Nafisah. 'Comparison of Maqasid Al-Shari'ah Asy-Syathibi and Ibn 'Ashur Perspective of Usul Al-Fiqh Four Mazhab'. *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 3, no. 2 (30 April 2020): 185. <https://doi.org/10.30659/jua.v3i2.7630>.
- Taymiyah, Ibn. *Majmū' al-Fatāwā*. Mamlakah Sa'ūdiyyah al-'Arabiyyah, n.d.
- Al-'Ubaydī. *Ibn Rushd wa 'Ulūm al-Sharī'ah*. Beirut: Dār al-Fikr al-'Arabi, 1991.
- Al-Yūbī, Muḥammad Sa'ad. *Maqāsid al-Sharī'ah al-Islāmiyyah wa 'Alāqatuhā bi al-Adillah al-Shar'iyyah*. Riyad: Dār al-Hijrah, 2002.
- Zahrah, Muḥammad Abū. *Tārīkh al-Madhāhib al-Islāmiyyah fī al-Siyāsah wa al-'Aqā'id wa Tārīkh al-Madhāhib al-Fiqhiyyah*. Kairo: Dār al-Fikr al-'Arabi, 1989.
- Zed, Mestika. *Metode Penelitian Kepustakaan*. Jakarta: Yayasan Obor Indonesia, 2008.
- Al-Zurkuli, Khayr al-Dīn. *Al-A'lam*. Beirut: Dar al-'Ilm li al-Malayin, n.d.