

SCIENTIFIC APPROACH AS THE BASIS FOR THE FORMATION OF MAQĀSĪD AL-SHARĪ'AH CONCEPT AND PRINCIPLES: A COMPARATIVE STUDY

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ABSTRACT

Maqāṣid al-sharī'ah is acknowledged as one of essential foundations in determining shariah rulings. However, some contemporary *fatwās* continue to be issued that disregard maqāṣid al-sharī'ah, while some groups have also misunderstood it leading to misapplication. This paper will analyze the methodology employed by classical Islamic scholars in establishing the concept and principles of maqāṣid al-sharī'ah. The analysis will compare the methods of determining maqāṣid al-sharī'ah by Muslim scholars with current scientific research methods. This study utilizes the qualitative methodology by examining classical and modern scholarly writings. The collected data is analyzed thematically based on an inductive approach. Findings of this study demonstrate that formulating maqāṣid al-sharī'ah concept and principles involves analyzing textual injunctions. The *istiqrā'* inductive reasoning applied by Muslim scholars bears similarities with thematic analysis in modern qualitative research. Hence, maqāṣid al-sharī'ah represents the implicit objectives unifying diverse shariah rules. It holds greater epistemic certainty compared to individual scriptural proofs, being supported by multiple textual evidences across various domains of rulings. As the *mafhūm* (implicit meaning) of the Sharī'ah corpus, *maqāṣid* guides *ijtihād* without compromising fundamental sharī'ah tenets. Proper application of maqāṣid al-sharī'ah facilitates determining contemporary rulings that fulfill the objectives of sharī'ah itself. This paper advocates grounding *ijtihād* and *fatwās* in maqāṣid al-sharī'ah through holistic textual analysis. This enables addressing new challenges through appropriate sharī'ah rulings while avoiding rigid legalism or unfettered rationalism.

Introduction

The maqāsid al-sharī'ah (higher objectives of Islamic law) have become increasingly prominent in contemporary Islamic legal theory as an essential foundation for *ijtihād* (independent legal reasoning) and determining shariah-compliant rulings on new issues. However, in recent times, some scholars have issued *fatwās* (non-binding legal opinions) that appear to overlook maqāsid al-sharī'ah (objectives of Islamic law) and do not acknowledge the underlying *maṣlahah* (benefit) associated with the ruling.

For example, Sheikh Ali Jum'ah issued an opinion on the permissibility of *ribā* (interest) in conventional banking. His reasoning was that the fiat money used today cannot take the same ruling as gold and silver. This is because classical jurists had affirmed that even though currencies other than gold and silver (*fulūs*) were in widespread use, they were not considered to have the same ruling as gold and silver. Therefore, transactions using paper money do not take the ruling of gold and silver which prohibits excess in exchanges and debts according to Sharī'ah. Such a *fatwā* appears to disregard the maqāsid al-sharī'ah, particularly the objective of preserving wealth (*ḥifz al-māl*) and promoting economic justice. If we examine the function of fiat money today, it has effectively replaced gold and silver as the primary medium of exchange and store of value in contemporary societies (Kamali, 2008). By not considering fiat money as a valid currency from a Sharī'ah perspective, the *fatwā* fails to account for the significant role it plays in modern economies and the potential consequences of treating it differently from gold and silver.

Moreover, if contemporary fiat money is not recognized as a legitimate currency by the Sharī'ah, it would have far-reaching implications for the fulfillment of religious obligations and the promotion of social welfare. For instance, *zakāt* (obligatory alms) and other financial duties would be deemed invalid when paid using fiat money. This would jeopardize public interest, especially the well-being of the poor who rely on *zakāt* as a means of support. Since only a small amount of *zakāt* on gold and silver would be collected, the objective of ensuring the equitable distribution of wealth and alleviating poverty would be undermined. In contrast, when classical jurists made rulings on currencies other than gold and silver, gold and silver still dominated society, and public interest was preserved. The economic landscape has since evolved, and fiat money has become the backbone of modern financial systems. Therefore, the *fatwā* that does not consider fiat currency as a valid medium of exchange like gold and silver clearly contravenes the maqāsid al-sharī'ah by failing to adapt to changing circumstances and prioritize the overall welfare of society.

Additionally, contemporary Muslim jurists differ on the scope and legal authority accorded to the maqāsid al-sharī'ah in deriving rulings. Scholars like al-Shayban (2013) do not accept maqāsid al-sharī'ah as a direct, primary basis for deducing law independently of the textual sources. Rather, they view it only as a secondary guiding framework for juristic deduction, not an immediate proof in itself. This position arises from the established jurisprudential principle that *ijtihād* has a structured methodology with clear preliminary steps. These include properly analyzing the textual proofs by understanding the lexicon and grammar, contextualizing revelation, classifying texts (as general/specific, unqualified/qualified etc.), evaluating abrogation and so forth. Based on this procedural view, direct use of maqāsid al-sharī'ah should only come after exhausting the textual analysis. The role of maqāsid al-sharī'ah is then limited to clarifying ambiguous texts, preferring one form of analogical reasoning (*qiyās*) over others, evaluating outcomes to protect maqāsid al-sharī'ah, and weighing between conflicting interests (*maṣāliḥ*) (Al-Shayban, 2013).

On the other hand, contemporary scholars like al-Raysuni (1999) and (Auda, 2021) grant maqāsid al-sharī'ah greater legal authority. They allow it to directly deduce rulings even in the absence of clear textual evidence, while still adhering to the scriptural guidelines and principles established through the detailed proofs. Proponents of this position cite precedents from the juristic practice of eminent classical scholars like al-Ghazali and al-Shatibi who validated rulings based on maqāsid, not just literalist reading of textual evidence. Resolving this disagreement requires deeper analysis of the relationship between maqāsid and revelatory sources within the jurisprudential methodology (*uṣūl al-fiqh*).

Furthermore, some liberal modernists have also used maqāsid al-sharī'ah to circumvent the traditional corpus of sharī'ah rules which they deem excessively rigid and literalist. Their premise is that the conventional jurisprudential methodology (*uṣūl al-fiqh*) and strict conditions for exercising *ijtihād* obstruct progress by distancing Islamic law from the ever-changing realities of modern life. For this