

The Maqasid Syariah in State Jurisprudence

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Abstract

Allah SWT through his final messenger Prophet Muhammad SAW announced Islam to the universe as a complete way of life. Its most fundamental aim is to ensure the implementation of the comprehensive Islamic law (*syariah*) so that good deeds can be done, and any harm is prevented. To attain this noble goal, Islam is not confined to acts of worship and specific transactions but further extends its principles to governance and administration. Nonetheless, the governance structure or the identity of the governing individuals is not the primary concern. What is truly important is that the governance achieves the *maqasid syariah* (objectives of Islamic law). Hence, this paper aims to clarify the *maqasid syariah* within the context of Islamic state jurisprudence (*fiqh kenegaraan*). Both inductive and deductive analyses of the available data are used in this literature-based study. The findings revealed that the *maqasid syariah* in state jurisprudence mainly deals with safeguarding religious welfare (*maslahah*) and managing government affairs according to the religion. The four components—citizens, territory, government, and sovereignty—are the foundational pillars of a state. Furthermore, the preservation of the five essentials (*al-daruriyyat al-khamsah*), namely religion, life, lineage, intellect, and property, acts as a mean to achieve the religious and worldly welfare of a state. The implications of this study emphasize the significance of understanding *maqasid syariah* within the framework of state governance. Such understanding is crucial in addressing misconceptions regarding Islamic rulings, which are frequently seen as ineffective due to the notion of Islam's universality or due to

misinterpretations of *maqasid*. A proper comprehension of this concept enables the harmonious implementation of *syariah*, promoting trust in its capacity to govern human existence in both this world and the Hereafter.

Keywords: Maqasid Syariah, State Jurisprudence, Maslahah, Politics.

Introduction

Islam is a *din* (way of life) that is universal and brings blessings to all of creation. Allah SWT created the universe alongside a system governed by His divine law (*syariah*). The creation of this intricate universe, with its diverse creatures, is not without purpose; rather, it is guided by clear objectives to enable harmonious coexistence and interdependence among His creations.

Human beings, as *khalifah* (vicegerents) on earth, possess the ability to progress through the application of knowledge in their lives. One of the fields of knowledge that has developed, alongside other disciplines, is the science of *Maqasid Syariah* (the objectives of Islamic law). This knowledge serves as a foundation and a standard for the actions of those who are *mukallaf* (accountable individuals), guiding human activities towards the realization of both general and specific interests. These objectives seek to promote benefits (*maslahah*) and prevent harm (*mafsadah*) to attain the pleasure of Allah SWT.

Maqasid Syariah

The terms *maqasid al-syari'*, *maqasid al-syari'ah*, and *al-maqasid al-syar'iyyah* carry the same meaning (Al-Raysuni, 1992: 5). Understanding this terminology requires elaborating on the two main components underlying the concept of *maqasid syariah*, namely *maqasid* and *syariah*.

Linguistically, the term *maqasid* is the plural form of *maqasid*, which is a *masdar mimiy* (verbal noun) derived from the verb *qasada*, meaning "direction" or "goal" (Al-Khadimiy, 2001: 13), as well as "straightness of path" and "moderation" (Ibn-Manzur, 1993: 353). It also refers to an objective, something specifically intended to be achieved, based on real facts or realities, with synonyms such as purpose and aim (Teuku, 2000: 939).

The term *syariah* originates from the word *syara'a*, which literally means "to draw water with one's mouth" (Ibn-Manzur, 1993: 175). In classical Arabic, it referred to a source of drinking water along a human pathway (Al-Zubaydi, n.d.: 260) and implied submission to servitude or a path in religion (Al-Jurjaniy, 1983: 127). In its technical sense, *syariah* denotes Islam as a religion that serves as a source of reform, progress, and security for human life (Al-Khadimiy, 2001: 14). It encompasses everything revealed by Allah SWT to humanity through His Messenger, the Prophet Muhammad SAW (Mahmood, 1992: 2).

When the term *maqasid* (objectives or purposes) is combined with *syar'iyyah*, it refers to the objectives or goals of implementing Allah's *syariah* (law). Ibn 'Ashur defines *maqasid syariah* as the meanings and wisdoms emphasized in all or most of Islamic legislation. These objectives are not limited to specific rulings alone (Ibn-'Ashur, 2004: 21). This highlights that the essence of *maqasid syariah* lies in the ultimate purpose of implementing the entire Islamic *syariah*. These objectives can only be realized through the execution of divine law and cannot be achieved solely by human reason without divine guidance.

The primary aim of Islamic law, as clarified by Al-Raysuni, is that the *maqasid syariah* embodies the goals established by *syariah* that must be fulfilled to ensure the welfare of Allah's servants, specifically humanity (Al-Raysuni, 1992: 7). Similarly, Al-Yubi discusses *maqasid syariah* while declaring that the welfare of any human being is the outcome of the practice of *syariah* (Al-Yubi, n.d.: 37). Thus, *maslahah* (benefit) becomes a central element in the discourse of *maqasid syariah*, serving as a standard for the implementation of Islamic law.

Consideration of Maslahah According to Maqasid Syariah

Maslahah originally refers to bringing about benefit or preventing harm (Mohd, 2020: 48-61). It serves both as an objective and a means to fulfil the purpose of creation. However, true *maslahah* lies in preserving the objectives of *shari'ah*. These objectives are based on the preservation of five fundamental purposes: the protection of religion (*din*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and property (*mal*). Therefore, anything that safeguards these five essentials constitutes *maslahah*. Conversely, anything that undermines them represents *mafsadah* (harm), and preventing harm itself is considered *maslahah* (Al-Ghazali, 1993: 174).

Any *maslahah* that does not align with *shari'ah*, meaning it fails to uphold the true objectives as understood from the Qur'an, Sunnah, and *ijma'* (scholarly consensus), is deemed invalid (Al-Ghazali, 1993: 179). When *maslahah* is defined as safeguarding the objectives of *shari'ah*, there should be no disagreement in its pursuit; rather, it is categorically obligatory (*qat'ie*) to accept it as a valid argument (Al-Ghazali, 1993: 179).

Maqasid Syariah in Siyasah Syar'iyah

The fundamental objective of the *shari'ah* is to realize *maslahah* (benefit) for all humanity in both worldly and afterlife affairs. This is the foundational *maqasid* of Islamic law. In this regard, *al-Shatibi* asserts that the purpose of the legislation revealed by Allah SWT is to achieve *maslahah* for this world and the Hereafter (Al-Shatibi, 1997: 62). Therefore, embedded in every ruling of the *shari'ah* is a *maslahah* (benefit) intended for humanity.

Ibn Qayyim explains that the *shari'ah*, in its essence and structure, is based on wisdom and the realization of benefit for humanity in this world and the Hereafter. The *shari'ah* is entirely just, entirely merciful, entirely wise, and entirely beneficial. Hence, if a particular issue departs from justice into oppression, from mercy into its opposite, from *maslahah* into *mafsadah* (harm), or from wisdom into frivolity, then it cannot be considered part of the *shari'ah*, even if some attempt to include it through misinterpretation or false reasoning (Ibn-Qayyim, 1991: 11).

Ibn 'Ashur defines the specific *maqasid* of *shari'ah* as Allah SWT's method for achieving objectives that benefit humanity or preserve public *maslahah* in specific matters. This ensures that specific benefits do not undermine the broader *maslahah*, whether through negligence or the pursuit of desires (Ibn-'Ashur, 2004: 121).

In all circumstances, every command and prohibition of the *shari'ah* across all domains is aimed at achieving *maslahah* for humanity by safeguarding their religion (*din*), life (*nafs*), intellect (*'aql*), lineage (*nasl*), and wealth (*mal*) based on the hierarchical levels of *maqasid*: *daruriyyat* (essentials), *hajiyyat* (needs), and *tahsiniyyah* (enhancements).

In this regard, the realms of governance and politics (*siyasah*) are no exception. In fact, *siyasah* plays a critical role in achieving *maqasid syariah*. This is because governance and politics are essential for ensuring the *maslahah* of human life in accordance with the *shari'ah*. Consequently, scholars have placed great emphasis on the importance of governance and political leadership.

Imam al-Ghazali states that government and religion are like twin brothers. Religion is the foundation, while governance serves as its protector. Anything without a foundation will collapse, and anything without a protector will be lost (Al-Ghazali, n.d.: 17). This notion is supported by Saidina Uthman RA's statement that what is prevented through governance is greater than what is prevented by the Qur'an (Ibn-Rushd, 1988: 494). Ibn Rushd comments on Imam Malik's explanation of this statement, affirming that those who abstain from what Allah SWT has forbidden due to fear of the government far outnumber those who abstain solely out of obedience to Allah SWT's command (Ibn-Rushd, 1988: 494-495).

This highlights the importance of ensuring that religion and governance work in harmony and complement each other to safeguard humanity's *maslahah* in this world and the Hereafter. This understanding also serves as the foundation for the obligation to appoint leaders and establish Islamic governance, a matter upon which scholars unanimously agree.

In *maqasid siyasah*, any action that yields greater benefit to humanity and prevents harm, even if such actions are not explicitly mentioned in the textual sources (*nusus*) or were not practiced during the time of the Prophet SAW, is permissible (Ibn-Qayyim, n.d.: 153). Nevertheless, the foundation of *maqasid siyasah* remains firmly grounded in the principles and guidance of the *shari'ah*. This allows for new *ijtihad* (independent reasoning) that brings *maslahah* to human life without compromising the *shari'ah*.

The Framework of a Nation

A nation is formed by four key components: the people, the homeland, the government, and sovereignty.

The People

The most critical component of a nation is its people. A nation cannot exist without inhabitants residing in a particular territory, regardless of their number. The type of race or language spoken is not a primary condition. What truly matters is the unity of thought and system, which is further strengthened when a common language is shared among the population and when Islam is the dominant religion of the majority (Al-Khayyat, 2009: 112).

The Homeland

The second component is the homeland, which is a necessary element for establishing a nation. A nation cannot come into existence without land, which serves as a place for its people to reside, implement systems, and conduct daily activities. The homeland also encompasses seas that connect continents, islands, and other territories. This homeland is defined by borders that distinguish it from other territories (Al-Khayyat, 2009: 113-114). In Islam, the term often used is *dar* (abode), as the absence of a house established by individuals implies the absence of a nation (Muhammad al-Shafi'i, n.d.: 8).

Government

Government constitutes the third component in the formation of a nation, involving both a system and power. It is this structured power that forms a government responsible for administering the affairs of the people and their homeland (Al-Khayyat, 2009: 116). According to Ibn Taymiyyah, the source of power for a government is the *shari'ah*. The most important aspect of governance is to promote good and prevent evil. This requires the selection of qualified leaders and officials (Ibn-Taymiyyah, 1986: 185) to occupy significant positions in order to manage power and systems effectively.

Sovereignty

Sovereignty refers to political unity, wherein the people of a nation are free from the control of other governments. The citizens maintain a relationship with their head of state and the nation's system or constitution, even if they are geographically distant or belong to different ethnicities or tribes (Al-Khayyat, 2009: 120-121). When people are divided into separate nations, political unity (*sovereignty*) is lost, as there is no unified authority over the power, system, or constitution that signifies the strength and unity of a nation.

These four components serve as the foundation for the establishment of a nation, similar to the groundwork of a house. However, such a foundation must have a defined purpose to be achieved. Al-Mawardi states that a nation is originally established for the purposes of religion and governance (*siyasa*). The goal of power within a nation is to safeguard the Islamic creed and manage the affairs of Muslims in their worldly matters (Al-Mawardi, n.d.: 13). Thus, the people, homeland, government, and sovereignty become essential pillars that link the *maslahah* (benefit) of the community as a purpose, with the nation as the medium for achieving *maqasid syariah*.

The *Maqasid Syariah* of a Nation

According to 'Allal al-Fasi, the objective of establishing a nation, from an Islamic perspective, is to achieve the *maslahah* (benefit) of humankind (Al-Fasi, 2011: 55). This *maslahah*, as explained by Al-Shatibi, encompasses both worldly and otherworldly benefits, as intended by Allah SWT (Al-Shatibi, 1997: 62). He further emphasized that worldly benefits must be weighed against eternal benefits in the Hereafter, wherein *maslahah* must be pursued through the principles of *shari'ah* while *mafasid* (harms) are to be avoided. This ensures that life in the world leads to success in the Hereafter. Therefore, when pursuing *maslahah* and rejecting *mafsadah*, one must avoid succumbing to personal desires (*hawa nafsu*) (Al-Shatibi, 1997: 63). Allah SWT states in the Qur'an:

وَلَوْ اتَّبَعَ الْحَقُّ أَهْوَاءَهُمْ لَفَسَدَتِ السَّمَوَاتُ وَالْأَرْضُ وَمَنْ فِيهِنَّ
Surah al-Mu'minun: 71

Translation

"And if the Truth had been in accordance with their desires, the heavens, the earth, and all those within them would have been ruined."

This verse explains that submission to personal desires leads to falsehood, which subsequently gives rise to injustice and oppression. Such conditions result in the corruption of the system of the heavens and the earth, as justice is eroded. In essence, the concept of *tawhid* (monotheism) is the force that maintains the cosmic order of the heavens and the

earth (Al-Qasimi, 1997: 297), a principle that fundamentally opposes the inclinations of personal desires. Thus, *tawhid*, as an essential element of religion, plays a pivotal role in preserving worldly benefits, including the harmony of the heavens and the earth.

To ensure the successful governance of worldly affairs, the appointment of a Muslim leader as *khalifah*—one who inherits the prophetic mission—is of utmost importance. This leadership guarantees the preservation of both religious and worldly objectives. The primary *maqasid syariah* in governance, as articulated by Al-Mawardi, is *hirasah al-din wa siyasah al-dunya bihi*—which means safeguarding religion and administering the world through religion. Therefore, the *maqasid syariah* of a nation can be profoundly understood through two critical aspects: the preservation of religion and the administration of worldly affairs.

Preservation of Religion in the Jurisprudence of Governance

a. Spreading Religion through Jihad and Da'wah.

The activity of propagating religion to non-Muslims can take various forms and take place in different circumstances. It may occur either through *lisan al-hal* (actions) or *lisan al-maqal* (speech).

b. Protecting the Belief of the Ummah from Deviations and Ideological Attacks.

It is important to safeguard the *aqidah* of the Muslim community from deviations and the influence of ideologies that undermine their identity, such as secularism, liberalism, pluralism, and any practices that contradict *shari'ah*. Imam Al-Shatibi clearly stated that the true approach to *maqasid* is not to allow groups calling for misguidance and confusion to affect the hearts of the public and the uneducated (Al-Shatibi, 1992: 730). Their errors should be explained, as the harm of allowing them to persist is greater than the harm caused by addressing them, which would otherwise lead to division and conflict within the state.

c. Preventing Fitnah (Disorder) to Religion.

Preserving religion also means preventing actions that could cause *fitnah* (disorder) to the faith. Religion cannot be preserved by waging war against non-believers without just cause, as such actions could lead to Muslims being killed in retaliation and cause chaos. In fact, political stability is also part of the preservation of religion. When political stability is maintained and harmony is ensured, the stability of religion will naturally be preserved.

Administration of the World in the Jurisprudence of Governance

a. Guaranteeing the Sovereignty of Shari'ah and Efforts to Uphold Shari'ah.

This is a fundamental *maqasid* (objective) in any state, by positioning Islam as the supreme foundation of the nation. Any effort towards improving the practice of *Shari'ah* in all aspects should be supported and assisted to the best of one's ability. Although such improvements may not lead to the full implementation of *Shari'ah*, each effort towards change is a step towards better implementation.

b. Governance with Trustworthiness and Justice.

This responsibility lies with the people in electing capable leaders who will govern without corruption or abuse of power. Leaders who have been proven to be involved in breaches of trust, corruption, or similar crimes must be rejected from leadership positions.

c. Guaranteeing Peace and Prosperity in Building National Unity.

Peace within the country is ensured through a prosperous economy and a healthy social environment. The formulation of laws and the implementation of an efficient administrative system ensure that the rights of every citizen are met and that any form of oppression is prevented. This is supported by the practice of concepts such as freedom (*huriyyah*), equality (*musawah*), tolerance (*tasamuh*), cooperation (*ta'awun*), and other rights entitled to all citizens. This will result in unity that encompasses the entire population, including non-Muslims, within a pluralistic society.

d. Sustaining Political Power in the Hands of Muslims.

The preservation of political power is crucial in ensuring that the interests of Islam and the Muslim community are safeguarded. Without political strength (*sultah*), there would be no authority (*shawkah*) for Muslims to realize the benefits (*maslahah*) intended through governance in accordance with Islam.

Conclusion

A state is an essential prerequisite for human life, enabling the implementation of Allah's laws. Without a governing state, societal life cannot be properly realized. This is because humans, as social beings, have daily needs that must be addressed. Due to these needs, people come together to establish a state. These states then form a governing power that is collectively obeyed. From these states, a nation emerges, requiring institutions to regulate the safety and well-being of society and individuals.

The *maqasid* of *Shari'ah* in state administration begins with the fundamental goal that human life is intended to achieve welfare (*maslahah*) both in this world and the hereafter. A state, composed of its people, homeland, government, and sovereignty, is an institution responsible for managing this welfare. It functions to protect, govern, and oversee all matters based on religious principles. This is because the caliphate or state is established solely for the implementation of *Shari'ah*, which serves the welfare of religion. Therefore, any objective related to individuals or communities, whether concerning religion or worldly matters, which is in line with *Shari'ah*, becomes a *maqasid* of the state. All policies, principles, institutions, and the people must be aligned with this shared *maqasid* to ensure the fulfilment of the rights and needs of the people. However, these rights and needs should be based on the framework set by *Shari'ah*, which aims to preserve religion, life, lineage, intellect, and wealth, following the priorities of *daruriyyat*, *hajiyyat*, and *tahsiniyyat*.

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References

- Al-Fasi, 'A. (2011). *Difa' 'an al-Shari'ah*. al-Qahirah: Dar al-Kitab al-Misr.
- Al-Ghazali, M. M. (1993). *al-Mustasfa*. ed. 1. Bayrut: Dar al-Kutub al-'Ilmiyyah.
- Al-Ghazali, M. M. (n.d.). *Ihya' 'Ulum al-Din*. jil. 1. Bayrut: Dar al-Ma'rifah.
- Ibn-'Ashur, M. T. M. (2004). *Maqasid al-Shari'ah al-Islamiyyah*. jil. 2. Qatar: Wizarah al-Awqaf wa al-Shu'un al-Islamiyyah.
- Ibn-Manzur, M. M. (1993). *Lisan al-'Arab*. ed. 3. jil. 8. Bayrut: Dar Sadir.
- Ibn-Qayyim, M. A. B. (1991). *'Ilam al-Muwaqqi'in 'an Rabb al-'Alamin*. ed. 1. jil. 3. Bayrut: Dar al-Kutub al-'Ilmiyyah.
- Ibn-Qayyim, M. A. B. (n.d.). *Bada'i' al-Fawa'id*. jil. 3. Bayrut: Dar al-Kitab al-'Arabiyy.
- Ibn-Rushd, M. A. (1988). *al-Bayan wa al-Tahsil wa al-Sharh wa al-Tawjih wa al-Ta'lil li Masa'il al-Mustakhrijah*. ed. 2. jil. 18. Bayrut: Dar al-Gharab al-Islami.
- Ibn-Taymiyyah, A. 'A. H. (1986). *al-Siyasah al-Shar'iyyah fi Islah al-Ra'i wa al-Ra'yah*. n.p.: Dar al-Arqam.
- Al-Jurjaniy, 'A. M. (1983). *Kitab al-Ta'rifat*. ed. 1. Bayrut: Dar al-Kutub al-'Ilmiyyah.
- Al-Khadimiy, N. D. M. (2001). *'Ilm al-Maqasid al-Shar'iyyah*. ed. 1. n.p.: Maktabah al-'Abaykan.
- Al-Khayyat, 'A. 'A. (2009). *Nizam al-Hukm fi al-Islam*. al-Qahirah: al-Shirkah al-'Arabiyyah al-Muttahidah li al-Taswiq wa al-Tawridat.
- Mahmood Z. A. M. (1992). *Sejarah Pembinaan Hukum Islam*. ed. 2. Kuala Lumpur: Jabatan Penerbitan Universiti Malaya.
- Al-Mawardi, 'A. M. (n.d.). *al-Ahkam al-Sultaniyyah*. al-Qahirah: Dar al-Hadith.
- Mohd S. M., Wan M. Y. W. C., Mohamad Z. M., Ahmad F. I. & Ahmad A. Z. (2020). Implementasi Fiqh Aghlabiyyah dan Kepentingannya dalam Masyarakat Majmuk di Malaysia. *Asian Journal of Civilizational Studies*. Vol. 2 No. 2: 48-61.
- Muhammad S. (n.d.). *Mudhakkirat fi al-Nizam al-Dusturiy wa al-Idariy*. al-Qahirah: n.p.
- Al-Qasimi, M. J. D. (1997). *Mahasin al-Ta'wil*. ed. 1. jil. 7. Bayrut: Dar al-Kutub al-'Ilmiyyah.
- Al-Raysuni, A. (1992). *Nazariyyah al-Maqasid 'inda al-Imam al-Shatibi*. ed. 2. Riyad: al-Dar al-'Alamiyyah li al-Kitab al-Islamiyy.
- Al-Shatibi, I. M. (1992). *al-'I'tisam*. ed. 1. al-Su'udiyah: Dar Ibn 'Affan.
- Al-Shatibi, I. M. (1997). *al-Muwafaqat*. ed. 1. jil. 2. al-Jizah: Dar Ibn 'Affan.
- Al-Yubi, M. S. A. (n.d.). *Maqasid al-Shari'ah al-Islamiyyah wa 'Alaqtuha bi al-Adillah al-Shar'iyyah*. Riyad: Dar al-Hijrah.
- Al-Zubaydi, M. M. (n.d.). *Taj al-'Urus min Jawahir al-Qamus*. jil. 21. n.p.: Dar al-Hidayah.