THE MULTIDIMENSIONAL-PROGRESSIVE LOGIC *OF AL-MAQĀṢID AL-SYARĪ'AH* FOR THE DEVELOPMENT OF HUMANITARIAN FIQH

Muhammad Aminuddin Shofi
Miftahul Ulum Lumajang Sharia Science College
Jl. Klampok Arum Tukum Tekung Lumajang, Indonesia
Email: Shofihasan85@gmail.com

Imam Bayhaki
Miftahul Ulum Lumajang Sharia Science College
Krajan I Uranggantung Sukodono Lumajang, Indonesia
Email:Bayhakiiman@gmail.com

Mochammad Hesan
Miftahul Ulum Lumajang Sharia Science College
Jl. Kalimantan 5 No. 19 Sukomulyo Manyar Gresik, Indonesia
Email:.hisan82@gmail.com

Abstract

This research aims to describe Jamaluddin Athiyyah's thought both conceptually and in operational logic, as well as the factors of human values in al-maqāṣid al-syarī'ah and its progressive legal reasoning. This research is a literature with primary legal materials, books by Athiyyah, and various latest scientific journals. Research findings show that conceptually according to Athiyyah, the benefits that are the objectives of Sharia are universal and balanced, the urgency of understanding must be balanced between and the method of ushul Fiqh and Fiqh rules, so that the legal product is not textual-conservative or liberal-subjective. According to Athiyyah, the factors of human values in al-maqāṣid al-syarī'ah are: 1) Efforts to get to know, help, and complement each other, 2) Realization of the role of the human caliph on earth, 3) Realization of peace based on the value of justice, 4) State protection of human rights, and 5) Spread of Islamic da'wah. reasoning focuses on the substance of the goal to be achieved (ideal norms) in the enactment of a law. It is not just legal-formal legitimacy or legal rules labeled Sharia. Such legal logic is more progressive and elastic substantively and more politically dynamic to respond to the dialectic of Sharia and law in the development of national law. This research is expected to contribute to the progressive implementation of al-maqāṣid al-syarī'ah in the context of developing humanist and universal Islamic law.

Keywords: fiqh, progressive law, humanity, al-maqāṣid al-syarī'ah

INTRODUCTION

It is crucial to examine the overarching goal or vision of implementing Islamic law, considering its operational logic and conceptual framework. It is due to the necessity for a refresher and adaptation of the application of Islamic law to the ever-changing contemporary reality. According to Asman and Muchsin (2021), it consists of two interdependent facets: the protection aspect (*min jihhāt al-'adam*, meaning "keep") and the development aspect (*min jihhāt al-wujūd*, meaning "development"). *min jihhāt al-wujūd*

The fundamental notion underlying the Islamic understanding of the purpose of the law (*al-maqāṣid al-syarī'ah*) is to safeguard human life (Zahrah, 1958). One of the most intriguing areas of research within *uṣūl al-fiqh* pertains to the objective of establishing Islamic law. Later, this investigation evolved into a significant philosophical inquiry into the foundations of Islamic law. Therefore, the

philosophy of Islamic law raises similar yet significant inquiries regarding the intent behind implementing the law (Nasution & Nasution, 2012).

Regarding the practical application of Islamic law, Muslims hold divergent opinions due to varying interpretations of the term "Sharia." Therefore, to resolve this issue, one must pass through the threshold of comprehension of the term, according to al-Raisuni (*mafhūm al-syarīah qabla taṭbīq al-syarīah*). Two meanings are associated with the term "Sharia": broad and narrow. Sharia, as defined by certain scholars, encompasses all that has been revealed by Allah, including elements of faith (creed), religious observances (worship), and moral principles (etiquette). Sharia is typically associated with legal matters only in a restricted sense (Bahri, 2020).

The dialectic of comprehending evolves both as an operational logic and as a conceptual framework. In defining the Islamic legal scholars hold at least two opposing viewpoints. To begin with, the Nash-Textual group posits that the purpose of sharia can solely be ascertained through logical deduction. The group further contends that the objective is discernible via rational reason. Diverse viewpoints exist regarding the benchmarks that should guide establishing overarching objectives for Sharia implementation (Maliki et al., 2021).

Conceptually and methodologically, ijtihad-based Maqasid is a relatively acceptable framework for the advancement and expansion of Islamic law. As an illustration, Jasser Auda's multidisciplinary approach permits the incorporation of several modern disciplines into the provision of legal considerations while maintaining a connection to the traditional engineering *uṣūl al-fiqh* (Tohari & Kholish, 2020).

Balance must be maintained in applying and Ushul Fiqh, whether in *istinbath* law or legal research. Laws that result from excessive reliance on the method of Ushul Fiqh as a determinant of the highest are typically textually conservative. On the contrary, legal products that result from Ushul Fiqh employing the paradigm of excessively rigidly or not at all tend to be liberal-subjective (Shofi et al., 2022).

Ibnu Ashur argues that the definition of law must be accompanied by four epistemological frameworks that contain human rights values implicitly: *al-fiṭrah* (basic human instincts), *al-samaḥah* (tolerance), *al-musāwah* (equality), and *al-ḥurriyah* (freedom of action). Human rights must be understood as constituting an integral aspect of the individual within society. To construct paradigms, human instincts or characteristics must be utilized (Umami & Ghofur, 2022).

The particular significance of this study lies in its conceptual and operational logic analysis of Jamaluddin Athiyyah's thought, followed by its dissection of the human values it contains. Based on these two frameworks of thought, progressive legal reasoning based on *al-maqāṣid al-syarīah* will also be analyzed so it may be applied as a comprehensive and critical methodology in developing dynamic Islamic law. Additionally, reasoning can serve as a foundation for developing national law. Within the framework of legal progress in Indonesia, it is beyond doubt that Muslim intellectuals cannot arbitrarily impose halal/haram criteria in a legal formulation. Regarding national law, the criteria utilized are legal or illegal.

Additional studies examine. In both its theoretical and practical applications, this tool maintains classical parameters (*al-maqāṣid al-khams*) as foundational elements. Consider a scenario where the only changes are to the logic and approach. Idea In addition to introducing novel reasoning and strategies, Athiyyah's presentation expands upon Maqasid points about the four dimensions of existence. In addition to examining novel methodologies, also examined those that were more specific and relevant (Shofi et al., 2022).

Despite a legal foundation for a particular matter in contemporary Islamic law, it remains susceptible to change due to societal variations during the period in which the Prophet conveyed the revelation or hadith; thus, the paradigm is multifaceted. As an alternative philosophical-methodological framework for the dialectic of Islamic law in Indonesia, Athiyyah may be considered. The social climate when the instructions were issued was markedly distinct from the current social climate. Islamic jurists frequently commit the following errors: subjectivity, manipulation, justification, and interpolation (Jamaa, 2018).

Literature Review

The focus of this research is a critical analysis of the *maqāṣid al-syarīah* both conceptually and operationally, and its relevance to developing the paradigm of humanitarian Fiqh. This is important to do to respond to the latest social developments that are increasingly dynamic. The study of humanist Islamic law must be carried out, especially in developing more progressive and modern national law. Jamaluddin Athiyyah's concept of, which explicitly explains the human dimension in implementing Islamic law, is a fresh offer in the methodological development of Islamic law.

Some research on *al-maqāṣid al-syarīah* and the factors of human values in Fiqh has been carried out by Muslim scholars. Rajafi et al., in their research on the thought of KH, Ahmad Rifa'i Arief explained that in building humanist Fiqh, KH. Ahmad Rifa'i Arief uses a philosophical-humanist approach by applying basic principles that are the pillars of worship, namely Qalbi, Qauli and Fi'li. Polarization begins with self-recognition (Qalbi) or knowing personal identity in a social context to realize self-benefit in society. It can accommodate and glorify all parties (Fi'li) regardless of social status and gender; thus, this act can develop and educate everyone by the mediation of science (Qauli) to avoid heinous behavior (Rajafi et al., 2023).

In his study on social Fiqh, Arbanur Rosyid elucidated that the reconstruction of social jurisprudence in the era of Society 5.0 is a tangible measure to expand the scope of jurisprudential inquiry in addressing the progressively intricate challenges faced by the Ummah. The study of social jurisprudence is certainly more comprehensive. The impact is the realization of a social life that is more humanist, socialist, ethical, and able to grow the people's progress wisely while still using the foundation of religion as the rail (Rashid, 2021).

Research with a similar theme was also conducted by Wildani Hefni et al. on the thought of Khaled Abou El-Fadl, who explained that by combining various disciplines to uphold human dignity and dignity, El-Fadl gave the idea of Islamic legal moderatism. To study Islamic law holistically and comprehensively, El-Fadl proposes a humanist-moderate methodology, specifically to construct texts and contexts and maximize legal reasoning-based through the Ijtihad Room (Hefni et al., 2022).

Ahmad Rifa'i Arief's thought in Rajafi's research is more philosophical-reflective, where in this research it is reviewed that various legal rules in Fiqh, there are implicit values that reflect human values. Arbanur Rasyid, in his research, explained the urgency of developing Fiqh with factors of social values because it was considered more comprehensive humanist. Wildani Hefni, in his research on the thought of Khaled Abou el-Fadl, emphasizes the urgency of using a multiperspective approach in the development of Islamic law, with *al-maqāṣid al-syarīah* as his frame of mind. Explicitly explaining human values in distinguishes this research from the previous three studies. The idea of Athiyyah presented in this research is that human values have dimensions that are reviewed in detail and applicable.

Iffatin Nur et al., in their research, explained that directive and defensive systems are the two main and significant functions of, which is worth learning. The directive system looks at as the primary source for any renewal or change of Islamic law. In contrast, the defensive system views as an ethical-spiritual principle for Muslims when they interact with the law. With these two responsibilities, can catalyze future improvements toward a more positive and humane society (Nur et al., 2020).

The research of Iffatin Nur et al. has similarities with this research in terms of discussing conceptually and operational logic. The difference is that Iffatin Nur, in his research, is based on the *al-maqāṣid al-khams*. In contrast, this research is based on the idea of multidimensional Athiyyah. Athiyyah expanded the discussion of *al-maqāṣid* from 5 to 24, which are summarized in four dimensions: personal dimension, family space dimension, public space dimension and universal humanitarian dimension.

Conceptual Framework

Al-Maqāṣid al-syarīah and human values are the core of discussion in this research because the urgency of implementing a law among humans is one of them is to prevent conflict, especially to cost lives. This thesis becomes the philosophical-argumentative basis that the law applied must be following human values (Hendrianto & Elfalahy, 2021). In Islamic law, *al-maqāṣid al-*

syarīah has its epistemological construct that cannot be separated from Islamic epistemology. Epistemology Ushul Fiqh is characterized by the union of the powers of revelation and reason (Dedi, 2020).

According to Amir Tajrid's research, the evolution of *al-maqāṣid al-syarīah* can historically be divided into four phases: the era of pre-codification, the era of first development, the era of second development, and the era of formulation as a scientific field. The first conclusion drawn from the study is that the creation and history of are closely related to the emergence of Islamic law. Second, because it is based on the dominant paradigm, the shape of the chain is also an ideological idea (Tajrid, 2021).

Modern Fiqh discourse and even fatwas issued by various religious institutions, such as the MUI, use the theory of classic to contemporary as its legal framework. However, as an analytical framework and paradigm, has developed and can even be said to have changed from a moral and legal foundation to a social indicator (Wanto et al., 2021).

In the social context, Sharia aims to provide harmony and balance (equilibrium) in all aspects of life. It means that it is used to guide and lead to order and stability in social relations and religious practices under God's commands. Such balance is expected to bring stability where social institutions work well and integrate. Ultimately, it will bring community members safe and serene (Jahar et al., 2021).

Rashid, in his research, explained that, in Sahal Mahfudz's view, social Fiqh has five main characteristics as follows (Rashid, 2021)
1. Interpreting Fiqh texts contextually.
2. Changing the pattern of madhhab from textual to methodological (*madzhab, manhaj*).
3. Verification between the initial case (proposed) and the new case (far').
4. Fiqh is presented as a social ethic, not a positive law of a country.
5. Introduction to the methodology of philosophical thought, particularly in cultural and social issues and economics.

Living Fiqh is an empirical field of study within the discipline of Fiqh that involves exploring models of interpretation and implementation of Fiqh within its adherent community. Fiqh is a legal framework directly related to the practice of society. Concept formulation The Living Fiqh Is an explanation of people's acceptance of Fiqh not only as knowledge but also as a practical guide in their lives (Wimra et al., 2023).

The common good is the great vision of Islam and Islamic Sharia from the beginning to the end. According to Khalil Abdul Karim, this is a characteristic of early Islam that can be a benchmark for applying Islamic law in public spaces today. Laws are created to control human social reality. Here, mutual benefit takes priority (Mahmudah, 2019).

RESEARCH METHOD

This research includes library research with the main reference materials being Jamaluddin Athiyyah's writings, such as the book Naḥwa Tafʻili Maqāṣid al-Syarīah, Al-Wāqi' wa al-Miṣāl fī Fikri al-Islāmī al-Mu'āṣirah, Al-Tanẓr al-Fiqhī, Naḥwa Fiqhin Jadīdin li al-'Aqaliyyāt, Tajdīd al-Fiqh al-Islām, as well as literature sources such as relevant cutting-edge digital scholarly journals, especially Islamic legal studies. The data collection technique uses the documentation method, while the data validity checking technique uses triangulation of data sources.

DISCUSSION
Al-Maqāṣid al-Syarīah: From Conceptual to Operational Logic

A vision of Islamic law (*al-maqāṣid al-syarīah*) is to regulate and guarantee human benefit (Athiyyah, 2003). According to Athiyyah *Maqasid Sharia*, as a grand vision, Islamic law should be comprehensive, cover the life of the hereafter, balance between private and public interests, and be universal (Athiyyah, 2003). Implementation relativity *Maqasid Sharia* depending on space, time, social landscape, and other practical changes are the basic concepts and ideas of renewal *al-maqāṣid al-syarīah* offered by Athiyyah (2001).

In Athiyyah's idea, the benefits that are the goals of Sharia are universal and balanced. This grand idea became the basis of Athiyyah in describing and dividing the Maqasid of Sharia into four dimensions of life. This idea is relatively fresh, so far in the culture of Islamic legal studies, the points of Maqasid Sharia used as reference parameters are only limited

to *al-maqāṣid al-khams*, whatever the case and field of law, both civil, criminal, statecraft, economic, and so on. Maqasid al-khams is a mandatory parameter and can reach all fields of legal studies in its implementation.

This division of *al-maqāṣid* became a new methodological offer in studying Islamic law. Athiyyah, through his ideas, opened a wider and more applicable space for the interpretation of Maqasid Sharia. The pros and cons related to the methodology of legal studies with the Maqasid framework of Sharia will always exist because there are fundamental differences in the purpose of Sharia required for everyone, with those that are collective obligations. Public laws, such as criminal and constitutional law, have different characteristics and jurisdictions from private laws, such as civil and family law. Therefore, the specific parameters of Maqasid Sharia are explained and are divided into various fields, such as the idea of Athiyyah, which can be an appropriate solution in the development of Islamic legal studies.

As a comparison, Jasser Auda's thoughts on *al-maqāṣid al-syarīah* also have a progressive nuance in terms of operational logic. In particular, the model Maqasid Auda considers the evolution of world governance thinking within the framework of the nation-state on the one hand and makes human values such as freedom, justice, equality, and democracy a source of benefit on the other. This concept validates several methodologies ijtihad, which will practically produce Maqasid anthropocentric. Because of thinking Maqasid which is anthropocentric, it is necessary to reach a legal decision (Isṭinbāṭ al-Ahkām) that is based on maslahah, not on scriptural text (Jamrozi et al., 2022).

The urgency of understanding Maqasid Sharia, not only as conceptual but also as an operational logic, is to find out whether a case can be applied to a legal provision or, because of changes in the situation and conditions of society, the law can no longer be applied. Thus, knowledge of Maqasid Sharia is essential to the success of the Fiqh or Mujtahid in extracting the law from its source (Mupida & Mahmadatun, 2021).

Factors of Human Values in *al-Maqāṣid al-Syarīah*

The universality of human rights and cultural relativism are contentious issues in human rights discussions (Umami & Ghofur, 2022). Muslim intellectuals in Indonesia generally agree with human rights norms that are commonly echoed in the international world. It can be argued that although many Muslim intellectuals use the rhetoric of cultural relativism, they do not reject human rights that are internationally recognized today. Instead, they voiced only a few objections while justifying the universality of human rights values in Islam. It seems that although some Indonesian Muslim intellectuals recognize that human rights are indeed universal, they still see differences in certain things due to differences in socio-cultural backgrounds (Muharrom & Abdi, 2023).

According to Muharrom and Abdi's research, Muslims have different views on human rights. On the one hand, some Muslim communities have negative attitudes towards human rights because modern discourse on human rights originated in the West, which historically has a close relationship with imperialism and colonialism. On the other hand, there are Muslims who, because of their proximity to the West, have developed beliefs and ideas that resemble everything about the West, including its attitude towards human rights. Philosophically, it is possible to reconcile Islam with human rights by rebuilding classical Islamic traditions, allowing the emergence of mutually beneficial and complementary dialectics in the future (Muharrom & Abdi, 2023).

Jamaluddin Athiyyah, in his Maqasid Sharia thought, reviewed specifically in his sub-discussion of humanitarian norms as the great goal of practical implementation of Islamic law, namely:

Efforts to Get to Know, Help, and Complement Each Other

The argument underlying this Maqasid value is the multicultural human condition. These values contain the spirit of eliminating discrimination based on race, class, or whatever (Athiyyah, 2003). In the context of religious life and coexistence with followers of other religions, Muslims essentially associate theological truth with religious ethics (Qur'anic ethics), which combines three elements of ethics: God, religion, and social ethics. The last two ethics must refer to God's affirmative ethics, such as

His all-loving and all-just attributes. In this case, God is merciful and treats people fairly (Faiz & Mujibuddin, 2023). Similarly, it is essentially applied to human ethics in relation to God and fellow man. Moreover, because God gives His favor and loves man, man is sincerely devoted to God. While carrying out their duties as caliphs, people should be kind, strengthen brotherhood and harmony, help one another, and avoid hatred (Wijaya et al., 2021).

Realization of the Role of *the Caliph of Man on Earth*

The reasoning of this *al-maqāṣid* point concerns the role and responsibility of humans as caliphs on earth. This point in the context of international law also means the foreign policy of Islamic countries, Islamic government organizations, or those that do not specifically label themselves Islamic governments (Athiyyah, 2003). Kamsi interprets Islamic regulation as describing general regulation, protection, and state management as an important source of value for law and order (Karimullah, 2022). From this explanation it can be understood that the meaning of the caliph here is more focused on the role of humans as civil society, not about the formalistic Islamic caliphate.

Realization of Peace Based on the Value of Justice

Maintaining peace must ensure security, knitting empathy above all differences, regulating agreements among countries, and supervising their implementation. Peace built in harmony is the one built on justice. The justice referred to here is not only limited to Muslims but to the control of all humankind (Athiyyah, 2003). According to UNESCO, the characteristics of peace are (1) dynamic, (2) just problem solving without violence, (3) producing balanced social interaction to develop harmonious relations, (4) good for society, (5) no peace if there is violence, (6) no peace if there is injustice and freedom, and (7) to create balanced social interaction, peace must be based on justice and freedom (Kuswaya &; Ali, 2021).

State Protection of Human Rights

The purpose of this *al-maqāṣid* is the protection of marginalized people, protection of freedom and human rights, including freedom of thought and religion. The international community has recently noticed the importance of this issue. It even allows international intervention to protect human rights anywhere, bypassing the concept of national sovereignty and not allowing external interference in the internal affairs of states. However, double standards govern the actual practice to achieve the interests of major powers (Athiyyah, 2003).

In religious communities, obstacles to the enforcement and protection of human rights are unavoidable problems due to conflicting rules between religion and human rights. One obstacle is the "dual movement" between secularization and Islamization, in which each side has a different viewpoint on how human rights should be upheld (Abshar & Khanif, 2021).

Spread of Islamic Da'wah

Islamic da'wah is carried out, of course, with a wisdom approach, a good sermon, and logical dialogue. Islam does not recognize a repressive approach regarding the choice of beliefs (Athiyyah, 2003). Islam holds that unity does not absolutize existing differences but also does not relativize them to harm or hinder the potential for mutual tolerance and brotherhood (Nasriandi et al., 2023). Islam promotes religious unity based on the expression of faith, which it teaches. This is because the spirit of harmony does not in the least reduce the spirit of da'wah, as religious harmony does not need to conflict with the freedom and mandate of Allah Swt. to love and respect one another. (Novianti, 2020).

The concept of Athiyyah prioritizes human values while still paying attention to the intricacies of religion. Legal and human rights studies are relevant to the dimension of Maqasid. The relation of human values in, in sequence, *Maqasid Al-Khams*, compiled by *Athiyyah Hifdz Al-Din,* placed third after *Hifdz An-Nafs and Hifdz Al-'Aql.* This is based on the argument that the soul (body) must come first because it is the soul that sustains all actions, then reason is the reference for whether someone can accept *taklīf (mukallaf).* Religion is only present then (Athiyyah, 2003). From this statement, the division of Athiyyah into its different dimensions highlights the essential and ever-evolving nature of intellectual growth and transformation.

Islamic law can be changed to reflect social change, and a new ijtihad is needed that is responsive to social change and in line with social reality, in accordance with the principle of adaptation (change). The term "adaptability" can be used to describe two different concepts, namely the potential to expand current legislation and the openness of a law to change (Harisudin, 2020). An interdisciplinary approach that is applicable in the field of sociology of Islamic law needs to be used to respond to the challenges of the complexity of today's problems (Naim & Huda, 2021).

Many theories have been influenced by research on human rights in Islam. In contrast to Western standardizations of human rights, Al-Maududi argues that Islam's understanding of human rights is far more compassionate. On the other hand, an-Na'im argues that Islamic human rights should follow the liberal, anthropocentric and secular version of Western human rights standards. Mashood A. Baderin sought to reconcile Islam and human rights amid these two conflicting human rights philosophies. For Baderin, the two should not be disputed but rather collaborated (Rohmah et al., 2022). The debate over the relationship between Islam and human rights involves fighting over the claims to universality that both systems share (Hasan et al., 2022).

Human values in ideas Athiyyah is certainly different from the idea of humanism in the Western philosophical tradition. In view of the theory of humanism emphasizes value (value) and dignity Human (dignity) above all else and makes human interests the measure of absolute truth. This kind of Western humanism consciousness causes people to feel free from religious doctrines and traditions, and the truth must be attained by their strength so that slowly, humanists have given up the goal of the afterlife and accept life within the limits of the world at hand (Saifullah, 2014).

Humanism was not originally anti-religious. Humanism wants to reduce the role of church institutions and empires that are so great that man, as a creature of God, loses his freedom. At that time, humanists did not deny the existence of a Supreme Being. After the next few centuries, a new humanism movement was born that gave up everything related to God and the afterlife and only accepted life in the world as it is (Mulyana, 2016).

Mashood A. Baderin explains the link between human rights and various social, cultural, and even religious contexts, namely that all human rights are universal, inseparable, interdependent, and interrelated. The international community, in general, should treat human rights around the world fairly and balancedly, using common grounds and emphasis. While national and regional specificities and various historical, cultural, and religious backgrounds are important and continue to be taken into consideration, it is the duty of all States, whatever their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (Baderin, 2010).

Progressive Legal Reasoning Based on *al-Maqāṣid al-Syarīah*

The dialectic between *al-maqāṣid al-syarīah* theory and contemporary issues can be a bridge between *al-maqāṣid* and social reality which has recently become a gap (Abdurrazak et al., 2022). This is done so that Islamic law develops in a more dynamic, inclusive, and egalitarian direction (Fanindy, 2020). The wisdom of avoiding discrimination is that differences are a test and an opportunity to compete fairly. Differences are God's creation. Therefore, they are sunatullah (Athiyyah, 2003).

Ar-Raisuni explained that justice, equality, independence, the right of association, and economic and political rights must be considered (Athiyyah & Az-Zuhaily, 2000). In a sense, based on the views of some Islamic jurists above, Athiyyah explained five points: Maqasid is only to formulate various benefits, not limit them.

According to Habib Ahmed, an Islamic economic thinker, *al-maqāṣid al-syarīah* is not only seen on a micro scale which is personal-individual but must also be seen on a macro scale which is comprehensive-universal, so that the implementation of sharia not only functions as legitimation (legal-operational aspect) of a legal product but is far from having a substantive meaning. desired (philosophical-conceptual aspect) (Hadi &; Baihaqi, 2021). Habib Ahmed added that the urgency of *al-maqāṣid al-syarīah* is so that a law is not limited to being a set of formal rules but does not fulfill a sense of social justice. The implementation of Islamic law must be comprehensive and progressive in reaching a

sense of social justice in society (Zulfikar & Fuady, 2021).

Development of thought also initiated by Abd al-Majid al-Najjar, as quoted by Munawar in his research, the essence of *al-maqāṣid al-syarīah* which is called *al-maqāṣid al-syarīah 'alā dawā'ir al-ḥayāh al-insāniyyah* (*al-maqāṣid al-syarīah* in the field of human life) is the embodiment of *al-ḍarūriyyāt al-ṣaman* (eight primary needs), i.e., maintaining religion (*ḥifẓ al-dīn*), nurture humanity (*ḥifẓ insāniyyah al-insān*), nourishing the soul (*ḥifẓ al-nafs al-insāniyyah*), nourishing reason (*ḥifẓ al-'aql*), keeping offspring (*ḥifẓ al-nasl*), preserving community behavior (*ḥifẓ al-kiyān al-ijtimā'ī*), guarding treasures (*ḥifẓ al-māl*), and conserve the environment (*ḥifẓ al-bī'ah*) (Munawar, 2021). This idea generally has similarities with the aim of dividing the dimensions of *al-maqāṣid* carried out by Athiyyah, namely, to explain that it is not limited to the human person but also covers all aspects of his life, both in the private sphere and in the public sphere.

Khairul Hamim, in his research, also offers ideas about Hifzd Al-Lisan as one of the points. Hamim explained that one important part that must be maintained in the modern era is no exception: Al-Ḍaruriyyat Al-Khams be Hifdz Al-Lisan or keep a way of speaking. This is very important and urgent to do because if the tongue is not controlled, then the impact will be very great both in the world and in the Hereafter, according to the information of the Qur'an and hadith. It is widely recognized that in the present era, a wide range of verbal actions, including provocation, hate speech, blasphemy, spreading slanderous news and hoaxes, sarcasm, racism, and others, can be easily performed regardless of the circumstances (Hamim, 2021).

Alvian and Ardhani, in their research, explain that the progressive *isṭinbāṭ* method is essential to produce Islamic law that is flexible, elastic, adaptive, easy to practice, and spreads benefits (Alvian & Ardhani, 2023). Ainol Yakin explained that the progressive *isṭinbāṭ* method must consider the relationship between text, *al-maqāṣid*, reality and the current context. With it, jurisprudence can avoid extremities and conservative and liberal tendencies. This method integrates Naql and reason, text, context, and Furu', Kulli (universal) and Juz'i (partial), as well as the universality of the text and the specificity of the situation (Yaqin, 2021).

In the context of legal development in Indonesia, the dynamics of Islamic legal thought in Indonesia cannot be separated from external and internal elements that influence it. External elements can be leaps of thought of Islamic jurists who adopt the thoughts of foreign figures or academics, as well as the influence of hermeneutics and liberalism. Meanwhile, the internal elements are the polarization of Indonesian Muslims' thinking towards the actualization of Sharia, differences in madhab, and the tendency to imitate (Taqlid). In addition, local elements in the form of multicultural national culture and political intervention factors also color the dynamics of Indonesian legal thinking, especially in efforts to implement Islamic law into national law (Karimullah, 2022).

One of the ideas in developing Islamic legal thought in Indonesia is Fiqh Nusantara. This idea is an important element in the development of the legal system in Indonesia. Its transformation from living law to positive law underscores its fundamental contribution. Without denying the legal norms of other religions, the presence of Fiqh Nusantara is very important in the Indonesian legal system. This should not tarnish the legal pluralism that has become an agreement among the Founding Fathers of this nation. However, the phobia of Fiqh Nusantara is getting stronger along with the phobia of Islam. It came from inside and outside the Islamic community who feared it would replace the Unitary State of the Republic of Indonesia with an Islamic State (Harisudin, 2021). However, this configuration is embedded in Indonesia's historical contestation over the nature of the state itself, where Islamists and nationalists vied to secure their access and power over the state (Alvian & Ardhani, 2023). Quoting the opinion of Afifuddin Muhajir, Fiqh Nusantara is the understanding and perspective of Islam in the archipelago as a result of a dialectical process involving the text and culture of sharia and reality in the local context" (Harisudin, 2021).

In the context of the formation of positive law in Indonesia, human values can be used to measure the conformity of the rule of law with the objectives of Islamic law. *al-maqāṣid al-syarīah* can be used as a philosophical consideration or ideal norm

(Tohari & Kholish, 2020). The elements of human values in Athiyyah's idea of *al-maqāṣid al-syarīah*, as has been described, can be used as parameters to measure the extent to which the laws developed are not only in line with sharia, but also in line with universal human values. (Jahar, 2019).

Implementation of human values as the operational logic of legal development in Indonesia can be a sharp analytical knife to examine the extent to which a law that applies not only under Sharia but also fulfills the sense of social justice. Ideally, the law that was born not only serves as a tool of legitimacy but also serves as an ethical standard for its apparatus and guarantees social justice. This is important because when the law cannot meet the sense of social justice, it can certainly trigger social conflicts. The legal gap occurs when there is a gap or conflict between formal positive law and informal law that lives in society (living law). Further, the Legal Gap is believed to give rise to legal conflicts (Legal Conflict) (Bahar, 2020).

Simply put, the Maqasid Sharia reason, as a progressive frame of mind in developing national law, focuses on the substance of the ultimate goal to be achieved in enacting a law. It is not just legal-formal legitimacy, or a set of legal rules labeled sharia. This legal logic is more progressive and elastic, not only in terms of legal substance but politically. It is more dynamic to answer the challenges of legal and Sharia dialectics in national legal development.

Zayyadi, in his article, explained that Islamic law, in its development, often presents crucial problems because of the development of the dynamics of Muslim life. Based on this approach, sociological jurisprudence needs to be used as a comparison of the approach to the sociology of law (Antara Min al-nass ila al-waqi' and Min al-Waqi' ila al-Nass) so that Islamic law can run dynamically in harmony with the laws that live in society (living law) (Zayyadi, 2020).

CLOSING

Conceptually, according to Jamaluddin Athiyyah, the benefits that are the goals of Sharia are universal and balanced. This grand idea became the basis of Athiyyah in describing and dividing the Maqasid of Sharia into four dimensions of life. The urgency of understanding is not only conceptual but also an operational logic. Athiyyah, in his thought, reviews specifically in its sub-discussion of humanitarian norms as the main goal of practical implementation of Islamic law, namely Efforts to get to know, help, and complement each other, Realization of the role of the human caliph on earth, Realization of peace based on the value of justice, State protection of human rights, and Spread of Islamic da'wah.

Al-Maqāṣid al-syarīah as progressive legal reason aims so that a law is not limited to a set of formal rules but does not meet the sense of social justice. Implementing Islamic law must comprehensively create a sense of social justice in society. Reasoning focuses on the substance of the ultimate goal to be achieved in enacting a law. It is not just legal-formal legitimacy, or a set of legal rules labeled Sharia. This legal logic is more progressive and elastic in terms of legal substance, and politically legal is more dynamic to respond to the dialectic of Sharia and law in developing national law.

The concept of research in the form of literature study is a limitation in constructing Jamaluddin Athiyyah's reason into the study of Islamic law practically. Therefore, it is recommended that the intellectuals of Islamic law study and test this concept of Maqasid more practically in an empirical legal study. To produce a progressive Islamic legal paradigm that is more objective and applicable in national legal development.

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