ABU ISHAQ AL-SYATHIBI AND HIS PERSPECTIVE ON MASLAHAT

Muhammad Ikhsan, Azwar Iskandar

Sekolah Tinggi Islam dan Bahasa Arab (STIBA) Makassar, Indonesia
Email: muhikhsan@stiba.ac.id, azwar.iskandar@gmail.com

Abstract: This study aims to find out: (i) the position of Abu Ishaq Al-Syathibi as a fiqh scholar al-maqāṣid; and (ii) the concept of maslahat in the perspective of Abu Ishaq Al-Syathibi. This research is qualitative descriptive research with library research techniques through historical and sociological approach. The results found that al-Shatibi’s ability as a reformer in the realm of iṣlāḥ al-fiqh was very clear in his role in performing new formulations of the theory of al-maqāṣid and managed to open the views of the scholars afterwards to further examine this issue. Al-Shatibi’s view of maslahat cannot be separated from his view of al-maqaṣīd, especially when he divides the al-maqaṣīd into two major parts: those relating to maqaṣīd al-syar’ī’ab and those relating to maqaṣīd al-mukalla’fīn.

Keywords: Al-Syathibi, Maslahat, Maqāṣid, Uṣūl Al-Fiqh, Syari’ab
INTRODUCTION

It is familiar among scholars in the field of Islamic jurisprudence (ushul al-fiqh) regarding the theory of maqāsid al-syari’ah systematized and developed by al-Syathibi.\(^1\) Even according to Mustafa Said al-Khin, previously there were only two schools, namely mutakallimin and fuqaha or Syafi’iyyah and Hanafiyyah, then al-Khin divided them into five parts, namely Mutakallimin, Hanafiyyah, al-Jam’i, Takbrij al-Furu’ ‘Alal Usul and Syathibiyah.\(^2\) Thus, this division has placed al-Syathibi’s thought in al-muwafaqat into one part of a separate style of flow from the Islamic school of thought on ushul al-fiqh. This is because in its style, al-Syathibi tries to combine theories of ushul al-fiqh with the concept of maqāsid al-syari’ah, so that the resulting legal products are more lively and more contextual.\(^3\)\(^4\)

According to Darusmanwiati, there are two important values when al-Syathibi model is developed by current scholars in exploring the law. First, it can bridge between the "right flow (sect)" and "left flow". The "right sect" in question is those who stick to the concepts of ushul al-fiqh, while “left” are those who are vocal with the idea of tajdīd usl al-fiqh in the sense that there is a need for deconstruction of usl al-fiqh to produce more capable fiqh products. Second, the model of al-Syathibi will produce more legal products called as al-rosseh al-hayy (living fiqh) in Ibn al-Qayyim’s terminology.\(^5\)

The significance of maqāsid al-syari’ah is able to give a freedom for scholars on the concept of fiqh in term of text and contextual consideration. In addition, it can also dismiss the temporary assumption that Islamic law is a dead law, ambiguous, and less humane. Therefore, the theory of ushul al-fiqh and maqāsid al-syari’ah should collaborate to overcome it.

Furthermore, by al-Syathibi’s methodology in his al-muwafaqat that tries to combine theories of ushul al-fiqh and maqāsid al-syari’ah will be the

---


\(^2\) Muhammad Ghoffar, Teori Maqasid al-Syari’ah, http://ghoffar.staff.umy.ac.id/?p=46. (22 Oktober 2010)


link, the new pattern\(^6\), and at the same time a bridge to compromise the two
tendencies. Separating the maqāsid al-syarʿab from the theories of usbul al-fiqh
is a false, because not all problems can only be solved with maqāsid al-syarʿab.

Actually, maqāsid al-syarʿab had been developed by the mujtahids before
al-Syathibi. By not belittling the importance of maqāsid al-syarʿab and the role
of the Islamic leaders before al-Syathibi, we consider that al-Syathibi’s
systematic thinking is considered representative of using maqāsid al-syarʿab.
Thus, maqāsid al-syarʿab is merely a complement to enrich the theory he
develops.

Related to the concept of maslahat, the relationship between maslahat
and maqāsid al-syarʿab is relatively clear. Even the discussion of maslahat
cannot be separated from the study of maqāsid al-syarʿab. Therefore, it
becomes highly relevant when the discussion of the concept of maslahat in
the perspective of al-Syathibi is explored from a study of his views on
maqāsid al-syarʿab.

In this study, we purposed to identify the benefit in the perspective of
Abu Ishaq al-Syathibi. To get a deep and systematic discussion, we focused
on (i) the position of Abu Ishaq al-Syathibi as a scholar proposing maqāsid al-
syarʿab; and (ii) the concept of maslahat in the perspective of Abu Isha al-
Syathibi.

**RESEARCH METHOD**

This study was a qualitative descriptive study with library research
techniques.\(^7\)\(^8\) This study used a multidisciplinary approach,\(^9\) namely: (i)
historical approach as a study and source containing information about the
past and carried out systematically as well as to know, understand and
discuss in depth about matters related to the topic being studied related to the
 teachings, history and practices of their real implementation in everyday
life throughout their history;\(^10\)\(^11\) and (ii) a sociological approach as a study


\(^11\) *At-Turas: Jurnal Studi Keislaman*

E-ISSN: 2460-1063, P-ISSN: 2355-567X

Volume 8, No. 1, Januari-Juni 2021
that makes society an object of study viewed from the relationship between humans and the processes that arise from human relations in society.\textsuperscript{12,13} The type of data used in this study was qualitative data collected from literature search that included books/papers related to the thoughts of Abu Ishaq al-Syathibi in the discussion of maslahat, books/papers related to al-Muwafaqat, al-I’tisham and al-Syathibi wa maqāsid al-syari’ah, and other related studies.

RESULTS AND DISCUSSION
ABU ISHAQ AL-SYATHIBI; BIOGRAPHY AND SCIENTIFIC POSITION

Al-Syathibi (Abu Ishak Ibrahim bin Musa bin Muhammad Allakhami al-Gharnathi) was born in Granada in 730 H and died on Tuesday the 8\textsuperscript{th} of Sha’ban in 790 H or 1388 AD.\textsuperscript{14} The name Syathibi was a relative of his father’s birthplace in Sativa (Syathibah = Arabic), an area in Eastern Andalusia. In 1247 AD, al-Syathibi family fled to Granada after Sativa, where it came from and fell into the hands of the Spanish king Uraqun after they had fought for approximately 9 years since 1239 AD. Al-Syahibi was a hafidz of the Qur’an, mujtahid, scholars of uṣūliyyah, interpretation, fiqh, hadith, and language.\textsuperscript{15}

When al-Syathibi was alive, Granada was ruled by Bani Ahmar. Bani Ahmar was the name of the descendants and family of Sa‘ad bin Ubadah; one of friends of the Ansar, while Ahmar's call name was addressed to one of his kings named Abu Sa‘id Muhammad al-Sadis (761-763 H), because he had a reddish skin color. The Spanish called Abu Sa‘id al-Barmekho where in Spanish language called as reddish orange color.\textsuperscript{16}

\textsuperscript{14}Hammady al-Ubaidy, al-Syathibi wa Maqashid al-Syari’ah, (t.d.), p. 11.
When Bani Ahmar was leading, people's lives were far from Islam. They were even filled with superstition and heresy. Almost all the scholars who lived at that time were people who did not have sufficient background in religious knowledge and it was not uncommon for those who did not know anything about religious matters to be appointed by the king as a fatwa council (council for preaching). Therefore, it is not surprising that the fatwas produced were far from the truth. Al-Syathibi rose up against the clerics of Granada at that time. He tried to straighten and return heresy to the sunnah and bring people from error to the truth.

The fierce feud between al-Syathibi and the clerics of Granada at that time was inevitable. Whenever al-Syathibi issued a lawful fatwa, they gave an unlawful fatwa without looking at the texts. For this reason, Imam Syathibi was then harassed, reviled, ostracized and considered to have left the true religion.

Another thing that was highlighted by al-Syathibi was the deviant practice of Sufism by the scholars at that time. Al-Syathibi rose to forbid the practice, because it was considered to have deviated from the true teachings. According to Imam Syathibi, every approach taken is not as practiced by the Prophet Muhammad. Al-Syathibi also highlighted ta’assub exaggeration practiced by the scholars of Granada and the people of Andalusia at that time against the Maliki school. They view everyone who is not a Maliki school of thought as a heretic. In addition, the people of Andalus have firmly held this Maliki school of thought since their king Hisham al-Awwal bin Abdurrahman al-Dakhil who ruled from 173-180 H made this school the official state school. Because of their excessive ta’assub, they no longer know and even tend to be hostile to other schools, especially the Hanafi school, so that Muhammad Fadhil bin Assyria described them, “They no longer know anything other than the Qur'an and al-Muwatha' Imam Malik.”

Even though al-Syathibi was a Maliki cleric -even Muhammad Makhluf made him a Maliki scholar at the 16th level of the Andalus branch, but he still respects the scholars of other schools, including the Hanafi school. In fact, on various occasions, he often praised Abu Hanifa and other

---

18 Ibid., hal. 77
scholars. The book *al-Muwafaqat* was deliberately compiled by Imam Syathibi to bridge the tension that existed at that time between the Maliki and Hanafi schools. Meanwhile, as a response to the heresy and superstition that developed at that time, Imam Syathibi composed another monumental work, namely *al-I’tisam*.

Al-Syathibi’s works all refer to two fields of knowledge which according to Hammadi al-Ubaidy’s terms, *ulūm al-wasilah* and *ulūm al-maqāsid*. *Ulum al-wasilah* is an Arabic science to understand the science of *maqāsid*. The works of al-Syathibi include the *al-Muwafaqat*, *al-I’tisam*, *al-Majālis*, *Syarah al-Khulashah*, and *Fatawa al-Syathibi*.

THE CONCEPT OF MASLAHAT IN THE PERSPECTIVE OF AL-SYATHIBI

The role of al-Syathibi is highly real in the realm of *al-maqāsid* when he carried out a new and re-formulation of the elements of this science.\(^{20}\) According to al-Badawy\(^ {21}\), one of the roles of al-Syathibi in this realm is seen in his division of *al-maqāsid* into two important parts, namely the meaning of *ṣāri’ī* (*qaṣdu al-ṣar’ī*) and the meaning of the preamble (*qaṣdu al-mukallaf*). The meaning of *ṣāri’ī* is divided into four parts, namely:

**Qaṣdu al-ṣar’ī’ fi Wadh’i al-ṣar’ī’ah**

In this section, there are 13 issues raised. According to Imam Syathibi, Allah the Almighty sent down the *Shari‘a* (rules of law) to benefit and avoid harm (*jalbul masālih wa dar‘ul mafāsid*). With easier language, the legal rules that Allah the Almighty has determined are only for the benefit of humans themselves. Syathibi then divided this benefit into three important parts, namely *dharrurīyyat* (primary), *hajiyyat* (secondary) and *tahsinat* (tertiary, lux).

*Maqāsid* or *maslabat* *dharrurīyyat* is something that must exist for the realization of the benefit of religion and the world. If it does not exist, it will cause a damage and even loss of life.\(^ {22}\) There are five kinds in *maqāsid*


dbhurriyyat, namely religion (al-din), soul (al-nafs), offspring (al-nasl), property (al-mal) and reason (al-aql).23

Some ways to maintain previous five kinds can be reached in two ways, namely:

1) In terms of existence (min nabiyyati al-wujūd) that is by maintaining things that can perpetuate its existence;
2) In terms of non-existence (min nabiyyati al-'adam) that is by preventing the things that cause its absence.

For more details, see the following examples:

1) Keeping religion in terms of al-wujūd, such as prayer and zakat;
2) Protecting religion from the point of view of al-'adam, such as jihad and punishment for apostates;
3) Keeping the soul in terms of al-wujūd, such as eating and drinking;
4) Keeping the soul in terms of al-'adam, such as the punishment of qisās and diyyat;
5) Keeping the mind in terms of al-wujūd, such as eating and seeking knowledge;
6) Maintaining aql in terms of al-'adam, such as drinking khamr;
7) Keeping an-nasl in terms of al-wujūd, such as marriage;
8) Keeping an-nasl in terms of al-'adam, such as adulterers and munkadžif;
9) Maintaining al-mal in terms of al-wujūd, such as buying and selling, and seeking sustenance; and
10) Keeping al-mal in terms of al-'adam, such as usury, and cutting off the hand of a thief.

The fifth order of dharuriyyat is ijtihady; not naqly. It means that it is compiled based on the understanding of the scholars of the texts taken by istiqra. In assembling these five dharuriyyat, Imam Syathibi sometimes puts aql above nasl. However, one point that should be noted is that in any arrangement, Imam Syathibi always begins with the din and the nafs. The difference in the order above shows that all of them are valid because of their nature ijthadi.

The other usbūl scholars have never agreed on this point of view. For al-Zarkasyi, the order is: an-nafs, al-mal, an-nasab, ad-din and al-'aql.24

---

23 Ibid., p. 8.
24 Ibid., p. 8.
Meanwhile, according to al-Amidi: *ad-din, an-nafs, an-nasl, al-aql* and *al-mal*.\(^{25}\)

For al-Qarafi: *an-nafs, al-adyan, al-ansab, al-’uqul, al-amwal or al-’a‘radh*.\(^{26}\)

Meanwhile, according to al-Ghazali: *ad-din, an-nafs, al-‘aql, al-nasl* and *al-mal*.\(^{27}\)

However, the order by al-Ghazali is the order that is most widely held by *fiqh* and Islamic scholars of *ushul al-fiqh*.\(^{28}\)

The workings of previously five *dharririyyat* is that each of them must run according to the sequence. Guarding *ad-din* should take precedence over guarding others; Keeping *al-nafs* must take precedence over *al-aql* and *nasl*, and so on. However, if it is intended for the sake of jihad and Islam, it is permissible, because protecting religion must take precedence over protecting the soul. Therefore, most of the scholars allow the *istikhabad* of the Palestinian combatant with above legal considerations.

However, how is the case of a patient due to medical need can see his nakedness; or a traveler who is allowed to pray *qasbar*? Does it mean that *al-nafs* takes precedence over *ad-din*? According to 'Abdullah Darraz, religion should take precedence over others, because it involves *usbul al-din*, while in certain cases, life and property sometimes take precedence over religion (*mustatsnayyat*), so that the foresight of a *mujtahid* is needed.

*Maqāsid* or *maslabah hajiyyat* is something that should be in a place, so that it is free to carry out to avoid difficulties. If this thing does not exist, it will not cause a damage or death; it will only result in *masyaqqah* and narrowness.\(^{29}\)

For example, in the matter of worship, there is *ruqshah; jama’ and qasbar* prayers for travelers.

*Maqāsid* or *maslabah tansinat* is something that should be in accordance with the necessity of good morals. If it does not exist, it will not cause a damage, but *masyaqqah*. For example, *tabarah*, covering the genitals and the loss of excrement.

**Qaṣdu al-Syari’ fi Wadh’i al-syari’ah lil Ifham**

In determining the shari’a, *gyar’i* aims to make *muqalaf* understand. There are two important points discussed in this section. First, this shari’a


\(^{29}\) Imam Syathibi, *op.cit.*, p. 9
was revealed in Arabic as His word in Surah Yusuf verse 2; and al-Syu'ara verse 195. Therefore, to understand it, everyone must first understand the *ins* and *outs* of Arabic language. In this case, Imam Syathibi said, "*Whoever wants to understand it, then he should understand it from the side of the Arabic tongue firstly, because without this; it is impossible to understand it steadily. This is the point of discussion of this issue.*"\(^{30}\)

Second, this Shari'a concept is *ummiyyah*. To understand it, it does not require the help of natural sciences, such as reckoning, chemistry, physics and others. This is intended in order that Shari'a is easily understood by all people. There are at least two major obstacles that humans will face in general, namely obstacles in understanding and in its implementation. Shari'a is easily understood by anyone and from any field of science, because it stems from the concept of *maslabah* (*fahwaw ajraa 'ala i'tibari al-maslabah*).\(^{31}\)

Among the grounds that this Shari'a is *ummiyyah* is because the bearer of the Shari'a himself (Rasulullah PBUH) is an *ummi* person as confirmed in his words in al-Jum'ah verse 2, al-Araf verse 158, al-Ankabut 48 and others.

There is an excessive tendency of some scholars who are not in accordance with the nature of the *ummiyyah* sharia, namely the Qur'an covers all fields of science, both old and modern science. It is true that the Qur'an alludes to and is in accordance with various disciplines. It does not mean that the Qur'an covers all of them; it is only a sign and not as a legitimacy of all disciplines.

The verses that are often used as evidence are an-Nahl 89 which reads, "*And (bethink you of) the day when We raise in every nation a witness against them of their own folk, and We bring thee (Muhammad) as a witness against these. And We reveal the Scripture unto thee as an exposition of all things, and a guidance and a mercy and good tidings for those who have surrendered (to Allah),*" and al-An'am verse 3, "*He is Allah in the heavens and in the earth. He knoweth both your secret and your utterance, and He knoweth what ye earn.*" According to Syathibi, the two verses above have a certain meaning. The first verse is meant about *taklif* and worship, while the meaning of the bible in the second verse is *allaub al-mabjud*\(^{32}\).
Qaṣdu al-Syari’ fi Wadh’I al-syari’ah li al-Taklif bi Muqtaḍaḥa

There are 12 problems discussed in this section, but all of them refer to two main problems. First, taklif beyond human capacity (at-taklif bima laa yuthaq). This discussion will not be discussed further, because it is not considered as taklif. In this case Imam Syathibi said: "Any taklif that is beyond the limits of human ability, then according to Shari'a taklif is not valid even though reason allows it".\(^{33}\)

Second, taklif in which there is masyaqah, difficulties (al-taklif bima fiihi masyaqah). This issue was then discussed in detail by Imam Syathibi. According to Imam Syathibi, by taklif, Shari' does not intend to cause masyaqah for the perpetrators (mukalaf). Contrary, there is a distinct benefit beyond it.\(^{34}\) If it is analogous to everyday life, the bitter medicine that a doctor gives to the patient does not mean giving new difficulties to the patient, but it remains for the health of the patient himself in the future.

In matters of religion, when there is an obligation to jihad, it is not really meant to throw oneself into destruction, but for the benefit of humans themselves, namely as wasilah amar ma'nuf nabyil munkar. Likewise, the law of cutting off hands for thieves is not intended to damage the limbs, but for the preservation of other people's property.

In this taklif, there is kulfah, something that cannot be separated from human activities. For example, people who carry goods or work in ad day and night to earn a living are not seen as masyaqah, but as one of the necessities of life. and the habit of making a life. According to Imam Syathibi, the previous event is called masyaqah mu'tadah, because it can be accepted and implemented by members of the body, so that syara' is not seen as masyaqah.\(^{35}\)

Furthermore, what is seen as masyaqah is what Imam Syathibi calls masyaqah ghair mu'tadah or ghair 'adiyyah, namely masyaqah that is unusual and cannot be implemented; when it is implemented, it will cause difficulties and limitations. For example, the obligation to fast for the sick and the elderly. All of these situations are masyaqah ghair mu'tadah which Islam condemns. To overcome this masyaqah, Islam provides a way out through rukhsah or relief.

\(^{33}\) Ibid., p. 74
\(^{34}\) Ibid., p. 75
\(^{35}\) Ibid., p. 93
Qaṣdu al-Syari’ fi Dukhul al-Mukalaf Tahta Ahkam al-syari’ah

In this case, we refer to a question "why do converts implement Shari’a law?" The answer is to remove mukulaf from the demands and desires of his lust, so that he becomes a servant called as a servant of Allah the Almighty who is ikhtiyaran; not idthiraran. For this evidence, every action that follows the lust, then it is null and it does not get any benefit. On the other hand, every action must always follow the instructions of the Shari’ah and not follow the lust.

Thus, the previous description certainly does not provide a comprehensive understanding of maqāsid al-syari’ah, but addressing that al-Syathibi’s formulation is more systematic and complete than the formulations of the previous usbul scholars.

If examined further, the concept of al-maqāsid is a closed relationship between his views on benefits. In al-Syathibi’s view, the benefit is divided into three types:

a) Maslahah recognized by syara’ (maslahah syabida al-syar’u li’tibariha). This acknowledgment is evidenced by the existence of a text that recognizes the model or type of benefit as something that is permissible, such as requiring a thief to replace the value of his stolen goods even though his hand has been cut off. This is considered as a mu’tabarah benefit, because the syara’ has also done the same thing to the perpetrators of ghassab. This type of benefit is included in the discussion of qiyas.

b) The benefits that are not recognized by syara’ (maslahah syabida al-syar’u bi butlanibih). The indication is: when there is a text that punishes certain cases and it is different from what is indicated by the benefit. Like the case of a cleric’s fatwa against a king who had sexual relations during Ramadan. The cleric decreed that the king could only fast for two consecutive months as kaffarat, and had no other choice.

The syara’ benefit does not give an acknowledgment of approval or cancellation of it. This is what is commonly known as al-maslahah al-mursalah.

---

36 Ibid., p. 97.
At-Turās: Jurnal Studi Keislaman
E-ISSN: 2460-1063, P-ISSN: 2355-567X
Volume 8, No. 1, Januari-Juni 2021
CLOSING

We could conclude that al-Syathibi's capability as a reformer in the field of *ushul al-fiqh* seems relatively clear in its role in carrying out new formulations of the discussions of *maqāsid al-syariʿab* which has previously been discussed by scholars. Al-Syathibi contributed greatly in bringing up the urgent role of *maqāsid al-syariʿab* discussion, even played a role in opening the views of later scholars to further examine this issue.

Furthermore, al-Syathibi's view of *maslabat* cannot be separated from his view of *maqāsid al-syariʿab*, especially when he divides *al-maqāsid* into two major parts, namely the meaning of syar'i (*Qasdu al-syariʿ*) and the meaning of the preamble (*Qasdu al-mukallaf*). The meaning of syar'i is then divided into four parts, namely *qasdu al-syariʿ fi wadh'i al-syariʿab*, *qasdu al-syariʿ fi wadh'i al-shariʿa lil ifham*, *qasdu al-syariʿ fi wadh'i al-shariʿa li al-taklif bi muqtadhaba*, and *qasdu al-syariʿ fi dukbul al-mukalaf throne abkam al-syariʿab*. 
BIBLIOGRAPHY


