

VIEWPOINTS

Malaysian Contemporary Maqasid al-Shariah Discourse: Current Situation, Challenges, and Prospects

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In Malaysia, a new discourse on Islam has emerged in the last 20 years, with a focus on the goals of religious teachings. This is referred to as *maqasid al-shariah* discourse. Previously, the discussion on the moderate and pragmatic aspect of Islam centred on the topic of public interest (*maslahah*), which is regarded as one of Islam's legal sources. The subsequent trend, however, suggests that Malaysian Islamic ethico-legal discourse has shifted toward an objective-based analysis of rulings in its legal corpora. The *maqasid al-shariah* discourse is active in several areas in Malaysia: 1) Governance framework for performance evaluation 2) Industry-focused research on the Islamic banking industry 3) basic/methodological research.

With the launch of the Shari'ah Index, a governance metric based on *maqasid* to gauge the country's performance from an Islamic perspective, *maqasid al-shari'ah* has become a national agenda in Malaysia. During Najib Tun Razak's premiership, the government launched the Malaysian Shari'ah Index of Governance, which aims to assess its agencies' "seriousness" in implementing Islamic-based policies. Malaysian government efforts and policies were assessed against the five *maqasid*'s essentials, which translate into eight governance rubrics covering Islamic law, politics, education, economy, health, culture, infrastructure development and environment, as well as social milieu. However, because it was led and funded by the government, there may be concerns about its impartiality. Some may interpret the overall result of 75.42 per cent, ranked as 'good,' as an attempt to self-praise and leverage its own credibility.

It is worth noting that, despite the fact that Malaysia has seen several government changes since 2018, leaders from various parties who held governmental positions have unanimously declared that *maqasid* is the foundation of their leadership, particularly in Islamic religious affairs. Along with other principles such as *rahmatan lil a'alam* and *fiqh al-maliziyy*, the Pakatan Harapan government was relying on *maqasid al-shari'ah* as one of the main pillars of their new policies.

In order to assess government performance, the *maqasid* framework was combined with the Sustainable Development Goals (SDGs). Malaysia's current government also mentioned *maqasid* as the underlying principle. Malaysia's current government also mentioned *maqasid* as the underlying principle of its administration approach (Malaysian Family Document).

Because Malaysia is a centre for Islamic banking and finance, there has been a significant amount of research on the *maqasid* in this area. The research focuses on issues related to the implementation of certain sale-based contracts in Islamic banks, *takaful*, and Islamic capital market products. It focuses on how those contracts can serve the shariah-required outcomes of those transactions. There are also studies on how Islamic banking institutions and the industry itself can function in society in ways that help the public achieve the states of being envisioned by Islamic teachings, such as economic equality, poverty alleviation, and justice. These studies are primarily carried out by academicians at local universities who are experts in the field of Islamic finance, as well as research officers at local Islamic banking institutions. Currently, as a result of central bank regulations, Islamic banks are shifting their focus to governing frameworks such as ESG (Environment, Social, and Governance) and VBI (Value-based Intermediaries), which may enable Islamic banks to act responsibly in their financing and investment activities for the sake of social well-being.

In terms of the fundamental/methodological aspects of the country's *maqasid al-shariah* discourse, it essentially revolves around the attempt to expand the existing five essential elements (*daruriyyah al-khams*) in order to respond to current needs and challenges. As a result, some scholars proposed that some contemporary values be considered as part of or in addition to those 'al-daruriyyat'. For example, 'rule of law,' research and development, 'human rights,' and, in the current situation, 'food security' are proposed as elements in the 'al-daruriyyat.' Some research works in the field of *maqasid* focus on methodological issues, such as how to identify objectives from Quranic and Sunnah texts and the relationship between means (*al-wasa'il*) and objectives (*maqasid*).

The recent publication of important books on contemporary *maqasid* deliberation in Malaysia demonstrates the country's vital contributions and roles in the advancement of the discourse's fundamentals. Daud Bakar's book, 'Maqasid al-Shariah, Face and Voice of Shariah: Embedded with Data Analysis and Artificial Intelligence,' for example, aims to demonstrate that *maqasid al-shariah* is a scientific and structured discipline in the Islamic tradition while presenting the subject matter in a way that non-specialists can understand. Interestingly, the author employs big data analytics to analyse and identify purposes from Divine texts. 'Regrounding Maqasid al-Shariah: The Quranic Semantic and Foundation

of Human Common Good,' by Mohamed Tahir el-Mesawi, Waleed Fekry Faris, and Dawood A. Yahya al-Hidabi, is another seminal publication on the new approach to the maqasid. This work attempts to broaden the maqasid's textual foundation sources by referring to some relevant Quranic terms on which the maqasid discourse should be based. In doing so, the authors used a semantic-conceptual analysis approach, as well as insights from both classical and modern scholars who worked hard to analyse and classify Qur'anic terms.

Jasser Auda's work, titled 'Re-envisioning Islamic Scholarship: Maqasid Methodology as A New Approach,' which was published in Malaysia, represents yet another innovative approach to the fundamental aspect of the maqasid. The project seeks to revitalise the concept of fiqh as a multidisciplinary tradition capable of significantly catering to contemporary issues and needs. It also aims to propose solutions to problems in the mainstream approach to the maqasid, such as imitation, partialism, apologism, contradiction, and deconstruction. In doing so, the author introduces a procedure known as 'cycles of reflection' on the revealed texts of the Quran and Sunnah as a means of developing a critique of dominant perspectives of natural and socioeconomic realities. This procedure is required in order to extract several components from the revealed sources, including concepts, objectives, values, commands, universal laws, groups, and proofs. A researcher may be able to address contemporary concerns in any field of knowledge by identifying these elements and how they interrelate with one another.

It is worth noting that the *maqasid* receives insufficient attention in the field of Islamic law and administration. This could be because Shariah courts in Malaysia fall under the jurisdiction of specific states that strictly follow established opinions of certain *mazahib* (primarily the Shafi'ites school) in order to primarily cater to legal issues concerning family affairs. Furthermore, Shariah lawyers in Malaysia are more accustomed to establishing their arguments in court by referring to legal maxims (*al-qawa'id al-fiqhiyyah*) because they have been trained to do so and are almost completely unaware of how maqasid could help them in their work. The same is true for fatwa institutions in Malaysia's various states, as they must strictly adhere to the Shafi'ite school's final opinion (*al-qawl al-mu'tamad*). Opinions from the Shafi'ite school should be prioritised in any research on new issues that require *fatawa*. Nevertheless, to be fair to these institutions, there are legal decisions made that reflect due observance of public interest (*maslahah*), particularly in the local and current context. The fatwa councils of various Malaysian states have made decisions to address current societal needs. The recently issued fatwa on the permissibility of Covid-19 vaccines and restrictions on child marriage by standardising the marriage age to 18 years old may be an example of this approach.

Although Malaysia is a hub for the halal industry, it is worth noting that the debate over *maqasid al-shariah* in this area has received insufficient attention. However, there are some research works in halal-related fields that use *maqasid* as a point of references, such as the halal corporate governance framework among Malaysian companies, which includes external and internal procedures to ensure ethical, prudent, and professional actions in upholding Shariah's requirements. Several other research papers link the five *daruriyyat* elements to the concept of *al-halal al-tayyib*, which is primarily applied to food products. This concept would extend beyond the legalistic aspects of halal parameters and standards to include the nutritional quality of the food products.

There are some specific trends that could be identified in this preliminary survey of research works, forums, and discussions that took place in Malaysia. There is significant interest by the government, academic institutions, and some industry players in making *maqasid al-shariah* the overarching framework that may offer pathways for Islamic-related activities in the country. However, the country's level of *maqasid* discourse is still intermediate, with researchers focusing solely on the five elements of *al-daruriyyat*. These elements are used to validate proposed research outcomes or policies in order to demonstrate their adherence to Islamic teachings and principles. Such an approach has narrowed the researcher's view of the *maqasid's* other dimensions and functions. Despite the positive developments, the lack of awareness of solid methodology for the *maqasid* has caused confusion among learners and researchers about its actual roles and functions, particularly in guiding research works on new issues in society, and this has somehow compromised the quality of their research.

Certain critical aspects of research in a *maqasid* methodology should be futuristic, critical, holistic, practical, and transdisciplinary in nature. Its approaches must be pragmatic in the sense that they aim to achieve and fulfil some material or immaterial goals. A methodological framework of this type should also be cross-disciplinary in nature in order to recognise the complexities of a phenomenon that typically has multiple contending causes and produces a variety of effects with varying characteristics and consequences. Furthermore, the creation of a *maqasid* methodological framework necessitates a cycle of reflections on Qur'anic injunctions and guidance, as well as prophetic traditions (*ahadith*), in order to develop principles, theories, or concepts that can effectively assist us in dealing with our current problems or challenges.

Notes

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