Indonesian *Maqasid Al-Syari'ah:* **A Study of Yudian Wahyudi's Thought**

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Abstract
This article describes Yudian Wahyudi's thoughts regarding *Maqasid al-Syari'ah* as a method of solving contemporary problems in Indonesia. The primary data of this research was obtained from Yudian's writings about *Maqasid al-Syari'ah.* The secondary data were obtained from authoritative, up-to-date, and relevant literature sources. This study finds an Indonesian *Maqasid al-Syari'ah* theory, which is different from the Classical and Contemporary *Maqasid al-Syari'ah*. Indonesian *Maqasid al-Syari'ah* wants to harmonize between *Maqasid al-Syari'ah* (five primary needs or *zharuriyyat al-khams*) and Indonesian *Maqasid* (based on Pancasila). *Maqasid al-Syari'ah* Yudian's idea rests on four pillars, namely: *tauhidul 'ulum* (unity of knowledge) between *Ayat Qur'aniyah, Kauniyah,* and *Insaniyah* (*zharuriyat ats-tsalasah*) as the embodiment of the *slogan al-Ruju' ila al-Qur'an wa al-Sunnah* (Return to the Qur'an and Sunnah), the theory of pairing in Islamic law (*ilahi-wad'i*, absolute-relative, universal-local, eternal-temporary, and literal-meaning), method (*Maqasid al -Syari'ah* as an analytical knife or point of view to read the reality that is around us), and matters related to Indonesia. Meanwhile, *Maqasid* Indonesia is based on the five basic values of the goals of the Indonesian nation as embodied in Pancasila (Salam Pancasila): divinity (*hifdz al-din*), humanity (*hifdz al-nafs*), unity (*hifdz al-nasl*), deliberation and wisdom (*hifdz al-'aql*), and social justice (*hifdz al-mal*). The results of this study can have implications for the development and alignment factors of the *Maqasid al-Syari'ah* theory, which is unique to Indonesia. Indonesian *Maqasid al-Syari'ah* is a strengthening of the foundation of *Usul al-Fiqh* and Indonesian *Fiqh*.

Keywords: *Maqasid al-Syari'ah*; Indonesia; Yudian Wahyudi; Pancasila

Abstrak

Artikel ini mendeskripsikan pemikiran Yudian Wahyudi tentang Maqasid al-Syari'ah sebagai metode penyelesaian masalah-masalah kontemporer di Indonesia. Data primer penelitian ini diperoleh dari tulisan-tulisan Yudian mengenai Maqasid al-Syari'ah. Data sekunder diperoleh dari sumber-sumber literatur yang otoritatif, terkini, dan relevan. Penelitian ini menemukan teori Maqasid al-Syari'ah Indonesia yang berbeda dengan teori Maqasid al-Syari'ah klasik dan kontemporer. Maqasid al-Syari'ah Indonesia ingin menyelaraskan antara Maqasid al-Syari'ah (lima kebutuhan primer atau zharuriyyat al-khams) dengan Maqasid Indonesia (yang berlandaskan Pancasila). Maqasid al-Syari'ah gagasan Yudian bertumpu pada empat pilar, yaitu: tauhidul 'ulum (kesatuan ilmu) antara Ayat Qur'aniyah, Kauniyah, dan Insaniyah (zharuriyat ats-tsalasah) sebagai pengejawantahan slogan al-Ruju' ila al-Qur'an wa al-Sunnah (kembali kepada al-Qur'an dan Sunnah), teori berpasangan dalam hukum Islam (ilahi-wad'i, absolut-relatif, universal-lokal, abadi-sementara, dan literal-makna), metode (Maqasid al-Syari'ah sebagai pisau analisis atau cara pandang untuk membaca realitas yang ada di sekitar kita), dan hal-hal yang berkaitan dengan Indonesia. Sementara itu, Maqasid Indonesia didasarkan pada lima nilai dasar tujuan bangsa Indonesia yang terkandung dalam Pancasila (Salam Pancasila): ketuhanan (hifdz al-din), kemanusiaan (hifdz al-nafs), persatuan (hifdz al-nasl), permusyawaratan dan kebijaksanaan (hifdz al-'aql), dan keadilan sosial (hifdz al-mal). Hasil penelitian ini dapat berimplikasi pada pengembangan dan penyelarasan faktor-faktor teori Maqasid al-Syari'ah yang khas Indonesia. Maqasid al-Syari'ah Indonesia merupakan penguatan terhadap fondasi Usul al-Fiqh dan Fiqh Indonesia.

Kata Kunci: Maqasid al-Syari'ah, Indonesia; Yudian Wahyudi; Pancasila

Introduction

Indonesia faces life problems in various sectors (Wanto, dkk. 2020), such as the issue of religious tolerance, humanity and Human Rights (HAM), education, economy, and health from the impact of the COVID-19 pandemic, family problems, and the development of science and technology. Ridhwan (2020) One of these problems can be solved through contemporary *ijtihad*. (Takim 2021) *Ijtihad* is a fundamental concept that developed in the discipline of *Usul al-Fiqh*. (Wahyudi 2006) The essential theme in the study of *Usul al-Fiqh* is *Maqasid al-Syari'ah* (Wahyudi 2007). *Maqasid al-Syari'ah* is the heart of the science of *Usul al-Fiqh* (Parrey 2015). In a general sense, *Maqasid al-Syari'ah* is a shari'ah goal whose goals are set to realize benefit for humans in this world and the hereafter. (Alias 2021) The human benefit is realized by maintaining five basic needs (*zharuriyat al-khamsah*): religion, soul, lineage, reason, and property. Based on the development and expansion of the meaning of the five basic needs in *Maqasid al-*

Syari'ah, (Auda 2007) the complex phenomena of Indonesia can be portrayed through these five indicators. The benefit of maintaining religion (*hifdz al-din*) can be interpreted as tolerance for religious freedom, believing in God, and avoiding conflict in the name of religion. (Roibin, dkk. 2021) However, history in Indonesia shows facts related to religious conflicts that spread in several areas, such as the conflict in Poso (1992), the Sunni and Shi'i conflict in East Java (2006), and the religious conflict in Bogor related to the construction of the GKI Yasmin (2000) (Muharam 2020).

Regarding the maintenance of the soul (*hifdz al-nafs*), cases of human rights violations are often found in Indonesia. There are three Komnas HAM notes to the government regarding this issue. First is the settlement of cases of serious human rights violations in the past that have not been completed. Second, many cases are still related to agrarian conflicts that involve violence. Third, there are still many cases of intolerance and violations of freedom of expression (Sobarnapraja 2020).

In addition to facing human rights issues, Indonesia is also still facing problems of resilience, welfare, and family functions (*hifdz al-nasl*), which are not yet optimal during the Covid-19 pandemic. (Riany, dkk. 2021) Understanding and awareness about the function of the family in Indonesia are still low. This slowness is due to the problems and difficulties faced by the family affecting the functioning of the family. (Kumala, dkk. 2021) Family dysfunction will create a non-conducive family environment, such as less harmonious relationships among family members, lack of parental control over children's behaviour, and lack of warmth and support among family members. Another problem that has an impact on family dysfunction is the poverty factor (Herawati 2021).

Indonesia also faces problems in the education sector (*hifdz al-'aql*), especially in this era of the Covid-19 pandemic. (Prasetia 2021) For example, the "study from home" policy in response to the Covid-19 pandemic seriously impacted 68 million students and 3.2 million teachers. Distance learning runs the risk of hampering or even stopping the learning process for schools in remote areas due to limited internet access and each student's costs. Schools and students who do not have adequate facilities have difficulty continuing the teaching and learning process. This difficulty can increase the disparity or inequality of education in Indonesia (Santosa 2020).

Not much different from the education sector, the economic sector (*hifdz al-mal*) is also affected by the Covid-19 pandemic in Indonesia. The Covid-19 pandemic has slowed Indonesia's economic growth rate (Nasution, dkk. 2020). The Covid-19 outbreak has also had a significant impact on the pace of household consumption in the short term. The decline in consumption made Indonesia's gross domestic product growth slump. This figure is far below the assumption of the 2020 State Revenue and Expenditure Budget. On the other hand, millions of affected workers in Indonesia have lost their work relationships and were laid off due to the pandemic (Sina, 2020).

These are the five problematic phenomena in Indonesia today from the point of view of *Maqasid al-Syari'ah* (*zharuriyat al-khamsah*). The origin of the *Maqasid al-Syari'ah* theory is often attributed to one of the companions of the Prophet Muhammad, namely Umar bin Khattab (Yurron 2021). Furthermore, in the classical era, through the guidance of al-Juwaini, (Rizqi, 2021) Al-Ghazali developed the theory of *Maqasid al-Syari'ah*, even for handling deradicalization (Mukri, dkk. 2020). Later in the hands of Al-Syathibi, the theory became famous throughout the world, especially in the development of contemporary Islamic economics (Mansyur 2020). In modern times, Muhammad Abduh and Rashid Rida in Egypt, as well as al-Maududi in India (later Pakistan), encouraged Muslims to study Maqasid al-Syari'ah in Al-Syathibi's Kitab *al-Muwafaqat al-Ahkam* (Kurniawan 2021).

Through Abduh and Rida, several Indonesian Islamic reformers introduced the theory of *Maqasid al-Syari'ah*. Unfortunately, their efforts were nothing more than repeating Al-Syathibi's opinion (Wahyudi 2006). Meanwhile, in the contemporary era, Ibn 'Asyur and Jasser Auda developed and expanded the scope of *Maqasid al-Syari'ah*, from the individual to the social (Ni'ami, dkk. 2021). However, in contrast to classical and contemporary thinkers in the study of *Maqasid al-Syari'ah*, this research examines the thoughts of Yudian Wahyudi, one of the Islamic-cum-nationalist Muslim thinkers from Indonesia. Yudian succeeded in combining Eastern (Occidentalism) and Western (Orientalism) ideas (Wahyudi 2003) to develop his idea of *Maqasid al-Syari'ah* as a method for solving contemporary problems in Indonesia. (Wahyudi, 1995). The theory of *Maqasid al-Syari'ah* Yudian's idea is unique and distinctive because it harmonizes Islam and things about Indonesia. The idea can be read in three historical contexts:

Maqasid al-Syari'ah theory, the still abstract idea of Al-Syathibi, Indonesian fiqh, Hasbi's idea, which is still theoretical, and Yudian's current capacity as Head of the Pancasila Ideology Development Agency. Therefore, this research aims to explain how Yudian Wahyudi thinks regarding *Maqasid al-Syari'ah* as a method of solving contemporary problems in Indonesia.

Method

This research is a study of the character's thoughts, which wants to explain how Yudian's thoughts are related to *Maqasid al-Syari'ah* as a method of solving contemporary problems in Indonesia. The research data is divided into primary and secondary data. The primary data of this research was obtained from Yudian's writings about *Maqasid al-Syari'ah*. The secondary data were obtained from authoritative, up-to-date, and relevant literature sources. This research's object includes two things: material objects and formal objects (Parluhutan, 2020). The material object of this research is Yudian's thoughts through his writings on *Maqasid al-Syari'ah*. A formal object is a thoughtful approach (Harahap, 2006).

Sources of data in this research were collected from Yudian's works, both personally and collectively (anthologies), regarding *Maqasid al-Syari'ah* (as primary data). This research also explores the works of others (including in encyclopedias) about Yudian on *Maqasid al-Syari'ah* (as a secondary data source). This research uses interpretation, coherence, and historical analysis methods (Jensen, 2020). Interpretation attempts to achieve a correct understanding of facts, data, and symptoms. Coherence is a proper understanding of Yudian's thought concepts, seen from the harmony between one idea and another. Historical is connecting Yudian's thoughts to the history of his life, his historical environment, and the influences he experienced and his life journey (Harahap, 2006).

Yudian Wahyudi's Intellectual Biography

Yudian was born in Balikpapan, East Kalimantan, Indonesia, on April 17, 1960, the son of a santri and a soldier (Riyanto, 2021). While studying in the undergraduate program, Yudian studied two scientific fields, Islamic legal philosophy at UIN Sunan Kalijaga (Riyanto, 2013) and philosophy at Gadjah Mada University (1982-1987)

(Anam, 2021). As for the postgraduate program at McGill University, Yudian studied Indonesian fiqh (1993) (Najib, 2020) to compare three world thinkers in three countries (2002) (Wahyudi, 2002). Yudian is a master, (Wahyudi, 1993) doctor, and professor in the field of Islamic legal philosophy. Currently, Yudian is the Head of the Pancasila Ideology Development Agency in Indonesia. Yudian is one of the independent, original Indonesian Muslim thinkers, and his reputation and scientific authority have been recognized internationally. Yudian moved from a follower (*muqallid*) to a comparison *(muttabi'),* then became an academic *mujtahid (*Tarigan, dkk., 2019).

The figure of Yudian is the integration between *turats* and *tajdid, "santri in a sarong*" and "*doctor in a toga*", Arabic and English-French-German, East and West, spiritual and rational, ushuluddin and shari'ah, philosophy, and *ushul fiqh,* interpretation, and hermeneutics, Islam and nationalism (Riyanto, 2021). Through this link, Yudian gives a new meaning to the basic concepts in Islam through the theory of *Ushul al-Fiqh* and *Maqasid al-Syari'ah* so that it is more grounded and academic (scientific). Yudian thought regarding *Ushul al-Fiqh,* and *Maqasid al-Syari'ah* was highly appreciated by the Western thinker, Kersten, when compared to the ideas of Sahal Mahfuz (Rasyid, 2021) and Masdar F. Mas'udi (Mushthafa, 2020).

Referring to Kersten, Yudian has formulated the most consistent argument for making the sub-field of Islamic legal thought (*Maqasid al-Syari'ah*) an epistemological method and a legal doctrine. In addition, Yudian also tries to change *Ushul al-Fiqh* into a hermeneutic that is more philosophical than juridical oriented (Kersten, 2015). Making *Ushul al-Fiqh* and especially *Maqasid al-Syari'ah* more philosophical-methodical than juridical-doctrinal is very important. The importance is because the weakness of Islamic reasoning in Indonesia is that *Ushul al-Fiqh* and *Maqasid al-Syari'ah* are rarely used as methods and approaches to solving various problems (Wahyudi, 2007).

Referring to Kersten, Yudian is an Indonesian Muslim thinker who has demonstrated the potential of *Ushul al-Fiqh* and *Maqasid al-Syari'ah* as a method of thought and an epistemology that is essentially Islamic and thus becomes an example of intellectual creativity from within Islam. Yudian is considered to have emphasized the importance of *Ushul al-Fiqh* and *Maqasid al-Syari'ah* as methods of analysis in the dialectical process between Scripture and human habits shaped by history and culture.

As an expert on *Ushul al-Fiqh* and *Maqasid al-Syari'ah* studies, Yudian concluded that compared to countries such as Turkey, India, and Morocco, Indonesia was more successful in balancing national and religious values (Kersten 2015).

Theoretical Debates in *Maqasid Al-Syariah*

There are two periods of development of *Maqasid al-Syari'ah* theory. First, the classical period is exclusive, individual, and Madaniyah. Second, the contemporary period is characterized by its inclusive, progressive, social, and Makiyah (Nawawi, dkk., 2020) The classical *Maqasid al-Syari'ah* theory was pioneered by Iman al-Juwaini (478 H/1085 AD) as the originator of the theory of "Public Needs", which was continued by Al-Ghazali (505 H/1111 AD) as the originator of the theory of "The Levels of Necessity" (Rahmi, 2018). Al-Juwaini offers *maqasid* levels, namely *al-zharurat, al-hajat al 'ammah, al-makrumat,* and *al-mandubat* (Al-Juwaini, 1971). Al-Ghazali then continued the theory through five levels of *maqasid*, namely *hifdz al-dn*, *hifdz al-nafs*, *hifdz al-nasl*, *hifdz al-'aql*, and *hifdz al-mal* (Al-Ghazali, 1996). After the period of Al-Juwaini and Al-Ghazali, the theory of *Maqasid al-Syari'ah* was developed by Ash-Syathibi (790 H/1388 AD) through three important transformations. First, from "free benefits" (*al-masalih al-mursalah*) to "legal principles" (*al-masalih al-nassiyah*); Second, from the "wisdom behind the rules" to the "basic rules"; and third, from "uncertainty" (*zanniyyah*) to "belief" (*qath'iyyah*) (Asy-Syathibi, 1990). By Ash-Syathibi, *Maqasid al-Syari'ah* is classified into three variants of needs (*al-kulliyat al-syari'at*), namely: *zharuriyat* (primary), *hajjiyat* (secondary), and *tahsiniyat* (tertiary). In the *zharuriyat,* it is shown that the purpose of the Shari'a is to maintain the existence of five things (*zharuriyat al-khamsah*), namely: *hifdz al-din* (maintaining religion), *hifdz al-nafs* (guarding the soul), *hifdz al-mal* (guarding property), *hifdz al-'aql* (guarding the mind), and *hifdz al-nasl* (guarding offspring) (Asy-Syathibi, 1990). After the Ash-Syathibi era, this theory stagnated before Muhammad Abduh, Rashid Rida, and al-Maududi finally recommended their students to study Al-Syathibi's *al-Muwafaqat fi Ushul al-Ahkam* (Wahid, 2018).

In the contemporary era, the classical *Maqasid al-Syari'ah* theory, which is exclusive and individual, was developed and expanded toward inclusive, progressive, social and development of family institutions, society, nationality, and even the unity of humankind as a whole (Auda, nd). For example, Ibn 'Asyur (1325 H/1907 AD)

prioritized *maqasid* related to the interests of the nation or ummah, over *maqasid* regarding individual interests (Hasanuddin, 2020). Rasyid Rida includes reform issues and women's rights in his *maqasid* theory (Hadi, 2013). Yusuf al-Qaradawi also discussed human dignity and rights in his *maqasid* studies (al-Qaradhawi, 2007).

The expansion of the reach of the classical *maqasid,* referring to Auda, allowed it to respond to global issues and evolve from the wisdom behind legal decisions to practical and strategic plans for reform and reform (Auda 2007). Ibn 'Asyur and Auda (Ni'ami, 2021) then developed the contemporary *Maqasid al-Syari'ah* theory with four main principles: First, the realization of the independence of *Maqasid al-Syari'ah* as a separate scientific discipline to prosper and maintain human peace and tolerance (Zaprulkhan, 2020). Second, consider the scope of the law, which includes general *maqasid* such as Makiyah values: justice and universality (Lantong, 2018). Third, expanding the concept of *maqasid* from an individualistic orientation to society, the nation, and even humans. Fourth, it succeeded in proposing a new universal *maqasid* which was deduced directly from the Qur'an and Al-Hadith, not from the literature of the Islamic jurisprudence school (Auda, 2007).

Referring to Ibn 'Asyur and Auda, *Maqasid al-Syari'ah* must go beyond the historicity of fiqh decisions and represent the values and general principles of the texts. Thus, detailed laws *(ahkam tafsiliyat)* can be extracted from comprehensive principles *(kulliyat)* (Ibn Asyur, 2016). Ibn 'Asyur has opened the door for contemporary scholars to develop the theory of *Maqasid al-Syari'ah* in various new ways (Auda, 2007). The contemporary *Maqasid al-Syari'ah* theory of Ibn 'Asyur is based on four main universal goals of Islam, namely fitrah, *samahah, musawah*, and *hurriyah* (Ibn 'Asyur, 2015). *Fitrah* is a principle bestowed on all human beings regardless of race, social culture, geographical conditions, and even religion. *Samahah* means *al-'adl* or *al-tawassuth* (moderate) (Ni'ami, dkk., nd). *Musawah* is a combination of the main moral values, such as honesty, balance, virtue, equality, harmony, proportionality, and modesty. *Hurriyah* is the freedom that is the right of all creatures in the universe as long as its implementation does not cause harm to other parties or oneself (Effendi, 2020).

In contrast to Ibn 'Asyur, Auda, through a Systems Approach (cognition, holism, openness, multidimensionality, and purpose), widens and expands the scope of

the classical *Maqasid al-Syari'ah* theory (Sidiq, 2017). The expansion is based on safeguarding and protecting development and human rights. Second, the development of human resources as *maqasid* (Auda, 2007). Its development and growth are as follows: *hifdz al-din* is expanded to protect, protect, and respect freedom of religion and belief; hifdz an-nafs is expanded to maintain and protect human dignity; safeguard and protect human rights; *hifdz al-mal* is expanded to prioritize social care; pay attention to economic development; promote human well-being; eliminate the gap between rich and poor; *hifdz al-'aql* is expanded to multiply the mindset and scientific research; prioritize travel to seek knowledge; suppressing the mindset that prioritizes the criminality of the mob; avoiding attempts to underestimate the workings of the brain; *Hifdz al-nasl* was expanded as a theory-oriented to the protection and development of the family; more concern for the institution of the family (Abdullah, 2012).

Among the two characteristics of the classical *Maqasid al-Syari'ah* schools (exclusive, individual, centred on fiqh, Madaniyah, partial, and hierarchical) and contemporary (moderate, tolerant, the object of study includes various sciences, general, Makiyah, inclusive, multidimensional, and progressive), this research places the position of the *Maqasid al-Syari'ah* theory of Yudian, which is different from the two schools. Methodologically, the development of *Maqasid al-Syari'ah* from Yudian rests on four pillars of integration, namely: *tauhidul 'ulum* (unity of knowledge between theological-cosmic-cosmic pillars or between *Qur'aniyah, Kauniyah,* and *Insaniyah* verses), as the embodiment of the slogan *al-Ruju' ila al-Qur'an was al-Sunnah*; pair theory in Islamic law (*ilahi-wad'i*, absolute-relative, universal-local, eternal-temporary, literal-meaningful, exclusive-inclusive, partial-general, Madaniyah-Makiyah, fiqh-shari'ah, individual-social); method (*Maqasid al-Syari'ah* as an analytical knife or glasses to read the reality that is around us); and Indonesianness (precepts of Pancasila).

Slogans of *Al-Ruju' ila al-Qur'an wa al-Sunnah*, *Tauhidul 'Ulum*, and Redefinition of Islamic Shari'ah

For Muḥammad ibn 'Abd al-Wahhab, *al-Ruju' ila al-Qur'an wa al-Sunnah* is to leave heresy such as religious practices that are not taught in the Qur'an and Al-Hadith (Al-fadl, 1930). Therefore, Wahhabis often quote a hadith that reads, *"Kullu bid'atin dalalatin wa kullu dalalatin fi an-Nar"* (Every innovation is going-astray and every going-

astray leads to Hell). Al-Afghani is of the view that in this modern era, Muslims are obliged to *al-Ruju' ila al-Qur'an wa al-Sunnah,* which is equipped with ijtihad and purifies the heart and revives noble character (Aulia, 2019). By referring to these three, Muslims will progress (Nasution, 1990). Ahmad Dahlan uses the statement *al-Ruju' ila al-Qur'an wa al-Sunnah* as anti-syncretism (Arifin, 1987). The statement was then criticized by three world thinkers (Wahyudi, 2022) namely Hasan Hanafi from Egypt through the project *al-Turats wa al-Tajdid* (Heritage and Modernity) (Hanafi, 1980), Muhammad 'Abid Al-Jabiri from Morocco through the project *al-Turats wa al-Hadatsa* (Heritage and Modernity) (al-Jabiri, 1991) and Nurcholish Madjid from Indonesia through the project "Islam, Modernity, and Indonesianness" (Madjid, 1987).

Referring to Yudian, the slogan *al-Ruju' ila al-Qur'an wa al-Sunnah* as the primary source of Islamic teachings, the meaning is *tauhidul ulum Islamiyah* (unity of Islamic sciences), namely the unity of knowledge between the verses of the *Qur'aniyah, Kauniyah,* and *Insaniyah* (Wahyudi, n.d). Etymologically, according to Yudian, Islam comes from the word *aslama-yuslim-islam-salam-salamah,* namely submitting to the will of Allah SWT, in order to achieve *salam/salamah* (safety or peace) in this world and in the hereafter (Wahyudi, nd). The process is called Islam, and the perpetrators are called Muslims. So, Islam is a process, not a result. Yudian's "Islamic Process" is undoubtedly different from Nurcholish Madjid's "Islam of resignation". According to Madjid, Islam is a form of *mashdar,* a verb in the form of an object that means surrender to Allah (Rachman, 2012). Referring to Ibn Taimiyah, converting to Islam means that a person surrenders himself and his heart to the will of Allah (Madjid, 1984). What is often forgotten in explaining the meaning of Islam is what is the will of Allah. When it is followed, it will lead to safety and peace in this world and the hereafter, and vice versa? Allah's will is expressed in three different but complementary verses, namely *Qur'aniyah, Kauniyah,* and *Insaniyah* (Wahyudi, n.d).

Maqasid al-Syari'ah, developed by Yudian consists of the integration of three pillars, namely the verses of *Qur'aniyah, Kauniyah,* and *Insaniyah.* First, the *Qur'aniyah* verse, namely the signs of God's greatness in the Qur'an (and Sahih Hadith) (Wahyudi, 2020). In this category, each religion is different because it has its holy book. Referring to Jabiri, the *Qur'aniyah* verse can be paralleled with the *bayani tradition* (Riady, 2020) or

hadarat an-nass in the language of integration-interconnection (Riyanto, 2013). There are three most important laws in the Qur'aniyah verse, namely monotheism (oneness of Allah), justice (positive and negative pair law or maslahat and mafsadat), and morality (morality) (Wahyudi, 2020). For Yudian, morality is a unified concept of *akhlaq-iqra'-rabb*. Morals are a balanced and professional combination of the technical expertise of the prophets, imbued with the values of *rubbish* and *iqra'* so that they become prophets of all people. No one can ignore the morality (weltanschauung) of this worldview (Wahyudi, 2019).

Second is the *Kauniyah* verse, namely the signs of God's greatness in the universe (cosmos) (Wahyudi, 2019). The most important sign of God's greatness is the law of pairing (zaujiyah) in every natural object. The law of spouses is *sunnatullah* (natural law) (Nurwanis, 2020) which plays a crucial role in determining safety or peace in the world. There are two forms of *sunnatullah,* namely sunnah *kauniyah* (natural law) and *sunnah ijtima'iyah* (social law) (Mauluddin, 2021). *Sunnah kauniyah* are the laws of Allah that run in the universe (al-Ashfahani, 1970). In comparison, the *sunnah ijtima'iyah* are the laws of God that run for humans in their social life. The two *sunnah* have a similar character: they are always stable and never experience deviations, either in the past, present or the future. He applies to all humans, whether believers or unbelievers because humans in this framework are seen as complete figures who are constantly bound by positive and negative laws (al-Qaradhawi, 2002).

Referring to Yudian, Islam balances every object's negative and positive potential at the natural level. Islam here can be drawn to the point of maximizing the positive potential and minimizing the negative potential of an object. This natural law applies to anyone regardless of human boundaries, such as race, religion, and social status. At this level of natural law, all religions are the same, because God must punish anyone who violates the law of the couple. On the other hand, anyone who obeys or submits to the law of this couple will be rewarded by God, namely salvation (Wahyudi, 2020). Yudian then gave an example of the application. For example, if there is a person of any religion crossing the ocean by swimming (without a balancing device), surely he will be punished by God. He can drown or die because he has committed an infidel and unjust (denying and destroying the law of gravity). On the other hand, if an atheist crosses the ocean by boat, he will be safe because he is a Muslim. In essence, he

believes in the law of spouses that governs the life of the cosmos so that he attains security (Wahyudi, 2019).

The third is the *Insaniyah* verse, namely God's laws governing human life (cosmic) (Wahyudi, 2020). The law of spouses is the most important law here (sunnah ijtima'iyah) (Mohd, 2021). Islam and iman (safe and secure) at this level are balancing positive and negative potentials, namely creating balance and social justice. Allah has delegated this law to humans through the principle of mutual agreement. In the context of inter-religious relations, it is called agree in disagreement (McMahon, 2009). Social errors must first be resolved between the parties involved. The position of the *Insaniyah* verse is in the middle. It is more specific than the *Qur'aniyah* verse (Allah easily forgives vertical sins) but more flexible than the *Kauniyah* verse because social mistakes can be forgiven, but honest mistakes are often unforgivable. For example, if someone swims and dies, he cannot return to life (his genuine repentance is rejected) (Wahyudi, 2020).

So, according to Yudian, Islam is Tauhid, in the sense of integrating the three equally essential wills of God (*zharuriyat ats-tsalasah*), which are in the Scriptures, the universe, and humans, so that they are free from theological, cosmos, and cosmic disasters (Wahyudi, 2007). In Hinduism, for example, it is called "*Tri Hita Karana*": God (*parahyangan*), human (*pawongan*), nature (*palemahan*) (Sena, 2020). Yudian calls the theos-cosmos-cosmic relationship as piety, the culmination of which is called ihsan. This is what Yudian calls the *Kaffah* Islam. That is the union between theos-cosmos-cosmic. Not in any other sense (Bujuri, 2020).

Yudian then gave an example of the application of Islam Kaffah. For example, because of carrying out the commands of the Holy Qur'an, a person performs the pilgrimage (Qur'aniyah verse). The command must be carried out by plane (Kauniyah), not a camel. He will die if he rides a camel and become a "*kafir*" *'alamiyah*. To board the plane, he must obtain a visa and purchase a plane ticket as an administrative requirement determined by the Indonesian government (verse *Insaniyah*). If not, then he will become an *Insaniyah* "kafir". If the person fulfills all these requirements, he will be safe (islam) and (iman) to the destination. So, be the Muslim Kaffi (Holistic Muslim) or Insan Kamil (Perfect Man). Therefore, Muslims must become believers and Muslims at all levels, *Qur'aniyah, Kauniyah,* and *Insaniyah* at once (Wahyudi, 2007). So according to

Yudian, the zharuriyat are not only hifdz al-dn, *hifdz al-nafs, hifdz al-nasl, hifdz al-'aql*, and *hifdz al-mal*. However, integrating the three verses is legally zharuri for Muslims.

Couple Theory in Islamic Shari'ah

The law of spouses must bind the three verses of the Qur'aniyah, Kauniyah, and Insaniyah. Couple law is the primary law that regulates Islamic law, so it is known as the principle of no maslahat (goodness; mercy) without *mafsadat* (badness; slander). On the other hand, there is no *mafsadat* without benefit (Hermanto, 2017). Every object contains both of these elements at once. Referring to Yudian, there are five pairs of characteristics in Islamic law: *ilahi* and *wad'i*, absolute as well as relative, universal as well as local, eternal as well as temporary, and literal as well as meaningful (Wahyudi, 2007). From the perspective of the philosophy of science, this relationship is called "dyadic" (Mahzar, 2005). Islamic cosmology calls it a model of complementarity or polarity of active and opposing principles, as in the characteristics of Islamic law (Mahzar, 2004).

First, Islamic law is divine but at the same time *wad'i* (humane; positive; secular) Wahyudi, 2019). The involvement of the pillars of humanity in Islamic law is symbolized by the appointment of humans as *khalifah* (representatives) of Allah on earth. According to Yudian, there are two requirements to become Khalifah: mastering or having knowledge of *al-asma'* and winning a match or coming out as a winner in the competition (Wahyudi, 2019). Based on Sahiron's research, *khalifah,* in Yudian's view, refers to all professional positions related to human life (Djidin, dkk., 2019). In Indonesian, Pancasila is both *ilahi* (theos) and *wad'i* (anthropos). Therefore, to make it happen must involve locality and humanity. If it is drawn into the context of religion, for example, the command to perform the pilgrimage is ilahi (*hifdz al-din*) because the source and purpose are explained in the Holy Qur'an (Qur'aniyah verse). However, how to carry out the pilgrimage is wadi, which involves elements of humanity (verse *Insaniyah*) and technology (verse Kauniyah). This kind of relationship is what Yudian refers to as "secular", but not "secularism" (Riyanto, 2013).

Second, Islamic law is absolute but, at the same time, relative (Wahyudi, 2019). For example, the command to carry out justice is a divine and absolute commandment, but the implementation and evaluation of justice is never separated from the

differences in space, time, cause and the perpetrator of justice itself. In the perspective of science, it is called absolute space and relative space (relatively-absolute) (DiSalle, 2020). The Qur'an also distinguishes between the absolute justice model with the term 'adl and relative justice with the term qisth (Yasmanto, 2021). Third, universal but local at the same time (Wahyudi, 2019). For example, the command to carry out justice applies to all Muslims who are capable of law (*mukallaf*), but how to carry out this order is very concerned about differences in conditions, space, time and actors. It is necessary to place the concept of universal shari'ah and local fiqh in this context (Mashuri, 2020).

Fourth, Islamic law is eternal but at the same time temporary (Wahyudi, 2019). For example, the order to carry out justice is a duty that remains until the Day of Judgment, but in an emergency, for example, the order can be suspended. This flexibility is formulated in a rule of Islamic law; "Emergencies allow legal subjects to leave the applicable provisions" (Muiz, 2020). Fifth, Islamic law is both literal and meaningful. In this case, Umar bin Khattab did not cut the hand of someone who stole because he had to (Hisan, 2020). On the other hand, he caught an older man who went out at night when the state imposed a curfew for fear of disguising himself as a spy.

Using Yudian's lens, it can be understood that Islamic law is not only about halal and haram. The law moves flexibly between *halal* (beneficial if done), *haram* (dangerous if done), *makruh* (more beneficial if abandoned), *mandub* or *sunnat* (more beneficial if it is done) and *mubah* (legal subjects are welcome to choose to do or leave because the benefits or harms of the act are very personal. The perpetrator knows better and is welcome to face the consequences. In order to realize the *ilahiyah* values of Islamic law in real life, jurists (philosophers of Islamic law) proclaimed the theory of *Maqasid al-Syari'ah* (goals of Islamic law). They formulate that the purpose of Islamic law is to save people from this world to the hereafter.

Yudian also explains three complementary aspects of *Maqasid al-Syari'ah*. First, *zharuriyat* or "necessities," namely something that must exist for the survival of human life (Wahyudi, 1995). If that something does not exist, human life will indeed be destroyed. The goals of the *zharuri* are to save religion, soul, mind, property, lineage, and self-esteem. For example, in order to save lives, the Qur'an commands humans to eat but not to overdo it. Second, *hajjiyat* or "needs". That is, something is needed for

human survival. If something does not exist, human life will not experience destruction, but difficulties will be in the way. For example, people need cooking utensils to eat. Without a stove, humans can still cook rice, but the presence of a stove will facilitate achieving the goal of cooking rice. Third, *tahsiniyat* or decorative-ornamental processes. That is, the absence of decorative-ornamental things will not destroy the purpose of the *zharuri,* but its presence will beautify the achievement of the goal of the *zhaturi.* For example, people are free to choose any colour for their favourite stove decoration. This is where artists are given the broadest opportunity (Wahyudi, 2007).

Maqasid al-Syari'ah: From Doctrine to Method Towards Nationality

Yudian places *Maqasid al-Syari'ah* in two conditions, as a doctrine and as a method. As a doctrine, *Maqasid al-Syari'ah* intends to bring benefit to humankind (Wahyudi, 2015). For this reason, three complementary priority scales were proclaimed: al-*zharuriyat*, *al-hajiyat*, and *al-tahsiniyat* (Idris, dkk., 2021). *Zharuriyat* (primary goal) is a must-have goal, the absence of which would destroy life. Here, there are five interests that must be protected: religion, soul, mind, property, and lineage. *Masalih al-Khamsah* represents the core of humankind's need to maintain their life (Riyanto, 2010). *Maqasid al-Hajjiyat* (secondary goal) is something needed by humans to make it easier to achieve interests that fall into the *zharuriyat* category. These secondary goals are needed but not necessary. *Maqasid al-Tahsiniyat* (tertiary goal) is something whose presence is neither necessary nor needed; its purpose is to beautify the process of realizing the *zharuriyat* and *hajjiyat* goals.

As a method, *Maqasid al-Syari'ah* is intended as an analytical framework to examine our social circumstances (Wahyudi, 2015). For example, to protect our religion, we are required to perform *Hajj.* To support the implementation of the primary objective (in this case, performing *hajj*), the Government of Indonesia must implement several regulations. Hajj regulations in Indonesia have been regulated in Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, one of which regulates transportation (Mulkin, 2021). Without means of transportation, people can still perform the pilgrimage but will face obstacles. At the tertiary level, everyone can choose the means of transportation he or she prefers. Perhaps some choose land

transportation by camel, car, and train. Some choose sea transportation by boat and boat. There are also those who use air transportation by plane (Wahyudi, 2015).

Islamic teachings oblige humans to maintain their health as a way to protect human life (Wahyudi, 2015). Realizing this primary goal requires various facilities, the most important of which are health service facilities and sports activities organized by the Government of Indonesia. In the Law of the Republic of Indonesia Number 36 of 2009 concerning Health, Article 49, it has been explained related to sports health (Koswara, 2018). Without exercise, people can still maintain their health, but doing exercise will help improve their health. At the tertiary stage, everyone can choose the type of sport he likes. Perhaps some choose land sports, such as badminton and football. Some may prefer water sports, such as swimming, diving, rowing, and windsurfing. There are also those who choose aerospace sports, such as skydiving and aerial acrobatics (Wahyudi, 2015).

To protect the intellect, Islam requires humans not to stop learning throughout their lives (Wahyudi, 2015). To support these primary goals, educational systems and institutions are needed. The Government of Indonesia has regulated this educational system and institution in the Law of the Republic of Indonesia Number 20 of 2003 concerning the National Educational System (Jayanti, 2021). At the tertiary level, everyone may choose the field and level of education that he will take based on his preferences and financial and physical abilities. Perhaps some choose formal education (primary, secondary, and higher), non-formal, and informal (family education) at every level and type. Maybe there are also those who choose a bachelor's, master's, to doctorate. Some choose the social sciences or natural sciences. Perhaps some choose a public school or a religious school. Each person can choose based on interests and talents because forcing people to only focus on specific areas of specialization will lead to *mafsadat* (Wahyudi, 2015).

Islam requires people to manage and store their property properly (Wahyudi, 2015). To facilitate these primary objectives, it is necessary to have good financial facilities such as banks. Banks as financial facilities for the people have been regulated by the Indonesian government in Law of the Republic of Indonesia Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking and Law

of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking (Oktarina, dkk., 2020). Without banks, people can still save their money, for example, keep it under the bed and in a piggy bank. However, banks will make it easier for people to manage and store their assets. Everyone can choose a bank according to their preferences at the tertiary level. Some people will choose government-owned banks, private banks, or Islamic banks. Require people only to save money in certain places will lead to *mafsadat* (Wahyudi, 2015).

To protect lineage, Islam requires parents to fulfil their children's rights. This primary goal can be realized by providing various childcare and care facilities (Wahyudi, 2015). The Indonesian government has issued a regulation on this issue, namely the Law of the Republic of Indonesia Number 34 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The regulation emphasizes that child protection is all activities to guarantee and protect children and their rights to live, grow, develop, and participate optimally in accordance with human dignity and protection from violence and discrimination (Aditya, dkk., 2021). Each parent may choose the care and care facility at the tertiary level according to their preferences and resources (Wahyudi, 2015). Forcing only to use certain types of childcare facilities will lead to *mafsadat*.

Yudian also uses *Maqasid al-Syari'ah* as a method to interpret Muhammad Hatta's (Wahyudi, 1998) political strategy in the early post-independence period of Indonesia (Wahyudi, 2017). According to Yudian, the first step taken by Hatta to realize his national politics was to remove the terms "Islam" from the body of the Constitution. First, "Preamble" is replaced by "Opening"; Second, the seven words "with the obligation to carry out Islamic law for its adherents" were removed, replaced with "Belief in the One Almighty God"; Third, Article 6 paragraph 7, "The President is a native Indonesian and a Muslim," Hatta deleted the sentence "and is a Muslim" (Wahyudi, 2006). According to Yudian, by including "Belief in the One Almighty God", Hatta had denied communism and raised the Tawhid flag. This is where Hatta's constitutional strategic meaning lies. The first principle (*sila*), namely Belief in the One Almighty God, according to Hatta, is Tawhid for Muslims (so it is natural that he was asked to be the Father of Constitutional Uniting when replacing the seven words of Pancasila, which was then re-entered the Jakarta Charter with the sentence Belief in the

One Almighty God) (Wahyudi, 2006). Those seven words, for Hatta, are lipstick, visible but not influential. On the other hand, "Belief in the One Almighty God" is like salt because it does not show off an Islamic identity but is very influential. Substance, for Hatta, is more important than mere skin (Suwarsa, 2018).

From the perspective of *Ushul al-Fiqh,* according to Yudian, Hatta's political stance reflects the embodiment of the principle of "preventing any harm", namely the possibility of Indonesia breaking up. At the time, there was a threat from Eastern Indonesians who would not join the Indonesian state, even though the Dutch were still lurking to re-colonize, "takes precedence overtaking advantage", namely establishing an Islamic State ruled by a Muslim majority but with the possibility of breaking up into many small and weak states (Wahyudi, 1998). So, Hatta avoided a bigger *mafsadat* by taking a less risky action, namely eliminating the seven words representing Indonesian Muslims' interests (Wahyudi, 2007).

Furthermore, Hatta's decision can also be interpreted as implementing the principle of "Something that cannot be achieved as a whole", namely establishing an Islamic state in Indonesia from Sabang to Merauke, and the principle of "cannot be abandoned in its entirely", namely accepting the requirement of non-Muslims from Eastern Indonesia so that seven the word is removed for the sake of the unity of the territory of an independent Indonesia (Wahyudi, 2007). Hatta needed nationalism as a means to realize the *masalih zharuriyat* of Indonesian Muslims. Hatta is more concerned with territorial unity (*hifdz al-mal*) and soul unity (*hifdz al-nafs*) over religion in order to build pride (*hifdz al-'ird*) and the next generation (*hifdz al-nasl*). Hatta succeeded in fostering the birth of a republic, constitutional, democratic and egalitarian state for the benefit of *zharuriyat*. Hatta took part in placing religion in a *zharuriyat* position in the development of the Republic of Indonesia because the principle of "Belief in One God Almighty" became the philosophical foundation of all laws in Indonesia (Wahyudi, 2007).

Conclusion

This research reveals an Indonesian *Maqasid al-Syari'ah,* not the classical, individualist approaches nor the contemporary universalist approaches to the *Maqasid al-Syari'ah.* Indonesian *Maqasid al-Syari'ah* wants to harmonize between Maqasid al-Syari'ah (five primary needs or *zharuriyat al-khamsah*) and Indonesian *Maqasid* (based on the precepts of Pancasila). Also, the alignment between Islam and Indonesianness, the Holy Scriptures and the Constitution, Indonesian Fiqh and positive law, the expressions "Assalamu'alaikum" and "Salam Pancasila".

Maqasid al-Syari'ah developed by Yudian rests on four pillars, namely: *tauhidul 'ulum* (unity of knowledge) between the verses of the *Qur'aniyah, Kauniyah,* and *Insaniyah* as the embodiment of the slogan *al-Ruju' ila al-Qur'an wa al-Sunnah* (Return to the Qur'an and Sunnah); pair theory in Islamic law (*ilahi-wad'i*, absolute-relative, universal-local, eternal-temporary, and literal-meaning); method (*Maqasid al-Syari'ah* as an analytical framework or lens to read the reality that is around us); and national values as *Maqasid* Indonesia. *Maqasid* Indonesia is based on five fundamental values of salvation in Pancasila (Pancasila Salam), namely: divinity (*hifdz al-din*), humanity (*hifdz al-nafs*), unity (*hifdz al-nasl*), deliberation (*hifdz al-'aql*), and social justice (*hifdz al-mal*).

The alignment between *Maqasid al-Syari'ah (zharuriyat al-khamsah)* and *Maqasid* Indonesia (Pancasila) is undoubtedly different from the model of developing and expanding the meaning of *Maqasid al-Syari'ah* in the contemporary era. For example, Auda said that the expansion of the range from classical *maqasid (hifdz al-din; hifdz al-nafs; hifdz al-nasl; hifdz al-'aql;* and *hifdz al-mal)* to contemporary *maqasid* has enabled him to respond to global issues and to make it evolve from mere wisdom behind legal decisions to strategic programs for reform and renewal. Examples of contemporary *maqasid* can be seen in maintained and protected religious freedom and belief. Other examples are found in maintained and respected human dignity; safeguarded and protected human rights. This contemporary *maqasid* also focuses on theory-oriented to the protection and development of the family, showing more concern for family institutions. It also multiplies the mindset and scientific research, prioritizes the journey to seek knowledge, suppresses the pattern of thinking that prioritizes crowds' crime, and avoids attempts to underestimate the brain's workings. Contemporary *maqasid* also prioritizes social care, pays attention to economic development and development,

promotes human well-being, and eliminates the gap between rich and poor (Auda, 2007).

The findings of this study can contribute to the development and alignment of the *Maqasid al-Syari'ah* theory, which is uniquely Indonesian. Indonesian *Maqasid al-Syari'ah* is the strengthening of the foundations of *Ushul al-Fiqh* and Indonesian Fiqh. In the context of this alignment, Yudian has carried out the process of Indonesianizing Indonesian fiqh, the idea of Hasbi. Namely, the alignment of the term fiqh in Arabic into the Indonesian state structure. For example, the term *Ahlul Halli wa al-'Aqdi* became the Government of Indonesia, *Hai'atut Siyasah* became the People's Leadership Council and the People's Consultative Assembly, *Ahlul Ijtihad* became the Indonesian Ulema Council, *Ahlul Ikhtisas* became professional institutions such as the Indonesian Muslim Intellectuals Association. The *Maqasid al-Syari'ah* can be harmonized with Pancasila. That Pancasila must be the basis of the goals (*maqasid*) of the Indonesian nation. Because we also have a heart, then Muslims should be guided by the slogan *al-Ruju' ila al-Qur'an wa al-Sunnah,* not in writing.

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