

THE CONCEPT OF MASLAHAH ACCORDING TO IMAM AL-GHAZALI

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ABSTRACT

Maslahah is the study of the aims and the objectives of Islamic Law. Maslahah is often used by Ulama as a method in resting the law to answer the legal problems that arise. Al-Ghazali mentioned various types of Maslahah viewed from whether it is acknowledged or not by the Shari'ah, which is divided into three types: Maslahah that is acknowledged by the Shari'ah, Maslahah that is rejected by the Shari'ah, and Maslahah that is neither acknowledged nor rejected by the Shari'ah. Studying the term Maslahah that is associated with the development of modern society is of utmost importance. Maslahah can act as the necessary foundation for the realization of all human interests, both general and specific. So the spirit of Islam, "shalih li kulli zamanin wa makanin" can be realized.

Keyword: Maslahat, Interest, Al-Ghazali

INTRODUCTION

Islamic law has the spirit that aims to maintain the human interest in this world and the hereafter. Therefore, Islamic law becomes the law that is following the human condition at all times. Maslahah in this world makes it easy for humans to live, while Maslahah in the hereafter guarantees human safety. Islamic law seeks to bring Maslahah to all aspects of human life.

Maslahah is the study of the aims and objectives of Islamic law. Maslahah is often used by Ulema as a method in resting the law to answer the legal problems that arise. Every human interest, with regards to Maslahah, can be fulfilled both general and specific interests, although some classical and contemporary scholars do not pay much attention and tolerate specific interest.

Al-Ghazali was a Muslim thinker who lived in the latter part of the Islamic Golden Age under the Abbasid Caliphate, centered in Baghdad. His full name is Abu Hamid Muhammad ibn Ahmad al-Ghazali al-Tusi. Al-Ghazali was born in 450 AH/ 1058 AD in Tabaran, a neighborhood in Tus, the second-largest city in Khurasan after



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Nishapur. It is to the name of his hometown that the name al-Ghazali is attributed (al-Tusi). Al-Ghazali participated in religious-political life in the final years of the Nizam government and later became the central figure of it. He died in his hometown in 505 H/ 1111 AD.¹

The Islamic world gave him the honorary title of Hujjah al-Islam (Defender of Islam) because of his perseverance and services in defending Islam from the onslaught of thoughts that was feared could threaten the existence of Islam, both from philosophers, *mutakallimin*, *batiniyah*, and *sufis*. Likewise, for his efforts to revive Islamic scientific traditions as seen in his monumental masterpiece *Ihya Ulum al-Din*.²

Therefore, studying *Maslahah* from the perspective of al-Ghazali is very important. Moreover, Imam al-Ghazali is a classical religious figure who has a distinct perspective on *Maslahah*. *Maslahah*, according to al-Ghazali, can be connected with the views of modern scholars on *Maslahah*.

DISCUSSION

A. *Biography of al-Ghazali*

Al-Ghazali was a Muslim thinker who lived in the latter part of the Islamic Golden Age under the Abbasid Caliphate, centered in Baghdad. His full name is Abu Hamid Muhammad ibn Ahmad al-Ghazali al-Tusi. Al-Ghazali was born in 450 AH/ 1058 AD in Tabaran, a neighborhood in Tus, the second-largest city in Khorasan after Nishapur. It is to the name of his hometown that the name al-Ghazali is attributed (al-Tusi). Al-Ghazali participated in religious-political life in the final years of the Nizam government and later became the central figure of it. He died in his hometown in 505 H/ 1111 AD.³

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³SaefulSaleh Anwar, *Filsafat Ilmu Al-Ghazali: Dimensi Ontologi dan Aksiologi*, Bandung : Pustaka Setia, 2007, p. 14

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Al-Ghazali was a polymath. His works showed his expertise in *ushul al-din* (*kalam*), *ushulfiqh*, *fiqh*, *mantiq* (logic), *hikmah*, philosophy, and *tasawuf*. In terms of intellectual genealogy, he has many teachers, including Imam Haramayn (Abu al-Ma'ali al-Juwaini), who is considered to be the most instrumental in fostering al-Ghazali to become *fiqh* and *ushul fiqh* expert. At the end of his teacher's life, al-Ghazali began to show his existence as a great scholar admired by many and began to teach and write.⁵

B. Maslahah according to al-Ghazali

According to al-Ghazali, *Maslahah* is the preservation of the aims of *Shari'ah*. The aims of the *Shari'ah* consist of 1) protection of the religion (*hifzhal-din*); 2) protection of the life (*hifzhal-nafs*); 3) protection of the reason (*hifzhal-aql*); 4) protection of the lineage (*hifzh al-nas*); and 5) protection of the property (*hifzhal-mal*).⁶

Whereas al-Ghazali mentioned various types of *Maslahah* viewed from whether it is acknowledged or not by the *Shari'ah*, which is divided into three types:

1. *Maslahah* that is acknowledged by the *Shari'ah*. The *Maslahah* can be enacted as law and can be deducted to *qiyas*, by taking the law from the Holy texts and *ijma'*. Example: the prohibition of consuming intoxicating foods and beverages which *qiyas* is *khamr*.
2. *Maslahah* that is rejected by the *Shari'ah*. Example: The opinion of some scholars regarding a king who conducts a marital relations during the day in the month of Ramadan, the King should fast for two months in a row. When the opinion was refuted. The scholar then said, if the king was

⁴Sulaiman Dunya, *Al-Haqiqah fi Nazr Al-Ghazali*, (Mesir: daar al-Ma'arif, tt.), p. 17

⁵Hasan Ibrahim, *Tarikh al-Islam*, Juz 4, (Kairo: Maktabah al-Nahdah al-Misriyyah, 1967), p. 236

⁶Al-Ghazali, *Al-Mushtasyfa*, Juz I, (Beirut: Daar al-Ihya al-Turas al-'Araby, 1997), p. 217

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ordered to free slaves, then it was very easy for him, and he would lightly free slaves to meet his lust. Therefore, the Maslahah is, he must fast for two months in a row, as a deterrent effect. This opinion is invalid and it violates the text with Maslahah. Through this, it is possible to change the provisions and the texts of Islamic law due to changes in conditions and situations.

3. Maslahah that is neither acknowledged nor rejected by the Shari'ah.⁷

The three things mentioned above were used as a basis by al-Ghazali in establishing operational constraints of Maslahah Mursalah, so it can be accepted as the basis for establishing Islamic law:

1. Maslahah must be under the aims of establishing Islamic law, namely, protecting religion, life, reason, lineage, and property.
2. Maslahah must not conflict with al-Qur'an, as-Sunnah, and Ijma'.
3. Maslahah must be at the *daruriyah* (primary) or *hajiyah* (secondary) level, which is equal to *daruriyah*.
4. Maslahah must be qath'i or zhanni that is close to qath'i.
5. In some cases, conditions are needed; must be *qat'iyah*, *daruriyah*, and *kulliyah*.⁸

Al-Ghazali gives the following conclusions about Maslahah in al-Mustasfa

فكل مصلحة لا ترجع الى حفظ مقصود فهم من الكتاب والسنة والإجماع وكانت من المصالح
الغريبة التي لا تلائم تصرفات الشرع فهي باطلة مطرحة ومن صار إليها فقد شرع، كما أن من
استحسن فقد شرع⁸

Any Maslahah that does not return to protect the objectives of the Islamic law that can be understood from al-Kitab, as-Sunnah, and Ijma 'and is the Maslahah of garibah (is foreign) which is not under the act of Shari'ah then the Maslahah is rejected and must be discarded. Whoever is guided by it, he has established Islamic law based on his

⁷Muhammad Al-Ghazali, *Al-Mustasfa min Ilm al-Ushul*, Tahqiq Muhammad Sulaiman al-Asyqar, (Beirut: Al-Risalah, 1997), p.414-416

⁸Muhammad Khalid Mas'ud, *Islamic Legal Philosophy: A Study of Abu Ishaq al-Shatibi's Life and Thought* (Islamabad Pakistan: Islamic Research Institute, 1977), p. 149-150.

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desires. Similar to people who established Islamic law based on *istihsan*, he has established Islamic law based on his desires.⁹

From what has been described in the previous section, it appears that al-Ghazali saw *istishlah*, not as an independent proposition. He stated:

وتبين أن الإستصلاح ليس اصلا خامسا برأسه بل من استصلاح فقد شرع⁹

*It is clear that istishlah is not the fifth proposition that stands independently. Whoever makes istishlah as an argument (which stands independently), it means he has made up Islamic law based on his desire.*¹⁰

Because of this statement, some scholars of *ushul fiqh* assumed that al-Ghazali rejects *Maslahah Mursalah* as a method of *istinbath*. Others consider that al-Ghazali accepts the *istinbath* method only if *daruriyah*, *qat'iyah*, and *kulliyah*.

Based on the operational conditions made by al-Ghazali, it appears that al-Ghazali did not view *Maslahah Mursalah* as an independent proposition, apart from al-Qur'an, as-Sunnah and *ijma'*. Al-Ghazali viewed the problem of *mursalah* only as a method of *istinbath* (inquiry), not as an argument or source of Islamic law.

While the operational scope of the *Maslahah Mursalah* was not explicitly mentioned by al-Ghazali, but based on the research of Ahmad Munif Suratma Putra on the cases of *Maslahah Mursalah* raised by al-Ghazali in his books (*al-Mankul*, *Asas al-Qiyas*, *Shifa al-Galil*, *al-Mustasfa*), it can be concluded that al-Ghazali limits the scope of *Maslahah Mursalah* only in *Mu'amalah*.¹¹

Maslahah is justified by al-Ghazali, for example, if the property has been mixed with property gained by corruption, collusion, manipulation, or looting, and it is difficult to get a purely *halal* property. Then based on *Maslahah*, it is permissible or lawful to buy a property based on their needs through *halal* transactions. If it is not justified, then the economic system and religious activities will be stopped, and it will bring negative impacts on people's lives. Such conditions are not justified by Islam.

⁹Al-Ghazali, *Al-Mushtasyfa*, *Juz I*, p. 430.

¹⁰Al-Ghazali, *Al-Mushtasyfa*, *Juz I*, p. 311.

¹¹Ahmad Munif Suratmaputra, *Filsafat Hukum Islam al-Ghazali: Maslahah Mursalah dan Relevansinya dengan Pembaharuan Hukum Islam*, p. 144

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This attitude is prioritizing *mafsadat* prevention and creating Maslahah for the more significant benefit of humanity.

Thus, it is evident that great scholars, both from Maliki and Shafi'i madhhabs, accept *Maslahah Mursalah* as the basis for establishing Islamic law with the following conditions: *First*, the law must contain Maslahah. *Secondly*, the Maslahah is under the objectives of the establishment of Islamic law, namely protecting the religion, life, the reason, the lineage, and the property. *Third*, Maslahah that fulfills the criteria mentioned in the second point is not shown by specific laws that justify or reject it. The scope of implementation is limited to the fields mu'amalah and traditions, and not implemented in the field of worship.

The scholars used different terms for the implementation of Maslahah Mursalah, even al-Ghazali used several terms to refer to it, so it had implications in the understanding of the succeeding scholars regarding the opinion of the previous scholars on this issue. In *al-Mankul*, al-Ghazali mentioned Maslahah Mursalah with the term *istidlal sahih* (not *istidlal mursal*), in *Asas al-Qiyas*, he used the term *istislah*, and in *Shifa al-Galil* he called it *munasib mula'im*, whereas in *al-Mustasfa*, al-Ghazali called it *Maslahah Mursalah*. Since al-Ghazali mentioned Maslahah Mursalah with several terms, there is an opinion that argued that al-Ghazali is inconsistent in making *Maslahah Mursalah* as the basis of establishing Islamic law. The use of these different terms also has implications for the distortion of the understanding of the next generation regarding *Maslahah Mursalah*.

The objective of the law, mainly, is to bring Maslahah and prevent humans from chaos. Thus this view is under the principle of *al-muhafazhat 'ala al-Qadim al-shalih wal akhdzu bi al-jadidd al-ashlah*, which is to be selective and accommodating to changes for the fulfillment of Maslahah that are based on the objectives of the Shari'ah. Therefore, one of the principles that need to be considered from al-Ghazali's theory of Maslahah is the priority scale, which prioritizes the protection of *mafsadat* rather than Maslahah, because preventing *mafsadat*, in essence, means giving priority to a more significant and most urgent Maslahah than the other Maslahah. This act is under the rules of *Dar'u al-mafasid muqaddamun ala jalb al-mashalih*.



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CONCLUSION

The following points can be concluded from this study on Maslahah, according to al-Ghazali: First, Al-Ghazali was a Muslim thinker who lived in the latter part of the Islamic Golden Age under the Abbasid Caliphate, centered in Baghdad. His full name is Abu Hamid Muhammad ibn Ahmad al-Ghazali al-Tusi. Al-Ghazali was born in 450 AH/ 1058 AD in Tabaran, a neighborhood in Tus, the second-largest city in Khurasan after Nishapur. It is to the name of his hometown that the name al-Ghazali is attributed (al-Tusi).

Second, according to his theory, the aim of Maslahah to protect the objectives of the Shari'ah, which are consisted of: 1) protection of the religion (*hifzhal-din*); 2) protection of the life (*hifzhal-nafs*); 3) protection of the reason (*hifzhal-aql*); 4) protection of the lineage (*hifzh al-nasl*); and 5) protection of the property (*hifzhal-mal*).

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