

***Maqasid syariah's Change as Theory:  
From Classical to Cotemporary Maqasid Shariah***

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**Abstract**

This article intended to identify the development of *maqasid syariah* theory and discourse in various published articles from various databases courses. By applying a systematic approach to a literature review, this article identifies the development of themes related to *maqasid syariah*. This approach is applied to fifty-three article in varied data source like ProQuest, Google Scholars, Scopus database and IRTI-IDB Proceeding. From the *maqasid syariah* index to *maqasid syariah* as a legal framework in contemporary fiqh discourse, even fatwa's by various religious institutions such as the MUI. Nevertheless, the development of *maqasid syariah* as an analytical framework and paradigm has changed, from a values-based and juridical basis to social indicator.

**Keywords:** *Maqasid syariah*; legal reasoning; *maslahah*; social well-being

**Abstrak**

Artikel ini bertujuan untuk mengidentifikasi perkembangan teori *maqasid syariah* dalam berbagai artikel yang diterbitkan dari berbagai database. Dengan pendekatan *systematic literature review*, artikel ini mengidentifikasi perkembangan tema yang terkait dengan *maqasid syariah*. Pendekatan ini diterapkan pada lima puluh tiga artikel di berbagai sumber data seperti ProQuest, Google Scholars, database Scopus dan IRTI-IDB Proceeding. Teori *maqasid syariah* klasik hingga *maqasid syariah* kontemporer sebagai

kerangka hukum dalam wacana fiqh kontemporer, bahkan fatwa oleh berbagai lembaga keagamaan seperti MUI. Namun demikian, perkembangan *maqashid syariah* sebagai kerangka analisis dan paradigma telah berubah, dari basis nilai dan yuridis menjadi indikator sosial.

**Kata Kunci:** *Maqashid syariah*; nalar hukum; *maslahah*; kesejahteraan Sosial.

## Introduction

The *maqasid shariah* index introduced by Islamic economics scholars intend as a mega academic project alternative to modern economic indicators such as the Human Development Index; And the Economic Complexity Index. The resulted in the formulation of the *maqasid shariah* index being premature to measure economic performance based on the values of *maqasid shariah*. *Maqasid shariah* as a basis of law in the Islamic tradition is more complex than applying it. In the classical tradition — *fiqh*; and *ushul fiqh*, *maqasid shariah* has interpreted the essence of inherent in every law created by Allah. Besides, it can understand that the *maqasid shariah* behind every Islamic law is universal — not only oriented to the individual life but also society. But, the *maqasid shariah* index built in a very narrow framework — limited to industrial performance; And even individual. In this context, there is some evidence that supports the hypothesis.

In the study of contemporary Islamic economics, the *maqasid shariah* index used as a method of measuring the performance of the sharia industry — sharia banks and halal industries.<sup>1</sup> The index of *maqasid shariah* in this form can interpret as an effort to articulate and derivate the concept of *maqasid shariah* — from something philosophical to a more instrumental direction. In addition, other scholars operate the *maqasid shariah* in the framework of Good Corporate Governance to assess the performance of Bank Shariah.<sup>2</sup> The Studies like this seem simplistic — they only try to match the *maqasid shariah* with the value system that operates in the modern economic system and the company management. Moreover, it same with the effort to pair the *maqasid shariah* index with a ratio in conventional financial theory to measure profitability in shariah banks.<sup>3</sup> So, the scholar's efforts to equate the *maqasid shariah* index with financial

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<sup>1</sup> Fahmi Ali Hudaefi and Kamaruzaman Noordin, “Harmonizing and Constructing an Integrated Maqāṣid Al-Sharī‘ah Index for Measuring the Performance of Islamic Banks,” *ISRA International Journal of Islamic Finance* 11, no. 2 (December 9, 2019): 282–302, <https://doi.org/10.1108/IJIF-01-2018-0003>; Faried Kurnia Rahman et al., “Maqashid Al-Sharī‘ah -Based Performance Measurement for the Halal Industry,” *Humanomics* 33, no. 3 (August 14, 2017): 357–70, <https://doi.org/10.1108/H-03-2017-0054>.

<sup>2</sup> Ima Maspupah and Shofia Mauizotun Hasanah, “Comparison of Good Corporate Governance Disclosure and Achievement of The Maqashid Shariah Between Indonesian and Malaysian Islamic Banks,” *AFEBI Islamic Finance and Economic Review* 3, no. 01 (March 6, 2020): 63, <https://doi.org/10.47312/aifer.v3i01.254>.

<sup>3</sup> Muhammad Nadratuazzaman Hosen et al., “The Effect of Financial Ratios, Maqasid Sharia Index, and Index of Islamic Social Reporting to Profitability of Islamic Bank in

ratios to measure the profitability of conventional banks were interpreted as an attempt to reduce the meaning of *maqashid shariab* to the legitimacy of profit-seeking based solely on Islamic ethical values.

In addition, to make a *maqashid shariab* as an index to measure the performance of Islamic banks Contemporary Islamic economics scholars are also trying to develop the *maqashid shariab* index on a broader scale—make *maqashid shariab* an indicator of economic achievement.<sup>4</sup> In this context, *maqashid shariab* functions as a building that includes economic aspects that are generally made a pre-requisite for achieving prosperity in the concept of modern economics, for example, aspects of education; Justice; And aspects of welfare.<sup>5</sup> Developing the *maqashid shariab* as an index for measuring the performance of shariah finance and other economic industries or macroeconomic aspects. Ismail Nizam thus developed *Maqashid shariab* as an index intended to measure welfare at the individual level, focus on measuring aspects such as *hifz al-deen; nafis; and nasl* at the personal level.<sup>6</sup> It's just if you look at it and examine it more carefully, none of the contemporary works related to the *maqashid shariab* index build within the framework of community analysis. This emptiness not only demands the development but also the foundation for questioning the *maqashid shariab* index that developed in contemporary Islamic economic studies. For example, the article has been wrote by Muslim scholars i.e., Kars (2014); Ullah (2017); Karnadi and Nurfadila (2018); and Aniq (2009).<sup>7</sup>

There are two purposes for writing this article; first, conducting a systematic review of the literature and *maqashid shariab* index as a topic of study.

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Indonesia,” *Al-Iqtishad: Jurnal Ilmu Ekonomi Syariah* 11, no. 2 (December 30, 2019): 201–22, <https://doi.org/10.15408/aiq.v11i2.11588>.

<sup>4</sup> Erik Nugraha et al., “Maqashid Sharia Implementation in Indonesia and Bahrain,” *ETIKONOMI* 19, no. 1 (March 2020): 155–68, <https://doi.org/10.15408/etk.v19i1.14655>.

<sup>5</sup> Nugraha et al.

<sup>6</sup> Moussa Larbani and Ismail Nizam, “An Index of Well-Being Based on Maqāshid Al-Shari‘ah and Fuzzy Set Theory,” in *Seminar on Maqashid Al-Shariah Based Socio-Economic Development Index*, 2019, 231–48, [https://doi.org/10.1007/978-3-030-12793-0\\_8](https://doi.org/10.1007/978-3-030-12793-0_8).

<sup>7</sup> Aydogan Kars, “Maqashid or Sharia?: Secularism, Islamic Reform, and Ethics in Modern Turkey,” in *Maqashid Al Shari‘a and Contemporary Reformist Muslim Thought: An Examination* (New York: Palgrave Macmillan, 2014), 127–50, [https://doi.org/10.1057/9781137319418\\_6](https://doi.org/10.1057/9781137319418_6); S Ullah and A K Kiani, “Maqashid-Al-Shariah-Based Socio-Economic Development Index (SCECDI): The Case of Some Selected Islamic Economies,” *Journal of Emerging Economies and Islamic ...*, 2017, <http://103.8.145.246/index.php/JEEIR/article/view/8829>; Sudarmawan Samidi, Mohammad Faby Rizky Karnadi, and Dety Nurfadilah, “The Role of Maqashid Al-Shariah and Maslahah in Ethical Decision Making: A Study of Professionals in Indonesia,” *International Journal of Business Studies* 1, no. 2 (September 25, 2018): 85–92, <https://doi.org/10.32924/ijbs.v1i2.23>; Ahmad Fathan Aniq, “Maqashid Al-Shariah Wa Makaanatuha Fi Istinbath Al-Ahkam Al-Syariat,” *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 12, no. 1 (2009): 1–24, <https://doi.org/https://doi.org/10.15642/alqanun.2009.12.1.1-24>.

Second, reviewing the *maqasid shariah* conceptual framework from the classical literature to identify the object matters of the *maqasid shariah* formulated by the scholars of the Islamic meta-framework Quran and Sunnah. Third, this study is a critical study of the tendency to develop the *maqasid shariah* index, but the community is the object of analysis. Fourth, rearranging the *maqasid shariah* analysis is through the framework of social analysis. In this case, making the community is become the object of *maqasid shariah*. This article organizes into several discussions. The second part discusses the methods and approaches of the study-Systematic Literature Review and Critical Review approaches. In addition, it also explains the sample criteria (kinds of literature) that use as data sources in this study. The third part describes how the concept and theorization of *maqasid shariah* in classical literature. In this section, we explore and classify the concept of *maqasid shariah* based on the opinions of classical scholars such as al-Juwayni, al-Ghazali, al-Amidi, and al-Shatibi. This classification aims to understand the differentiation of the *maqasid shariah* theory.

The fourth section describes the classification of contemporary literature related to *maqasid shariah*. This section begins by analyzing the relevance of *maqasid shariah* as a concept in contemporary Islamic economics, to classifying *maqasid shariah* indexes that appear in the contemporary Islamic economics literature. In this context, there are at least four classifications offered in this article to identify the *maqasid shariah* index; 1) the *maqasid shariah* index which functions as a measurement method for community development; 2) *maqasid shariah* as an index to measure welfare at the individual level; 3) the *maqasid shariah* index as a method of measuring institutional performance such as the halal industry and Islamic philanthropic institutions—*Baznas* and *Ziswaf*; And 4) *maqasid shariah* as an index that is used to measure the performance of Islamic banking. The fifth section is a section that attempts to critique the *maqasid shariah* index that appears in contemporary Islamic economic literature. As for the sixth part, it reaffirms novelty and at the same time recommends research that can be developed in the future. From the structure of this article, it can be emphasized that this article is essentially aimed at classifying the existing *maqasid shariah* index and criticizing the index. This objective is based on the assumption that the *maqasid shariah* index has stagnated at the individual and industrial level analysis alone. Whereas *maqasid shariah* as a philosophical concept includes society as object-matters. Because welfare at the community level is believed to be a representation of welfare at the individual level. In this context, this article will be elaborated to answer the questions like: “what is the existing classification on *maqasid shariah* based on the varied literatures?” In this regard, the article aims to review systematically the *maqasid shariah* issues.

There are two approaches used in this study, namely: systematic literature review and critical review. The systematic literature review (SLR)

approach is applied to facilitate the identification and classification of literature related to the *maqasid shariah* index. It is related with the function of SLRs as a method for collecting and evaluating research on a particular topic.<sup>8</sup> Okoli called SLR a method for generating theory through a process of an in-depth and systematic review of various kinds of literature related to one research topic.<sup>9</sup> The Systematic Literature Review approach helps synthesize much literature selected with specific criteria.<sup>10</sup> In applying the SLR approach, this article begins by selecting the topic and defining the object of research. Therefore, the study tries to classify the literature related to *maqasid shariah* into two periods, the classical era and the contemporary period. As for the classical Islamic era, *maqasid shariah* literature was categorized into criteria: foundational literature and *maqasid shariah* literature developed.

## Discussion

### ***Maqasid shariah* in Classical Islam Literatures: Concept and its Differentiation**

The concept of *maqasid shariah* is present as the presence of Islam as a religion. In this case,<sup>11</sup> thus identifying the implementation of the *maqasid shariah* can be traced from the era of the Prophet, Prophet Muhammad. Whatever policy and behavior did by the Prophet, should be interpreted within the framework of this *shariah maqasid*. After that, the companions, *tabi'in*, and classical scholars, therefore, seek the value and form of the *maqasid shariah* through careful reading, and philosophically through Islamic texts — both the Quran and hadith. Reading to find the form and philosophical insight into the *maqasid shariah*, gave birth to a pioneer among the classical scholars who succeeded in structuring the concept of *maqasid shariah*.<sup>12</sup> The intellectual work of scholars such as Imam al-Haramayn al-Juwayni (d. 478/1085), Abu Hamida

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<sup>8</sup> Evi Triandini et al., “Metode Systematic Literature Review Untuk Identifikasi Platform Dan Metode Pengembangan Sistem Informasi Di Indonesia,” *Indonesian Journal of Information Systems* 1, no. 2 (February 23, 2019): 63, <https://doi.org/10.24002/ijis.v1i2.1916>; Chitu Okoli, “A Guide to Conducting a Standalone Systematic Literature Review,” *Communications of the Association for Information Systems* 37 (2015), <https://doi.org/10.17705/1CAIS.03743>.

<sup>9</sup> Okoli, “A Guide to Conducting a Standalone Systematic Literature Review.”

<sup>10</sup> Andrea Delle Foglie and Ida Claudia Panetta, “Islamic Stock Market versus Conventional: Are Islamic Investing a ‘Safe Haven’ for Investors? A Systematic Literature Review,” *Pacific-Basin Finance Journal* 64, no. May (December 2020): 101435, <https://doi.org/10.1016/j.pacfin.2020.101435>.

<sup>11</sup> Mohd Yusri Ibrahim, “Maqasid Al- Shariah: The History of The Development And Contribution of The Scholars of Usul Al-Fiqh Awal and Muta’akhirin,” *International Research Journal of Shari'ah, Muamalat and Islam* 1, no. 2 (December 10, 2019): 18–30, <https://doi.org/10.35631/irjsmi.12003>.

<sup>12</sup> Mohammad Hashim Kamali, “Maqasid Al-Shariah: The Objective of Islamic Law,” *Islamic Studies* 38, no. 2 (2017): 193–208.

al-Ghazali, Sayf al-Din al-Amidi (d.631/1233), and Imam al-Shatibi in developing the *maqasid shariah* as 'wisdom' or Fairness of Islamic law, has become reason, even reason that colors *ijtihad* and products of Islamic law. In this context, it seems necessary to trace the genealogy of *maqasid shariah* from classical Islamic literature. Although this search does not include the foundation of *maqasid shariah* developed in the era of the companions of the Prophet, it is limited to the four classical scholars mentioned; it is believed to be quite helpful in mapping the three aspects of *maqasid shariah* as Subject, object matters, and the scope of *maqasid shariah* itself.

### The concept of *Maqasid shariah* in the Classical Islamic Tradition

In tracing and understanding the *maqasid shariah* offered by the classical scholars, it is necessary to understand the concept of *maqasid shariah* presented by the classical scholars. Understanding the elaboration of the *maqasid shariah* begins with Abu al-Ma'ali al-Juwayni (d.1085) whose wrote an important book in the field of *ushul fiqh*, *al-Burhan fi Ushl al-Fiqh*. al-Juwayni in his work never termed the *maqasid shariah*. But he is more inclined to use the sentence *qasd* to explain the meaning of *maqasid shariah*. It can be observed from the point of view that asserts: '*Anyone who is not smart enough to understand the aspects of maqasid in every form of orders and prohibitions, means he has not been able to identify the stipulations of sharia. Because the rule of maqasid is the secret behind the form of the order and prohibition*<sup>13</sup>.' It means that the *maqasid shariah*, termed *qasd* for al-Juwayni is a systematic, logical, and rational process in understanding the purpose behind the commands contained in the Islamic text — both the Quran and Hadith.

al-Juwayni implicitly understands that the *maqasid* of sharia is the purpose behind the sharia of Allah. To understand it, every scholar or jurist must understand the rules that underlie the *maqasid*. In this context, al-Juwayni essentially offers the method of *ushl fiqh* as an important instrument for understanding the purpose of sharia, which is enshrined in the primary text of Islam. Simply put, the purpose of sharia is positioned as subject matters by al-Juwayni. While the primary text that contains legal arguments is positioned as object matters. In this framework, then al-Juwayni offers the rules of *ushl fiqh* to explore the *maqasid shariah*.<sup>14</sup> There are 6 hierarchies offered by al-Juwayni to understand the *maqasid* of sharia: 1) the text of the hadith of the Prophet. 2) the encouragement of deeds and actions of the Prophet (*fahw al-fi'l*) who explained the shari'ah as prayer, with the hadith, 'pray as you see me pray. 3) Rasulullah's signal as he explained in his words, 'the moon is like this (he signaled with the

<sup>13</sup> Abu al-Ma'ali Al-Juwayni, *Al-Burhani Fi Ushl Al-Fiqh* (Qatar: Matba'at al-Dawah al-Hadithah, n.d.).

<sup>14</sup> Muhammad Lutfi Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 1 (February 2017): 1–16, <https://doi.org/10.24090/mnh.v10i1.913>; Al-Juwayni, *Al-Burhani Fi Ushl Al-Fiqh*.

number 29) and like this (signaled with the number 30).<sup>14</sup> 4) *al-kitabah*. It is not an act or a gesture. 5) *al-mashum* it categorizes into *mashum muwafaqah* and *mashum mukhalafah*. And 6) *qiyas* — either to something in the text or not written in the primary text of Islam.<sup>15</sup> In this context, al Juwayni then classifies the *maqasid shari'ah* into three forms, namely: *daruriyyat*, *hajjiyah*, and *tashiniyyat*<sup>16</sup>. Then more detailed explanation is found in the works of Imam al-Ghazali.

Abu Hamid al-Ghazali (d.505 H/1111M) was a disciple of al-Juwayni. In his development, al-Ghazali developed the theory of *maqasid shari'ah* and expressed it in his work *al-Mustasfa min Ilm al-Ushl*.<sup>17</sup> Abu Hamid al-Ghazali elaborates on the *maqasid* of *shari'ah* by developing a chapter in his work, *al-Mustasfa min Ilm al-Ushl*. The chapter is entitled *fi al-maqasid*. In this section, to develop a method to understand *qasd as-shari'ah* or objective behind Islamic law, al-Ghazali introduces the concept of *Burhani* and its mechanism.<sup>18</sup> The method offered by al-Ghazali for digging into the purpose of the *Shari'ah*, because this method is argumentative, is based on the power of the ratio with the main instrument being logic. With this process, the purpose behind the sharia can be identified rationally-philosophically.<sup>19</sup> In this context, the *Burhani* or demonstrative method conceptualized by al-Ghazali is an expression of two specific prepositions. These prepositions produce a formulation or arrangement of theories.<sup>20</sup> It asserts that the demonstration method, or *Burhani*, is a tool used to identify the purpose of a text that contains a legal value.

In formulating the meaning of the *maqasid shari'ah*, al-Ghazali has his version. According to him, *maqasid shari'ah* refers to *maslahah*, where *maslahah* is defined as the purpose of the sharia contained in *al-mabaadi 'al-khamsiyah*, which includes the protection of religion (*hifz al-din*), soul (*hifz al-nafs*), mind (*hifz al-aql*), descent (*hifz al-nasl*), and property (*hifz al-maal*). Simply put, the law that contains the purpose of maintaining these five things is called *maslahah*, and everything that makes the loss of these five elements is called *mafsadah*.<sup>21</sup> The concept of *maqasid shari'ah* developed by al-Ghazali is an elaboration of the concept of *maqasid* previously offered by his teacher, al-Juwayni, where he introduced the five levels of *maqasid*, namely: *darurath*, public needs (*al-hajah al-*

<sup>15</sup> Al-Juwayni, *Al-Burhani Fi Ushl Al-Fiqh*.

<sup>16</sup> Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer."

<sup>17</sup> Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syari'ah* (Bandung: Mizan, 2008).

<sup>18</sup> Abu Hamid Al-Ghazali, *Al-Mustasfa Min Ilm Al-Ushl* (Beirut: Ar-Risalah, 1997).

<sup>19</sup> Agus Mohd. Najib, "Nalar Burhani Dalam Hukum Islam: Sebuah Penelusuran Awal," *Hermeneia: Jurnal Kajian Islam Interdisipliner* 2, no. 2 (2003): 213–38.

<sup>20</sup> Al-Ghazali, *Al-Mustasfa Min Ilm Al-Ushl*.

<sup>21</sup> Suansar Khatib, "Konsep Maqashid Al-Syari'ah: Perbandingan Antara Pemikiran Al-Ghazali Dan Al-Syathibi," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 5, no. 1 (December 2018): 47–62, <https://doi.org/10.29300/mzn.v5i1.1436>.

*ammah*), moral behavior (*al-makrumat*), recommendations (*al-mandubat*); and things that cannot be listed for special reasons.<sup>22</sup> There is a section of al-Juwayni's thought which was later developed by al-Ghazali, which he elaborated into *al-mabaadi' al-kebamsyah*, which is concerned with the issue of protection of five things, which have previously been elaborated.

In its development, al-Ghazali categorizes *maslahah* from a form into three things, namely: 1) *maslahah* that is recognized and introduced by the Shari'ah in the primary text — Quran and hadith. For example, the prohibition of consuming intoxicating liquor, by way of analogizing it (*qiyas*) to *kehamr*; 2) *maslahah* that is rejected by the shariah. Like, The opinion of some scholars about a king who has intercourse during the day in the month of Ramadan, the King must fast for two consecutive months. When that opinion is disputed. The scholar then said, if the king is ordered to free a slave, then it is very easy for him, and he will lightly free the slave to satisfy his lusts. Therefore, *maslahah*, he must fast for two months in a row, as a deterrent effect. This opinion is invalid and violates the text with *maslahah*. Through this, it is possible to change the provisions and text of Islamic law due to changes in conditions and situations; 3) *maslahah* expressed by the shariah but also not rejected.<sup>23</sup> This then became the foundation in the development of the concept of *maslahah mursalah* introduced by al-Ghazali.

The *maslahah mursalah* is interpreted as a foundation for building Islamic law, and refers to at least some important meanings, namely: 1) *maslahah* must be the foundation in developing Islamic law such as protection of religion; Live; Intellect; Lineage and property; 2) *maslahah* will not be contrary to the Quran, Sunnah and Ijma'; 3) *maslahah* must be within the framework of *daruriyah* or *hajjiyah* equivalent to *daruriyah*; 4) *maslahah* must be definite (*qath'i*) or predictable (*dẓanni*) which is close to things that are *qath'i*; 5) in some cases, the required condition ideally refers to something that is *qath'iyah*, *daruriyah* and *kulliyah*.<sup>24</sup> Simply put, al-Ghazali underlines and outlines that various *maslahah* that are not intended to protect the objective values of Islamic law are grouped as *maslahah gharibah* which are rejected and must be dropped. Because Islamic law cannot be based on individual desires. Although the *maslahah* is built from the method of *istihsan*, and such *maslahah* is built based on personal desire.<sup>25</sup>

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<sup>22</sup> Al-Juwayni, *Al-Burhani Fi Ushl Al-Fiqh*; Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah*.

<sup>23</sup> Tarmizi Tahir, "The Concept of Maslahah According to Imam Al-Ghazali," *Jurnal Al-Dustur: Journal of Politic and Islamic Law* 3, no. 1 (May 13, 2020): 22–29, <https://doi.org/10.30863/jad.v3i1.642>; Al-Ghazali, *Al Mustasfa Min Ilm Al-Ushl*.

<sup>24</sup> Muhammad Khalid Mas'ud, *Islamic Legal Philosophy: A Study of Abu Ishaq Al-Shatibi's Life and Thought* (Islamabad Pakistan: Islamic Research Institute, 1977).

<sup>25</sup> Al-Ghazali, *Al Mustasfa Min Ilm Al-Ushl*.



Meanwhile, al-Amidi also has a special concept in interpreting the *maqasid shari'ah*.

Regarding the concept of *maqasid shari'ah*, Imam 'Ali ibn Muhammad al-'Amidi discusses it adequately in his work *al-Ihkam fi Usul al-Abkam*. The book that he wrote in these 4 volumes and discusses in-depth related to the evidence of sharia to the issue of judges and muftis, he even explains the meaning of the *maqasid* of sharia. For him, *maqasid shari'ah* as the purpose of sharia is universal and based on the principle of bringing *maslahah* and rejecting *mafsadat*.<sup>26</sup> In addition, al-Amidi's efforts to develop the concept of *maqasid shari'ah* he wrote in two discussions, *maslahah mursalah* and his explanation of *tarjih*. Al-Amidi tries to identify the *maqasid shari'ah* in the framework of the discussion of *tarjih* — precisely *tarjih* between two contradictory *qiyas*.<sup>27</sup> In this case, Al-Amidi practiced (*tarjih*) *maqasid al-dharuriyah* over *maqasid al-hajiyat*, and chose *al-hajiyat* over *maqasid al-tahsiniyah*. Similarly, al-Amidi prioritizes the *maslahat al-asliyah* or primary *maslahat* rather than the complementary *maslahat*. Similarly, choosing *ad-dharuriyah* over *al-hajiyat*.<sup>28</sup> al-Amidi's intellectual project is actually more technical than the previous concept of *Maqasid shari'ah*, which has been proposed by previous scholars. It is similar with the *maqasid shari'ah* project offered by al-Syatibi.

Ahmad Sarwat identified al-Syatibi's view of the *maqasid shari'ah*, which was different from the views of previous scholars. First, it is necessary and important to make the *maqasid shari'ah* as a separate discipline; Second, the correlation of *al-fitrab* (religious), *al-samahab* (tolerance), *al-musawat* (egalitarian) and *al-hurriyah* (independent) in the context of sharia *maqasid*. In addition, al-Syatibi makes the *maqasid shari'ah* as an autonomous discipline. This departs from the efforts of al-Syatibi who tried to classify and categorize the absolute proposition with the relative proposition (*dzonny*).<sup>29</sup> This argument is actually sorted out in order to identify the purpose of the sharia, which is understood by al-Syatibi in two perspectives: *maqasid al-syari* (God's purpose) and *maqasid al-mukallaf* (purpose of *mukallaf*). The *maqasid syaria* contains four aspects, which include: 1) *qasd al-syari 'fi wad'i al-syari'ah*. This aspect essentially identifies God's purpose in establishing Islamic law. In this context, al-Syatibi believes that Allah has set a law whose purpose is to realize *maslahah* and anticipate *mafsadat*. In this

<sup>26</sup> Chamim Tohari, "Pembaharuan Konsep Maqāsid Al-Sharī'ah Dalam Pemikiran Muhamamad Ṭahir Ibn 'Ashur," *Al-Maslahah Jurnal Ilmu Syariah Pembaharuan Konsep Maqasid Al-Shari'ah Dalam Pemikiran Muhamamad Ṭahir Ibn 'Ashur* 13, no. 1 (April 1, 2017): 1, <https://doi.org/10.24260/almaslahah.v13i1.915>.

<sup>27</sup> Asmuni M. Taher, "Studi Pemikiran Al-Maqashid: Upaya Menemukan Fondasi Ijtihad Akademik Yang Dinamis," *Al-Manarid*, 2005.

<sup>28</sup> Ali bin Muhammad Al-Amidi, *Al-Ihkam Fi Usul Al-Abkam (Vol. 1-4)* (Beirut: Al-Maktab Al-Islamy, n.d.).

<sup>29</sup> Ahmad Sarwat, *Maqashid Syariah* (Jakarta Selatan: Rumah Fiqh, 2019).

context, al-Syatibi categorizes the *maqasid shariah* into: First, the needs that are *daruriyyat*, is to maintain the needs that are essential for human life. The essential needs include protection of religion, soul, intellect, lineage and property.

Second, the need for *Haji*, which includes secondary, needs — if not realized, this does not threaten safety. But it will cause difficulties for human beings in living life. Third, the need for *tahsiniiyyat*, is the need that upholds one's dignity in society and before his Lord, in accordance with propriety.<sup>30</sup>; 2) *qasd al-syari 'fi wad'i al-syari'ah lil-ifham* — the purpose of Allah in setting the law is to be understood by the mukallaf; 3) *qasd al-syari 'fi wad'i al-syari'ah li al-taklif bil muqtadaba*. That is, the *maqasid shariah* is intended for every law that is set to be implemented.<sup>31</sup> The view and concept of *maqasid shariah* offered by al-Syatibi is more in the nature of a development of the initial theory of *maqasid* that was introduced by al-Juwayni, al-Amidi, and al-Ghazali. However, there are differences that can be deduced from the concepts offered by the 4 scholars, related to the *maqasid shariah*, especially if grouped into three things, namely: subject; Object matters as well as the scope of the *maqasid shariah* itself. The choice to understand the concept of *maqasid shariah* in these three domains, because it is believed to be the foundation on which *maqasid shariah* was developed by scholars of Islamic economics in the future.

### Differentiation of the Concept of Classical Shariah Maqasid

Efforts to distinguish the concept of *maqasid shariah* offered by classical scholars can be identified from three aspects, namely: First, the aspect of subject matters the concept of *maqasid shariah*. As for the meaning of subject matter refers to the main issues discussed by scholars, in this case, it is the *maqasid shariah*. The subject matters are understood as concepts and reasoning used in one discipline, or a particular theory.<sup>32</sup> So in this context, the subject matters *maqasid shariah* is interpreted as the main idea formulated by the classical scholars, in this case it is al-Juwayni, al-Ghazali, al-Amidi and al-Syatibi. Although, the initial idea of *maqasid shariah* is something homogeneous because it refers to the same meta-framework of the Quran; Sunnah; Ijma 'and Qiyas. But in its development, the idea underwent a transformation and not a few classical scholars sought to elaborate on it. al-Juwayni (d. 478/1085) formulated the subject matters *maqasid shariah* as *ismah* or protection of faith, soul, intellect,

<sup>30</sup> Abu Ishaq Al-Syatibi, *Al Munafaqath Fi Usul Syariat* (Jeddah: Irsyad, Wizarah al-Syu'un al-Islamiyyah wa Awqaf wal Da'wah wal, n.d.).

<sup>31</sup> Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer."

<sup>32</sup> Mary M. Kennedy, "Education Reform and Subject Matter Knowledge," *Journal of Research in Science Teaching* 35, no. 3 (March 1998): 249–63, [https://doi.org/10.1002/\(SICI\)1098-2736\(199803\)35:3<249::AID-TEA2>3.0.CO;2-R](https://doi.org/10.1002/(SICI)1098-2736(199803)35:3<249::AID-TEA2>3.0.CO;2-R).

lineage and property.<sup>33</sup> Meanwhile, al-Ghazali formulated the subject matters *maqasid shariah* as: 'Any *maslahah* that does not return to protect the objectives of Islamic law which can be understood from the Qur'an, Sunnah, and Ijma 'and is a *maslahah* from *garibah* (foreigners) which is not under *shariah* law then *Maslahah* is rejected and must be discarded. Whoever was guided by him, established Islamic law based on his own will. Likewise, a person who establishes Islamic law based on *istihsan*, he establishes Islamic law based on his wishes.<sup>34</sup>' In a simple expression, Al-Amidi formulates the subject matters *maqasid syariah* as: 'an objective of Islamic law must be placed hierarchically in *al-daruriyah al-khamsah*, and introduce *tarjih* when there is a conflict between the five *maslahah*.<sup>35</sup> More concretely, al-Syatibi elaborates the *maqasid shariah* as: "the principal of religion (*ushl ad-din*), the principles of *sharia* (*qawaid al-syariah*), and holistic beliefs, or *kulliyat al-millah*.<sup>36</sup> The difference between the existing subject matters *maqasid shariah* lies in the meaning of *maqasid shariah* as *ismah*; philosophical end and means of Islamic law, methodology, and the hierarchy of human needs.

Second, the aspect of object matters *maqasid shariah*. As the object of study, the *Maqasid shariah* is understood in a relatively similar sense by classical scholars. In this case, Al-Juwayni implicitly formulates the object matters *maqasid shariah* as 'a text in which the objectives of the *Shariah* exist either explicitly or implicitly.<sup>37</sup>' Meanwhile, al-Amidi asserts that *maqasid shariah* is a set of hierarchy of *ad-dharuriyah al-khamsyah* and *Tarjih* as a Method to determine *maslahah* priority scale.<sup>38</sup> Finally in formulating the object matters of *maqasid shariah*, Al-Syatibi explains that *maqasid shariah* is an effort in identifying the objectives of *sharia* through an inductive approach to a number of the arguments that exist in the main sources of Islam.<sup>39</sup> The third aspect that is the foundation to distinguish the conception of *maqasid shariah* in the classical era is the scope of *maqasid shariah* itself.

This scope is interpreted as a limitation in the context of what *Maqasid shariah* is studied and accepted as the object of *ijtihad* of the scholars, or *mujtahid fiqh*. al-Juwayni explains that the scope of *Maqasid shariah* as: the principles of law can be called *maqasid* which is not bound and limited by all *khilafiyah* (dissent), and can be accepted rationally as a universal goal.<sup>40</sup>

<sup>33</sup> Al-Juwayni, *Al-Burhani Fi Usbl Al-Fiqh*; Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah*.

<sup>34</sup> Al-Ghazali, *Al Mustasfa Min Ilm Al-Ushl*.

<sup>35</sup> Al-Amidi, *Al-Ihkam Fi Usbl Al-Abkam (Vol. 1-4)*.

<sup>36</sup> Al-Syatibi, *Al Muwafaqath Fi Usbl Syariat*.

<sup>37</sup> Al-Ghazali, *Al Mustasfa Min Ilm Al-Ushl*.

<sup>38</sup> Al-Amidi, *Al-Ihkam Fi Usbl Al-Abkam (Vol. 1-4)*.

<sup>39</sup> Al-Syatibi, *Al Muwafaqath Fi Usbl Syariat*.

<sup>40</sup> Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer"; Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah*.

Meanwhile, al-Ghazali wrote that the scope of *maqashid shariah* is the practice of muamalah.<sup>41</sup> As for al-Amidi, he concluded that: *al-daruriyah al-khamsah* is an actual conclusion from both empirical and normative facts. It does not limit *maslahah* to only five general forms introduced by al-Ghazali. But we must be careful to open space to a wider *maslahah*, and beyond these five things.<sup>42</sup>” Finally, al-Syatibi explains that the scope of *maqasid shariah* can be identified from the function of *maqasid shariah* as: 'a prerequisite for learning the truth of law (*ijtihad*) at all levels.<sup>43</sup> Although, in diverse editorials, the concept of these classical scholars were became the foundation for contemporary scholars to continue to develop the *maqasid shariah* in the broader domain, and became the most frequently discussed object of study in the contemporary era, of course on a large scale, not just in the discourse of *fiqh*, but also Islamic economics.

### ***Maqasid Shariah* in the Contemporary Literatures: Relevancies and its Development**

Understanding the *maqasid shariah* in its historical spectrum, will result in one thesis that the concept of *maqasid shariah*, whose foundation is in the early and classical eras of Islam, does not really satisfy Islamic scholars. This encourages Islamic scholars to elaborate and build on the concept of *maqasid shariah* in a wide range of disciplines. Not only *fiqh*, but in the contemporary era, *maqasid shariah* has transformed into the most interesting issue researched and developed, even beyond classical conceptual boundaries, and built within a more innovative and progressive framework. In this context, it seems necessary to identify the relevance of the theory of *maqasid shariah* as the basis of Islamic economic development. In addition, it is necessary to map the index of *maqasid shariah* that has been introduced by contemporary Islamic economic scholars.

In the classical era, *maqasid shariah* was limited to a normative moral theory based on the criteria of *maslahah* and *mafsadat*.<sup>44</sup> Even in another section of her writings, Mariam Al-Attar even identifies that the early theory of *maqasid shariah* was strongly influenced by Ash'ariyah theology. This can be identified from the existence of the axiomatic foundation of Ash'arite Theory of good and evil, or *husn wa-qubh*, which is the basis of analogy to the 'define command theory'. The theory asserts that moral values (good and evil) have no meaning without being correlated and refers to the commands and prohibitions of God Almighty. This means that a set of sharia that contains the prohibitions and commands of God Almighty is not only epistemological, but also ontological

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<sup>41</sup> Hakim, “Pergeseran Paradigma Maqasid Al-Syari’ah: Dari Klasik Sampai Kontemporer.”

<sup>42</sup> Al-Amidi, *Al-Ihkam Fi Ushl Al-Ahkam (Vol. 1-4)*.

<sup>43</sup> Al-Syatibi, *Al-Muwafaqath Fi Ushl Syariat*.

<sup>44</sup> Mariam al-Attar, “Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought,” *Journal of Islamic Ethics* 1, no. 1–2 (July 27, 2017): 29–50, <https://doi.org/10.1163/24685542-12340003>.

and the foundation of morality.<sup>45</sup> In this context, the formulation of the values of *maslahah* should ideally refer to the Shariah as the vehicle in which the prohibitions and commands of Allah are enshrined, both implicitly and explicitly. This also confirms that *maslahah* is a meta-ethical foundation of morals, which is universal.<sup>46</sup> That is, the *maqasid shariah* can be expanded in its reach — transformed from a mere study of *fiqh* and *ushul fiqh*, towards economic, political and social. At this locus, the thesis that *maqasid shariah* finds its relevance to be used as a meta-ethical foundation of moral economics i.e. Islamic economics as main project of Islamic economic.

The relevance of *maqasid shariah* in contemporary Islamic economic discourse, can be formulated in several categories, namely: First, *maqasid shariah* as meta-ethical foundations of economic morality.<sup>47</sup> Even some Muslim economists understand the *maqasid shariah* as the basic foundation of Islamic economics.<sup>48</sup> In this context also Mehmet Asutay; Alija Avdukic and Yusuf Karbhari put forward one thesis that *maqasid shariah* as the highest ethics-objective for the Islamic economic system, including the sharia banking industry.<sup>49</sup> In this case, the *maqasid shariah* is interpreted as the achievement of social good as well as the manifestation of the consequences of well-being and this certainly goes beyond the framework of traditional social responsibility. The elaboration of *maqasid shariah* towards the moral foundation of economics, allows *maqasid shariah* to be something that is positivistic. It was only values, then became a framework and indicators that must be achieved in a shariah economic system and financial industry.<sup>50</sup> The moral framework inherent in the *maqasid shariah* is the values of *maslahah* that must be achieved by each individual, system and institution when acting, or formulating economic, social, and political policies.

Second, *maqasid shariah* serves as a paradigm and becomes the foundation of economic analysis, finance and shariah institutions such as Islamic

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<sup>45</sup> al-Attar.

<sup>46</sup> Salman Syed Ali et al., *Towards a Maqāsid Al-Shari'ah Index of Socio-Economic Development: Theory and Application*, ed. Salman Syed Ali (UK: Palgrave MacMillan, 2019); al-Attar, "Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought."

<sup>47</sup> al-Attar, "Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought."

<sup>48</sup> Dani Rohmati, Rachmasari Anggraini, and Tika Widiastuti, "Maqāsid Al-Shari'ah Sebagai Landasan Dasar Ekonomi Islam," *Economica: Jurnal Ekonomi Islam* 9, no. 2 (December 1, 2018): 295, <https://doi.org/10.21580/economica.2018.9.2.2051>.

<sup>49</sup> Arman Mergaliyev et al., "Higher Ethical Objective (Maqasid Al-Shari'ah) Augmented Framework for Islamic Banks: Assessing Ethical Performance and Exploring Its Determinants," *Journal of Business Ethics*, no. November (November 19, 2019), <https://doi.org/10.1007/s10551-019-04331-4>.

<sup>50</sup> Mergaliyev et al.; al-Attar, "Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought."

philanthropic institutions. The relevance of this second stems from the belief that *maslahah* values should be developed, and become a framework for evaluation of the economic performance, behavior and sharia financial institutions.<sup>51</sup> With the functioning of *maqasid shariah* as a paradigm and even a framework for Islamic economic analysis, this is not only useful but also distinguishes the measurement of economic performance in the tradition of Islamic economics and conventional economics. Even this effort is believed to be a prerequisite for achieving good economic development.<sup>52</sup> Functioning *maqasid shariah* as the foundation of economic performance analysis, including sharia banking performance, causes the constituent elements of *maqasid shariah* to develop and be adaptive to the analysis applied to sharia economic institutions.<sup>53</sup> Not only adopting, Islamic economic scholars actually try to build and elaborate on the *maqasid shariah* creatively. This requires the elaboration of *maqasid shariah* and not just a pragmatic process. But it is based on strong epistemological arguments, so this development effort is also worth interpreting as the integration of elements of *maqasid shariah* into the epistemological framework of economics, even becoming very positivist.<sup>54</sup> Efforts to develop *maqasid shariah* and expand its scope, which was limited to *fiqh* and then made it the foundation of economic axioms, seem to mean that *maqasid shariah* is a universal concept, and can be applied to various aspects of life, even disciplines. This argument asserts that the *maqasid shariah* is not only relevant but also an important paradigm for formulating the goals and systems of Islamic behavior and economics. This is then a pre-requisite for the development of a value system on *maqasid shariah*, from what was originally meta-ethics to an operational and empirical indicator. And the *maqasid shariah* index must be understood in this context, and be an argument for the emergence of various studies related to the *maqasid shariah* index, with all its variants and uniqueness.

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<sup>51</sup> Qoyum, "Maqasid Ash-Shari'ah Framework and the Development of Islamic Finance Products: The Case of Indonesia"; Hosen et al., "The Effect of Financial Ratios, Maqasid Sharia Index, and Index of Islamic Social Reporting to Profitability of Islamic Bank in Indonesia"; Ascarya, "Holistic Financial Inclusion Based on Maqashid Shariah Through Baitul Maal Wat Tamwil"; Oktaviana and Pimada, "Integrated Maqasid Sharia Index: Indonesia Islamic Banks Performance"; Ali et al., *Towards a Maqasid Al-Shari'ah Index of Socio-Economic Development: Theory and Application*; Larbani and Nizam, "An Index of Well-Being Based on Maqasid Al-Shari'ah and Fuzzy Set Theory"; Ullah and Kiani, "Maqasid-Al-Shariah-Based Socio-Economic Development Index (SCECDI): The Case of Some Selected Islamic Economies," September 30, 2017; Hikmah, Djuwita, and Widagdo, "Effect of Financial Literation and Financing-Effectivity toward the Growth of Small Enterprises: Case Study in Bank Syariah Mandiri, Majalengka."

<sup>52</sup> Ullah and Kiani, "Maqasid-Al-Shariah-Based Socio-Economic Development Index (SCECDI): The Case of Some Selected Islamic Economies," September 30, 2017.

<sup>53</sup> Hosen et al., "The Effect of Financial Ratios, Maqasid Sharia Index, and Index of Islamic Social Reporting to Profitability of Islamic Bank in Indonesia."

<sup>54</sup> Hudaefi and Noordin, "Harmonizing and Constructing an Integrated Maqasid Al-Shari'ah Index for Measuring the Performance of Islamic Banks."

## Indexation of *Maqasid Shariah* : Fields and its Classifications

In the contemporary era, Islamic economics shows optimism for growth. This is marked by the growth of Islamic banks and the development of the Islamic finance sector in various countries.<sup>55</sup> In fact, not only Islamic financial institutions, the lifestyle of the Muslim community has undergone significant changes. For example, high interest in halal products can be used as a marker that Islamic economic development is not limited to institutional development. But it also includes changes in behavior and economic attitudes among Muslims.<sup>56</sup> Thus, the development of Islamic economics is systemic—including the development of economic structures and institutions; As well as the transformation of Islamic society's behavior. In institutional development, Islamic economics does not only encourage Islamic financial institutions such as banking; Insurance; And the Sharia Stock Exchange. But at the same time it encourages the birth of philanthropic institutions that characterize and manifest social values, and *maslahah*.<sup>57</sup> Responding to this complex development, Muslim economists are trying to find relevant methods to analyze the achievements and impacts of Islamic economic growth. In this context, the study and formulation of the *maqasid shariah* index deserves to be interpreted as a response to Islamic economic growth, as well as a methodological offer as well as an alternative in measuring the complexity of the impact of Islamic economic growth.

Islamic finance industry; Islamic philanthropic institutions and Islamic economic behavior are complex and can be interpreted as prerequisites for Islamic economic growth. The elements and micro-foundations that make it up are clearly different when compared to conventional economics. Thus, in order to analyze the impact of economic growth based on the Islamic system, using a conventional economic approach is not only inaccurate, but also redundant.<sup>58</sup> This thesis seems to be used as an argument to explain why the indexation of *maqasid shariah* was so massive, and became an academic project among scholars of Islamic economics. The growth of literature related to the *maqasid shariah* index must be understood in this context and deserves to be interpreted as a

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<sup>55</sup> Akilu Aliyu Shinkafi and Nor Aini Ali, "Contemporary Islamic Economic Studies on Maqasid Shari'ah: A Systematic Literature Review," *Humanomics* 33, no. 3 (August 14, 2017): 315–34, <https://doi.org/10.1108/H-03-2017-0041>.

<sup>56</sup> Rahman et al., "Maqashid Al-Shari'ah -Based Performance Measurement for the Halal Industry."

<sup>57</sup> Siti Lailatussufiani, M. Umar Burhan, and Multifiah, "The Utilization of Zakat , Infaq and Shadaqah for Community Empowerment ( Case Study of BAZNAS West Nusa Tenggara Province )," *International Journal of Business and Management Invention* 5, no. 10 (2016): 152–60.

<sup>58</sup> Yusuf Sani Abubakar, "Corporate Social Responsibility of Islamic Financial Institutions: A Look from the Maqasid Al-Shariah (Purpose of Shariah) Approach," *Business and Economics Journal* 07, no. 04 (2016), <https://doi.org/10.4172/2151-6219.1000255>; E-Vahdati, Zulkifli, and Zakaria, "Corporate Governance Integration with Sustainability: A Systematic Literature Review."

product of the individual *ijtihād* of Islamic economics scholars to offer alternative methods to measure the performance of the Islamic economy – both Islamic banks; Halal industry; And Islamic philanthropic institutions. The *maqasid shariah* index literature is also widely published in various journals; even widely discussed in various international conferences. In general, the literature related to the *maqasid shariah* index can be classified into at least four categories, namely: 1) the *maqasid shariah* index which is used to measure the performance of sharia banks; 2) the *maqasid shariah* index which is a method of analyzing the performance of philanthropic institutions—*amil zakat*, *waqf*, and *infaq* institutions; 3) *Maqasid shariah* index which makes individual well-being the object of matters. Although if explored more broadly, the development of *maqasid shariah* as a paradigm; Framework; and models of economic analysis, in fact not limited to these three things. But at least, the three classifications have been very helpful in mapping the epistemological tendencies and relations of the developed shariah *maqasid* index; and applied in evaluating the impact of the growth and development of the Islamic economy.

The first classification is the *maqasid shariah* index which is used as a framework for measuring the performance of sharia banks, with the basic framework being the values of *maqasid shariah*. It seems that there is a lot of literature that makes the *shariah maqasid* index as a method to analyze the performance of shariah banking. But in this article only takes five articles that make the *shariah maqasid* index as a framework for shariah banking performance analysis. The article written by,<sup>59</sup> displays how the achievement of *shariah maqasid* qualitatively on two bank typologies — the full-fledged Islamic banks and one of the conventional banks which also offer Islamic banking window. The issue of concern analyzed by Najihah Muhammad, Sharifah Faigah Syed Alwi & Nabihah Muhammad is credit management procedures — whether the management system is oriented towards the anticipation of financial failure but still adhere to sharia values. In contrast to the article written by,<sup>60</sup> which seeks to measure the performance of the *maqasid of sharia* banks through the measurement of the influence of independent variables such as: 1) Human Development; 2) Political and civil repression; 3) Civil law based legal systems; 4) The share of the Muslims population; 5) Ownership Structure; 6) Corporate governance structures; 7) Shariah governance structures, on the quality of *shariah maqasid* in shariah banks in nine countries. Through a mixed-method, qualitative and quantitative approach accompanied by a content analysis approach to the data obtained from the annual reports of various Islamic banks,<sup>61</sup> able to find

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<sup>59</sup> Muhammad, Alwi, and Muhammad, “Credit Management in Full-Fledged Islamic Bank and Islamic Banking Window: Towards Achieving Maqasid Al-Shariah.”

<sup>60</sup> Mergaliyev et al., “Higher Ethical Objective (Maqasid Al-Shari’ah) Augmented Framework for Islamic Banks: Assessing Ethical Performance and Exploring Its Determinants.”

<sup>61</sup> Mergaliyev et al.



and find a theory that indicators such as Muslim population; CEO duality; Shariah Governance has an effect on the disclosure of *maqasid* performance.

In the same fields, namely Bank Syariah,<sup>62</sup> tried to analyze the level of profitability of Bank Syariah, through the combination of *maqasid shariah* Index and Index of Islamic Social Reporting (ISR) with variables such as Capital Adequacy Ratio (CAR), Financing to Deposit Ratio (FDR), Net Income Margin (NIM), and Operating Expenses Ratio (OER). The article written by<sup>63</sup> tried to analyze the level of profitability of Bank Syariah, through the combination of *maqasid shariah* Index and Index of Islamic Social Reporting (ISR) with variables such as Capital Adequacy Ratio (CAR), Financing to Deposit Ratio (FDR), Net Income Margin (NIM), and Operating Expenses Ratio (OER). The article written by (Hosen et al., 2019) managed to find a meaningful relationship, simultaneously independent variables to the level of profitability. However, in part, the variables NIM and OER affect the profitability of Islamic banks. It's just that MSI and ISR are not the main indicators applied in Islamic Banks in Indonesia, although banks in Indonesia have a fairly good attention to the *maslahah*, or public interest. In addition,<sup>64</sup> use the *maqashid* index approach to measure the performance of Bank Syariah. With the hypothesis that in order to achieve good performance, then business institutions are responsible to participate in activities aimed at protecting and improving the welfare of society as a whole. In that framework, Maspupah and Hasanah conducted an empirical study of the hypotheses they put forward, and tried to go through factual compression related to good corporate governance in Islamic banks in Indonesia and Malaysia. They managed to identify that there is no significant difference between Islamic banks in Indonesia and Malaysia in terms of Good Corporate Governance. This is due to the historians of Bank Syariah in each country, and the existence of differences in terms of implementation of sharia compliance in Indonesia and Malaysia<sup>65</sup>. The last is a study conducted by<sup>66</sup>, which emphasizes on measuring the achievement of social performance of Islamic financial institutions by using the *maqasid shariah* index.

Oktaviana and Pimada try to develop variables and indicators of shariah *maqasid* to then be used as a framework for analysis of the social performance of shariah financial institutions. There are four variables proposed by Oktaviana and Pimada, namely: 1) Human life value protection. The indicator set to

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<sup>62</sup> Hosen et al., "The Effect of Financial Ratios, Maqasid Sharia Index, and Index of Islamic Social Reporting to Profitability of Islamic Bank in Indonesia."

<sup>63</sup> Hosen et al.

<sup>64</sup> Maspupah and Hasanah, "Comparison of Good Corporate Governance Disclosure and Achievement of The Maqashid Shariah Between Indonesian and Malaysian Islamic Banks."

<sup>65</sup> Maspupah and Hasanah.

<sup>66</sup> Oktaviana and Pimada, "Integrated Maqasid Sharia Index: Indonesia Islamic Banks Performance."

identify this variable is faith; Human rights and stakeholders' rights; 2) self-protection with human self-indicators; and intellectuality; 3) society protection with indicators including descent and social entity; 4) environmental protection with indicators of well-being and ecology<sup>67</sup>. From the empirical study conducted by Oktaviana and Pimada, it was identified that Bank Syariah Mandiri achieved the highest score of 16.90% in terms of performance of *maqasid syariah*, and the lowest was Maybank Syariah with a score of only 7.38%. These five scholars, trying to develop the elements or variables of *maqasid syariah*, even seemed to go beyond the framework of *maqasid syariah* laid down by classical scholars. This development can also be identified in the efforts of Islamic economics scholars to make the *maqasid syariah* to analyze the performance of shariah compliance in Islamic philanthropic institutions.

In addition to articles<sup>68</sup> that elaborate on the index of *syariah maqashid* and serve as a framework to analyze the complexity of the issue of Islamic philanthropic institutions. For example articles<sup>69</sup> and studies<sup>70</sup>. Both seek to build and formulate an index of *maqasid syariah* which is then used as a method to measure the impact of zakat on the economy, and welfare through the lens of *maqasid syariah*. In this case, Cokrohadisumarto conducted a literature study related to the concept of *maqasid syariah*, both contemporary scholars such as Yusuf al-Qardhawi, and Al-Maududi. In addition, do a careful reading of the primary text of Islam — the Quran and Hadith. From this process, Cokrohadisumarto offers a formula for calculating the index of economic securities, from the lens of *maqasid syariah*. In this case, Cokrohadisumarto formulated a linear economic security index (ESI) model, by including variables such as Collected Zakat Funds (CZF); Number of Poor People (NP); Components for a Decent Living Standard for Food (SF); Components for a Decent Living Standard for Clothing (SC); Components for a Decent Living

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<sup>67</sup> Oktaviana and Pimada.

<sup>68</sup> Ataina Hudayati and Achmad Tohirin, "A Maqasid and Shariah Enterprises Theory-Based Performance Measurement for Zakat Institution," *International Journal of Zakat* 4, no. 2 (December 16, 2019): 101–10, <https://doi.org/10.37706/ijaz.v4i2.192>; Maheran Zakaria, "The Influence of Human Needs in the Perspective of Maqasid Al- Syari'ah on Zakat Distribution Effectiveness," *Asian Social Science* 10, no. 3 (January 27, 2014): 165–73, <https://doi.org/10.5539/ass.v10n3p165>.

<sup>69</sup> Widiyanto bin Mislan Cokrohadisumarto, "Zakah as Basis of Calculating the Economic Security Index," in *Developing a Framework for Maqasid Al-Sharia-Based Index of Socio-Economic Development*, ed. Salman Syed Ali, Achmad Tohirin, and Abdul Ghafar Ismail (Jeddah: IRTI-IDB, 2014), 314–27.

<sup>70</sup> Kumara Adji Kusuma, "Zakah Index: Welfare Measurement under of the Maqasid Al-Shariah," in *Developing a Framework for Maqasid Al-Sharia-Based Index of Socio-Economic Development*, ed. Salman Syed Ali, Achmad Tohirin, and Abdul Ghafar Ismail (Jeddah: IRTI-IDB, 2014), 394–414.

Standard for Housing (SH); Pricing of Each Components (P), as a function of the Economic Security Index<sup>71</sup>.

At the individual level, the index of *shariah maqashid* is not very extensively studied. This is due to the focus of the study of the *maqashid shariah* index so far is broader at the institutional level such as the shariah finance industry. Index of *maqashid shariah* in the category of well-being at the individual level, can be classified into: 1) index of *maqashid shariah* which aims to describe how the quality of *maqashid shariah* achieved by individuals. This achievement must be understood as a cultural and structural product, at the same time. Defined as a cultural product, it is because the values of *maqashid shariah* originate from Islam as a value system. Thus, the appreciation of the value of the *maqashid shariah* becomes part of the appreciation of religion and becomes a cultural thing. In addition, it is assessed as a structural product, because the achievement of *shariah maqashid* at the individual level cannot be separated from the support of the economic system and how economic institutions support a system of behavior based on *shariah maqashid* values<sup>72</sup>. 2) the achievement of *shariah maqashid* at the individual level must be understood in a simultaneous and linear relationship with the development of human capital index<sup>73</sup>. In the first category, there are<sup>74</sup> who wrote an article entitled An Index of Well-being based on *maqashid shariah* and Fuzzy Set Theory. Through this article, Larbani and Nizam propose a thesis that well-being at the individual and community level can be identified through fuzzy set theory<sup>75</sup>. In practice, the use of linguistic variables can accommodate the impression of human justification and is able to be the foundation of evaluation of individual situations and actions. Therefore, the goal of this approach is actually to solve the problem of aggregation of several values and sub-indexes measured in different scales into a single index<sup>76</sup>. The contribution of this study conducted by Larbani and Ismail Nizam is to offer a new direction for a quantitative approach in developing the theory of *maqashid shariah* in Islamic economics.

In the second category, where the achievement of *shariah maqashid* at the individual level should be interpreted as a product of human capital

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<sup>71</sup> Cokrohadisumarto, "Zakah as Basis of Calculating the Economic Security Index."

<sup>72</sup> Asyraf Wajdi Dusuki and Nurdianawati Irwani Abdullah, "Maqashid Al-Shari'ah, Maslahah, and Corporate Social Responsibility," *The American Journal of Islamic Social Sciences* 24, no. 1 (2007): 25–45.

<sup>73</sup> Mohd Nizam Barom, "Conceptualizing a Strategic Framework of Social Responsibility in Islamic Economics," *International Journal of Economics, Management and Accounting* 21, no. 1 (2013): 65–95.

<sup>74</sup> Larbani and Nizam, "An Index of Well-Being Based on Maqāshid Al-Sharī'ah and Fuzzy Set Theory."

<sup>75</sup> Larbani and Nizam.

<sup>76</sup> Larbani and Nizam.

development<sup>77</sup>. Arguments for the view can be traced from an article written by<sup>78</sup>, Introducing an Islamic Human Development Index (I-HDI) to Measure Development in OIC Countries. It is very bright and clear, MB. Hendrie Anto asserted that human development and welfare at the individual level is a concept of Islamic development that is not only necessary, but very important. It is not excessive if then the majority of scholars believe that the *maqasid shariah* is the most essential foundation to promote, even a pre-requisite of human well-being at all levels, both micro, macro and individual levels<sup>79</sup>. It can be concluded that MB. Hendrie Anto offers a holistic paradigm in developing the Islamic-Human Development Index, and is based entirely on the framework of *maqasid shariah*.

At the next level, all these postulates are substituted into measurable indicators. M.B. Hendrie Anto chooses indicators from the framework of *maslahah* values which are actually the meta-ethic foundation of the Islamic economic system, which includes not only institutional, state, but also individual levels<sup>80</sup>. Conceptually in belief<sup>81</sup> development dimensions based on objective values *maslahah*, covering the transcendental foundation (faith); intellectual (science); social structure (family-social, property); subsistence (life) and basic (freedom; justice). *Maqasid shariah* index bid by M.B. This Hendrie Anto confirms a thesis that applies generally to the literature discussed previously, that the development of the *maqasid shariah* index is very innovative, even exceeding the criteria of *maqasid shariah* whose foundations have been laid by classical scholars. This has resulted in the growth of two academic attitudes, related to the development of this *maqasid shariah* index, namely: the orthodoxy attitude, where scholars are very careful and avoid 'labeling' and 'integrative' efforts, but instead build the *maqasid shariah* index within the framework of classical Islam. Another attitude is creative-adaptive. This is indicated by the effort to integrate economic indicators that are in accordance with *maqasid shariah* values, and then rationalize them as *maqasid shariah* indexes. These two attitudes must then be discussed critically, and serve as the foundation for the argument that the *maqasid shariah* index that has been developed so far is too preparatory and sector. Whereas *maqasid shariah* does not only cover the individual level, it is

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<sup>77</sup> Zahoor Khan, Jamalludin Sulaiman, and Zakaria Bahari, "Socioeconomic Human Well-Being and Posterity: A Newly Proposed Faith-Based Measurement Index," *Journal of Religion & Spirituality in Social Work: Social Thought* 34, no. 1 (January 2015): 72–90, <https://doi.org/10.1080/15426432.2014.955244>; al-Attar, "Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought."

<sup>78</sup> MB Hendrie Anto, "Introducing an Islamic Human Development Index (I-HDI) to Measure Development in OIC Countries," *Islamic Economic Studies* 12, no. 2 (2013): 69–95.

<sup>79</sup> Anto.

<sup>80</sup> al-Attar, "Meta-Ethics: A Quest for an Epistemological Basis of Morality in Classical Islamic Thought"; Anto, "Introducing an Islamic Human Development Index (I-HDI) to Measure Development in OIC Countries."

<sup>81</sup> Anto, "Introducing an Islamic Human Development Index (I-HDI) to Measure Development in OIC Countries."

institutional. But also includes the community.<sup>82</sup> The critique of the *maqasid shariah* index literature is built within the framework of the thesis. This makes it possible to offer a new framework for developing the *maqasid shariah* index.

## Conclusions

There is a critique that deserves direct at the *maqasid shariah* index literature developed and published. The development of indicators on *maqasid shariah* is too ambitious and ambiguous. First, it calls ambitious because the development of shariah maqasid indicators is very creative and adaptive. Second, the Indefinite because of the index provided, is more likely to accommodate conventional economic indicators than the *maqasid shariah* indicators in the early works of classical scholars. It happens because it is too excessive in adopting economic indicators and used them as an indicator in the *maqasid shariah* index, so the impression is only to add an Islamic label to the indicator. Whereas in the elaborative tradition of the concept of *maqasid shariah*, the classical scholars are never depart from the basic framework of *maqasid shariah* itself. It can be traced from the idea of *maqasid shariah* developed by classical scholars such as al-Ghazali who is based on the basic concept of *maqasid shariah* of his teacher, al-Juwayni. So is al-Amidi, who adheres to the basic philosophy of Imam al-Ghazali's maqasid. It means that the development of *shariah maqasid* must be in line with the spirit of classical Islamic *ijtihad*. So that the concept of *maqasid shariah* offered is not limited to labeling or simply responding to the emptiness of various Islamic economic indices. So, it is necessary to reconsider the offer of M. Amin Abdullah, related to how Islamic scholars build and develop the concepts of Islamic law, without having to be uprooted from the roots of *fiqh* or *ushul fiqh*. Instead of abandoning the two traditions (*fiqh* and *ushul fiqh*), then so freely adopt conventional economic philosophy to evaluate the economy; Islamic behavior and economic institutions.

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<sup>82</sup> Hafas Furqani, "Individual and Society in an Islamic Ethical Framework: Exploring Key Terminologies and the Micro-Foundations of Islamic Economics," *Humanomics* 31, no. 1 (2015): 74–87, <https://doi.org/10.1108/H-04-2014-0037>.

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