

## ***Maqāṣid al-Sharī'ah* Values in Al-Māwardī's Concept of the Caliphate**

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### **Abstract**

This article aims to reveal the values of *maqāṣid al-sharī'ah* in al-Māwardī's concept of the caliphate. He emphasizes the relationship between politics and *maqāṣid al-sharī'ah*, both of which aim to realize the benefit. Through literature study using the descriptive-analytical method, this paper finds that his basic concept of the caliphate is influenced by his understanding of *maqāṣid al-sharī'ah*, including *maqāṣid al-imāmah*, *wasīlah* legal status, and *maṣlahah* rules. All three are criteria and conditions that a leader meets. He succeeded in formulating a series of prerequisites for a leader to realize the benefit of the people. These prerequisites are in line with the substance of *maqāṣid al-sharī'ah*.

**Keywords:** Al-Māwardī; caliphate; *maqāṣid al-sharī'ah*; *maṣlahah* rules

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Artikel ini bertujuan untuk mengungkap nilai-nilai *maqāṣid al-sharī'ah* dalam konsep *khalifah* Al-Māwardī. Dalam konsepnya, ia mempertegas hubungan antara politik dengan *maqāṣid al-sharī'ah*, yang keduanya bertujuan mewujudkan kemaslahatan. Melalui kajian pustaka dengan metode deskriptif-analisis, tulisan ini menemukan bahwa pondasi utama yang membangun konsep *khalifah*nya sangat dipengaruhi oleh pemahamannya terhadap *maqāṣid al-sharī'ah*. Pemahamannya tersebut terwujud dalam tiga point utama; nilai-nilai *maqāṣid al-imāmah*, status hukum *wasīlah*, dan kaidah kemaslahatan. Ketiganya merupakan kriteria dan syarat yang harus dipenuhi oleh seorang pemimpin. Ia berhasil merumuskan serangkaian prasyarat seorang pemimpin demi mewujudkan kemaslahatan. Prasyarat tersebut selaras dengan substansi *maqāṣid al-sharī'ah*.

**Kata kunci:** Al-Māwardī; *khalifah*; *maqāṣid al-sharī'ah*; kaidah *maṣlahah*

## Introduction

The growth and development of Islam and the political system that surrounds it is a reality.<sup>1</sup> Since the Prophet moved from Mecca to Yathrib, he exemplified the principles and goals of building a country. He even became a politician for ten years in that place.<sup>2</sup> The Prophet becomes the head of state and interacts with the entire community, both Muslim and non-Muslim, making and enforcing laws and handling various problems within Medina and abroad for the benefit of humanity.<sup>3</sup> It is in line with the goal of Islamic law, namely to gain benefit and avoid harm,<sup>4</sup> also the preservation of religion, soul, mind, lineage, and property (*al-kulliyāt al-khamsah*).<sup>5</sup>

After the Prophet and *al-khulafā' al-rāshidūn*, the political system and the state changed significantly. The system of government that was initially democratic with *shūrā* as a way of choosing leaders has changed. Changes in the Islamic system of government are also due to contact with the West.<sup>6</sup> Conceptions of politics and government eventually emerged from Muslim scholars. There are three tendencies of Muslim thinkers. Some are a priori and anti-Western, some take it for granted, and some are trying to find positive values from Western civilization and thought and discarded values contrary to Islam.<sup>7</sup> Knowledge of positive values by sharia in the government system is needed. Values that are fixed (*thabāt*) and flexible (*murūnah*) can change according to specific times, places and conditions.

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<sup>1</sup> Rashda Diana, 'Pelembagaan Politik Negara Modern al-Mawardi' (Universitas Muhammadiyah Yogyakarta, 2019), 1, <http://repository.umy.ac.id/handle/123456789/32815?show=full>.

<sup>2</sup> Santosa Irfaan, 'Al-Khilāfah Menurut al-Māwardy', *Khatulistiwa Journal of Islamic Studies* 3, no. 2 (2013): 121, <https://doi.org/10.24260/khatulistiwa.v3i2.218>.

<sup>3</sup> Ḥāfiẓ Aḥmad 'Ajjā Karamī, *Al-Idārah fī 'Aṣri al-Rasūl* (Cairo: Dār al-Salām, 2007), 76, 93.

<sup>4</sup> Abū Ishāq Ibrāhīm bin Mūsā Bin Muḥammad al-Shāṭibi, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah* (Saudi 'Arabiya: Dār Ibn 'Affān, 1997), vols II; 1.

<sup>5</sup> Abū Ḥāmid Muḥammad Ibn Muḥammad Al-Ghazzālī, *Al-Mustasfā min 'Ilm al-Uṣūl* (Beirut: Dār Iḥyā' al-Turāth al-'Ārabi, n.d.), vols II; 482.

<sup>6</sup> Rashda Diana, 'Al-Mawardi dan Konsep Kenegaraan dalam Islam', *Tsaqafah* 13, no. 1 (2017): 158–59, <https://doi.org/10.21111/tsaqafah.v13i1.981>.

<sup>7</sup> Muhammad Iqbal and Amin Husein Nasution, *Pemikiran Politik Islam dari Masa Klasik Hingga Indonesia Kontemporer* (Jakarta: Kencana Prenada Media Group, 2010), 57.

Al-Māwardī is a Muslim scholar who is concerned in the field of government systems. He has an exciting concept of the caliphate to study.<sup>8</sup> He was also the first political expert in formulating the appointment of heads of state and their dismissal. Al-Māwardī's views and thoughts result from his understanding of the goals and values of the *sharī'ah* (*maqāṣid al-sharī'ah*). He tries to produce policies and political concepts that are beneficial to society by the socio-political realities of his time. His success can be seen in his work, especially the book entitled *al-Aḥkām al-Sulṭāniyyah*. This book is the first treatise in Islamic history related to political science and state administration.<sup>9</sup>

As far as the author's search for previous research related to al-Māwardī's thoughts on *maqāṣid al-sharī'ah*, there is a work entitled, *Maqāṣid al-Sābiqah 'ind al-Imām al-Māwardī 364-450 H.* written by 'Abd al-Qādir bin Yāsīn bin Naṣīr al-Khaṭīb. The work explains that al-Māwardī is a scholar who is concerned with *maqāṣid al-sharī'ah*. This fact can be seen in his works, both related to morals, *tarbiyah*, and politics. Everything is inseparable from the values of *maqāṣid al-sharī'ah*, namely maintaining the benefit of humans in the world and the hereafter, including the benefit of religion, soul, reason, lineage, and property, based on the texts and rules.<sup>10</sup> However, al-Khaṭīb's work is still general and does not focus on the issue of the concept of the caliphate. On the other hand, the author will narrow the discussion about the values of *maqāṣid al-sharī'ah* on al-Māwardī's concept of the caliphate.

This article examines the values of *maqāṣid al-sharī'ah* in al-Māwardī's concept of the caliphate precisely. The results of this study can add insight into the principles of *sharī'ah* in the concept of the caliphate. This paper can also be a reference in studying the state system and motivating a leader and political expert to understand *maqāṣid al-sharī'ah*. This article attempts to answer two research problems through an in-depth and authoritative literature study with a descriptive-analytic approach: how is al-Māwardī's primary concern for *maqāṣid al-sharī'ah*? Moreover, How are the values of *maqāṣid al-sharī'ah* contained in the concept of caliphate?

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<sup>8</sup> Muhammad Amin, 'Pemikiran Politik al-Mawardi', *Jurnal Politik Profetik* 4, no. 2 (2016): 117-36, <https://doi.org/10.24252/jpp.v4i2.2744>.

<sup>9</sup> Diana, 'Al-Mawardi dan Konsep Kenegaraan dalam Islam', 159-60.

<sup>10</sup> 'Abd al-Qādir ibn Yāsīn ibn Nāṣir Al-Khaṭīb, 'Maqāṣid al-Sharī'ah 'ind al-Imām al-Māwardī 364-450 H', *Hawliyah Kulliyah al-Dirāsāt al-Islāmiyah wa al-'Arabiyah li al-Banāt bi al-Iskandariyah* 31, no. 3 (2015): 407, <https://doi.org/https://dx.doi.org/10.21608/bfda.2015.44149>.

## Biography and Political Situation in Al-Māwardī Era

Al-Māwardī's full name is Abū al-Ḥasan 'Alī ibn Muḥammad ibn Ḥabīb al-Māwardī al-Baṣrī al-Shāfi'ī.<sup>11</sup> While al-Māwardī is a famous nickname given to him, which comes from the words *mā'* (water) and *ward* (rose), this embedding is attributed to his family who produces the scent of rose water for sale.<sup>12</sup> Al-Māwardī was born in Baṣrah, Iraq, 364 H/973 AD,<sup>13</sup> in a family who cared about science and teaching his children;<sup>14</sup> therefore, since childhood al-Māwardī has been accustomed to studying science.

Al-Māwardī started his education in the city of Baṣrah, one of the centers of study and knowledge in the Islamic world. Then he continued his education in Baghdad, to be precise, at al-Za'farani University. He studied *fiqh* from Abū al-Qāsim 'Abd al-Wahīd al-Ṣaymar, a well-known *faqīh* of the al-Shāfi'ī school. In addition, he studied law, grammar, and literature from 'Abdullāh al-Bāfi and Shaykh Abū Ḥāmid al-Isfaraynī.<sup>15</sup> He also studied the science of *uṣūl al-fiqh*, *ḥadīth*, and *tafsīr*. He has many works in many studies, including *fiqh*, *tafsīr*, *uṣūl al-fiqh*, and *adab*.<sup>16</sup>

Al-Māwardī lived in the socio-political conditions of the Abbasid Caliphate, which was experiencing various upheavals and disputes.<sup>17</sup> At that time, luxury and hedonistic life were widespread among Muslim leaders, including wedding receptions, state official attire, and private lives. At least five things cause the emergence of turmoil. 1. Loss of trust in all agreements made. 2. Distrust of power. 3. Fanaticism and competition between madhhabs. 4. Disputes between

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<sup>11</sup> Shams al-Dīn Muḥammad ibn Aḥmad ibn 'Uthmān Al-Dhahabī, *Siyar A'lām al-Nubalā'* (Beirut: Mu'assasah al-Risālah, 1986), vols XVIII; 64; Abū al-'Abbās Shams al-Dīn Aḥmad ibn Muḥammad ibn Abī Bakr ibn Khalikān Al-Irbilī, *Wafayāt al-A'yān wa Anbā' Abnā' al-Zamān* (Beirut: Dār Ṣādir, 1994), vols III; 282.

<sup>12</sup> Aḥmad Wahbān, *Al-Māwardī Rā'id al-Fikr al-Siyāsī al-Islāmī* (Mesir: Dār al-Jāmi'ah al-Jadidah li al-Nasr, 2001), 13.

<sup>13</sup> Taqī al-Dīn Ibn Qāḍi, *Ṭabaqāt al-Shāfi'iyyah* (Beirut: 'Ālam al-Kutub, 1407), 231.

<sup>14</sup> Al-Khaṭīb, 'Maqāṣid al-Sharī'ah 'ind al-Imām al-Māwardī 364-450 H', 411.

<sup>15</sup> Al-Dhahabī, *Siyar A'lām al-Nubalā'*, vols XVIII; 64.

<sup>16</sup> Tāj al-Dīn Abī Naṣr 'Abd al-Wahhāb ibn 'Alī ibn 'Abd al-Kāfi Al-Subkī, *Ṭabaqāt al-Shāfi'iyyah al-Kubrā* (Hajr li al-Ṭabā'ah wa al-Tauzī', 1413), vols V; 268; Al-Dhahabī, *Siyar A'lām al-Nubalā'*, vols XVIII; 65.

<sup>17</sup> Muzayyin Ahyar, 'Almawardi dan Konsep Khilafah Islamiyyah: Relevansi Sistem Politik Islam Klasik dan Politik Modern', *Al-A'raf: Jurnal Pemikiran Islam dan Filsafat* 15, no. 1 (2018): 1-26, <https://doi.org/10.22515/ajpif.v15i1.1123>.

the Abbasids and the Alawites. 5. Lack of attention to political issues.<sup>18</sup> As a result, many provinces broke away from Abbasid authority, even revolted and tried to seize the center of power in Baghdad.<sup>19</sup> Munawir Syadzali, in this case, said that it was impossible for an Islamic kingdom with its vast territory to submit to one head of state at that time.<sup>20</sup>

Al-Māwardī was also involved with the struggle for political power between the Arabs, Turks, and Persians. In the second and third periods of the Abbasid Dynasty, political contestation heated up so that the stability of the government was disturbed.<sup>21</sup> Attempts to overthrow power have even occurred in some areas. The central government is no longer the caliph in Baghdad but high-ranking officials and commanders of Turkish and Persian nationality. In such conditions, Al-Māwardī was able to place his role well, thus gaining trust and a strategic position in the government. In his capacity as a jurist of the al-Shafi'i school, he became a judge in various cities.<sup>22</sup> Because of his expertise in diplomacy, he got the task of being a mediator between the Abbasid and Buwayhiyah governments. Al-Māwardī succeeded in carrying out his mission to the satisfaction of both parties. The Abbasids continued to hold the highest position of the caliphate, while the Buwayhiyah exercised political and governmental power.<sup>23</sup>

Al-Māwardī died on Tuesday, 30 Rabi' al-Awwal 450 H/27 May 1058 AD at 86 years. He was buried in the Bāb Harb cemetery, the city of Mansur in Baghdad. Among his famous students were al-Khaṭīb al-Baghdādī and Abū al-'Izz ibn Kadaṣ.<sup>24</sup>

## Al-Māwardī's Concept of Caliphate

Al-Māwardī has explained the concept of caliphate comprehensively in *al-Aḥkām al-Sulṭāniyah*. The book is organized systematically into twenty chapters as follows. 1. Leadership. 2. Appointment of assistant leader. 3. Appointment of

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<sup>18</sup> Diana, 'Al-Mawardi dan Konsep Kenegaraan dalam Islam', 161

<sup>19</sup> Dedi Supriadi, *Sejarah Peradaban Islam* (Bandung: Pustaka Setia, 2008), 139–40.

<sup>20</sup> Munawir Sjadzali, *Islam dan Tata Negara: Ajaran, Sejarah, dan Pemikiran* (Jakarta: UI Press, 1990), 68.

<sup>21</sup> Ahyar, 'Almawardi dan Konsep Khilafah Islamiyyah: Relevansi Sistem Politik Islam Klasik dan Politik Modern', 9

<sup>22</sup> Mochtar Effendy, *Ensiklopedi Agama dan Filsafat* (Palembang: Universita Sriwijaya, 2001), 399.

<sup>23</sup> Iqbal and Nasution, *Pemikiran Politik Islam dari Masa Klasik Hingga Indonesia Kontemporer*, 17.

<sup>24</sup> Al-Subkī, *Ṭabaqāt al-Shāfi'iyyah al-Kubrā*, vols V; 267–276; Al-Dhahabī, *Siyar A'lām al-Nubalā'*, vols XVIII; 65.

regional heads. 4. Appointment of warlords. 5. Territory of interest. 6. judicial authority. 7. Control area. 8. The leadership of noble people. 9. *Imām* prays. 10. *Hajj*. 11. Alms. 12. The division of *fay'* and *ghanimah*. 13. The provisions of *jizyah* and *kharāj*. 14. Provisions for some regions. 15. Soil and water exploration. 16. Protection of land and public ownership. 17. Law on granting state-owned land. 18. Administration and legal provisions. 19. Criminal law. 20. Provisions on *hisbah*.

The author discusses the twenty chapters in more detail in the first chapter about leadership (*imāmah, khilāfah*).<sup>25</sup> Then, the author concludes the first chapter into seven meaningful discussions, namely, 1. The purpose of the caliphate. 2. The law of the appointment of the caliph. 3. Who has the right to choose the caliph. 4. The procedure for establishing the caliphate. 5. the duties of the caliph. 6. The right of the caliph. 7. impeachment of the caliph. This limitation is needed so that the changes are more focused and make it easier for analysis to determine the values of *maqāṣid al-sharī'ah* in al-Māwardī's concept of caliphate. The following is an explanation of the seven discussions.

First, when discussing the caliphate, al-Māwardī gave an introduction that the caliphate or *imāmat* is a substitute for prophethood in protecting the religion that governs the world.<sup>26</sup> Al-Māwardī stated that appointing someone who has credibility in carrying out the duties of the caliphate is mandatory. This law is based on the agreement of the scholars. However, there are differences in opinion regarding the mandatory status, whether based on reason or *sharī'ah*. A group of scholars believes that the caliphate's obligation is based on reason because intelligent people will submit to a caliph who prevents them from being wronged and keeps them from conflict and enmity. If there is no caliph, human life will be filled with acts of anarchy and immorality.<sup>27</sup>

Another group of scholars said that the obligatory status of the caliphate was based on the *sharī'ah*. The reason is, a caliph is obliged to supervise religious affairs even though reason does not regard it as worship. Reason only stipulates that every reasonable person must protect himself from injustice and disharmony and be fair in providing services and establishing relationships.

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<sup>25</sup> 'Alī ibn Muḥammad ibn Ḥabīb Al-Māwardī, *Al-Aḥkām al-Sultāniyyah wa al-Wilāyāt al-Dīniyyah* (Mesir: Dār al-Ḥadīth, n.d.), 15.

<sup>26</sup> Zulfikar Yoga Widyatama, 'Konsep Kepemimpinan Menurut al-Mawardi', *Ijtihad Jurnal Hukum dan Ekonomi Islam* 8, no. 1 (2014): 87–103, <https://doi.org/10.21111/ijtihad.v8i1.2589>.

<sup>27</sup> Al-Māwardī, *Al-Aḥkām al-Sultāniyyah wa al-Wilāyāt al-Dīniyyah*, 16–20.

Thus, he could manage it with his mind and not with other people's thoughts. However, the *sharī'ah* stipulates that all affairs must be left to the ruler (al-Nisā' [4]: 59).<sup>28</sup>

Second, Al-Māwardī explained that the obligatory status of appointing the caliph was *farḍ kifāyah* (collective obligation). This status is the same as the obligation of *jihād* and seeking knowledge. Therefore, if a capable person has been appointed as a caliph, then the obligation to appoint a caliph for others becomes null and void.

Third, if no one is appointed as caliph, then two groups are formed. 1. The electoral council (*ahl al-ikhtiyār*) are the people who have the right to choose a leader for Muslims. *Ahl al-ikhtiyār* has three conditions that must be met, namely: a fair attitude, adequate knowledge of who has the right to be a leader, and people who are broad-minded, wise, and wise. 2. The council of *imāms* (*ahl al-imāmah*) are people who have the right to fill the position of caliph by appointing one of them. *Ahl al-imāmah* must meet seven conditions, namely: a. Have a fair attitude. b. Have the ability to perform *ijtihād* against all cases and laws. c. Have healthy five senses so that they can face the problems they face directly. d. does not have a physical disability that prevents him from carrying out his duties quickly and adequately. e. Broad-minded so that he can lead the people and take care of the various interests of the people. f. Polite in protecting the country and brave to face the enemy. g. Descendants of the Quraysh, because the texts and consensus will make it.<sup>29</sup>

Fourth, al-Māwardī mentions two methods for establishing a caliph. 1. Through *ahl al-ḥall wa al-'aqd*. 2. Appointment of the previous priest.<sup>30</sup> Both methods are by the method used by *al-khulafā' al-rāshidūn* in the appointment of the caliph after the Prophet saw died. Abū Bakr and 'Alī ibn Abī Ṭālib were chosen by *ahl al-ḥall wa al-'aqd*, while 'Umar ibn al-Khaṭṭāb and 'Uthmān ibn 'Affān were chosen because of the appointment of the previous caliph. Abū Bakr

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<sup>28</sup> Al-Māwardī, 15–16.

<sup>29</sup> Al-Māwardī, 17–20.

<sup>30</sup> Al-Māwardī, 21.

appointed 'Umar instead. 'Umar appointed six people to consult after his death.<sup>31</sup>

Al-Māwardī added that before *ahl al-ḥall wa al-'aqd* agrees to appoint a caliph, they must study the profiles of eligible people to be appointed as caliph. After that, they chose the people with the most advantages, the perfect conditions, and the most easily obeyed by the people so that they did not refuse to appoint him as caliph. If there are experts in *ijtihād* and qualified to be chosen among them, *ahl al-ḥall wa al-'aqd* must first offer him the position of caliph. If he wanted to, they had to pick him up immediately. Thus, he is automatically legitimate as caliph. Furthermore, everyone must join the allegiance and be willing to comply.<sup>32</sup>

Fifth, there are ten general obligations of a caliph. 1. Maintain religion by its principles and the agreement by the salaf scholars. 2. Enforcing the law and reconciling between two conflicting parties. 3. Protect the country and public places from crime so that people can earn a living and travel safely. 4. Firmly enforce the law so that everything that Allah forbids is not violated. 5. Protect the border area with a strong fortress and a formidable force so that the enemy cannot find a way to attack and damage honor. 6. Fighting opponents of Islam who have previously been preached until they convert to Islam or become *dhimmī* experts. 7. Take the property of *fay'* and collect zakat following the *sharī'ah*. 8. Appoint honest and professional people in their fields, including financial governance experts. 9. Seeing and observing people's lives to deal with problems. 10. Observing the situation to protect the people and religion.<sup>33</sup>

Sixth, a caliph who has fulfilled the rights of the people (fifth point) has fulfilled the rights of Allah. That is, he has fulfilled his rights and obligations. Thus, he has two rights that must be fulfilled by the people, namely to be obeyed and helped, as long as there are no defects in him. A leader is an ordinary human who may have disabilities and make mistakes, thereby reducing his ability to carry out his duties as caliph.

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<sup>31</sup> 'Abdullāh ibn 'Umar ibn Sulaymān Al-Dumayjī, *Al-Imāmah al-'Uzmā 'ind Ahl al-Sunnah wa al-Jamā'ah* (Riyad: Dār Ṭayyibah, n.d.), 186–87; Al-Māwardī, *Al-Aḥkām al-Sulṭāniyyah wa al-Wilāyāt al-Dīniyah*, 30–31.

<sup>32</sup> Al-Māwardī, *Al-Aḥkām al-Sulṭāniyyah wa al-Wilāyāt al-Dīniyah*, 25.

<sup>33</sup> Al-Māwardī, 40.



Seventh, al-Māwardī states that if the leader is disabled, he can be removed from his position. Disability has two classifications. 1. Acting unjustly as a result of lust and *shubhāt* in leading. Lust here is related to the actions of the limbs, such as doing prohibitions, committing crimes, and submitting to lust. While *shubhāt*, related to belief in the form of violating the truth. 2. Physical disability. This disability consists of three types are, a. sensory defects (loss of memory and vision). b. Loss of organs can affect thought patterns, performance, movement, and visual acuity. c. Error in action.<sup>34</sup>

### **Al-Māwardī and *Maqāṣid al-sharī'ah***

*Sharī'ah* exists to provide benefits and prevent harm to humans. It is the primary goal of every sharia law. As important as this issue is, al-Māwardī and many other scholars are concerned about *maqāṣid al-sharī'ah*. Al-Māwardī's concern for *maqāṣid*, as mentioned by al-Khaṭīb, can be seen in the contents of his books. In addition, it also appears in his attention to human conditions and habits, which he knows from his position and abilities. He had been a teacher, a judge with a long term and in various areas, and associating with state officials of his time. He has also written various works that humans need, as *wasīlah*, to realize the benefit.<sup>35</sup>

In the preamble of *al-Aḥkām al-Sultāniyyah*, al-Māwardī explains the substance of *maqāṣid al-sharī'ah*, namely the benefit for humans, both in this world and in the hereafter.<sup>36</sup> He says that Allah has explained religion to people, has given them the Qur'an as a guide and a separator between what is lawful and what is unlawful. Allah has established various legal regulations for their benefit.

This affirmation shows how the relationship and concern between his book and himself towards *maqāṣid al-sharī'ah*. In another book, Al-Māwardī mentions that leadership is a necessity for the benefit of the world. He said six things could make this helpful world, everything in order, and affairs easy. The six things are the religion that must be followed, leaders who subjugate,

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<sup>34</sup> Al-Māwardī, 42–44.

<sup>35</sup> Al-Khaṭīb, 'Maqāṣid al-Sharī'ah 'ind al-Imām al-Māwardī 364-450 H', 407.

<sup>36</sup> Al-Khaṭīb, 421.

equitable justice, public security, fertile land, and great hope.<sup>37</sup> This explanation provides an understanding that if a Muslim can realize these six things, then the benefit of the world and the hereafter will be realized.<sup>38</sup> This problem is the core of *maqāṣid al-sharī'ah*. This benefit is the essence of *maqāṣid al-sharī'ah* substance.

*Maqāṣid al-sharī'ah* is formed from two words, *maqāṣid* and *sharī'ah*. *Maqāṣid* is the plural form of *al-maqṣad* which is *maṣdar mīmī*. It is a fraction of the verb *qaṣada-yaqṣidu-qaṣdan-maqṣadan*.<sup>39</sup> *Al-maqṣad* and *al-qaṣd* have the same meaning, one of which means intent and purpose.<sup>40</sup> While the word *sharī'ah* is a fraction of the word *shara'a*, which means the source of water, determines, goes, enters, and submits.<sup>41</sup> The word *sharī'ah* in terminology has two meanings. First, the religion of Islam as a whole, including '*aqīdah*, worship, *adab*, morals, law, and *mu'āmalah*. In this sense, *sharī'ah* includes *uṣūl* and *furū'*, '*aqīdah* and action, as well as theory and application. Second, *sharī'ah* is the same as *fiqh*, including *mu'āmalah* (human relations) and worship (human relations with God).<sup>42</sup> Aḥmad al-Raysūnī mentions more concisely the laws contained in the Qur'an and sunnah.<sup>43</sup>

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<sup>37</sup> 'Alī ibn Muḥammad ibn Ḥabīb Al-Māwardī, *Adab al-Dunyā wa al-Dīn* (Dār Maktabah al-Ḥayāh, 1986), 133.

<sup>38</sup> Al-Khaṭīb, 'Maqāṣid al-Sharī'ah 'ind al-Imām al-Māwardī 364-450 H', 422; Moch. Yunus, 'Pemikiran Politik Imam al-Mawardi tentang Pengangkatan Imam (Khalifah)', *Humanistika: Jurnal Keislaman* 6, no. 2 (2020): 191-209, <https://ejournal.inzah.ac.id/index.php/humanistika/article/view/368>.

<sup>39</sup> Abū Ḥusayn Aḥmad Ibn Fāris Ibn Zakariyyā, *Mu'jam Maqāyis fi al-Lughah* (Beirut: Dār al-Kutub al-'Ilmiyah, 2003), vols V; 95; Ibrāhīm Anīs, *Al-Mu'jam al-Wasīṭ* (Cairo: Dār al-Dakwah, 1973), vols II; 738; Al-Khalīl ibn Aḥmad Al-Farāhīdī, *Kitāb Al-'Ayn*, vol. IV (Beirut: Dār Al-Kutub Al-'Ilmiyyah, 2003), vols V; 54.

<sup>40</sup> Al-Khalīl ibn Aḥmad Al-Farāhīdī, *Kitāb Al-'Ayn*, vols V; 54; Abū Ḥusayn Aḥmad Ibn Fāris Ibn Zakariyyā, *Mu'jam Maqāyis fi al-Lughah*, vols V; 95; Anīs, *Al-Mu'jam al-Wasīṭ*, vols II; 738; Muḥammad bin al-Ḥusayn Al-Azdī, *Jamharah al-Lughāh* (Beirut: Dār al-'Ilmi li al-Malayīn, 1987), vols II; 656; Muḥammad Sa'ad Al-Yūbī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa 'Alāqatuhā bi al-Adillah al-Shar'iyyah* (Riyāḍ: Dār al-Hijrah, 2002), 27-30; Aḥmad al-Raysūnī, *Muhāḍarāh fi Maqāṣid al-Sharī'ah* (Kairo: Dār al-Kalimah, 2010), 9.

<sup>41</sup> Muḥammad Ibn Mukram Ibn Manzūr, *Lisan al-'Arab* (Beirut: Dār Al-Kutub Al-'Ilmiyyah, 1993), VIII; 175; Muḥammad al-Rāzī, *Mukhtār al-Ṣiḥḥah* (Beirut: Dār al-Namūdhajīyyah, 1999), 163.

<sup>42</sup> Yūsuf Al-Qarḍāwī, *Dirāsah fi Fiqh Maqāṣid al-Sharī'ah bayn al-Maqāṣid al-Kulliyah wa al-Nuṣūṣ al-Juz'iyyah* (Kairo: Dār al-Shurūq, 2008), 19.

<sup>43</sup> Al-Raysūnī, *Muhāḍarāh fi Maqāṣid al-Sharī'ah*, 9.

Classical *uṣūl* scholars who are concerned with *maqāṣid al-sharī'ah* such as al-Ghazzālī and al-Shāṭibī have not explained it comprehensively.<sup>44</sup> Contemporary scholars precisely explain this understanding. Ibn 'Āshūr states that *maqāṣid al-sharī'ah*, in general, is the meaning and wisdom desired by *al-Shāri'* (Allāh). Both are known through observation of all or most of the provisions of the *sharī'ah*. This observation is not limited to only one part of *sharī'ah* law. In comparison, *maqāṣid al-sharī'ah*, in particular, is a procedure intended by *al-Shāri'* to realize applicable human goals or to maintain the public benefit in his particular behavior.<sup>45</sup>

'Alāl al-Fāsī gives a more concise explanation. The explanation has covered the general and specific purposes intended by Ibn 'Āshūr. He stated that *maqāṣid al-sharī'ah* is the purpose of enforcing the *sharī'ah* (general) and secret (specific) contained in every legal product<sup>46</sup> Meanwhile, Al-Raysūnī interprets it by realizing the goals set by the *sharī'ah* for the benefit of humankind.<sup>47</sup> Wahbah al-Zuhaylī also provides a definition that includes the understanding of the scholars above. For him, *maqāṣid al-sharī'ah* are values or meanings and goals taken into consideration in determining the law. Another meaning is the purpose of *sharī'ah* and the secrets set by God in each of His laws.<sup>48</sup> Based on these definitions, the author concludes that *maqāṣid al-sharī'ah* are the values, meanings, and wisdom set by *al-Shāri'* in every law, both general and specific, for the benefit of humanity.

*Maqāṣid al-sharī'ah* in terms of substance strength is divided into three types, namely *ḍarūriyāt*, *ḥājjiyāt*, and *taḥsīniyāt*. *Ḍarūriyāt* (primary) are goals that must be realized for the sake of upholding goodness, justice, benefit, and human welfare, both in this world and the hereafter. *Ḥājjiyāt* (secondary) is something that is needed to realize the breadth and eliminate narrowness.

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<sup>44</sup> Al-Yūbī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa 'Alāqatuhā bi al-Adillah al-Shar'iyyah*, 38.

<sup>45</sup> Muḥammad al-Ṭāhir Ibn 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah* (Qatar: Wizārah al-Awqāf wa al-Shu'ūn al-Islāmiyyah, 2004), 82, 253–54.

<sup>46</sup> 'Alāl Al-Fāsī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa Makārimuhā*, 5th ed. (Rabat: Dār al-Gharb al-Islāmī, 1993), 7.

<sup>47</sup> Aḥmad al-Raysūnī, *Nazariyah al-Maqāṣid 'ind al-Imām al-Shāṭibī* (Riyad: Al-Dār al-'Alamiyah li al-Kitāb al-Islāmī wa al-Ma'hād al-'Alamī al-Fikr al-Islāmī, 1995), 19.

<sup>48</sup> Wahbah Al-Zuhaylī, *Al-Wajiz fi Uṣūl al-Fiqh* (Beirut: Dār al-Fikr, 1999), 217.

*Tahṣīniyāt* (tertiary) pays attention to good habits and avoiding bad habits based on common sense considerations.<sup>49</sup>

*Maqāṣid al-sharī'ah* at the *ḍarūriyāt* level is divided into five main elements (*al-maqāṣid al-khamsah*; *al-kulliyāt al-khamsah*). First, *ḥifẓ al-dīn* (maintaining religion) is protecting the religious norms of every Muslim from all things that can damage them, both in terms of faith and practice. Second, *ḥifẓ al-nafs* (guarding the soul) protect every individual and society from all things that can threaten life. Third, *ḥifẓ al-'aql* (guarding reason) protects the mind from damage caused by actions or the indiscipline of reason in thinking. Fourth, *ḥifẓ al-nasl* (maintaining offspring) maintains the generation's purity by avoiding anything that can break the continuity of life. Fifth, *ḥifẓ al-māl* (safeguarding property) protects property by developing people's economic resources, guaranteeing private property rights, and maintaining property security.<sup>50</sup> All of these goals are a necessity. All five must be realized.<sup>51</sup> If these five things are damaged, it will cause mischief in this world and misery in the hereafter.

After understanding *maqāṣid al-sharī'ah*, both classical and contemporary concepts, the next step is to use it as an analytical tool for al-Māwardī's thoughts on the caliphate. Al-Māwardī, in the explanation above, seems to pay attention to *maqāṣid al-sharī'ah*. The values of *maqāṣid al-sharī'ah* on his concept will be explored further.

## **Analysis of *Maqāṣid al-Sharī'ah* Values in Al-Māwardī's Concept of Caliphate**

The analysis of the values of *maqāṣid al-sharī'ah* in al-Māwardī's concept of the caliphate refers to the seven points previously mentioned. First, al-Māwardī has argued that the existence of the caliphate is to replace the function of prophethood (*nubuwwah*), keep religion and rule the world. This opinion aligns

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<sup>49</sup> Abū Hāmid Muḥammad ibn Muḥammad Al-Ghazzālī, *Al-Mustaṣfā min 'Ilm al-Uṣūl*, vols II; 174; Al-Shāṭibī, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, vols II; 17–22; 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, 134.

<sup>50</sup> Al-Ghazzālī, *Al-Mustaṣfā min 'Ilm al-Uṣūl*, vols II; 174; Al-Shāṭibī, *Al-Muwāfaqāt fī Uṣūl al-Sharī'ah*, vols II; 20; Al-Yūbī, *Maqāṣid al-Sharī'ah al-Islāmiyyah wa 'Alāqatuhā bi al-Adillah al-Sharī'yyah*; 'Abd al-Azīz ibn 'Abd al-Raḥmān, *'Ilm Maqāṣid al-Sharī'ah* (Riyad: Maktabah al-Mulk Fahd, 2002), 126; Ismail al-Ḥasanī, *Naḥariyāt al-Maqāṣid 'ind al-Imām Muḥammad Ṭāhir bin 'Āshūr* (Herdon: The International Institute of Islamic Thought, 1995), 238; 'Āshūr, *Maqāṣid al-Sharī'ah al-Islāmiyyah*, 135.

<sup>51</sup> Musolli Musolli, 'Maqasid Syariah: Kajian Teoritis dan Aplikatif pada Isu-Isu Kontemporer', *AT-TURAS: Jurnal Studi Keislaman* 5, no. 1 (2018): 60–81, <https://doi.org/10.33650/at-turas.v5i1.324>.

with *maqāṣid al-sharī'ah*, namely to realize the benefit of humans in the world and the hereafter. The protection of religion is a form of salvation in the afterlife, while the regulation of world affairs is related to the world's benefit. In other terms, this goal is called *maqāṣid al-imāmah*. 'Abdullāh al-Dumayjī said that the essence of *maqāṣid al-imāmah* is to uphold Allah's commands in the world, including *'amr ma'rūf nahy munkar*, doing good, spreading goodness, upholding virtues, preventing evil, eliminating all damage, and stopping evildoers. This command is contained in Surah al-Ḥajj (22): 41.<sup>52</sup> Ibn Taymiyah asserts that the power of Islam as a whole aim to enjoin good deeds and prevent evil.<sup>53</sup>

Second, al-Māwardī has stated that the institutionalization of the caliphate and the appointment of a legitimate caliph is *fard kifāyah*. This legal provision is based on the agreement of the scholars. According to him, the benefit of the world and religion will not be perfect without the existence of the caliph. His view refers to the concept of *wasīlah* (intermediary).<sup>54</sup> A rule reads, "*wasīlah law is the same as maqāṣid law*".<sup>55</sup> This rule explains that if an obligation is not perfect except with an intermediary, then the existence of an intermediary becomes obligatory. A *sunnah* that is not perfect except with *wasīlah*, then the existence of *wasīlah* is *sunnah*. Likewise, intermediaries who lead to actions that violate the law are also prohibited.<sup>56</sup>

Third, Al-Māwardī has provided a solution when no one is appointed as caliph. This solution is a form of *wasīlah*. The method he offers is to form two groups. 1. *Ahl al-ikhtiyār* are people who have the right to vote. The conditions are to have a fair attitude, knowledge, broad insight, and wisdom. 2. *Ahl al-imāmah*, namely people who have the right to be elected as caliph. As for the conditions, namely being able to act pretty, *ijtihād*, have good sense, not be disabled; broad-minded, brave, polite, and a descendant of Quraysh. The solution is under the realization of Surah al-Nisā' (4): 59, which commands to

<sup>52</sup> Al-Dumayjī, *Al-Imāmah al-Uzmā 'ind Ahl al-Sunnah wa al-Jamā'ah*, 79.

<sup>53</sup> Taqī al-Dīn ibn Taymiyah, *Wazīfah al-Ḥukūmah al-Islāmiyyah* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), 11.

<sup>54</sup> Amir Tajrid, 'Tracing the Genealogy of *Maqāṣid Al-Sharī'ah* Concept: A Historical Approach', *Al-Ahkam* 31, no. 1 (2021): 69–90, <https://doi.org/10.21580/ahkam.2021.31.1.6696>.

<sup>55</sup> Muḥammad ibn Ḥusayn al-Jizānī, *Ma'ālim Uṣūl al-Fiqh 'ind Ahl al-Sunnah wa al-Jamā'ah* (Dār Ibn Jawzī, 1427), 297.

<sup>56</sup> Abū Ya'lā Muḥammad Ibn Ḥusayn Al-Farra', *Al-'Uddah fī Uṣūl al-Fiqh* (Riyad: Al-Mamlakah al-'Arabiyyah al-Su'ūdiyyah, 1993), vols II; 419.

obey a leader (*ulil amri*). Obedience to *ulil amri* necessitates its existence.<sup>57</sup> The solution offered by Al-Māwardī is in line with the values of *maqāṣid al-sharī'ah* in the form of establishing *ulil amri* (caliphate). Moreover, some of the requirements of *ahl al-ikhtiyār* and *ahl al-imāmah* are *wasīlah* to present a leader who is truly capable of realizing *maqāṣid al-sharī'ah*. Its embodiment is in the form of the benefit of the world and the hereafter for humans. Justice and human benefit are the core values of *maqāṣid al-sharī'ah*.

Fourth, Al-Māwardī has mentioned two methods of appointing the caliph, first, through *ahl al-ḥall wa al-'aqd*. Second, through the direct appointment of the previous leader. This method is not clearly stated in the text. Only principles are mentioned in it, such as *shūrā* and deliberation. Al-Māwardī's method is to trace the system of appointing the caliph *al-khulafā' al-rāshidūn* which was carried out at the command of the Prophet to obey of his *sunnah* and *sunnah* of *al-khulafā' al-rāshidūn*.<sup>58</sup> One of the *sunnah al-khulafā' al-rāshidūn* is the caliph inauguration system.<sup>59</sup> Ibn Rajab states that this command of the Prophet and the commandment to obey the rules in general, indicates that the *sunnah* of *al-khulafā' al-rāshidūn* should be followed as an order to follow the *sunnah* of the Prophet.<sup>60</sup> Al-Māwardī added that *ahl al-ḥall wa al-'aqd* should choose people with many advantages, perfect conditions, and are most accessible for people to obey so that they do not refuse to appoint him as caliph. It shows how much he cares about the desired *maqāṣid* so that he can realize the problems he wants to achieve.

Fifth, Al-Māwardī has explained the ten general duties of a caliph. The ten general obligations are in line with the values of *al-kulliyāt al-khamsah*. The details of the alignment are as follows. The first seven obligations of a leader are to

1. Maintain religion,
2. Enforce the law firmly,
3. Fight enemies of Islam,
4. Take *fay'* property and collect zakat,

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<sup>57</sup> Al-Dumayjī, *Al-Imāmah al-'Uzmā 'ind Ahl al-Sunnah wa al-Jamā'ah*, 47.

<sup>58</sup> Abū 'Īsā Al-Tirmidhī, *Sunan al-Tirmidhī* (Beirut: Dār al-Gharb al-Islāmī, 1998), vols IV; 241 Ḥadīth no. 2676.

<sup>59</sup> Al-Dumayjī, *Al-Imāmah al-'Uzmā 'ind Ahl al-Sunnah wa al-Jamā'ah*, 125.

<sup>60</sup> Ibn Rajab al-Ḥanbalī, *Jāmi' al-'Ulūm wa al-Ḥikām* (Beirut: Mu'assasah al-Risālah, 2001), 121.

5. Appoint honest and professional people in their fields,
6. Go directly to the community to solve problems and observe the situation,
7. As well as protect the people and religion,

Can be grouped as forms of *ḥifẓ al-dīn*, *ḥifẓ al-māl*, and *ḥifẓ al-'aql*.

While the second three obligations, namely

1. Stop hostilities between the two warring parties,
2. Protect the country and public places from crime so that people can earn a living and travel safely,
3. Protect border areas so that the enemy cannot find the entry

Can classify as a form of *ḥifẓ al-nafs*, *ḥifẓ al-nasl*, and *ḥifẓ al-māl*.

Sixth, a leader who has fulfilled the rights of the people as above then has two rights that the people must fulfil; obeyed and supported, as long as there is no defect in him. This provision follows *maqāṣid al-sharī'ah* that the existence of a leader for the people is to be heard and obeyed while not ordering in disobedience. This command is in line with the purpose of Surah al-Nisā' (4): 59. In addition, it is in line with the statement of 'Alī ibn Abī Ṭālib which states that an *imām* is obliged to decide cases according to Allah's law and fulfil the mandate. If a priest has done that, people are obliged to hear, obey and fulfil his call.<sup>61</sup>

Seventh, Al-Māwardī has explained about the impeachment of a caliph. He stated that if a caliph cannot carry out his duties properly because of a disability, both in terms of injustice and defects in the limbs, he can be dismissed. Al-Māwardī's view is very appropriate as a form of effort to prevent a leader's abuse of power and arbitrariness. The study of *uṣūl al-fiqh* is included in the rules for rejecting harm (*dar' al-mafāsīd*). The *uṣūliyah* rule states that danger should be prevented as much as possible.<sup>62</sup> That is, rejecting danger, before it occurs is obligatory. The concept of impeachment of the leader is also in line with the *sadd al-dharī'ah* theory, namely the obligation to cover all forms of *wasīlah* that cause damage. Likewise, it is in line with the philosophy of *al-wiqāyah khayr min al-'ilāj* that prevention is better than cure.

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<sup>61</sup> Muḥammad ibn Jarīr al-Ṭabarī, *Jāmi' al-Bayān fī Ta'wīl al-Qur'ān* (Beirut: Mu'assasah al-Risālah, 2000), 490.

<sup>62</sup> Al-Zuhaylī, *Al-Wajīz fī Uṣūl al-Fiqh*, 227.

## Conclusion

Based on the discussion above, it can be concluded that Al-Māwardī's basic concept of the caliphate is closely related to his understanding of *maqāṣid al-sharī'ah*. Through this concept, policymakers can create regulations and policies that are beneficial to the community. Although Al-Māwardī did not write a book specifically on *maqāṣid al-sharī'ah*, the essence of it is in his book, *al-Aḥkām al-Sultāniyyah*. There are three values of *maqāṣid al-sharī'ah*; first, *maqāṣid al-imāmah* such as guarding religion and taking care of world affairs. Second, the law of *wasīlah* that the legal position of *wasīlah* is the same as the legal position of *maqāṣid*. Third, the rules of benefit and harm. Al-Māwardī has succeeded in integrating the concept of *maqāṣid al-sharī'ah* into the concept of political thought, more specifically in the concept of leadership. He also emphasized that *maqāṣid al-sharī'ah* is basic science and a philosophical foundation for other sciences.[a]

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