

Maqashid Syari'ah and Its Role in Economic Development and Sharia Economic Law in Indonesia

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Abstract

This article discusses the concept of maqashid syari'ah as a framework underlying the development of sharia economic law in Indonesia. Maqashid shari'ah, as objective main Islamic law, provides base philosophical and moral for system sharia economics. Study This aim for investigate role maqashid Sharia in development sharia economics and law sharia economics in Indonesia. The research method used is literature analysis, with a focus on understanding the concept of maqashid syari'ah and its application in the context of economics and sharia economic law. Research result show that maqashid Sharia give clear directions related moral values, justice, and welfare in principles sharia economics. Draft This give base for development law sharia economics that can accommodate need community and giving suitable solution with Islamic principles. This article also explores the Indonesian government's efforts to integrate maqashid syari'ah into economic policy and sharia law. The emphasis on sustainable and inclusive economic development through the implementation of maqashid sharia is expected to produce a fairer and more just economic system. Thus, this article contributes to the understanding of the concept of maqashid syari'ah and its role in forming sharia economic law that is in accordance with Islamic values in Indonesia.

Keywords: *maqashid sharia, development, sharia economics, sharia economic law, Indonesia*

I. INTRODUCTION

Islam is a religion revealed by Allah to the Prophet Muhammad SAW perfecter from teachings that have been passed down to the Apostles previously. The perfection of Islam lies from completeness in arrange all over aspect life human, of the most private aspect until the most universal aspect and being interest together man. From the most private aspect like bathing problems, rub tooth until the most universal aspects such as governance, relationships between countries and so on. The laws brought by the Islamic religion in essence there are two levels that is sharia law and fiqh law. Sharia law is the law contained in the texts of the Koran and Hadith, each of which does not contain interpretations so that the jurists cannot use their ijtihad, therefore it functions and must be followed by all Muslims without exception wherever they are. Fiqh law is a law where the jurists have a role in deciding the law of a case, namely by carrying

out *ijtihad* to understand two texts whose existence is less clear/vague and whose meaning contains interpretation and *ta'wilan*).¹

Sharia in the definition above is a law created and revealed by Allah to His servants, in the language of legal science it is called *God made law* (law made by God). Meanwhile, *fiqh* is a law discovered by humans (*fukaha*) from the sharia that Allah SWT revealed to His Messenger (*man discovered law*). *Fukaha* only plays a role in finding something that is stored or cannot be understood by ordinary people regarding the messages that have been revealed by God.² The character of *fiqh*, which is an understanding of sharia, is why jurists/*mujtahids* should pay attention to aspects of time, place, situation/conditions and habits of local people in carrying out *ijtihad* (the author calls this the sociological aspect of Islamic law). Very often a legal decision is influenced by these aspects. Apart from knowledge of the sociological aspects of Islamic law/*fiqh*, *mujtahids* must also pay attention to aspects of the objectives of Islamic law, which in terms of *ushul fiqh* experts are called *maqashid sharia*.

Knowledge of *maqashid syari'ah* is also needed to know whether a particular legal provision can still be applied to a case considering that there have been social changes.³ *Maqashid sharia* has an important role in formulating and interpreting something that is *mashlahah* for humanity without leaving the essence of Islamic teachings, because *maqashid sharia* wants to connect the will of Allah with human aspirations or desires.⁴ Knowledge about *maqashid al-syariah* become key for *mujtahid's* success in his *ijtihad*. Of course, that's what it means with problem the law here is the law that concerns field *Muamalah*. *Maqashid Syari'ah*, or the goals of Islamic law, is a deep and fundamental concept in implementing Islamic teachings. This concept is not only limited to religious aspects, but also extends to various areas of life, including economics and sharia economic law. In Indonesia, a country with majority its inhabitants embracing Islam, understanding and application draft *Maqashid Sharia* own crucial role in development economics and law sharia economics.

The strategic role of *maqashid sharia* as an analytical tool in determining the legal status of sharia economic and business practices and encouraging the development of sharia economic law in Indonesia is based on the fact that the development of the sharia

¹ Muhammad Ma'shum Zein, *Ushul Fiqh Science*, ed. M. Sholehuddin Shofwan, *Darul Hikmah*, cet. 1st (Jombang: Darul Hikmah, 2008), 291.

² Syamsul Anwar, "Epitemology of Islamic Law in Syamsul Anwar (Collection of Unpublished Papers)," nd, 113.

³ Fathurrahman Djamil, *Philosophy of Islamic Law*, cet. 1st (Jakarta: Logos Pustaka Ilmu, 1997), 124.

⁴ Ubbadul Adzkiya, "Analysis of *Maqashid Al-Syariah* in the Islamic Economic System and Pancasila," *JESI (Indonesian Sharia Economic Journal)* 10, no. 1 (2020): 26, [https://doi.org/10.21927/jesi.2020.10\(1\).23-35](https://doi.org/10.21927/jesi.2020.10(1).23-35).

economy through the growth of sharia financial institutions, both banks and non-banks, is very fast. The latest data (2020) released by the OJK shows that the number of BUS (Sharia Commercial Banks) is 14 with total assets of 39.707 trillion rupiah, UUS (Sharia Business Units) 20 with assets of 196.89 trillion rupiah, and BPRS amounting to 163 trillion rupiah.⁵ Sharia banking assets are still showing positive growth, accelerating compared to the previous year. In the last four years, the average growth of sharia banking assets has remained at *double* digits. The share of sharia banking assets reached 6.51% of national banking, an increase compared to the previous year which was 6.17%. Both BUS, UUS and BPRS showed positive growth.⁶ From the data above, it can be concluded that the development of sharia economics is progressing very rapidly. On the one hand, this development is encouraging, but on the other hand it creates its own challenges, especially regarding product and management, governance and implementation which must receive sharia guidance. This sharia guide is the result of a fatwa carried out by an authorized institution, or used as a reference for government stakeholders, in this case the MUI (Indonesian Ulema Council). The MUI then formed a special institution to handle fatwas related to sharia economics and business that apply in Indonesia. DSN MUI is a special fatwa institution under the MUI Fatwa Commission which specifically produces fatwa decisions in the fields of sharia economics and business. The DSN-MUI institution specifically handles issues related to the activities of Sharia Financial Institutions (LKS) and sharia economics. This DSN-MUI fatwa does not have binding legal force like positive law. However, with the adoption of this fatwa by state institutions and the birth of various regulations at all levels, its role is very significant and strategic. From the flow of the explanation above, this article will explore how understanding maqashid sharia influences economic development and sharia economic law in Indonesia. First of all, we will outline the concept of maqashid shari'ah itself and its main objectives. Next, we will see how this concept is applied in solving problems that develop in society, especially regarding economic aspects and sharia economic law, where these two areas are the main areas in the field of muamalah which are very strategic and become central daily activities. society in meeting their basic life needs. A better understanding of the role of maqashid sharia in the economic context and sharia economic law in Indonesia will help in designing more effective policies and encouraging sustainable and inclusive economic growth, in accordance with the

⁵ Sharia Financial Services Authority Team, *2020 Sharia Financial Development Report* (Jakarta: Financial Services Authority, 2020), 20.

⁶ Sharia, 24.

principles of Islamic teachings. Thus, this article aims to provide in-depth insight into how maqashid Syari'ah plays a role in economic development and sharia economic law in Indonesia.

II. LITERATURE REVIEW

Writing about maqashid sharia is not a new theme at all, this theme has been widely discussed in various articles, both in journals and proceedings. There are several writings that examine maqashid sharia and its relationship with sharia economics and sharia economic law, for example the writings of Moh. Nasuka entitled "*Maqashid Syari'ah as a Basis for Development of Sharia Banking Systems, Practices and Products*". In his writing he explains the function of maqashid sharia as a corridor for sharia banking management. Maqashid sharia is very relevant to be used as a basis for developing sharia banking systems, practices and even products in the contemporary era, because the spirit of maqashid sharia is based on the benefit and welfare of society.⁷

Ahmad Mashhadi in his article entitled "*Maqashid Syariah as a Paradigm for Sharia Economic Development*" explained that mujtahids in the field of sharia economics should apply maqashid syariah in the process of their analysis of the economy. Maqashid shari'ah ideally should also have implications for the economic behavior of individual Muslims, both in their position as consumers and producers. All economic activities must be aimed at benefit so that they can maintain maqashid syari'ah, not just fulfill desires or satisfaction.⁸

Sandy Rizki Febriadi in his article entitled "*Application of Maqashid Syariah in the Field of Sharia Banking*" analyzes that maqashid syariah turns out to be the main support in every operational and product development in Islamic banks. This is clearly manifested in every product issued by the bank where the bank strives to maintain and allocate customer funds properly and lawfully and is allowed to make a reasonable profit. Apart from that, it can also be seen from the implementation of the zakat system which aims to clean up customers' assets transparently and together.⁹

⁷ Moh Nasuka, "Maqashid Syari'ah as a Basis for Development of Sharia Banking Systems, Practices and Products," *Diktum: Journal of Sharia and Law* 15, no. 1 (2017): 1, <https://doi.org/10.35905/diktum.v15i1.421>.

⁸ Ahmad Mashhadi, "Maqashid Syariah as a Paradigm for Islamic Economic Development," *Journal of Sharia Economics* 1 (2018): 54.

⁹ Sandy Rizki Febriadi, "Application of Maqashid Syariah in the Field of Sharia Banking," *Amwaluna: Journal of Sharia Economics and Finance* 1, no. 2 (2017): 231, <https://doi.org/10.29313/amwaluna.v1i2.2585>.

Syufa'at in his article entitled "*Implementation of Maqashid Al-Syari'ah in Sharia Economic Law*" explains that the implementation of maqashid sharia to several economic problems is to answer the reality of modern society facing the challenges of basic needs (human basic needs) for clothing, food, shelter, health., education, employment, sanitation, energy, transportation and information. The principle of ensuring benefit and goodness on a broad scale is a vital element in determining the legal status of a transaction in the world of economics and business.¹⁰

From the writings above, the author takes *a standing position* by analyzing the maqashid sharia method in several sharia economic practices and sharia economic law by referring to the fatwas issued by the DSN MUI and how they are applied in sharia economic practice in Indonesia.

III. METHODOLOGY

This research is library research *using* qualitative methods in descriptive-analytical form. The data in this research is categorized as secondary data, taken from various references that discuss maqashid sharia, such as the written works of Asy-Syathibi, Muhammad Thahir Ibnu 'Asyur, Ahmad Risuni, and other references that support this research data. Apart from the books above, the author also took data from various books and articles that have been published and discuss maqashid sharia, sharia economics, and sharia economic law. The data analysis method uses descriptive-qualitative analysis methods. Descriptive analysis is carried out with the aim of systematically and accurately describing facts, used to explore the concept of maqashid syari'ah and its implementation in sharia economics and sharia economic law. This descriptive analysis is expressed in the form of statements that describe the reality behind the phenomena described previously. Qualitative descriptive analysis was carried out using a deductive approach model.

IV. RESULT AND DISCUSSION

A. Definition Maqashid Sharia

By language, maqashid sharia consists of two syllables viz maqashid and sharia. Maqashid said in a way Language is form jama' of Mufrod *maqshud*, root he said originate from fi'il madhi *qashada*, which means going to ; aim ; desire and intention.¹¹ Said *maqshud-maqashid* in knowledge sharaf called with isim sorry that is something that becomes object, hence the word can interpreted with objective or a number of

¹⁰ Syufa'at, "Implementation of Maqashid Al-Syari'ah in Islamic Economic Law," *Al-Ahkam* 23, no. 2 (2013): 143, <https://doi.org/10.21580/ahkam.2013.23.2.20>.

¹¹ Hans Wehr, *A Dictionary of Modern Written Arabic* (London: McDonald & Evan Ltd, 1980), 767.

objective. While the word sharia, is form Masdar from the root of the word *syara'a* It means is road going to water source as source life.¹² By term, sharia is set God's given laws to people man For get happiness in this world and the hereafter.¹³

By term, maqashid Sharia according to Wahbah al- Zuhaili is values and goals implied sharia in whole and part big from His laws. Values and goals That seen as goals and secrets Shari'ah established by Shari' (maker shari'ah / Allah SWT) in every provision the law.¹⁴ From the definition This can understood that's the essence of draft maqashid sharia is For realize kindness and interesting expediency at a time avoid evil and rejection disaster. Maqashih sharia according to Jasser Auda can also be done considered as a number purpose (considered Divine) and concept morals that underlie the process of Islamic tasyri or preparation law based on Islamic law, such as principle justice, honor human, freedom desire, purity, ease, solidarity and others.¹⁵

B. A Glimpse into the History of Maqashid Sharia

During this, a known person first popularized term maqashid sharia in the world of martial arts knowledge ushul jurisprudence is Ash-Syatibi with his magnum opus *Al-Muwafaqat fi Ushul Al-Syariah*. Come on He not the first person to introduce it term This. Far before Ash-Syathibi, Abu Al-Ma'ali Al - Juwaini more known with the title of Imam Haramain (d. 478 H) has been idea problem This with put forward the idea of maqashid sharia as knowledge new ones have it characteristics certainty its postulates and beyond differences sect fiqh. even from ushul literal and dhanniyyah fiqh That Alone. In his book entitled *Ghiyats Al-Umam Fi Al-Tayats Al-Dhulam*, Imam Juwaini disclose his concern will decline civilization Islamic social, especially intellectuals and politicians. To get out of this condition, according to Al-Juwaini there is no way except to build a universal maqashid of sharia and raise it from the dhanni level to the qath'i level.¹⁶

Even though the concept offered by Al-Juwaini is still simple compared to that of Asy-Syathibi for example, at least he has contributed quite a lot in developing the idea above. Al-Juwaini's thoughts were also ultimately used as a basis and inspiration for people after him to develop it into an established theory of maqashid sharia. Regarding who laid the foundation for maqashid sharia, there are two opinions expressed by Ahmad ar-Raysuni and Hammadi al-Ubaidi. According to ar-Raysuni, the term

¹² Ibn Mandhur Al-Afriqi, *Lisan Al-'Arab*, Volume VIII (Beirut: Dar al-Shadr, nd), 175.

¹³ Mahmud Syaltut, *Al-Lslam Aqidah Wa Syari'ah*, cet. 3rd (Cairo: Dar al-Qalam, 1966), 12.

¹⁴ Wahbah Al-Zuhaili, *Ushul Al-Fiqh Al-Islami*, Volume II (Beirut: Dar al-Fikr, 1990), 117.

¹⁵ Jasser Auda, *Al-Maqasid For Beginners*, Suka Press, cet. 1st (Yogyakarta: Suka Press, 2013), 5.

¹⁶ Abd Majid Al-Shoghair, *Al-Fikr Al-Ushuli Wa Isykaliyyat Al-Sulthah Al-Ilmiyyah Fi Al-Islam*, cet. 1st (Beirut: Dar al-Muntakhob al-Arabi, 1994), 356.

maqashid was first used by At-Turmudzi Al-Hakim, a scholar who lived in the 3rd century H. The term maqashid sharia was used by At-Turmudzi in several of his books, including *ash-Shalah wa Maqhasiduhu*, *al-Hajj wa Asraruhu*, *al-'Illah*, *al-'Tal ash-Shari'ah* and *al-Furuq*. After that, maqashid was also discussed by several figures, including Abu Mansur Al-Maturidi (W. 333), Abu Bakar Al-Qaffal (W. 365), Abu Bakar Al-Abhari (W. 375), Al-Baqillani (W. 403), continued by Imam Haramain, Imam Ghozali (W. 505), Al-Razi (W. 606), Al-Amidy (W. 631), Ibn Hajib (W. 646), Izzudin bin Abdissalam (660), Al-Baidlowi (d.685), Al-Asnawi (d.772), Tajuddin As-Subki (d.771), and several other figures.¹⁷ According to Hammad Al-Ubaidi, the figure who first initiated the idea of maqashid sharia was Ibrahim An-Nakhai (died 96 AH). He is tabi'in, which is also later being a teacher is not direct from Imam Abu Hanifah. After Therefore, maqashid sharia was developed more continued by Al-Juwaini, Al-Ghazali, Izzuddin bin Abdissalam, Najmuddin Ath-Thufi and the last is Ash-Shathibi.¹⁸

Abdul Helim in his book *Maqashid Syariah vs Ushul Fiqh* explains that the history of maqashid sharia can be seen from two periods, namely:¹⁹

1. The period before Ash-Shathibi

The ulama's attention to maqashid sharia actually existed before the time of Imam al-Shātibī, even maqashid sharia existed during the time of the Prophet, although in embryonic form. As for those who formally discuss maqashid sharia, there are also differences between scholars or researchers. In this article, the person who first paid attention to maqashid sharia was Ibrāhīm al-Nakha'ī (d. 96 H) from among the Tabi'īn. He once said that every law of God has certain goals in the form of benefiting humans themselves. Furthermore, this attention to benefit is also paid attention to by the majority of ulama, in fact benefit is the basis of every school of thought.

After that, at the end of the 3rd or early 4th century H, Abu Abdillah Muhammad bin Ali Al-Turmudhi or known as Turmudhi Al-Ḥakīm (d. 320 H), Abu Bakr Al-Qaffal Al-Syasyi (d. 365 H), Abu Ja'far Muhammad Ali (d. 381 H), Abu Al-Hasan Al-Amiri (d. 381 H), Abu Bakr bin Al-Thayyib Al-Baqillani (d. 403 H), Imam Al-Haramain al-Juwaini (d. 478 AH). Abu Hamid Al-Ghazali (d. 505 H), Fakhruddin Al-Razi student of al-Ghazālī (d. 606 H), Saifuddin Al-Amidi (d. 631

¹⁷ Ahmad Ar-Raysuni, *Nadzariyat Al-Maqashid 'Inda Al-Imam Asy-Syathibi* (Beirut: International Islamic Publishing House, 1995), 40–46.

¹⁸ Hammad Al-Ubaidi, *Al-Syathibi Wa Maqashid Al-Syariah* (Beirut: Dar Qutaibah, 1996), 134–35.

¹⁹ Abdul Helim, *Maqasid Syariah versus Ushul Fiqh (Concept and Position in Islamic Legal Methodology)*, cet. 1st (Yogyakarta: Student Library, 2019), 13–19.

H), Abu Abdillah Muhammad bin Abdurrahman (d. 546 H), Izzuddin bin Abdissalam (d. 660 AH), Syihbuddin Al-Qarafi (d. 684 AH), Najmuddin Al-Thufi (d. 716 AH), Ibn Taymiyyah (d. 728 AH), Ibnu Al-Qayyim Al-Jauziyyah (w. 751 H), and Tajuddin Al-Subki (d. 771 H)

2. Ash-Shathibi period and after

Maqashid sharia became increasingly visible when it was in the hands of Ash-Shathibi (d. 790 H). In the book *Al-Muwafaqat fi Ushul Al-Syariah*, Ash-Shathibi discusses maqashid sharia in detail and in a separate chapter, either related to the opinions of previous scholars or the results of his own understanding of maqashid sharia. Besides explaining again about al-dharuriyyah, al-hajiyyah and al-tahsiniyyah and making these three things multilevel, he also deepens the discussion of *ushul al-khamsah* whose order is also different from previous scholars. The sequence is to maintain religion, soul, offspring, property and reason. Ash-Syathibi also divided the maqashid of Sharia into the purposes desired by Sharia' and the purposes desired by the mukallaf.

After Ash-Syathibi's death, maqashid sharia experienced a long vacuum and was in a worrying condition. It is estimated that around 5 centuries after Ash-Syathibi's time, a study of maqashid sharia appeared which was carried out by Muhammad Thahir bin Asyur (d. 1393 H/ 1973 AD), in his work *Maqashid Al-Syariah Al-Islamiyyah*. Followed by figures such as Muhammad Khalid Mas'ud, Mohammad Hashim Kamali, Ahmad Al-Raysuni, Jamaluddin 'Athiyyah, Jasser Auda and others.

From the notes above, it can be concluded that the origins of the maqashid sharia theory emerged long before Ash-Syathibi introduced it. It is just He serve return theory above in A more shape systematic and comprehensive, and can accepted by many circles Muslims. The maqashid sharia theory was popularized by Ash-Syathibi through his magnum opus entitled *Al- Muwafaqat fi Ushul Ash-Syari'ah*, a book written For bridge a number of point difference between Malikiyah scholars and Hanafiyah scholars.

C. Classification Maqasid Sharia

1. Classification based on the goal

Based on The aim is, the maqashid of Sharia is divided into two types, namely:²⁰

a. Maqashid shari '

²⁰ Imam Ash-Syathibi, *Al-Muwafaqat Fi Ushul Asy-Syari'ah*, Juz I (Beirut: Dar al-Kutub al-Ilmiah, nd), 3.

Maqashid shari' is the purposes desired by the creator law (Allah/Shari') with he determined something rule law. ²¹This means stated to in four kinds, namely :²²

- 1) Every rule established law to subject law (human; mukallaf) is For benefit they Alone Good benefit in this world or in the afterlife ; without There is the difference between both of them.
- 2) Something rule established law must can understood by the subject law (human; mukallaf).
- 3) Something rule law the must also be carried out by the subject law (human; mukallaf) because rule law the is taklif (obligation) for man.
- 4) All That none other than the subject law (human; mukallaf) is below shade Allah's law (Shari').

Fourth type This is each other connected and everything is also connected with Allah (Shari') as maker law.

b. Maqashid mukallaf

Maqashid Mukalaaf is the intentions desired by the perpetrator law (human; mukallaf) in every things in his life Good related with intentions, words or deed. Of all That can differentiated between good and bad deeds, between life of worship with Socially, good in life religious or even deep all countries seen is correspond or contradictory with maqashid sharia.²³

2. Classification based on needs and impacts to law

Based on needs and impacts to law, maqashid sharia is divided to three, namely :

- a. Maqashid dharuriyyah is something that must be exists/is implemented For realize related benefits with dimensions worldly and ukhrawi. If matter This No there is, then will give rise to damage even disappearance life and life like eating, drinking, praying, fasting, and other acts of worship. In terms of muamalah, Ash-Syathibi exemplify must the existence of `iwadh certain in transaction displacement ownership, buying and selling for example. There are five goals in thank you dharuriyyat this, that is For guarding religion (hifdz al-din), guarding soul (hifdz al-nafs), guarding offspring (hifdz al-nasl), guarding wealth (hifdz al-maal), and guarding reason (hifdz al-'aql).²⁴

²¹ Nuruddin bin Mukhtar Al-Khadimi, *Al-Ijtihad Al-Maqashidi: Hujjiyatuhu Dhawabituhu Majallatuhu* (Qatar: iWazarat Al-Auqaf wa al-Syu'un Al-Islamiyyah, 1998), 53.

²² Ash-Syathibi, *Al-Muwafaqat Fi Ushul Ash-Syari'ah*, 4.

²³ Al-Khadimi, *Al-Ijtihad Al-Maqashidi: Hujjiyatuhu Dhawabituhu Majallatuhu*, 53.

²⁴ Ash-Syathibi, *Al-Muwafaqat Fi Ushul Ash-Syari'ah*, 4-7.

- b. Maqashid hajjiyyah is something better There is so that in carry it out free and protected from difficulty. If anything This No there is, then He No will give rise to damage or death However thereby will implications exists masyaqqah and narrowness. The example given by Asy- Syathibi in matter muamalah on the part This is it appeared a number of transaction business in jurisprudence muamalah, including qiradh, musaqah, and salam.²⁵
 - c. Maqashid tahsiniyyah is something that doesn't reach level of the two categories above. The things that come in in category tahsiniyyat If done will bring perfection in something activities carried out, and when abandoned so No will give rise to difficulty. Illustrations used Ash-Shathibi in field muamalah For matter This is it is prohibited buy and sell goods uncleanness and efficiency in use of water and grass.²⁶
3. Classification based on its coverage
- Based on In its scope, maqashid sharia is divided to three kinds, namely:
- a. Maqashid 'ammah
Maqashid 'ammah is related maqashid with all over gathering Islamic law or more dominant where it is found in it traits laws and goals large (ghayah al-kubra) which includes various matter like justice, convenience, equality and so on.²⁷
 - b. Maqashid khashshah
Maqashid khashshah is existing goals can found in chapters or branches certain in Islamic law. This matter related rules with protection and welfare child in family, look after stability family and environment from action criminal, prohibition do monopoly in the business world and so on.²⁸
 - c. Maqashid juz'iyah
Maqashid juz'iyah is that goals or existing purposes behind law or the meaning behind regulation. This matter related with various illat, wisdom and secrets something law. For example objective law from sick people are allowed no man carry out fasting or objective from prohibition keep meat animal sacrifice and so on.²⁹

²⁵ Ash-Syathibi, 9.

²⁶ Ash-Shathibi, 5.

²⁷ Al-Khadimi, *Al-Ijtihad Al-Maqashidi: Hujiyatuhu Dhawabituhu Majallatuhu*, 54.

²⁸ Yusuf Ahmad Muhammad Badawi, *Maqashid Al-Syari'ah 'ind Ibni Taimīyyah* (Jordan: Dar Al-Nafa'is, 2000), 63.

²⁹ Al-Khadimi, *Al-Ijtihad Al-Maqashidi: Hujiyatuhu Dhawabituhu Majallatuhu*, 54.

Third category maqashid sharia above must seen in a way holistic, no partial and neither partial hierarchies. Unity category maqashid of this sharia must also be seen in more dimensions wide, because from matter This is door enter For do update and complete problems contemporary.

4. Classification based on his strength

Based on its power, maqashid sharia is divided become three kinds, namely :

- a. Maqashid qath'iyyah, it meanings existing law certain (qath'i) because its existence supported in a way successively by definite propositions and texts. Example from maqashid qath'iyyah This like ease, eliminate difficulty, security, security honor, ownership property and possession right For get justice.³⁰
- b. Maqashid dhanniyyah, that is meanings that are not reach level certain (qath'i), because meanings This obtained through research and assessment so that happen difference views and opinions to position maqashid dhanniyyah. Example maqashid dhanniyyah This like one condition the marriage contract is agreement second bride For become husband wife. Condition This obtained through proposition Dhanni about objective wedding the is awake life House harmonious stairs.³¹
- c. Maqashid wahmiyyah is the purposes obtained only through guess or conjecture or meanings that are not per by through study. Maqashid wahmiyyah this also happens when no get support from nas.³²

D. How to Know and Determine Maqashid Sharia

According to Thair bin Assyria, there is three method For can know and determine maqashid sharia.³³

1. Through istiqla', ie with study Sharia from all aspect, and this there are two kinds, namely :
 - a. Study and research all known law illatnya. With research illat, maqasid will can is known with easy. Example; prohibition apply women who have proposed by someone else, as well as a ban bid something someone else is bidding on. Illat from prohibition That is greed with obstruct other people's interests. From there you can taken One objective that is it lasts forever

³⁰ Abdul Majid Al-Najjar, *Maqashid Al-Syar'ah Bi Ab'ad Al- Jadid* ((Beirut: Dar Al-Gharb Al-Islami, 2008), 38.

³¹ Al-Najjar, 39.

³² Al-Najjar, 40.

³³ Muhammad Thahir bin Asyur, *Maqashid Syariah Al-Islamiyyah*, cet. 2nd (Jordan: Dar Al-Nafa'is, 2001), 190–95.

brotherhood between his brother of faith. With based on maqsad earlier so it is not haram to propose someone else's proposal after applicant First unplug his wish That.

- b. Research postulates the same law the illat, arrived felt Certain that illat the is the maqsad, like many order For liberate slave show that one maqasid Sharia is exists freedom.
2. The arguments of the Qur'an are clear and unequivocal that's a possibility small interpret it not on meaning his dhahir.
3. Mutawatir Sunnah arguments are good in a way ma'nawi or practice.

Temporary according to Ash-Syathibi, method reach There is also maqashid sharia three kinds, namely :³⁴

1. See from God 's commands and prohibitions obviously, both show God's will, so do command and stay away His prohibition is the goal desired by God.
2. Via ' illat prohibitions and orders, why something deed ordered and why deed others are prohibited. 'Illat the must is known through methods known masalik al-'illat in literature ushu fiqh. If 'illat the explained in a way explicit, then maqashid sharia must set based on ' illat that, and if No notified so must be tawaqquf (silence) through two attitudes namely :
 - a. Don't go beyond decision law nas
 - b. Didn't state something as maqashid sharia against something commands and prohibitions.
3. The purpose of the Shari'a differentiated into two goals, goals principal and purpose secondary, where objective principal can is known with method generalize objective secondary. Secondary objectives is means settler for objective principal and at the same time amplifier the wisdom. In terms of This must differentiated between laws that are characterized by worship with patterned laws social. In purpose worship secondary stored in that worship alone, medium in laws social objective secondary with clear easy known by reason.

E. Maqashid Sharia As a Sharia Economic Development Method

Philosophy base objective the revelation of the sharia to people man is For interesting benefit and refuse prosperity, both in this world and in the afterlife. So, all aspect in Islamic teachings, must leads to achievement objective these, incl in matter This is aspect economy. Therefore that, sharia economics must be capable become medicines and solutions various economic problems contemporary in nature capitalistic and greedy. Consequence logically is For compile A building established sharia economy

³⁴ Ash-Syathibi, *Al-Muwafaqat Fi Ushul Asy-Syari'ah*, 8.

required theory maqashid sharia above. Even For strengthened this alibi, Muhammad Thahir bin Asyur as quoted by Al- Raisyuni say that “ *Forgetting importance side maqasid in Islamic sharia is factor main reason happen stagnation in jurisprudence.*³⁵ Turning on return sharia economics that have buried for so long and almost become A fossil, is land ijtihadi. It means exists demands Work hard work (ijtihad) from economists Muslim For look for the values contained in the related Qur'an and Sunnah with economy. The ideal values contained in second source the Then derived become theories later economy can made formulas / rules on the plain praxis. In terms of this Syed Nawab Heidar Naqvi stated that rule behavior economy in Islamic Economics no can separated from mark ethics. Furthermore He elaborate more Far role ethics in Lots things, including ethics and behavior rational; ethics in behavior consumer ; rejection on theory *Pareto Optimum* Because deny mark ethics ; ethics in justice distributive; and associated ethics with role government.³⁶

Variable associated ethics with thank you as keywords apparently it's very urgent in the ijti had process in the area of sharia economics. D naturally develops emphasizing method outlook ethical with hope Can fulfil meaning above, then thank you as one of the method ushul jurisprudence during This with reconstruction, necessary raised position become method central ushul fiqh, no Again method complement just. Apart from that, loose fiqh from variable ethics will become rigid, rigid and formalistic. So that offer about fiqh which is based on maqashid looks be one a decent stimulant developed by economists muslim for develop sharia economics.

However need confirmed moreover formerly that what we mean with fiqh here more leads to the meaning of understanding, ie understanding We to the values contained in rule syar'i. Fiqh maqashid sharia is A built fiqh on base objective he determined A law. At the level technical, method maqashid Sharia is addressed for understand nash-nash juz'i syar'i in context maqashid sharia and binding A law with objective main he determined law that, namely protect benefit for all over humans, both worldly and afterlife.³⁷

Fiqh maqashid will end half long history this presenting jurisprudence in his face was stiff, *out-of date*, sacred, almost *untouchable* and not have Power maximum touch on the field. Yusuf Qardhawi see reality barren jurisprudence This be marked with systematization fiqh that begins with discussion regarding worship. According to him,

³⁵ Ar-Raysuni, *Nadzariyat Al-Maqashid 'Inda Al-Imam Asy-Syathibi*, 10.

³⁶ Syed Nawab Haider Naqvi, *Islam, Economics and Society* ((London & New York: Kegan Paul International, 1994), chapter 5.

³⁷ Yusuf Qardhawi, *As-Siyasah Asy-Syar'iyyah Fi Dhau'i Nushuh Asy-Syari'ah Wa Maqashidiha* (Cairo: Maktabah Wahbah, 1998), 228.

characteristics such fiqh This has spay method look jurisprudence to problem social, political, and economic. Deep sharia economics Lots matter is reincarnation from jurisprudence Muamalah.³⁸ Already should return flexibility and elasticity jurisprudence with make maqashid sharia as *the ultimate goal* in that process.

Quote Masdar Farid Mas'udi's opinion is that in problem muamalah, rhythm text No Again dominant, but dominant is rhythm benefit. Superior opinion (*al-qaul*). No only own base text but also possible ensure benefit and avoidance from damage. Therefore that, use glass eye jurisprudence maqashid sharia for operationalize values universal humanity, such as benefit, justice and equality to in sharia economics becomes A inevitability. Why when We hear the word "fiqh muamalah" then the impression that emerges is something that is obsolete, ancient and *out-of date*, is Because during This He more understood as a identical laws with the stigmas mentioned above. In addition, education and teaching in schools (or even maybe even at undergraduate level) about jurisprudence muamalah No more from just rule normative, which is not need put into practice, it's different with Islamic jurisprudence is a must practiced. Internal material teaching jurisprudence muamalah during This only as the material above paper, no There is control, incl control social demands for applied.³⁹

Economists Muslim moment do various study and analysis to Islamic economics, as one component in circle *Islamic studies*, Already appropriately If reinterpret to Sharia reasoning that lasts This develop. Sharia economics should be built without deny existing reality However still in frame maqashid Sharia. This is because maqashid Sharia Alone endeavor For express emphasis to connection between content God's will with humane aspirations. Until here can We pull A thread red that theory maqashid sharia occupies a very central and vital position in formulate methodology development sharia economics. Even Ash-Shathibi Alone state that maqashid Sharia is his ushul-ushul fiqh. ⁴⁰It means that compile ushul jurisprudence as as A methodology, no can free from maqashid Sharia. This matter because theory maqashid sharia can escorted the mujtahids to determine standard appropriate benefits with Sharia / law.⁴¹ Even moreover again, according to Ath-Thufi, only in the muamalah area just do it rationalization benefit This can applied.

³⁸ Qodri Azizy, *Building the Economic Foundations of the Ummah: Exploring the Prospects for the Development of Islamic Economics* (Yogyakarta: Student Library, 2004), 175–99.

³⁹ Azizy, 178.

⁴⁰ Abu Ishaq Asy-Syathibi, *Al-Muwafaqat Fi Ushul Al-Syariah*, Volume II (Beirut: Dar al-Kutub al-Alamiyah, nd), 32.

⁴¹ Muhammad Khalid Mas'ud, *Philosophy of Islamic Law; Study of the Life and Thoughts of Abu Ishaq Al-Syathibi* (Bandung: Pustaka Setia, 1996), 223.

F. Maqashid Sharia and Development of Sharia Economic Law Through DSN-MUI Fatwa and Taqnin Al-Fatwa

DSN-MUI is one of them institutions under the MUI in charge create and issue fatwas that are issued as reference operational for institution Islamic finance, and also as knowledge practical for public general who does transaction with institution finance sharia in Indonesia.⁴² For support the duties and functions of the DSN, MUI determines Guidelines Determination of Fatwa, where in determination The fatwa, DSN MUI always notice authority arrangement law by Sharia as well as consider benefit general as well as objective determination law (maqashid sharia). So it's clear that maqashid sharia is things that exist and are considered by the MUI in every the fatwa including DSN-MUI.⁴³

In the fatwa guidelines, the MUI also explains that The determination of fatwa is based on the Qur'an, hadith, ijma', qiyas and other standard propositions (mu'tabar). Maqashid sharia does not called in a way Specific as underlying postulate a fatwa. This can also be done observed in every fatwa issued by DSN-MUI, maqashid sharia is not called in a way special.⁴⁴ For relevant fatwas issued by the DSN-MUI with sharia economics, as stated by Ma'ruf Amin in speech its inauguration as a professor at UIN Maliki Malang, there is a number of approach addition.⁴⁵

1. Al-Taisir al- manhaji

Al-Taisir al- manhaji or choose light opinion but still in accordance rule. Principle base application Al- Taisir Al- Manhaji's rules in the DSN MUI fatwa is use more opinions strong (rajih) and more benefit if possible; If no, then that is used is more opinions benefit, though opinion That No diligent. With so, in fact applicative, in the DSN-MUI fatwa it is not close possibility based on the opinions of previous scholars considered as opinion weak (qaul marjuh), however Because situation and condition moment This opinion the considered more bring benefit. Therefore that's an opinion that is what is chosen and passed on.

For example is a fatwa about contract wad'iah used for activity collecting funds in the form of savings and current accounts, though in a way substantive contract the in essence is contract qardh. Thereby Likewise, DSN-MUI fatwa Number:

⁴² Ahmad Musadad, Khoirun Nasik, and Firman Setiawan, *DSN-MUI Sharia Economic Fatwa Compilation*, cet. 1st (Malang: Eulitera, 2023), 3, <http://www.nber.org/papers/w16019>.

⁴³ Ahmad Hanif, Hari Susanto, and Rio Erismen Armen, "Analysis of the Influence of Maqashid Syariah on the DSN-MUI Fatwa Concerning Murabahah Debt Settlement," *Scientia: Journal of Research Results* 8, no. 1 (2023): 11, <https://doi.org/10.32923/sci.v8i1.2607>.

⁴⁴ Hanif, Susanto, and Armen, 11.

⁴⁵ Ma'ruf Amin, *Islamic Legal Solutions (Makharij Fiqhiyyah) as Drivers of the New Flow of Sharia Economics in Indonesia* (Malang: UIN Maliki Press, 2017), 21.

85/DSN-MUI/XII/2012 concerning Promise(wa'd) in Transaction Sharia Finance and Business, and DSN-MUI fatwa Number 93/DSN-MUI/IV/2015 concerning Transaction Sharia Hedging (al-Tahawwuth al-Islami/Islamic Hedging).⁴⁶

2. Tafriq baina al-halal wa al-haram

Tafriq baina al-halal wa al-haram or try separate between what is halal and what is haram. Standard rules states "if mixed between what is halal and what is haram, then mixing the condemned as haram." This is the plural understood when happen mixing between what is halal and what is haram. But in DSN-MUI view of the rules the No suitable applied in the field economy. Rule the more suitable used in field food, especially liquid.

The theory of tafriq al-halal min al-haram is applied, among other things in establishment of a sharia bank or sharia business unit (UUS) by a Conventional Bank, theory tafriq al-halal min al-haram is answer on comment Lots party about the establishment of sharia banks, especially UUS which was formed or established by conventional banks. Between There are Muslims who doubt it halal Sharia Business Unit products due to formation capital originate from conventional banks included company ribawi. The theory of tafriq al-halal min al-haram is applied with method identify all the money that becomes belonging to a conventional bank so that it is known which one is which interest and which is capital or income earned from services that are not based on interest. The bank's income originates from flower set aside moreover first, then the rest can or can used as capital for establishing a sharia bank or UUS because believed to be halal.⁴⁷

3. I'adah al- nadhar

I'adah al- nadhar is study repeat to the opinion of previous scholars. Approach This can done in matter opinion of previous scholars considered No suitable Again For guided Because factor difficult implemented. One of example approach This is with test return standard opinion _ with consider opinion the law lasts This seen weak, because exists reason (' illah) new law and or opinion the more bring benefit; Then opinion the made guidelines in set law.

Example method i'adah al- nadhar is deputy position in contract lease; representatives may rent entrusted object to her For rented. Opinion This made handle by DSN-MUI though contradictory with opinion the majority of scholars after do study repeat (i' adah al- nadhar) towards 'illah discovered law number of

⁴⁶ Amen, 27.

⁴⁷ Amen, 44-45.

scholars. A number of scholars are of the opinion that prohibition for hiring representatives the object handed over to her for rented to other people because exists tuhmah (presumably strong There is lie) from the representative so can harm owner. However when done study repeat towards god law that, then 'illah law the will is lost when owner give clear rates to object which will rented to the representative, then the representative agrees tariff that and then he rent Alone treasure object the.⁴⁸

4. Tahqiq al- manath

Tahqiq al- manath is analysis determination reason laws / 'gods other than from what has been is known. Because you can so 'god first _ applies moment This Already No applies again, so that should happen too change law. Example method is the ijthihad carried out by Umar ibn al- Khathab 's friend in a number of problem : ie deleted ashnaf “ *mualafatu qulubuhum* ” from the list of mustahiq zakat in the Umar era, no cut hand someone who steals during times of famine (famine), and it is enforced punishment dead for a bunch of people who kill one person.

In the DSN-MUI fatwa there is some fatwas are based on concepts tahqiq al- manath, namely including DSN-MUI Fatwa No. 77/DSN-MUI/V/2010: Function gold in Islamic history is as tool money exchange. Therefore that, if gold will traded so must done in a way cash For avoid happen usury nasa ' (usury Because exchange goods ribawi kind of thing to do No in a way cash). In DSN-MUI Fatwa No. 77/DSN-MUI/V/2010 concerning Gold Buying and Selling Non -Cash is allowed gold made object sell buy No cash, fine in a way installments (taqsith) or tough (ta'jil) during gold No become tool official exchange (money). This decision based, among other things on reason that moment This the world community does not Again make gold as money, however treat him as goods (sil'ah), because That prohibition sell buy it gold in a way No cash based on the Prophet's hadith does not applies Again Because illat law prohibition has changed".⁴⁹

Fourth approach This is one of approach in implement approach maqashid sharia in produce law. Al-Taisir al-manhaji is applicable maqashid sharia general, no only in the field Muamalah. And with approach it's inside Muamalat It is hoped that a fatwa will be produced not a hard and rigid fatwa and no caring condition mustafti (fatwa requester). Whereas weigh condition mustafti is one of the fatwa character. Then tafriq baina al-halal wa al-haram or differentiate between what is halal and what is haram muamalat is also in line with al- taisir (make it easy) approach. Because of the base

⁴⁸ Amen, 48–49.

⁴⁹ Amen, 53.

is forbidden property it's not the substance but method get it. This matter will open Lots al-taisir door (makes it easier) in the fatwa. Because one character treasure is always distributed and circulating, so if the base is a haram substance, of course will complicate and narrow man in transactions, especially nowadays this is the majority distribution and circulation treasure Still through non-halal route.

The third and fourth rules, namely i'adah al-nadhar and tahqiq al-manath can combined become one package. Because of purpose from examine repeat is For find relevance between views of previous scholars with condition day this, where because change tradition Can So No relevant again, so need renewal in the fatwa. Can also be done in this process happen invention or strengthening from certain maqashid of sharia so that impact to provision law. Maqashid sharia can also be done role as god, so can influential direct in determination law. Fourth approach this expected become road middle or moderate in between thinking expert law sharia economics too loose (mutasahil) deep apply principles law sharia economics, so Islamic economics is trapped in labeling. On the contrary with theory this development Sharia economics does not too tight and bound in rules and thoughts fiqh a possible classic difficult applied back to the present era (mutasyaddid). And also with fourth approach this expected can open wide door for do breakthroughs and innovations in formulation related Islamic law sharia economics.⁵⁰

V. CONCLUSION

From the explanation in the results and discussion it can be concluded that maqashid syari'ah as the purpose behind the existence of a series of rules has been outlined by Allah SWT. that goal is For bring benefit and prevention prosperity for man. All aspect in life individual Muslim must leads to achievement benefit as desired in maqashid Sharia. The role of maqashid sharia in development Sharia economics and business are very important and strategic, because too put maqashid Sharia as reference, so current systems and science middle formulated can give beneficial and capable become drug on complex economic/business problems contemporary.

Beside that, the "mujtahid" in the field law Sharia economics/business already should apply maqashid Sharia in the analysis process they about practice an economy run by society. This matter reflected in the DSN MUI fatwa, as an institution under the MUI which has duties and authority issued a sharia economic fatwa, which became guide for practice sharia economics in Indonesia. From the fourth approach in formulation

⁵⁰ Hanif, Susanto, and Armen, "Analysis of the Influence of Maqashid Syariah on the DSN-MUI Fatwa Concerning Murabahah Debt Settlement," 12.

of fatwa, namely: al-taisir al-manhaji, tafriq baina al-halal wa al-haram, i'adah al-nadhar, and tahqiq al-manath, all is one of approach in implement approach maqashid sharia in produce law.

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