# MAQÂSHIDÎ INTERPRETATION; A STUDY ON INTERPRETATION OF AHKAM VERSES IN THE APPLICATION OF MAQÂSHID ASY-SYARÎAH

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**Abstract**
     This study explains Maqâshidî Interpretation and its application in interpretation Of Ahkam Verses, and aims to discussion on Maqâshid asy-Syarî'ah and the significance and urgency of  Maqâshidî. Maqâshidî's inter-pretation is expected to provide an alternative interpretation in providing solutions for contemporary problematics and reinterpretation of the interpretation formulations that have been out of date. The research method used in this research is qualitative method and analytical descriptive method. This study concludes that The character of Syarî'ah is permanent and governs the whole af'âl al-Mukallaf in every place and time, then the approach or method of maqâshidî interpretation in interpreting Âyât al-ahkâm is a necessity and very imfortant. The discourse of Âyât al-AhKâm interpretation discusses on the place of law formulation against a

problem (Fi'l al-Mukallaf). he necessity of interpretation of the approach or method of Maqâshidî interpretation is not only effective in responding to new issues that have never appeared before but also empowered to reinterpret the formulation of interpretations that have not been relevant anymore in the context of the present and the contemporary.

**Keywords**: Maqâshidî Interpretation, Maqâshid asy-Syarî'ah, Âyât al-AhKâm,

## A. Introduction

The Qur'an is *Verbum Dei* (The Words of Allah) delivered to the Prophet Muhammad SAW which is a miracle, serving by reading, demonstrated to us by *Mutawâtir*, begun with Surah Al-Fatihah and ended by Surah Al-Nas.[1], However, due to Islamic is the last religion until the end of time, the instructions contained in the Qur'an are mostly in the global form, not technical instructions; therefore, the pronunciation or the words used in the Qur'an can accommodate changes of sociocultural that are always dynamic.[2]

The Prophet Muhammad SAW, who functioned as *Mubayyin* as well as the authoritative interpreter of the Noble Qur'an, also does not interpret all the verses of the Qur'an since there are no problems or urgency to describe at the time. Some of them are not uncommon to be out of date. This is reasonable as the interpretation is common as a response or an answer to the actual issue that occurred at the time as well as relevant to the current context.

To manifest the provisions, values, and norms implied in the Qur'an properly, relevant to the specific space and time, it is required the interpretation studies as the designation of Allah intentions is discussed within the Qur'an apparently to the human's ability. Due to the content of

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[1]Mufiq Al-Din Abi Muhammad ' Abd Allah ibn Ahmad ibn Qudaamah AlMuqdisiy (hereinafter referred to as Ibn Qudamah), *Rawdhat AlNâzhir Wa Jannat al-Manâzhir,* Riyadh Maktabat al-Ma'ârif, t.th.), Juz 1,178. See Also: Manna ' Bin Khalil al-Qaththan, *Mabâhits fî ' Ulûm al-Qur'ân,* (Maktabah al-Mu'arif Li al-Nasyr wa al-Tawzi ', 2000), 3rd Print, 5.

[2] Line With Rules:

تغير الفتوى وإختلافها بحسب تغير الأمكنة والأحوال والنيات والعوائد.

See also: Ibn Qayyim AlJawziyyah, *I'lâm al-Muwaqqi'în 'an Rabb al-'Âlamîn,* (Beirut: Dar al-Jalil, 1975), Volume II, 95. See also: Muhammad 'Amim Al-Ihsan al-Mujaddiy al-Barkatiy, *Qawâ'id AlFiqh, (*AlKaratisyiyAlShadf Bibilsyuz, 1986), 113

the Qur'an contains instructions for various issues of daily life, the interpretation is done in various perspectives as well.[3]

In literature, the interpretation studies consist of various interpretation types. There is a category of *falsafiy* interpretation, which disqualifies philosophical theories of wisdom, such as *al-Farabi* interpretation, *Ikhwân al-Shafâ* interpretation, and *ibn Sînâ,* interpretation[4] in the category of *shûfiy /Isyâriy* interpretation, which emphasizes the contemplative ascent of the Sufi in differing the noble texts, such as *ibn ' Arabiy* interpretation[5], in the category of *al-'scholarly* interpretation[6], which prioritizes the scientific knowledge found in the Qur'an, and there are the categories of *al-Fiqhiy* interpretation, such as *al-Jashshâsh* and *al-Qurthubiy* interpretations.[7]

The form of *al-Fiqhiy* interpretation is often referred to as the *Âyât al-ahkâm* interpretation. The interpretation of this category has usually discussed the verses of the law, by submitting the discourse and the opinion of the Fiqh scholars and the prioritized evidence. However, in the literature of *al-Fiqhiy* interpretation, as the development of jurisprudence in general, it specifically describes the opinion of the Fiqh scholars and often does not convey the review of the perspective of *Maqâshid asy-Syarî'ah,* which is the objebctive of the Islamic law. There appears an interpretation method, *Maqâshid,* that drives interpreter on the interpretation of the Qur'an verses for the application of the *Maqâshid asy-Syarî'ah.*

The question that arises is what approach or interpretation method which can lead an interpreter to interpret the verses of the law in the Qur'an in accordance with *Maqâshid asy-Syarî'ah?* Who is the person who has done such an approach? How is the example of the interpretation of the legal verses in the Qur'an relevant to *Maqâshid asy-Syarî'ah?* How is the significance of the interpretation of the verse of the law in the Qur'an correspond to the *Maqâshid asy-Syarî'ah*i t? Those are some focus of the study in this paper.

## B.    Discussion
There are some studies on the method of the Qur'an interpretation in Interpretation Literature Studies. From classical interpretation methods,

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[3]Muhammad ' Abd al-'azhim al-Zarqaniy, *Manâhil al-'irfân fî ' Ulûm al-Qur'ân,* (TKP: Mathba'ah ' Isa al-Babiy al-Halabiy, t.th.), 3rd Print, Juz 2, 3.

[4]Muhammad Al-Sayheed Husayn Ad-Dhahabî, *Al-Tafsîr al-Mufassirûn,* (Cairo: Maktabah Wahbah, 1398 H), Juz ' 2, 309-310.

[5] Ad-Dhahabî, 250-251.

[6] Ad-Dhahabî, 319.

[7] Ad-Dhahabî, 319.

such as *Bi al-ma'tsûr* interpretation [8] and A *Bi al-Ra'y* interpretation [9] to the interpretation of the hermeneutics is replaced by several circles in Islam, always viral to discuss and debate. As well as the interpretation of Qur'anic approaches, from *falsafiy* interpretation, *shûfiy/Isyâriy* interpretation, *al-'ilmiy* interpretation, to *al-Fiqhiy* interpretation.

In line with the development of science today and the variety of problems that must be faced by mankind, they carry a considerable impact on the development of interpretation approaches, especially in interpreting the legal verses that are related to *af'âl al-Mukallaf*.

Theoretically, this is reasonable due to several things: *first*, the end of the revelation after the death of the Prophet Muhammad SAW; *Second*, the Qur'an as scripture is deliberately created responsive to the dynamic circumstances so that it is always relevant to every space and time *(up to date/Shâlih Li Kull zamân wa al-Makân)* until the end of the day; therefore, the pronunciation used in the Qur'an is generally *'Âm, Muthlaq,* and other interpretable categories. When analogized to the condition in Indonesia, the Qur'an is Pancasila, repeatedly amended by legislation, even the Constitution 1945, the meaning is still maintained by Pancasila. Therefore, the development of *Âyât al-ahkâm* interpretation is a necessity.

Conducting a review on Islamic law[10] is inseparable from the study of the *Maqâshid asy-Syarî'ah*, as it is the main purpose of the determination of the Islamic law. In the scientific methodology of Islamic law, the perspective of *Maqâshid asy-Syarî'ah* is an inevitability.

## C.    The Definition of *Maqâshid asy-Syarî'ah*

The term "*Maqâshid asy-Syarî'ah*" is *murakkab idhâfî,* consisting of two words, "*Maqâshid*" and "*asy-Syarî'ah*". The word "*al-Maqâshid*" etymologically is a plural form of the word "*Maqshad*", where the word "*Maqshad*" itself is a *Mashdar Mîmiy,* derived from the word "*Qashada*"

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[8]Ad-Dhahabî, 112.

[9]Ad-Dhahabî, 183.

[10]See also: ' Abd al-Wahhab al-Al-'allamah al-Bannaniy, *Hâsyiyah al-Bannaniy ' Alâ Sharh al-Mahalliy ' Alâ Matn ' al-Jawâmi ',* (Beirut: Dar al-Fikr, 1992) Vol. I, 25. See also: Muhammad ibn Mukram ibn Manzhur, *Lisân al-' Arab,* (Beirut: Dar Shadir, t.th.), Juz ' 2, 313. *Al-Mâ'idah:* 48, *Asu-Syûrâ:* 13, and *AlJâtsiyah:* 18. See also: Subhi Mahmasani, *Falsafat At-Tasyrî Al-Islâmi,* Translator: Ahmad Sujono, *Filsafat Hukum dalam Islam* (Bandung: Al-By ali m, 1982), 10. See also: Amir Syarifuddin,*Ushul Fiqh* (Jakarta: Logos Wacana Ilmu, 1997), 1st Print., 5.

which means the same as the word "*Qashdan*"[11]. According to Arabic linguists, the word "*Maqshad*" etymologically has some meanings:[12] first, *Al-I'timâd, al-Umm, Ityân al-Shai',* and *al-Tawajjuh,* secondly, *Istiqâmat al-Tharîq,* third, *al-'adl, al-Tawassuth,* and *'Adam al-Ifrâth,* and fourth, *al-Kasr min fî ayy wajh kân.* Based on the etymology of the word "*Maqshad*" above, the first meaning is a relevant meaning to understanding *Ishthilâhiy* with the object of this study since there are Al-*umm, al-I'timâd, Ityân al-Shai',* and *al-Tawajjuh* which entirely discuss the desire and determination of accomplishment *(tadûr hawl irâdat al-Shai 'wa al-'azm 'Alaih).* The words *asy-Syarî'ah"* etymologically means *al-Dîn, Al-Millah, Al-Minhâj, al-Tharîqah,* and *al-Sunnah*[13]. According to its root word, it is used to mention *Mûrad al-Syâribah* (where the Giver comes) [14]. In the terminology, according to Ibn Taymiyah, it means: *thâ'at Allâh wa rasûlih wa ulîal-amr minnâ*[15] (obeying Allah, the Apostles and the leaders among us).

The definition of *Maqâshid asy-Syarî'ah* has not been found in the previous books of *Ushûl al-Fiqh* until the scholars have an intention to the issue of *Maqâshid asy-Syarî'ah,* such as Al-Ghazaliy[16] and Al-Shathibiy[17]. At that phase, they only present a part of the concept or division of *Maqâshid asy-Syarî'ah.* Al-Ghazali, for example, does not present a definition of *Maqâshid asy-Syarî'ah,* He only conveys restrictions of *Maqâshid asy-Syarî'ah.* Al-Ghazali conveys as follows:

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[11]Abi Al-Husayn Ahmad bin Faris bin Zakariya (d. 395 H), *Mu'jam Maqâyis al-Lughah,* cited by 'Abd al-Salam Harun, (Egypt: Mushthafa al-Babiy al-Halabiy, 1392 H), 2nd Print, Juz ' 5, 95.

[12]Abi ' Abd al-Rahman al-Khalil bin Ahmad al-Farahidiy (d. 175 H), *Al-'ain,* cited by Muhdiy al-Makhzumiy, (TKP: Mu'assasah al-A'lamiy, t.th.), Juz ' 5, 54.

[13]Abi Al-Husayn Ahmad bin Faris bin Zakariya (d. 395 H), "*Majmal al-Lughah* cited by Zuhair ' Abd al-Muhsin Sulthan, (Beirut: Mu'assasah al-Treatise, 1406 H), 2nd print, Juz ' 2, 526. See also: Isma'il ibn Hammad al-Jawhariy (d. 393 H), *Al-ShaHhâh,* cited by Ahmad ' Abd al-Ghafur ' Athar, (TKP: TPN, 1402 H), 2nd print, Juz ' 3, 1236.

[14]Abi Al-Husayn, 1236.

[15]Ibn Taymiyah, ' *Majmu Al-Fatâwâ* ', Compiled by 'Abd al-Rahman bin Qasim al-Najdiy and his son, Muhammad, (Mecca: Maktabah al-Nahdhah al-Haditsah, T.Th.), Juz ' 19, 309.

[16]Taj al-Din ' Abd al-Wahhab ibn ' Aliy ibn ' Abdal-Kafiy al-Subkiy (hereinafter called Ibn Subkiy) (d. 771 H), *Al-Sha'qât al-Shâtīyah* (Beirut: Dar al-Ma'rifah, T. Th.), 2nd Print., Juz ' 4, 101.

[17]' Abdullah Mushthafa al-Maraghiy, *Al-Fath al-Mubîn fî Thabaqât al-Ushûliyyîn,* (Beirut: Dar al-Kutub al-'ilmiyyah, 1394 H), 2nd Print., Juz ' 2, 204.

ومقصود الشرع من الخلق خمسة وهو أن يحفظ عليهم دينهم ونفسهم وعقلهم ونسلهم ومالهم فكل ما يتضمن حفظ هذه الأصول الخمسة فهو مصلحة وكل ما يفوت هذه الأصول فهو مفسدة ودفعها مصلحة.18

"There are 5 purposes of the law determination for mankind, namely to nurture their religion, soul, mind, posterity, and possessions. Each containing the preservation content of the five points above is a benefit, while each containing an abandonment content from the five points is modesty in which the benefit rejects it".

Similarly, asy-Syathibî, although he devotes his utmost attention and has a plenary understanding in the field of *Maqâshid asy-Syarî'ah*, he does not express its definition.[19]

The definition of the new *Maqâshid asy-Syarî'ah* appears in the previous books, either in the books of *Maqâshid asy-Syarî'ah* or in the books of *Ushûl al-Fiqh.* One of them is conveyed by Ibn ' Assyrians:[20]

الكيفيات المقصودة للشارع لتحقيق مقاصد الناس النافعة أو لحفظ مصالحهم العامة في تصرفاتهم الخاصة كي لا يعود سعيهم في مصالحهم الخاصة بإبطال ما أسس لهم من تحصيل مصالحهم العامة إبطالا عن غفلة أو استزلال هوى و باطل الشهوة.21

"The means of the *Syâri '* to realize the objectives that are beneficial to man or to preserve their poverty in general in the *Tasharuf* that they are doing specifically to the efforts of their benefit specifically do not return by denying their generalized acquisition in general that was built for them due to negligence, failed by their lust. "

Allal al-Fasiy defines [22]*Maqâshid asy-Syarî'ah* by:

الغاية منها والأسرار التي وضعها الشارع عند كل حكم من أحكامها.23

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[18]Abu Hamid Muhammad ibn Muhammad ibn Muhammad al-Ghazaliy (hereinafter called Al-Ghazaliy) (d. 505 H), *Al-Mustashfâ,* cited by Muhammad Mushthafa Abi al-'ala, (Egyptian: Maktabah al-Jundiy, t.th.), 251.

[19]Ahmad al-Raisuniy, Nazhariyyat al-Maqâshid 'ind al-Sythibiy, (tkp: Mathba'ahal-Najah, 1411 H), 1st Print, 5. Muhammad Sa'd bin Ahmad bin Mas'ud Al-Yubî (hereinafter referred to as al-Yubî), *Maqâshid al-Syarî'ah al-Islâmiyyah wa 'Alâqatuhâ bi al-Adillat al-Syar'iyyah*, (Riyadh: Dar al-Hijrah li al-Nasyr wa al-Tawzî ', 1998 A.D), 34.

[20]Khair al-Din al-Zarkaliy, al-A'lam, (Beirut: Dar al-'Ilm li al-Malayin, 1992 CE), 10th Print, Juz 6, 174.

[21]Muhammad Ibn al-Thahir ibn ' Assyria (hereinafter called Ibn ' Assyria), "*Maqâshid al-Syarî'ah al-Islâmiyyah,* (Tunisia: Syirkah al-Tunisiyyah, 1978 A.D.), 1st Cet., 146.

[22]Khair al-Din al-Zarkasy, 246.

"The purpose of the syari'ah and the secrets prescribed by *Syâri '* on every law".

According to Al-Raisuniy, *Maqâshid asy-Syarî'ah* is:

الغايات التي وضعت الشريعة لأجل تحقيقها لمصلحة العباد.24

"The purposes determined by the syari'ah to realize the benefit for His servants".

The Wahbah al-Zuhailiy defines *Maqâshid asy-Syarî'ah* by:

"المعاني والأهداف الملحوظة في جميع أحكامه أو معظمها أو هي الغاية من الشريعة والأسرار التي وضعها الشارع عند كل حكم من أحكامها.25

"The Meanings (' *Illah-'illah*) and the purposes observed in all or most of the law, or the purposes of *Syâri* and the secrets determined by the *Syâri '* in every law".

It can be considered that the definition of *Maqâshid asy-Syarî'ah* that meets the elements *jâmi'* (covering the whole of the elements) and *mâni '* (countering the non-elements) is the definition to be discovered by al-Yubiy:26

المعاني والحكم ونحوها التي راعاها الشارع في التشريع عموما و خصوصا من أجل تحقيق مصالح العباد.

"'Illah-'allaah, wisdom, and others, that are kept by the *Syâri '* in establishing the law, both common and special categories of purposes, to manifest the whole benefit for His servants".

The meaning of the word "*Ma'ânî*" in the definition aforementioned is "' *Ilal* ('*illah-'illah*)", where the term is popular among the scholars. 27 In the terminology of *Ushûl al-Fiqh,* the word "' *Illah*" is used in two meanings: a) meaning that is *munâsib* (accordingly) with the determination of the law; this meaning is referred to in the above definition, and b ) a clear and measurable nature with the determination of the law based on it will be obtained by the benefit.

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23Muhammad 'Allal bin 'Abd al-Wahid bin 'Abd al-Salam al-Fasiy al-Fahiriy (hereafter called 'Allal al-Fasiy), "*Maqâshid al-Shara''ah al-Islâmiyyah wa Makârimuhâ,* (Moroccan: al-Risalah, 1979 A.D.), 2nd Print, 3.

24Ahmad Ar-Raisuni, *Nazhariyyat al-Maqâshid ' Ind al-Syâthibî,* 7.

25Wahbah Al-Zuhaili, *Ushûl al-Fiqh al-Islâmiy,* (Syria: Dar al-Fikr, 1406 H), 1st Print., Juz' 2, 1017.

26Al-Yubî, 37.

27Muhammad Ibn Idris as-Shafi'i, *Al-Risâlah,* cited By: Ahmad Muhammad Syakir, (Beirut: Al-Maktabah al-'ilmiyyah, t.th.), 40, 512, 531, and 542.

The meaning of the word "*Hikam* (plural form of the word '*hikmah*')" in the above definition is the same as Nakna in the terminology of *Ushûl al-Fiqh,* that is because of the existence of the wisdom, a trait can be used as *As'illah.*[28]

The meaning of the word "*wa nahwuhâ*" in the above definition is to cover other pronunciation that is viewed as part of *Maqâshid,* such as *al-Hadf, Al-Ghâyah, al-Fâ'idah,* and *al-Tsamrah.* It is not a form of doubt due to its existence as clear from *Idhâfah* to *Dhamîr.*

The meaning of the word "*al-Latiy râ'âhâ al-Syâri ' fî al-Tasyrî '*" in the above definition which is noted, deliberated and desirable *Syâri '* in establishing law and it is a clue that the laws of God have ' *Illah* and benefit that have been intentional by *Syâri ',* not a coincidence.

The meaning of the word "'*umûmâ wa khushûshâ*" in the above definition is to *cover* the law and the purpose contained in the many propositions which are kept *syâri '* in establishing the law, as well as *cover* wisdom or' *Illah-'illah* that are intended by *Syâri '* on every law.

The meaning of the word "*min ajl tahqîq mashâliH al-'ibâd*" in the definition above is as a trait that explains clearly the purpose of the *Maqâshid asy-Syarî'ah*, that is only to manifest benefits for his servants in the world and in the hereafter.[29]

## D. The Division of *Maqâshid al-Sharî'ah*

Reviewed from the level of benefit, *Maqâshid asy-Syarî'ah* has 3 levels, namely *maqâshid Dharûriyyah* (Primary aims), *Maqâshid hÂjiyyah* (Necessary aims),* and *maqâshid tahSîniyyah* (improvements).[30]

According to al-Ghazaliy *al-Dharûriyyât* is:[31]

المصالح التي تتضمن حفظ مقصود من المقاصد الخمسة وهي حفظ الدين والنفس والعقل والمال والنسب.

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[28]Syihab Al-Din Abi al-'abbas Ahmad ibn Idris al-Qarafiy (d. 684 H), *Sharh Tanqîh al-Fushûl,* cited by Thaha ' Abd al-Ra'uf Sa'ad, (Egypt: Al-Muttahidah, 1393 H), 1st Print, 406.

[29]Al-Yubî, 37-38.

[30]Ibrahim Ibn Musa ibn Muhammad al-Lakhmî al-Gharnathî (known as asy-Shathibî, hereinafter called: Asy-Shathibî), *Al-Muwâfaqât,* cited by: Abu' Ubaidah Masyhur ibn Hasan Al Salman, (TKP: Dâr ibn ' Affân, 1997 A.D/1417 H), Juz ' 3, 21.

[31]Al-Ghazaliy, *Al-Mustashfâ,* 251. See also: Abu' Abdillah Muhammad ibn ' Umar ibn Husayn al-Raziy (hereinafter called Al-Raziy) (d. 606 H), *Al-Mahshûl fî ' Ilm al-Ushûl,* cited by Thaha Jabir, (Riyadh: Jami'ah al-Imam Muhammad ibn Sa'ud al-Islamiyyah, 1401 H), 1st Print, Juz ' 2, 220.

"The benefits containing the maintenance of one of five maintenance purposes are the preservation of religion, soul, reason, treasure, and offspring".

According to al-Mahalliy *al-Dharûriyyât* is:[32]

ما تصل الحاجة إليه إلى حد الضرورة.

"The needs in the level of *al-Dharûrah*".

The substance of two definitions above is the same, namely maintaining the five *Maqâshid asy-Syarî'ah* which occupies the position of *al-Dharûrah,* where such poverty must exist, without it will result in an existence lost, perish, and falling into damage.

The definition of *al-Hâjiyât* is:

ما كان مفتقرا إليها من حيث التوسعة ورفع الضيق المؤدي إلى الحرج والمشقة اللاحقة بفوت المطلوب. فإذا لم تراع دخل على المكلفين – على الجملة – الحرج والمشقة ولكنه لا يبلغ مبلغ الفساد العادي المتوقع في المصالح العامة.[33]

"Things that are needed, the form of space and the rapture of the distress that caused difficulties, in which if the thing does not exist, the difficulties will face. If the side of the *Hâjiyyât* is neglected, then a *mukallaf*-usually - will find difficulties, but will not cause damage due to the negligance of the common benefits".

The definition of *al-tahsîniyyât* is:

ما لا يرجع إلى ضرورة ولا إلى حاجة ولكن يقع موقع التحسين والتزيين والتيسير للمزايا والمزائد ورعاية أحسن المناهج.[34]

"The things that do not come to the aspects of *Dharûriy* and *HÂjiy,* but are decorative ornamental; Beautify, streamline and make it easier to add privileges, advantages and nurture the best way".

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[32]Jalal Al-Din Muhammad ibn Ahmad al-Mahalliy (d. 864 H), *Syarh Al-MahAlliy ' Alâ Jam ' al-Jawâmi ',* (Beirut: Dar al-Kutub al-'ilmiyyah, t.th.), Juz ' 2, 28

[33]Asy-Shathibî, *Al-Muwâfaqât,* 11. Abual-Ma'aliy ' Abd al-Muluk ibn ' Abdillah al-Juwainiy (d. 478 H), *Al-Burhân fî Ushûlal-Fiqh,* cited by ' Abd al-'azhim Dib, (Cairo: Dar al-Anshar,1400 H), 2nd print, Juz'2, 924. Muhammad ibn al-Thahir ibn ' Assyrian, 82. Saif al-Din ' Aliy ibn Abi 'Aliy ibn Muhammad al-Amidiy (hereinafter called al-Amidiy), *Al-Ihkâm fî Ushûl al-Ahkâm,* (Beirut: Al-Maktab al-Islâmiy, 1402 H), Juz ' 3, 274.

[34]Al-Amidi, 275. Al-Ghazaliy, 252. IBn Qudamah, 413. Jamal al-Din ' Abd al-Rahman ibn al-Hasan al-Isnawiy (d. 772 H), *Nihâyat al-Sawl fî Syarh Minhâj al-Ushûl,* (Beirut: 'Alam al-Kutub, t.th.), Juz ' 4, 86.

Al-Raziy defines *al-tahsîniyyât* simply:

<div dir="rtl">تقرير الناس على مكارم الأخلاق ومحاسن الشيم.[35]</div>

"A provision among mankind about the glory of ethics and the goodness of an action".

### E.    The Postulates of *Maqâshid al-Sarî'ah*

Among the postulates indicating the maintenance of al- *Dharûriyyât al-Khamsah* is in al-Anbiya ' verse 107:

<div dir="rtl">وما أرسلناك إلا رحمة للعالمين.</div>

"We will not send thee (o Muhammad) except as a mercy for all nature".

According to Al-'adhd, the meaning of *Zhâhir* above verse is general, it means, based on the verse, it is understood that the commandment to keep the benefit of human beings in the laws prescribed to them. If Prophet Muhammad SAW is sent by carrying the laws that do not give the benefit so it means the condemnation is not carrying mercy, so that means the rules are not beneficial. This is contrary to the notion of *Zhâhir* above.[36]

In understanding the verse above and the few who are sidening it, asy-Syathibî argues that the verse includes a verse showing the syari'ah laying for the benefit of man.[37]

Likewise in Sura Al-An'am verse 151-153:

Say, "Come, I will recite what your Lord has prohibited to you. [He commands] that you do not associate anything with Him, and to parents, good treatment, and do not kill your children out of poverty; We will provide for you and them. And do not approach immoralities - what is apparent of them and what is concealed. And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right. This has He instructed you that you may use reason. And do not approach the orphan's property except in a way that is best until he reaches maturity. And give full measure and weight in justice. We do not charge any soul except [with that within] its capacity. And when you testify, be just, even if [it concerns] a near relative. And the covenant of Allah fulfill. This has He instructed you that you may remember. And, [moreover], this is My path, which is straight, so follow it; and do not follow [other] ways, for you will be

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[35]Al-Raziy (W. 606 H), 222.

[36]'Adhd Ad-Din 'Abd al-Rahman bin Ahmad al-Ijiy (d. 756 H), (Beirut: Dar al-Kutub al-'ilmiyyah, t.th.), Juz ' 2, 238.

[37]Asy-Shathibî, 246.

separated from His way. This has He instructed you that you may become righteous."

Some of the verses above contain commandments to preserve *al-Dharûriyyat.* The commandment to preserve religion is in the phrase God "*Allâ tusyrikû bih Syay'â*", likewise the "*wa-ann-hadzâ shirâthî mustaqîma fattabi'ûhû wa lâ tattabi'û al-Subul fatafarraq Bikum ' an Sabîlih*". In the phrase of the verse, it can be understood that Islam will not be enforced if accompanied by the attitude of God's condemnation. Because Allah commands that his servant call him in *Ta'abbudiyyah,* follow his straight path that there was no element of godhood in them from any side, and God forbade his servant to follow the devil's paths that lead to the valley of the fallacy.

The commandment to preserve soul is found in the phrase Allah's word "*Walâ taqtulû awlâdakum min imlâq*", *as* well as "*Wa lâ taqtulû al-Nafs allatî ḫarram Allâh illâ bi al-Haqq*". *His al-Istidlâli*s that God forbids the killing act except by law (Truth), and the murder by law aims to keep the soul, as referred to in the discourse on *Qishâsh,* to preserve religion, as referred to in the discourse on the *Riddah,* and to preserve offspring, as referred to in the discourse about *Rajm.*

The commandment to preserve the descendent is found in the word of God'*s* phrase "*WA lâ taqrabû al-fawâḫisy m Zhahar minhâ wa m Bathan*". For, among the biggest heinous deeds is adultery, which in other verses Allah has explicitly described adultery as an evil deed, as found in the letter of al-Isra ' verses 32.

The commandment to preserve treasure is found in the phrase of the Word of God "*wa lâ taqrabû mâl al-yatîm illâ bi al-latî hiy aḫsan ḫattâ yablugh Asyuddah*", as well as "*WA awfûal-kayl wa al-Mîzân bi al-qisth*".

The commandment to preserve mind based on the verse, it can also be understood since the burden on the implementation of the entire *Maqâshid* above can only be realized by a well-known person. The phrase God's word at the end of the verse "*La'allakum tattaqûn*" indicates it.

So also the word of Allah SWT. In Sura al-Isra, paragraph 23-36 follows:

> "And your Lord has decreed that you not worship except Him, and to parents, good treatment. Whether one or both of them reach old age [while] with you, say not to them [so much as], "uff," and do not repel them but speak to them a noble word. And lower to them the wing of humility out of mercy and say, "My Lord, have mercy upon them as they brought me up [when I was] small." Your Lord is most knowing of what is within yourselves. If you should be

righteous [in intention] - then indeed He is ever, to the often returning [to Him], Forgiving. And give the relative his right, and [also] the poor and the traveler, and do not spend wastefully. Indeed, the wasteful are brothers of the devils, and ever has Satan been to his Lord ungrateful. And if you [must] turn away from the needy awaiting mercy from your Lord which you expect, then speak to them a gentle word. And do not make your hand [as] chained to your neck or extend it completely and [thereby] become blamed and insolvent. Indeed, your Lord extends provision for whom He wills and restricts [it]. Indeed He is ever, concerning His servants, Acquainted and Seeing. And do not kill your children for fear of poverty. We provide for them and for you. Indeed, their killing is ever a great sin. And do not approach unlawful sexual intercourse. Indeed, it is ever an immorality and is evil as a way. And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly - We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law]. And do not approach the property of an orphan, except in the way that is best, until he reaches maturity. And fulfill [every] commitment. Indeed, the commitment is ever [that about which one will be] questioned. And give full measure when you measure and weigh with an even balance. That is the best [way] and best in the result. And do not pursue that of which you have no knowledge. Indeed, the hearing, the sight, and the heart - about all those [one] will be questioned."

Some of the verses above also indicate to observe *al-Dharûriyyât al-Khamsah.* The pieces of God's word *"Waqadhâ Rabbuk allâ ta'budû illâ iyyâh"* indicates to preserve religion, the piece of God's word *"Wa lâ taqtulû al-Nafs allatîharram Allâh illâ bi al-hAqq"* indicates to preserve the soul, pieces of God's word *"Wa âtî dzâ al-QurbâhAqqah"* to *"innahû kân bi ' ibâdih khabîrâ bashîrâ"*, also *"Wa lâ taqrabû mâl al-yatîm illâ bi al-latî hiy ahsan"* to*"ahSan Ta'wîlâ"* indicates to keep the treasure.

The provision to maintain the descendant, *nasab,* and honor are also found in the pieces of the word of Allah *"Wa lâ taqtulû al-Nafs allatî harram Allâh illâ bi al-Haqq"*, so also in *"Wa lâ taqf Ma Lais Lakbih 'Ilm "*.

To respond to the phenomenon of increasingly the development of science and various problematics that must be faced by human beings today, it seems that the interpretation through the approach or method of *Maqâshidî (Maqâshidî interpretation)* is a precise alternative approach,

because the pattern of interpretation is considered to be able to answer the dynamic challenges of change, as well as the existence of the approach of *Maqâshid asy-Syarî'ah* in the field *Al-Fiqh.*

The term *Maqâshidî interpretation* for some circles currently is not familiar due to the study *of Maqâshid asy-Syarî'ah* that develops in Indonesia has not touched the study of *Maqâshid* in the interpretation method. In addition, in Indonesia, there are many scholars of *Maqâshid asy-Syarî'ah.* This differs from the study of *maqashid asy-Syarî'ah* in Morocco, Egypt, and other middle-eastern countries.

The word *Maqâshidî* in '*Maqâshidî interpretation* ' is the word *Maqâshid* which is composed by *'ya Nisbah.* Thus, *Maqâshidî* interpretation is an interpretation using the approach of *Maqâshid asy-Syarî'ah* or in other words, *Maqâshidî* interpretation is an interpretation that explains the verses of the Qur'an by revealing and considering *Maqâshid asy-Syarî'ah.* These things differ *Maqâshidî interpretation* with other conventional interpretation, as described above.

*Maqâshidî interpretation* does not overlook the raw theories of interpretation, such as *Asbâb al-Nuzûl, 'Âm-Khâsh, Mujmal-Mubayyan,* and others. In addition, *Maqâshidî* interpretation also notes the devices of general sciences, such as sociology, anthropology, and philosophy.[38]

Understanding *Maqâshid asy-Syarî'ah* for an interpreter is very urgency because *Maqâshid asy-Syarî'ah* is one of the tools of the interpretation that should not be ignored by the interpreter in the interpretation of the Qur'an. It is in accordance with what al-Fasiy said in his book *Maq-shid SyarÎ' Ah wa Makâ rimuhâ,* as quoted by Muhammad Sa'ad bin Ahmad al-Yubi, follows:

أن المفسر إذا عدم النص الدال على معنى الاية من القران نفسه أو من سنة نبي صلى الله عليه وسلم أو أقوال الصحابة اجتهد في التفسير برأيه بحسب ما يفهم من لغة العرب التي نزل بها القران. بيد أن تفسيره للقران في هذه الحالة يجب ألا يخرج عن إطار مقاصد الشريعة بل يكون منسجما ومتمشيا معها.[39]

"If an interpreter does not find the *Nash* in the Qur'an, Sunnah, or *aqwâl al-shah̲Âbah* about the meaning of a verse, then he does *Ijtihâd* accordingly with the Arabic as he understands. Nevertheless, the interpretation of the Qur'an in this condition must not be out of the corridor *Maqâshid asy-Syarî'ah,* even it should be based on it".

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[38]http://muhammadidris84.blogspot.com/2009/11/tafsir-maqashidi-sebuah-metode.html.

[39] 'Allal al-Fasî, 87-88. Al-Yubî, 487.

With other editors, al-Syathibi expressed the importance of observing *Maqâshid asy-Syarî'ah* in understanding and interpreting the Qur'an, as follows:

... فإن القرآن و السنة لما كان عربيين لم يكن لينظر فيهما إلا عربي كما أن من لم يعرف مقاصدهما لم يحل له أن يتكلم فيهما...[40]

"... Qur'an and Sunnah in Arabic could only be understood by people (who understand Arabic), as well as people who do not know *Maqâshid asy-Syarî'ah*, should not talk to him about the Qur'an and The Sunnah. ... "

At the theoretical level, al-Qur'ân interpretation with the approach of *Maqâshid asy-Syarî'ah* do not completely reject the fresh idea offered by Western thought in its view of religious texts. Because this method of interpretation also accommodates the study of linguistics, sociology, anthropology, and history with a certain degree, and the Maghrib Arabi scholars who have the charge of *Maqâshidî* interpretation agree to put the verses of the Qur'an as a divine revelation (scripture) that cannot be bothered by its privileges and cannot be aligned with the human realm. This point distinguishes between hermeneutics ideas popularized by Western civilization (non-Moslem) with the idea of *Maqâshidî interpretation* that is carried by Islamic thinkers.

Meanwhile, *Maqâshidî* interpretation does not fully adopt the model *interpretation* that has been offered by classical scholars, especially those who limit the interpretation of Qur'an only *bi al-ma'tsûr* (with the history of hadith and the opinion of classical scholars). As such, this interpretation is more emphasized as an effort to find the proper method to interpret the verses of the Qur'an in accordance with modern human civilization.[41]

In interpreting the Qur'an, the attention to the aspect of *Maqâshid asy-Syarî'ah* is sometimes also shown in the classical *interpretation*. To mention the example, Muhammad Kajoui – an interpreter expert from the University of Muhammad V Maroko – suggests that in the book *ahkâm al-Qur'ân* by Ibn' Arabiy, there are many indications that lead to the conclusion that Ibn Al Arabi uses the approach of *Maqâshid asy-Syarî'ah* in interpreting the Qur'an. Among other things, the *Tarjîh* in his book is always disguised on the side of the *Maqâshid*, such as interpreting Surah Al-Nur: 4. He presents that the scholars agree when the allegations of adultery

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[40]Asy-Shathibî, Juz ' 3, 31. See also: Al-Yubî, 488.

[41]http://muhammadidris84.blogspot.com/2009/11/tafsir-maqashidi-sebuah-metode. html. 31 desember 2019.

are expressed in a *tashrih* (explicit), so the law is *al-Qadzf* (defamation) should be in the whip law. However, if *ta'rid* (implicit). scholars differ in opinion, the Maliki madhhab sets the same as explicit, it means that it remains subject to the whip law, but according to Hanafi and Syafi's Madhhab, it does not include as *al-Qadzf* (defamation). In addressing this case, Ibn Al Arabi asserted that the Maliki madhhab is more appropriate because it approached the *Maqâshid asy-Syarî'ah* (Purpose) for the reason for the law of *al- Qadzf*.[42]

Similarly, the book of *Tafsîr al-Taḥrîr wa al-Tanwîr* by Ibn Assyria, in this case, the contemporary writer al-Maisawi through his authorship strengthens; that Ibn's thought, in general, is widely influenced by the viewpoint Imam al-Shatibiy (d. 790 H). For this reason, it is not surprising that in interpretation the verses of the Qur'an, Ibn al-Assyrians refers to *al-taḤlîl al-Maqâshidî* (the parsing of verses reviewed from the side of *Maqâshid Asy-Syarî'ah*).[43]

Ibn ' Assyria, when interpreting the letter of al-Nisa': 11, also expresses his opinion on *Mawâni ' al-Irts*, in which the person who killed misguided did not have any part of *Diyyat*.[44] Such Interpretation formulations seem to also observe the aspects of *Maqâshid asy-Syarî'ah*. He hopes that with that formulation someone will take care to accelerate the procession of inheritance prematurely through the method of *Sadd al-Dzarî'ah*.[45] This is also appropriate with the jurisprudence:

من استعجل شيئًا قبل أوانه عوقب بحرمانه.[46]

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[42]http://muhammadidris84.blogspot.com/2009/11/tafsir-maqashidi-sebuah-metode. html. 31 desember 2019. See also: Abu Bakr Muhammad ibn ' Abdillah (popularly known as Ibn al-'arabiy) (d. 543 H), *AhKâm al-Qur'ân*, Cited by Muhammad ' Abd al-Qadir ' Atha, (Beirut: Dar al-Kutub al-'ilmiyyah, 2003 M), Juz ' 3, 352 .

[43]http://muhammadidris84.blogspot.com/2009/11/tafsir-maqashidi-sebuah-metode.html. 31 desember 2019.

[44]Ibn ' Assyrian (d. 1393 H), *Al-Tahrîr wa al-Tanwîr (Tahrîr al-ma'nâ al-Sadîd wa Tanwîr al-'aql al-Jadîd min Tafsîr al-Kitâb al-Majîd)*, (Tunisia: Al-Dar al-Tunisiyyahlial-Nasyr, 1984 A.D), Juz ' 4, 259.

[45]*Maqâshid al-syarî'ah* has a very close relationship with the arguments of *sharak*. To explain this, Al-Yubî wrote a book titled *Maqâshid al-Syarî'ah wa 'Alâqatuhâ bi al-Adillah al-Syar'iyyah*.

[46]Abu 'Abdillah Ahmad bin 'umar bin Musa'id al-Hazimiy, *Sharh al-Qawâ'id wa al-Ushûl al-Jâmi'ah wa al-Furûq wa al-Taqâsîm al-Baa''ah al-Nâfi'ah* http://alhazme.net, Juz ' 8, 9. See also: Abu Muhammad ' Ali bin Ahmad bin Sa'id binHazm al-Andalusiy (d. 456 H), *Al-IhKâm fî Ushûl al-AhKâm*, cited by Ahmad Muhammad Syakir, (Beirut: Dar al-Afaq al-Jadidah, t.th.), Juz ' 6, 9. Ahmad ibn

"Anyone who accelerates something prematurely is punished by not achieving it".

We can also look at the prespectives of the interpretation of Imam Khomaini through some of his writings, where the signal of the *maqâshid* approach on the view of the interpretation of Imam Khomaini is ever peeled by Abd. Salam Zainal Abidin, when dissecting his *interpretation* thinking through *manhaj imâm khomaini fî al-Tafsîr* (the method of interpretation of Imam Khomaini) says that *Maqâshidî interpretation* applied by Imam Khomaini refers to three important elements, namely; *al-Riwâ'î* (History), *al-'irfân* (Wisdom), and *al-Tadabbur al-'aql* (reason), these three essential elements then dominate the views *of interpretation*of the great leader of the Iranian revolution.[47]

Al-Shathibi presents an example of interpretation conducted without observing the aspect of *Maqâshid asy-Syarî'ah.* He describes the hypocrites who understand the Qur'an based on the wild sense that is far from the perspective of *Maqâshid asy-Syarî'ah.* For example, when understanding phrases the "*Faqtulû al-musyrikîn haitsu wajattumûhum wa khudhûhum wahshurûhum waq'udû lahum kulla Marshad al-azaa'il wa ' al-shalâh wa ' âtû maaheen (Taâb* ) in verse 5 of al-Tawbah, they understand that as long as they have embraced Islam, they must have freedom, where they do so to be safe from the world's torment. On that matter, Allah SWT *(Maqâshid asy-Syarî'ah)* in this verse is in the form of *ta'abbudiyah* and *khidmah* to Allah SWT.[48]

Prior to looking further at this significance of *Maqâshidî* interpretation, it is necessary to identify the characteristics of the *Syarî'ah* itself. It is since *Maqâshidî* interpretation, as described above, is closely correlated with *Maqâshid asy-Syarî'ah.*

### F.    Characteristics of *Syarî'ah*

The law of the Syari'ah is established to have a blessing and reject the failure of man in the world and in the Hereafter, as stated by Asy-Syathibî, saying, "The syari'ah is made only for the welfare of man, whether coming soon or slow". Therefore, it will not be found the welfare except the *syâri '*

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Muhammad al-Zarqa ' (d. 1357, H), *Syarh Al-Qawâ'id al-Fiqhiyyah, Tashhîh* And *Ta'liq* by Mushthafa Ahmad al-Zarqa', (Syria: Dar al-Qalam, 1989 A.D.), 471.

[47] Az-Zarqa', 471

[48]Al-Yubi, 488.

has pointed out, and will not be found to be hypocritical unless *syâri '* has forbidden or guarded it.[49]

Moreover, *Syâri'* motivates to obtain a beautiful harmonization between the world and the Hereafter and the individual and social welfare. Therefore, the scholars set the foundations, jurisprudence, and *ushul*, revealing the welfare and disregard it when there are opposition and contention. There is no doubt that the syari'ah keeps the whole time without being stopped on the law of one event.

Therefore, Allah SWT burden Himself in maintaining the provisions of the syari'ah, namely the primary Syari'ah source, the Quran, as His word in Sura *al-Hijr* verse 9:

إنا نحن نزلنا الذكر وإنا له لحافظون.

In addition, there is still the burden of Allah SWT towards Him to guarantee the permanent sharia, which is the consensus of the people who are not possible for error. A class always seeks to establish the truth where different groups of opinions will not harm them until the instruction of Allah Almighty, Allah Almighty send a reformer who can complete his religious affairs in every hundred years, and Allah SWT will send people who are able to bring syari'ah science and resubmit the erroneous change, cancellation, and conquests of syari'ah at all times.[50]

In terms of the syari'ah of Allah SWT to perpetuate the sharia, Allah SWT guarantees it with some characteristics and privileges that make it relevant for each time and place. Among the most important characteristics, which can maintain syari'ah is the following two things:

1. The permanent Syari'ah law and the establishment of principle, namely revelation that comes from Allah SWT, either pronunciation or meaning only, although the revelation is disconnected from Prophet Muhammad SAW he is not erased. It is the correct and define a word, has eternal nature and no change and redemption, so on until the day of judgment."[51]

It is very important that there are a permanent law and rule that can be used as a patron in solving the legal issues of the category *Juz'iyyât* and *furû'*. The characteristic impermanent laws subject to permanent laws. If permanent laws subdue themselves to impermanent laws, there will be change and redemption, loss of patron of the raw and uncontinuity of the

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[49]Asy-Syathibî, 9.

[50]Musfir Ibn Aliy Ibn Muhammad al-Qahthanî, *Manhâj Istinbâth Ahkâm An-Nawâzil Al-Fiqhiyyah Al-Muqah; Dirâsah Ta'shîliyyah Tathbîqiyyah*, (Jeddah: Dar Al-Andalus AlKhadhra', 2003 A.D/1424 H), Juz 1, 27-28.

[51] *Al*-Qahthanî, 29-30.

maintenance of value and the norm, no more *ushûl* (basic provisions) that are patrons return the problem, no longer the provisions of the benchmark, no more basic principles. This is what attracts people who claim to be modern, who want to change the religion of both the term and the problem of his branch with the soul, which they say, modernization, while they mean by modern it is in accordance with Western cultures, all of which are under renewed shields and reforms.

Thus, syari'ah does not require any addition. The patrons of syari'ah, Syariah include the achievement of the welfare and the rejection of its failure. Therefore, it is impossible if it is found a good one and can improve the human, world, and hereafter, but considered not in accordance with syari'ah provisions.

Therefore, it is determined that syari'ah law is permanent, unchangeable, in addition to that it is not permissible to do *ijtihâd* on it. Furthermore, the changing law that can do *ijtihâd* with the attention of *Mashlaḥah,* the law changes according to the change of society, conditions, times and places. Related to this matter, Ibn al-Qayyim says: "The law is two kinds: first, the law that does not change according to the changes of the times and places and not also the field of *ijtihâd*, as the face of all that is required and All that is forbidden, the *Had* which is determined by *Syara'*, etc., and secondly, the law that changes according to the *Mashlahah* demands by responsiveness to times, places and conditions, such as the size, type and nature of *Ta'zîr*. On this last assortment *Syâri'* has set its laws according to the aspect of welfare ".

Among the elasticity of syari'ah which is a special characteristic of Islamic Syari'ah is the response to the change of place and time. This does not imply the determination of the law and sharia rules, but the response to the changes only on the change of fatwa which belongs to the category of law accepting the above changes, as contained in the Fiqh rules expressed Ibn al-Qayyim:

تغيير الفتوى واختلافها بحسب تغير الأزمنة والأمكنة والأحوال والنيات والعوائد.[52]
"The fatwa changes and differences according to the change of time, place, social conditions, intentions, and customs habits".

Later he comments:

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[52] Muhammad ibn Abi Bakr ibn Ayyub ibn Sa'd Syams Al-Din ibn Qayyim Aj-Jawziyyah, *I'lâm al-Muwaqqi'în 'an Rabb al-'Âlamîn,* cited By: Muhammad 'Abd al-Salam Ibrahim, (Beirut: Dar al-Kutub Al-'Ilmiyah, 1991 A.D/1411 H), Juz 3, 11.

" هَذَا فَصْلٌ عَظِيمُ النَّفْعِ جِدًّا وَقَعَ بِسَبَبِ الْجَهْلِ بِهِ غَلَطٌ عَظِيمٌ عَلَى الشَّرِيعَةِ أَوْجَبَ مِنْ الْحَرَجِ وَالْمَشَقَّةِ وَتَكْلِيفِ مَا لَا سَبِيلَ إِلَيْهِ مَا يُعْلَمُ أَنَّ الشَّرِيعَةَ الْبَاهِرَةَ الَّتِي فِي أَعْلَى رُتَبِ الْمَصَالِحِ لَا تَأْتِي بِهِ؛ فَإِنَّ الشَّرِيعَةَ مَبْنَاهَا وَأَسَاسُهَا عَلَى الْحِكَمِ وَمَصَالِحِ الْعِبَادِ فِي الْمَعَاشِ وَالْمَعَادِ، وَهِيَ عَدْلٌ كُلُّهَا، وَرَحْمَةٌ كُلُّهَا، وَمَصَالِحُ كُلُّهَا، وَحِكْمَةٌ كُلُّهَا، فَكُلُّ مَسْأَلَةٍ خَرَجَتْ عَنْ الْعَدْلِ إِلَى الْجَوْرِ، وَعَنْ الرَّحْمَةِ إِلَى ضِدِّهَا، وَعَنْ الْمَصْلَحَةِ إِلَى الْمَفْسَدَةِ، وَعَنْ الْحِكْمَةِ إِلَى الْبَعْثِ؛ فَلَيْسَتْ مِنْ الشَّرِيعَةِ وَإِنْ أُدْخِلَتْ فِيهَا بِالتَّأْوِيلِ؛ فَالشَّرِيعَةُ عَدْلُ اللَّهِ بَيْنَ عِبَادِهِ، وَرَحْمَتُهُ بَيْنَ خَلْقِهِ ، وَظِلُّهُ فِي أَرْضِهِ ، وَحِكْمَتُهُ الدَّالَّةُ عَلَيْهِ- وَعَلَى صِدْقِ رَسُولِهِ-صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ-أَتَمَّ دَلَالَةً وَأَصْدَقُهَا، وَهِيَ نُورُهُ الَّذِي بِهِ أَبْصَرَ الْمُبْصِرُونَ، وَهُدَاهُ الَّذِي بِهِ اهْتَدَى الْمُهْتَدُونَ، وَشِفَاؤُهُ التَّامُّ الَّذِي بِهِ دَوَاءُ كُلِّ عَلِيلٍ، وَطَرِيقُهُ الْمُسْتَقِيمُ الَّذِي مَنْ اسْتَقَامَ عَلَيْهِ فَقَدْ اسْتَقَامَ.⁵³

*(This is a very rewarding point, not knowing it will be a major mistake on sharia; it will require that the difficulties and the judiciary, incriminating something there is no way. Indeed, sharia, which is the rule of the highest poverty, does not require it. Indeed, the foundation and principle of Sharia is the wisdom and existence of human beings in the world and the Hereafter, entirely fair, bring mercy, bring the blessing, and bring wisdom. Every problem that comes out of justice to the wrongdoing, from mercy to his opponent, from MashlaHah to Mafsadah, from wisdom to ba'ts, is not sharia, although it seems to be in accordance with the Islamic will using ta'wîl. Sharia is the application of the Justice of God to His servants, God's mercy toward His beings, the shade of God on His Earth, and the wisdom of God demonstrating His existence and the righteousness of His apostle is the appointment and truth Perfect, with the sharia light being shown to the one who can see, show the person who can be shown, the perfect remedy is the antidote to every disease, and his straight methods can make the category ' who asks to be Straight then he becomes straight '. "*

Therefore, it can be concluded that the philosophy of making the law is permanent and partly arbitrary in accordance with the will of the blessing is to eliminate difficulties and be a mercy for the creatures.

Among the broad discussion of elasticity and change of law and fatwa is the determination of the law and fatwa conducted by the *Fuqahâ* ' by observing the changes ' *Âdah,* ' *Urf,* and *ma ta'umm Al-Balwâ* (customary customs). Who study comprehensively the books of *Fiqh an-Nawâzil,* such as *al-Fatâwâ al-Hindiyyah,* and *Majmû' Fatâwâ* by Ibn Taimiyyah, and others, it is obvious to him that the *Fuqahâ* ' is very concern about the customs change in establishing the law or the fatwa? Therefore al-Qarafiy considers it as the agreed rule that should be kept when it was *ijtihâd* or fatwa. The *Ushûliyyûn* create an *istinbâth* method known as the term '*Urf shaḥÎḥ.*

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⁵³ Aj-Jawziyyah, 11

The change of law from one event to the other, is not as suspected by a group of people, that the change indicates the concern and unpermanencies of syari'ah law, but it means that syari'ah law is certain because of '*His gods*, his *sabab*, and the one that he is, where when time, place, or condition changed, then changed the substance, 'he, and his *sabab*.

2. Syari'ah includes every condition in daily life, namely Islamic Syari'ah which encompasses everything that the human's absolute needs; there is no single condition that does not involve Sharia law at all times, places, and conditions. The meanings of Sharia include the entire event until the day of judgement.[54]

The nature of *Syumûl* and his *Sa'ah of* Syari'ah of Islam is not known previously in any religion, philosophy, or sect. If *Risâlah* is not limited to certain times and generations, then certainly not limited to places, people, nations, and certain periods. This *Risâlah* is aimed at all the people, all kinds, all nations, all generations, can solve all the problems of the past and the future. This is *Risâlah* for mankind with the law and its principle covering the whole context of human life.

Among the evidence of the Syari'ah law *syumûl* for every matter of life is in Qur'an in surah *al-Na__hl* verse 9:

ونزلنا عليك الكتاب تبيانا لكل شيئ وهدى ورحمة وبشرى للمؤمنين

"*We have sent down to you al-Quran as the clearings of all things, instruction, mercy and glad tidings of the Believers*".

Referring to this, al-Imam al-Shaafa'i also expressed it beautifully and in a high-quality manner when explaining the meaning of the word of Allah swt in Sura al-Nahl verse 89 which is as follows:

فليست تنزل بأحد من أهل دين الله نازلة إلا وفي كتاب الله الدليلُ على سبيل الهدى فيها.[55]

"*No one of the religious experts of Allah revealed the events except in the Qur'an mentioned Dalîl as a clue to him*)".

Thus, the verse and similar verse are an obvious designation of the adherence of this Islamic Syari'ah to all that the human generations at all periods and conditions.

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[54] Aj-Jawziyyah, 28.

[55] As-Syafi'î, *Ar-Riqâ,* cited By: Ahmad Syakir, (Egypt: Maktabah Al-Halabiy, 1940 A.D/1358 H), Juz I, 19. Al-Syafi'î, *Tafsîr Al-Imâm Asy-Syâfi'iy,* cited By: Ahmad ibn The Mushthafa Al-Farran, (Saudi Arabia: Dar al-Tadammuriyyah, 2006 A.D/1427 H), Juz 2, 991.

Therefore, according to Al-Shathibiy, the Quran is named after *Furqân, Hudâ, Burhân, Bayân,* and *tibyân likull Syay',* and it is the proof of Allah against His creatures globally and detailly, *Muthlaq,* and ' *Umûm.*

Based on the explanation above, it can be concluded that the character of the *Syarî'ah* is permanent and governs the entire *af'âl al-Mukallaf* in any place and time. There is nothing that should be missed. Therefore, if so, it means *mustaĥîl* for Allah SWT. When it is connected with *Maqâshid asy-Syarî'ah,* it can also be understood that the determination of a law in Islam must be in accordance with the will of the maker *(Syâri '),* Allah SWT, with patron of *jalb Al-MashâliĤ wa dar ' al-Mafâsid;* as extent as such law determination can have a positive impact and at the same time may deny negative impacts.

### G. Significance of *Maqâshidî Interpretation*

Consequently, the character of *Syarî'ah* is permanent and governs the whole *af'âl al-Mukallaf* in every place and time, then the approach or method of *Maqâshidî* interpretation in interpreting *Âyât al-aĥkâm* is an inevitor. The approach and method of interpretation that has existed in Islamic treasures do not have the responsiveness to complete dynamic of *af'âl al-Mukallaf.*

The necessity of interpretation to the approach or method of *Maqâshidî* interpretation is similar to the science *of Ushûl al-Fiqh* on the science of *Maqâshid asy-Syarî'ah.* The discourse of *Âyât al-AĥKâm* interpretation discusses on the place of law formulation[56] against a problem *(Fi'l al-Mukallaf).*

The necessity of interpretation to the approach or method of *Maqâshidî* interpretation is not only effective in responding to new issues that have never appeared before but also empowered to reinterpret the formulation of interpretations that have not been relevant anymore in the context of the present and the contemporary.

The determination of the meaning of *Walad* in the issue of inheritance of *Kalâlah* according to the *Sunniy* group is turned away from its meaning

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[56]Al-Mundzir Mahmud ibn Muhammad ibn Mushthafa ibn ' Abd al-Lathif al-Munyawî, *Sharh Mukhtashar al-Ushûl min 'Ilm al-Ushûl,* (Egypt: Al-Maktabah al-Shâmilah, 2011 A.D./1432 H), Juz ' 1, 6. Sulaiman ibn ' Abd al-Qawi ibn al-Karim al-Thufi al-Sharshari Abu al-Rabi ' Najm al-Din (d. 716 H), *Syarh Mukhtashar al-Rawdhah,* cited by ' Abd Allah ibn ' Abd al-Muhsin al-Turkî, (TKP: Mu'assasat al-Risâlah, 1987 A.D./1407 H), Juz ' 1, 254. See also: Muhammad Amin ibn Mahmud al-Bukhari, popularly known as Amir Badisyah al-Hanafiy (972 H), *Taysîr al-Tahrîr,* (Beirut: Dar al-Fikr, t.th.), Juz ' 1, 10.

of *haqîqi*[57] (*Dzakar wa untsâ* [son and daughter]) to the meaning of its *majâziy (Dzakar* [son] only*)* as the consideration of the cultural aspects of Patriarchate at that time, it needs to reinterpret to keep using the meaning of *haqîqi* to keep *mal* the heir due to consideration in the change of cultural aspects that occur in Indonesia. If not, *Maqâshid asy-Syarî'ah* in establishing the law in Indonesia can be predicted not be achieved.

The problem of *mawâni 'al-irts* (barriers to receiving inheritance) also needs to be developed from the existing *mawâni 'al-irts* formulation through the repeated interpretation of the inheritance verses. With the relatively low level of the belief of today's Moslems than the past, it is likely the occurrence of violating actions to obtain inheritance before the time; the normal death of heir. Therefore, the provisions as contained in article 173 of Presidential Decree No. 1 of 1991 on the compilation of Islamic law in Indonesia,[66] is required to considered, in order to the *nafs* or *'Irdh of* heir can be maintained.

Likewise, with other actual problems, such as the application of the principle of the authority in the inheritance, the testament for the adopted child and non-Moslem heirs, and so on, the approach and method of *Maqâshidî* interpretation then can be used as an alternative to solve this problem.

## H.    Conclusion

Based on the discussion on *Maqâshid asy-Syarî'ah* and the significance and urgency of *Maqâshidî interpretation,* it can be concluded that *Maqâshidî* interpretation has a solid foundation. Therefore,    *Maqâshidî* interpretation is expected to provide an offer to be an alternative interpretation in providing solutions for contemporary problematics and reinterpretation of the formulation of interpretations that have been out of date[.]

## REFERENCES

'Abdillah, Abu Bakr Muhammad bin (w. 543 H), *Ahkâm al-Qur`ân,* di-*ta'lîq* oleh Muhammad 'Abd al-Qadir 'Atha, Beirut: Dar al-Kutub al-'Ilmiyyah, 2003 M, Juz 3.

'Asyur, Muhammad bin al-Thahir bin, *Maqâshid asy-Syarî'ah al-Islâmiyyah,* Tunisia: Syirkah al-Tunisiyyah, 1978 A.D, 1st Print.

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[57] In accordance with the principles of *Ushûl al-Fiqh:*

الأصل في الكلام الحقيقة.

"The word is derivated from *Haqîqiy*". See also: ' Abd al-Rahman bin Abi Bakr Jalal al-Din al-Suyuthiy, *Al-Iâh wa al-Nazhâ'ir,* (Beirut: Dar al-Kutub al-'ilmiyyah, 1990), Juz ' 1, 63. See also: Ahmad ibn Muhammad al-Zarqa', 106.

Al-Amidî, Saif al-Din 'Aliy ibn Abi 'Aliy ibn Muhammad, *al-Ihkâm fî Ushûl al-Ahkâm,* Beirut: al-Maktab al-Islâmiy, 1402 H, Juz 3.

Al-Andalusî, Abu Muhammad 'Ali bin Ahmad bin Sa'id binHazm (w. 456 H), *al-Ihkâm fî Ushûl al-Ahkâm,* cited by Ahmad Muhammad Syakir, Beirut: Dar al-Afaq al-Jadidah, t.th., Juz 6.

Al-Bannanî, 'Abd al-Wahhab al-Al-'Allamah, *Hâsyiyah al-Bannaniy 'alâ Syarh al-Mahalliy 'alâ Matn Jam' al-Jawâmi',* Beirut: Dar al-Fikr, 1992, Volume I.

Al-Barkatî, Muhammad 'Amim al-Ihsan al-Mujaddiy, *Qawâ'id al-Fiqh,* al-Karatisyiy, al-Shadf Bibilsyuz, 1986.

Al-Bukharî, Muhammad Amin ibn Mahmud, popular dengan sebutan Amir Badisyah al-Hanafiy (972 H), *Taysîr al-Tahrîr,* Beirut: Dar al-Fikr, t.th., Juz 1.

Al-Dîn, Sulaiman ibn 'Abd al-Qawi ibn al-Karim al-Thufi al-Sharshari Abu al-Rabi' Najm (w. 716 H), *Syarh Mukhtashar al-Rawdhah,* cited by 'Abd Allah ibn 'Abd al-Muhsin al-Turkî, (tkp: Mu`assasat al-Risâlah, 1987 A.D./1407 H), Juz 1 and 3.

Dirjen Bapera, *Himpunan Peraturan Perundang-undangan Dalam Lingkungan Peradilan Agama,* Jakarta: Dirjen Bapera, 2001.

Al-Dzahabî, Muhammad al-Sayyid Husain, *al-Tafsîr al-Mufassirûn,* Cairo: Maktabah Wahbah, 1398 H, Juz 2.

Al-Fahirî, Muhammad 'Allal bin 'Abd al-Wahid bin 'Abd al-Salam al-Fasiy, *Maqâshid asy-Syarî'ah al-Islâmiyyah wa Makârimuhâ,* Morroco: al-Risalah, 1979 A.D, 2nd Print.

Al-Farahidî, Abi 'Abd al-Rahman al-Khalîl bin Ahmad (w. 175 H), *al-'Ain,* cited by Muhdî al-Makhzumî, tkp: Mu`assasah al-A'lamiy, t.th., Juz 5.

Al-Gharnathî, Ibrahim ibn Musa ibn Muhammad al-Lakhmî, *al-Muwâfqât,* cited by: Abû 'Ubaidah Masyhur ibn Hasan Al Salman, tkp: Dar ibn 'Affan, 1997 A.D./1417 H, Juz 3.

Al-Ghazalî, Abû Hâmid Muhammad bin Muhammad bin Muhammad (w. 505 H), *al-Mustashfâ,* cited by Muhammad Mushthafa Abi al-'Ala, Egypt: Maktabah al-Jundî, t.th.

Al-Hazimî, Abu 'Abdillah Ahmad bin'Umar bin Musa'id, *Syarh al-Qawâ'id wa al-Ushûl al-Jâmi'ah wa al-Furûq wa al-Taqâsîm al-Badî'ah al-Nâfi'ah,* http://alhazme.net, Juz 8.

http://muhammadidris84.blogspot.com/2009/11/tafsir-maqashidi-sebuah-metode. html

Ibn 'Asyur (w. 1393 H), *al-Tahrîr wa al-Tanwîr (Tahrîr al-Ma'nâ al-Sadîd wa Tanwîr al-'Aql al-Jadîd min Tafsîr al-Kitâb al-Majîd),* Tunisia: al-Dar al-Tunisiyyahlial-Nasyr, 1984 A.D, Juz 4.

Al-Ijî, 'Adhd al-Dîn 'Abd al-Rahman bin Ahmad (w. 756 H), Beirut: Dar al-Kutub al-'Ilmiyyah, t.th., Juz 2.

Al-Isnawiî, Jamal al-Dîn 'Abd al-Rahman bin al-Hasan (w. 772 H), *Nihâyat al-Sawl fî Syarh Minhâj al-Ushûl,* Beirut: 'Alam al-Kutub, t.th., Juz 4.

Al-Jawharî, Isma'il bin Hammad (w. 393 H), *al-Shahhâh,* cited by Ahmad 'Abd al-Ghafur 'Athar, tkp: tpn, 1402 H, 2nd Print, Juz 3.

Aj-Jawziyyah, Muhammad ibn Abi Bakr ibn Ayyub ibn Sa'd Syams al-Din ibn Qayyim, *I'lâm al-Muwaqqi'în 'an Rabb al-'Âlamîn,* cited by: Muhammad 'Abd al-Salam Ibrahim, Beirut: Dar al-Kutub al-'Ilmiyyah, 1991 A.D./1411 H, Juz 2 dan 3.

Aj-Juwainiy, Abu al-Ma'aliy 'Abd al-Muluk bin 'Abdillah (w. 478 H), *al-Burhân fî Ushûlal-Fiqh,* cited by 'Abd al-'Azhim Dib, Cairo: Dar al-Anshar,1400 H, 2nd Print, Juz 2.

Al-Mahallî, Jalal al-Din Muhammad bin Ahmad (w. 864 H), *Syarh al-Mahalliy 'alâ Jam' al-Jawâmi',* Beirut: Dar al-Kutub al-'Ilmiyyah, t.th., Juz 2.

Mahmasani, Subhi, *Falsafat al-Tasyrî' al-Islâmiiy,* Penerjemah: Ahmad Sujono, *Filsafat Hukum dalam Islam,* Bandung: al-Maarif, 1982.

Manzhur, Muhammad ibn Mukram ibn, *Lisân al-'Arab,* Beirut: Dar Shadir, t.th., Juz 2.

Al-Maraghî, 'Abdullah Mushthafa, *al-Fath al-Mubîn fî Thabaqât al-Ushûliyyîn,* Beirut: Dar al-Kutub al-'Ilmiyyah, 1394 H, 2nd Print, Juz 2.

Al-Munyawî, Abu al-Mundzir Mahmud ibn Muhammad ibn Mushthafa ibn 'Abd al-Lathif, *Syarh Mukhtashar al-Ushûl min 'Ilm al-Ushûl,* Egypt: al-Maktabah al-Syâmilah, 2011 A.D/1432 H.

Al-Muqdisî, Mufiq al-Din Abi Muhammad 'Abd Allah ibn Ahmad ibn Qudamah, *Rawdhat al-Nâzhir wa Jannat al-Manâzhir,* Riyadh: Maktabat al-Ma'ârif, t.th., Juz 1.

Al-Qahthanî, Musfir ibn 'Aliy ibn Muhammad, *Manhâj Istinbâth Ahkâm al-Nawâzil al-Fiqhiyyah al-Mu'âshirah; Dirâsah Ta`shîliyyah Tathbîqiyyah,* Jeddah: Dar al-Andalus al-Khadhra`, 2003 A.D./1424 H, Juz 1.

Al-Qarafî, Syihab al-Dîn Abî al-'Abbas Ahmad bin Idris (w. 684 H), *Syarh Tanqîh al-Fushûl,* cited by Thaha 'Abd al-Ra`uf Sa'ad, Egypt: al-Muttahidah, 1393 H, 1st Print.

Al-Qaththân, Manna' bin Khalil, *Mabâhits fî 'Ulûm al-Qur`ân,* Maktabah al-Mu'arif li al-Nasyr wa at-Tawzi', 2000, 3rd Print.

Al-Raisunî, Ahmad, *Nazhariyyât al-Maqâshid 'ind asy-Syâthibî,* tkp: Mathba'ah an-Najah, 1411 H, 1st Print.

Al-Razî, Abû 'Abdillah Muhammad bin 'Umar bin Husain (w. 606 H), *al-Mahshûl fî 'Ilm al-Ushûl,* cited by Thaha Jabir, Riyadh: Jami'ah al-Imâm Muhammad bin Sa'ud al-Islamiyyah, 1401 H, 1st Print, Juz 2.

Al-Subkiy, Taj al-Din 'Abd al-Wahhab bin 'Alî bin 'Abdal-Kafî (w. 771 H), *Thabaqât al-Syâfi'iyyah al-Kubrâ,* Beirut: Dar al-Ma'rifah, t.th., 2nd Print, Juz 4.

Al-Suyuthî, 'Abd al-Rahman bin Abi Bakr Jalal al-Din, *al-Asybâh wa al-Nazhâ`ir,* Beirut: Dar al-Kutub al-'Ilmiyyah, 1990, Juz 1.

Al-Syafi'î, Muhammad ibn Idris, *al-Risâlah,* cited by: Ahmad Muhammad Syakir, Beirut: al-Maktabah al-'Ilmiyyah, t.th.

--------------, *Tafsîr al-Imâm al-Syâfi'î,* cited by: Ahmad ibn Mushthafa al-Farran, Saudi Arabia: Dar al-Tadammuriyyah, 2006 A.D/1427 H, Juz 2.

Syarifuddin, Amir, *Ushul Fiqh,* Jakarta: Logos Wacana Ilmu, 1997, 1st Print.

Taimiyah, Ibn, *Majmû' al-Fatâwâ,* dikumpulkan dan disusun oleh 'Abd al-Rahman bin Qasim al-Najdiy and son, Muhammad, Mecca: Maktabah al-Nahdhah al-Haditsah,t.th., Juz 19.

Al-Yubî, Muhammad Sa'd bin Ahmad bin Mas'ud, *Maqâshid asy-Syarî'ah al-Islâmiyyah wa 'Alâqatuhâ bi al-Adillat al-Syar'iyyah,* Riyadh: Dar al-Hijrah li al-Nasyr wa al-Tawzî', 1998 A.D.

Zakariya, Abi al-Husayn Ahmad bin Faris bin (w. 395 H), *Majmal al-Lughah,* cited by Zuhair 'Abd al-Muhsin Sulthan, Beirut: Mu`assasah al-Risalah, 1406 H, 2nd Print, Juz 2.

Al-Zarkalî, Khair al-Dîn, *al-A'lâm,* Beirut: Dar al-'Ilm li al-Malayin, 1992 M, 10th Print, Juz 6.

Al-Zarqâ`, Ahmad bin Muhammad (w. 1357 H), *Syarh al-Qawâ'id al-Fiqhiyyah, tashhîh* and *ta'lîq* by Mushthafa Ahmad al-Zarqa`, Syria: Dar al-Qalam, 1989 A.D.

Al-Zarqanî, Muhammad 'Abd al-'Azhîm, *Manâhil al-'Irfân fî 'Ulûm al-Qur`ân,* tkp: Mathba'ah 'Isa al-Babiy al-Halabiy, t.th., 3rd Print, Juz 2.

Al-Zuhailî, Wahbah, *Ushûl al-Fiqh al-Islâmî,* Syria: Dar al-Fikr, 1406 H, 1st Print, Juz 2.