

The Scientific Methodology of Al-Quran in Islamic Finance through the *Maqasid Al-Shariah Theory*

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Abstract

The fundamental objectives of the *Shari'ah* or *maqasid al-Shari'ah* are to ensure the well-being and welfare of mankind (*maslahah*; *Pl. masalih*), both in this world and the hereafter. Significantly, *maqasid al-Shari'ah* can be seen as a comprehensive legal framework to unify the divergence of Islamic legal opinion (*ijtihad*) among the Muslim jurists/consults (*Usuliyyun*) of different schools of law by using Islamic methodology or *usul Fiqh*. *Usul al-fiqh* provides the available method of Islamic legal opinion (*ijtihad*) and their proper use of *Maqasid al-Shariah*. It is, in fact, the heart of the *Shari'ah* for it tells us how rule is derived. It also explains why each Muslim schools, namely Hanafis, Malikis, Shafi'is and Hanbalis have a different system of Islamic legal opinion (*ijtihad*) that influences by using Islamic methodology. Therefore, this study has discussed on the scientific al-Quran as the methodology in Islamic Finance through the *Maqasid al-Shariah Theory*.

Keywords: *Islamic Finance, Maqasid Shari'ah, Islamic methodology.*

Introduction

Usul al-fiqh or Islamic Legal Methodology lays down the methodology that must be used for discovering and applying the *Shari'ah*, as well as the objectives of *Shari'ah* (*maqasid al-Shari'ah*). According to Nyazee, Islamic legal methodology (*usul al-fiqh*) is the queen of Islamic sciences (Nyazee, I. A. K, 1994). The theory and application the objectives of the *Shari'ah* or *maqasid al-Shari'ah* started to develop after the era of Prophet's Companions (Raysuni, A. (2009). Significantly, during the first three centuries, the idea of *maqasid* have been discussed and developed by the four Muslim jurisprudents, Hanafi (d. 150 AH/ 767 CE), Maliki (d. 179 AH/ 795 CE), Shafi'i (d. 204 AH/ 819 CE) and Hanbali (d. 241 AH/ 855 CE), in their legal judgments and writings by using different modes of reasoning methodology (*ra'y-ijtihad*), such as analogical reasoning (*qiyas*), juristic preference (*istihsan*), presumption of continuity (*istishab*), public interest (*masalih al-mursalah*), blocking the means (*Sadd al-*

Dhara'i), companion's opinion (*Qawl al-sahabi*), earlier scriptures (*Shar' man Qablana*) and custom (*'urf*). In fact, the *maqasid al-Shari'ah* has portrayed several objectives and purposes to be pursued by Muslims in their daily activities which cover many areas of life activities (*mu'amalat*). It have become increasingly significance especially for the purpose of transforming the conventional research methodology to the Islamic legal methodology which covered all human activities into positive and normative dimensions in this worldly life and the life in the hereafter.

The scientific al-Quran as the methodology

Technically, Muslim jurists consults (*Usuliyyun*) define al- Qur'an as "the book revealed to the messenger of Allah, Prophet Muhammad (saw) by Gabriel as written in the *masahif* in Arabic language and transmitted to us by authentic continuous narration (*tawatur*), throughout the generations begins with *al-fatihah* and ends with *al-nas*" (Al-Amidi, 1984).

As a divine revelation, the Qur'an is verses consist of the verbatim word of Allah (swt) communicated to the Prophet Muhammad (saw) through an agent named Gabriel. The Prophet Muhammad (saw) only conveys the message from Allah (swt) to mankind. Allah (swt) says: "*And truly this is a revelation from the Lord of the mankind (al-amin)*" (The Quran, 32: 2). The wisdom behind this verse is reflected in the form of revelation as the verbatim word of Allah (*kalamullah*), which excludes the possibility of including the words of the Prophet Muhammad (saw) to be part of the Qur'an. Being a divine origin, the Qur'an affirms: "*This revelation of the scripture (al-kitab) wherein there is no doubt is from the Lord of the world*" (The Quran, 32: 2). Hence, each provision and ordinance of any divine laws of the Qur'an instituted for human-being aimed at attaining objectives intended by Allah (swt), without any vain. Allah says: "*We have not created the heavens and the earth and all that between them in mere idle play. None of this has We created without [an inner] the truth: but most of them do not understand it*" (The Quran, 44: 38-39) and "*Did you, then, think that We created you in mere idle play, and that you would not have to return to Us*" (The Quran, 23: 115). The verses of the Qur'an were revealed in stage to meet the requirements of evens in the society. Therefore, these events were called occasion of revelation, to which certain verses of the Qur'an was revealed in specific place and space of time (Mahmassani. S., 1961). This verses contain the principles, rules and regulations whether in the form of general or specific objectives of *Shari'ah (maqasid al-Shari'ah)* needed by human-being for the purpose of achieving benefits and preventing harms.

The Qur'an is concerned with the purposes and objectives (*maqasid*) for correction of errors in the traditional religious duties. All these purposes can only be accomplished through the promotion of life (*hayah*), goodness (*Khayr*), enjoying the good (*ma'ruf*) and the forbidden of evils (*munkar*). The Muslim jurists have classified the objectives of *Shari'ah (maqasid al-Shari'ah)* into three descending categories, namely the necessities (*daruriyyah*), the needs

(*hajiyyah*) and the embellishments (*tahsiniyyah*) (Al-Ghazali, M., 1998). The necessities of *maqasid* are enumerated as five, namely, the preservation of religion (*muhafazah 'ala al-din*), the preservation of life (*muhafazah 'ala al-nafs*), the preservation of progeny (*muhafazah 'ala al-nasl*), the preservation of intellect (*muhafazah 'ala al-'aql*) and the preservation of wealth (*muhafazah 'ala al-mal*).

The Preservations through Quranic Methodology

With respect to preservation of religion, a clear example could be observed in which the Qur'an has given permission to take up arms to those (Muslims) who are attacked (by the aggressors), because they have been oppressed.¹ This verse clearly indicates the general objectives are to protect religion which involves defending Islamic faith particularly if attacked by the enemy of Islam.

Regarding to preservation of life, the Qur'an has decreed the retaliation (*qisas*) in murder cases.² When the Qur'an prescribed there is life behind the ruling of *qisas*³, it explicitly stated the purposes and objectives of the rulings are to prevent further killing in society. Islam has also regulated the relationship between man and women in order to protect their progeny or dignity. As for preservation of progeny, the Qur'an explicitly stated the prohibition of adultery⁴ with punishment for those involves in adultery with a hundred lashes to the adulterer and the adulteress.⁵

With regards the preservation of intellect, the Qur'an prohibited from wine (*khamr*), because it's intoxicating and abomination devised by Satan.⁶ It also hinder drunk from remembrance of Allah and from prayer.⁷ Hence, the purpose behind prohibition of wine is to protect good behavior.

The preservation of Property (or wealth) is considered as one of the most valuable things for the life and welfare of human-beings. For this reason, the Qur'an strongly emphasises on the preservation of property, with a very strong prohibition of eating and taking another's property unjustly (*batil*), in any illegal way, e.g. stealing, robbing, and deceiving.⁸ Reflected from this verse, the Qur'an has clearly described the punishment to the man and women who is guilty of theft by cutting off their hands and punishment was enjoined by Allah as a deterrent.⁹

¹ The Quran, 22: 39

² The Quran, 2: 178

³ The Quran, 2: 179

⁴ The Quran, 17: 32

⁵ The Quran, 24: 2

⁶ The Quran, 5: 90

⁷ The Quran, 5: 91

⁸ The Quran, 2: 188

⁹ The Quran, 5: 38

The objectives of *Shari'ah* by some verses of the Qur'an are also concerned with financial activities and transactions, which include all aspects of permissible financial activities of commercial transactions. For example, the contracts of sale and other contracts of safekeeping such as *al-rahn*, which Allah says: *"And if you are in journey and cannot find a scribe (to record the debt), then a pledge (should be taken)"* (The Quran: 2:283).

Another example, usury (*riba*) is forbidden in Islam, which Allah (swt) says: *"Those who eat riba will not stand (on the Day of Resurrection) except like the standing of a person beaten by Syaitan leading him to insanity. That is because they say: "Trading is only like riba," whereas Allah (swt) has permitted trading and forbidden riba. So, whosoever receives and admonition from his Lord and stops eating riba, shall not be punished for the past; his case is for Allah (swt) (to judge); but whoever returns to riba, such are the dwellers of the fire-they will abide therein forever. Allah (swt) will destroy riba and will give increase for sadaqah (deeds of charity, alms). And Allah (swt) likes not the disbelievers, sinners. Truly, those who believe, and do deeds of righteousness, and perform al-salah (the prayers), and give zakat (obligatory charity), they will have their reward with their Lord. On them shall be no fear, nor shall they grieve"* (The Quran: 2:275). From this verse, usury (*riba*) is considered major deterrence of the achievement of the objectives of the *Shari'ah* in financial activities.

Conclusion

Based on those examples, the Qur'an highlights some important objectives of *Shari'ah* (*maqasid Shari'ah*), which can be discovered in each ruling of the Lawgiver. Therefore, al-Ghazali, al-'izzi Abdul Salam and al-Shatibi have unanimously agreed and affirm that the Qur'an is the first source to reveal the objectives of *Shari'ah* (Zaharuddin Ab. Rahman, 2009).

However, some of the Qur'anic words convey a definitive meaning, which is not subject to interpretation, while others convey probable meanings, that is, there can be two meanings for a word. For the definitive meaning, Allah says: *"Allah intends for you ease, and He does not want to make things difficult for you"* (The Quran, 2: 185). Allah says in another verse: *"Allah does not want to place you in difficulty, but He wants to purify you and to complete His favour to you that you may be thankful"* (The Quran: 5:6). These types of texts are also known as explicit texts (*nass*). The objectives of *Shari'ah* extracted from the two verses are consisted of definitive meanings, which provide facilities and to remove difficulties from human conduct (*mukallaf*). An example for the probable meaning, Allah says: *"Truly Allah and His angles shower blessings on the Prophet (giving him honour and graces)"* (The Quran: 33:56). The word '*yusalluna*' in this verse not intended by the legitimate meaning of common worship (*solah*), but the truly meaning is shower blessings are upon the Prophet Muhammad (saw) (Tantawi, M. S, 1998).

It is apparent that as the primary sources of *Shari'ah*, the Qur'an, with its infinite comprehensiveness, enables the Muslim jurists (*al-fuqaha'*) to deduce the legal value from the phenomena of human existence. Above all, it enables the Muslim juristsconsults, *fiqh* scholars (*al-fuqaha'*) and *Shari'ah* advisors to deduce practical solutions to new *mu'amalat* cases in Islamic banking and finance practice.

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