

THE CONCEPT OF *MAQĀṢĪD AL-SYARĪ'AH* AL-GHAZALI AS A HALAL INDUSTRY DEVELOPMENT PERSPECTIVE

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Abstract

This study aims to analyze the development of the halal industry based on *maqāṣīd sharia*, especially according to al-Ghazali. This study is carried out within the framework of literature research (library research). Data is collected from various publications in the form of books, journal articles, research reports, websites, and other documents that support the study. The data obtained were analyzed using content analysis method. From the presentation of data and discussion, it can be concluded that the concept of *maqāṣīd al-syari'ah* al-Ghazali is suitable as a basis or guideline for the development of the halal industry. Based on the *Maqāṣīd al-syari'ah* al-Ghazali, the halal industry is developed to meet the needs of *dharuriyyah*, *hajjiyyah*, *tahsiniiyyah*, which make religion, soul, mind, descent and property as the goal of sharia. The al-Ghazali method has flexibility in *ijtihad*

in the halal industry which refers to aspects of production, distribution and consumption. Implementation in the halal industry is made more perfect by also applying the business ethics formulated by al-Ghazali. The implication is that the development of the halal industry which does not uphold the *maqāṣīd al-syari'ah*, can be said to have ignored the teachings of Islamic law.

Keywords: *al-Ghazali; maqāṣīd al-syari'ah; halal industry; halal products; halal services.*

1. Introduction

The development of human life is changing rapidly, so it is necessary to have the attitude of the jurists' (Islamic jurists) to carry out *ijtihad*, so that the need for legal certainty for Muslims is immediately answered. This is especially so in economic and business matters so that Muslims have safety and comfort as consumers (Adinugraha, Pekalongan, et al., 2020). There are many methods of *ijtihad* that can be used by jurists (*fuqaha'*) to deal with the developments of this era. In this modern era, *ijtihad* can be done in three ways, namely *ijtihad* intiqā'i or *ijtihad* tarjih, *ijtihad* insya'i or *ijtihad* ittida'i, and comparative *ijtihad* (Syibly & Mu'alim, 2012). According to Al-Amidi (1967) *ijtihad* means the maximum outpouring of all abilities to obtain a law of sharia which is amaliah through the use of a recognized source of sharia. Later, *maqāṣīd al-syari'ah* became a popular method of *ijtihad* among scholars. Among the scholars who are considered as pioneers and developers of the concept of *maqāṣīd al-syari'ah* are Al-Ghazali, Asy-Syatibi, Izuddin Abd Salam, and other figures (Yummi, 2016).

Maqāṣīd al-syari'ah comes from two words, namely the words *maqāṣīd* and sharia. *Maqāṣīd* means the intention, the goal which is taken from the word *qasada*, then changes its form to *maqsud* with the plural *maqāṣīd*. While the word *syari'ah* means *al-thariq al-mustaqim* or the straight path that is traversed (Adinugraha et al., 2020). Then the jurisprudence experts associate it with sharia laws, so that

they contain the meaning of the laws that Allah established for their servants. *Maqāṣīd al-syarī'ah* is one of methods used by contemporary scholars to carry out *ijtihad*. A method of finding laws that refer to human benefit. The main key of this method is to uphold “*maslahat*”, where the *maslahat* is intended to protect religion, soul, mind, descent and property (*al-kulliyah al-khamsah*).

For Muslims, consuming halal products / services is an obligation (Purwanto et al., 2020). On the other hand, the industry is growing so fast with a variety of outputs that are produced. The term halal has become a modern Muslim lifestyle or halal lifestyle (Adinugraha & Sartika, 2019). In the halal industry, all products and services must comply with Islamic law. In fact, to win the global halal industry, the halal status of products and services must be certified by an independent and accountable institution (Fadholi et al., 2020). In Malaysia the halal certificate is issued by the Malaysian Islamic Advancement Position (JAKIM) (Marzuki, 2012) and in Singapore by *Majlis Ugama Islam Singapore* (MUIS) (Wahab et al., 2016).

There are many studies on *maqāṣīd al-syarī'ah* which are associated with contemporary issues. Ridwan Jamal examines the relation of *maqāṣīd al-syarī'ah* with contemporary problems that are not found in the texts (Jamal, 2016). Lina Nur Anisa (2018) was of the view that *maqāṣīd* could be the basis for the development of Islamic law and the welfare of the state (Mulyana, 2017). *Maqāṣīd al-syarī'ah* can be an analysis knife for developing economic and business problems (Khodijah, 2014), *maqāṣīd al-syarī'ah* as the basis for the development of Islamic economics (Muzlifah, 2013; Adinugraha & Muhtarom, 2021). Technically, Zainil Ghulam studies sharia cooperatives that make *maqāṣīd al-syarī'ah* as an analytical tool (Ghulam, 2016). Efri Syamsul links *maqāṣīd al-syarī'ah* with entrepreneurship (Bahri et al., 2019), Strong Ismanto associates with sharia insurance (Ismanto, 2016), Dodi Yarli with sharia fintech (Yarli, 2018). Even the *maqāṣīd al-syarī'ah* can be a measuring instrument for the halal industry (Kurnia et al., 2017), and Islamic banks (Rusydziana & Al Parisi, 2016). *Maqāṣīd al-syarī'ah* is

used as a perspective on the development of Islamic finance (Akram Laldin & Furqani, 2013). Ivan Rahmat Santoso specifically discussed the *maqāṣīd al-syarī'ah* al-Ghazali which is associated with the concept of marketing (Santoso, 2019), and Elvan Syaputra examined the consumption behavior of al-Ghazali's perspective (Syaputra, 2017).

This research examines the concept of *maqāṣīd al-syarī'ah* Al-Ghazali which begins with a biography, works, thoughts, and examples of its implementation. The concept of al-Ghazali was chosen as the theoretical basis because his thoughts were referred to by scholars who lived after him and were plenished in Islamic thought in various disciplines. In particular, al-Ghazali also had thoughts about economics (Ghazanfar & Islahi, 1997). Although *maqāṣīd al-syarī'ah* was conceptually mature in the Ash-Shatibi era, but Al-Ghazali also had a big role, in addition to other thinkers such as Imam Haramain. According to Syamsul Anwar, al-Ghazali's greatest contribution in the field of law is his concept of maqashid al-sharia, which was later developed more firmly by a Maliki school theorist, namely the imam al-Syatibi in the book *al-Muwafaqat fi Ushul al-Ahkam*. Syamsul Anwar emphasized that the maqashid sharia theory was an original invention of al-Ghazali (Syamsul Anwar, 2007). The halal industry is considered a very dynamic area and often the speed of practice exceeds the theory and even regulations that govern a region or country. As *Hujjatul Islam*, Al-Ghazali is known as a philosopher, jurist, *ushul fiqh*, and expert on Sufism, in some parts of his work he also touches on economic and business issues. A special book that discusses this is *al-halal wal haram fil Islam* (A. H. Al-Ghazali, 1987). Even so, this paper focuses on the implementation of the *maqāṣīd* concept of al-Ghazali's sharia perspective which is contained in the book *al-mustasfa min ilmi ushul* and in other works, as well as works that discuss the thoughts of Al-Ghazali (A. H. Al-Ghazali, 2002).

2. Al-Ghazali: Biography, Works, and Thoughts

Abu Hamid Muhammad Ibn Ahmad Al-Gazali Al-Thusi or often called Al-Ghazali, was born in 450 H / 1058 AD in Tabaran, an area in Thus Iran. Al-Ghazali died in his hometown on Monday 14 Jumadil Akhir 505H / 1111 AD and was buried in Zhahahir Tabiran, the capital of Thusi, Iran. Al-Ghazali has many works in various disciplines, such as jurisprudence, philosophy, Sufism, creed, and others. Among the works that are considered to be the seeds of Islamic *maqāṣid* thought is the book *Al-Mankbul min Ta'liqat al-Ushul*, which is the first work in the field of *ushul fiqh*. Second, the book *Syifa 'al-Ghalil fi Bayan asy-Syabah wa al-Mukbil wa Masalik al-Ta'lil*. Third, *Al-Mustasfa Min 'Ilm al-Ushul*, the book of *ushul fiqh* which places Al-Ghazali as a figure of *ushuliyin mazhab syafi'i* (Herawati, 2014). *Fuqaha* thinkers, contemporary Islamic jurists refer to the above books when discussing Al-Ghazali's version of *maqāṣid al-syar'ah*. Al-Ghazali is a reliable scholar in the fields of *ushul al-din* (*kalam* science), *ushul fiqh*, *fiqh*, *mantiq* (logic), wisdom, philosophy, and Sufism. The Islamic world gave him an honorary title as *Hujjah al-Islam* (defender of Islam) because of his persistence and merit in defending Islam from the onslaught of the onslaught of Western thought. The book of *Ihya Ulumuddin* is his magnum opus which is the most phenomenal of all his thoughts (Saeful Anwar, 2007).

Al-Ghazali's journey in starting his basic education in the area of his birth. From his father he studied the Qur'an and the basics of other religious knowledge, continued in Thus by learning the basics of knowledge. After he studied with his father's friend (a poor Sufism expert), and when he (his father's friend) was no longer able to meet the needs of both of them because the money entrusted by al-Ghazali's father ran out, he advised them to go to school to gain knowledge besides obtaining knowledge. Life benefits, he studied the main points of Islam (the Qur'an and the traditions of the prophet). Among the hadith books he studied, among others; (1) *Shahih Bukhari*, he learned from Abu Sahl Muhammad bin 'Abd al-Allah al Hafsyi (2) *Sunan Abi Daud*, he learned from al-Hakim Abu al-Fath al-Hakim (3) *Maulid al-Nabi*, be- He learned from Abu 'Abd

al-Allah Muhammad bin Ahmad al-Khawani (4) *Sahib al-Bukhari and Sahib al-Muslim*, he learned from Abu al-Fatyan Umar al-Ru'asai (Sopingi, 2011).

Al-Ghazali, along with other scholars such as Ibn Khaldun (1332-1406 AD) and Ibn Taymiyyah were scholars who carried out *ijtihad* in economics in classical times (Syibly & Mu'alim, 2012). According to al-Ghazali, running a business in its various forms is a social obligation or *fardhu kifayah*. If social interests become a priority, then social togetherness will automatically form and class conflict can be avoided. The style of thought has a moral character by referring to the main goal of human life, namely to achieve goodness in this world and the hereafter (*maslahah ad-dunya wa ad-din*) (A. H. Al-Ghazali, 1980). Therefore, linking al-Ghazali's thoughts with the halal industry is something that needs to be studied more deeply.

Maqāṣid asy-syarī'ah is an idea in Islamic law which implies that sharia was sent by Allah to achieve certain goals. These objectives can be found or extracted from the main sources of Islamic law, namely the Koran and the *Sunnah*. The thought of *maqāṣid al-syarī'ah* Al-Ghazali is contained in the term "*maslahat*", which means benefit, which aims to maintain the goals of the sharia. Al-Ghazali developed the *maqāṣid al-syarī'ah* theory from Imam Al-Juwaini about the *masalik al-munasabah* contained in the *masalik at-ta'lil* (Nursidin, 2012).

According to al-Ghazali, the main purpose of sharia is to realize the general benefit, and specifically to protect the five important elements in human life. The specific objectives of shari'ah include five basic principles, namely: 1) protecting religion (*hifzih al-din*); 2) protect the soul (*hifzih al-nafs*); 3) protect the intellect (*hifzih al-aql*); 4) protecting human sustainability (*hifzih al-nasl*); and 5) protecting property (*hifzih al-maal*). Any law that contains the aim of maintaining these five things is called *maslahah* (goodness), and anything that causes the loss of these five elements is called *mafsadah* (damage).

The explanation of each aspect is described as follows: 1) *Hifdz ad-din* (maintaining religion) becomes *haq attadayyun* (religious rights), namely the

authority to worship and practice religious orders. Included in this right is freedom in establishing places of worship and building patterns of relations between groups having the same or different beliefs to create a conducive atmosphere for diversity. 2) *Hifdz an-nafs* (guarding the soul) becomes *haq alhayat* (right to life). This right should be directed to build quality values of life both personally and within the social sphere of society and not merely as a means of self-defense. The right to life needs to be adjusted to the improvement of human life as a whole, not in fragments. 3) *Hifdz al-aql* (maintaining reason), namely *haq al-ta'lim* (right to education). Respect for reason is not limited to maintaining the capability of reason not to include mental illness or loss of consciousness. The orientation of the maintenance of reason is the fulfillment of obtaining knowledge for every individual in society. Protection of copyrighted works, intellectual works and creations of a person is a category of protection against reason. 4) *Hifdz al-mal* (maintaining property), namely *haq al-amal* (right to work). This right is not merely interpreted as an effort to protect property from interference by other parties. This right can also be interpreted as the right of an individual to acquire property in a lawful way, such as working. In a broader sense, this right gives a person the power to provide employment for other individuals. Thus, everyone can enjoy the right to wealth in his life in order to improve the quality of a better life. 5) *Hifdz al-irdl aw Nasl* (maintaining honor or family and descent) becomes *haq al-intirom al-insani* (right to human honor). Not just an effort to maintain the prestige of yourself and your family from accusations and gossip from others. The conservation of adaptation and cultural customs is the most important area in maintaining the honor and status of the community (Sholehuddin et al., 2021). In a more general framework, safeguarding the honor and dignity of the nation is included in the discussion of the right to defend honor.

According to Suparmin, al-Ghazali in discussing *maqāṣid al-syari'ah* did not give detailed limitations regarding the meaning of maqashid syari'ah, but by

saying that; “*Wa maqshudu al-syar’i min al-khalqi khamsatun wa hiya: ‘an yahfadha lahum dinahum wa nafshahum, wa’ aqlahum wa naslahum wa mālāhum.*” Types of *maslahat* according to Al-Ghazali, seen from the point of view of its truth according to sharia argument are divided into three types: 1) *maslahat* which is justified by sharia, can be used as evidence and the conclusion returns to *qiyas*, namely taking the law from the purpose of texts and *ijma’*. 2) *maslahat* canceled by sharia. 3) *maslahat* which is not justified nor canceled by sharia (Suparmin, 2012).

To realize the five aspects above, Al-Ghazali uses the *maslahah mursalah* method which focuses on *maslahat*. For him, it is a method of *istinbath* (exploring or discovering) law, not as a proof or source of Islamic law. To be accepted as the basis for establishing Islamic law, al-Ghazali arranged the operational basis for *maslahah mursalah* (Adinugraha, 2018), as follows: 1) The *maslahat* must be in line with the objectives of establishing Islamic law, namely maintaining religion, soul, mind, property and descent. 2) the *maslahat* must not conflict with the Qur’an, al-Sunnah and *ijma’*. 3) the *maslahat* occupies the *dharuriyah* (primary) or *hajiyah* (secondary) level. 4) *maslahat* must have the status *qat’i* or *dzanny* which is close to *qat’i*. 5) in certain cases requirements are required, must be *qat’iyah*, *dharuriyah*, and *kulliyah* (A.-G. Al-Ghazali, 1997).

According to al-Ghazali, keeping the five points mentioned above is the rank of *dharuriyyah* (primary needs). This is the highest level of *maslahah* that needs to be maintained. For example, the sharia stipulates the death penalty for unbelievers who misleads the people, as well as *bid’ah* makers who order others to follow their *bid’ah*. Sharia obliges the law of *qishash*, because with the maintenance of the human self (soul). Sentenced to *had* (caning) for people who consume intoxicating drinks (*khams*), because it will destroy the mind. *Had* to be punished for people who commit adultery, because with it the lineage is preserved. Robbers and thieves are punished to protect property which is the source of human livelihood and fulfill their daily needs.

Al-Ghazali explained the third rank of *maslahat*, namely cases that are not included in the *dharuriyyah* and also are not included in the category of *hajiyyah*, but are classified into the groups of *tabsiniyyah* (adding good) and *taziyin* (beautifying), the point is to maintain and maintain the method. -the best way in tradition and *mu'amalat* (interaction) prevailing in society (Sartika, 2018). The example put forward by al-Ghazali is that it is not permissible for a slave to be a witness, even though his fatwa and history are accepted, because the level or position of the slave is lower than that of a free person. This is due to their weak position and under the power of the owner, so that they cannot be made witnesses assuming pressure from the employer. Furthermore, al-Ghazali views that the *maslahat* of *hajiyyah* and *tabsiniyyah* cannot be used as evidence (argument) in determining Islamic law, except for *hajiyyah* which occupies the *dharuriyyah* level.

3. Examples of the implementation of *Maqāṣīd al-syarī'ah* al-Ghazali in the Development of the Halal Industry

The halal industry is an economic activity that is categorized as new and continues to develop in various countries in the world. This development is due to the increase in the number of Muslims and also along with the growth in the number of Muslim consumption in other parts of the world. However, this halal industry was developed not only for Muslims, but also for non-Muslims (Laldin & Furqani, 2013). In Indonesia, consumption of Indonesian halal goods and services in 2017 was around US \$ 218.8 billion. This number is estimated to continue to grow by an average of 5.3 percent and reach US \$ 330.5 billion by 2025 (Tem of Katadata Publication, 2020). The terminology of the halal industry consists of two aspects, namely industry and halal. Industry is an activity to process or process goods using means and equipment, for example machines (Kumar et al., 2019). According to al-Jurjani, the word “halal” comes from the word which means “open” (). In terms, it means anything that is not subject to sanctions for its use or an act that is exempted from the law to be

carried out. The term halal means something that is allowed by the Sharia to be done, used, or endeavored, because the rope or bond that prevents it or the elements that endanger it is accompanied by attention to how to obtain it, not with the results of *mua'malah* that are prohibited (Adinugraha et al., 2017). So it can be concluded that the halal industry is an industry that fulfills the principles and requirements of the Islamic economy (Kurnia et al., 2017).

The main sector of the halal industry is halal products and services. Halal products can be in the form of food and beverage industry, while halal services can be in the form of halal tourism industry, halal finance, and others (Adinugraha, 2020). Its rapid development requires an Islamic legal response to its legal status. This is important because it did not exist at the time of the Prophet Muhammad, SAW, so the legal status cannot be determined. *Ijtihad* is the best way to find legal certainty for Muslims and *maqāṣid al-syarī'ah* is one of the methods of *ijtihad* used by scholars, such as al-Ghazali.

In this day and age, human needs, especially Muslims, are not only fulfilled by the Muslim community, but also by other countries. Canned meat and fish are often imported from non-Muslim countries, although halal guarantees are required. For that, the exporting country must have a halal certificate for the exported products. Likewise in tourism (Hasan, 2019), It also requires halal guarantees for attractions, access, amenities, as well as additional required facilities (Andriani, 2015). In Indonesia, based on Law No. 33 of 2014 concerning Halal Product Guarantee, the scope of the halal industry includes: food and beverages, medicines, cosmetics, chemical products, biological products, genetically engineered products, consumer goods that are used, used or utilized by the community (Adinugraha et al., 2021).

Business aims to ensure the sustainability of society by fulfilling their needs and desires. In the Islamic perspective, the fulfillment of those needs must be in accordance with the *maqāṣid al-syarī'ah* as a goal in Islam (Kurnia et al., 2017). Likewise, business contracts are developed based on the rules, choices, and

allocation of resources from sharia. According to Dusuki and Abozaid *maqāṣīd al-syari'ah* has a holistic view as a guide for human life as individuals and socially, including business entities (Dusuki & Abozaid, 2013). Business aims to ensure the sustainability of society by fulfilling their needs and desires. In an Islamic perspective, the fulfillment of those needs must be in accordance with the *maqāṣīd al-syari'ah* as a goal in Islam. *Maslahah* is the basis of its implementation.

Muhammad Aziz said that the Halal Product Guarantee Law (JPH Law), which takes the *maqāṣīd al-syari'ah* into consideration, guarantees the comfort and safety of the conspiracy of halal products for consumers (Aziz, 2017). Furthermore, Siska Lis Sulistiani hopes that the development of halal industry law should consider sharia *maqāṣīd* as a consideration (Sulistiani, 2018). By referring to the activities of the halal industry which aims to meet human needs, both *dharuriyyat*, *hajiyyat*, and *tahsiniiyyat*, the concept of *maqāṣīd al-syari'ah* Al-Ghazali can be used as the basis for the development of the halal industry. This is because the concept of *maqāṣīd al-syari'ah* al-Ghazali puts religion, soul, mind, descent and property as considerations.

In line with the application of *maqāṣīd al-syari'ah* in the halal industry, al-Ghazali has also formulated the principles of business ethics in Islam. This business ethic can complement the practice of the halal industry, al-Ghazali formulated seven principles, which include: 1) Good intentions and holy faith. 2) Carry out fardhu kifayah. 3) Prioritizing the afterlife market. 4) *Dhiker* while in the market. 5) No ambition in doing business. 6) Stay away from the subhat. 7) Introspection in trade (A. H. Al-Ghazali, 1980). Furthermore, according to al-Ghazali, there are six transactions of good value: 1) taking fair profit; 2) do not make it difficult if making transactions with poor people; 3) do good when collecting debts; 4) do good when paying debts; 5) cancel the transaction when the buyer gets regret (loss); 6) provide concessional payments for the needy and poor. In relation to the use of sharia *maqāṣīd* in the halal industry, the above business ethics can be used as a practice guide for the halal industry.

There are three important aspects in the halal industry, namely aspects of production, distribution and consumption. In these three aspects *maqāṣīd al-syari'ah* becomes an Islamic worldview, namely a perspective, description or mental attitude towards everything based on Islamic values. By referring to the three aspects of the halal industry and the five aspects of *maqāḍīd al-syari'ah*, the principles of the development of the halal industry in the perspective of Al-Ghazali are formulated as follows: 1) Products / services are produced in order to meet human *dharuriyyah* needs; 2) Products are distributed (halal marketing) by upholding the principles of halal; 3) Only halal products or services that can be marketed and consumed by Muslims; 4) Companies producing products or services must implement religious values (*hifdẓ dien*); 5) The halal industry is developed in the framework of creating general public welfare (*hifdẓ maal*); 6) Companies are required to invest in human development in order to maintain the sustainability of the halal industry (*hifdẓ 'aql*); 7) The government refers to *maqāṣīd al-syari'ah* as the basis for policy making.

Nasitotul Janah & Abdul Ghofur concluded that in an economic context, *maqashid shari ah* has two roles, namely as a means of control and a means of social engineering to realize human benefit (Janah & Ghofur, 2018). It provides a rational philosophical basis for economic activity. The description above, at least, can serve as a conceptual proposal that can be further developed to look for a more established formulation. Integrating various *maqāṣīd al-syari'ah* concepts from the scholars will make this concept more comprehensive, applicable, and responsive to economic and business developments. The halal industry is a fact of economic and business development, where the *maqāṣīd al-syari'ah* can be used as a guide for its development.

Al-Gazali put *hifẓ ad-din* first because it was on that basis that humans would put and formulate human relations in perspective and moral filters on the right foundation. This allows humans to interact fairly. Furthermore, al-Ghazali gave instructions and moral guidelines regarding allocation, production,

consumption and distribution in the frame of justice, balance and benefit. Then al-Gazali put *hifẓ al-maal* at the very end because ideologically wealth is not a goal, only an instrument to achieve *falab* (Adinugraha, Hasan, et al., 2020). Because it is impossible for wealth to realize *falab*, if it does not include moral criteria in its allocation and distribution. If property is the goal, it is very closely related to exploitation and injustice (Chapra, 2000). In this context, the halal industry is classified in the need of *dharuriyyah* in order to protect property (*hifẓ al-maal*), which in turn also protects religion, soul, mind, and descent.

4. Conclusion

The urgency of the thought of *maqāṣid al-syarī'ah* al-Ghazali lies in fulfilling human needs (*dharuriyyah*, *hajiyyah*, and *tahsiniiyyah*) which are based on the objectives stipulated by sharia, namely protecting religion, soul, reason, descent and property. Al-Ghazali's thoughts can be used as guidelines and considerations in the development of the halal industry. More than that, the concept of Islamic business ethics developed by al-Ghazali can complement his practice. Al-Ghazali's thoughts on *maqāṣid al-syarī'ah* are classified as classical, however, they are still relevant as the basis for exploring Islamic law in modern times, which is no exception to the development of the halal industry in the modern era.

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