

## The Concept of *Maqasid al-Shariah* As an Instruments of *Ijtihad* According to Imam al-Shatibi in *al-Muwafaqat fi Ushuli Al-Shariah*

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### Abstract

As written in *al-Muwafaqat fi Ushuli al-Syari'ah*, Imam al-Shatibi explained that every divine law (the command of Allah) must be prescribed on purposes. The intended purposes or objective of the law is to fulfill for the benefit of humankind. Imam al-Shatibi divided the higher objectives of law into two categories: (1) the objectives of the Lawgiver (Allah), and (2) the human objectives (the benefits that refer to humankind as the doer of law). The human objectives are defined in three scales: from the 'essential' (*dharûriyat*), to the 'necessary' (*hajiyât*), and to the 'complementary' (*tahsiniyât*). Furthermore, Imam Al-Shatibi explained that there are four steps in understanding the human objectives. The first is understanding *maqasid* (objectives) through the purity of the command and prohibitions. The second is understanding *maqasid* through the existence of 'illah (basis) contained in commands and prohibitions. Third, understanding the *maqasid* through the law that related to 'adah (customs) and 'ibadah (worship) which have the main and additional objectives. Fourth, understanding the *maqasid* through silence on the part of Allah due to the absence of any occasions or circumstances for further declaration related to certain matter. In other word, there is no evidence from the Holy book on certain issue which provides the reasons of the law implementation despite the existence of the meaning (*ma'na*) behind the revelation.

**Keywords:** concept, *maqasid al-Shariah*, the law determination, Imam al-Shatibi.

### Abstrak

Sebagaimana tertulis dalam *al-Muwafaqat fi Ushuli al-Syari'ah*, Imam al-Shatibi menjelaskan bahwa setiap hukum ilahi (perintah Allah) harus ditetapkan dengan tujuan. Maksud atau tujuan hukum yang dimaksudkan adalah untuk memenuhi untuk kepentingan umat manusia. Imam al-Shatibi membagi tujuan hukum yang lebih tinggi menjadi dua kategori: (1) tujuan pemberi hukum (Allah), dan (2) tujuan manusia (manfaat yang mengacu pada manusia sebagai pelaku hukum). Tujuan manusia didefinisikan dalam tiga skala: dari 'esensial' (*dharûriyat*), ke 'perlu' (*hajiyât*), dan 'pelengkap' (*tahsiniyât*). Lebih lanjut Imam al-Shatibi menjelaskan bahwa ada empat langkah dalam memahami tujuan manusia. Pertama,

memahami *maqashid* (tujuan) melalui kemurnian perintah dan larangan. Kedua, memahami *maqashid* melalui keberadaan 'illah (dasar) yang terkandung dalam perintah dan larangan. Ketiga, memahami *maqashid* melalui hukum yang berkaitan dengan 'adat dan 'ibadah (ibadah) yang memiliki tujuan utama dan tambahan. Keempat, memahami *maqashid* dengan diam di sisi Allah karena tidak adanya kesempatan atau keadaan untuk pernyataan lebih lanjut terkait dengan hal tertentu. Dengan kata lain, tidak ada dalil dari kitab suci tentang suatu masalah tertentu yang memberikan alasan-alasan penerapan hukum tersebut meskipun ada makna (*ma'na*) di balik wahyu.

**Kata Kunci:** konsep, *maqasid al-Shariah*, penetapan hukum, Imam al-Shatibi.

## INTRODUCTION

The higher objectives and intents of Islamic law (*maqasid al-Shariah*) have been discussed among scholars both in classical period and contemporary period. This issue is interesting to be discussed because it is such an effective and significant instrument in measuring the objectives of law. Besides, it also plays a great role in the development of the determination of law (Afif Muamar, 2017).

Some groups of people agree that Imam al-Shatibi is the pioneer of the concept of *maqashid al-shariah* (the higher objectives and intents of Islamic law), so that he is called as the father of *maqasid* (Raisūny, 1995). Although there had been some other scholars who concerned in this field such as Iman Haramain al-Juwainy, Imam al-Ghazali, and Imam al-Thufy, their studies were not applicable and systematic. Their studies of *maqasid al-shari'ah* were only to the extent of theory. In *al-Muwafaqat fi Usūli al-Shari'ah* Imam al-Shatibi has established the foundation of this study strongly and systematically. It produces an essential correlation between *maqasid al-shari'ah* and *isthinbath* (a method in determining the Islamic law). Therefore it now becomes a reference for Muslim scholar in making decision of Islamic law (Mutakin, 2017).

It is reasonable to say that after the birth of *al-Muwafaqat fi Usuli al-shari'ah* written by Imam al-Shatibi, the principles of Islamic jurisprudence that applies literal study in creating and abolishing the Islamic law becomes in line with the higher objectives and intents of Islamic law. In additions, it is in line with the philosophical value as an effort in serving the public interest of Muslim community and protecting them from the harm. In fact, the correlation between them even becomes stronger and solid. The realization of serving the public interest of Muslim community and protecting them from the harm is the key to get happiness. For this reason, the study of *maqasid al-shari'ah* becomes an essential one that the *mujtahid* interested in discussing this study from time to time.

There have been a lot of works discussing the study of *maqasid al-shariah* written by Imam al-Shatibi . But none of them describes deeply how Imam al-Shatibi formulated the principles of *maqasid al-shari'ah* in *al-Muwâfaqât fi Ushûli al-shari'ah* which is relevant to be applied in creating and abolishing the islamic law. There has been no in-depth study that describes how the method or method used by Imam al-Shatibi in formulating the basic rules of *maqasid al-shariah* in *al-Muwâfaqât fi Ushli al-Shari` ah*, so that these methods become relevant

to be used in the realization of the law as well as its abolition. As an implication, a new *ijtihad* (independent reasoning in finding a solution to a legal question in Islamic law) method was born, which is known as *ijtihad al-maqasidy*. It is a method in performing *ijtihad* which is based on the purpose of the Islamic law.

Thus, when we are talking about *maqasid al-sharia*, we automatically refer to Imam Al-Shatibi. His great role in giving enthusiasm and new methods of *ijtihad* in order to find legal solutions to actions of human continues to grow from time to time. Because, *maqasid al-sharia* is an attempt to balance between *mashlahah* (interest of the community) with *mafsadah* (harmful for community) as an effort to realize the best decision for humankind, so that the laws produced actually accommodate all intended objectives.

In this research, the writer will explore the study of *maqasid al-shari'ah* written by Imam al-Shatibi and the methods used in formulating *maqasid al-sharia* through *adillah al-syar'iyah*. Therefore, the writer conducts this literature research in order to explore the thoughts of Imam Al-Shatibi through his phenomenal work: *al-Muwāfaqāt fi Ushuli al-Shari'ah*.

## DISCUSSION

### Brief Biography and Intellectuality of Imâm al-Shatibi

His full name was Ibrahim bin Musa bin Muhammad al-Lakhmy al-Gharnathy who was later more popular with al-Shatibi. He was nicknamed as Abu Ishaq which is the name of one of his children. The ancestors of Imam al-Shatibi came from the tribe of Lakhmu so that he was also called al-Lakhmy. As for al-Shatibi, it is his parents' hometown (Shatibah) and for al-Gharnâthy because he grew up and died in Granada. Therefore, in some references sometimes the mention of the title al-Gharnâthy is more popular than al-Shatibi (al-Ubaidy, 1996).

Scholars or historians have different estimation related to the year of birth of Imam Al-Shatibi, it is because he never mentioned the year of his birth in his works. According to Muhammad Abu al-Ajfan, in the introduction to his work *Min Atsari Fuqahâ' al-Andalus; Tahqiq Fatawa al-Shatibi*, he said that Imam Al-Shatibi was born in 720 H. This opinion is based on the argument that his teacher; Abu Ja`far Ahmad bin al-Ziyât died in 728 H. When he died, Imâm al-Shatibi was a teenager who was full of enthusiasm in leaning (al-Ajfan, 1985).

However, a different opinion expressed by Hammady al-Ubaidy, he stated that the year of birth of Imam al-Shatibi was not 720 H, but 730 H. This opinion is based on the argument that Imam al-Shatibi was a friend of the poet, Ibn Zamrak, who was born in 733 H. In addition, the statement of Imam al-Syathiby quoted by Hammadi al-Ubaidy said that in 735 H he was still a child who studied to his teacher Ibn al-Fakhkhar al-Bairy who was very proud of his intelligence and ability in solving problems related to Arabic by giving a solution that nobody could think about (al-Ubaidy, 1996).

Responding to this difference, the writer is more inclined to the opinion that Imam Al-Shatibi was born in 730 H. Because Lisanuddin al-Khâtib said that Imam al-Shatibi was not a student of al-Ziyat. So, they have never met. Al-Ziyat is one of residents of Malaqa who often visits Granada to give lecture in various scientific assemblies (al-Khâthib, 1973).

The majority of scholars and historians agree that Imam al-Shatibi died in 790 H. His student named `Imad wrote in the introduction of the book *al-Muwafaqat* that Imam al-Shatibi died on the 8th of Sha`ban 790 H / 1388 M. It can be estimated that the age of Imâm Al-Shatibi was approximately 70 years.

Abdurahman Adam Ali said that there are no historians or scholars who reveal the life story of Imam Al-Shatibi outside of Granada even for travel outside of the city to seek knowledge or perform the pilgrimage. He always stayed in Granada until he died in 790 H (Ali, 1998). It indicates that Imam al-Shatibi only took the opportunity to learn from the scholars in Granada or the scholars who had visited Granada. During that time, Granada became a developed city and had good relations with various Islamic kingdoms around it. So, it created conducive situation for the scholars to come and teach there.

According to the writer, the experience of Imam al-Shatibi in learning was different from other scholars from Granada at that time. They have a habit of traveling from one place to another to study. Meanwhile, Imam al-Shatibi only learned to scholars in Granada or those who visited Granada from various regions, not only from Andalusia but even from the Maghreb.

In the era of Imam al-Shatibi, Granada was one of the centers of Islamic civilization on the mainland of Andalusia. This city is one of the references for scholars and historians in evaluating the progress of civilization and Islamic science. Although Imam al-Shatibi did not leave the city, it can be said that he had also learned outside of Granada. It is because his teachers were the outsiders who came to Granada. They came to deliver knowledge to him.

According to the writer's opinion, there are at least two main factors that make Granada as a center for the development of science, both in the field of religion and others. This development lead Imam al-Shatibi to become a scholar who created changes in his time and in the future, the factors are namely: first, Granada Is the Center of Islamic Civilization in Andalusia. Granada was the center of government and the center of scientific development during the reign of Bani Nashar which was better known as Bani Ahmar (Moore). This kingdom was founded by Muhammad bin Yusuf bin Nashar (672 H) who was better known as Ibn Ahmar. His lineage continued to Sa`ad bin Ubadah who was one of the companions of the Prophet Muhammad from the Khazraj tribe in Medina (al-Dzanun, 1988).

During the reign of Bani Ahmar, Granada was a place where Muslim scholars and scientists studied, explored and developed various disciplines. Granada has previously developed science long time before the Europeans did. When this city was conquered by Europeans, most of the intellectual heritage of Islam was seized to be studied and developed. Meanwhile the others were burned or converted for the benefit of the Christians.

Among disciplines that were developed in Granada are astronomy and mathematics which were founded by the famous expert Abu Qasim Maslamah bin Ahmad al-Majrity (d. 698 H). He founded his own school in this discipline and had many students. Another discipline is the medical science, among its famous experts was Ahmad bin Ali bin

Muhammad bin Khstimah al-Anshâry (d. 770 H). He was not only a doctor but also an expert in literature and history.

Likewise, the development of religious knowledge, Imam Malik School or known as the Maliki school also was developed in Granada, both in *ushul* (fundamental religious belief) or *furu`* (Islamic sharia laws). A theory says that this school came to the mainland of Andalusia during the time of al-Hakam bin Hisham bin Abdurrahman. He was the third king of Umayyad governments in Andalusia. This school was well accepted by the Andalusian community and gradually replaced the Imam al-Auza`iy and Imam al-Laitsy schools which had previously developed in the community (Mu`nis, 1996).

The rapid development of the Maliki School in Granada has created some scholars who had a big role in social and government institution. Among the famous scholars was al-`Alim al-Faqih Ibn Sa`id Farraj bin Lub (782 H). He was an Islamic legal authority of government and also was a lecturer in Madrasah al-Nasriyah.

Second, Granada as one of the Refugee Places. When Ibn Jahur dissolved the rule of the Umayyads in Cordoba and al-Amariyah, the power of Muslims in Andalusia collapsed. Since then the progress of the Muslims in Andalusia has been inching backwards and has come to ruin. A group of greedy people carry out various propagandas to gain the leadership. The impact of the greed has formed a small governments called *mulûk al-thawa'if* (the kings of a small group) (Mu`nis, 1996).

Considering such conditions, the Christian kingdoms took exploit the situation to reclaim their territory which was previously conquered by Islamic forces. The armies they sent to help a small part of the Islamic empire were used as a powerful weapon to destroy the small Islamic kingdoms in Andalusia. They made a campaign slogan 'Reconquista' to encourage his army in expulsion and massacre of Muslims.

As the impact of the attacks carried out by the Christian Kingdom on Muslim areas in Andalusia at that time, some of the scholars fled to Granada to save themselves. They save themselves because they refuse to convert, submit and obey the government (al-Ajfan, 1985). The parents of Imam al-Shatibi also among those who escaped, they left Syâthibah which was their homeland and fled to Granada.

There are at least two main reasons for Granada became the choice of Muslims at that time to take refuge, namely (al-Ajfan, 1985):

- a) Granada is a city fortified by a large valley, located in the north which separates between the Islamic kingdoms and the Christian kingdoms in the north.
- b) Granada is located on the coast which is close to Magrib. In case of any political tension or military invasion from the Christian kingdom, the reinforcements came directly from Maghrib.

These two factors made Granada as the destination for refuge of the scholars. It was also because Granada was the center of all disciplines at that time. In addition, there was no any developed country other than Andalusia, unless it had been conquered by Christian. For instance, Cordoba which was the center of the Umayyad government had been conquered in

1236 AD. Valencia also had been conquered in 1238 AD. Mace to Malaga conquered in 1241 AD. And Sevilla) conquered in 1248 AD. Meanwhile, Granada, which was the center of the last Islamic government in Andalusia, was conquered by Christian forces in 1492 AD.

Al-Ajfan classified Imam al-Shatibi's teachers into two groups: teachers from Granada and teachers who had visited Granada. Al-Raisûny concluded that based on the classification, it indicates that Iman Al-Shatibi never travel outside of Granada even for seeking knowledge (Raisûny, 1995).

The teachers of Imam al-Shatibi from Granada:

- 1) Abu Abdullah bin Muhammad al-Fakhkhar al-Bairy (d. 754 H). He is one of the best Quran reciters in Andalusia. Imam al-Shatibi learned *qira'ât* and also various branches of religious knowledge from him until he died.
- 2) Abu Ja'far Ahmad bin dam al-Shaqûry. He is a scholar who is an expert in *nahwu* and *fiqh*. Among the books that Imam Al-Shatibi learned from him are: *Kitâb Sibawaih*, *Qawânin* by Ibn Abi al-Rabi', *Talkhîs* by Ibn al-Binâ', *Alfiyah Ibn Malik*, *Farâ'idh al-Talqin* and *Mudawwana al-Kubra*.
- 3) Abu Sa'id Farraj bin Qasim bin Ahmad bin Lub al-Taghliby, (d. 782 H). He is a *mufti* and official preacher of government in Granada. He is also teachers in *Madrasah al-Nasriyah*. Imam Al-Shatibi studied *nahwu* and some other knowledge from him.
- 4) Abu Abdullah Muhammad bin Ali bin Ahmad bin Muhammad al-Balinsy al-Ausy, (d. 782 H). He is a writer in the interpretation (*tafsir*) and the writer of *Mubhamat al-Qur'ân*.

The teachers of Imam al-Shatibi from outside of Granada

- 1) Abu Abdullah Muhammad bin Abi al-Hajjaj Yusuf bin Abdullah bin Muhammad al-Yahashiby or who is known as al-Balusyyi because he comes from Balusyah. Imam Al-Shatibi studied several branches of knowledge with him until he got a diploma.
- 2) Abu Abdullah Muhammad bin Muhammad bin Ahmad al-Maqarry, (d. 759). He teaches at *Jami' al-Azham*. Among the books that Imam Al-Shatibi learned from him are, *Takmil al-Ta'qib ala Shâhibi al-Tahzîb*, *Lamhatu al-Âridhah Takmilah Alfiyah Ibni al-Faridhi*, *Ikhtishâr li Jumali al-Khanjiy*, *al-Qawâ'id al-Fiqhiyah*, *al-Haqâ'iq wa al-Raqâ'iq*. He also gave a diploma to Imam al-Shatibi because he had learned a third of *Book of Shahîh al-Bukhary*.
- 3) Abu al-Qasim Muhammad bin Muhammad al-Sharif al-Hasany al-Sabty, (d. 760). He is an expert in linguistics and the interpreter of *Maqshurah Hazim al-Qarthanjy*.
- 4) Abu Abdullah Muhammad bin Ahmad al-Syarîf al-Tilmisâny, (d. 771 H). He was one of the Imams of the Maliki schools and was well-respected for his knowledge in his time. Imam al-Shatibi studied *ushûl al-fiqh* and *fiqh* to him.
- 5) Abu Ali Mansur bin Ali bin Abdullah al-Zawâwy, (d. 770 H). He is a scholar who is very proficient in discussing and debating. Imam al-Shatibi studied the book

*Mukhtasar al-Muntaha al-Sûl wa al-Amal fi 'Ilmay al-Ushl wa al-Jadal* by al-Imâm Abu 'Amru bin al-Hajib or known as Ibn Hajib until he got a diploma.

- 6) Syamsuddin Abu Abdullah Muhammad bin Ahmad bin Marzûq al-Khâtib al-Tilmisâny (d. 781 H). He is a scholar who is an expert in the field of *fiqh* and *ushl al-fiqh*. Imam al-Shatibi studied with him at *Madrassa al-Nashriyyah* and *al-Jâmi' al-Âzhâm*. There are two books he learned from him, namely: *al-Jâmi' al-Shahîh* Imam al-Bukhary and *al-Muwattha'* by Imâm Malik bin Anas. Imâm al-Shatibi even got a diploma.
- 7) Abu Ja'far bin Ahmad bin al-Hasan bin Ali bin al-Ziyât al-Kilâ'iy, (d. 649 H). He often came to Granada in order to teach or fulfill the king's invitation. Among the sciences he teaches are: *falak*, *hisâb*, *mantîq* and *jadal* (al-Ajfan, 1985).

Imam Al-Shatibi taught at *Jami' al-A'zham* conveying several disciplines, including: *ushûlu al-fiqh*, hadith, *qira'ât* and nahwu. Among the books he teaches are *Sibawaih* and *Alfiyah Ibn Malik* in Nahwu, *Muqaddimah Ibn al-Shalâh* in hadith, *Taisir* Amru al-Dany's work in *qira'ât*, *Muwatha'* and *Mudawwanah al-Kubra* in *fiqh* as well as *Mukhtashar Ibn Hajib* in *ushûl al-fiqh* until finally he wrote *al-Muwafaqat*. After writing *al-Muwafaqat*, he used it to replace *Mukhtashar Ibn Hajib* (al-Ubaidy, 1996).

Among the students of Imam al-Shatibi are (al-Ajfan, 1985):

- 1) Abu Yahya bin 'Ashim, (d. 813 H). He was a *preacher*, writer and also a writer who inherited a lot of knowledge and intelligence from Imam al-Shatibi . He died as *shaheed* in a war.
- 2) Abu Bakr bin 'Ashim, (d. 829 H). He was the brother of Abu Yahya bin Ashim who was an expert in hadith, *ushûl al-fiqh* and *fiqh*. He was one of references for scholars in ruling on point of Islamic Law. Among his legacy works was *Tuhfatu al-Hukkam*.
- 3) Abu Ja'far Ahmad al-Qassar al-Andalusy al-Gharnathy. He learned a lot from Imam Al-Shatibi, especially what is contained in the book *al-Muwafaqat*.
- 4) Abu Abdullah al-Majary, (d. 862 H). He studied *Alfiyah Ibn Malik* with Imam Al-Shatibi before he travels out of Granada.

### **The Concept Higher Objectives and Intents of Islamic Law (*Maqasid al-Shariah*) According to Imam al-Shatibi**

*Maqasid Al-Shariah* is a genitive construction which consists of two words, *Maqasid* and *Al-Shariah*. *Maqasid* is the plural form of *maqsud* which means purpose, justice and righteousness. And for *al-Shariah*, it means the Islamic teaching or religion (Jamal, 2016). If these two words are combined, it represents a certain definition, namely:

"The values contained in the Islamic laws as a result of the actions. It's the same, whether these meanings are contained in the law of *juz'i* or the law of *kulli* or *mashlahah kulliyah* or *simmat ijmaliah*. All of them are collected in one framework of purposes, self-servitude to Allah SWT and the realization of the interest or benefit for human life in the world and the hereafter (Syathiby, 2003)."

Imam al-Shatibi did not explain the definition of *maqasid al-shari'ah* explicitly. However, he stated that the objectives of law are included in all aspects of the law prescribed by Allah SWT. (Sabil et al., 2008). Thus, his explanation of *maqasid al-shari'ah* is straight forward to the core of the topic. He stated that *maqasid* is divided into two, namely: First, *qashdu al-Shari'a'* (Lawgiver's objective). Second, *qashdu al-Mukallaf* (human's objective) (Zatadini & Syamsuri, 2018).

Furthermore, in order to protect the *maqâshid al-shariah*, in *al-Muwafaqat*, he divides the scope of *human's action* to three levels, namely: *maqâshid al-dharûriyât* (essential objectives), *maqâshid al-hajiyât* (necessary objectives) and *maqâshid al-tahsnîyât* (complementary objectives).

First, *Maqâshid al-Dharûriyât* (essential objectives):

"It is something that must exist in serving the interest or the benefits for the hereafter and the world. If it is lost then life will not go on. But there will be various kinds of damage, chaos and destruction. In the hereafter, safety and enjoyment will disappear so that you return (to the Hereafter) full of losses (Syathiby, 2003)."

The majority of scholars agreed that *al-Dharûriyât* is divided into five forms, namely: religion, soul, mind, property and offspring (Abdulkhâliq, 1985). Protecting these five things is the essence of the Islamic teachings even before Islam. In contrast, there will be the consequences for those who are careless of protecting these five essentials. (Hasany, 1995).

For instance, the obligation of suicide for the Jews to repent their mistakes for opposing the teachings of the prophet Musa AS is such a hard commandment to obey even though the aim is to preserve religion. While in Islam, the practice of suicide is not justified. Everyone who commits suicide is considered as committed a big sin (Yazid, 2017).

There are two methods of protecting essential objectives: keeping things that can preserve or perpetuate it and preventing things that could negate it. Both of these methods can be found in various commands and prohibitions that have been explained in the Qur'an and Sunnah (Syathiby, 2003). For example, the obligation to pray is a form of protecting religion so that it remains sustainable. It is also kind of fighting against apostates as an effort to prevent damage of the pillars of religion. The needs to eat and drink are to keep the soul alive and to prohibit suicide because doing so will kill the soul. The obligation to learn is to keep the mind to stay healthy. While the prohibition of drinking alcohol and is a safeguard of the mind in terms of its negatives.

The permissibility of buying and selling is a way to keep assets sustainable. Meanwhile, the law stipulation of cutting hands for thieves is a form of protecting property. In addition, it is prescribed that marriage is a form of protecting offspring so that the procreation of mankind is continued. In other hand, the adultery is forbidden in order to maintain the offspring.

Second, *Maqâshid al-Hajiyât* (necessary objectives):

"It is something needed in order to gain spaciousness and remove the difficulty which can usually lead to distress because of the loss of what is desired. If it is not protected,



the human will get trouble and difficulty in their life although it is not to the level of damage caused by the public interest (dharûriyât level) (Syathiby, 2003)."

At this level, the protected benefits are divided into three aspects of legal action, namely: first, worship as it is permissible to combine prayers for people who are traveling. It is called *nukhshah* as a form of convenience. Secondly, Islamic commercial transaction such as debt, sale and *salam* transaction (buying and selling whose merchandise is not available at the time of the sale and purchase contract). This form of transaction is allowed in order to provide spaciousness and convenience for humans in transaction. Third, *jinâyah* i.e.: putting *diyah* upon *âqilah* to relieve the burden of the murderer and the permissible of *qassamah* (oath).

Third, *Maqâshid al-Tahsinîyât* (complementary objectives):

"Taking what is proper from the good habit, avoiding everything which is considered as bad deed. This is called as good morals (character) (Syathiby, 2003)."

This level of *Maqâshid* is also found in several aspects of human actions, namely worship such as the recommendation to cover the genitals properly in praying, the *customs* such as good etiquette when eating and drinking and avoiding unhealthy food. In *Muamalah*, it is like the prohibition of buying and selling the impurity things. In the field *jinâyah*, it's forbidden to do *qishash* between a slave and a free person (Syathiby, 2003).

From the explanation above, it is clear that all human actions will lead to the three levels *maqâshid* for the benefit of mankind. It is because every command or prohibition given by the Lawgiver must be written on wise purpose (*hikmah*) and noble objectives. Thus, it cannot be denied that *maqâshid al-shariah* has a great influence law determination.

### **The Concept higher objectives and intents of Islamic law (*Maqasid al-Shari`ah*) According to Imam al-Shatibi**

The study of higher objectives and intents of Islamic law is conducted through inductive reasoning, it starts out with a specific reasoning or evidence and then examines its possibilities to reach the general conclusion (Sanu, 2000). It is applied for the text such as verses or hadith related to orders or prohibitions. This method is explained by Imsm Al-Shatibi as a way to reveal various secrets or objectives behind the law. It is also said that this method is valid and cannot be disputed (Syathiby, 2003).

As the result of the inductive reasoning, Imam al-Shatibi formulated four methods in determining the higher objectives and intents of Islamic law. First, "the purity of the commandment or prohibition (at) the beginning" (Syathiby, 2003). Every command of Allah definitely requires the real action and that is the true purpose of Islamic law. Likewise, the prohibition that comes from Him definitely requires the abandonment of an action and that is also the goal of Islamic law. Imam al-Shatibi added it with the word 'beginning' in order to avoid orders or prohibitions other than the intended word. Such as the word of Allah, "Then proceed to the remembrance of Allah and leave trade..." (QS. al-Jumu`ah: 9).

The main objective of the verses above is not the prohibition of trade. But what is intended by Allah is found at beginning of the commandment: the haste to remember Allah

(prayer). So the command to remember Allah is called as *maqshad al-awwal* (main objective), while leaving trade is *maqshad al-tsani* (second objective).

In the next step, Imam al-Shatibi added further explanation clearly. It means that the command or prohibition prescribed by Allah is in accordance with the word written in the orders or prohibitions. This aims to avoid commands or prohibitions which are only contained in *lafaz* (word) but not being explained clearly. Such as the prohibition of something which contains the order to do the opposite. Or an order against something that implies a prohibition to leave the opposite.

Second, "the existence of *'illah* (basis) contained in the commands and prohibitions" (Syathiby, 2003). Every commands and prohibition of Allah must be prescribed on *'illah* (basis). *'Illah* refers to the effective or operative cause behind a law which binds the presence or the absence of a law that some of them can be understood by human and some cannot. (Sanu, 2000). Human, in this case refer to scholars, only able to do independent interpretation of law on the verses which has *'illah* that can be understood by the human. It means that when the *'illah* can be understood well in an order or prohibition; it can be used as a foundation in determining the law. In other word, *'illah* is the main reason behind the law given by the Lawgiver (Allah).

For example, Allah prescribed marriage based on *'illah*: to give birth to offspring so that the procreation of human in the world is continued. Also, Allah prescribed trade (buying and selling) based on *'illah*: to create prosperity in life so that everyone respects each other's ownership. In contrast, Allah forbidden human to commit adultery based on *'illah*: to safe the lineage and also to prevent of the dangerous diseases.

The identification of *'illah* within the commands and prohibitions is conducted in various aspects. They are *'ibadah* (worship), *mu'amalah* (Islamic transaction law), *'adah* (customs) or *jinayah* (Islamic criminal law). However, *'illah* in terms of worship is more dominant to the submission to Allah. It means that it cannot be digested by the human mind because it is entirely the intent of Allah. While in *mu'amalah* and *'adah*, it can be understood by the human mind. Therefore, the door for independent interpretation (*ijtihad*) is opened in these two aspects.

The third step of identifying the *maqasid shariah* is that "Allah has the main and the additional objectives in explaining the laws related to customs and worship (Syathiby, 2003). When Allah decrees the main objective behind the stipulation of a law, there is a possibility for the existence of the additional objective. It might derive from the same or different verse.

The existence of the additional objectives strengthens the existence of the main objective in a command or prohibition, because there is a congruence of meaning contained in both. For example, in the Qur'an Allah Almighty commands prayer with the main purpose of showing human obedience to Allah and submitting oneself before Him. Humans must then always remember Him whenever and wherever they are. Allah SWT says: "Then worship me and do prayer in remembrance of Me (QS. Thaha: 14)."

It can be understood in the verse above that the main purpose of prayer is to remember Allah SWT. However, prayer also has several other purposes which are not contradicted with the main purpose above. Among these purposes is to prevent one from committing heinous acts and evil deeds that can harm humans' life in this world and later in the hereafter.

Fourth, "silence on the part of Allah (when He does not provide specific *nash* (verse) as further explanation related to occasion or the cause of the law, or perhaps there is no evidence that explains the law despite the existence of meaning (ma'na) behind the law " (Syathiby, 2003). In this fourth method, Imam al-Shatibi mentioned that Allah remain silence on certain matter of human's action by not providing the detailed explanation specifically. But on the other hand, when it is analyzed deeply, certain meanings that returned to the general argument can be found to identify the law (Ikhlas et al., 2017).

Furthermore, Imam al-Shatibi mentions that silence of the part of Allah can be divided into two forms, namely: first, Allah remain silence (not giving the legal information) on certain matter due the absence of any occasion that require the birth of the law at the time of the Prophet Muhammad. Such as the occasions that occurred after the death of the Prophet Muhammad where there was no verse could be found as the reference for the problem. In this case, the scholars agree to refer to the general arguments (verses) in Islamic teachings (Syâthiby, 2003).

Second, Allah remains silence on certain matter occurred at the time of the Prophet Muhammad even it requires the birth of law at that time. In fact, there is no provision in the form of a text that explains the birth of a law. In this case, silence on the part of Allah refers to the absence of any additions or subtractions to the description of verse that already exists.

In more detail, Imam Al-Shatibi explained that the intents of the Lawgiver in this case are to stop at the predetermined limit. In case there are any additions or subtractions without the explanation of the evidence from the verses, it is considered as *bid'ah* (heresy).

Silence on the part of Allah in *muamalah* and *'adah* represents the mercy of Allah, it is confirmed in the Hadith of the Prophet Muhammad:

"From Abi Tsa` labah al-Khusyany Jurtsun bin Nasyir ra. from the Messenger of Allah, he said: Verily Allah has made certain law as obligatory, so do not waste them. (Allah) has also ordained some punishments so do not exceed them. (Allah) has also forbidden some things so do not violate them. (Allah) has also silenced some things without (He) forgetting as a mercy for you, so don't try to seek it." HR. Dar al-Quthny with Hasan's chain) (Qusyairy, 2010)."

The above hadith explained that Allah has determined some commands that must be obeyed, punishments that should not be exceeded, prohibitions that should not be overstepped and has silenced on various problems without providing an explicit argument. The silence of Allah does not mean that He has forgotten to establish the law, but it is such a mercy of Allah given for humans so that they can easily live their life and reaches the benefits of the law.

But at the end of the hadith the Prophet Muhammad forbade to look for what Allah has kept in silence. In order to understand this prohibition, scholars explain the explanation

as follows: First, in case the effort to seek the silence of Allah is to relate the problems that have been silenced to the general verse of the Quran due to the contradicted action of human against the determined law, the scholars say that it is allowed. It is even become an obligatory to seek it for scholars who have the capacity and capability to do independent reasoning called *mujtahid*.

Second, in case the efforts are made to find differences between two issues that have no effect on the interpretation of law because of the nature that binds both of them, it is forbidden. Some even forbid it because it is not useful (Suyuthy, n.d.).

The form of Allah's grace is His silence is such a convenience for humans. This is in line with the verse of Allah. "Allah wants ease for you and does not want difficulty for you (QS. al-Baqarah: 185)". Imam al-Marâghi said that Allah gives various kinds of relief to Muslims who do fasting. The relief is not only given in fasting, but it is provided in various waivers of every prescribed law. Imam al-Maraghy emphasized that the religion is revealed to create ease, not difficulty (Marâghy, 1946). It can be understood from the verse above that Allah always wants convenience for humans in complying with various rules that He has set whether in the form of orders or prohibitions to serve the benefit for human during the life in this world and the hereafter.

Moreover, the mercy behind His silence is to take out various difficulties from human's life so that he or she permissible to choose certain action that does not burden him. This is in line with the words of Allah SWT: "...Allah doesn't want to make things difficult for you..." (QS. al-Maidah: 6)."

The above verse contained a common meaning which can be applied for every dimension of the law. Allah also emphasizes that the Islamic teachings and rules are not to give the hardship for humans because it is contrary to Allah's intents who wants ease and spaciousness.

It is proper to say that the first classification of silence on the part of Allah represents His mercy for Humankind. It is found in many aspects of *muamalah* and *`adah*. Hence, several methods were established to explain the breadth of law in this field as a supporting instrument in dealing with *ijtihad*, among them, "The law of everything is permissible until there is a verse that forbids it (Burnu, 2012)." In another theory it is stated that "the basic law of everything that provides benefits is halal (permissible) and everything that causes harm is haram." (Burnu, 2012).

Meanwhile, the silence in the second classification is more oriented to the realm of worship. Because, Imam Al-Shatibi emphasized that there should be no addition or subtraction to the act even though there is a general argument that supports it, because this form of action indicates heresy. Hence, from this identification, a rule was established: "The basic law of worship is forbidden, so it should not be done except what has been prescribed by Allah and His Messenger (Sa`dy, 2002)."

If we look at the concept of *ushl al-fiqh*, there are some arguments used by scholars in effort to determine the law of certain problems that do not contained explicit information from the Lawgiver. Among these concepts are *al-Qiyas*, *al-Istihsan*, *al-Maslahah al-Mursalah*, and others. Although the scholars have different interpretation on determining the law, they agree to find out a solution for the certain problems that were silenced by the Lawgiver.

However, among the arguments above, the concept of *silence on the part of Allah* formulated by Imam Al-Shatibi is closer to *al-Maslahah al-Mursalah* which is one of the legal arguments in the Malikite and Hanabilah schools. They define *al-Maslahah al-Mursalah* as "a benefit for which there is no specific argument from Allah to acknowledges or negates it, but there are general arguments that acknowledge it" (Yuby, 1998).

## CONCLUSION

From the description above, it can be concluded that as a scholar who is an expert in the field of *Maqasid al-Shari`ah*, Imâm Al-Shatibi has established the foundation of this theory. The foundation was written in his monumental work *al-Muwafaqat fi Ushuli al Shari`ah*. Therefore, *maqasid al-shariah* becomes one of the alternative instruments in determination and abolition of law especially related to contemporary problems.

Imam Al-Shatibi explained that behind the law prescribed for humans, there must be a purpose. The intended purposes are to fulfill for the benefit of humankind. The purposes are categorized as the objectives of the Lawgiver (Allah) and the objectives of human (benefits that refer to the human interest (*mashlahat*) as the doer of Law). The human objectives are defined in three scales: from the 'essential' (*dharûriyat*), to the 'necessary' (*hajiât*), and to the 'complementary' (*tahsinîyât*).

To understand the objectives that refer to humans, Imam Al-Shatibi classified it into four steps: First, understanding *maqasid* (objectives) through "the purity of the commandment or prohibition at the beginning". Secondly, it is understanding *maqasid* through the existence of 'illah (basis) contained in the commands and prohibitions. Third, understand *maqasid* through laws related to habit and worship which have the main and additional objectives. Fourth, understanding the *maqasid* through silence due to the absence of any occasions or circumstances for further declaration related to certain matter.

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