The urgency of *maqasid al-siyasah* in political ijtihad

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ABSTRACT

This research seeks to discover, comprehend, and trace the significance of *Maqāṣid al-Siyāsah* in the practice of political *ijtihad,* specifically, the significant role of *Maqāṣid al-Siyāsah* in the field of political *ijtihad,* particularly in dealing with contemporary political problems today. To address the issue above, the author employs a non-statistical qualitative descriptive research method that focuses on studying texts and texts from various literature on the concept and urgency of *Maqāṣid al-Siyāsah* and its application in political *ijtihad.* This study employs both a normative and a historical approach. According to the study's findings, *Maqāṣid al-Siyāsah* has a high priority in the field of Islamic political *ijtihad,* primarily in terms of contributing to the resolution of *mu'āṣir* political problems, which include: a). Developing ijtihad expertise *(malakah al-ijtihād)* for *fukaha,* particularly in the field of al-siyāsah al-syar'iyyah, b) direct a mujtahid to the correct application *(al-taṭbīq al-ṣaḥīḥ)* of syariah laws in Islamic political ijtihad, c). Assist the *mujtahid* in confronting and expounding opposing propositions in contemporary political matters *(ta'āruḍ al-adillah),* d). Assist with fatwas analysis in new cases requiring legal determination, e). Directing a *mujtahid* to be *wasaṭ* (وسط) in *istinbāṭ* laws pertaining to *siyasah,* f). Assist the *mujtahid* in deciding between *maṣālih* and *mafāsid* on political Islam issues. This study's findings have the following implications: 1) It was discovered that the term *maqāṣid al-siyāsah* is still used infrequently among researchers and *fukaha,* 2) The deepening of *maqāṣid al-siyāsah* found solutions and answers to many contemporary political problems that have divided Muslims.

Keywords: *Maqāṣid;* political; *al-siyāsah;* ijtihad

1. INTRODUCTION

One of the advantages and privileges of the teachings of the *Shari'a* revealed to the Holy Prophets is the content of the purpose, purpose, wisdom, and secrets behind it. All fields in the study of Islamic law, both creed, worship, *muamalat,* and morals, ensure that there is wisdom and the intentions of *shar'i* to realize the benefit of humanity in this world and the hereafter.

The benefits referred to here are the goodness of life, the distance of servants from corruption, the establishment of justice, the form of a sense of security, ease in paying off the burden of *taklif,* etc. This is as confirmed by *fukahas* such as *al-'Izz ibn 'Abdussalām* (d. 668 AH), *Ibn Taymiyyah* (d. 728 AH), *Ibn al-Qayyim* (d. 751 AH), al-Shāṭibī (d. 790 AH), and others. Even *Najm al-Dīn al-Ṭūfī* (d. 716 AH) cites the existence of *ijmak* (consensus of the people) on the ability to make *'illat* the existence of laws through the realization of *maslahat* and the prevention of damage".

From this, the *fikrah* establishes a branch of knowledge in jurisprudence called the science of *al-maqāṣid;* that is, a branch of science aimed at exploring global postulates *(mujmal)* and specific Sharia laws, which focuses on deepening the meanings and purposes for which they are derived; both general and specific.

In principle, the science of al-maqāṣid is a science that is closely tied to the science of *uṣūl al-fiqh* and jurisprudence simultaneously. Before it became an independent science, *maqāṣid al-syarīah* was usually discussed in the science of *uṣūl al-fiqh,* especially in the field of *maṣālih* studies. Thus, the science of *al-maqāṣid* is defined as the science of maṣālih and *mafāsid,* which pays attention to the *ḍawābiṭ* of sharia that can weigh between *maslahat* and *mafsadat* when there is a conflict.

Over time, the *hajat* and need for *maqāṣid* became greater. Because the science of *maqāṣid* dramatically facilitates the work of ijtihad in issuing *(istinbāṭ)* sharia law, or fatwas and *qadha.* In addition, his very significant role gave the believer a correct understanding of the burden of *taklīf* on him until it became more transparent and accessible.

Thus, through the *maqāshidī* point of view, a mujtahid can be *wasaṭ* (balanced) regarding the outward understanding of the sacred text with an understanding of the intent and purpose behind it according to the scales of *sharia* and valid *ḍawābiṭ ijtihad.* Similarly, through the science of *maqāṣid,* adequate sharia propositions support the principle of *wasaṭiyah* in viewing all Islamic sharia teachings. Thus, the issue of *maqāṣid* includes the particularities and privileges inherent in this glorious sharia of Allah.

However, especially in the field of Islamic political studies *(al-siyasah al-syar'iyyah),* which has an extensive scope of influence and touches the *hajat* of many people (general *hajat),* this *maqāṣid* matter is still little known to Muslims, including those who struggle in the field of Islamic legal studies. Many problems in politics, especially contemporary politics today, can be found solutions and solutions through the deepening and reasoning of *maqāṣid* because it is undeniable that cross-opinions and differences in perceptions related to contemporary *amaliyah siyasah* occur in the political field.

Therefore, this research is considered essential to uncover the significance of the urgency of *maqāṣid al-siyasah* in contemporary political *ijtihad.* This is so that crucial decisions in the political field concerning the management of the state and the welfare of many people can be more directed and targeted. The author hopes this research can be the initial basis *(munṭalaq)* for other studies related to *maqāṣid* in Islamic political *ijtihad.*

2. METHODS

In order for this research to be more focused, focused and limited in describing the object of research, several approaches are used, including:

a. Normative Approach: This approach is used for this type of research related to legal principles; That is, the correlation of legal principles or doctrines with positive law, as well as laws that live in society. The subject of study is law, conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. Normative legal research is legal research that positions law as a building system of norms in the form of principles, norms, rules, agreements, and doctrines. Therefore, this approach is also used to trace the justification of theories and concepts studied through the postulates of *shari'a* from the Qur'an and the hadith of the Prophet (peace be upon him), as well as the opinions of *fukaha* related to the substance of the study.

b. Historical Approach: an approach carried out through the study of what background was studied and the development of the science of *maqāṣid al-siyāsah.* Uncovering the philosophy and mindset that gave birth to something learned is necessary. This historical approach is necessary if there is an assumption that philosophical expressions and mindsets are born when something is learned relevant to the present. This approach will be used to trace the historical roots of the birth of the concept and perspective of *maqāṣid* and its urgency in the area of ijtihad of contemporary Islamic political law.

c. Content Analysis and comparative approaches. This approach aims to analyze views or opinions concerning the framework of epistemology, ontology, and axiology of the concept of *maqāṣid al-siyāsah* contained in various sources that Islamic legal figures or experts have written. Then, a comparative approach is taken to gain clarity and comprehensive understanding and obtain the specification of the concept of *maqāṣid* proclaimed by Islamic sharia in the field of political legal *ijtihad.*

Data sources in this study consist of two types, namely:

1. Primary Data: data obtained directly from the source without the intermediary of other parties. The primary sources of this research are verses of the Qur'an and hadiths of the Holy Prophet (peace be upon him) taken directly from the books of the *muktabar* hadith as well as classical and contemporary *maqāṣid* books.

2. Secondary Data: data obtained through other parties by various methods/means. The data is obtained from the source (object of study) and other sources. Secondary data in this study are books and articles supporting the *maqāṣid al-siyāsah* concept in Islamic law.

At the data analysis stage, it is carried out by involving the stages of research that have been carried out since the beginning. This research uses qualitative analysis based on library research data, processed by drawing deductive-inductive conclusions. Qualitative data is information data in the form of verbal sentences, not in the form of number symbols or numbers. Qualitative data is obtained through in-depth analysis techniques and cannot be obtained directly. Qualitative analysis is also aimed at describing and analyzing phenomena, events, social activities, attitudes, beliefs, perceptions, and thoughts of people individually and in groups.

Thus, the data analysis technique used in this study is a document or literacy study that refers to the content analysis method (Content Analysis). This analysis is used to obtain valid inferences that can be re-examined based on the context.12 In this analysis, the process of selecting, comparing, combining, and sorting out various understandings is carried out until they are found to be relevant to the scope of discussion.

3. RESULTS AND DISCUSSION

Definition of *Maqāṣid al-Siyasah*

The word al-Maqāṣid is the plural form of al-maqṣad. In terms of etymology, the word al-maqāṣid has various meanings, including *istiqāmah al- Ṭañq* (straightness and accuracy of the road); as stated in al-Naḥl/16:9, also *al-'adl wa al-wasaṭ baina al-ṭarfaini;*

i.e. the position between the attitudes of *al-ifrāṭ* (exaggeration) and *al-tafrīṭ* (simplicity), as mentioned by *al-Fayyūmī* (d. 770 AH). The designation of this meaning is found in the Qur'anic verse QS Luqmān/31:19. Similarly, it can mean *al-i'timād wa al-iltizām wa ṭalab al-shaī' wa išbātuhū* (depending, committing and demanding/establishing things).

Aḥmad al-Raisūnī asserts that the word *al-maqāṣid* is a plural form of the word *al-maqṣad,* meaning the meaning, purpose, and intent desired by al-shāri' (Allah *Subhanahu Wa Ta'ala);* in the sense that it is the intent and purpose for Him.

While the word al-siyāsah (political) etymologically means doing things that can produce sound. If it is said: sustu al-ra'iyyah siyāsatan, I rule and forbid the people I lead.

As for its terminological meaning, the *fukahas* use the word *al-siyāsah* in their work in several meanings, among them:

a. Sharia rules related to the implementation of the mandate of power, state wealth, and fair law enforcement, both related to the rights of Allah *Subhanahu Wa Ta'ala* as well as the rights of fellow human beings.

b. Ijtihad carried out by a head of state related to the people's problems led to bringing them closer to the *maslahat* or distance them from *mafsadat.* Although the decision taken does not have a foothold based on the *shari'a* passage, it is required that it must be in line with efforts to realize *al-maqāṣid al-syar'iyah* and not contradict the detailed passages.

If the word *al-siyāsah* is coupled with the word *al-syar'iyyah,* according to Ibn 'Aqīl al-Ḥanbalī (d. 513 AH), then it means an activity that can direct people closer to the benefit and further away from *mafsadat,* although the matter of this was not decreed (specifically) by the Holy Prophet (peace be upon him) nor was it revealed through the information of revelation.

If the word *al-siyāsah al-syar'iyyah* is explicitly directed at one particular area, according to 'Abd al-Wahhāb Khallāf (d. 1375 AH), then it means the arrangement of affairs related to the question of the Islamic state that can guarantee the realization of the benefits and rejection of the harm of the people, as long as it does not go beyond the limits of the sharia or its *kullī* (universal) foundations, although it does not have to be the same (by) the opinions of the mujtahid imam.

From the above explanation, it is found that *maqāṣid al-siyasah* is the purpose, wisdom and purpose that is behind the practice of *al-siyāsah.* Through a deepening of the definitions of *al-siyasah* issued by the fuqaha, both general and specific, it appears that some have alluded to and even included the question of *maqāṣid* why *al-siyāsah* was commanded.

For example, in Ibn 'Aqīl's definition (d. 513 AH) above, there is the expression, "closer to *maṣlahat* and far from *mafsadat*"; also, in the definition of 'Abd al-Wahhāb Khallāf (d. 1375 AH), "who can guarantee the realization of the benefit and the rejection of the harm (of the people)". From the above two definitions, that the general *maqāṣid of al-siyāsah* is to realize for people their benefits and prevent them from harming in this world and the Hereafter.

Similarly, al-Māwardī's definition (d. 450 AH), that the *imāmah* (which represents the meaning of *al-siyāsah al-syar'iyah)* is the office in charge of replacing *nubuwat* (prophethood) in matters of maintaining religion and regulating world affairs". Al-Nawawī and Ibn Khaldūn also gave the same meaning. From this, it is clear that *maqāṣid al-siyāsah's* elaboration is to safeguard religion and govern world affairs.

While al-Juwainī (d. 478 AH) gives a more detailed definition of *maqāṣid al-siyāsah*, that *al-imāmah* is absolute power and leadership regarding special and general matters in terms of religious and world regulation. His duties were to guard the land of the state (*al-ḥauzah*), govern the people, uphold and guard proselytizing with blasphemy and sword, prevent tyranny, help the persecuted, restore the rights of the detaining party, and fulfill the rights of those who are entitled to it.

Considering that the majority of laws in *al-siyāsah al-syar'iyah* are closely related to the interests of the people and not to the personal, then the maqāṣid is also classified as *maqāṣid kulliyah* (universal) and not *juziyyah* (partial). In addition, the *maqāṣid al-siyāsah* is classified as *ḍarūrī, hājī,* and taḥsīnī which is determined through two ways, namely the *qaṭ'ī* method and the *ẓannī* way.

From the preceding, it becomes clear that the maqāṣid al-siyāsah was directed at two things:

a. Maqāṣid dīniyah (*maqāṣid* related to religious affairs). This *Maqāṣid* is realized through the establishment of religion and everything that leads to that goal, such as the propagation of *ilallāh,* the dissemination of knowledge, intercepting the spread of heresy in religion, limiting the movement of constrictive sects, jihad in defence of religion and state, the enforcement of religious *shiar,* and so on. *Ibn al-Hummām* (d. 861 AH), one of the great *fukaha* of the *ḥanafī* school, stated that the primary purpose of leadership is to establish religion. In a sense, making the *shiars* upright according to Allah's commands, letting go of obedience, reviving the sunnah, and suppressing heresy so that the people are focused on obedience to Allah Almighty. According to al-Juwainī (d. 478 AH), establishing religion was realized through two methods. *Da'wah bi al-lisān* or the method of delivering arguments directly, and da'wah bi *al-sinān* or by sword (force), that is, preparing

forces to ensure the security of Islamic da'wah and defend it from outside forces that hinder it.

b. *Maqāṣid dunyāwiyah (maqāṣid* related to world affairs). This *maqāṣid* is realized through the regulation of the affairs of the ummah in the form of efforts to realize *maṣālih* and reject *mafāsid* in general, including appointing capable leaders, maintaining domestic stability, enforcing sharia law, realizing justice in society, regulating prices for primary needs, *istiṡmār* (managing) state wealth for the benefit of the people, and others.

Proof of Application Maqāṣid al-Siyasah

Among the application examples of the political ijtihad of the Prophet (peace be upon him) and al-khulafā' al-rāsyidīn that are closely related to the attention to maqāṣid al-siyāsah are the following:

First, the narration of Jābir bin 'Abdullāh (ra), regarding the words of the Holy Prophet (peace be upon him) to Umar bin al-Khaṭṭab when asking permission to kill 'Abdullāh bin Ubaī bin Salūl, the leader of the hypocrites:

«دعه لا يتحدث الناس أن محمداً يقتل أصحابه»

Means:

> *"Let him, let not the people say that Muhammad has killed his Friend."*

This narration shows that the Prophet *Shallallahu 'Alaihi Wa Sallam* refrained from fighting the hypocrites at the beginning of the Islamic *dakwah,* while their existence significantly disrupted the *dakwah* and the wheel of the leadership of the Prophet *Shallallahu 'Alaihi Wa Sallam* in Medina for the reason of *maqāṣid al-siyāsah.* He was about to close the doors of slander, but not until the people accused the Prophet *Shallallahu 'Alaihi Wa Sallam* of killing his Companions because the hypocrites are outwardly similar to the Companions of the Prophet *Shallallahu 'Alaihi Wa Sallam.*

Second, the cancellation of Khalīfah 'Umar ibn al-Khaṭṭab (ra), the giving of part of the zakat property to the faction of *al-muallafah qulūbuhum,* because it has lost the nature of *ta'līf* (which needs to be softened) from them.

Earlier, the Holy Prophet (peace be upon him) and his later leader Abū Bakr al-Ṣiddīq gave them a share of the zakat treasure because there is a passage in the Qur'an whose *'illat* is the nature of *ta'līf.* However, when the *'illat* of the law (the nature of *ta'līf)* disappeared because Islam had been noble and the number of Muslims increased in the

time of 'Umar ibn al-Khaṭṭab, he abolished the section. This attitude is evidence of the practice of *maqāṣid al-siyāsah* born of the contextualized understanding of the law.

Caliph 'Umar understood that the law related to the share of the mu'allaf from the zakat property is *mu'allal.* Whether the law applies or not depends on the presence or absence of *'illat.* In this case, 'Umar saw that the *'illat* of the law (i.e. the attractor) for them no longer existed because, at that time, the Muslims were already intense and scattered so that there was no longer any intention to draw their hearts to Islam through the gift of *zakat* treasures.

Third, the order of Caliph 'Uṣmān ibn 'Affān (ra) restrained the lost camels. However, a passage from the Holy Prophet (peace be upon him) forbids arrest through the narration of Khālid al-Juhanī. The camel has shoes and water bags, so it can come to the water place and eat plants by itself.

The above order of the caliph Uṣmān shows his understanding of the purpose and context of the words of the Holy Prophet *Shallallahu 'Alaihi Wa Sallam.* It is a fatwa about safe conditions that allow lost camels to eat from vegetation and drink water from the source without fear of danger until its owner rediscovers it. As for when the human condition has changed, and they have often taken stray livestock, then this situation is why he will forever not be found by its owner if the camel is left. Based on this consideration, as the embodiment of *maqāṣid al- siyāsah,* he, as the leader, ordered to take it and announce it for a year.

Maqāṣid al-Siyāsah in Political Ijtihad

Linguistically, the word ijtihad means maximizing the exertion of all potentials and abilities. Mentioned in al-Jauharī's al-Shihāh (d. 393 AH), the word *juhdu* means *al-ṭāqah* (potential). This linguistic meaning is found in the word of Allah QS al-Tawbah/9:79.

In terms al-Syīrāzī (d. 476 AH) asserts, *ijtihad,* in the perspective of *fukaha* is to devote all potential and ability to the maximum in exploring or discovering the law of *sharak.* Meanwhile, according to al-Gazālī (d. 505 AH), *ijtihad* is an effort by a *mujtahid* to devote all his potential and ability to exploring knowledge related to *Sharia laws.* Moreover, the *mujtahid* could not increase his sincerity in this maximum effort.

The essence of ijtihad is the attempt of a *fukaha* to remove something that does not yet have a law and take the right stance on newly visible issues, not simply to repeat pre-existing legal determinations. Because of this effort, an alim has the right to be called *al-faqīh.*

1. Demands of political Ijtihad within the frame of *Maqāshid al-Siyāsah*

Like other branches of jurisprudence, *al-siyāsah al-syar'iyyah* also demands renewal and ijtihad in it. Especially because matters related to politics are very dynamic and continue to develop and change based on the passage of time, conditions, and places.

Therefore, the call to revisit and ijtihad in the political field in accordance with *maqāṣid al-siyāsah* has been echoed by many contemporary thinkers, both through books, articles, and scientific seminars. Because addressing today's political questions based on the outwardness of the passage alone or being rigid towards the passages and not looking at the meaning *al maqāṣid* that exists in them will certainly plunge the ummah into *society*, *ḥaraj*, and difficulties.

If examined more deeply, the demand for review and the call to cultivate the spirit of ijtihad in the field of al-siyāsah al-syar'iyyah was born based on the following factors:

a. Limited references in the form of books, articles, and scientific writings related to this issue compared to references in other branches of jurisprudence. The lack of work related to *ijtihād al-siyāsah* makes scholars of *fiqh siyasah* not find before them options to face political developments in modern times in order to answer various problems based on the considerations of *maqāṣid al-siyāsah*. So, it is not surprising, in Indonesia, for example, cross-opinions and debates are never finished among Muslims every time before the General Election season (*PEMILU)*. Should I get involved in democratic politics because of un-Islamic assumptions or not? The criteria for the country's leader to be chosen are an ideal party representing the people's aspirations, a coalition of Islamic parties *(taḥāluf al-ahzāb)* with secular parties, and so on.

b. Religious discourse on political issues comes in *kullī* (general) and general forms, to almost no detail and detail. The laws of *sharak* that he prescribed, in this case, were minimal and few. The rest comes in the form of general rules, such as the rules of the principle of *Shura',* the rules of state enforcement based on religious teachings, the rules of the supremacy of sharia in law, the rules of blasphemy of power to the authority of the people, and others. The provisions related to political life and its practical procedures are left to *ijtihad* according to changing conditions, place, and time.

This situation requires that *fiqh siyasah* is largely built based on ijtihad in cases that are silenced without any passage from the conditions associated with *sharak* law. Of course, the decision of the law must be based on what the *mujtahid al-siyāsah*

thought, that he could benefit the people in their time living in it. As for when conditions have changed, he needs a new *ijtihad* that is in line with the scope of the general rules of *kullī* that exist in his *nash.* From here, they then published new ijtihad laws to answer political problems of a new (contemporary) nature. This issue requires consideration of a new jurisprudence framed with a framework of universal principles and provisions that address the updated political reality.

c. The pressure of the ruler on the writers of *fiqh siyāsah* during the time of compiling the sources of *fiqh al-siyāsah* was firm. This is the impact of slander and political strife that significantly impacts the people. Starting from the great slander *(al-kubrā)* and then followed by rarely empty slanders during Islamic law. This intense pressure certainly gave birth to the influence on the jurisprudence ijtihad compiled related to *al-siyāsah al-syar'iyyah*. As an approach, writing history-history books, for example, is full of pressure from the ruler. They firmly compel the authors to present history according to their political interests.

For example, the issue of the appointment of leaders through the method of *al-istikhlāf or al-'ahdu* (testament of appointment); that is, a leader or caliph at the end of his life has appointed a particular person to be caliph afterwards. Al-Māwardī (d. 450 AH), a *mujtahid fakih* of the *Syāfi'ī* school and supreme head of the kadi *(qāḍī quḍāt)* during the reign of the Abbasid dynasty, in al-Aḥkām al-Sulṭāniyah states that the appointment of leaders by the method of *al-'ahdu* has become an *ijmak* (consensus) on his ability and his validity was agreed. Al-Māwardī then argued through the deeds of the caliph Abū Bakr when giving the will of appointment to 'Umar ibn al-Khaṭṭāb, as well as the narration of 'Umar ibn al-Khaṭṭāb giving a will to six shura experts to choose one of them to be caliph.

Meanwhile, the ijmak claim needs to be reviewed. Moreover, the issue of *al-'ahdu* cannot be separated from its essential condition, namely, the people's desire for the leader. This matter (the blessing of the people) is precisely one of the *ijmak* issues in the *Shari'a.* There was no difference of opinion among the Companions and the mujtahid imams afterwards regarding the issue of the people's pleasure towards this leader. Thus, like Ibn Hazm (d. 456 AH), he quoted an *ijmak,* that the inability of leadership positions is obtained through mutual inheritance. Even Ibn Taymiyyah (d. 728 AH) made a firm statement regarding the *bai'at* of Abū Bakr (based on deliberation) and *bai'at* 'Umar (based on the testament of appointment) as caliphs, that if it was destined that the Companions (people) at that time were not pleased and did not give their *bai'at,* then both could not have been leaders.

It may be that the views of al-Māwardī and the *fukaha,* who lived contemporaries of *al-'ahdu's* method which consequently did not see the pleasure of the people

towards their leader, were seen as a benefit at that time, seeing the reality of the conditions and political situation in which they lived in it. However, although there was reason for al-Māwardī to make such a view, it was not appropriate for the *fukaha* who came after him to swallow it outright and ignore the original law agreed upon in this matter, namely the condition of the people's pleasure as to who would be their leader.

Such phenomena certainly harm some *ijtihad* in *al-siyāsah al-syar'iyyah;* that is, when he is absorbed in the political reality of Islam today, assuming that the current conditions must be by what is in the classic *siyasah* books. Such a situation causes a profound critical occurrence in political reality and triggers unexpected political developments. For this reason, efforts are needed to review through new *ijtihad* and eliminate harmful effects on current political issues.

2. Maqāṣid al-Siyāsah in Political Ijtihad

A valid understanding of *maqāṣid al-siyāsah* is an absolute requirement for a *fakih* in the pursuit of contemporary Islamic political *ijtihad* (*al-nawāzil al-siyāsiyah)* today. Merely, the provision of knowledge related to the Qur'an and Sunnah will not achieve maximization and perfection, but if accompanied by the knowledge of *al-maqāṣid,* its goals and objectives. It is asserted that a *mujtahid* cannot be separated from the deepening of the knowledge of *al-maqāṣid* in general and *al-maqāṣid al-siyāsah* in particular, because he is the spirit of all the deeds, as stated by al-Shaṭibī.

Based on the search of *fukaha* works, it appears that *maqāṣid al-siyāsah* has a significant role in the field of Islamic political *ijtihad,* including:

a. Assist in developing ijtihad expertise *(malakah al-ijtihād)* for a fakih especially in the field of *al-siyāsah al-syar'iyyah*

This is because *ijtihad* is an ability that must be nurtured and developed in order to establish the *istinbāṭ* practice of the detailed contemporary *amaliyah* laws.

Similarly, it will strengthen the ability to explain *'illat* a law and the cause of dissent if the problem is in the *khilāf* among the *fukaha.*

Therefore, *al-Shaṭibī* (d. 790 AH) states that a *fakih* cannot attain the degree of mujtahid unless two qualities are fulfilled: 1) understand *maqāṣid al-shari'ah* perfectly. 2) have the capacity in *istinbāṭ* law through understanding the *al-maqāṣid.*

Furthermore, *al-Jauhari* asserts that the *istinbāṭ* field will not be realized by understanding the passage by *lafziyah* alone. However, the *istinbāṭ* is born through the

understanding of *illat, al-asyabah wa al-naẓāir (kiyas)*, and *maqāṣid.* In essence, the work of *istinbāṭ* is an advanced level of *fahmu al-naṣ* (understanding of nas), which cannot be realized but through the understanding of *illat* and *maqāṣid.*

b. Instructing a mujtahid on the accuracy of the application *(al-taṭbīq al-ṣaḥīḥ)* **against Islamic laws**

The accuracy of applying a law is needed in answering new problems, especially the problem of *al-siyāsah al-syar'iyyah*. This can be realized if a mujtahid understands correctly the spirit or wisdom behind each law. Not infrequently, ijtihad laws built solely on the outward text of the Qur'an and sunnah, or quotations of classical f*ukaha* opinions without regard to the sides of the *maqāṣid,* seem very rigid and burdensome. Such a situation that *maqāṣid* would seem to play a role in softening the rigidity born of *istinbāṭ* law based solely on the outward passage and the rules of the *Shari'a.*

For example, the application of the law of *qiṣaṣ* as stated in al- Baqarah/2: 179. It appears from this verse that the *maqāṣid* of the *sharia qiṣaṣ* is the preservation of human survival (*hifẓ al-ḥayāt).* The law of *qiṣaṣ* exists because murder is typical in human *'urf.* That is, it is carried out deliberately and using deadly sharp tools.

The question arises if the murder is carried out using a device that is usually not lethal; will the Sharia of *qiṣaṣ* still be enforced? Scholars who adhere to *zahir nash* say *qiṣaṣ* is enforced if the murderer uses sharp or lethal weapons such as firearms and a sword. Apart from that, there is no qiṣaṣ obligation, such as if the culprit uses wood and stone-throwing. As for the *fukaha,* which adheres to the meaning and *maqāṣid* of the *qiṣaṣ shari'* a, it is expressly stated that the law of *qiṣaṣ* must be enforced, whether the murderer uses a deadly sharp object or a blunt object that is not lethal, as long as there is an intent to kill.

Of course, the opinion that is *rājih* and in line with his *maqāṣid* and *illat* is the second opinion. Sharia *qiṣaṣ* is enforced to safeguard the soul, while *'illat* is an element of intentionality. Ignoring the *maqāṣid* opens the doors of great destruction; if a person wants to kill another person, then he will use blunt objects that are usually not lethal on the assumption that doing so frees him from the bondage of *qiṣaṣ* punishment.

c. *Maqāshid al-siyāsah* helped the mujtahid confront and elaborate conflicting propositions (*ta'āruḍ al-adillah)* in contemporary political matters

The role of *maqāshid al-siyāsah* here is to direct a *mujtahid* to the correctness of the application of law in conditions where there are conflicting passages. It should be emphasized, however, that there are essentially no conflicting postulates of the *Shari'a*

(*al-ta'āruḍ al-ḥaqīqī*); It is just that the conflict happened *zahir* only. This is reinforced through the word of Allah QS al-Baqarah/2:82.

For example, there is a conflict between the propositions that command obedience to the leader and the problem of criticism of the ruler's policies. Some consider criticism of the ruler as *khurūj* (defection) and punished as *bughāt*. Others consider criticism of the ruler part of the advice commanded to be upheld. Through a good understanding of *maqāṣid al-siyāsah,* these conflicting issues can be easily parsed and synchronized.

d. *Maqāṣid al-Siyāsah* assisted in the analysis of fatwas in new cases requiring legal enactment

The role of *maqāṣid al-siyāsah* in this regard is to straighten out the fatwas to be issued so that they are precise, not deviant, and in line with the spirit of *al- maqāṣid.* If examined, some fatwas that deviate and are not valid are placed. The reason is more about incomprehension of *maqāṣid al-siyāsah*, or not walking on its signs. Finally, he did not provide a solution to the growing political problems of the Ummah while the existing passages were minimal.

Examples can be raised here, for example, the fatwa error related to the ban on participating in elections issued by some Islamic *fukaha,* which are followed by many people with the assumption that the system that oversees General Elections is not Islamic (democracy). Similarly, fatwas on the haram of peaceful demonstrations, assuming they are tantamount to rebellion (*bāgiyah),* and so on

e. *Maqāṣid al-siyāsah* directs a mujtahid to be *wasaṭiyah* in *istinbāṭ* laws concerning siyasah matters

The role of *maqāshid al-siyāsah* here is to direct a mujtahid not to be trapped in the extreme understanding of zahiriyah and gulūw on the one hand, also not to fall into an excessive understanding of meaning to seem neglectful of the passage or even contrary to the passage for reasons of maslahat.

Al-maqāshid, as *al-Khādimī* states, is like a knife that can be used for benefit in the hands of the right people, but it can also be used for evil and evil in the hands of evil people. Therefore, being wise in using *maqāṣid al-siyāsah* is a requirement for those involved in the world of ijtihad, especially in contemporary Islamic political matters.

For example, Gulūw's attitude in addressing the democratic system is as if there is no room for Muslims to participate in it to benefit or prevent harm. In contrast, the attitude considers that the democratic system is the core of Islamic law so that whatever

is born from it must be carried out even though it is outwardly contrary to the passages and rules of the Shari'a.

f. Assist the mujtahid in weighing between *maṣālih* and *mafāsid* on matters of political Islam

The role of *maqāṣid al-siyāsah* here is to direct the ability of ijtihad of a *fukaha* in seeing and weighing the problems of *siyasah*, especially between *maslahat* and **mafsadat** contained in a problem. Do not let in political ijtihad, and unwarranted allegations be put forward rather than looking at the existing benefits or damages. A person who has *maqāṣid al-siyāsah* can find the most significant good between the two goods to be put forward or find the greatest of the two evils before him to be kept away.

Intelligent people do not know good from evil, but they know the greater good between two good and the more excellent bad between two evils. Distinguishing between good and bad is a simple matter. As for choosing one good among the existing goods or choosing one wrong from the many evils to avoid the greatest, he needs many ijtihad tools. Examples in this case are paying ransoms for Muslim prisoners of war, paying taxes to non-Muslim countries when the condition of the Islamic state is weak, Muslim involvement in non-Islamic systems, and many more.

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