Maqasid Sharia and Social Development: an Inquiry into Jamaluddin Athiyah's Renewal Paradigm

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Abstract

This article engages in exploring the intersection of Maqasid Sharia and social development through a depth analysis of Jamaluddin Athiyah's renewal paradigm notion. In terms of contemporary maqasid discourse, Athiyah's conceptual framework stands as a distinguish reevaluation of classical maqasid sharia role pertaining the dynamic context of societal progress. This research in attempt to trace the way that Athiyah employs to reconstruct new paradigm of maqasid sharia by investigating its methodologies, approaches and principles to achieve social development. Accordingly, this study then depict on how his progressive thought extends beyond conventional boundaries, emphasizing particularly on humanity and social problem dimension. Newly paradigm of maqasid sharia proposed by Jamaluddin Athiyah cannot be separated from his contextual consciousness of muslim world drawback reality. Athiyah's paradigm challenges existing construction of paradigm, prompting a reevaluation of the role of Maqasid Sharia in the modern world. This research is based on library research by investigating recent Islamic scholars works and narrative about maqasid sharia especially through a thorough examination of Athiyah's writings and intellectual legacy, this article seeks to unravel the layers of his progressive thought and its implications to establish new perspective in the realm of Sharia.

Keywords: Maqasid Shariah, Renewal, Social Development.

1.0 INTRODUCTION

The discourse of Maqasid Sharia has attracted the interest of Islamic thinkers in the modern period. Undoubtedly, the concept of maqasid has been present since Islamic premodern era in the evolution of Islamic intellectual discourse. For instance, the concept of categorizing the aspects of maslahah into dharuriyat, hajiyat, and tahsiniyat, as well as the classification of the five essentials for the preservation of dharuri in maqasid, namely religion, soul, mind, lineage, and offspring, was initially introduced by Imam al Juwaini (478 H) and subsequently developed by his student al Ghazali (505 H), persisting in the classical usul fiqh literature (Ahmad Raisuni, 1995). However, Ghazali's era (fifth century) is regarded by certain scholars as the second stage in the development of maqasid sharia. The origins of maqasid can be traced back to the 4th century, when terms such as "ilal sharia", "mahasin shariah", and "asrar shariah" were introduced by Hakim Tarmizi (279 H), Al Maturidi (333 H), Abu Bakar al Abhari (375), and al Baqillani (403 H) in their writings (Abdul Majid Najjar, 2008).

However, in the past, the maqasid space in Islamic scholar discourse was believed to be limited to the dominance of the usul fiqh discipline. As a result, the discussion on maqasid did not receive attention, was marginalized, and neglected. The emergence of maqasid sharia gained prominence and evolved into a distinct discipline throughout the eighth century, thanks to the contributions of Imam Abu Ishaq al Shatibi.(Abdul Majid Najjar, 2008) This may explain why al Shatibi is regarded as a pioneering figure who made a significant contribution to the development of maqasid discourse, despite not being widely recognized during his lifetime. His magnum opus on maqasid, "al Muwafaqat," is believed to have achieved recognition in the realm of Islamic thinking just two centuries after its publication. Therefore, the trend of maqasid sharia discourse that came later was inseparable from the role of al Shatibi's thinking as found in the works of Muhammad Thahir ibn Ashur (1973 H) and Alal al Fasi (1974 H) until now.

Nevertheless, the discourse regarding maqasid sharia has had a notable surge and gained significant attention among Islamic scholars in recent decades, particularly in the 20th century (Jaser Audah, 2005). Socio-historically, this phase is the momentum where the outbreak of the *"nahdhah"* discourse as a fairly popular project surfaced in the Islamic world at that time, especially the Arab countries or the Middle East in the context of dealing with the reality of the lagging of Muslim civilization. The *nahdhah* project aims to examine and evaluate the Islamic traditions *(turath)* texts in different scientific fields, through the lens of modern Islamic intellectuals. This evaluation is conducted within a narrative framework known as the tajdid narrative. The discussion on maqasid in the present era, like any other, is a component of the *nahdhah* initiative aimed at revitalizing the Islamic culture, which has lagged behind and faced significant challenges in comparison to the remarkable advancements in the Western world.

In addition, the notion of *nahdhah* aims to counter the perception that Islam hinders progress by employing a comprehensive Islamic scientific renewal narrative. During medieval times, the Muslim world demonstrated significant advancements in civilization, whereas Europe was characterized by backwardness and decline. This period in European history is commonly referred to as the dark ages.(Ibrahim A. Ragab, 1980) Prior to that, Islam has had a significant role in reshaping the social circumstances of the Arab Bedouin group to such an extent that its impact on every civilization it encounters is remarkable. Chapra asserts that Islam has the potential to catalyze significant societal progress in the Muslim world, based on the historical evidence.(M. Umer Chapra, 1993)

There has been a surge in demands for the renewal of Islamic thought, particularly in relation to the objectives of Islamic law (maqasid sharia). Contemporary Islam is based on the conviction of its truth and is reinforced by the shared recognition of Islam's illustrious historical legacy. The imperative to reinstate the practice of ijtihad in this particular scenario is important. Contemporary maqasid theorists disseminate the narrative of the tajdid enterprise through what they refer to as "al-Ijtihad al-Maqasidi". The ijtihad movement, which aims to address the problems posed by diverse contemporary dynamics, places significant emphasis on the study of maqasid sharia (objectives of Islamic law).(Abdul Majid Najjar, 2008)

Contemporary maqasid thinkers recognize that the conventional maqasid discourse has numerous constraints in revitalizing the societal advancement of society. Thus, in this particular situation, they also endeavor to reassess and revive ijtihad, which can introduce a fresh framework to address the deficiencies in the earlier design of maqasid sharia.(Jaser Audah, 2007) One who has a major contribution in the discourse of maqasid reform in the contemporary era is Egyptian Islamic intellectual Jamaluddin Athiyah.

Departing from the reality of Muslim development issues, Jamaluddin Athiyah tries to offer several approaches that in his view are crucial as steppingstones in stimulating or encouraging the presence of social development among Muslims. In overcoming this phenomenon, Athiyah considers that the construction of maqasid shariah is the most decisive framework to realize this, but after going through various processes of renewal and reconstruction related to its conceptual paradigm. The most important aspect to be addressed in this study is related to the question of how exactly the steps or approaches taken by Jamaluddin Athiyah to create a transformation of social development among Muslims through the paradigm shift framework of maqasid sharia construction. Thus, this paper will elaborate on the methodology, theory development and critical analysis.

1.1 Brief Biographical Note

Jamaluddin Athiyah was born in the village of "Kum Nur" one of the villages in the province of Daqahliyah, Egypt precisely on May 12, 1928, in a middle-level family at that time. He studied at the university "Fuad I" or now called Cairo University with a focus on the field of law and successfully completed it in 1940 AD. But after that Athiyah tried to continue his education until he obtained a diploma in Sharia in 1950 AD. Then he traveled to Kuwait after graduating, then to Switzerland to obtain a doctorate from the University of Geneva in 1379 AH/1960 AD.

Jamaluddin Athiyah possesses a collection of significant publications and research papers that showcase his inventive scientific mindset, profound comprehensive perspectives, and robust intellectual methodology. The most notable among these include: Tandhir al Fiqhi, Nadhariyah al-Ammah li al-Syariah al-Islamiyyah, Nahwa Taf'il Maqasid Syariah, Ilm Usul al-Fiqh wa al-Ulum al-Ijtima'iyyah, al 'Alaqah baina al-Syariah wa al-Qanun, Nahwa Falsafah Islamiyyah li al- Ulum. Several of his writings serve as authoritative guidelines for students at the University of Libya, including: Salahiyyat al-Islam likulli Zaman wa Makan, al-Qiyam al-Hadhariyyah fi al-Islam, Mafhum al-Ibadah fi al-Islam.

Jamaluddin Athiyah has had a diverse scientific career, holding positions in various locations. He has served as a legal and Sharia advisor for financial and banking transactions, an academic advisor for the International Institute of Islamic Thought (IIIT), a lecturer and chairman of the law section at the Faculty of Sharia at the University of Qatar, the CEO of the International Islamic Bank in Luxembourg, and the editor-in-chief of the Muasir Muslim magazine (Jamaluddin Athiyah

and Wahbah Zuhaily, 2000). Furthermore, Athiyah served as a visiting lecturer at the University of Libya in 1393 AH, 1973 AD, and as a visitor at the College of Sharia, Qatar University, during the term of 1406-1408 AH, 1986-1988.

2.0 NURTURING SOCIAL DEVELOPMENT: RETHINKING MAQASID'S RENEWAL AS GUIDING LIGHT

Jamaluddin Attiyah is a contemporary Islamic scholar known for his progressive approach to reforming Islamic thought, particularly in the framework of the Sharia paradigm. This has been a central focus of his academic career. The basis of his reform initiative was rooted in the practice of "al-Ijtihad al-Maqasidi". Jamaluddin Athiyah believes that ijtihad is a project that must be in constant motion. The only things that are fixed are the Quran and Sunnah, while the ijtihad views of scholars may change. He believes that ijtihad should adapt to the constantly evolving reality in order to fulfil the objectives of Shariah. According to Athiyah, a significant factor contributing to the lack of progress in people's thinking and fiqh development is the rigid adherence to standardised ijtihad and the limited focus on quoting and memorising the opinions of classical scholars.(Jamaluddin Athiyah and Wahbah Zuhaily, 2000)

Athiyah's plea for a fresh advancement in the practice of ijtihad, specifically concerning maqasid sharia, appears to be closely linked to his keen perception and intellectual anxiety in comprehending the actual social circumstances surrounding him. Athiyah, through his renowned magazine project "Muslim Muasir," outlined two primary goals: to analyze the modern civilization of the 20th and 21st centuries and assess the current state of the Islamic world. The aim is to overcome challenges and crises and establish the desired Islamic way of life (Jamaluddin Athiyah, 2001). In other words, the product of his intellectual ideas is a reflection of reality, especially the problem of Muslim backwardness.

The discourse of maqasidi ijtihad, which focuses on social issues, particularly the phenomenon of Muslim underdevelopment, has emerged as a prevailing narrative. This narrative has gained popularity not only via the works of Athiyah, but also through other modern maqasid sharia scholars. Jaser Auda shares the belief that the welfare of the ummah should take precedence over the welfare of individuals. He considers obligations to be more significant than circumstantial matters, prioritizes avoiding what is forbidden over what is discouraged, and values avoiding harm over seeking personal gain. Familiarity with this hierarchy is deemed essential for determining the order of importance for human concerns (Jaser Audah, 2012).

Taha Jabir Ulwani also underscores this priority paradigm when addressing the topic of ijtihad renewal. Jabir Ulwani asserts that failing to consider maqasid (objectives) and priority issues will inevitably have an adverse effect on the Muslim intellect in terms of comprehension and cognition. Jabir outlined a minimum of 24 detrimental aspects of neglect in this particular situation. These include the promotion of lethargy among Muslims by excessively focusing on the ritualistic aspects of Islamic law, without considering the underlying wisdom, causation, and hidden meanings. Furthermore, Jabir argues that the disregard for maqasid in Islamic law will result in a static legal framework (al-qanun al-mayyit) that fails to adapt to the changing dynamics of history (Taha Jabir al-Ulwani, 2001).

Maqasid Ijtihad is thus the most decisive steppingstone in dealing with the current reality of the ummah, especially the problem of development. Thus, Jamaluddin Athiyah, in his book "Nahwa Taf'il Maqasid Syar'iyyah," underscores the significance of Islamic legal theorists being

cognizant of the need to redefine the role of maqasid shariah as a pertinent and practical framework that aligns with contemporary requirements. He supports his argument by referencing various intellectual perspectives. The limitations of legislative text in adequately addressing the complexities of real-life situations necessitate the consideration of maqasid ijtihad as a crucial factor in addressing these challenges. (Jamaluddin Athiyah and Wahbah Zuhaily, 2000) Even Sheikh Muhammad Khidhr Husein is of the view that if the essence of ijtihad is needed at all times, then ijtihad in our current (contemporary) era is more needed than ever before given the changes in life problems and the rapid development of the social order after the scientific and technological revolution (Muhammad Khidr Hussein, 2008).

The importance of focusing on the "social" aspect and advocating for the interests of the "ummah" is evident in Athiyah's Islamic thought reform initiative, particularly in relation to maqasid shariah. Undoubtedly, within this particular framework, Jamaluddin Athiyah was affected by Ibn Ashur as a forerunner in facilitating the progress of maqasid shariah reform. He stated that Ibn Ashur is one of the individuals who carefully consider the stance of *al-kulliyyat al-khams*, which contributes to the well-being of both the general public and particular human beings. Ibn Ashur's contribution in elucidating this matter extends beyond the essential aspect to encompass two further levels of usefulness, namely the necessary and the embellishing (Jamaluddin Athiyah and Wahbah Zuhaily, 2000). The inclination to reassess the three structures of maslahat with regards to promoting social development was further advanced by Jamaluddin Athiyah, as I will elaborate on later.

Athiyah's reform ideas, developed over a span of more than 20 years, aim to bring about significant changes to the social conditions of the ummah and address global challenges. As a designer, Athiyah approaches this task by systematically and structurally re-analyzing the relationship between fiqh (Islamic jurisprudence) and usul al-fiqh (principles of Islamic jurisprudence). Many intellectuals prioritized reform in fiqh and neglected the topic of usul al-fiqh. Jamaluddin Athiyah saw the necessity of implementing tajdid in both elements of the discipline. Usul al-fiqh and fiqh are closely interconnected and possess a robust link within the framework of the renewal process.(Jamaluddin Athiyah and Wahbah Zuhaily, 2000) The idea of Athiyah's ijtihad renewal of usul al-fiqh as the parent of the birth of maqasid shariah science shows that Jamaluddin Athiyah critically re- analyzes the phenomena underlying the problems of the ummah in the current era, especially with regard to issues of social progress and development, which seem inseparable from the paradigmatic framework or worldview of Islam specifically around the Shariah entity.

3.0 RECONSTRUCTING THE PRIORITY OF MAQASID PRINCIPLES

Within the framework of maqasid of five necessities (al-dharuriyyat al-khamsah), Jamaluddin Athiyah aims to modify the existing maqasid framework established by traditional usul al-fiqh academics. Jamaluddin Athiyah argues that there is no unanimous agreement among classical usul al-fiqh scholars regarding the systematisation of the framework of *al-dharuriyyat al-khamsah*. The matter of prioritising maslahah in cases of conflicting interests has not been uniformly addressed by scholars of usul al-fiqh in their respective accounts.(Jamaluddin Athiyah and Wahbah Zuhaily, 2000)

For instance, al-Ghazali provides numerous statements on this problem, which are even recounted inside the same book. In his book *Al-Mustasfa*, al-Ghazali initially elucidates that the categorization of *al-dharuriyyat al-khamsah* comprises religion, soul, intellect, progeny, and possessions. Nevertheless, in an alternative account, Al Ghazali permits giving precedence to the maqasid of safeguarding the soul over religious matters in cases of necessity (Abu Hamid Al

Ghazali, 2008). Athiyah remarked that al-Ghazali's text highlights an issue with the systematization of maqasid. In addition, Fakhruddin al-Razi lacks coherence in organising maqasid. Al-Razi has two distinct statements on this topic in his book *al-Mahsul*. The first order is as follows: soul, intellect, religion, property, and nasab. Conversely, soul, intellect, religion, property, and nasab (Fakhrud Din Al Razi, 1990).

The structure of maqasid built by al-Ghazali and also al-Razi has not been built on a clear and rational explanation. According to Jamaluddin Athiyah, this effort only occurred at the time of al-Amidi even though in reality it still experienced inconsistencies in the preparation of its structure except at the earliest level, namely protecting religion (Al Amidi, 2003). Athiyah states that al-Amidi's perspective ultimately served as the rationale that motivated Ibn Hajib in the construction of the maqasid framework.

However, the incorporation of the maqasid framework, which gives precedence to religion over other benefits (maslahah), is not a common pattern in the historical development of usul al-fiqh discourse. Following the contributions of al-Amidi and Ibn Hajib, a new trend in the field of maqasid emerged, characterised by the systematic reconstruction of its framework. This approach was adopted by usul theorists, who aimed to revolutionise the traditional paradigm. For example, Jamaluddin Athiyah clarified that certain specialists in the principles of Islamic jurisprudence, such as al-Qurafi and al-Baidhawi, prioritise the preservation of the soul's well-being over religious matters, even in the absence of a specific and justified rationale (Jamaluddin Athiyah, 2001).

Overall, Jamaluddin Athiyah's presentation of the many genealogies of ancient usul al-fiqh academics serves as a historical justification technique to reinforce his own perspectives. Athiyah comprises around fifteen genealogically diverse perspectives of usul fiqh academics over several historical periods. Athiyah's deduction from this argument is that traditional usul al-fiqh scholars do not provide set provisions or clear explanations regarding the structure of maqasid in their discourse. Divergent perspectives among scholars lead to varying viewpoints, with even the occurrence of overlapping categories being specific to the perspective of a single scholar. The absence of absolute consensus on the composition of maqasid is also recognized by the former mufti of Egypt, Sheikh Ali Jum'ah. According to him, the composition of maqasid is closely related to the system and method of thinking as well as the context of the time so that it indicates its position which tends to shift (Ali Jumah, 2017).

When developing his maqasid paradigm, Jamaluddin Athiyah tends to give greater importance to safeguarding the soul as the primary position in the hierarchical framework of maqasid shariah (Jamaluddin Athiyah, 2001). This perspective diverges from the viewpoint held by the majority of classical usul al-fiqh scholars, who prioritise the safeguarding of religion above all else.

Meanwhile, in this situation, Jamaluddin Athiyah ranked religion as the third priority, after the soul and reason. The structure devised by al-Athiyah is constructed upon an ontological hierarchy. In this instance, life takes precedence and is subsequently followed by reason. Religion is unattainable without the presence of life and the capacity for rational thought.

Jamaluddin Athiyah supports his viewpoint by referencing the perspectives of several usul academics that align with his theory. Based on his genealogical search in the literature of usul al-fiqh scholars, the view that the existence of religion in an orderly manner is sometimes in certain conditions prioritized over other maqasid according to him is quite rooted and fundamental. This is for example shown by al-Ghazali's own view when dealing with two conflicting maslahah. After al-Ghazali, similar views were also expressed by other famous classical and contemporary usul al-

fikq scholars such as Izzuddin Abd Salam, Badkhashi, Abdullah Darraz, Ali Jum'ah and others. Therefore, Jamaluddin Athiyah also concluded that the orderly arrangement of five general maqasid (al-kulliyyat al-khams) is still disputed among scholars. The majority of scholars are even considered not to provide justification for the orderly arrangement of maqasid that they follow. Not yet various justifications in prioritizing between maqasid and others sometimes contradict each other's arguments.

4.0 NAVIGATING THE RELATIVITY OF *MASLAHAH* HIERARCHY

The classical usul al-fiqh scholars have divided maslahah into three levels starting from dharuriyyat, hajiyyat and tahsiniyyat. This hierarchical construction can be found in various literature of classical usul al-fiqh books such as al-Ghazali.(Abdul Majid Najjar, 2008)

Maqasid dharuriyyah, as defined by certain intellectuals, refers to the essential objectives that humanity must fulfil in order to effectively manage the world. Maqasid hajiyyah refers to situations where its absence does not harm humans in resolving matters, unlike maqasid dharuriyyah. The absence of it greatly hinders human endeavours. Regarding the achievement of tahsiniyyat maqasid, its absence does not hinder humans from managing their worldly issues nor does it create complications in their activities.(Abdul Majid Najjar, 2008)

Jamaluddin Athiyah posits that the three fundamental principles in the universal maqasid, namely dharuriyyat, hajiyyat, and tahsiniyyat, are subject to modification based on the prevailing circumstances and progress of the era. Athiyah asserts that the three universal principles of maqasid are inherently subjective. An issue that was previously classified as part of the tahsiniyyat category may now be categorised as dharuriyyat in the contemporary age. The timings are a direct result of these structural changes. In this regard, Athiyah provided illustrations of each of the two maqasid of protecting the soul and intellect. First, in the context of preserving the soul, food is a dharuri principle of preserving life, but it differs from place to place. For Bedouins, the staple food is dates and milk, for villagers the staple food is pieces of bread and cheese, and so is the case for city people who have their own standards (Athiyah, 2001).

However, with the progression of time and advancements in civilization and nutritional science, this paradigm has undergone a transformation. However, Athiyah observed that food must satisfy specific criteria based on diverse components that enhance the body's nutritional demands. Given the dosage requirements for various components in human daily life. Thus, Jamaluddin Athiyah believes that addressing concerns such as dharuriyyat necessitates collaborative and cohesive efforts with other specialists. Regarding food, Athiyah emphasises that nutrition professionals play a crucial role. Hence, deviating from Athiyah's notion of cognition, entities that were previously deemed essential will assume a subordinate place to essentiality in the future. Therefore, Athiyah generally believes that these three categories are not rigidly defined logical categories.(Athiyah, 2001)

Furthermore, while considering shelter, the minimum requirement in the premodern age was living in caves, whereas meeting the essential shelter demands entails having a basic hut or camp. Nevertheless, as civilization advances, Jamaluddin Athiyah argues that the status of these huts and encampment will be subordinate to necessity *(dharuri).*(Athiyah, 2001)

In this instance, the provision of emergency shelter will be substituted with the requirement of residency, which includes precise criteria such as the presence of doors, windows, rooms, and other essential features. The concept of dynamic or relative standard provisions can also be applied to the fundamental principles in other elements of maqasid. Regarding the safeguarding of the

mind, classical usul fiqh experts, following Jamaluddin Athiyah's teachings, have established a criterion that alone encompasses the ban of alcohol. Some individuals include the requirement to study religious information, which is essential for fulfilling worship obligations. Others focus on the field of computational science to gain knowledge about the principles of *mawariths* and zakat.(Athiyah, 2001)

Jamaluddin Athiyah disagreed with the notion that knowledge should be confined solely to matters of worship, considering it overly simplistic when examining religious affairs. Undoubtedly, within the framework of ancient Islamic thinking, a widely accepted model was proposed by several prominent Islamic philosophers, notably al-Ghazali. In his book *Ihya Ulum al-Din*, al-Ghazali categorizes knowledge as fardhu ain and kifayah, as well as required knowledge which he specifically identifies as religious knowledge. Before al-Ghazali, al-Farabi had also formulated a classification that was more or less the same as al-Ghazali in his book *Ihsa' al Ulum* (Abu Nasr al Farabi, 1996).

5.0 RECONTEXTUALIZING FIVE PRINCIPLES: FROM PRESERVATION TO ENRICHMENT

Religion, soul, mind, lineage, and property are the most important essences in maqasid shariah. In the early intellectual paradigm of usul al-fiqh, the existence of sharia aims to maintain the safety of these five principles. Therefore, for example, the prohibition of killing until the enactment of qisas punishment is prescribed to preserve the soul, the prohibition of stealing and the hudud punishment of cutting off the culprit's hand are part of preserving property, the prohibition of drinking alcohol is part of preserving the mind and so on. In short, the preservation of "al-hifz" is the main keyword used to measure the framework of the role of sharia for the benefit of human life.

However, the paradigm of "preservation" as an essential role of sharia in the midst of the dynamics of life that continues to develop for some contemporary maqasid sharia intellectual views will minimize the workspace of sharia in carrying out social transformation. In contemporary discourse, a number of maqasid intellectuals try to reinterpret and develop the purpose of sharia behind the meaning of preservation "al-hifz" to be relevant to the demands of life dynamics. Jamaluddin Athiyah in this context is among the intellectuals who have a considerable role in renewing the preservation al-maqasidi paradigm towards a more progressive direction. The existence of the five maqasid principles mentioned above by Athiyah in this case is not only understood as an entity that must be maintained, but how for the current context the sharia paradigm plays a role in empowering, developing and enriching the potential of the five principles.

For instance, in the context of preserving reason, as has been mentioned above, Jamaluddin Athiyah's maqasid discourse renewal initiative aims to restore the traditional Muslim framework for categorizing knowledge. According to Jamaluddin Athiyah, a complete understanding of religion will effectively align various elements within a holistic education system. According to Jamaluddin Athiyah, the primary areas of focus in studying include not only aspects of belief and worship, but also Arabic, mathematics, history, geography, physics, chemistry, and other fundamental principles of Islamic science such as the Qur'an, Sunnah, Sirah Prophet, Jurisprudence, as well as basic English and computer science (Athiyah, 2001).

According to Jamaluddin Athiyah, in the field of maqasid principles, these different sciences in the current period are classified as dharuriyyat. Mastering the law of learning is required for everyone, regardless of gender or age, as it is considered fardhu ain. Athiyah's perspective appears

to be in direct conflict with al Ghazali's conception as previously mentioned. In terms of the educational aspect, the level of hajiyyah can be enhanced by promoting a comprehensive educational system that includes schools, public libraries, visual and audiovisual media, and specialized seminars. During the tahsiniyyat stage, focus is placed on the exceptional and groundbreaking groups that have emerged successfully from the preceding phases of "dharuri and hajiyyat". Jamaluddin Athiyah believes that this particular group warrants distinct consideration from the government.(Athiyah, 2001)

6.0 EXPANDING THE SCOPE OF MAQASID: TOWARD SOCIAL DEVELOPMENT NARRATIVE

Jamaluddin Athiyah is a modern maqasid scholar who aims to revive the forgotten aspect of maqasid in the traditional usul al-fiqh discourse. The limitation of maqasid dharuri in sharia to only five aspects, namely protecting religion, soul, mind, lineage, and property, as proposed by Jamaluddin Athiyah, is not a definitive conclusion and was not even debated in the accounts of its initial development, beginning with al-Ghazali, al-Razi, Izzuddin Abdussalam, and Ibn Taymiyyah. This limitation was only present during the era of al-Amidi.(Athiyah, 2001) The limitations of traditional maqasid are mostly found in the social dimension, particularly in relation to social values. This raises the necessity for Muslim society in the present day to address numerous emerging advantages (maslahah). This is why a number of contemporary maqasid intellectuals try to offer and develop a new scope of maqasid such as peace, economic and social development, science research human rights and others (Idris Nassery, Rumee Ahmed, and Muna Tatari, 2018).

However, some scholars argue that the constraints of classical maqasid in addressing the benefits of sharia are attributed to the contemporary crises that were not present in earlier times. The discussion regarding advantages arises inevitably when a crisis among mankind becomes apparent, necessitating the use of maqasidi ijtihad. Abdul Majid Najjar observes that earlier scholars of usul fiqh did not confront the environmental challenges and dangers that the modern world is currently facing. In the present period, it is imperative to consider the maqasid (objectives) of safeguarding the environment as an essential benefit (dharuri) in order to proactively address the potential crisis endangering human existence.(Abdul Majid Najjar, 2008)

Jamaluddin Athiyah contends that there is no conclusive evidence that necessitates restricting the objectives of Islamic law, known as maqasid sharia, solely to these five components (Athiya, 2001). Similar to Athiyah, Abdul Majid Najjar believes that the categorization of maqasid dharuri into five elements is not universally accepted in sharia law, as it can be supplemented with additional factors.(Abdul Majid Najjar, 2008) Jamaluddin Athiyah's efforts in expanding the scope of maqasid which is more inclined to the social benefit of the people have at least been inspired by Ibn Ashur when he gave a statement that the main purpose of sharia is to maintain the order of the people, and the sustainability of its benefit for humans includes the benefit of their reason, their deeds, and the benefit of everything in the natural world around them (Ibn Asyur, 2001).

Jamaluddin Athiyah aims to develop a novel paradigm in a progressive manner, believing that expanding the maqasid domain is a necessary step to liberate maqasid from the confines of individual concerns and extend its reach to encompass broader social issues within society. The maqasid sharia paradigm has evolved to address the contemporary difficulties and dynamics of people's lives today. Athiyah proposed a new plan consisting of 24 maqasid, which are categorized into four domains: individual, family, ummah, and humanity. Indeed, this classification generally represents the concept of sustainable development in Islamic sharia which is recognized and developed by a number of Islamic legal scholars. For instance, Ahmad Muhammad Azb Musa in

his study "al-Tanmiyah al-Mustadamah min al-Shariah al-Islamiyyah" outlines the decisive components of sustainable development in Islamic sharia to aspects namely: safeguarding human beings, prospering nature, developing intellectuality and thinking both individuals and communities, social development and economic development.(Ahmad Muhammad Azb Musa, n.d.)

Thus, the initial classification, namely individuals, encompasses five aspects: safeguarding the essence, intellect, faith, dignity, and possessions. The role of maqasid sharia in safeguarding the soul is accomplished through two aspects: firstly, by establishing legal measures against those who pose a threat to the soul, such as prohibiting murder, suicide, and enforcing qisas and diyat. Furthermore, sharia plays a crucial part in safeguarding the soul by addressing various human physical necessities such as sustenance, hydration, attire, and housing, while also ensuring protection against sickness and peril. Accordingly, it is appears that Jamaluddin Athiyah takes a forward-thinking approach in expanding the understanding of the term "preservation" in the maqasid discourse. He does this by recontextualizing or considering the historical background, in accordance with the current needs and demands. Athiyah applies the concept of "preservation" in maqasid to four more aspects: the preservation of the mind, as previously discussed, as well as the preservation of religion, dignity, and property.

The second category, which is the family, encompasses various issues such as: establishing rules for the relationship between couples, ensuring the well-being of children, preserving the family lineage, upholding religious values within the family, managing family institutions, and overseeing financial matters within the family. Jamaluddin Athiyah distinguishes the preservation of lineage and progeny as distinct from the *al-maqasid al-khamsah* framework established by traditional academics of usul al-fiqh. In classical usul al-fiqh literature, the consideration of the family's profit has been incorporated into the broader topic of "safeguarding the lineage".

Jamaluddin Athiyah's third category focuses on the issue of ummah addresses social issues inside society. According to Athiyah, there are at least seven crucial factors to be taken into account when addressing the issue of the ummah. These include establishing a well- structured institution for the ummah, ensuring security and stability, upholding justice, preserving religious values and ethics, promoting knowledge dissemination and safeguarding the mental well-being of the people, fostering mutual assistance, and promoting sustainable development. Athiyah criticizes the classical language of maqasid shariah for its neglect of the social aspect, which is equally important as individual advantages (Athiyah, 2001). Indeed, the urgency of the ummah aspect emphasized by Athiyah is of great concern among contemporary Muslim intellectuals. Some other researchers actually see that the factor behind the development crisis within the Muslim community is due to the neglect of the fiqh ummah discourse (Musfir bin Ali al Qahtani, 2015). Taha Jabir Ulwani himself in his book "Maqasid al-Shariah" even gave birth and developed a new paradigm for sharia which he called *maqasid al-umran*.(Jabir al Ulwani, 2001)

The fourth category in Athiyah's maqasid construction is focusing on the human dimension. Athiyah categorizes this dimension into five maqasid: aiding and augmenting one another, The objective is to establish universal human succession, attain global peace through equitable means, ensure governmental safeguarding of human rights, and promote the dissemination of Islamic teachings (Athiyah, 2001).

Athiyah's orientation in the scope of this last maqasid is generally more to the issue called *siyasah al-shariah* (shariah policy) which is brought together on a "humanitarian" foundation. Within this recent context, the diverse principles advocated by Athiyah as part of maqasid sharia are indeed

strongly linked to several benchmarks that must be attained in the pursuit of societal progress. Regarding the role of the state in safeguarding human rights, Jamaluddin Athiyah contends that one of the fundamental principles of religion is "tawhid," which includes the liberation of individuals from enslavement as one of its primary objectives. According to him, this perspective is clearly evident in the sharia, which promotes assistance to the vulnerable, the safeguarding of freedom, and the protection of human rights. Furthermore, Athiyah's proposition of fostering collective human progress by promoting mutual assistance, irrespective of religious, linguistic, or ethnic disparities, is regarded as the most optimal approach for establishing a universal legacy for humanity. Therefore, Athiyah believes that this endeavor will enhance the maqasid discourse in Islamic law, serving as a valuable resource for shaping foreign policies in Islamic nations.

7.0 CONCLUSION

Upon analysing the dynamics of maqasid sharia discourse in the present-day using Jamaluddin Athiyah's perspective, it becomes evident that this discourse serves as a mirror of the actual challenges encountered by Muslims during that period, particularly those pertaining to social progress. According to Jamaluddin Athiyah's approach of maqasid ijtihad, the issue of Muslim underdevelopment is closely linked to the lack of attention or disregard for the drive to reform and reinterpret the objectives of Islamic law, known as maqasid sharia. Put simply, the establishment and expansion of the maqasid sharia paradigm in this context is an essential requirement for promoting social progress.

Thus, Jamaluddin Athiyah attempts to enhance and adapt diverse traditional maqasid sharia doctrines in order to effectively address modern challenges. Considering the aforementioned points, it may be inferred that the development of classical maqasid sharia in this particular environment necessitates a process of reconfiguration and a fundamental change in several respects. When examining this study, Jamaluddin Athiyah presents at least four crucial elements for achieving a significant advancement in social development within the framework of the new maqasid sharia paradigm. These elements are: 1. Establishing the order of importance of maqasid principles. 2. Understanding the varying levels of importance in the hierarchy of benefits. 3. Giving new meaning to the Five Principles, shifting the focus from preservation to enhancement. 4. Broadening the range of maqasid principles from an individualistic perspective to a more socially centered approach.

In general, Jamaluddin Athiyah's renewal efforts towards a number of elements in the maqasid construction as discussed above are part of his important contribution in stimulating a more progressive maqasid paradigm so that the essence of sharia can be actualized concretely related to the current problems of the ummah, especially in dealing with the reality of backwardness in the Muslim world. Jamaluddin Athiyah positions maqasid shariah as a framework to awaken the discourse of Islamic studies in general to be more proactive towards social and humanitarian problems.

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Conflicts of Interest

The author declares that there is no conflict of interest regarding the publication of this paper

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