

## The Method of Determining Maqāṣid Al-Sharī'ah According To Al-Imām Al-Shāṭibī And Al-Imām Al-Ṭāhir Ibn 'Ashūr

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### Abstract

*Maqāṣid al-Sharī'ah is a foundational concept in Islamic jurisprudence, aimed at promoting the welfare of individuals and society. Two influential scholars, Imām al-Shāṭibī and Imām Ṭāhir Ibn 'Ashūr, have made significant contributions to the development of this concept. Their respective formulations of Maqāṣid al-Sharī'ah offer distinct perspectives that highlight the diversity within Islamic legal thought. This study seeks to compare the approaches of these two scholars, focusing on their classifications, methodologies, and philosophical orientations. Using a qualitative research method, the study draws on both primary and secondary sources, employing a comparative approach to analyze the similarities and differences in their interpretations of maqāṣid. Both scholars share the view that the primary objective of Sharī'ah is to realize maṣlaḥah (public benefit) and prevent mafsadah (harm). However, their approaches diverge when it comes to methodology. Al-Shāṭibī adheres closely to traditional textual interpretation, emphasizing linguistic analysis as the key to understanding the law. In contrast, Ibn 'Ashūr incorporates sociological reasoning and customary practices ('urf), advocating for a more flexible approach that accommodates modern realities. Through this comparative analysis, the study provides valuable insights into how the concept of maqāṣid al-sharī'ah can be adapted to address contemporary legal challenges. It contributes to ongoing discussions on Islamic legal reform, emphasizing the importance of contextualizing Islamic law to meet the evolving needs of society.*

**Keywords:** *Maqāṣid al-Sharī'ah, Imām al-Shāṭibī, Ibn 'Ashūr.*

### Abstrak

Maqāṣid al-Sharī'ah adalah konsep dasar dalam fiqh Islam yang bertujuan untuk memajukan kesejahteraan individu dan masyarakat. Dua ulama berpengaruh, Imām al-Shāṭibī dan Imām Ṭāhir Ibn 'Ashūr, telah memberikan kontribusi signifikan terhadap pengembangan konsep ini. Rumusan masing-masing ulama tentang Maqāṣid al-Sharī'ah menawarkan perspektif yang berbeda, yang menyoroti keberagaman dalam pemikiran hukum Islam. Penelitian ini bertujuan untuk membandingkan pendekatan kedua ulama tersebut, dengan fokus pada klasifikasi, metodologi, dan orientasi filosofis mereka. Menggunakan metode penelitian kualitatif, studi ini mengumpulkan data dari sumber primer dan sekunder, serta menggunakan pendekatan komparatif untuk menganalisis persamaan dan perbedaan dalam interpretasi maqāṣid mereka. Kedua ulama sepakat bahwa tujuan utama Syari'ah adalah untuk mewujudkan maṣlaḥah (kemaslahatan) dan mencegah mafsadah (kerusakan). Namun, pendekatan mereka berbeda dalam metodologi. Al-Shāṭibī lebih menekankan interpretasi tekstual tradisional, dengan fokus pada analisis linguistik sebagai kunci untuk memahami hukum. Sebaliknya, Ibn 'Ashūr memasukkan pemikiran sosiologis dan praktik adat ('urf),

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menganjurkan pendekatan yang lebih fleksibel yang dapat mengakomodasi realitas modern. Melalui analisis komparatif ini, penelitian ini memberikan wawasan berharga tentang bagaimana konsep *maqāṣid al-sharīʿah* dapat diterapkan untuk mengatasi tantangan hukum kontemporer. Penelitian ini berkontribusi pada diskusi yang sedang berlangsung mengenai reformasi hukum Islam, dengan menekankan pentingnya mengontekstualisasikan hukum Islam untuk memenuhi kebutuhan masyarakat yang terus berkembang.

**Kata Kunci:** *Maqāṣid al-Sharīʿah*, *Imām al-Shāṭibī*, *Ibn ʿAshūr*.

## INTRODUCTION

The study of *maqāṣid al-sharīʿah* is of vital importance for every Muslim, regardless of academic or intellectual background, as the provisions of Islamic law (*sharīʿah*) are inherently tied to the objectives (*maqāṣid*) behind them<sup>1</sup>. Understanding these objectives enables Muslims to implement the rulings of *sharīʿah* sincerely and promptly, reflecting true religious obedience. This knowledge is not only fundamental for individuals but also critical for scholars (*fuqahāʾ*) across various disciplines of Islamic studies, including *fiqh*, *uṣūl al-fiqh*, and legal studies more broadly. In the process of formulating legal rulings and providing explanations, scholars heavily rely on a profound understanding of *maqāṣid al-sharīʿah*, interpreting legal texts in light of the intended purposes of the law<sup>2</sup>.

For *muftīs* (Islamic legal scholars issuing legal opinions), comprehending *maqāṣid al-sharīʿah* is equally crucial in issuing fatwās that may vary depending on time, circumstances, and prevailing customs<sup>3</sup>. This understanding is essential for determining when and how legal opinions should adapt to new realities, ensuring the principles of *sharīʿah* can accommodate temporal and contextual variables<sup>4</sup>. Similarly, a *mujtahid*—a scholar capable of independent legal reasoning—requires an in-depth understanding of *maqāṣid al-sharīʿah*, as many rulings are developed in response to new circumstances, necessitating a dynamic approach to Islamic law rather than mere memorization of legal texts<sup>5</sup>. This necessitates an understanding of the boundaries and criteria for changing fatwās, as well as the extent to which the principles of *sharīʿah* account for temporal and contextual variables in both legal occurrences and the broader evaluative framework of Islamic jurisprudence (*fiqh*), particularly regarding the rationale (*ʿillah*) and wisdom (*hikmah*) of specific rulings.<sup>6</sup>

Traditionally, *maqāṣid al-sharīʿah* are categorized into three levels: essentials (*ḍarūrīyyāt*), needs (*ḥājīyyāt*), and enhancements (*taḥṣīnīyyāt*)<sup>7</sup>. Essentials refer to the fundamental elements

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<sup>1</sup> Samīḥ ʿAbd al-Wahhāb al-Jundī, *Aḥamīyyat al-Maqāṣid fī al-Sharīʿah al-Islāmiyyah wa-Atharuhā fī Fahm al-Naṣṣ wa-Istinbāṭ al-Hukm*, 1st ed. (Bayrūt: Muʾassasat al-Risālah al-Nāshirūn, 2013), 105–114.

<sup>2</sup> Aḥmad ʿAbd al-Qādir al-Wazzānī, *Al-Manhaj al-Maqāṣidī Wa-Atharuhu Fī al-Ijtihād al-Fiqhī al-Muʾaṣir* (Dimashq: Jamiʿat Dimashq, 2002), 2–5.

<sup>3</sup> Zulkifly Muda et al., “Comprehensive Fatwa Development Based on Maqasid Shariah: A Study in Brunei Darussalam,” *International Journal of Academic Research in Business and Social Sciences* 14, no. 4 (April 12, 2024): 866–75.

<sup>4</sup> Muḥammad ʿAsbar al-ʿĀṭi Muḥammad ʿAlī, *Al-Maqāṣid al-Sharīʿah Wa-Atharuhā Fī al-Fiqh al-Islāmī*, 1st ed. (Kairo: Dār al-Ḥadīth, 2007), 7–9.

<sup>5</sup> Nuʾmān Jughaym, *Turuq Al-Kashf ʿan Maqāṣid al-Sharīʿ*, 1st ed. (al-Urdun: Dār al-Nafāʾis, 2014), 14.

<sup>6</sup> ʿAlī, *Al-Maqāṣid al-Sharīʿah Wa-Atharuhā Fī al-Fiqh al-Islāmī*, 7.

<sup>7</sup> ʿAbd Allāh Yaḥyā al-Kamālī, *Maqāṣid al-Sharīʿah al-Islāmiyyah fī Ḍawʾ Fiqh al-Muwāzanāt*, 1st ed. (Beirut: Dār Ibn Ḥazm, 2013), 111.

necessary for the preservation of both religion and worldly life; their absence causes chaos, societal breakdown, and spiritual ruin. Needs, while not essential to survival, help alleviate hardship and prevent severe difficulty. Enhancements concern elements that promote virtuous conduct, refined customs, and moral excellence, elevating both individual and societal life<sup>8</sup>.

Although scholars generally agree on the five primary objectives (*maqāṣid ḍarūriyyah*)—the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-ʿaql*), progeny (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*)<sup>9</sup>—they differ in their ordering and reasoning<sup>10</sup>. This difference in perspective presents a gap in understanding how best to approach these foundational objectives in contemporary legal contexts. Scholars such as al-Imām al-Ṭāhir Ibn ʿĀshūr and al-Imām al-Shāṭibī both uphold this categorization but employ differing methodologies to establish and validate *maqāṣid al-sharīʿah*<sup>11</sup>.

This study aims to present a comparative analysis of the methodologies employed by al-Imām al-Shāṭibī and al-Imām al-Ṭāhir Ibn ʿĀshūr in formulating the *maqāṣid al-sharīʿah*. By examining their similarities and differences, this research seeks to contribute to the ongoing discourse on how Islamic law can be applied effectively in modern contexts. The study will investigate the gap between classical legal principles and the dynamic requirements of contemporary society, offering a comprehensive understanding of how *maqāṣid* can inform legal reform.

## RESEARCH METHOD

This research employs a qualitative comparative analysis method to examine the understanding and methodologies applied by Imām al-Shāṭibī and Imām Ṭāhir Ibn ʿĀshūr in interpreting the objectives of Sharīʿah (*maqāṣid al-sharīʿah*). This approach involves a thorough study of their seminal works, such as al-Shāṭibī's *al-Muwāfaqāt* and Ibn ʿĀshūr's writings on *maqāṣid*, and analyzes the concepts they introduced concerning *maṣlaḥah* (public benefit) and *mafsadah* (harm)<sup>12</sup>. The study focuses on the division of *maqāṣid* into three levels: *ḍarūriyyah*, *ḥājiyyah*, and *taḥsīniyyah*, exploring how both scholars approach the understanding of *maqāṣid* through various methodologies, such as *qiyās* (analogy), *istiqrāʾ* (inductive reasoning), and the analysis of social context (*ʿurf*) in Islamic jurisprudence. By using this comparative approach, the research aims to identify the similarities and differences between al-Shāṭibī and Ibn ʿĀshūr in interpreting and applying *maqāṣid* within the context of Sharīʿah, as well as to assess their

<sup>8</sup> Abū Ishāq al-Shāṭibī, *Al-Muwāfaqāt*, 2 (Bayrūt: Dār al-Maʿrifah, 2011), 324.

<sup>9</sup> Muḥammad Saʿīd Ramaḍān al-Būṭī, *Ḍawābiṭ al-Maṣlaḥah* (Bayrūt: Muʿassasat al-Risālah, 2009), 218.

<sup>10</sup> Khoirun Nasik, Ahmad Musadad, and Firman Setiawan, "Implementation of the Halal Ecosystem in Bangkalan Regency from a Maqashid Syariah Perspective | Ijtihad," *Ijtihad Jurnal Hukum Dan Ekonomi Islam* 18 (2024): 33–49, <https://doi.org/DOI: 10.21111/ijtihad.v18i2.12590>.

<sup>11</sup> al-Kamālī, *Maqāṣid al-Sharīʿah al-Islāmiyyah fī Ḍawʿ Fiqh al-Muwāzanāt*, 111.

<sup>12</sup> Agustini et al., *Metode Penelitian Kualitatif (Teori & Panduan Praktis Analisis Data Kualitatif)* (Sumatera Utara: PT. Mifandi Mandiri Digital, 2023), [https://www.researchgate.net/publication/380401514\\_Metode\\_Penelitian\\_Kualitatif\\_Teori\\_Panduan\\_Praktis\\_Analisis\\_Data\\_Kualitatif](https://www.researchgate.net/publication/380401514_Metode_Penelitian_Kualitatif_Teori_Panduan_Praktis_Analisis_Data_Kualitatif).

contributions to the development of Islamic legal theory in response to contemporary challenges<sup>13</sup>.

## DISCUSSION AND RESULTS

### 1. General Concept of *Maqāṣid al-Sharī'ah*

#### 1.1. Definition of *Maqāṣid al-Sharī'ah*

*Maqāṣid* is the plural form of *maqṣid*, derived from the root word *qaṣd*, which means purpose or intention. The term carries a variety of meanings, including the existence of a straight path<sup>14</sup>, as mentioned in the Qur'anic verse: "*Wa 'alā Allāhi qaṣd al-sabīl, wa minhā jā'ir...*" ("And upon Allah lies the direction of the [right] path, and some paths are deviant...")<sup>15</sup>. Another meaning of *qaṣd* is justice, as reflected in the ḥadīth: "*Al-qisṭu al-qisṭu tabluḡhu*," meaning "Uphold justice in word and deed," where justice is considered the middle ground between two extremes<sup>16</sup>. *Qaṣd* can also signify reliance or dependence upon something, as in the expression "*qaṣadtuhu*," meaning "I relied upon him."<sup>17</sup> Furthermore, it denotes heading toward something, as in "*qaṣadtū ilayhi*," meaning "I proceeded towards him."<sup>18</sup> According to Ibn Jinnī, the origin of the word *qaṣd* in Arabic includes the notion of intention and determination to pursue something, whether that purpose is right or wrong.<sup>19</sup> Lastly, *qaṣd* can refer to fracturing or breaking in the context of something being damaged, as in "*qaṣadtū al-ūd*," meaning "I broke the stick."<sup>20</sup>

The term *maqāṣid al-sharī'ah* has been defined in various ways by *fuqahā'*. One of the most significant perspectives comes from al-Imām al-Shāṭibī, although he does not offer an explicit, singular definition. As elaborated by al-Raysūnī in his work *Nazarīyyat al-Maqāṣid 'inda al-Imām al-Shāṭibī*, al-Shāṭibī refrains from assigning a rigid definition to *maqāṣid al-sharī'ah*. However, in his seminal work *Al-Muwāfaqāt*, he presents a comprehensive elaboration of the concept. According to al-Shāṭibī, *maqāṣid* can be understood through three principal aspects. First, it involves the inherent desire within the *sharī'ah* to impose obligations (*taklīf*)<sup>21</sup> upon individuals. Second, it encompasses the intended meanings found in legal texts (*nuṣuṣ*), which are interpreted within the

<sup>13</sup> Frank Esser and Rens Vliegthart, "Comparative Research Methods," in *The International Encyclopedia of Communication Research Methods*, ed. Jörg Matthes, Christine S. Davis, and Robert F. Potter, 1st ed. (Wiley, 2017), 1–22, <https://doi.org/10.1002/9781118901731.iecrm0035>.

<sup>14</sup> Ibn Manẓūr, *Lisān Al-'Arab*, vol. 3 (Bayrūt: Dār Ṣādir, 2016), 353.

<sup>15</sup> *Al-Qur'an al-Karīm*, n.d.

<sup>16</sup> Ibn Manẓūr, *Lisān Al-'Arab*, 3:353.

<sup>17</sup> Ibn Manẓūr, 3:353.

<sup>18</sup> Ibn Manẓūr, 3:353.

<sup>19</sup> Ibn Manẓūr, 3:353.

<sup>20</sup> Aḥmad ibn Ḥusayn ibn Zakarīyā Ibn Fāris, *Mu'jam Maqāyīs Al-Lughah*, vol. 5 (Bayrūt: Dār al-Fikr, 2007), 95.

<sup>21</sup> Ismā'īl al-Ḥasanī, *Nazarīyyat Al-Maqāṣid 'inda al-Imām Muḥammad al-Ṭābir Ibn 'Ashūr* (Al-Wilāyāt al-Muttaḥidah al-Amrīkiyyah: Al-Ma'had al-Ālamī li-l-Fikr al-Islāmī, 1995), 393.

framework of *uṣūl al-fiqh*<sup>22</sup>. Finally, it refers to the objectives tied to sharī'ah rulings, particularly in their effort to bring about public benefit (*maṣlaḥah*) and to repel harm (*mafsadah*)<sup>23</sup>.

Thus, *maqāṣid al-sharī'ah*, according to al-Shāṭibī, encompass all meanings associated with the *maṣāliḥ* (benefits) sought by Islamic law, which are realized when one adheres to the commands and prohibitions laid down by the *sharī'ah*<sup>24</sup>.

In contrast, al-Imām al-Ṭāhir Ibn 'Āshūr provides a distinct viewpoint on *maqāṣid al-sharī'ah*, particularly within the context of legislation. According to him, *maqāṣid al-tashrī'* (the legislative objectives) refer to the meanings and purposes considered by the *sharī'ah* throughout the entire legislative process or within most of its rulings. This perspective suggests that *maqāṣid al-sharī'ah* are not confined to specific categories of legal rulings but rather encompass a wide range of legislative dimensions<sup>25</sup>.

Moreover, Ibn 'Āshūr distinguishes *maqāṣid al-tashrī'* *al-khaṣṣah* (specific legislative objectives), which focus on the particular aims of the *sharī'ah* intended for the welfare of humankind. These include the effort to safeguard individuals' interests in their personal lives while ensuring that such pursuits do not compromise the universal objectives of the *sharī'ah*, whether due to negligence or the influence of desires and falsehoods<sup>26</sup>.

In line with the thought of al-Shāṭibī and Ibn 'Āshūr, other scholars have also contributed valuable definitions to enrich the understanding of *maqāṣid al-sharī'ah*. 'Allāl al-Fāṣī defines *maqāṣid* as the objectives or hidden wisdoms ordained by the *sharī'ah* in every legal ruling<sup>27</sup>. Al-Raysūnī describes *maqāṣid* as the goals established by the *sharī'ah* for the fulfillment of human welfare<sup>28</sup>. Al-Ḥasanī states that *maqāṣid* represent the objectives of benefit intended by legal rulings, encompassing the meanings found within revelation<sup>29</sup>. Finally, al-Yūbī offers a broader definition, stating that *maqāṣid* are the meanings and purposes considered by the *sharī'ah* in both its general and specific legislative frameworks, with the overarching aim of ensuring the well-being of humanity<sup>30</sup>.

<sup>22</sup> al-Ḥasanī, 393.

<sup>23</sup> al-Ḥasanī, 393.

<sup>24</sup> al-Ḥasanī, 393.

<sup>25</sup> Muḥammad al-Ṭāhir Ibn 'Āshūr, *Maqāṣid Al-Sharī'ah Li-Ibn 'Āshūr* (Qaṭar: Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyyah, 2004), 51.

<sup>26</sup> Ibn 'Āshūr, 51.

<sup>27</sup> Ilal Al-Fasy, *Maqashidus Syariah Al-Islamiyyah Wa Makarimuba*, 4th ed. (Dar Al-Gharb Al-Islamy, n.d.), 7.

<sup>28</sup> Aḥmad al-Raysūnī, *Naẓariyyat Al-Maqāṣid 'inda al-Imām al-Shāṭibī* (Riyāḍ: Al-Dār al-'Ālamīyah li-l-Kitāb al-Islāmī, 1992), 19.

<sup>29</sup> Ismā'īl al-Ḥasanī, *Naẓariyyat Al-Maqāṣid 'inda al-Imām Muḥammad al-Ṭāhir Ibn 'Āshūr* (Al-Wilāyāt al-Muttaḥidah al-Amṛīkiyyah: Al-Ma'had al-'Ālamī li-l-Fikr al-Islāmī, 1995), 115.

<sup>30</sup> Muḥammad Sa'd ibn Aḥmad ibn Mas'ūd al-Yūbī, *Maqāṣid Al-Sharī'ah al-Islāmiyyah Wa-'Alāqatubā Bi-l-Adillāh al-Shar'īyyah*, 1st ed. (al-Mamlakah al-'Arabiyyah al-Su'ūdiyyah: Dār al-Hijrah, 2008), 37.

## 1.2. Classifications of Maqāṣid al-Sharī‘ah

*Maqāṣid al-sharī‘ah* can be classified into various categories based on different considerations. One prominent method of classification is based on their origin. In this context, *maqāṣid al-sharī‘ah* are divided into *maqāṣid al-sharī‘* (objectives of the Lawgiver) and *maqāṣid al-mukallaf* (objectives of the legally accountable individual)<sup>31</sup>.

*Maqāṣid al-sharī‘* refer to the purposes intended by Allah in legislating the *sharī‘ah*, which generally aim to promote benefit (*maṣlaḥah*) and prevent harm (*mafsadah*) in both worldly life and the Hereafter. In contrast, *maqāṣid al-mukallaf* represent the individual objectives of each person in their actions—whether in belief, speech, or conduct<sup>32</sup>. These objectives serve as a criterion to determine the validity or invalidity of an action and whether it aligns with or contradicts the principles of the *sharī‘ah*<sup>33</sup>.

Additionally, *maqāṣid* can also be categorized based on the level of certainty with which they can be established. Some *maqāṣid al-sharī‘ah* fall into the category of *maqāṣid qat‘iyyah*—those which are definitively proven through clear and unequivocal textual evidence<sup>34</sup>. An example of this is the obligation of ḥajj for those capable of performing it, as stated in the Qur‘ān, Sūrat Āl ‘Imrān (3:97): “*Wa li-llāhi ‘alā al-nāsi ḥijju al-bayti manīṣṭa‘a ilayhi sabīlā*” (“And [due] to Allah from the people is a pilgrimage to the House—for whoever is able to find thereto a way.”)

There are also *maqāṣid ḥājiyyah*, which are objectives that are presumed to be achievable within a certain context or time frame. An example offered by Ibn ‘Āshūr is the use of guard dogs in urban settings during specific historical periods<sup>35</sup>. Finally, there are *maqāṣid wahmiyyah*, or illusory objectives—goals that appear beneficial on the surface, but upon closer examination may actually lead to harm<sup>36</sup>.

Based on their degree of necessity within the framework of the *sharī‘ah*, *maqāṣid al-sharī‘ah* can further be classified into three hierarchical categories; *Maqāṣid ḍarūriyyah*: These are essential objectives that are absolutely necessary for the preservation of religion and worldly affairs. The absence of these objectives leads to significant corruption and collapse in both the temporal world and the Hereafter. If these are not fulfilled, the social order disintegrates and salvation in the Hereafter is jeopardized<sup>37</sup>. *Maqāṣid ḥājiyyah*: These are complementary objectives that serve to remove hardship and ease difficulty for Muslims. Although their absence does not cause total breakdown as in the case of

<sup>31</sup> Nūr al-Dīn Mukhtār al-Khādimī, *Maqāṣid Al-Tashrī‘ al-Islāmī: Maḥmūdā, Ḍarūratuhā, Wa-Ḍawābiṭuhā* (Riyāḍ: Majallat al-‘Adl, 2000), 5.

<sup>32</sup> Nūr al-Dīn Mukhtār al-Khādimī, *Maqāṣid Al-Tashrī‘ al-Islāmī: Maḥmūdā, Ḍarūratuhā, Wa-Ḍawābiṭuhā* (Riyāḍ: Majallat al-‘Adl, 2000), 5.

<sup>33</sup> al-Badawī, *Maqāṣid Al-Sharī‘ah ‘inda Ibn Taymiyyah* (al-Urdun: Dār al-Nafā’is liṭ-Ṭibā‘ah wa al-Nashr, 2005), 104.

<sup>34</sup> Ibn ‘Āshūr, *Maqāṣid Al-Sharī‘ah Li-Ibn ‘Āshūr*, 134.

<sup>35</sup> Ibn ‘Āshūr, 229.

<sup>36</sup> Ibn ‘Āshūr, 229.

<sup>37</sup> al-Shāṭibī, *Al-Muwāfaqāt*, 17–22.

*maqāṣid ḍarūriyyah*, it still results in considerable difficulty and discomfort<sup>38</sup>. Maqāṣid taḥṣīniyyah: These pertain to improvements and refinements in the lives of Muslims, such as the adoption of virtuous customs, noble character, and the avoidance of behaviors that are deemed inappropriate by reason and moral standards<sup>39</sup>.

Thus, the various classifications of *maqāṣid al-sharī'ah* offer a comprehensive framework for understanding the overarching objectives intended by Islamic law. This layered and nuanced approach helps clarify the *sharī'ah*'s aims in guiding human behavior and establishing a just, beneficial legal and ethical system.

## 2. Maqāṣid al-Sharī'ah According to Imām al-Shāṭibī

### 2.1. Biography of Imām al-Shāṭibī

Imām al-Shāṭibī was Ibrāhīm ibn Mūsā ibn Muḥammad, widely known by the name Abū Ishāq al-Lakhmī al-Gharnāṭī al-Shāṭibī<sup>40</sup>. The epithet “al-Shāṭibī” is derived from his family’s place of origin, Shāṭibah, a town located in Andalusia, present-day Spain. Following the fall of Shāṭibah to Christian forces, his family relocated to Granada<sup>41</sup>. Although he was born in Granada, the exact year of his birth is uncertain. Some scholars estimate his birth around 730 AH, based on his known association with the minister Ibn Zamrak, who was born in 733 AH<sup>42</sup>. Others argue he was born before 720 AH, noting that one of his principal teachers, Abū Ja‘far Aḥmad ibn al-Zayyāt, passed away in 728 AH<sup>43</sup>.

Imām al-Shāṭibī lived his entire life in Granada during the 8th century Hijrī, under the rule of the Banū al-Aḥmar dynasty. This period was marked by significant political instability and persistent efforts by Christian forces to eradicate Islam from Andalusia. Amidst these challenges, Imām al-Shāṭibī emerged as a leading reformist thinker, advocating a return to the Qur’ān, the Sunnah, and the exemplary model of the *salaf al-ṣāliḥīn* (righteous predecessors)<sup>44</sup>.

Among his most notable teachers in Granada were Ibn al-Fakhār al-Bīrī, who taught him the seven canonical modes (*qirā’āt*) of Qur’anic recitation through seven complete readings. He also studied under Abū Ja‘far al-Shuqūrī, a scholar of grammar and jurisprudence, as well as Abū Sa‘īd ibn Labb, the Grand Muftī of Granada known for his eloquence and pedagogy. Al-Shāṭibī was also connected with scholars from

<sup>38</sup> al-Shāṭibī, 17–22.

<sup>39</sup> al-Shāṭibī, 17–22.

<sup>40</sup> al-Tanbaktī, *Nayl Al-Ibtihāj* (Lībiyā: Dār al-Kātib, 2008), 46.

<sup>41</sup> Maḥmūd ‘Abd al-Hādī Fā’ūr, *Al-Maqāṣid ‘inda al-Imām al-Shāṭibī: Dirasah Uṣūliyyah Fiḥiqhiyyah*, 1st ed. (Lubnān: Bisyūnī liṭ-Ṭibā‘ah, 1427), 12.

<sup>42</sup> Ḥammādī al-‘Abīdī, *Al-Shāṭibī Wa-Maqāṣid al-Sharī'ah*, 1st ed. (Bayrūt: Dār Qutaybah, 1412), 12.

<sup>43</sup> Ibrāhīm bin Mūsā al-Shāṭibī. and Muḥammad Abū al-Ajḥān, *Tal-Iḥdāt Wa-al-Inṣbādāt* (Bayrūt: Mu’assasat al-Risālah, 2010), 17.

<sup>44</sup> Muḥammad al-Fāḍil Ibn ‘Āshūr, *‘Ālām Al-Fikr al-Islāmī* (Bayrūt: Dār al-Salām li-l-Nashr wa al-Tawzī‘, 2020), 72.

outside Granada, including Abū ‘Abd Allāh al-Sharīf al-Tilmisānī—author of *Miftāḥ al-Wuṣūl ilā Binā’ al-Furū’ ‘alā al-Uṣūl*—and the linguistic experts Abū ‘Abd Allāh al-Maqrī and Abū al-Qāsim al-Sabtī Ibn Marūq al-Khaṭīb<sup>45</sup>. Imām Abū Ishāq al-Shāṭibī passed away on a Tuesday in the month of Sha‘bān, 790 AH<sup>46</sup>, in Granada<sup>47</sup>.

He is known for several significant scholarly contributions, both published and unpublished. Among his published works are<sup>48</sup>; *Al-Ifādāt wa al-Inshādāt* – a treatise on literary instruction and poetic composition. *Kitāb al-I’tiṣām fī Ahl al-Bid‘ah wa al-Ḍalālāt* – a discourse on innovation (*bid‘ah*) and deviation within Islamic teachings. *Kitāb al-Muwāfaqāt fī Uṣūl al-Fiqh* – his most renowned work, dealing with the foundational principles of *uṣūl al-fiqh*. *Kitāb al-Maqāṣid al-Shāfiyyah fī Sharḥ Khulāṣah al-Kāfiyyah* – a detailed commentary on *Alfiyyah Ibn Malīk*, published in ten volumes. His unpublished works include<sup>49</sup>; A comprehensive commentary on *al-Khulāṣah*, spanning four volumes. *Kitāb al-Majālis* – a commentary on the *Kitāb al-Buyū’* section of *Ṣaḥīḥ al-Bukhārī*. *‘Unwān al-Ittifāq fī ‘Ilm al-Ishtiqaq* – a treatise on etymology, reportedly lost during his lifetime, but known to have had considerable scholarly impact. *Kitāb Uṣūl al-Naḥw* – a foundational work on Arabic grammar, which is also believed to have been lost.

## 2.2. Maqāṣid al-Sharī‘ah According to Imām al-Shāṭibī

Imām al-Shāṭibī does not provide a specific and formal definition of *maqāṣid al-sharī‘ah*, as explained by al-Raysūnī in his work *Nazarīyyat al-Maqāṣid ‘inda al-Imām al-Shāṭibī*. However, in his seminal book *Al-Muwāfaqāt*, Imām al-Shāṭibī outlines *maqāṣid al-sharī‘ah* by delineating them through the following key dimensions: first, the objective behind *taklīf* (legal obligation); second, the intended meanings of the *sharī‘ah* texts within the framework of *uṣūl al-fiqh*; and third, the purpose of the *sharī‘ah* in issuing legal rulings—namely, to promote benefit (*maṣlaḥah*) and to prevent harm (*mafsadah*). Thus, Imām al-Shāṭibī concludes that *maqāṣid al-sharī‘ah* encompass all meanings of benefit intended by the establishment of legal rulings and those meanings derived from the textual provisions of the *sharī‘ah*, as realized through the fulfillment of divine commands and prohibitions by the *mukallaf* (legally accountable individual)<sup>50</sup>.

In *Al-Muwāfaqāt*, Imām al-Shāṭibī classifies *maqāṣid al-sharī‘ah* into two major categories; The objectives of the *shārī‘* (Lawgiver) in legislating laws and The objectives of the *mukallaf* in performing their actions. The objectives of the *shārī‘* are further divided into four categories; First, to initiate or establish the law. Second, to facilitate

<sup>45</sup> al-Raysūnī, *Nazarīyyat Al-Maqāṣid ‘inda al-Imām al-Shāṭibī*, 109.

<sup>46</sup> al-Tanbakti, *Nayl Al-Ibtihāj*, 46.

<sup>47</sup> Khayr al-Dīn bin Mahmūd bin Muḥammad bin ‘Alī bin Fāris al-Zarkalī, *Al-A‘lām Li-l-Zarkalī*, vol. 1 (Lubnān: Dār al-‘Ilm li-l-Malā‘īn, 2002), 71.

<sup>48</sup> al-Tanbakti, *Nayl Al-Ibtihāj*, 46.

<sup>49</sup> al-Tanbakti, 46.

<sup>50</sup> al-Ḥasanī, *Nazarīyyat Al-Maqāṣid ‘inda al-Imām Muḥammad al-Ṭābir Ibn ‘Ashūr*, 115.



understanding of the law. Third, to obligate the law upon the individuals. Fourth, to incorporate the *mukallaḥ* under the binding scope of the law<sup>51</sup>.

The relationship between the first and fourth categories reflects that when the *sharī'* (Allah) legislates obligations upon His servants, the initial aim is to secure their benefit in both this life and the Hereafter. In order for them to fulfill these obligations, the *sharī'* intends that the rulings be comprehensible to their intellects and executable by their physical capacities. Once the rulings are aligned with human comprehension and ability, the *sharī'* also intends that these obligations be practically implemented in everyday life as acts of devotion to Allah (*Subḥānahu wa Ta'ālā*)<sup>52</sup>.

The general objective behind divine legislation is to ensure the benefit of the servants in both worlds. This conclusion arises through contemplation of the inherent purposes behind *sharī'ah* rulings. According to Imām al-Shāṭibī, the objectives of the *sharī'ah* can be grouped into three levels<sup>53</sup>:

- 1) Maqāṣid ḍarūriyyah (essential objectives): These are necessary for human existence in both worldly and spiritual dimensions. If they are absent, society descends into corruption and chaos, and individuals face spiritual ruin and loss in the Hereafter. These objectives aim to secure benefit and prevent harm, and they apply across acts of worship (*'ibādāt*), customs (*'ādāt*), transactions (*mu'āmalāt*), and penal codes (*'uqūbāt*). The five well-established *maqāṣid ḍarūriyyah* include the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-nafs*), lineage (*ḥifẓ al-nasl*), property (*ḥifẓ al-māl*), and intellect (*ḥifẓ al-'aql*)<sup>54</sup>.
- 2) Maqāṣid ḥājiyyah (complementary or necessary needs): These objectives aim to alleviate hardship and provide ease for the *mukallaḥ*. While their absence does not result in existential collapse, it may lead to significant difficulty and suffering. These objectives are present in all categories of legal rulings, including worship, customs, transactions, and criminal law.
- 3) Maqāṣid taḥsīniyyah (enhancements or refinements): These relate to the cultivation of virtuous character, the adoption of commendable customs, and the avoidance of conduct that is deemed improper by sound reason and noble values. This category of objectives also permeates the various domains of *sharī'ah*, such as acts of worship, societal norms, financial transactions, and punitive measures.

Each of these levels of *maqāṣid* is supported by supplementary principles that help guide the realization of these goals in the most complete and optimal manner. However,

<sup>51</sup> al-Shāṭibī, *Al-Muwāfaqāt*, 393–410.

<sup>52</sup> al-Shāṭibī, 393–410.

<sup>53</sup> al-Shāṭibī, 393–410.

<sup>54</sup> Muhammad Agus Setiawan, Sheema Haseena Armina, and Syahrin Novika, "The Typology of Islamic Social Entrepreneurship: Principles, and Characteristic from a Maqashid Shariah Perspective," *Ijtihad Jurnal Hukum Dan Ekonomi Islam* 18 (2024): 21–32, <https://doi.org/DOI:10.21111/ijtihad.v18i2.12362>.

the absence of these supporting principles does not necessarily nullify the primary objectives<sup>55</sup>.

### 2.3. Methods of Establishing Maqāṣid al-Sharī‘ah According to Imām al-Shāṭibī

#### 2.3.1 Understanding *Maqāṣid* Through Arabic Linguistic Principles

Allah revealed the Qur’ān in the Arabic language in its general sense; therefore, its understanding must follow this linguistic framework. Anyone who wishes to comprehend the Qur’ān must do so through the Arabic language, as there is no other means to understand it. As stated by al-Shāṭibī in his book, “Indeed, this noble *sharī‘ah* is Arabic, and there is no room for a language other than Arabic.” *Maqāṣid* can be understood through the Arabic language, and thus, no one should speak about *sharī‘ah* except through what is expressed in Arabic or in a manner consistent with Arabic usage. Therefore, a *mujtahid* must follow a method of reasoning that aligns with the way Arabs convey meaning and intention in their modes of expression—both specific and general—according to the rules of designation (*wad‘*) rather than relying purely on rational speculation<sup>56</sup>.

#### 2.3.2 Clear and Precise Commands and Prohibitions

Commands and prohibitions in the *sharī‘ah* must be clear and delivered with their primary objective. Such directives explicitly convey the intended meaning and are agreed upon by scholars of knowledge. This forms a foundation in understanding the intent of *sharī‘ah* through its commands and prohibitions, which is accepted by scholars regardless of whether they adopt or reject the method of *qiyās* (analogical reasoning). Establishing an act after it is commanded is the objective of the command itself. Likewise, refraining from an act is the objective of the prohibition. Therefore, failing to perform a commanded act or committing a prohibited one contradicts the intent of the *sharī‘ah*. This is recognized by scholars who analyze commands and prohibitions without necessarily considering their underlying reasons. Moreover, these commands and prohibitions must be bound by clear wording that does not carry meanings other than what is intended, in order to avoid incorrect interpretations. As in the statement of Allah (*Ta‘alā*) in Sūrat al-Jumu‘ah [62:9]: “O you who believe! When the call is proclaimed for the prayer on the day of Friday, then hasten to the remembrance of Allah and leave off trade. That is better for you, if you but knew.” The prohibition of trade in this verse is not a primary prohibition from the outset, but rather a secondary prohibition, i.e., a prohibition of the action within a particular context, not a prohibition of trade itself<sup>57</sup>.

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<sup>55</sup> al-Shāṭibī, *Al-Muwāfaqāt*, 393–410.

<sup>56</sup> al-Raysūnī, *Naẓariyyat Al-Maqāṣid ‘inda al-Imām al-Shāṭibī*, 295.

<sup>57</sup> al-Shāṭibī, *Al-Muwāfaqāt*, 298.

### 2.3.3 Considering the Rationale Behind Commands and Prohibitions

This method is commonly referred to as *qiyās* or textual rationalization. The rationale (*'illah*) behind a command or prohibition may be known or unknown. If it is known, then the command or prohibition is understood and followed based on that rationale. For instance, marriage is legislated for the purpose of reproduction, trade for benefiting from the exchanged goods, and punishment for deterrence. These rationales are identified through the principles found in *uṣūl al-fiqh*. However, if the rationale is not known, then one must exercise caution in determining the intent of the *sharī'ah* in a given matter<sup>58</sup>.

### 2.3.4 Considering Secondary (Ṭabī'iyah) Objectives

Once it is recognized that the legislation of *sharī'ah*—whether related to worship (*'ibādāt*) or social dealings (*mu'āmalāt*)—contains both primary and secondary objectives, it follows that anything supporting the primary objectives and their legitimate sources is included among the objectives intended by the *sharī'ah*. Conversely, anything that undermines or weakens these primary objectives is intended to be avoided. An example is marriage. The primary objective of legislating marriage is reproduction, while its secondary objectives include providing companionship, mutual support in worldly and spiritual affairs, lawful enjoyment, and others. Some of these are explicitly stated, while others are known through supporting evidences and understood through the established methods<sup>59</sup>.

### 2.3.5 The Silence of the Sharī'ah Concerning the Cause or Validity of an Act When a Sufficient Meaning Exists

There are two types of silence in the *sharī'ah* regarding rulings; Silence due to the absence of urgency or necessity. This is seen in events that occurred after the death of the Prophet Muḥammad ﷺ, such as the compilation of the *muṣṣaḥaf*, the documentation of knowledge, and labor regulations. These events did not exist during the Prophet's time, but afterward, scholars had to evaluate them in light of principles already established in the *sharī'ah*. Silence because the underlying rationale already exists, yet no additional legal ruling was issued upon the emergence of a new situation. This type of silence indicates that the *sharī'ah* affirms not to add or subtract from what was legislated during that period, and any addition would be considered *bid'ah* (innovation). This method is specific to the field of worship<sup>60</sup>.

### 2.3.6 Istiqrā' (Inductive Reasoning)

Although Imām al-Shāṭibī does not explicitly list this method among the six primary approaches to identifying *maqāṣid al-sharī'ah*, he frequently references *istiqrā'* and

<sup>58</sup> Abū Ishāq al-Shāṭibī, *Al-Muwāfaqāt*, 2 (Bayrūt: Dār al-Ma'rifah, 2011), 135–139.

<sup>59</sup> Abū Ishāq al-Shāṭibī, *Al-Muwāfaqāt*, 2 (Bayrūt: Dār al-Ma'rifah, 2011), 135–139.

<sup>60</sup> al-Shāṭibī, 157.

acknowledges its value and importance. *Istiqra'* is a powerful and essential method for understanding and establishing *maqāṣid al-shari'ah*. The principles of *fiqh* must be definitive (*qaṭ'i*), meaning they are based not on a single piece of evidence, but on a collection of evidences that converge upon a unified meaning which leads to certainty<sup>61</sup>.

### 3. *Maqāṣid al-Shari'ah* According to Imām Ṭāhir Ibn 'Āshūr

#### 3.1. Biography of Imām Ṭāhir Ibn 'Āshūr

His full name is Muḥammad al-Ṭāhir ibn Muḥammad ibn Muḥammad al-Ṭāhir ibn Muḥammad ibn Muḥammad al-Shādhilī ibn 'Abd al-Qādir ibn Muḥammad ibn 'Āshūr. His family belonged to the aristocratic lineage of Andalusian origin. His father, after fleeing from religious persecution and forced conversion to Christianity in Andalusia, migrated to Tunisia and settled there as a pious and practicing scholar<sup>62</sup>. Muḥammad al-Ṭāhir ibn Muḥammad ibn Muḥammad al-Ṭāhir Ibn 'Āshūr was born in the city of Salé, Morocco, at the residence of his maternal grandfather in the region of al-Marsā (a suburb of Tunis), in the year 1296 AH / 1879 CE, two years before the arrival of the French colonial forces.

He was raised in a scholarly family with a long-standing tradition of scholarship, closely linked to the intellectual heritage of Andalusia. This family held prestigious positions in the domains of judiciary, *fatwā*, and education. From an early age, he memorized the Qur'ān and studied the rules of the Arabic language as well as the fundamentals of the Islamic religion.

Imām Ibn 'Āshūr received his education under the guidance of the foremost scholars of his era, known for their vast knowledge in religious sciences, Arabic grammar, rhetoric, and pedagogical skill. Among his prominent teachers were Shaykh Muḥammad al-Najjār, Shaykh Sālim Būḥājib, Shaykh Muḥammad al-Nakhli, Shaykh Muḥammad ibn Yūsuf, Shaykh 'Umar Ibn 'Āshūr, and Shaykh Ṣāliḥ al-Sharīf — *rahimahum Allāh jami'an*.

In addition, he studied *fiqh*, logic, theology (*kalām*), and philosophy under Professor 'Umar ibn Shaykh Māhir. Shaykh Muḥammad al-Najjār was a distinguished scholar proficient in various disciplines taught at the al-Zaytūnah Mosque. Imām Muḥammad al-Ṭāhir Ibn 'Āshūr passed away on 13 Rajab 1393 AH, corresponding to 12 August 1973 CE, in the city of al-Marsā, the capital of Tunisia. He was buried in the al-Jalāz Cemetery<sup>63</sup>.

Imām Ṭāhir Ibn 'Āshūr authored numerous significant works in the fields of Arabic language, literature, Islamic thought, and religious sciences, reflecting both the depth of his scholarship and the reformist nature of his intellectual perspective. Among his most renowned works are<sup>64</sup>; *Al-Taḥrīr wa al-Tanwīr* – one of the primary references

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<sup>61</sup> Aḥmad al-Raysūnī, *Nazariyyat Al-Maqāṣid 'inda al-Imām al-Shāṭibī* (Riyād: Al-Dār al-'Ālamīyah li-l-Kitāb al-Islāmī, 1992), 306–308.

<sup>62</sup> Islām On Line, *Iṣlāḥiyyūn Wa-Mufakkirūn*, n.d.

<sup>63</sup> "Majallat Al-Kalimah al-Ṭayyibah" 1, no. 12 (H 1417).

<sup>64</sup> "Majallat Al-Kalimah al-Ṭayyibah."

for understanding Qur'ānic exegesis (*tafsīr*). Maqāṣid al-Sharī'ah al-Islāmiyyah – a foundational work on *uṣūl al-fiqh* (principles of Islamic jurisprudence). Al-Waqf wa Āthāruhu fī al-Islām – a treatise on the institution of *waqf* and its impact in Islam. Al-Tawḍīḥ wa al-Taṣḥīḥ fī Uṣūl al-Fiqh – a work clarifying and correcting concepts in *uṣūl al-fiqh*. Uṣūl al-Taqaḍḍum fī al-Islām – a discussion on the principles of progress in Islam. Ḥāshiyat al-Tanqīḥ li al-Qarāfī – a commentary on al-Qarāfī's contributions to *uṣūl al-fiqh*. Uṣūl al-'Ilm al-Ijtimā'ī fī al-Islām – a study on the foundations of social sciences in Islam. Kashf al-Maghṭā fī Ḥadīth al-Muwaṭṭa' – an explanation of *ḥadīth* in Imām Mālik's *al-Muwaṭṭa'*. Mujaz al-Balāghah – a concise work on Arabic rhetoric (*'ilm al-balāghah*).

### 3.2. The Maqāṣid al-Sharī'ah According to Imām Ṭāhir Ibn 'Āshūr

*Maqāṣid al-Tashrī' al-'Āmmah* (the general objectives of legislation) are the meanings and wisdoms considered by the Lawgiver in all or most circumstances of legislation, and they are not confined to a specific category of rulings in the Sharī'ah. As for *Maqāṣid al-Tashrī' al-Khaṣṣah* (the particular objectives of legislation), these are the methods intended by the Lawgiver to achieve beneficial ends for humankind or to safeguard their public interests in their personal actions, so that their efforts in pursuing personal interests do not annul the intended objectives of realizing collective welfare, whether unintentionally or due to desires and falsehood. In this regard, all wisdoms considered in the legislation of human behavior fall under this meaning<sup>65</sup>.

Imām Ṭāhir Ibn 'Āshūr divides these objectives of the Sharī'ah into two types. The first type is the *ma'nā ḥaqīqī* (true meaning), which denotes that the objectives of the Sharī'ah can be comprehended by sound intellect as matters either aligning with or contrary to public welfare—that is, to bring about general benefit and repel general harm<sup>66</sup>. The second type is the *ma'nā 'urfī* (customary or experiential meaning), which arises from human experience, reflecting the compatibility of the objectives of the Sharī'ah with the well-being of society. Furthermore, Imām Ṭāhir Ibn 'Āshūr stipulates several conditions for these objectives: permanence (*thubūt*), clarity (*zuhūr*), consistency (*indibāt*), and coherence (*iṭrād*)<sup>67</sup>.

The Islamic Sharī'ah is not founded upon imaginary or fictitious principles. Such a foundation is rejected in Islamic legislation, except in cases of necessity, where it may be employed to achieve the objectives of the Sharī'ah. Therefore, it becomes a means for da'wah (propagation) and exhortation<sup>68</sup>.

One of the general objectives of legislation is to preserve the system of the *ummah* and its continuity through the dominant goodness inherent in it, which is the essential nature of humankind. This objective can be inferred from the study of the sources of

<sup>65</sup> Ibn 'Āshūr, *Maqāṣid Al-Sharī'ah Li-Ibn 'Āshūr*, 146.

<sup>66</sup> Ibn 'Āshūr, 83.

<sup>67</sup> Ibn 'Āshūr, 84.

<sup>68</sup> Ibn 'Āshūr, 90.

Islamic law. This goodness includes the perfection of intellect, action, and all matters within the worldly realm inhabited by this *ummah*<sup>69</sup>.

These are categorized into three levels: *Maqāṣid ḍarūriyyah* (essential objectives) These are absolutely essential interests, without which the system cannot function properly and will inevitably descend into corruption and destruction. *Maqāṣid ḥājiyyah* (complementary or necessary needs): These are important for the community to attain benefit and organize their affairs effectively. While their absence does not lead to ruin, it does cause hardship and burden. *Maqāṣid taḥsīniyyah* (enhancements or refinements): These pertain to the perfection of the condition of the *ummah* in its system, allowing them to live peacefully and securely<sup>70</sup>.

### 3.3. Methodology of Maqāṣid al-Sharī‘ah According to Imām Ṭāhir Ibn ‘Āshūr

Imām Ṭāhir Ibn ‘Āshūr established several methodologies for determining the *maqāṣid* of the Sharī‘ah by referring to the views of the great scholars in this field, in a balanced manner and avoiding fanaticism toward any particular view. There are three primary methods for establishing the *maqāṣid* of the Sharī‘ah:

#### 3.3.1 Inductive Analysis (*Istiqrā’*) of the Sharī‘ah Through Its Rulings

Imām Ibn ‘Āshūr considers this among the most important methods in identifying the *maqāṣid* of the Sharī‘ah. He divides this method into two categories: First Type: Inductive analysis of rulings whose causes are known through causal reasoning. This involves gathering numerous similar causes that indicate the same wisdom, which constitutes a *maqṣad* of the Sharī‘ah. For example, the prohibition of selling *tamr* (dried dates) for *rabi’* (fresh dates), as reported in the authentic hadith in which the Prophet ﷺ was asked about such a transaction. He responded, “Does *rabi’* decrease when it dries?” They said yes. He said, “Then do not [sell it that way]!” (Ṣaḥīḥ Muslim). The cause of prohibition here is the ignorance regarding the amount of either of the exchanged goods. This reasoning is inferred through indication. Similarly, the prohibition of *jaẓāf* transactions (transactions with unknown quantity or price) is based on ignorance about one of the two items being exchanged, a cause also derived through logical analysis. Furthermore, the permissibility of *gharar* (uncertain) transactions is grounded in the prohibition of deceit among Muslims, as conveyed in the Prophet’s ﷺ sayings. These instances—the prohibition of selling *tamr* for *rabi’*, *jaẓāf* sales, and the prohibition of deceit—all converge on one goal: eliminating uncertainty (*gharar*) in transactions. Hence, any transaction involving risk or uncertainty in price, item, or payment timing is invalid. Another example includes the prohibition of proposing marriage to a woman already

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<sup>69</sup> Ibn ‘Āshūr, 103.

<sup>70</sup> al-Shaykh Muḥammad al-Ḥabīb Ibn al-Khūjah, *Maqāṣid Al-Sharī‘ah al-Islāmiyyah Li-Shaykh al-Islām al-Imām al-Akbar Muḥammad al-Ṭāhir Ibn ‘Āshūr*, vol. 3 (Bayrūt: Dār al-Gharb al-Islāmī, 2008), 230–243.

engaged to another, and the prohibition of bidding over another's offer. The purpose of these prohibitions is to maintain brotherhood and unity among Muslims<sup>71</sup>.

Second Type: Inductive analysis of legal evidences that share the same cause, leading to the certainty that the cause is an intended *maqṣad* by the Lawgiver. For example, the prohibition of selling food before taking possession of it aims at ensuring its circulation in the market. The prohibition of selling food through deferred payment (*naṣī'ah*) seeks to avoid reducing market supply. The hadith of the Prophet ﷺ: "Whoever hoards food is a sinner" (Ṣaḥīḥ Muslim) reflects the cause of reducing food availability. By aggregating these rulings and their causes, it becomes clear that a *maqṣad* of the Sharī'ah is to facilitate the circulation of food and ease of consumption<sup>72</sup>.

### 3.3.2 Clear Qur'ānic Evidences with Weak Possibility of Alternative Interpretation

These are Qur'ānic evidences that indicate clear meanings, with very weak possibility for divergent interpretation from standard Arabic usage. For instance, the verse: "*Kutiba 'alaykum al-ṣīyām*" (Qur'ān, al-Baqarah [2]:183) means that Allah has made fasting obligatory. If someone claims that *kutiba* means "written in a book," it is a clear mistake. Other examples include<sup>73</sup>:

- 1) "*Wa-lā yuḥibbu al-fasād*" (Qur'ān, al-Baqarah [2]:205) – "And Allah does not love corruption."
- 2) "*Yā ayyuhā alladhīna āmanū, lā ta'kulū amwālakum baynakum bil-bāṭil*" (Qur'ān, al-Nisā' [4]:29) – "O you who believe! Do not consume one another's wealth unjustly."
- 3) "*Wa-lā taḥṣiru wazīratun wizrā ukebrā*" (Qur'ān, al-Zumar [39]:7) – "No soul bears the burden of another."
- 4) "*Innamā yurīdu al-shayṭān an yuqī'a baynakum al-'adāwah wa-l-baghḍā fī al-khamr wa-l-māysir*" (Qur'ān, al-Mā'idah [5]:91) – "Satan only desires to cause enmity and hatred among you through wine and gambling."
- 5) "*Yurīdu Allāhu bikum al-yusr wa-lā yurīdu bikum al-'usr*" (Qur'ān, al-Baqarah [2]:185) – "Allah desires ease for you and does not desire hardship for you."
- 6) "*Wa mā ja'ala 'alaykum fī al-dīn min ḥaraj*" (Qur'ān, al-Ḥajj [22]:78) – "He has not placed upon you any hardship in the religion."

Each of these verses affirms the *maqṣid* of the Sharī'ah or points clearly to its objectives<sup>74</sup>.

### 3.3.3 Mutawātir Sunnah (Mass-Transmitted Prophetic Tradition)

The *mutawātir* Sunnah may occur in two forms: Mutawātir Ma'nawīyah (meaning-based mass transmission), which occurs when many Companions directly witnessed the

<sup>71</sup> Ibn 'Āshūr, *Maqāṣid Al-Sharī'ah Li-Ibn 'Āshūr*, 26–27.

<sup>72</sup> Ibn 'Āshūr, 28.

<sup>73</sup> Ibn 'Āshūr, 29.

<sup>74</sup> Ibn 'Āshūr, 29.

Prophet ﷺ's actions, which then became widely practiced and established as *ma'lūm min al-dīn bi-l-ḍarūrah* (commonly known and necessary knowledge of the religion). An example is the *sunnaḥ* regarding continuous charity (*ṣadaqah jāriyyah*), known as *waqf*. Mutawātir 'Amaliyah (practice-based mass transmission), which happens when Companions individually observed the Prophet ﷺ repeatedly engaging in a certain act, from which they inferred a legislative purpose. For instance, in a ḥadīth reported from al-Azraq ibn Qays, he left his prayer to retrieve his runaway horse and resumed it thereafter. When someone rebuked him, he responded: "No one has rebuked me since I left the Prophet ﷺ," and affirmed that he had often seen the Prophet ﷺ practicing ease. From this, al-Azraq deduced that one of the objectives of the Shari'ah is to facilitate ease<sup>75</sup>.

#### 4. Comparative Study Between Maqāṣid al-Shari'ah According to Imām al-Shāṭibī and Imām Ṭāhir Ibn 'Āshūr

##### 4.1. Similarities Between Imām al-Shāṭibī and Imām Ṭāhir Ibn 'Āshūr:

- 1) Both scholars agree that the primary objective of the Shari'ah is to bring about *maṣlaḥah* (benefit) for humanity and to repel *mafsadah* (harm). Both al-Shāṭibī and Ibn 'Āshūr affirm that the Shari'ah is not limited to acts of worship, but encompasses various aspects of human life, including social, economic, and legal matters.
- 2) Both al-Shāṭibī and Ibn 'Āshūr classify the *maqāṣid al-shari'ah* into certain categories. Imām al-Shāṭibī divides them into three levels: *ḍarūriyyah*, *ḥājīyyah*, and *taḥṣīniyyah*, while Imām Ibn 'Āshūr proposes a classification based on urgency and impact on the continuity of the *ummah*: *ḍarūriyyah*, *ḥājīyyah*, and *taḥṣīniyyah*. Although the terminology used differs slightly, the core of this classification is the same: emphasizing the hierarchy of priorities based on the degree of necessity and its impact on humanity.
- 3) Both figures concur that the ultimate goal of legal rulings is to preserve the system of the *ummah* and ensure the continuity of human life through achieving benefits that are acceptable to sound reason. Imām al-Shāṭibī, for example, states that the *maqāṣid ḍarūriyyah* include the preservation of religion, life, lineage, wealth, and intellect, which aligns with Ibn 'Āshūr's view on the essential interests needed by the community.

##### 4.2. Differences Between Imām al-Shāṭibī and Imām Ṭāhir Ibn 'Āshūr:

- 1) Imām al-Shāṭibī tends to emphasize the understanding of *maqāṣid al-shari'ah* based on Arabic linguistic principles and the commands and prohibitions found in the Shari'ah texts. He believes that understanding the *maqāṣid* must be done using methods consistent with the Arabic language, and must involve strict

<sup>75</sup> Ibn 'Āshūr, 28–29.



interpretation of those texts. On the other hand, Imām Ibn ‘Āshūr adopts a more flexible approach by adding the dimension of *ma‘nā ‘urfī* (customary meaning), which refers to understanding the *maqāṣid* based on prevailing social customs, which he considers more relevant to contemporary conditions and the dynamic nature of the Muslim society.

- 2) Imām al-Shāṭibī classifies secondary *maqāṣid* in a very limited context, focusing mainly on understanding primary *maqāṣid* supported by secondary objectives. In contrast, Ibn ‘Āshūr places greater emphasis on secondary *maqāṣid* by highlighting the importance of considering wisdoms (*ḥikam*) that may not be explicitly stated in the texts but can be derived from human experience and evolving knowledge.
- 3) Imām al-Shāṭibī outlines several methods used to understand the *maqāṣid*, including Arabic linguistic rules, commands and prohibitions, as well as *qiyās* (analogical reasoning) of the texts. Meanwhile, Ibn ‘Āshūr proposes a more socially oriented approach based on the experiences of the community, thereby prioritizing *maqāṣid ṭabī‘iyyah* (secondary objectives) that correspond with the social welfare. This provides greater flexibility in adapting Islamic laws to the prevailing circumstances and societal needs.
- 4) Imām al-Shāṭibī strongly asserts that the Sharī‘ah is complete and does not require further additions after the time of the Prophet Muḥammad ﷺ. In contrast, Imām Ibn ‘Āshūr is more receptive to the idea of adjusting the Sharī‘ah to suit the needs of the time (for example, in *da‘wah* and adapting to contemporary realities) as long as such adjustments do not undermine the primary objectives of the Sharī‘ah.

## CONCLUSION

Imām al-Shāṭibī and Imām Ṭāhir Ibn ‘Āshūr both provide detailed frameworks for understanding the objectives (*maqāṣid*) of Sharī‘ah, with a shared goal of promoting *maṣlaḥah* (public benefit) and preventing *mafsadah* (harm). Imām al-Shāṭibī emphasizes the linguistic and legal contexts of the Sharī‘ah, categorizing *maqāṣid* into *darūriyyah*, *ḥājīyyah*, and *taḥsīniyyah*, with a focus on the essential, secondary, and supplementary needs of human life. He outlines specific methodologies for understanding these objectives, such as *qiyās* (analogy) and *istiqrā’* (inductive reasoning), which he uses to interpret legal rulings. In contrast, Imām Ṭāhir Ibn ‘Āshūr offers a more systematic and socially-oriented approach, incorporating societal customs (*‘urf*) as an additional source for interpreting the Sharī‘ah's goals. He also divides *maqāṣid* into the same three categories but places greater emphasis on the social dimension and collective morality.

While both scholars agree on the three-level classification and the importance of safeguarding religion, life, intellect, lineage, and wealth, they diverge in their methods and scope. Al-Shāṭibī emphasizes linguistic precision and a stricter interpretation of texts, whereas Ibn ‘Āshūr adapts the *maqāṣid* to contemporary societal needs, allowing for the evolution of Islamic law in response to modern challenges. Al-Shāṭibī's methodology is more rigid, focusing on traditional interpretations, while Ibn ‘Āshūr's approach is

flexible, integrating broader social considerations and permitting the adaptation of Islamic law to modern circumstances as long as the core objectives remain intact.

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