



Syathibi's Thoughts on Maslahah Mursalah and its Impact on The Development of Islamic Law

Imron Rosyadi¹, Arafiq Fathul Haq Rumaf², Meti Fatimah³, Najib Yaman⁴

^{1,4}Universitas Muhammadiyah Surakarta, Indonesia

²Islamic University of Madinah, Saudi Arabia

³Institut Islam Mamba'ul 'Ulum Surakarta, Indonesia

¹ir122@ums.ac.id, ²aarofiqrumaf29@gmail.com, ³fatimahcan@gmail.com,

⁴binyaman10@gmail.com

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Abstract: The purpose of this study is to discuss and analyse the application of the method of maslahah mursalah in the establishment of Islamic law. This research method is qualitative with biographical, historical, and content analysis approaches. The results of the study concluded that Asy-Syatibi thought defines maslahah mursalah with maslahah found in new cases that are not designated by a particular nash but it contains benefits that are in line (al-munasib) with the act of sharing. Conformity with the action (tasharrufat) of share» in this case does not have to be supported by certain arguments that stand alone and point to the problem but can be a collection of postulates that provide definite benefits (qat» i). New issues that have not been confirmed, either justified or denied and contain benefits that are decided with the problem of mursalah are related to problems of muamalat, not related to worship. The use of maslahah mursalah as a postulate for the establishment of law is only for needs that are dharuri and haji in nature. Determining the benefits of an action that will later be used as a basis for consideration in the postulate of the mursalah community can use reason to the maximum.

Keywords: thought, Syatibi, masalahah mursalah, development, Islamic law.

INTRODUCTION

Maslahah mursalah is one of the postulates of Islamic law that is still disputed by jurisprudence scholars. This mursalah is a postulate to establish a new problem that has not been explicitly mentioned in the primary sources, the Qur'an and the Sunnah, either accepted or rejected. The first originator of the maslahah mursalah as a legal proposition was attributed to Imam Malik, the figure and founder of the Maliki school. Maslahah mursalah as an option

for this legal proposition began with the death of Muhammad SAW. As a prophet and apostle. With the death of the prophet, the revelation of the Qur'an had ceased to descend, and the words of the Prophet had ceased as well. Meanwhile, problems continue to develop along with the development of Society itself. From this emerged the idea of maslahah mursalah as an option for Islamic legal propositions [1]–[5].

In its application, the problem of this mursalah rests on benefit. Looking at the main basis of this mursalah maslahah postulate, knowing about the theory of benefit becomes a necessity in the use of mursalah maslahah as a postulate of Islamic law. Many jurisprudence scholars tried to develop this concept of maslahah mursalah. Among the many scholars of jurisprudence is Ash-Syatibi. This paper tries to present Ash-Syatibi's thoughts about the maslahah mursalah. In this paper, it will begin with the presentation of the biography of ash-Syatibi, the concept of maslahah in general, and ash-Syatibi's thoughts about maslahah mursalah [6]–[10].

LITERATURE REVIEW

A literature review of al-Shatibi's thoughts on the maslahah mursalah and its impact on the progress of Islamic law in tabular form:

Tabel 1 Literature Review

Aspects of Syatibi's Thoughts on	Description	Impact on the Progress of Islamic Law
The concept of Maslahah Mursalah	Maslahah mursalah is a public interest drawn from Islamic principles without any specific legal basis in the Qur'an or hadith.	Expand the scope of Islamic law to include new situations not directly regulated in mainstream legal sources.
The Method of Interpretation of Syatibi on Maslahah Mursalah	Al-Syatibi uses an inclusive interpretation methodology, prioritizing the general importance and purpose of sharia in establishing Islamic law.	Allow the adjustment of Islamic law to the times and social changes. Enriching the interpretation of Islamic law by considering the contemporary context.
Application of Maslahah Mursalah in Islamic Law	Al-Syatibi advocates the use of maslahah mursalah in qiyas (analogy) and ijtihad (legal reasoning).	Provide flexibility in establishing Islamic law in situations not directly regulated by primary legal sources. Encourage innovative and creative thinking in solving complex Islamic legal problems.
Criticism of the Concept of Maslahah Mursalah	Some scholars question the legitimacy of the use of maslahah mursalah, fearing misuse or reckless interpretations that are incompatible with Islamic principles.	- May spark controversy and debate among scholars about the validity of its use in establishing Islamic law. - Requires caution in applying it so as not to violate fundamental sharia principles.

The literature review describes al-Shatibi's thoughts on the maslahah mursalah and its implications for the advancement of Islamic law in the form of a systematic table.

METHODOLOGY

Research methods on Shatibi's thoughts on maslahah mursalah and its impact on the advancement of Islamic law can be designed with a qualitative approach that involves the

analysis of primary texts, such as *Kitab al-Muwafaqat* by Shatibi, as well as the study of related literature. Here is the research scheme that can be adopted:

Literature Study: The research begins with a literature study related to Shatibi's thoughts on maslahah mursalah and its relevance in the context of Islamic law. It involves collecting and critically analyzing classical and contemporary writings that discuss the concept of maslahah mursalah as well as the works of Shatibi.

Primary Text Analysis: The next focus of research is an in-depth analysis of the *Kitab al-Muwafaqat* by Shatibi, which is one of the major works in Islamic legal thought. This research includes the identification of the concept of maslahah mursalah, its definition according to Shatibi, and how the concept is applied in its reasoning about Islamic law.

Concept Mapping: Mapping the concept of maslahah mursalah is carried out within the broader theological and legal framework of Islam. This includes an understanding of how Shatibi views the relationship between maslahah mursalah and Islamic legal principles such as *maqasid al-shariah* (the purposes of sharia) and *usul al-fiqh* (basic principles of law).

Impact Analysis: Through an understanding of these concepts, research will explore the impact of Shatibi's thoughts on the maslahah mursalah on the advancement of Islamic law. This includes an assessment of the relevance and applicability of the concept in the present context, as well as how Shatibi's contributions influenced the development of Islamic legal thought [6]–[10].

Case Studies: Research can be enriched with case studies or concrete examples of the application of the concept of maslahah mursalah in fatwas, legal decisions, or the practice of Islamic law in various societies. This helps clarify how the concept is implemented in a real context and its impact on the lives of Muslim communities.

Comparative Analysis: A comparative analysis was conducted between Shatibi's thoughts on maslahah mursalah with the views of other scholars in the Islamic legal tradition. This helps in understanding the uniqueness of Shatibi thought as well as its role in the development of Islamic law more broadly.

Conclusions and Implications: The study concludes by compiling conclusions summarizing the main findings, identifying the implications of Shatibi's thoughts on the maslahah mursalah on the advancement of Islamic law, as well as suggestions for further research or practical application [11], [12]..

This research method provides a comprehensive framework for understanding Shatibi's thoughts on the maslahah mursalah and its impact on the advancement of Islamic law. By combining primary text analysis, literature studies, and other qualitative approaches, this research is expected to provide deep insight into Shatibi's contribution in the context of Islamic legal thought.

Table 2. Research Methods

No.	Research Phase	Activities	Method
1	Introduction	Literature study on Syatibi	Literature analysis
2	Concept Identification	Collection of data on maslahah	Literature study, interviews, observations
		mursalah in the works of Syatibi	
3	Thought Analysis Shatibi	Analysis tex-tex classical Syatibi	Content analysis
		Related to Maslahah Mursalah	
4	Evaluation and Impact	Identify the impact of thinking Syatibi to development hukum Islam	Impact analysis

5	Comparison with The Thoughts of Other Scholars	Comparing Shatibi's thoughts	Comparative studies
		About Maslahah Mursalah with other scholars such as al-Ghazali,	
		Al-Sha'tabi, Dan al-Tofi	
6	Conclusions and Recommendations	Summarizing research results and provide recommendations	Synthesis analysis

This study aims to understand Syatibi's thoughts on maslahah mursalah and its impact on the progress of Islamic law by using methods of literature analysis, content analysis, impact analysis, comparative studies, and synthesis analysis.

RESULTS AND DISCUSSION

Syatibi and his biography

Ash-Syatibi, the figure who will be studied for his thoughts on the mursalah maslahah, has the full name Abu Ishaq Ibrahim bin Musa al-Garnati Ash-Syatibi. He was born in Granada in 730 AH and died in 790 AH in the same place. Ash-Syatibi, the popular name behind his full name, is the name of his family's hometown. The Ash-Syatibi family originally lived in Shatiba, but due to the political situation at that time, the Ash-Syatibi family did not allow them to live in Shatiba. They were forced to live in Granada. It is known that Shatiba at that time was being hit by internal political struggles of Muslims which resulted in the transfer of power from Islam to Christianity so Ash-Syatibi was strongly suspected not to have been born in the city of Shatiba, the city where his family was born. Ash-Syatibi was in Granada estimated during the reign of Isma'il b Farraj who came to power in 713 AH. As quoted by Abu al-Afjan, the domestic political life of Granada during the time of Ash-Syatibi was unstable because internal friction seemed endless. The struggle for power among Muslims seems unstoppable without regard to the future of Islam. The conflict-ridden internal conditions of Muslims provided fresh air for other groups, especially Christians who had long wanted to take Granada from the hands of the Muslims [\[11\]](#), [\[12\]](#).

Although political turmoil continues, the academic climate in Granada during the time of Ash-Syatibi has not discouraged the community from continuing to revive scientific studies, it can even be said that it is still developing rapidly, especially in life-related to the world of science. This happened as a form of relic of previous Islamic dynasties who loved science. For example, at that time there was already a University of Granada. In addition to the university as a symbol of strong academic development, Granada also has the popular al-hambra Palace. This palace is a symbolic form of high-level civilization developed by Muslims. Nevertheless, this rapid scientific development was not comparable to the constantly turbulent political conditions [\[13\]](#), [\[14\]](#).

The political situation was turbulent, and Ash-Syatibi did not recede to study so he became a famous scholar in the field of jurisprudence. Since childhood, Ash-Syatibi has shown interest in the world of science, especially Islamic sciences. Diligently, he studied Arabic with scholars, for example, Abu 'Abd Allah Muhammad bin Fakhkhar al-Biri (d. 754 AH), Abu Qasim Muhammad bin Ahmad (d. 760 AH),³ and Abu Ja'far Ahmad ash-Sharqawi (d. 762 AH). Regarding studying the hadiths of the Prophet, he studied with Abu Qasim ibn Bina and Shams ad-Din at-Tilimsani (d. 781 AH). He obtained kalam knowledge from the scholar Abu 'Ali Mansur az-Zawawi (d. 770 AH). As for the science of the origin of jurisprudence, the science that later catapulted his name as a scholar of the origin of jurisprudence through monumental works in the field of the origin of jurisprudence, namely al-Muwafaqat fi Ushul al-Ahkamdan al-I'tisham, he obtained from scholars Abu 'Abd Allah Muhammad bin Ahmad al-Miqarri (d. 761 AH) and Abu'Abd Allah Muhammad bin Ahmad ash-Sharif at-Tilimsari (d. 771 AH) [\[15\]](#).

He taught various fields of science, especially jurisprudence and jurisprudence. Many scholars of that time studied him, especially as disciples. Call it here, for example, Abu Yahya b 'Ashim, Abu Bakr al-Qadzi, and Abu 'Abd Allah al-Bayani. The latter name is the cleric who held the office of Cadiz at that time, a high position in the caliphate of Granada. One of the books written by al-Bayani, namely *Tuhfah al-Hukkam* was a book that was quite well-known among judges at that time because it became a reference book for judges in solving problems raised by citizens [\[16\]](#).

Ash-Syatibi as a scholar with broad insight has written various books, both related to jurisprudence and the origin of jurisprudence and other fields. Works that have been written by Ash-Syatibi, among them are *Sharh Jalil 'ala al-Khulashah fi al-Nahw*, *Khiyar al-Majalis*, *Sharh Rajz Ibn Malik fi al-Nahw*, *»Inwan al-Ittifaq fi »Ilm al-Isytiqaq*, and *Ushul al-Nahw*. These works are Ash-Syatibi writings that have not been published and published to the general public. In addition to these works, there are still other works written by Ash-Syatibi. Among these are *al-Muwafaqat fi Ushul al-Ahkam*, *al-I » Hisham*, and *al-Ifadat wa al-Irshadat*. These three works are works that have been published so that Muslims in different parts of the Islamic world can read and understand them well [\[17\]](#), [\[18\]](#).

The legal ideas of Ash-Syatibi have received a positive response from various Muslim circles of various generations, which in essence are very appreciative of Ash-Syatibi's thoughts. For example, high appreciation was given by scholars to Ash-Syatibi because of his expertise compared to his contemporaries. The confession of one of the scholars from Spain, namely Abu Wasim ibn Siraj (d. 848 AH), proves the scholarship of Ash-Syatibi in the field of Islamic law. According to Abu Wasim, he found it difficult to fatwa with fatwas that were different from those featured by Ash-Syatibi. The same confession was also made by Abu 'Abd Allah al-Majari al-Andalusi. According to his testimony, Ash-Syatibi was the most famous teacher of his time [\[19\]](#).

Muhammad 'Abduh (d. 1323 H/1905 AD), Muhammad Rashid Rida (d. 1935 AD), Muhammad Iqbal (d. 1938 AD), al-Maududi (1903-1979 AD), and Fazlur Rahman (1919-1988 AD) are a series of Muslim figures who have high attention to the thought of Ash-Syatibi. These multi-generational figures give deep appreciation to Ash-Syatibi in his position as a jurist whom he considered a brilliant Muslim thinker, the result of the dark ages of the period of Islamic history [\[20\]](#).

Muhammad 'Abduh, one of the important reformers in Islam whose thought is considered by many to be the forerunner of liberal thought in Islam, has concluded that *al-Muwafaqat fi Ushul al-Ahkam* was an important link for the development of legal thought in Islam. Therefore, as quoted by HudariBek, 'Abduh has advised later generations to study *al-Muwafaqat fi Ushul al-Ahkâm* well and make it one of the important references in the development of philosophical aspects of Islamic law [\[21\]-\[23\]](#).

Another reformer who studied the work of ash-Shamibi, *al-Muwafaqat fi Ushul al-Ahkam* and *al-I » Hisham*, was Muhammad Rashid Rida. According to him, these two works of Ash-Syatibi have an originality of legal thought whose weight and monument can be compared with Ibn Khaldun, the father of sociology in Islam through his famous work *al-Muqaddimah*. Especially for the work of Ash-Syatibi, *al-I » Hisham*, Rashid Rida was willing to give a preface with the title *at-Ta » rif bi Kitâb al-I » tisham* [\[24\]](#).

Pakistani scholar Muhammad Iqbal gave high praise to the figure of Ash-Syatibi as a great figure from Spain with expertise in Islamic law. Such praise shows that Muhammad Iqbal, who wrote *The Reconstruction of Religious Thought in Islam*, a monumental work, drew much inspiration from Ash-Syatibi as he developed Islamic law in Pakistan. The same praise was given by al-Maududi, another Pakistani figure. In al-Maududi's work, *The Islamic Law and Constitution*, he quotes a lot of Ash-Syatibi opinions. Another Pakistani Muslim scholar who gave high appreciation to the work of Ash-Syatibi was Fazlur Rahmân. According to Rahmân, he was usually called by his disciples, Ash-Syatibi who lived in the dark times of the Islamic historical period was a faqih who had brilliant Islamic legal thoughts. In Rahman's

view, Ash-Syatibi is a scholarly figure who tries to provide rational, moral, and spiritual foundations for the Islamic legal system [\[25\]](#).

Maslahah Mursalah

Maslahah mursalah consists of two words, namely the words maslahah and mursalah. Viewed from the etymological side, the word maslahah is a form of masdar (adverb) derived from *fi'l* (verb), namely صلح (saluha). In terms of form, in addition to the word maslahah being an adverb, it is also the ism form (noun) singular (mufrad, singular) of the word masalih (jama', plural). The word maslahah has been absorbed into Indonesian become maslahat, as well as the words benefit and benefit [\[26\]](#), [\[27\]](#).

The Big Dictionary Indonesian distinguishes between the words maslahat and benefit. The word maslahat, according to the dictionary, is defined as something that brings goodness, benefit, and use. While the word benefit has the meaning of usefulness, goodness, benefits, and interests. From this, it is clear that the Big Dictionary Indonesian sees that the word maslahat is included as a root word, while the word benefit is included as a finished noun derived from the word maslahat which gets the prefix "to" and the suffix "an" [\[28\]](#), [\[29\]](#).

Etymologically, the word maslahah means *manfa'ah* (منفعة), beneficial, good, good (goodness), and *guna* (usefulness). According to Yusuf Hamid al-'Alim, in his book *al-Maqasid al-'Ammah li ash-Shari'ah al-Islamiyyah* states that maslahah has two meanings, namely the meaning of *majazi* and *ha-qiqi*. What is meant by the meaning of magazine here, the word al-'Alim is an act (in-fill) in which there is goodness (saluha) which means benefit. An example of the meaning of *majazi* is, for example, seeking knowledge. With knowledge will lead to expediency. Another example, for example, farming and trading, doing all this, will be benefited, is, obtaining ownership of property. The meaning of maslahah like this is the opposite of *mafsadah* therefore, the two cannot possibly meet in an action. The meaning of maslahah in magazines can be found in the books of *ma'am al-lugah*, such as the dictionaries of *al-Muhit* and *al-Misbah al-Munir* [\[30\]](#), [\[31\]](#).

While what is meant by the meaning of maslahah *haqiqi* is maslahah *lafaz* has the meaning of *al-manfa'ah*. This kind of meaning is different from the meaning of a magazine. Such a meaning can be seen in *mu'jam al-Wasit*, that *al-maslahah as-salah wa an-naf'*. If *saluha*, the word *al-'Alim* must lose damage because of that, the word *saluha ash-shay'* means that it is beneficial or appropriate (*munasib*). Based on this meaning, *al-'Alim* gives an example, for example, that the pen has benefits for writing. Therefore, *al-maslahah* in the *majazi* sense is the certainty of humans benefiting from what is done. While *al-maslahah* in the sense of *haqiqi* is in the act itself contains benefits. Here *al-'Alim* does not explain what kind of benefit and how [\[32\]](#), [\[33\]](#).

Taufiq Yusuf al-Wa'i, in one of his books, mentions that everything in which there is a benefit, whether obtained by seeking benefits or pleasures or by avoiding or withdrawing from damage, can be categorized as maslahah. Based on this search, it can be concluded that linguistically, the meaning of maslahah is very good (*al-khair*) and beneficial (*al-manfa'ah*).

Husayn Hamid Hassan, in his book *Nazariyyah al-Maslahah*, argues that maslahah, seen from the side of *lafaz* and meaning is synonymous with the word benefit or a work in which it contains or brings benefits. Ahmad ar-Raisuni in his book *Nazariyah al-Maqasid 'inda al-Imam Ash-Syatibi* tries to clarify this benefit from the expression of expediency. According to him, the meaning of maslahah is to bring benefits or avoid harm. What is meant by benefits here is an expression of pleasure or what are the paths leading to enjoyment. What is meant by harm is the expression of pain or any path leading to pain. Ibn 'Abd as-Salam, said Ahmad ar-Raisuni, divides the maslahah into four, namely pleasure, the causes of pleasure, happiness, and the causes that make happiness [\[34\]](#).

According to ar-Razi, in his book *Muhtar as-Sihhah*, explains that the meaning of *al-salah* is the opposite of *al-façade*. Departing from this meaning, ar-Razi concluded that seeking maslahah is an act that is the opposite of getting damaged or bad. Similarly, al-Jauhari, in his

standard Taj al-Lugah, interprets the word as-salah as opposed to the word al-façade. While al-Fayumu, in his book al-Misbah al-Munir, gives the meaning of al-salah as al-khair (goodness) and as-sawab (truth). Based on this meaning, al-Fayumi said, if there is an expression fi al-amri maslahah, then this expression means that something has al-khair (goodness). Through the search for the meaning expressed by some of these figures, it can be concluded that the meaning of al-salah is synonymous with benefit, goodness, and truth. If it is related to the purpose of Islamic law, then the benefit, goodness, and truth here are for man, both directly and indirectly, both in this world and in the Hereafter.

Al-Buti, in his book, Dawabit al-Maslahah fi as-Shari'ah al-Islamiyyah, defines maslahah as the same as a benefit that can make pleasure, or an action that can prevent consequences (results) can provide pleasure benefits. This pleasure, al-Buti said, can be felt immediately. For pleasure is a nature that every human being always seeks, therefore, man will always strive to seek this pleasure [\[35\]](#).

Izzu ad-Din b 'Abd as-Salam (d. 660), when explaining the meaning of al-masalih (jama', plural of the word maslahah) relates to the opposite of al-masalih, namely al-afraid (jama', plural of the word mafasadah). According to him, what is meant by al-masalih is al-khair (good), al-naf' (benefit), al-hasanat (good), while what is meant by mafasid is all syurur (bad), madarah (danger), and sayyiat (ugly). In the Qur'an, the word 'Izzu ad-Din Further, often used by the word al-hasanat is meant by al-masalih, while the use of the word sayyid is meant the word al-afraid [\[36\]](#).

Maslahah Mursalah as a Postulate of Islamic Law

Ash-Syatibi belonged to the fuqaha' of the Mâlikî school whose views on the origins of jurisprudence, including on the maslahah mursalah, were widely studied by various thinkers who came later. Ash-Syatibi thoughts on the maslahah mursalah are outlined in two of his books that are popular in Muslim countries today. The two books are al-Muwafaqat fi Ushul al-A% kamdan al-I » tisham [\[37\]](#).

The book al-Muwafaqat fi Ushul al-Ahkam, Ash-Syatibi suggests that maslahah mursalah is a postulate that can be used as a technique for establishing Islamic law. However, as a legal proposition, said Ash-Syatibi, the maslahah mursalah has not been agreed on its validity by the scholars of jurisprudence proposals to be used as a postulate for the establishment of Islamic law. In the records of Ash-Syatibi, there are at least four attitudes shown by scholars of jurisprudence regarding the use of this mursalah maslahah. First, the opinion that approves the use of maslahah mursalah as a postulate for legal determination is based on postulates. Second, opinions that recognize absolutely the use of maslahah mursalah as a postulate for the establishment of law, such as Imam Malik. Third, the opinion that accepts it with a close understanding of the postulates of the Qur'an and as-Sunnah al-Maqbulah. Fourth, the opinion that accepts the use of the proposition of maslahah mursalah for the benefit of dharuri alone while for the benefit of hâjî and tahsînî is unacceptable [\[38\]](#).

Ash-Syatibi in al-Muwafaqat fi Ushul al-Ahkam defines maslahah mursalah as a maslahah found in a new case that is not designated by a particular nash but contains benefits that are in line (al-munasib) with the act of sharing. » Alignment with the action (tasharrufat) of Syria» in this case does not have to be supported by certain propositions that stand alone and point to the problem but can be a collection of postulates that provide definite benefits (qat» i). If this definite postulate has the meaning of kulli, then the definite kulli postulate is equal in strength to a particular postulate [\[39\]](#).

The definition stated above, the keyword for the use of the postulate of maslahah mursalah is the harmony (mula'im, al-munasib) between the benefit contained in a new problem and the concept of maqashid ash-shari'ah which is not directly indicated by the nash. In his book al-I » Hisham, Ash-Syatibi explains the position of the maslahah contained in a new problem seen from the harmony that may be used as a basis for consideration in the determination of law. Viewed from this side, the corresponding maslahah is divided into three. First, the maslahah

conceived is acceptable for its existence because it is based on its conformity with the guidance of Shara'. The scholars justify such a problem. In other words, this first category of maslahah is accepted because its designation is based on the proposition of shara.' An example of this maslahah is the law of wishes to maintain the safety of the human body and soul [40].

Secondly, the problems contained in the new problem are based on human subjective thinking but rejected by Shara.' This maslahah was rejected because the maslahah found was contrary to Nash. Such a problem is driven solely by lust so its existence cannot be taken into consideration in the establishment of law. Third, the problem found in a new problem is not designated by a specific postulate or particular postulate but also no postulate that justifies or denies it [41].

According to Ash-Syatibi, for such a problem, there are two possibilities: first, there is a nash that confirms the harmony with the maslahah contained by the new problem; and second, a maslahah that is in line with sharia universally, not with a particular propositions. This second model is commonly called maslahah mursalah. In other words, any benefit of an action or deed whose benefit is not explained by a particular nash, but is in line with the action of syara » universally, then the maslahah becomes true so that it can be used as a technique of establishing law [42].

Ash-Syatibi in Kitab al-I » Hisham gives ten examples of cases whose legal determination is formulated using maslahah mursalah as a technique for determining the law. Taufiq Yusuf al-Wa'i added that the discovery of the problem in the new problem must be based on a certainty based on the postulates of the Shara » about its harmony. Legal propositions do not have to stand alone but can be combined with other postulates. In the recitation of Taufiq Yusuf al-Wa'i, Ash-Syatibi is regarded by some as the defender of Malik by placing the problem of mursalah on the right understanding [43].

Taufiq Yusuf al-Wa'i added that Ash-Syatibi's explanation of mashlahah mursalah can be returned to a corresponding statement or conformity (al-munasib). The corresponding statement has no basis pointing to it, in this case, there is no shari'i basis that points specifically to the corresponding statement nor is its existence based on qiyas acceptable to common sense. That is, the discovery of conformity with Nash is not based on qiyas [44].

New issues that have not been confirmed, either justified or denied and contain benefits that are decided with the problem of mursalah are related to problems of muamalat, not related to worship. The reason stated by Ash-Syatibi about the use of maslahah mursalah as a technique for establishing law for muamalat problems is that muamalat problems can be traced to rationality while ubudiyah problems cannot be traced to rationality.

The use of maslahah mursalah as a technique of legal determination is only for the needs of dharuri and hajj. The nature of dharuri here means as a rule: mala yatimmu al-wajib illa bihi fahuwa obligatory. Meanwhile, the nature of Hajj needs to eliminate difficulties so that with the use of maslahah mursalah one's life becomes light (takhfif).

From the explanation developed by Ash-Syatibi in the two works above, it can be concluded that the maslahah mursalah can be used as a postulate for the establishment of independent Islamic law, with several conditions. First, the benefits that are used as the basis for the postulate of maslahah mursalah are those that are not mentioned by the sharia but there is no evidence that justifies or rejects them and is in line with the will to be achieved by the shara. » If there is a specific proposition that points to it, then it falls within the area of qiyâs study. Second, the problems that are taken into consideration for the determination of the law are indeed logical. Third, the problems that are taken into consideration for the determination of the law are the dharriyyah and hajj maslahah. Fourth, the problem can perfect life and eliminate difficulties or short-sightedness in life that are not desired by Shara.» [45], [46].

According to al-Wa'i, Ash-Syatibi has its manhaj which may be this manhaj that distinguishes Ash-Syatibi from al-Ghazali, at-Tufi, and other jurisprudence scholars. First, Ash-Syatibi does not stop at Nash alone as the followers of Dhahiriyyah do not recognize the

existence of the spirit of Sharia but Ash-Syatibi tries to see the spirit of Sharia in determining the benefit of mankind. Second, Ash-Syatibi in his method is not rigid in an orderly order according to the level of maslahah but Ash-Syatibi looks more at the essence of maslahah itself. Third, Ash-Syatibi does not allow reason to transcend Sharia but the reason is still maximized in the guidance of Sharia 'to obtain the benefit of the world and the hereafter. Fourth, Ash-Syatibi divides the mursalah maslahah into three, namely Sharia can accept its existence; Sharia rejects it; and there is no specific provision that accepts or rejects it. For this third division, Ash-Syatibi divides it into two parts, namely the Nash rejects it and the shari'i accepts it. This is called *istidlāl mursal* or *maslahah mursalah*. This can be used as a postulate for legal determination to develop legal studies. Fifth, the *maslahah mursalah* Ash-Syatibi is based on reason, nash, and exemplary examples in salaf ash-Salih. Sixth, Ash-Syatibi distinguishes between *maslahah mursalah* and *bid'ah*. *Maslahah mursalah* is used for *muamalah* while *bid'ah* has to do with worship [47], [48].

Determining the benefits of an action that will later be used as a basis for consideration in the technique of *maslahah mursalah*, according to Ash-Syatibi, can use reason to the maximum. Even Ash-Syatibi said the maximum use of reason is itself a form of benefit.

CONCLUSION

Based on the previous descriptions, it can be concluded that Asy-Syatibi defines *maslahah mursalah* as *maslahah* found in new cases that are not designated by a particular *nash* but it contains benefits that are in line (*al-munasib*) with the act of sharing. In line with the action (*tasharrufat*) start» in this case, it does not have to be supported by certain propositions that stand alone and point to the problem but can be a collection of propositions that provide definite benefits (*cat's*). If this definite postulate has the meaning of *kulli*, then the definite *kulli* postulate is equal in strength to a particular postulate. New issues that have not been confirmed, either justified or denied and contain benefits that are decided with the problem of *mursalah* are related to problems of *muamalat*, not related to worship. The reason stated by Asy-Syatibi about the use of *maslahah mursalah* as a postulate for the establishment of law for *muamalat* problems is that *muamalat* problems can be traced to rationality while *ubudiyah* problems cannot be traced to rationality. The use of *maslahah mursalah* as a postulate for the establishment of law is only for needs that are *dharuri* and *haji* in nature. The nature of *dharuri* here means as where the rule is: *mala yatimmu al-wajibu illa bihi fahuwa wajib*. Meanwhile, the nature of *haji* needs means to eliminate difficulties so that with the use of *maslahah mursalah* one's life becomes light (*takhffif*). Determining the benefits of an action that will later be used as a basis for consideration in the postulate of the *mursalah maslahah*, according to Asy-Syatibi, can use reason to the maximum. Even the word Asy-Syatibi, the maximum use of reason is itself a form of benefit.

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Author Contribution

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Conflicts of Interest

All authors declare no conflict of interest.

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