THE CONTRIBUTIONS OF CLASSICAL SCHOLARS TO THE THEORY OF MAQĀṢID AL-SHARĪʿAH

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ABSTRACT

Background and Purpose: Several classical scholars who contributed to developing the theory of the maqāṣid al-sharīʿah are overlooked in the contemporary studies of maqāṣid. Most contemporary studies focused on al-Juwaynī, al-Ghazālī and al-Shāṭibī. However, studying a theory requires investigating all the classical works that pioneered the theory without discrimination. This could provide new insights for the study of maqāṣid. This paper addresses this oversight by reviewing the works of early maqāṣid scholars, how much attention contemporary studies have paid to those scholars' contribution, and suggests directions for future research.

Methodology: This study used the qualitative content analysis technique to identify the scholars who contributed to the theory of maqāṣid al-sharīʿah via a thorough reading of the history of the maqāṣid al-sharīʿah as found in contemporary literature. To trace the available studies conducted on the classical scholars and gaps in the literature, the researchers examined the catalogues, indexes, and lists collected. This study encompassed scholars who lived between the 2nd and 13th centuries when the philosophy of the maqāṣid al-Sharīʿah evolved.

Findings: The theorisation of maqāṣid al-Sharīʿah was initiated by al-ʿĀmirī, formalised by al-Juwaynī followed by al-Ghazālī and crystallised by al-Shāṭibī. Moreover, several other scholars contributed to

the development of the theory even though they did not document their works as books. Nonetheless, most contemporary studies are confined to studying the works of the famous three scholars mentioned earlier.

Contributions: It is expected that the research gap identified in this paper pertaining to studying the works of classical maqāṣid scholars may serve as a springboard for future studies in this field. Most importantly, investigating the works of Imām Abū Ḥanīfah, al-Rāghib al-Aṣfahānī, Abū Zayd al-Balakhī, Abū Bakr al-Jaṣṣāṣ, Abul Ḥasan Al-ʿĀmirī, al-Qāḍī ʿAbdul Jabbār al-Hamadhānī, Abū 'Abdullāh Muḥammad ʿAbdur Raḥmān al-Bokhari, Ibn Khaldūn and al-Shawkānī may offer fresh perspectives on the understanding of maqāṣid al-sharīʿah.

1.0 INTRODUCTION

The maqāṣid al-sharīʿah (objectives of Islamic law) refers to the objectives the Lawgiver (Allāh) indented behind the laws He legislated for human beings. "The overall objective (maqāṣid ʿāmm) of Islamic legislation is to preserve the social order of the community and protect its healthy progress by promoting the well-being of the human being. The well-being of human beings consists of the soundness of their intellects and the righteousness of their deeds, as well as the goodness of the things of this world in which they live" (Ibn-ʿĀshūr, 2001, p. 273).

The consideration of the maqāṣid al-sharīʿah is evident in the ijtihād (the intellectual effort to make independent interpretations of, and to derive legal rulings from, the accepted juridical sources of Islam) of Muslim jurists (fuqahāʾ) beginning from the companions (saḥābah) of the Prophet (PBUH); and it is more evidently found in the ijtihād of ʿUmar – the second caliph of Islam (Al-Dehlawī, 2005; Al-Jundī, 2008). The essence of the maqāṣid al-sharīʿah was considered by almost all later fuqahāʾ, particularly Abū Ḥanīfah (150H), Mālik (178H), Shāfiʿī (204H) and Aḥmad (241H) in their ijtihād as found in their fiqh legacy (al-Farūjī, 2001; Ibn-Mukhtār, 2014; Kamali, Khan, & Al Shaikh-Ali, 2008). Afterwards, the philosophy of the maqāṣid al-sharīʿah was theorised by several scholars, among whom four

stood out more than others. They are al-Juwaynī (478H), al-Ghazālī (505H), al-Shāṭibī (790H) and Ibn ʿĀshūr (2001) (Al-Raysūnī, 2013). Nevertheless, many other scholars contributed to the theory of the maqāṣid al-sharīʿah in terms of consideration, theorisation, crystallisation, actualisation, etc. The history of the origin for maqāṣid al-sharīʿah identifies that almost all classical scholars considered the maqāṣid al-sharīʿah while performing ijtihād.

The maqāṣidic ijtihād of the majority of scholars show the universality of the maqāṣid al-sharīʿah enables Islamic law to respond to the realities and minimise the rigidity between the schools of Islamic legal thought (madhāhib). This is perhaps among the reasons why the contemporary researchers paid attention to classical scholars and conducted research on their contributions to the theory of the maqāṣid al-sharīʿah.

The literature shows that the study of the maqāṣid al-sharīʿah remained confined in the discourse of a handful of scholars as their names are repeated whenever the theory of the maqāṣid al-sharīʿah is discussed despite the fact that the origin and evolution of the maqāṣid al-sharīʿah as a discipline involved numerous scholars (Al-Qaraḍāwī, 2000). Hence, the objective of this paper is to explore the contemporary studies on the contributions of classical fuqahāʾ and find gaps in the literature to propose new directions for future research.

2.0 METHODOLOGY

Using qualitative content analysis, this paper first examined the evolution of the theory of the maqāṣid al-sharīʿah to identify the scholars who contributed to the theory via a thorough reading of the history of the maqāṣid al-sharīʿah as found in contemporary literature. To trace the available studies conducted on the classical scholars and gaps in the literature, it examined the catalogues, indexes, and lists collected. This study encompassed scholars who lived between the 2nd and 13th centuries when the philosophy of the maqāṣid al-sharīʿah evolved. It excluded the aforesaid three prominent scholars as their contributions have been studied repeatedly.

To collect data, the researchers searched the public access catalogues (PAC) in the library of the International Islamic University Malaysia (IIUM) and University of Malaya (UM), Google Scholar search engine, along with "al-Dalīl al-Irshādī" - a maqāṣid index produced by Kamāluddīn Imām (2007), in addition to web pages listing maqāṣid studies. The researchers used the keywords: maqāṣid, maṣāliḥ, maṣlaḥah, Taʿlīl, Taqṣīd, Iʿtibār al-Maʾāl, Ḥikmah, Ḍarūrah, Ḥājah, Taḥsīn, etc. as search terms. These keywords are used by the scholars of the maqāṣid al-sharīʿah and contemporary researchers frequently. The names of the classical

scholars combined with maqāṣid and maṣāliḥ were also used as keywords to search contemporary studies.

3.0 FINDINGS AND DISCUSSION

This section includes the discussion on the origin of the maqāṣid al-sharīʿah, the development of the theory of the maqāṣid al-sharīʿah and different phases of development for maqāṣid theory.

3.1 The Origin of the *Maqāṣid al-Sharīʿah*

The word *"maqāṣid al-sharīʿah"* is used by later scholars whereas earlier scholars used different terms to refer to the same concept. It should be noted that terminologies are innovations of the systematic study of later scholars such as the term of the *maqāṣid al-sharīʿah*. When referring to the concept of the *maqāṣid al-sharīʿah*, the early scholars used *Asrār* (secrets), *ʿAlāmah* (indication), *Baʿith* (impetus), *Dafʿul adhā* (elimination of harm), *Ḍafʿul mashaqqah wa rafʿuhā* (elimination of hardship), *Falsafah* (philosophy), *Gharaḍ al-Sharʿ* (goal of law), *Ghāyah* (end), *Hadaf* (goal), *Ḥikam* (wishdom), *ʿIlal* (reasons), *Kulliyyat al-sharīʿah* (universals of sharīʿah), *Maʿānī* (underlying insights), *Mabāghī,* (aims), *Maghzā* (purport/gist), *Maḥāsin* (beauties), *Maqṣad* (end), *Maqṣūd* al-waḥy (intent of revelation), *Maṣāliḥ al-khalq* (well-beings of creations), *Maṣāliḥ wa mafāsid* (well-beings and ruins), *Munāsabah* (suitability, adequacy, convenience), *Murād Allāh* (purpose of Allāh), *Murād al-Sharʿ* (purpose of law), *Murād al-sharīʿah* (purport of Islamic law), *Murād rasūlihī* (purpose of His Messenger), *Maẓinnah* (most likely place), *Nafyuḍ ḍarari wa rafʿuhū wa qaṭʿuh* (removal of injury), *Qaṣd* (purpose), *Rafʿul ḥaraj wa al-ḍīq wa Taqrīr al-taysīr wa al-takhfīf* (removal of hardship and trouble; and settlement of simplification and ease), *Rifq wa līn* (kindness and leniency), *Sabab* (cause), *Taʿlīl* (ratiocination), etc. (Abū-Fāris, 2012; Al-Jundī, 2008; al-Khādimī, 1998, 2001; al-Saʿīdāt, 2005; Al-Shāṭibī, 1997; ʿUmar, 2003).

As for the technical term "*maqāṣid*", it was used by al-Ḥakīm al-Tirmidhī (320H) in the title of his book to mean *maṣāliḥ*. The *fuqahāʾ* (Muslim jurists), before al-Tirmidhī, used other keywords identical to the maqāṣid in the titles of their books such as *Makārim* by al-Rāghib al-Aṣfahānī (302H), *Maṣāliḥ* by Abū Zayd Aḥḥmad Ibn Sahl al-Balakhī (322H); *Maḥāsin* and *istiṣlāh* by Abū Bakr al-Qaffāl al-Shāshī (365H), *ʿIlal* by Ibn Bābāwayh al-Qummī (381H) and Abul Ḥasan al-ʿĀmirī (381H), *Manāqib* by Abul Ḥasan al-ʿĀmirī and *istiṣlāḥ* by al-Qāḍī ʿAbdul Jabbār al-Haṃadhānī (415H) (al-Aṣfahānī, 2007; Al-Balakhī, 2005; al-Tirmidhī, 1965) (Al-ʿĀmirī, 1988; Al-Mazrūʿī, 2010; al-Qaffāl-al-Kabīr, 2007; Al-Raysūnī,

1999). Surprisingly, al-Juwaynī quoted a statement from Imām al-Shāfiʿī (204H) in *al-Burhānu fī Uṣūlil Fiqh* whereby the very term *maqāṣid al-sharīʿah* is explicitly mentioned (Al-Juwaynī, 1418H; Ibn-Mukhtār, 2014). This quotation shows that Imām al-Shāfiʿī was the first to use the term *maqāṣid al-sharīʿah* albeit it was attributed to al-Juwaynī by some contemporary scholars such as Al-Raysūnī (1999) and Kamali (2008). However, the practice of the *maqāṣid al-sharīʿah* in *ijtihād* goes back to the period of the *sahabah* and more evidently to the *ijtihād* of 'Umar – the second caliph of Islam (Al-Jundī, 2008). Hallaq (2011, p. 3), a contemporary scholar, translated it in English as "universal aims of the law".

3.2 Development of the Theory of the *Maqāṣid al-Sharīʿah*

Based on the above mentioned discussion, it became clear that *maqāṣid al-sharīʿah emerged* from the inception of Islamic legal thought during the lifetime of the prophet's companions and their successors. It continued to be considered in the legal thought of prominent Imāms of four Sunni schools of thought: Abū Ḥanīfah (150H), Mālik (178H), Shāfiʿī (204H), and Ahmad (241H) as well as the Imāms of Shīʿah, Muʿtazilah and Mātūrīdiyyah schools of thought. The approach of *fuqahā́ towards maqāṣid al-sharīʿah* in this stage was not holistic but it was atomistic where some discussed it as partial (*juz'iyyah*) maqāṣid or some discussed it as specific (*khassah*) *maqāṣid*.

These great Imāms established the theory of *maṣlaḥah* in their *ijtihād* which is the essence of the *maqāṣid al-sharīʿah* using different *adillah uṣūliyyah* (principles of Islamic jurisprudence), namely *istiḥsān* (juristic preference) by Ḥanafites, *maṣlaḥah mursalah* (unrestricted benefit), or *istiṣlāḥ* (public interest) by Mālikites, Shāfiʿītes and Ḥanbalites, etc. as well as various *qawāʿid fiqhiyyah* (Islamic legal maxims). These *adillah uṣūliyyah* (principles of Islamic jurisprudence) relate closely to the concept of *maṣāliḥ* and ultimately serve the theory of the *maqāṣid al-sharīʿah* (al-Khādimī, 1998).

However, the theorisation of the *maqāṣid al-sharīʿah* as a philosophy emerged in the late 4th century by Abul Ḥasan al-ʿĀmirī (381H). He introduced the *maqāṣid* thought which inclines towards a holistic vision and categorised human necessities into five levels. Afterwards, Abul Walīd al-Bājī (403H), from the Mālikī school, employed maqāṣidic thinking in his *ijtihād* and discussed the general purposes and partial objectives of the Sharīʿah (Ibn-ʿUbayd, 2009). ʿAbdul Jabbār al-Hamadhānī (417H), a Muʿtazilī scholar, highlighted the wisdom and welfare in the *aḥkām* (provisions) of *sharīʿah* using *istiṣlāḥ*. However, the theory was in an immature state in that century. This is because the categorisation of the *maqāṣid*

according to 'levels of necessity' was not precisely developed until the fifth Islamic century (Al-Raysūnī, 1995; Auda, 2007).

In the late 5th century, al-Juwaynī (478H), inspired by al-ʿĀmirī, also discussed the five categories of necessities and added new dimensions to the philosophy. He proposed five levels of human needs: *ḍarūriyyāt* (essentials), *al-ḥajah al-ʿāmmah* (public needs), *al-makrūmāt* (moral behaviour), *mandūbāt* (recommendations) and a level which cannot be attributed to any specific level among these four (Al-Juwaynī, 1418H; Al-Raysūnī, 1995). He views that the purpose of the Islamic law is the preservation (*al-ʿiṣmah*) of people's faith, souls, minds, private parts, and money. He formulated various *qawāʿid* (principles) of the *maqāṣid*. He proposed *maqāṣid sharīʿah* as the only way to salvage Islam by 're-constructing' it from the bottom up using the 'fundamental principles upon which all rulings of law are based and to which all rulings of law converge (Al-Juwaynī, 1418H; Auda, 2007). Al-Ghazālī (505H), the disciple of al-Juwayni, defined *maṣāliḥ* as the protection of the Lawgiver's intent. He confined the five levels of the maqāṣid proposed by his teacher into three levels: *ḍarūriyyāt* (essentials)*, ḥājiyyāt* (needs) and *taḥsīniyyāt* (embellishments) and set the order of these categories (Al-Ghazālī, 1413H). He also identified the *mukammilāt* (complementaries) for each level. Moreover, he proposed 'induction' as a tool to know and confirm the maqāṣid (Al-Ghazālī, 1971, p. 1/286). Furthermore, he formulated many *qawāʿid* for achieving *maqāṣid* in addition to highlighting the wisdom and purposes behind various *aḥkām* of *sharīʿah*.

After al-Ghazālī, Ibn Rushd (520H.), Ibnul ʿArabī (543H), Abū ʿAbdullāh al-Bukhārī (546H), Fakhruddīn al-Rāzī (606H), Saifuddīn al-Āmidī (631H), ʿIzzuddīn Ibn ʿAbdussalām (660H), Shihābuddīn al-Qarāfī (684H), Najmuddīn al-Ṭūfī (716H), Aḥmad Ibn Taymiyyah (728H) and Ibnul Qayyim (751H) contributed the philosophy of the *maqāṣid*. Their contributions were generally further elaborations of the maqāṣid, its classifications and categorisations such as ends (*maqāṣid*) and means (*wasāʾil*), *maqāṣid* of *mukallaf* (a person obligated by law to discharge a legal duty) and *maqāṣid* of *Shaari'* (Lawgiver), its criteria, its use in juristic prioritisation, formulation of *qawāʿid* (maxims), and criticism of any doubt (*wahm*) about *maqāṣid* (al-Yūbī, 1998; Auda, 2007). Ibn Taymiyyah confirmed the *maṣāliḥ* in ʿibādāt (worships) and criticised the *ḥīlah* (juristic trick), *sadd al-dharāʾiʿ* (blocking the means), *taʿlīl* (ratiocination) and the Mālikite school's popularisation of the *maqāṣid*. His disciple Ibnul Qayyim discussed details of the *maqāṣid al-Mukallifin* and concluded *maṣlaḥah* as the overall characteristic of the *sharīʿah* (al-Yūbī, 1998). He confirmed that "The Islamic law is all about wisdom and achieving people's welfare in this life and the Afterlife. It is all about justice, mercy, wisdom, and welfare. Thus, any ruling that replaces justice with injustice,

mercy with its opposite, common good with mischief, or wisdom with ignorance, is a ruling that does not belong to the Islamic law, even if it is claimed to be so by some interpretations" (Ibnul Qayyim, 1998, p. 3/3). Thus, the theory of the *maqāṣid al-sharīʿah* reached its mature stage through the passage of time from al-Juwayni to Ibnul Qayyim.

The theory of *maqāṣid* reached its highest level of maturity (before the twentieth century CE) in the 8th Islamic century (Al-Raysūnī, 1995; Auda, 2007); and it was crystallised in the late 8th century by al-Shāṭibī (790H). He discussed the theory of the *maqāṣid al-sharīʿah* in a separate chapter of his prominent book '*al-Muwafaqat*'. He classified, elaborated and reordered the *maqāṣid al-sharīʿah* into different types, sections and categories for detailed elaboration (al-Yūbī, 1998). He also categorised the *maqāṣid* into the *maqāṣid al-Shari'* (Lawgiver's intents) and *maqāṣid al-Mukallaf* (human intents) (Al-Raysūnī, 2013). Al-Shāṭibī established more evidence and proof confirming *maqāṣid* and the integrity of the *maqāṣid* with *uṣūl al-fiqh*. He set the criteria for *maṣāliḥ* and suggested the preservation of *sharīʿah* from both accumulative (*wujūd*) and preventive (*ʿadam*) perspectives. He contributed to developing the theory of the *maqāṣid al-sharīʿah* through a comprehensive presentation. He proposed the procedures to confirm the purposes of *sharīʿah*. He propagated *maqāṣid al-sharīʿah* as the condition for the validity of *ijtihād* (Al-Raysūnī, 2013; al-Yūbī, 1998; Ibn-Zughaybah, 2001). Afterwards, other scholars such as Ibn Khaldūn (808H), al-Dehlawī (1176H) and al-Shawkānī (1250H) discussed and elaborated the theory of the *maqāṣid al-sharīʿah*.

After the maturity of the theory, Ibn ʿĀshūr (2001) called for the separation of the theory of *maqāṣid* from *uṣūl al-fiqh* as he discussed *maqāṣid al-shariah* in an individual book entitled "*Maqāṣid al-sharīʿah al-Islamiyyah*" in the late 14th century (Ibn-ʿĀshūr, 2001, p. 172). In doing so, he proclaimed that the theory of the *maqāṣid al-sharīʿah* was a new body of knowledge. He mentioned *kulliyyāt* (universal objectives) and highlighted different partial and specific objectives in *mu'amalat* such as family, law, wealth, judiciary laws and criminal punishment. He suggested the protection of honour as an individual *maqṣad*. With him, *maqāṣid al-sharīʿah* reached a new stage in Islamic legal thought (al-Ḥasanī, 1995; Ibn-ʿĀshūr, 2001).
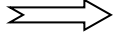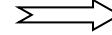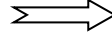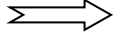
ʿAllāl al-Fāsī (1984), a contemporary scholar of Ibn ʿĀshūr, also wrote a separate book on *maqāṣid al-sharīʿah* entitled "*Maqāṣidush Shariatil Islamiyyati wa Makarimuha*"(al-Badawī, 2000, p. 98; al-Ḥasanī, 1995, p. 442). He asserted that justice is the universal objective (*maqṣad*) of *sharīʿah*. He propagated that the *sharīʿah* is based on moderation and justice. He said that *shirʿah* is the right path that includes the necessities of life and governance. In this way, he connected politics with the *sharīʿah*. ʿAllāl al-Fāsī further emphasised *akhlāq* (morals

and manners) as he argued that *akhlāq* is the scale of every general *maṣlaḥah* and basis for each *Maqṣad* of Islam (al-Fāsī, 1993).

3.3 The Phases of Development for *Maqāṣid* Theory

As mentioned earlier, the theory of the maqāṣid *al-sharīʿah* went through different stages of maturation. Its evolution can be divided into four phases; (1) initial consideration of the concept of the maqāṣid *al-sharīʿah*, (2) theory of maqāṣid partially written in books, (3) proper theorisation of Maqāṣid al-Sharīʿah and (4) crystallisation of the theory. The table below shows the evolution of the maqāṣid *al-sharīʿah* over the four phases and the respective scholars of each phase:

Table 1: Evolution of the *maqāṣid al-sharīʿah*

(1) Initial Development	(2) Partial Development	(3) Immature	(4) Mature
Initial consideration of the concept	Written in books	Theorisation	Crystallisation of the theory
150H	320H	381H	790H
Abū Ḥanīfah	Al-Ḥakīm al-Tirmidhī	Abū al-Ḥasan Al-ʿĀmirī	Al-Shāṭibī
Mālik	Abū Zayd al-Balakhī	Al-Qāḍī ʿAbdul Jabbār	Ibn Khaldūn
Al-Shāfiʿī	Al-Qaffāl al-Shāshī	Al-Juwaynī	Al-Dehlawī
Aḥmad	Abū Bakr al-Rāzī al-Jaṣṣāṣ	Al-Ghazālī	Al-Shawkānī
Al-Rāghib al-Aṣfahānī	Ibn Bābawayh al-Qimmī	Ibn Rushd	
		Ibn al-ʿArabī	
		Muḥammad al-Bukhārī	
		Fakhruddīn al-Rāzī	
		Saifuddīn al-Āmidī	
		Ibn ʿAbdussalām	
		Al-Qarāfī	
		Al-Ṭūfī	
		Ibn Taymiyyah	
		Ibn Qayyim	

The evolution of the *maqāṣid al-sharīʿah* could primarily be categorised into atomistic and holistic approaches. The atomistic approach involves discussing the partial objectives (*maqāṣid juz'iyyah*) and specific objectives (*maqāṣid khassah*) of a branch of the *sharīʿah*. As for the partial objectives, the Imāms of the prominent four Sunnī schools of thought: Abū Ḥanīfah, Mālik, Shāfiʿī and Aḥmad, and al-Rāghib al-Aṣfahānī considered them in their *ijtihād*. They discussed the *maqāṣid* (i.e. intents, wisdom, well-being benefits, etc.) of each *sharīʿah* ruling (*ḥukm*) in their books. With regard to specific objectives of a branch of the *sharīʿah*, al-Ḥakīm al-Tirmidhī, Abū Zayd al-Balakhī, al-Qaffāl al-Shāshī and Ibn Bābawayh al-Qimmī wrote the *maqāṣid* of specific sub-fields (*bāb*) of *fiqh* in separate books.

The next phases are termed the holistic approach and reflect the immature and mature stages. As for the immature phase, the concept of the *maqāṣid* started to be theorised. The scholars of this phase are Abul Ḥasan al-ʿĀmirī, al-Qāḍī ʿAbdul Jabbār, al-Juwaynī, Al-Ghazālī, Ibn Rushd, Ibn al-ʿArabī, Muḥammad al-Bukhārī, Fakhruddīn al-Rāzī, Saifuddīn al-Āmidī, Ibn ʿAbdussalām, al-Qarāfī, al-Ṭūfī, Ibn Taymiyyah, Ibn Qayyim, etc. In the mature phase, the theory of the maqāṣid was crystallised. This is the most mature stage of the *maqāṣid al-sharīʿah*. Scholars of this phase include al-Shāṭibī, Ibn Khaldūn, al-Dehlawī, and al-Shawkānī among others.

The abovementioned phases on the development of the theory of *maqāṣid* should be studied and recognised by contemporary researchers specialising in *maqāṣid* studies before discovering the new additions to this theory and responding to contemporary issues in light of *maqāṣid al-sharīʿah*. The following sections examine the contemporary research conducted on the classical scholars of the abovementioned phases.

(1) Studies on the Phase of Initial Consideration of the Maqāṣid (150-319H)

Initial consideration of *maṣlaḥah*, which is the essence of the *maqāṣid al-sharīʿah*, appeared in the inception of Islamic legal thought during the lifetime of the Prophet Muhammad until the 2nd century. The 2nd and 3rd centuries of the Islamic calendar were rich in Islamic legal thought as the most popular *fuqahāʾ of* this phase considered the concept of the *maqāṣid al-sharīʿah* and applied it in their *ijtihād.* However, they differed in the devices (*adawāt*) they employed to achieve *maqāṣid al-sharīʿah.* The approach of the *fuqahā́ towards maqāṣid* during this stage was atomistic and not as their focus was on partial objectives (*maqāṣid juz'iyyah*) or specific objectives (*maqāṣid khassah*) of *sharīʿah* (al-Khādimī, 1998).

With regard to Imām Abū Ḥanīfah, he was more popular for using ray' and *istiḥsān* (juristic preference) than others. Among the sources of the *sharīʿah* he used in *ijtihād* are

istiḥsān, ʿurf and *qawāʿid fiqhiyyah* (Abū-Zahrah, 2008; Al-Zuḥaylī, 2001; Ḥawwā, 2000) which are leading constituents of his maqāṣidic *ijtihād*. Al-Shāṭibī confirmed Abū Ḥanīfah's understanding and consideration of the *maqāṣid al-sharīʿah* through his disciples' understanding of the *maqāṣid al-sharīʿah* while talking about *al-ijtihād al-Qiyāsī* (analogical reasoning). He stated that the *ijtihād* of the successors of the prominent Imāms falls under *al-ijtihād al-Qiyāsī*. These include Ibnul Qāsim (191H) and Ashhub (204H) of the Mālikite school; Abū Yūsuf (182H) and Muḥammad (189H) of the Ḥanafite school; and Muzanī (264H) and Buwayṭī (231H) of the Shāfiʿīte school (Al-Shāṭibī, 1997). He justified the status of *al-ijtihād al-Qiyāsī* for these disciple scholars saying that they followed their Imāms and possessed the requisite knowledge for understanding the texts of the *sharīʿah*. Thus, they ramified the issues and offered *fatwās* accordingly. As a result, people accepted their insights and *fatwās* which were implemented accordingly regardless of whether their *fatwās* agreed with the school of their Imām or not. This is because they (i.e. successors) understood the *maqāṣid al-sharīʿah*. This statement proves the maqāṣidic *ijtihād* of the successor scholars, and more evidently proves the status of Abū Ḥanīfah in the understanding of the *maqāṣid al-sharīʿah*. In addition, it is well-known that Abū Ḥanīfah was popular for applying the principle of *istiḥsān* which is identical to *maṣlaḥah* and one of the devices (*adawāt*) of realising the *maqāṣid al-sharīʿah*. Moreover, he was known for his engagement in business and financial transactions wherein *istiḥsān* was greatly applied (Al-Zuḥaylī, 1985, 1986).

Despite Abū Ḥanīfah's popularity for *Qiyās* and *istiḥsān* that are identical to the *maqāṣid al-sharīʿah* in establishing human welfare and public interest, the researchers did not find any specific study devoted to his contribution to the *maqāṣid al-sharīʿah*. This might be due to the popularity of the very essence of the *maqāṣid al-sharīʿah* and that the theorisation of the philosophy appeared after his demise in the next few centuries. Abū-Zayd (2012) approached the maqāṣidic *ijtihād* of Imām Abū Ḥanīfah. He mentioned that wisdom and human welfare underlie the *ijtihād* of Abū Ḥanīfah and mentioned examples of the applications of the *maqāṣid juzʾiyyah* (partial objectives of the *Sharīʿah*) such as the prohibition of guaranty in criminal punishments, documentation in sale contracts and other transactions whereby Abū Ḥanīfah realised the *maqāṣid al-sharīʿah*. Jābir ʿAbdul-Hādī Sālim al-Shāfiʿī authored a book entitled "*Maqāṣidush Sharīʿati ʿindal Ḥanafiyyah*." He attempted to establish the maqāṣidic thinking in the Ḥanafite School through the principles of legislation (*maṣādirut/uṣūlut tashrīʿ*). He discussed the relation of the Ḥanafite uṣūl to the maqāṣid *al-sharīʿah*. A Master thesis was entitled "*Riʿāyatul Maqāṣidi fil Madhhabil Ḥanafī*" conducted by al-Ḥasan al-Sāfirī. He explored two dimensions of the maqāṣidic thinking of the Ḥanafite school. One represents the

maqāṣidic ratiocination (*al-taʿlīlul maqāṣidī*) of the Ḥanafite school including *qiyās, ʿillah* and applications while the other constitutes the sources of legislation (*maṣādirut tashrīʿ*) related to the *maqāṣid al-sharīʿah* in Ḥanafite school (al-Sāfirī, 1994; Imām, 2007).

However, *qawāʿid maqāṣidiyyah* (maqāṣidic legal maxims), *maqāṣid ʿāmmah* (general objectives), *maqāṣid khāṣṣah* (specific objectives), and applications of the *maqāṣid* at the three levels (*marātib thalāth*): *ḍarūriyyāt, ḥājiyyāt* and *taḥsīniyyāt* have been overlooked in the literature. These studies are insufficient to characterise the maqāṣidic *ijtihād* of the great Imām Abū Ḥanīfah and the maqāṣidic thinking in the Ḥanafite school.

With regard to Imām Mālik, he was more popular for using *Qiyās* and *maṣāliḥ mursalah* (unrestricted benefits) than others (Al-Raysūnī, 1995). The most important characteristic of the *ijtihād* of Imām Mālik is the realisation of well-being (*maṣāliḥ*) which does not mean to merely apply the *maṣāliḥ mursalah* in his *madhhab*. Instead, it refers to the comprehension of the texts of the Quran and the Sunnah and to ensure the public welfare through analogical reasoning (*Qiyās*). Al-ʿAyyāḍ stated that one of the forms of preference (*tarjīḥ*) in the *madhhab* of Imām Mālik is *maṣlaḥah*-based reasoning (*al-naẓr al-maṣlaḥī*) which is grounded on *maqāṣid al-sharīʿah* and its maxims (*qawāʿid*) (Al-Raysūnī, 1995). Similarly, al-Shāṭibī justified the maqāṣidic method of Imām Mālik particularly in the issues related to *muʿāmalāt* (civil transactions) and *ʿādāt* (customs and habits) saying: "he went very deep into the issues to comprehend their well-being (*al-maʿānī al-maṣlaḥiyyah*) taking into consideration of the purpose of the Lawgiver" (Al-Raysūnī, 1995, pp. 83-84; Al-Shāṭibī, 1992, p. 2/631). He also identified the maqāṣidic *ijtihād* of Imām Mālik through the justification of his disciples' status in maqāṣidic thinking. The main constituents of the maqāṣidic *ijtihād* of Imām Mālik are *maṣāliḥ mursalah*, *sadd al-dharāʾiʿ* (blocking the means) (al-Burhānī, 1986) and *maqāṣid al-mukallifīn* (human purposes) (al-Farūjī, 2001; al-Qurṭubī, 2003).

As for the research on Imām Mālik's maqāṣidic *ijtihād*, several studies have been conducted. One of them is a doctoral thesis entitled "*al-Fikrul Maqāṣidī ʿindal Imāmi Mālik wa ʿAlāqatuhū bil Munāẓarātil Uṣūliyyati wal Fiqhiyyati fil Qarnith Thānīl Hijrī*" conducted by Muḥammad Munṣif al-ʿUsrī. Al-ʿUsrī discussed the maqāṣidic thinking of Imām Mālik by highlighting *adillah sharʿiyyah* (indicants of *sharīʿah*) particularly *istiṣlāḥ* and *maṣlaḥah mursalah* used by the Imām Mālik (al-ʿUsrī, 2009). The second study is a doctoral thesis entitled "*Maqāṣidush Sharīʿati ʿindal Imāmi Mālik baynan Naẓariyyati wat Taṭbīq*" by Muḥammad Aḥmad al-Qayyātī. The author established a close relationship between *maqāṣid al-mukallaf* and *maqāṣid al-sharīʿah*. He highlighted that Imām Mālik emphasised on ease (*taysīr*) and removing difficulties (*rafʿul ḥaraj*); as well as the rejection of human actions if

they are based on desires and do not meet the *maqāṣid al-Shāriʿ*. He also mentioned the consideration of the *maqāṣid al-sharīʿah* by Imām Mālik in acts of worship (*ʿibādāt),* dealings (*muʿāmalāt*), and conducts (*taṣarrufāt*) (Muḥammad, 2009).

The third study is a doctoral thesis entitled "*al-Maqāṣid fī al-Madhhab al-Mālikī khilal al-Qarnayn al-Khāmis wa al-Sādis*" by Nūruddīn Mukhtār al-Khādimī (al-Khādimī, 2002). The fourth study is a dissertation for a Master's degree entitled "*Murāʿātul Mālikīyyah li Maqāṣid al-Mukallifīn*" written by al-Farūjī (2001). The fifth study is a journal article entitled "*Uṣūl wa Khaṣāʾiṣ al-Ijtihādil Maqāṣidī fī fiqh al-Madrasat al-Mālikīyyah al-Andalusiyyah*" authored by Bunānī (2014).

Muḥammad Qāsim al-Mansī authored a book chapter entitled *"Maqāṣidush Sharīʿati ʿindal Mālikiyyah"*. He tried to establish the maqāṣidic *ijtihād* of the Mālikite school of thought through secondary evidences (*adillah tabʿiyyah*), legal maxims (*qawāʿid fiqhiyyah*), and applications (*taṭbīqāt*) of the *maqāṣid al-sharīʿah*. These three elements are considered among the constituents that originate and evaluate the maqāṣidic *ijtihād* of a scholar. These academic studies comprise the major constituents and dimensions of Imām Mālik's maqāṣidic thinking. Hence, it can be said that these studies constitute the maqāṣidic contributions of Imām Mālik.

As regards to Imām al-Shāfiʿī, *maṣāliḥ ʿāmmah* (common benefits) is one of the principles of his *ijtihād*. He preferred *maṣāliḥ ʿāmmah* over *Ijmāʿ* and *Qiyās*. He used the principle of *maṣāliḥ mursalah* within the framework of *Qiyās* (Al-Juwaynī, 1418H). Ibn-Mukhtār (2014) concluded that Imām al-Shāfiʿī founded the base principles of *maqāṣid al-sharīʿah* by authoring al-Risālah in *uṣūl al-fiqh*. Interestingly, according to the statement of al-Juwaynī, Imām al-Shāfiʿī was the first to use the term *maqāṣid al-sharīʿah* (Al-Juwaynī, 1418H; Ibn-Mukhtār, 2014). In his book "*Rutab al-Naẓr*", al-Shāfiʿī (may Allah be pleased on him) said, whoever says that the Lawgiver has no purpose in specifying *takbīr* (uttering "Allah is the Greatest") in the beginning of *Ṣalāt* (Muslim five time prayers) and in its continuation but a matter of submission to Allah rather than reasoning (*wifāqī*), he will be declaring his ignorance about the *maqāṣid al-sharīʿah* and the issues of the *maqāṣid al-mukhāṭabīn* (human purposes) concerning the commands and prohibitions legislated for them (Al-Juwaynī, 1418H). Al-Shāṭibī (1992) also confirmed the maqāṣidic *ijtihād* of Imām al-Shāfiʿī through the justification of his disciples' status in maqāṣidic thinking. Al-Handāwī (2016) mentioned that Imām al-Shāfiʿī was aware of the *maqāṣid al-sharīʿah* and applied it in *ijtihād*, albeit he did not mention the term *maqāṣid* in *al-Risālah*. In addition, Imām al-Shāfiʿī formulated the linguistic parameters that would safeguard the original intents of the Lawgiver (*maqāṣid al-Shāri*) (Al-Handāwī, 2016). The main constituents of his maqāṣidic *ijtihād* are *maṣāliḥ*

mursalah (unrestricted public interest), *sadd al-dharāʿi* (blocking the means), maqāṣidic ratiocination (*taʿlīl maqāṣidī*), and *rukhṣah* (concession) (Ibn-Mukhtār, 2014).

In regard to the research of the *maqāṣid* thought of Imām al-Shāfiʿī, a PhD dissertation entitled *"Maqāṣidush Sharīʿati ʿindal Imāmi al-Shāfiʿī"* was done by Aḥmad Wifāq Ibn Mukhtār. The author showed the precedence of Imām al-Shāfiʿī in considering *maqāṣid al-sharīʿah* as the first composer and founder of *uṣūl al-fiqh*. He argued that Imām al-Shāfiʿī pioneered the theorisation of the purposefulness of Quranic texts (*al-qaṣd al-ifhāmī wa al-qaṣd al-ibtidāʾī*). This is the basis of all other maqāṣidic constituents of Imām al-Shāfiʿī. The author extensively discussed the *adillah* of Imām al-Shāfiʿī which are identical to the *maqāṣid al-sharīʿah*, particularly *maṣlaḥah mursalah*. Imām al-Shāfiʿī considered the *maqāṣid* in all levels of human needs: *ḍarūriyyāt, ḥājiyyāt* and *taḥsīniyyāt*. In order to highlight the maqāṣidic thinking, the author mentioned 80 different examples whereby the Imām ruled based on *taʿlīl maqāṣidi* (maqāṣidic *ratio legis*) (Ibn-Mukhtār, 2014).

A comparative study between the maqāṣidic theorisation of Imām al-Shāfiʿī and Imām al-Shāṭibī entitled "*Maqāṣidush Sharīʿati baynash Shāfiʿī wash Shāṭibī: Dirāsatun Taḥlīliyyah*" have been conducted by Ḥasan Ibn Ibrāhīm al-Handāwī. He focuses on the formative text in (*uṣūl al-fiqh*) i.e. *al-Risālah* – written by Imām al-Shāfiʿī with no mention of the term *maqāṣid*, and the systematic study of the *maqāṣid* and prominently formulating it as an important topic in *uṣūl al-fiqh* by Imām al-Shāṭibī in his book *al-Muwāfaqāt* (Al-Handāwī, 2016).

Ghanāyim (2012) authored a book entitled "*Maqāṣidush Sharīʿati ʿindash Shāfiʿiyyah.*" He attempted to present the maqāṣidic *ijtihād* of Shāfiʿite school of thought by mentioning the maqāṣidic scholars al-Juwaynī, al-Ghazālī, Fakhruddīn al-Rāzī and al-Zarkashī who belong to the Shāfiʿite school. This is only one constituent which proves the practice of the maqāṣidic thinking in Shāfiʿite school. To sum up, these academic studies comprise almost all constituents and dimensions of Imām al-Shāfiʿī's maqāṣidic thinking. Hence, suffice to say that these contemporary studies cover the most important maqāṣidic contributions of Imām al-Shāfiʿī.

In regard to Imām Aḥmad (241 A.H.), Ibn Daqīq al-ʿĪd and al-Qarāfī state that Imām Aḥmad applied *maṣāliḥ mursalah* widely, and adopted it as a principle of *ijtihād*. Nonetheless, he used *Qiyās* in the wider meaning and considered *maṣāliḥ mursalah* within the domain of *Qiyās*. Many *maṣāliḥ*-based *fatwās* of the Ḥanbalite school are attributed to him. It shows that *maṣāliḥ mursalah* is not only a *raʾy*-based (reason-based) principle, but a method of evidence-based verification according to the texts of the Quran and Sunnah (Al-Zuḥaylī, 1986). Among the scholars who performed maqāṣidic *ijtihād* within the *madhhab* of Imām Aḥmad are

Najmuddīn al-Ṭūfī (716 A.H.), Ibn Taymiyyah (728 A.H.) and Ibn Qayyim (751 A.H.). They contributed significantly to the development of the theory of *maqāṣid al-sharīʿah*.

As regards to the research on Imām Aḥmad's maqāṣidic *ijtihād*, a doctoral thesis entitled "*Maqāṣid al-Sharīʿati ʿindal Imāmi Aḥmad wa Atharuhā fil Muʿāmalātil Māliyyah*" was conducted by Muḥammad al-Muqbil. The author discussed the constituents of the maqāṣidic *ijtihād* of Imām Aḥmad and showed its impacts, particularly on financial dealings (al-Muqbil, 2017). Another doctoral thesis entitled "*Murāʿātu Maqāṣidish Sharīʿati fil Madhhabil Ḥanbalī*" was conducted by Ibrāhīm (2011). Waṣfī ʿĀshūr Abū Zayd (2012) in "*Taqṣīdul Aḥkāmi fīl Fikril Fiqhī ʿindal Imāmi Aḥmad Ibn Ḥanbal*" mentioned *maṣlaḥah musalah* as one of the *adillah* of Imām Aḥmad by which the Imām considered *maqāṣid al-sharīʿah*. The author mentioned several cases whereby Imām Aḥmad established *maqāṣid al-sharīʿah* (Abū-Zayd, 2012). ʿAbdul-Majīd (2012) authored a book chapter entitled "*Maqāṣidush Sharīʿati ʿindal Ḥanābilah*." The author discussed the maqāṣidic *ijtihād* through only two principles: *sadd al-dharāʾiʿ* (blocking the means) and *ibṭāl al-ḥiyal* (invalidation of 'evasive legal means') of the Ḥanbalite school of thought. The author discussed the two principles without showing the link where *sadd al-dharāʾiʿ* and *ibṭāl al-ḥiyal* meet. To conclude, these academic studies include significant constituents of Imām Aḥmad's maqāṣidic thinking. Therefore, it can be said that significant consideration is given by the contemporary studies on the works of Imām Ahmad.

(2) Phase of Recording the Maqāṣid in Books and Studies for the Period (320-380H)

The early 4th century is the beginning of the compilation of Islamic law from a *maqāṣid* perspective. In this phase, *maqāṣid al-sharīʿah* was addressed in an atomistic approach. Specific (*maqāṣid khassah*) and partial objectives of the *sharīʿah* (*maqāṣid juzʾiyyah*) were discussed in deriving the rulings of the *sharīʿah*. Scholars of this phase include al-Rāghib al-Aṣfahānī (302H), al-Ḥakīm al-Tirmidhī (320H), Abū Zayd Aḥmad Ibn Sahl al-Balakhī (322H), Abū Manṣūr al-Mātūrīdī (333H), al-Qaffāl al-Shāshī (365H), Abū Bakr al-Rāzī al-Jaṣṣāṣ (370H), Abū Bakr al-Abhurī (375H), Ibn Bābawayh al-Qimmī (381H) and al-Bāqillānī (403H), among others.

Some contemporary studies have been conducted on the contributions of some of these scholars while others have been overlooked such as al-Aṣfahānī, al-Balakhī, al-Mātūrīdī and al-Abhurī. Al-Balakhī was the first to have highlighted the importance of the soundness of both the body and mind. He discussed human welfare from a philosophical aspect which emphasises that welfare is achieved through the acquisition of benefit (*jalb al-manfaʿah*) and avoidance of harm or injury (*dafʿ al-maḍarrah*). The goal and objective is the betterment in this world and

the Hereafter. He also discussed it from a practical aspect to detail how to reach the goal through the preservation of body and mind (Al-Balakhī, 2005).

With regards to the studies on the contributions of the scholars of this phase, Zuhrī (2001) conducted a comparative study entitled *"Taʿlīlul Aḥkāmi bayna ahlis Sunnati wash Shīʿatil Imāmiyyah: Al-Ḥakīm al-Tirmidhī wa Ibn Bābawayh al-Qimmī Namūdhajayn"* on the process of deriving *sharīʿah* rulings (*aḥkām*) where he referred to this process in the viewpoint of al-Hakīm al-Tirmidhī (320H) and Ibn Bābawayh al-Qimmī (381H). Another study entitled "*Al-Fikrul Maqāṣidī ʿindal Imāmil Qaffālish Shāshīl Kabīri min Khilāli Kitābihī Maḥāsinush Sharīʿah*" by Ḥarūz (n.d) highlighted the maqāṣidic thinking of al-Qaffāl al-Shāshī (365H).

As regards to Abū Bakr al-Rāzī al-Jaṣṣāṣ (370H), he is classified as *ahl al-rayʾ* (qualified for discretionary opinion) and considered the first renewer of *uṣūl al-fiqh* in terms of content and morphology after its introduction by Imām al-Shāfiʿī (Zuwayb, 2014). There are various texts in his legacy, particularly *al-fuṣūl fil uṣūl* and *Aḥkāmul Qurʾān* that showed his standpoint on *maṣāliḥ*. For example, he said, "obligations and commands are prescribed according to *maṣāliḥ* (benefits)." Nobody knows except Allah swt. about the interests and benefits of human beings (*ʿIbād*) (Al-Jaṣṣāṣ, 1985, p. 2/221). In regard to the wisdom (*ḥikmah*) of criminal punishments, he said that the laws of punishments that are to be held in this world were not legislated based on the degree of crimes but on the wisdom that Allah alone possesses (Al-Jaṣṣāṣ, 2014). He used different *qawāʿid fiqhiyyah* (*fiqh* maxims) that incorporate into the five primary objectives of *sharīʿah* and ensure *maṣāliḥ* throughout his legacy. The constituents of his maqāṣidic thinking are maqāṣidic legal maxims (*qawāʿid maqāṣidiyyah*), comparison between *maṣāliḥ* (benefits) and *mafāsid* (harms), application of ensuring simplicity (*taysīr*) and removing hardships (*rafʿ al-ḥaraj*), consideration of local norms and customs (*ʿurf*), *qiyās* (analogical reasoning) and *raʾy* (discretionary opinion), *taʿlīl al-sharīʿah* (ratiocination of Islamic law) and *maṣlaḥah* (well-being) (Yūsuf, 2009).

With regard to the research on his maqāṣidic *ijtihād*, a comparative study between Abū al-Jaṣṣāṣ and Ibn al-ʿArabī entitled "*Al-Tafsīrul Maṣlaḥī lin Nuṣūṣi ʿindal Imāmaynil Jaṣṣāṣi wa Ibnil ʿArabi min Khilāli Kitābayhimā Aḥkāmul Qurʾān*" was carried out by Yūsuf (2009). The author compared the *maṣlaḥī* approach of both scholars which reflects the essence of the *maqāṣid al-sharīʿah* in interpreting the texts of the holy Qur'an. However, this comparative study does not characterise the complete picture of al-Jassas' maqāṣidic *ijtihād*.

(3) Phase of Theorisation of the Maqāṣid and Studies on Scholars of the Period (381-789H)

After the initiation of Abul Ḥasan al-ʿĀmirī, the theory of the *maqāṣid al-sharīʿah* was formalised a few centuries later where it reached its mature stage. Scholars of this phase include al-Juwaynī, Ibn Qayyim, ʿAbdul Jabbār al-Hamadhānī, Al-Ghazālī, Ibn al-ʿArabī, al-Rāzī, al-Āmidī, Ibn ʿAbdussalām, al-Qarāfī, al-Ṭūfī and Ibn Taymiyyah (Al-Juwaynī, 1418H; Al-Raysūnī, 1995; Auda, 2007).

With regard to Imām Abul Ḥasan al-ʿĀmirī (381H), he is the pioneer who initiated the theorisation of the *maqāṣid al-sharīʿah*. He introduced the five types of necessities through general deduction and applied them in criminal punishments that ensure the preservation of the individual and social pillars of human life. In his book *"al-Iʿlām bi Manāqibil Islām"*, al-ʿĀmirī confined human welfare in three dimensions: *akhlāq* (morals and ethics), society and governance. Thus, he provided a holistic vision of welfare and a maqāṣid model of human life. He established a close relationship between *akhlāq* and social relation of human being; and between *akhlāq* and rule of governance; he confirmed the influences of each dimension on the next dimension in order (Al-ʿĀmirī, 1988). In *Maḥāsinul Islām*, he discussed the specific *maqāṣid* (*khāṣṣah*) and partial *maqāṣid* (*juzʾiyyah*) of the *sharīʿah*.

However, contemporary researchers only mention his contribution in the initiation of five types of necessities. To date, the existing literature does not record any study devoted to his contribution despite the fact that he initiated the theorisation of the *maqāṣid al-sharīʿah*. With regard to the research on the contribution of al-Bājī, Fuʾād Ibn ʿUbayd (2009) conducted a PhD thesis entitled "*Al-Ijtihādul Maqāṣidī ʿindal Imāmi Abil Walīd al-Bājī wa Taṭbīqātuhul Fiqhiyyatu min Khilāli Kitābihī al-Muntaqā*". He explored the maqāṣidic *ijtihād* of al-Bājī by exploring the general and partial objectives behind the rulings of *sharīʿah* (Ibn-ʿUbayd, 2009).

As for al-Qāḍī ʿAbdul Jabbār al-Hamādhānī, he discussed the wisdom of the *sharīʿah* influenced by his Muʿtazilī thinking whereby the ʿaql (rationality/ reason) plays an important role in deriving the rulings for some issues. In regard to Abū ʿAbdullāh al-Bukhārī, he discussed the partial objectives and secrets behind the five pillars of Islam, social dealings and transactions, and other issues (Al-Bukhārī, 1357H). He is a Ḥanafite scholar and his contribution could reveal more about the maqāṣidic thinking in the Ḥanafite school of legal thought. The existing literature lacks studies on their contributions despite them being among the early scholars who did maqāṣidic *ijtihād*.

In the second half of 5th century, the contributions of the scholars to the theory of the *maqāṣid al-sahrīʿah* was to the extent that the theory reached its maturity. A number of

contempory studies have been devoted to their contributions. Among those studies are "*al-Fikr al-Maqāṣidī ʿinda Ibn Rushd al-Ḥafīd*" (ʿAlī, 2012), "*al-Fikrul Maqāṣidī ʿindal Imāmi Abī Bakr al-ʿArabī al-Mālikī*" (Birrāḥ, 2019), "*al-Tafsir al-Maqāṣidi ʿinda Ibn al-ʿArabi fi Tafsir Aḥkām al-Qur'an*" (Riyālāt, 2011), *Maqāṣidush sharīʿati ʿindal ʿIjj Ibn ʿAbdussalām*" (ʿUmar, 2003), "*Maqāṣidush Sharīʿati ʿinda Shihābuddīn al-Qarāfī*" (ʿUqūn, 2011) "*al-Fikr al-Maqāṣidi ʿinda al-Imām Shihab al-deen al-Qirafi*" (Aḥādūsh, 2004), "*al-Maṣlaḥatu fit Tashrīʿil Islāmī wa Najmuddīn al-Ṭūfī*" (Zayd, 1964), "*Maqāṣidush Sharīʿati fīl Muʿāmalātil Māliyyati ʿinda Ibni Taymiyyata wa Atharuhā fīl Aḥkāmil Fiqhiyyati wan Nawāzilil Māliyyatil Muʿāṣarah*" (Al-ʿAskar, 1435H/2013), "*Naẓariyyatu Maqāṣidush Sharīʿati bayna Shaykhil Islāmi Ibni Taymiyyata wa Jamhūril Uṣūliyyīn: Dirāsatun Muqāranatun min al-Qarnil Khāmisi ilāl Qarnil Thāminil Hijrī*" (Al-Qaraḍāwī, 2000), and "*Maqāṣid al-Sharīʿah ʿinda Ibn Qayyim al-Jawziyyah*" (al-Jundī, 2007).

(4) Phase of Crystallisation of the Maqāṣid Theory and Studies on Scholars of This Period (790-1392H)

In the late 8th century, the theory of the *maqāṣid al-sharīʿah* was crystallised in the magnum opus of al-Shāṭibī (790H) and reached its most mature stage. Al-Shāṭibī established the connection of the *maqāṣid al-sharīʿah* with every chapter of *uṣūl al-fiqh*, and devoted a separate chapter to the *maqāṣid al-sharīʿah*. In the introduction to Ibn ʿĀshūr's treatise, al-Mesawi considered al-Shāṭibī the first teacher of the *maqāṣid al-sharīʿah* for his comprehensive presentation (Ibn-ʿĀshūr, 2001). Many contemporary studies have been devoted to his works that are out of the scope of this paper.

In the beginning of the 9th century, Ibn Khaldūn (808H) viewed that all provisions (*aḥkām*) of the *sharīʿah* must have objectives (*maqāṣid*) and wisdom (*ḥikam*) behind their legislation (Ibn-Khaldūn, 2004). Having this viewpoint, he introduced the maqāṣidic vision of *sharīʿah* governance (*siyāsah sharʿiyyah*) in his remarkable book *al-Muqaddimah*. He established a close relationship between politics and *maqāṣid al-sharīʿah* arguing that empowering the leader (*naṣbul Imām*) is essential (*wājib*) based on the consensus of the Prophet's companions and their followers (*tābiʿūn*). This is for the protection of human kind which is one of the essential objectives (*ḍarūriyyāt*) of the *sharīʿah* (Ibn-Khaldūn, 2004). He emphasised the search for *maqāṣid* in many issues regarding politics and governance. This significantly appears as he identified 'group feeling' (*ʿaṣabiyyah*) as the wisdom behind the condition of the Qurashite lineage for a leader while some scholars considered it as *tabarruk*

(descent of divine blessing upon those who has the prophet's link), and others do not make it a condition.

Ibn Khaldūn said that the benefit of making Qurashite lineage as a condition of leadership is not confined in *tabarruk* as understood by some scholars, albeit that link is present and that *tabarruk* is achieved accordingly. Yet, the benefit (*maṣlaḥah*) of the condition of Qurashite lineage is a group feeling (*ʿaṣabiyyah*) which ensures the protection (*ḥimāyah*) and accountability (*muṭālabah*); and its presence in the leader removes conflict and division. Consequently, the nation (*millah*) and others will be content with the leader and the rope of harmony will keep the *Ummah* united (Ibn-Khaldūn, 2004). With regard to the studies on his maqāṣidic *ijtihād*, two academic studies were dedicated to highlighting Ibn Khaldūn's maqāṣidic approach to *siyāsah sharʿiyyah*. One is entitled "*Maqāṣidush sharīʿati adawātun li Fahmiẓ Ẓawāhiril Ijtimāʿiyyah: Ru'yatun Khaldūniyyah*" by Miftah (2013). The other is entitled "*Maqāṣidush Sharīʿatil Islāmiyyah: Madkhalun ʿUmrānī*" by Hāshim (2014). However, none of these studies examined the overall maqāṣidic thoughts of Ibn Khaldūn comprehensively.

Shāh Waliyyullāh al-Dehlawī (1176H) and Muḥammad al-Shawkānī (1250H) contributed to the *maqāṣid al-sharīʿah* in the 12ᵗʰ and 13ᵗʰ centuries. Al-Dehlawī discussed the misconceptions about *maqāṣid al-sharīʿah* in the beginning of his book "*Ḥujjatullahil Bālighah*". He addressed the disputes on the wisdom behind Islamic laws and refuted both extreme and liberal views; and highlighted the wisdom, benefits and welfare behind all provisions of the *sharīʿah* (Al-Dehlawī, 2005). A study entitled "*Naẓariyyatul Maqāṣidi ʿindal Imām al-Shāh Waliyyullah al-Dehlawī min Khilāli Kitābihī Ḥujjatullāhil Bālighah*" was devoted to al-Dehlawī's contribution to *maqāṣid al-sharīʿah* (Ṣālih, 2006).

As regards to al-Shawkānī (1250H), he considered the *maqāṣid al-sharīʿah* in his *ijtihād* while giving legal (*fiqhī*) opinions and interpreting the holy Qur'an. He emphasised that a jurist must know the objectives of the *sharīʿah* and that the *sharīʿah* is founded on the acquisition of benefits and avoidance of harms. He viewed that the act of accepting benefits and avoiding harms is not absolute but are applicable for specific cases which are not mentioned in textual evidence (*nuṣūṣ*), nor fall under any general principle of the *sharīʿah*, and they are not related to *istiḥsān* (juristic preference) (Al-Jundī, 2008; Al-Shawkānī, 1999). However, the researchers have found no contemporary study on the maqāṣidic *ijtihād* of al-Shawkānī.

4.0 THE RESEARCH GAP AND DIRECTIONS FOR FUTURE RESEARCH

Based on the holistic understanding of the evolution of the theory of the *maqāṣid al-sharīʿah*, it can be said that most of the contemporary studies focused on the contribution of al-Juwaynī, al-Ghazālī and al-Shāṭibī while attention should also be directed to include Imām Abū Ḥanīfah, al-Rāghib al-Aṣfahānī, Abū Zayd al-Balakhī, Abū Bakr al-Jaṣṣāṣ, Abul Ḥasan Al-ʿĀmirī, al-Qāḍī ʿAbdul Jabbār al-Hamadhānī, Abū 'Abdullāh Muḥammad ʿAbdur Raḥmān al-Bukhārī Ibn Khaldūn and al-Shawkānī. Studying the contributions of the above scholars would provide new insights and a much richer understanding of the theory of *maqāṣid al-sharīʿah* and its application in exercising juristic reasoning (*ijtihād*). Some of the above scholars might not use the term '*maqāṣid al-sharīʿah*' in their writings, but did use related concepts as discussed in the earlier section of the paper. Therefore, in order to engage in an in-depth study on the classical scholars of *maqāṣid*, contemporary researchers should not be deceived due to their overreliance on a specific terminology.

5.0 CONCLUSION

This paper has discussed the evolution of the maqāṣid al-sharīʿah as a theory and assessed the scope of contemporary studies conducted on the contribution of earlier scholars on this theory. Scholars of the schools of Islamic legal thought wrote theories of the maqāṣid al-sharīʿah due to the nature of scholarship in their age. The theorisation of maqāṣidal-sharīʿah was initiated by al-ʿĀmirī, formalised by al-Juwaynī followed by al-Ghazālī and crystallised by al-Shāṭibī. Many other scholars also contributed to the development of the theory. Regarding the contemporary studies reviewing the contributions of these classical scholars, most are confined to the famous three scholars despite there being many other scholars who contributed to the theory of the maqāṣid al-sharīʿah. Even though a large number of earlier scholars have built the foundation for maqāṣidic thoughts, their contributions are yet to be discovered.

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