

The Implementation of Maqashid Shari'ah as the Tool of Data Analysis in Islamic Economic Law Research

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Abstract

Data analysis in research of the study becomes urgent; it is the key for a successful research. Using wrong of data analysis will result on the error conclusion. Therefore, choosing the right analysis to examine a problem in research is an important thing to be considered. Maqashid Shari'ah is the purpose and objective of Shari'ah that was initiated by the earlier Muslim scholars that put fondation of maqashid al-khamsah which is formulated in the protection of; religion, soul, mind, heredity and property. How to make maqashid Shari'ah as a tool in analyzing Islamic economic research especially sharia economic law? The method used in this research is grounded theory which the study of maqashid Shari'ah developed into an analysis in qualitative research. The data used are thoughts sourced from experts who discuss about this theme. It is further developed into a measuring tool in the analysis of the study. The result of data in this research is that maqashid Shari'ah is very suitable to be the analysis tool in sharia economic law research. It can be formulated in its general nature that is maqashid Shari'ah taken generally from some maqashid experts. And also turn out a single thought about maqashid Shari'ah used as an analysis tool.

Keywords: *Maqashid Shari'ah, Al-Mashlahah, Qualitative Data Analysis, Research, Islamic Economic Law.*

Introduction

Data analysis is urgently needed in the research. Its function is to manage data becomes information that will result the characteristics and nature of that data can be easily understood and benefit to answer the problems related with the research activities.¹ A wrong analysis can lead to a wrong conclusion of the research. Furthermore, the development of Islamic economics need further study on methodology to achieve its objectives.

The research of Islamic economics that used data either qualitative or quantitative needs also to find the right data analysis to get better result of the study. For instance in the title of '*Land Mortgage in Maqashid Shari'ah Perspective.*' Some related researches on that title does not focus frequently in tools of analysis used to answer the research problems. Researcher mistakes to use data analysis; they use general *usul fiqh* to analyse the data in spite of title shown uses the perspective of *maqashid Shari'ah*. However, to Larbani and Mohammed (year) five elements of *Al-Maqashid Shari'ah* constitute an adequate framework to achieve these objectives. Hence, for example, an investment in agriculture sector will directly contribute to the preservation of three elements, namely *al-Din*, *al-Nafs* and *Al-Mal*.²

There are many researches use the *maqashid Shari'ah* approach, but the problem is the lack of understanding the essence of *maqashid Shari'ah* and missuses of data analysis leads to the wrong conclusion. Hence, the most theory of *maqashid Shari'ah* is always used is a combination of theory referred to both Imam *al-Ghazali*, *al-Shatibi* and *Ibn 'Ashur*. Though, if we study in-depth about theory, there are many theories of *maqashid Shari'ah* developed and proposed by classical and contemporary Muslim scholars.

The term of *maqashid Shari'ah* in the view of *Raysuni* is used by *Tirmidzi al-Hakim* who wrote a book namely '*Al-Shalah wa Maqasiduha.*' On the contrary with *Raysuni*, *al-Ubaydi* states that the pioneer who discusses the topic of *maqashid Shari'ah* is *Ibrahim al-Nakha'i (Tabi'in)* in *Iraq (93 H)*.³ To *al-Nakha'i*, the rules/laws of

¹ Matheww B. Miles, A. Michael Huberman, and Johnny Saldana, *Qualitative Data Analysis* (London: Sage Publishing, 2013), 16.

² Moussa Larbani and Mustafa Omar Mohammed, 'Decision Making Tools for Resource Allocation Based on *Maqashid Al-Shari'ah*,' *Islamic Economic Studies*, Vol 19 No. 2: 2011: 55.

³ Hammadi al-Humaydi, *Al-Shatibi wa Maqashid al-Shari'ah* (Beirut: Darul

Allah has the objectives which are realized through *hikam* (wisdom) and *masālih* (benefits) of human, as mentioned in Surah al-Baqarah, 220; "And they ask you about the orphans, Say, "Improvement for them is best. And if you mix your affairs with theirs-they are your brothes. Allah knows the curropter from amender." Afterwards it is followed by Many Muslim jurists such as al-Juwaini, Imam Ghazali, etc.

Moreover, *maqashid Shari'ah* becomes spesific discipline in the hand of Imam Shatibi that can traced in his book *muwāfaqat* juz two. The formulation of *maqashid Shari'ah* developed by Imam Shatibi is vey comprehensive that covers *maqashid* of *Syāri* (Allah) and *Maqashid* of human. Other Muslim jurists who concerns to write specific *maqashid Shari'ah* is Ibn 'Ashur with the title of Book '*Maqashid al-Shari'ah al-Islamiyyah*.' Both two Muslim jurists are being most referred by many scholars in the study of *maqashid Shari'ah*. Therefore, this study attempts to analyse the development of *maqashid Shari'ah* as the tool of data analysis in research of Islamic economics, especially the thought of Imam Shatibi and Ibn 'Ashur.

Literature Review

Maqashid Shari'ah: Definition and Its Classification

Maqashid Shari'ah is compound words consisting of two words, they are *maqashid* and *Shari'ah*. *Maqashid* is plural of *maqshad* that means intension and goal, which is rooted from word *qashada-yaqshudu-qashdan* is want or intend, which to Ibn Manzur, *maqashid* is a justice.⁴ *Shari'ah* literally means away to the watering-place or a path apparently to seek felicity and salvation.⁵ Thus we put you on the right way [*sharī'atan*] of religion. So follow it and follow not the whimsical desire (Īaws) of those who have no knowledge. (45:18). Since *Shari'ah* is a path to religion, it is primarily concerned with a set of values that are essential to Islam and the best manner of their protection. So, it can be said that *maqashid Shari'ah* is the rules/values set by Allah that have the objectives to benefit of human.

Qutaibah, 1992), 134.

⁴ Jamaluddin Ibn Muhammad Ibn Mukrim Ibn Manzur, *Lisanul 'Arabi* (Beirut: Darul al-Shadir, 1999), 353.

⁵ Mohammad Hashim Kamali. *Shari'ah law: an introduction* (England: Oneworld Publications, 2008), 2.

Some Muslim scholars elaborate the maqashid Shari'ah in their works. Ibn Qayyim says that the objective of Islamic law is to realize the *maslahah* of human here and the hereafter. To him, it consists of justice, blessing (*rahmah*), *maslahah* and *hikmah* (wisdom): If these four are left, the law cannot be named as Islamic law anymore.⁶ Furthermore, Ibn Ashur defines maqā'id Shari'ah as the purposes (*al-ma'āni*) and wisdoms (*al-hikam*) considered by the Lawgiver in all or most of the areas and circumstances of legislation, which are not confined to a particular type of the Shari'ah commands.⁷ Many Muslim scholars define maqashid Shari'ah is by promoting benefit (*maslahah*) and preventing harm (*al-mafsadah*).⁸

Moreover, the classification of maqashid Shari'ah into the three categories of essential, complementary and desirable (*Dharuriyat*, *hajiyyat*, *tahsiniyat*), a broad classification that contemplates the relative merit and importance of the various types of maqashid. As mentioned in *al-Musthafa* of al-Ghazali, the first level of *maslahah* cannot be achieved without fulfilling five universals of maqashid: preservation of din, life, intellect, lineage, and wealth, is known as *dharuriyat* (necessity).⁹

The second level of maqashid is *hajiyyat* (need), that function is to eliminate hardship, narrowness in the practice of five universals of maqashid. The third level of maqashid Shari'ah is *tahsiniyat* (luxury), which function is regarded as complimentary of human life such as bungalow, sport cars, etc. Hence, the examples of three maqashid Shari'ah are explained in table below.

⁶ Wahbah Zuhaily, *Al-Dharurah al-Shar'iyahm* (Damaskus: Muassah risalah, 1986).

⁷ Muhammad al-Tahir Ibn Ashur, *Treatise on Maqasid al-Shariah* (London: IIIT, 2006), 71.

⁸ Nurizal Ismail, *Maqasid Syari'ah dalam Ekonomi Islam* (Yogyakarta: Smart Wr, 2014), 6.

⁹ *Ibid*, 9.

Table 1: The Level of Maqashid Shari'ah and Its Application in Life

Level	Din	Life	Intellect	Lineage	Wealth
Dharuriyat	Compulsory shalah	foods and Drinks	Avoiding alcoholic drinks	Marriage	Trading
Hajiyat	Shorten shalah because of travelling (<i>qashar</i>)	Hunting animal and fishing fishes are allowable in Islam	seeking knowledge	<i>Mahr</i> (dowry) should be mentioned in the place of 'aqd	Sale of Salam and istisna
Tahsiniyat	Covering aurat	Ethical aspects on foods and drinks	Avoiding a fantasy	Ta'arruf or khitbah	Ethical aspects in Business

Source: Author

By all explanations about *maqashid al-khamsah*, it can be understood that the objectives and wisdom of enacting of Islamic law is to realize the *maslahah* through preservation of din, life, intellect, lineage, and wealth. Ignorance of these objectives will lead to the damage of vision and mission of Islam in the form of harms to human life.

Previous Research on Issues of Maqashid Shari'ah as Tool of Analysis in Islamic Law

The study on maqashid Shari'ah as perspective in analyzing the data of Islamic economics have been studied by many researchers, but the study of its development has been not done by many researchers yet. Some researches on the development of maqashid Shari'ah are:

Ajim Harahap (2014) focused his study on exploring the opinion 'Izzuddin ibn' Abd al-Salam on the concept and its application in maqashid Shari'ah Islamic law. Results are that maqashid sharia is the basis for the establishment of Islamic law and its application, both in the areas of worship, mu'amalah and morality.¹⁰

¹⁰ Zul Anwar Ajim Harahap, 'Konsep Maqasid al-Syariah sebagai Dasar Penetapan

Shidiq (2009) focused his study on the theory of maqashid al-Shari'ah in Islamic law. Moreover, result of the study is that maqashid al-Shari'ah is the importance aspect in developing Islamic law. It also answers that Islamic law can be adopted in the social change of society. The adaptation must be based on the framework of Shari'ah that has universal and comprehensive values.¹¹

Andriyaldi (2014) attempts to study the theory of Maqashid Shari'ah in Muhammad Thahir Ibnu 'Ashur's perspective.¹² The result is that the view of Imam Ibn 'Ashur on the theory of maqashid Shari'ah should be extend its study that can be traced from his works. His maqashid contends of *al-qawaid al-maqashidiyah*, role of *al-alfazh* in finding the maqashid, and model-model of maqashid application based on Ibn 'Ashur perspective. Then, based on the previous researches it is seen that the study of maqashid Shari'ah is still needed to be explored and analyzed with holistic approaches.

Research Methodology

Method of the study used grounded theory approach, which method is usually used for qualitative research using several systematic procedures to develop theory based on the facts in the field of study. This method is developed by Barney Glaser and Anselm Strauss. According to them, the approach of grounded theory constitutes scientific method because it uses operational procedure developed systemically to fulfill scientific method such as include judgments about validity, reliability, generalizability as well as judgments about the research process and the empirical grounding of the research findings.¹³

Due to its name the objective of grounded theory Approach is theorize the data. Theorization is a method of theory development that has orientation of action or interaction toward behavior. Furthermore, this theory does not contradict between theories to one another but it will be united into one theory. Data analysis of the study is using

dan Penerapannya dalam Hukum Islam Menurut Izzudin bin 'Abd al-Salam,' *Tazkir* Vol. 9 No. Juli-Desember: 2014, 171-190.

¹¹ Ghofar Siddiq, 'Teori Maqashid Syariah dalam Hukum Islam,' *Universitas. Islam Sultan Agung* Vol. XLIV, No. 188: 2009.

¹² Andriyaldi, 'Teori Maqashid Shari'ah dalam Perspektif Imam Muhammad Thahir Bin 'Ashur,' *Islam dan Realitas Sosial*, Vol. 7, No. 1, Januari-Juni 2014.

¹³ Barney G. Glaser and Strauss Anselm L *Discovery of grounded theory: Strategies for qualitative research* (London: Routledge, 2017).

descriptive analysis and data triangulation by developing a coding. Coding is the core process in classic grounded theory that consists of several process; elaborating, conceptualizing, and rearranging data in new ways. The purpose of coding in research is to; (a) construct a theory, (b) provide the accuracy of the research process, (c) help the researcher overcome misconceptions and assumptions, and (d) provide grounding, give meaning density, and develop sensitivity to produce theory. Moreover, concluding the research should be based on the logical and systematic consideration of maqashid Shari'ah theory developed by the Islamic jurists.

The Thought of Maqashid and Its Application in Islamic Economic Law

The Thought Imam al-Shathibi of Maqashid Shari'ah and Its Application in Islamic Economic Law

Imam Shatibi says that the basic objective of ruling the Islamic law is to realize human *maslahah* here and hereafter. Furthermore, he reported that the study of Muslim jurists on verses of the Qur'an and Sunnah indicates that the rulings of Allah Ta'ala is to promote the *maslahah* of human. The *maslahah* can be realized into three level of maqashid Shari'ah, namely *dharuriyat* (necessity), *hajiyat* (need), and *tahsiniyat* (luxury). These three universals of maqashid Shari'ah are coherent between one and another as a complementary.¹⁴

To him formulating the law must be linked to Allah's motive, which is to give the *maslahah* to human life. This premise leads to beginning of conflict about causality of law. However, the term of causality theory or motive in theology is not similar with '*illah* (reason) in usul fiqh. There is shifting in meaning and change in semantic of '*illah* from theology to the study of philosophy of law.

Imam Shatibi also argues that the *maslahah* as Shari'ah motive can be understood by employing inductive method: elaborating the theme of Shari'ah in general and explain the reasons of rules or commandment in detail. For instance, the motive of *wudhu* in Shari'ah is chastity; the motive of *shaum* is a pity; and the motive of jihad is independence.

¹⁴ Abu Ishaq Ibrahim ibn Musa ibn Muhammas Shatibi, *Muwafaqat* (al-Khobar: Dar ibn 'Affan, 1997), 24.

Another classification is divided into two, namely: *maqashid al-Shāri'* (Allah's objectives) and *maqashid al-mukallaf* (human's objective).¹⁵ Allah's objectives means that Allah is The One who decides the *maslahah* of human. However, he is aware that this condition is not final because the *maslahah* of Allah is able to be understood and opened the spaces of thinking. *maqashid al-Shāri'* (Allah's objectives) cover four aspects of meaning, they are:

1. *Maslahah* is a basis of Shari'ah objectives that discusses on the aspects of meaning, level, characteristic and relativity or absolute *maslahah*.
2. Shari'ah as the rules that should be understood by Muslims. This aspects discusses on the linguistical dimension in the issues of taklif (legal obligation in Shari'ah). The commandments of Shari'ah is form of taklif that should be understood to people who are obliged to act in accordance with Allah's orders and to perform worshipping (*mukallaf*) by understanding the meaning of words and sentences linguistically and culturally. In this aspect Imam Shatibi uses two terms, Dalam *al-dalālah al-ashliyyah* or essential meaning and *al-dalālah al-ummumiyah* or common sense.
3. Shari'ah in the only obliged rules that must be performed by all Muslims. In this aspect will analyse the meaning of *taklif* in relation with the capability of human and their difficulties in life.
4. The objectives of Shari'ah bring the *mukallaf* to the shade of Shari'ah. This means to realize the obidience of human under the rules of Allah.

Imam Shatibi also raised *maqashid al-mukallaf* related with the discussion of human will and deeds. He discussed several concepts related to the purpose of the mukallaf in Shari'ah, namely the concept of maslahah, dalalah, taklif, ta'abbud and intention.

In relation with the application of Islamic economic law, his thought of *maqashid Shari'ah* for analysing the problem has been mostly used is five universals of *maqashid*, namely faith, life, intellect, lineage and wealth. These five are operationalized into variables to analyse the data in Islamic economics and finance. In fact, there are

¹⁵ *Ibid*, 7-8.

many concept of maqashid Shari'ah developed by him should be explored more such as *I'tibar Al-Ma'al that can be developed into model of data analysis in Islamic economic law. It is one of the important method as it can guaranteed an achievement of maqasid and maslahat towards ummah.*¹⁶

The Thought Ibn 'Ashur of Maqashid Shari'ah and Its Application in Islamic Economic Law

Ibn 'Ashur who, after elaborately discussing various aspects and dimensions of the maqasid made far reaching recommendations on how to engage in a holistic study of the maqasid and even called for the consideration of maqasid al-Shari'ah as a distinct discipline independent of usul al-fiqh. Ibn Ashur defined Maqasid al-Shariah based on two aspects, the general aspect, which is the purpose and wisdom behind the enactment of all or most of the Shariah ruling.¹⁷

In the view of Ibn 'Ashur there are several methods of establishing maqashid Shari'ah. First is by researching the polilicies/*Tasharrufat* of Shari'ah. This step is divided into two forms. Firstly, researching the laws that are already known their '*illah* (cause) by employing *masalikul 'illah* in usul fiqh, and then finding the wisdom behind the rules. For instance, maqashid for prohibition of muzabanah are to avoid the uncertainty (*gharar*) in the transaction. Secondly, researching the facts employing the inductive method be seeing the similarity of '*illah*. For instance, the prohibition of food sale before reaching to the buyer, food barter with one who is being indebted and food storage. By these three issues can be concluded one cause ('*illah*) of Shari'ah is for the sake of ongoing circulation of food in the market and for food can be easily obtained. Thirdly, Understanding the arguments of the Quran which is obviously dalalah, the possibility of any purpose other than that visible from the arguments of the Quran is weak.

Second is by understanding the Sunnah Mutawatirah. Firstly, *Tawatur Maknawi*, a practice of the Prophet is witnessed by the majority of companions, which will result a mutually agreed upon knowledge. For example, the advice of giving alms some of the stored assets (*alhabs*) to others, after the two-day Eid shlah. Secondly, *Tawatur 'Amali*, is the actions of the Messenger of Allah is witnessed

¹⁶ A. R. Al-Sanusi, *I'tibar al-Ma'alat wa Mura'ah Nataij al-Tasarrufat* (Al-Riyad: Dar Ibn alJauzi, 1429 H).

¹⁷ Muhammad Tahir Ibn 'Ashur, *Maqasid al-Shariah* (Malaysia: Islamic book trust, 2006), 171

by companions repeatedly, which provide conclusions on the purpose or maqashid al-shari'ah.

Ibn 'Ashur expounded more on the issue and divide Sunnah into twelve categories: legislation (*tashri'*), issuing edicts (*fatwas*), adjudication (*qada'*), political leadership of the state (*imarah*), guidance (*hadi*), conciliation, advice to those seeking his opinion (*isharah*), counseling (*nasihah*), spritual uplifting of people (*takmil al-nufus*), teaching of transcendent knowledge or lofty truth (*ta'lim al-haqâiq al-'aliyah*), disciplining (*ta'dib*), and non-instructive ordinary statements (*tajarrud 'an al-irshad*).¹⁸

Ibn 'Ashur emphasizes that legislation of Islamic law could be in line with maqashid by promoting the maslahah and preventing the harm. It is more than that legislation of Shari'ah rules is to play a role on the harmonizing a system and improving life of the society. To him, maqashid Shari'ah is clear and can be traced in the Qur'an and Sunnah.

Moreover, his classification of , maqashid Shari'ah is divided and discussed into three scopes: maqashid 'âm (general objectives). *al-khas* (special) and *ju'i*. Moreover, Ibn 'Ashur mentions that the general objectives are like justice and welfare, whilemspecific objectives of the Shari'ah should include the preservation of order, promotion of human welfare, prevention of corruption, establishment of justice and, maintaining stability and harmony.¹⁹ He also adds universal values that can be prioritized as individual and social mslahah such as *fitrah*, *samahah* (tolerance), *musawah* (egalitarianism), *taisir* (beneficence), and *hurriyah* (freedom). His thought of maqasid is not limited to general classification of maqasid such as *dharuriyat* (necessity), *hajiyyat* (need), and *tahsiniyat* (luxury), but he discusses wider concept of maqashid than classical one as proposed by Imam Ghazali.

In the application of Islamic economics and finance, Ibn 'Ashur discusses specifically in his sub-chapter of the book such as nature of wealth. Obviously, the most distinguished reference linking Shari'ah contracts to Maqâshid al-Shari'ah is Sheikh al-Ṭâhir Ibn 'Āshūr in his seminal work, *Maqâshid al-Shari'ah*. He articulated a formidable theoretical framework of maqâshid with a special

¹⁸ Maszlee Malik, *Foundations of Islamic Governance: A Southeast Asian Perspective* (London: Routledge, 2016), 113.

¹⁹ Ahmad Raisuni, *Nazariyyah al-Maqasid 'inda al-Syâtibî* (Riyad: al-Dar al-'Alamiyyah al-Kitab al-Islamiyyah, 1992).

emphasis on the maqāshid of wealth, i.e. justice, wealth circulation, firmness of contracts, and transparency.²⁰ To him, the objectives of Shari'ah concerning all kinds of economic wealth can be summarized under five headings: marketability (*rawaj*), transparency (*wudhuh*), preservation (*hifz*), durability (*thabat*), equity ('adl).²¹ These five also can be considered as tool of analysis like five universals of maqashid, to achieve the objective of research based on maqashid Shari'ah approach.

Conclusion

Currently, Maqashid Shari'ah becomes an approach or tool of analysis in the study of Islamic economics and finance. In Islamic economic activities maqashid Shari'ah is widely used to develop human development index, consumption, production and distribution. Furthermore, maqāshid Shari'ah are championed by all researchers to develop Islamic banking and finance products and financial performance.

The tool of data analysis can be developed by maqashid Shari'ah either from Imam Shatibi or Ibn 'Ashur ideas. The foundation of maqashid Shari'ah developed by Imam Shatibi and Ibn 'Ashur is still based on Imam Ghazali notion that is divided into the, namely *dharuriyat* (necessity), *hajiyyat* (need), and *tahsiniyat* (luxury) within the five universal maqashid, namely preservation of faith, life, intellect, lineage and wealth. Moreover, Imam Shatibi develops his maqashid on and Allah's and human's objective to analyse the study of Islamic economics and finance comprehensively. In addition *I'tibar Al-Ma'al* is a method developed by him can be included as data analysis in Islamic economic law to the achievement of maqasid and maslahat towards ummah.

While Ibn 'Ashur put specific aspects of maqashid Shari'ah in economics under five, namely marketability (*rawaj*), transparency (*wudhuh*), preservation (*hifz*), durability (*thabat*), equity ('adl). These fives are designed to achieve micro and macro level of maslahah. Indeed, the five can be considered as tool of analysis like five universals of maqashid, to achieve the objective of research based on maqashid Shari'ah approach.

²⁰ [Younes Soualhi](#), 'Application of Shari'ah contracts in contemporary Islamic finance: A maqāshid perspective,' *Intellectual DIscourse*, 23: Special Issue (2015), 337.

²¹ Muhammad Tahir Ibn 'Ashur, *Maqasid al-Shariah*..., 285-290.

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