
The Ideality Of Pancasila and Reality of Maqashid Syariah

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Abstract

This study discusses the Unitary State of the Republic of Indonesia, which is not a religious state, but the Pancasila, produced based on a formulation of taste, nobility, customs, culture, religion, and beliefs that exist and grow in Indonesia. Because Pancasila was born from the womb of the Indonesian nation, even though the majority of the population is Muslim, Pancasila has succeeded in establishing itself as the basis of the state, state philosophy, and state ideology for many years now. It shows how powerful and great Pancasila is. However, recently, Pancasila has again clashed with Islam. Pancasila is considered a taghut system, created by infidels, and a secular system that is no longer relevant to the life of the Indonesian nation, which is predominantly Muslim. This research uses a qualitative approach with literature research methods. Primary and secondary data are from books, articles, news, and journals. The theory used in this research is the maqashid sharia approach as a cognitive, open, comprehensive, hierarchical, multidimensional, and purposeful system. Hence, it is found that the ideality of Pancasila rests on the reality of the Indonesian nation's activities in implementing the substantive values of Pancasila and Islam, not on its format. So, it was found that Pancasila and Islam met simultaneously in protecting their people, especially in protecting religion, soul, reason, property, lineage, and honor.

Keywords: Indonesia, Pancasila, Maqashid Syariah

Idealitas Pancasila dan Realitas Maqashid Syariah

Abstrak

Kajian ini membahas tentang Negara Kesatuan Republik Indonesia yang bukan merupakan negara agama, melainkan Pancasila, yang dihasilkan berdasarkan rumusan rasa, keluhuran budi, adat istiadat, budaya, agama, dan kepercayaan yang ada dan tumbuh di Indonesia. Karena Pancasila lahir dari rahim bangsa Indonesia, walaupun mayoritas penduduknya beragama Islam, Pancasila telah berhasil mengukuhkan dirinya sebagai dasar negara, falsafah negara, dan ideologi negara selama bertahun-tahun. Itu menunjukkan betapa dahsyat dan agungnya Pancasila. Namun belakangan Pancasila kembali bentrok dengan Islam. Pancasila dianggap sebagai sistem taghut, ciptaan orang-orang kafir, dan sistem sekuler yang sudah tidak relevan lagi dengan kehidupan bangsa Indonesia yang mayoritas beragama Islam. Penelitian ini menggunakan pendekatan kualitatif dengan metode penelitian kepustakaan. Data primer dan sekunder berasal dari buku, artikel, berita, dan jurnal. Teori yang digunakan dalam penelitian ini adalah pendekatan maqashid syariah sebagai sistem kognitif, terbuka, komprehensif, hierarkis, multidimensi, dan bertujuan. Oleh karena itu, ditemukan bahwa idealitas Pancasila bertumpu pada realitas aktivitas bangsa Indonesia dalam melaksanakan nilai-nilai substantif Pancasila dan Islam, bukan pada formatnya. Jadi, ditemukan bahwa Pancasila dan Islam bertemu secara bersamaan dalam melindungi umatnya, terutama dalam melindungi agama, jiwa, akal, harta benda, keturunan, dan kehormatan.

Kata kunci: Indonesia, Pancasila, Maqashid Syariah

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A. Introduction

Indonesia has a population whose majority is Muslim. Beating Arab countries, where the population in each Arab country is actually smaller than the number of Indonesian Muslims, In fact, in Indonesia, until now, there has been no concrete evidence stating that there was a messenger (Rasul or prophet) assigned by Allah SWT to convey His revelation. Meanwhile, in the Arabian Peninsula, especially Saudi Arabia, Islam descended there for the first time. Even though Indonesia has a majority devout Muslim population, in its daily application individually as well as structurally (governmentally), the law that is practiced in the nation and state is not Islamic law, which is the main source of reference.

According to Thomas Aquinas, he said that the highest power, which is the source of all sources that will not cause conflict in society, is God's law, which comes from revelation¹. However, Indonesia, with Muslims as the majority population, is very likely to make Islamic sharia the law (dastur) of the Unitary State of the Republic of Indonesia. This is because Indonesia is inhabited by various ethnicities, various religions, traditions, cultures, and beliefs, all of which have been formulated within the Pancasila frame with the five precepts contained in it. So that the founders of the Indonesian nation gathered together to establish the foundation of the Indonesian state, which could bind and unite all the differences above into one philosophy of life, where this philosophy did not conflict with religion, customs, traditions, and beliefs that already existed and were developing in Indonesia.

The diversity and diversity of the Indonesian nation must be managed well so that differences do not cause destruction and damage or degeneration, but instead must be managed well and correctly so that they can lead to progress and goodness and benefits for the life of the nation and state, so that the concept of managing the country with full diversity emerges. This religion is within the framework of the philosophy and ideology of Pancasila.

However, after decades of Pancasila being officially ordained as the basis of the state, state philosophy, and state ideology and becoming the personality of the Indonesian nation, Pancasila has recently begun to be discussed again amidst the

¹ Alfredo Rimper, *Konsep Allah Menurut Thomas Aquinas* (Depok: Pascasarjana Ilmu Pengetahuan Budaya Depok, 2011). Hlm 15

currents of global politics, transnational politics, transactional politics, and the penetration of international ideologies that support it. Is Pancasila still able to survive with his supernatural powers? Conceptually, Pancasila is a philosophy and ideology that is in accordance with the customs of the Indonesian people because it was born from the womb of the Indonesian nation, but operationally, there are gaps and gaping gaps, even widening between the ideality of Pancasila and the reality of Pancasila's application in society. This gap is increasingly making the national crisis filled with anxiety and conflict and on the verge of collapse².

The above was then perceived by puritans, or textualists (radicalists), as meaning that Pancasila was no longer in accordance with the wishes of the Indonesian people. According to them, Pancasila is a secular product, a taghut system, and was created by infidels. The majority of Indonesia's population is Muslim, so it is natural that Islamic sharia (khilafah et al.) is implemented in Indonesia according to them. So there are some groups that move systematically to change Pancasila to Islamic Sharia, Daulah Islamiyah, or Khilafah Islamiyah.

They believe that Islam will return to its glory as it was during the Ottoman glory days, and according to them, that glory started in the East, namely Indonesia.

In fact, if you study Islamic sharia in depth, especially the study of maqashid sharia, you will find common ground between Pancasila and Islam. Where the goal of Pancasila and Islam is 'attracting benefit and rejecting damage'. This research is qualitative, and the data collection method comes from literature based on books, articles, and journals. The aim of this research is to provide an understanding that Pancasila and Islam (Islamic sharia/Maqashid sharia) are not at odds. The values contained in the five principles (Pancasila) are, in fact, in accordance with Islamic teachings. So there is no need to dispute it, let alone want it to be changed by implementing Islamic sharia or an Islamic state (khilafah state). So this article is entitled " The Ideality of Pancasila And The Reality of Maqashid Syariah

² Yudi Latif, *Wawasan Pancasila* (Jakarta: Mizan Pustaka, 2018). Hlm 8

B. Method

Metode penelitian ini menggunakan pendekatan penelitian kepustakaan yaitu metode yang digunakan dalam penelitian hukum yang bersumber dari kajian kepustakaan dimana dalam penelitian ini, data yang digunakan adalah berupa data primer yang diperoleh dengan cara mengkaji dari bahan-bahan kepustakaan (*library riset*). Dimana data berasal dari tulisan buku, artikel, dan jurnal. Adapun teknik analisa dalam tulisan ini menggunakan pendekatan kualitatif dengan menganalisa hasil penelitian yang dideskriptifkan kemudian dianalisis dari data-data yang telah ditemukan.

This research method uses a library research approach, namely the method used in legal research, which originates from a literature review. In this research, the data used is primary data obtained by reviewing library materials (research libraries)³. Primary data (data that comes directly from information⁴) comes from written books, articles, and journals. The analysis technique in this paper uses a qualitative approach by analyzing the research results, which are described and then analyzed from the data that has been found.

C. Discussion

1. Pancasila

a. Understanding Pancasila

The word Pancasila does not come from Arabic, nor from English, German, or Dutch; it comes from Sangsakarta⁵. From the book Sutasoma by Empu Prapanca, this will be the forerunner to the emergence of the word 'Pancasila'. Pancasila itself is formed from two words, namely the word 'Panca', which means five, and the word 'Sila', which means basic, principles, principles⁶.

³ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: PT. Raja Grafindo Persada, 2009). Hlm 13-14

⁴ Suharsimi Arikunto, *Prosedur Penelitian Suatu Pendekatan Praktek* (Jakarta: Rieneka Cipta, 2002). Hlm 117

⁵ Kaelan, *Filsafat Pancasila*, III (Yogyakarta: PARADIGMA, 2009). Hlm 23

⁶ Slamet Sutrisno, *Filsafat Dan Ideologi Pancasila* (Yogyakarta: Penerbit ANDI, 2006).

b. The Existence of Pancasila

Pancasila, as the basis of the state, national ideology, and philosophy of the Unitary State of the Republic of Indonesia, was officially introduced on June 1, 1945. However, its inauguration as the basis of the state did not just go smoothly. Even after it became the philosophy, ideology, and basis of the state, at that time Muslims did not fully accept it as the state ideology. For example, the NU mass organization only accepted Pancasila as the sole hope of the Indonesian nation in 1983–1984 in Situbondo, which was held by the Ulama National Conference and the NU National Conference.

At that time, the NU Organization, as the largest religious organization in Indonesia, accepted Pancasila as a single principle, so that whatever the actions of the Indonesian people, the main source of reference was Pancasila (although with different interpretations). Even now, the existence of Pancasila is still very dominant as a reference and basis for making laws and government regulations. This is because Pancasila is the ideal state basis for creating a just, prosperous, and democratic order of national and state life. Pancasila is a state formulation that represents the collective idealism of the Indonesian people, both in political, economic, and socio-cultural life, which has historically been the main basis for legal ideals (*rechtside*) in Indonesia.

All of these systems are built on the principles under the doctrine of the unitary state of the Republic of Indonesia, which is based on the articles of the written constitution.⁷

The existence of Pancasila as a tool to unify the nation no longer needs to be debated, because debate will only give rise to doubt, and hesitation will create new, counterproductive problems. Because the reliability and power of Pancasila in building and creating cohesion and togetherness in national and state life have been proven since the Unitary State of the Republic of Indonesia pledged to become an independent

⁷ Pasal 1 ayat (3) UUD 1945 yang menyebutkan bahwa “Negara Indonesia adalah negara Hukum”.

nation. Therefore, Pancasila has become the final and absolute basis, philosophy, and ideology of the Unitary State of the Republic of Indonesia, which must be accepted by the Indonesian people and all components of Indonesian citizens.⁸

Even Mahfud MD said that Pancasila is the final state ideology. Because the Pancasila State is a final and constitutional state, even according to religious law or fiqh, it can be declared valid and correct. This is in line with the results of the ijtihad of the ushul fiqh scholars, who stated that the choice of national law, which was based on Pancasila and the 1945 Constitution, was the correct choice and was recognized by sharia.⁹

Pancasila is the basis for administering the government of the Unitary State of the Republic of Indonesia as written in the preamble to the 1945 Constitution, while the points of Pancasila are the instrument for regulating the Indonesian government from the lowest to the highest levels. The noble values contained in Pancasila are the basis for life, an outlook on life, and life guidance for the Indonesian people in everyday life, both as individual humans and as Indonesian humans structurally. The values neatly written in the Pancasila principles should become a living map for all activities and activities of Indonesian people in all respects.

Examining Pancasila must discuss Pancasila as a whole and systemically, especially when understanding Pancasila as the basic philosophy of the Indonesian nation. The first precept is the basis for the second precept, the second precept is the basis for the third precept, and the third precept is the basis for the next precept, while the latter precept is a specialization of the general previous precept. Therefore, Pancasila must be seen as a single set of principles, from the first principle to the

⁸ Yudi Latif, *Negara Paripurna, Historisitas, Rasionalitas, Dan Aktualitas Pancasila* (Jakarta: GramediaPustaka Utama, 2011). Hlm 11

⁹ Mahfudz MD, Hukum Nasional Yang Islami, <http://www.mahfudmd.com/index.php?page=web.OpiniLengkap&id=326> agustus 2012. Disadur pada tanggal 18-09-2023

fifth principle, because they are interrelated and cannot be separated. Apalagi jika dikembalikan pada Ketetapan MPR No. III/1979 yang berjudul *Pedoman, Penghayatan, dan Pengamalan Pancasila* (P4) yang menegaskan bahwa Pancasila menjadi moral bangsa. Jika Pancasila menjadi moral bangsa, maka Pancasila harus menjadi tolak ukur nilai etika dan moral bangsa. Pancasila sebagai barometer kehidupan sehari-hari, ia sebagai pedoman hidup, petunjuk hidup, manakah yang baik, dan manakah yang buruk dalam pandangan mata dan hati bangsa Indonesia.¹⁰

c. Pancasila Inclusive

Pancasila Inclusivity as a state philosophy does not close itself off from providing freedom, especially for Muslims as the majority religion, to include Islamic values in state regulations. Moreover, after reform, this open situation provides opportunities for all groups to participate in taking advantage of democratic freedoms, especially Muslims who have contributed a lot to regional regulations and the central government, either with regional regulations or laws that emerged out of the spirit of prosperity. Islam.

For example, Islamic values (rules and laws based on sharia) are the Islamic sharia banking system that has been issued (UU No. 7/1992; UU No. 10/1998), the zakat law (UU No. 38/1999), the Hajj services law (UU No. 17/1999), the Law on implementing sharia in Aceh (UU No. 44/1999), income tax (UU No. 17/2000; Law No. 23/2008), the national education system (UU No. 20/2003), sharia banking (UU No. 21/2008), the Aceh government (UU No. 11/2006), and pornography (UU No. 44/2008)..¹¹

Incorporating certain religious values is actually not a problem, and it is also in accordance with the values of Pancasila, which have been

¹⁰ Roeslan Abdulgani, *Pengembangan Pancasila Di Indonesia* (Jakarta: Idayu Press, 1977). Hlm 73

¹¹ Imam Wahyuddin, *Perspektif Maqashid Syariah Untuk Pancasila: Membingkai Relasi Ideal Agama Dan Negara*, *Jurnah Tasamuh : Jurnal Studi Islam* Volume 12, nomor 2, September 2020. Diunduh pada tanggal 17-09-2023

emphasized in point number four, "People led by wisdom in deliberation and representation." Most importantly, these values are determined and decided based on deliberations that have been made in the deliberation forum.

This shows that Pancasila provides an opportunity for any religion to be implemented in the Unitary State of the Republic of Indonesia as long as it is decided and determined based on joint deliberation in accordance with the Pancasila principle, the fourth principle being "The people are led by wisdom and prudence in deliberation."

National law (Constitutional Law) and fiqh law (Islamic Sharia) have the same substance in maintaining and encouraging the development of a legal system based on social justice for all mankind and public benefit (*al-maslahah ammah*), as well as avoiding damage (*mafsadat*), as has also been said. voiced and fought for by the founders of the Unitary State of the Republic of Indonesia when they were formulating the state ideology, namely Pancasila. The majority of them (the Committee of Nine) are Muslim figures who have an open attitude towards respecting and accommodating the interests of religious groups and beliefs.

In fact, according to Abdurrahman Wahid (Gus Dur), the founders of the nation (Ki Bagus Hadikusumo Abdul Wahid Hasyim Kahar Muzakkar Agus Salim and Ahmad Subarjo) They were part of Team Nine, who were experts in the field of fiqh law and had absorbed and adopted the principles and objectives of law. fiqh, which has the values of justice (*'adalah*), benefit (*maslahah*), humanity (*insaniyah*), and *shura* (deliberation) in the Indonesian Pancasila state system.¹²

Therefore, all Indonesian citizens must be involved in all fields of life; therefore, every Indonesian citizen is obliged to adhere firmly to Pancasila as the only principle or foundation of the nation and state.

¹² Abdurrahman Wahid, *Islamku Islam Anda Islam Kita* (Jakarta: The Wahid Institute, 2002). Hlm 308-309

Therefore, Pancasila must be socialized so that it becomes a common property, a value. Pancasila values must become cultural, so that they become ingrained in the person of an Indonesian citizen and become a guide for life for him to actualize himself in the lives of society, nation, and state.

2. Maqashid Sharia as a System

a. Understanding

Maqashid sharia is formed from two words, namely, 'maqashid and sharia'.¹³ Maqashid is the plural (plural) form of the word maqshad, the singular form of the word maqashid. The word maqshad comes from Arabic, 'qashada-yaqshidu-qashdan-maqshadan-maqashid' which means goal, intention, and desire. Meanwhile, the word sharia, which also comes from Arabic, means 'path' or rules and laws that are produced based on divine revelation.¹⁴

In simple terms, maqashid sharia are the objectives regarding the establishment of an Islamic law or statute whose main aim is to bring benefit and prevent damage in the world (now) and the hereafter (in the future).¹⁵

The definition above is the same as what has been explained by classical scholars such as Imam Syathibi, who said that the main purpose of placing Islamic sharia on this earth is to bring benefit and prevent damage to both personal and social causes both in this world and in the afterlife.¹⁶

¹³ Miskari, "PENDEKATAN SISTEM SEBAGAI KONSEP MAQASHID SYARIAH DALAM PERSPEKTIF JASER AUDAH," *Al-Maslahah IAIN Pontianak* 14 (2018): 113–38, https://scholar.google.com/citations?view_op=view_citation&hl=id&user=_0MQa8MAAAAJ&authuser=1&citation_for_view=_0MQa8MAAAAJ:2osOgNQ5qMEC.

¹⁴ Miskari, "POLITIK HUKUM ISLAM DAN MAQASID AL-SYARIAH," *AL IMARAH: JURNAL PEMERINTAHAN DAN POLITIK ISLAM* 4 (2019): 57–82, <https://doi.org/politik hukum islam>.

¹⁵ Miskari, "POLITIK HUKUM ISLAM DAN MAQASID AL-SYARIAH Miskari Sekolah Tinggi Agama Islam Mempawah Jl . Gusti Sulung Lelanang , No 1 , Mempawah Hilir , Kota Mempawah , Kalimantan Barat Pendahuluan Islam Adalah Agama Yang Komperhensif . Harun Nasution Mengatakan Bahwa" 4, no. 1 (2019).

¹⁶ Imam Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah*, II (Cairo: Daar Musthafa Muhammad, 2008). Hlm 374

In fact, according to Ibn 'Asyur, maqashid sharia is an effort to establish, create, and maintain benefits and to reject and try to eliminate all forms of damage on earth, both in this world and in the afterlife.¹⁷

According to Ramadhan al-Buthi, benefits are those that are related to both the world and the hereafter, so the benchmarks are dahir and inner, material and psychological. Because the benefit of the world is part of the core and basis of religion, So, someone can measure their own standards of benefit. Because he is the one who knows best about the benefits he is facing, but of course he must distance himself from his wild, lustful desires.¹⁸

Thus, there is not a single Islamic teaching or Islamic law that has been stipulated and imposed on themukallaf that does not contain benefits both personally and socially, because the laws that have been imposed on mankind, if they do not contain benefits and goodness, of course will actually burden the people. humans, while the religion and teachings of Islam revealed are for the good and convenience of humanity both in living individually and socially (structural government).

b. Maqashid as a System Approach

Maqashid syariah is a method of analysis of problems in Islamic teachings in order to be able to find the implied meaning of a text of the Koran and al-Hadith, because in every text (nash), it will always contain and store the main purpose of Shahibus Syari' (Allah SWT) in laying down a law to provide justification for human problems both singularly and specifically in the form of creating goodness and benefit and rejecting and preventing damage and evil.

¹⁷ Ibnu 'Ashur, *Maqasid Al-Shari'ah Al-Islamiyyah* (Omman: Daar Nafais, 2001). Hlm 350

¹⁸ St Samsuduhah, "Maslahah Kebijakan Pencegahan Wabah Pandemi Covid-19 Dalam Islam," *Al-Tafaquh: Journal of Islamic Law* 1, no. 2 (2020): 117, <https://doi.org/10.33096/al-tafaquh.v1i2.63>.

Although not just anyone or scholar can find and determine the benefits of a text (Nash).¹⁹

According to Ilal Al-Fasi, quoted by Raisuni, maqashid sharia is the science of detecting implied meaning (behind the text), the inner meaning behind all the laws that have been prescribed by Allah SWT through His revelation. Even if a law that has been imposed on themukallaf does not have a resonance or basis in wisdom (philosophical), then surely the law cannot be maintained and cannot last long, especially since the law is related to the law of the Essence of Allah SWT as the highest judge in Islamic teachings (shari'a). Islam, then, of course, has philosophical values (hikmah).²⁰

More broadly, Raisuni explains that the purpose of benefit (al-maslahah) is to strive for goodness that has not yet been realized and develop goodness that already exists, while the purpose of rejecting damage (daf'ul mudharat) is to eliminate or reduce existing difficulties as much as possible and prevent new harm from occurring. The benefit orientation is effort and development, while the harm orientation is elimination and prevention.²¹

According to Jaser Audah, maqashid sharia is not only based on guarding or maintaining it, as practiced by previous (classical) maqashid experts who only focused on protection and preservation. This is different from the contemporary maqashid sharia concept, which emphasizes development and rights.

Jaser Audah uses a multidisciplinary, interdisciplinary, and transdisciplinary approach to respond to fundamental issues in religious studies in the contemporary era. The concept of systems theory that he developed is used to analyze the problems faced by Muslims. So it is necessary to look at religious and non-religious scientific concepts that always involve the intervention of human

¹⁹ Miskari, "POLITIK HUKUM ISLAM DAN MAQASID AL-SYARIAH." Diunduh pada tanggal 02-10-2023

²⁰ Ahmad Raisuni, *Ad-Dzari'ah Ila Maqashid Syariah* (Cairo: Daar Kalimah, 2016). Hlm 12

²¹ Ahmad Raisuni.

cognition (cognitive science), see the problem as a whole (wholeness), open (openness), interconnectedness (interrelated-hierarchy), involving various dimensions (multidimensionality), and prioritize the goal (purposefulness).²²

c. History of the Maqashid Embryo

The seeds of maqashid sharia have actually existed since Islamic sharia existed on this earth. Likewise, when Rasul SAW was sent to this earth, the sharia brought by Rasul SAW certainly contained maqashid sharia. It's just that the term maqashid sharia in the early days of Islam was not yet used and was not yet familiar. For example, a case occurred when implementing the Prophet's command when he ordered the Asr prayer to be performed, except after arriving at.

The Prophet SAW was sent to this earth as a blessing and kindness to the universe.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

"And We did not send you, but to be a mercy to the worlds." (QS 21: 107).

The verse above is often used as evidence that Islam is a religion of grace. The grace of Islam is broad, as wide and expansive as the teachings of Islam itself. That is also the correct understanding. Not only a mercy to Muslims, but also a mercy to other religions and a mercy to the entire universe.

After the death of Rasul SAW, of course many people asked his friends, because they were the people closest to the Prophet; they witnessed the revelation directly; they saw with the naked eye how Rasul SAW performed (fi'liyah) worship, said (qauliyah), and decided or determined a matter (taqrir). Maqashid ash-syari'ah during the time of these friends was already embedded in the form of their daily practice. One of them is that when they want to determine a law, they look at the causes first; if so, then they consider the purpose of the law.

²² Jasser Auda, *Membumikan Hukum Islam Melalui Maqasid Syariah* (Bandung: Mizan Pustaka, 2015). Hlm 260

In the time of tabi'in (those who met a friend and then followed him), Maqashid ash-syari'ah also existed, only the same as before; it had not become a separate scientific discipline, but the seeds had. This was emphasized by Imam Ahmad: "All Sharia law has a purpose, namely wisdom and benefit, which return to us (mukallaf)". During the Tabi'in and Tab'ut Tabi'in eras, qiyas began to become a source of Islamic law. Determining qiyas will, of course, use reason as the determinant. According to Imam Ahmad bin Hambal, the use of reason (ijtihad) and qiyas is to produce benefits; "both (ijtihad and qiyas) are the doors to understanding the desires of the Shari'.²³

Imam Ibrahim an-Nakha'i is a scholar who is famous for using his mind. He is a person who likes using qiyas and ta'lil. He said, "Indeed, all the laws of Allah SWT have a main goal, namely wisdom and benefit, which will return to ourselves,"²⁴ as it is known that the four Imams of the Sunni madzhab, Imam Hanafi, Imam Maliki, Imam Syafi'i, and Imam Ahmad bin Hambal, in deciding a matter, always think about maqashid and ijtihad, which serve the real benefit.

This means that their ijtihad always contains benefits. This is proven by the sources of law that they created that are closely related to maqashid syari', including Istihsan, which is identical to Imam Hanafi; Istishlah, which is associated with Imam Malik; Qiyas, which always leads to the Imam Syafi'i school of thought; and Saddu Dira'i, which leads to Imam Ahmad bin Hambal. So in conclusion, the legal sources they produce both seek benefit, but with different concepts.

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In fact, Maqashid ash-syari'ah has existed since the sending of the Prophet SAW, but at that time it was not yet visible and became a separate science. Supposedly, Maqashid syariah, as the ultimate goal

²³ Opcit, hlm 55

²⁴ Ibnu, Rusy, Uloom syari'ah, hlm 5. Al-Amidi, hlm 102

²⁵ Nuruddin bin Mukhtar al-Khadimy, Ilmu Maqashid al-Syari'ah, (Riyad, Maktabah al-'Amikah, 2001), hlm 55

of shariah, occupies an important position as a measure and indicator of whether a legal provision is correct or not.²⁶ In other words, understanding the correct law is a must. through a good understanding of Maqashid ash-syari'ah as well. This is part of the message of past Ushul scholars, one of whom was Imam al-Haramain al-Juwayni. Therefore, below, the author will describe the first appearance of Maqashid ash-syari'ah along with its characters. Maqashid asy-syari'ah is only considered a supplement. It was only in the 3rd century Hijriyah that Maqashid asy-Shari'ah began to be discussed. However, discussions of maqashid syari'ah in this period still overlapped with discussions of ushul fiqh. The discussion is still not too specific; it is still global. There is no topic of discussion yet.

In fact, Maqashid syariah has existed since the sending of the Prophet SAW, but at that time it was not yet visible and became a separate science. Supposedly, Maqashid syariah, as the ultimate goal of shariah, occupies an important position as a measure and indicator of whether a legal provision is correct or not. In other words, understanding the correct law is a must. through a good understanding of Maqashid ash-syari'ah as well. This is part of the message of past Ushul scholars, one of whom was Imam al-Haramain al-Juwayni.

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²⁶ Izzuddin bin Abdussalam, *Qawaidul ahkam fi Mashalihil Anam*, (Beirut : Alkulliyah al-azhariyah 1986) hlm 143

Abu Hasan al-Amiri (W: 381 H) can be said to have laid the first stone of the maqashid theory. He was a scholar who was an expert in kalam philosophy, and then he wrote a famous book of ushul entitled 'Al-'I'lam bi manaqibil Islam'. He should be the one who is better known as the first scholar to discuss maqashid sharia, because he was the first to discuss maqashid implicitly in his book. From within his book, the seeds of maqashid shari'ah emerged. even though it is only explained globally and briefly. He explained that in order to build individual and social life, it is necessary to have regulations that are coercive in nature. In this case, Al-Amiri formulated five pillars to always be upheld in order to create peace, security, and benefit. The five pillars are:

Mazjarah Qatli Nafsi (legal sanctions against the killing of a'soul')

Mazjarah akhdul mal (legal sanctions for property thieves)

Mazjarah hatki sitri (legal sanctions for opening disgrace)

Mazjarah thalabil irdh (legal sanctions for destroying and harassing sexual or honorific.

Mazjarah khal'i baidhah (legal sanctions for abandoning honor and sincerity)In his writings, the emergence of maqashid sharia began. Even later, scholars were able to create new strategies, of course, because they referred to his maqashid concept. In his work "al-Imam bi Manaqib al-Islam" (Notice of the Virtues of Islam), However, Al-Amiri's classification is solely based on "criminal law" (hudud) in Islamic law.However, according to Raisuni, the earliest person to use the word maqashid in the title of his essay was al-Hakim al Tirmidhi (d. 320 H), namely in his books al Shalatu wa Maqasiduha and Al-hajj wa Asrariha. In his two books, al-Hakim explains the wisdom of the procedures for prayer and Hajj, starting with the wisdom of facing the Qibla, the wisdom of takbir, and so on. In his work, he discusses a collection of wisdom and spiritual secrets behind every prayer movement with Sufi tendencies. There is also an opinion that Imam Al-Juwaini can be said to be the cleric who first laid down

the theory of maqashid al-shariah. In his writing, he firmly stated that a scholar cannot be said to be able to determine or decide an Islamic law until he can properly understand the purpose of Allah in establishing His commands and prohibitions. In his work, Al-Burhan, Imam al-Juwaini wrote a special chapter regarding the division of 'illat and sharia principles (al-ushul). There, he explained well the idea of the theory of maqashid al-shariah and its relation to the discussion of 'illat. According to him, maqashid al-shariah has five levels, which are also its types, namely daruriyat (primary), al-hajjiyat al-ummat (secondary), and makramat (tertiary), as something that is not included in the daruriyat and hajjiyat groups and something that is not included in these three groups. Basically, al-Juwaini groups maqashid alshariah into three types, namely daruriyat, hajjiyat, and makramat. The latter is also known as tahsiniyat.²⁷

He considers knowing maqashid based on conscience in Islamic Shari'ah, and whoever does not know maqashid, according to him, means that person is stupid (does not know) about Shari'ah. His very famous words read, "Whoever is not astute or clever in realizing maqashid in matters of commands and prohibitions, then actually, when Dian decides on a law, he does not use his conscience." He commented on the words of the person who said that the takbir in prayer has no purpose but is only an order. That person, in his view, has really shown his ignorance in the matter of maqashid and the provisions of the maqashid that he carries out in determining the law, both in the form of orders and prohibition.

d. The Meeting Point of Pancasila and Islam in Maqashid Syariah

Pancasila, as understood, is actually the embodiment of the customs, traditions, culture, noble values, and beliefs that exist and develop in Indonesia, which are then formulated as a Pancasila format. The concept of worldview, the basis of the state, and the

²⁷ Abdul Malik Al-Juwaini, Al-Burhan fi Ushul al-Fiqh, (Kairo: Dar al-Ansar, 1400 H), hlm 295

ideology of the Unitary State of the Republic of Indonesia. If so, then the values contained in Pancasila are certainly not something that needs to be debated or questioned any more, which will later lead to counterproductive discussions.

If you want to bring together Pancasila and Islam, you have to look at the formation of Pancasila from the perspective of its historicity and non-apolitical precepts. Likewise, in studying Islam, you must use the *maqashid sharia* approach with the aim of establishing Islamic legal products. As we know, Pancasila is the result of the ideas (*ijtihad*) of the founding fathers of the nation as a product of deliberation stated in the fourth principle of Pancasila, as is the case with Islamic legal products, and also the result of the interpretation and *ijtihad* of the *ulama* to establish a legal product that certainly accommodates local studies (local customs and culture) as long as they do not conflict with the teachings of Islamic sharia.

So that Pancasila and Islam meet in their formulation and determination, which takes into account local wisdom, the result is full of arguments, so that the Indonesian nation with the concept of Pancasila is an agreement of the entire Indonesian nation that is in accordance with the teachings of the religions in the Unitary State of the Republic of Indonesia, especially the Islamic religion. Building and establishing a government and state (*khilafah* in Islam) is a necessity in Islam because humans, apart from being individual creatures, are actually also social creatures. As social creatures, someone must be the leader. In the hadith, it is explained that if the three of you are walking, then one of you must be the imam (leader).

Thus, establishing a state is an obligation; however, the form of the state does not have to be an Islamic state or government, especially in the unitary state of the Republic of Indonesia, which is multi-religious, ethnic, and cultural, so Indonesia as a Pancasila State is a gift that must be grateful for and maintained together to create the function of a government and state, namely, "*Tasharraful imami 'alar*

ra'yah, manuthun bil maslahah" (The wheels of government implemented by a leader must be based on the benefit of the people).

The state is a tool or *wasilah* for implementing religious teachings properly and correctly. When the Prophet SAW was in the city of Mecca, he was not free and easy to worship, so he carried out the order to migrate to the city of Medina, which later became an Islamic territory and government, also known as the State of Medina. However, at that time, the Prophet SAW and his companions tried to apply Islamic teachings in a *kaffah* manner, and must they be followed by all religious followers in the city of Medina at that time? No; instead, the Prophet SAW returned to their religious law. However, the Prophet SAW and the religious leaders at that time had a dialogue that later resulted in the 'MADINAH CHARTER'.

The formulation of the Medina Charter was exactly the same as the formulation of Pancasila, which accommodated all elements—religion, culture, and traditions—that existed and were developing at that time. If it conflicts with the collective agreement, it is considered a violation and will be subject to sanctions.

This happened in violation of the Medina Charter at that time; this was done by the Jews, who were then expelled from the Medina state. Likewise, if there are thoughts and actions that conflict with Pancasila, then the person or organization must be given sanctions or punishment for violating the collective agreement.

Sanctions and punishments are given to those who violate the collective agreement (Piagam Madinah/Pancasila) with the aim of creating mutual peace and security, because if someone violates the collective agreement and then leaves it alone, it will make it easier for others to make mistakes (violate the collective agreement).

Since the death of the Prophet SAW, until now Muslims have only been able to create a system, structure, and concept of government (*khilafah*) based on the results of *ijtihad* through in-depth excavation (*istimbath*) of the texts of the Koran and al-Hadith

by paying attention to the context of a verse or hadith, which later gave birth to a new government after the death of the apostle, which became known as the Khulafauryidin government. This is, of course, because after the death of the Prophet SAW, it was certain that revelations from both the Koran and al-Hadith were interrupted. So that after the death of Rasul SAW, all legal products were the result of the ijtiha of pious Salafus.

After the death of the Prophet SAW, which started with Abu Bakar, Umar, Uthman, and Ali (khulafauryidun) until the current Islamic government, Muslims formed their state system based on ijtiha, none of which is the same; in fact, they are different from each other in building government, which is not at all similar to what the Prophet SAW had previously practiced. In terms of the head of state alone, the terms president (raise), emir (emirate), king (malik), sultan (sulthan), and so on are used.

It needs to be acknowledged that there is no verse of the Koran or hadith of the Prophet SAW that openly and unequivocally orders the creation of a state, but only the product of ijtiha from the verses of the Koran and al-Hadith that instills and develops substantive religious values. Islam (*al-jawhar*) without having to include formal symbols. This is very much in accordance with the following rules of *ushul fiqh*:

العبرة للمقاصد و المعاني لا للألفاظ و المباني

What is considered is the purpose and substance, not the pronunciation and format.

If so, as long as Pancasila can still be accepted by all groups and all religious leaders and does not conflict with the principles of all religions, then there is no need to change Pancasila to 'Pancasila with the Gospel' or 'Pancasila with Sharia'. The most important thing is substantive Islamic values (*al-jawhar*), even without having to include formal religious symbols. So maintaining Pancasila is an obligation

and necessity for all nations and religions, all of which are committed to maintaining the unity and integrity of the nation and religion.²⁸

The substantive values of religion can be found in the objectives of the sharia itself, namely maqashid sharia. Likewise, with the substance of Pancasila as the philosophy and basis of the state, it must be seen from the aim of the state (maqashid daulah), where religion and the state will both provide protection for human rights in implementing and maintaining religious teachings (*hifdzu dien*), maintaining safety of the soul (*hifdzu nafs*), safeguarding wealth (*hifdzu mal*), safeguarding reason (*hifdzu aqli*), preserving offspring (*hifdzu nasl*), and safeguarding honor (*hifdzu 'ardh*).²⁹

In the end, the ideals of Pancasila will be virtually in line with the hopes of the nation's founders if the reality of Pancasila values is truly applied in everyday life. Likewise, the reality of maqashid sharia will become a meeting point between Pancasila and Islam if all the goals of Islamic sharia become a philosophical basis for implementing Islamic sharia teachings in everyday life, both individually and socially as a nation and state. Find similarities in Pancasila and Islam; don't look for differences, which will only lead to division.

D. Conclusion

1. Pancasila is the result of the Ijtihad of Indonesian ulama together with nationalists, religiousists, and secularists.
2. Pancasila is a formulation of customs, culture, traditions, religion, and beliefs that existed, grew, and developed in Indonesia before the independent Republic of Indonesia became a sovereign state.
3. The values of Pancasila do not conflict with the teachings of any religion in Indonesia; in fact, the substantive values of religion are within the values of Pancasila.

²⁸ Fokky Fuad Wasitaatmadja, *Falsafah Pancasila, Epistimologi Keislaman Dan Kebangsaan*, 1st ed. (Depok: Premedia Group, 2018). Hlm 34

²⁹ 'Ashur, *Maqasid Al-Shari'ah Al-Islamiyyah*. Hlm 45

4. Pancasila is in accordance with Islamic teachings, so there is no need to dispute it, which will produce counterproductive results.
5. Pancasila is a representation of Indonesian society that likes to unite despite differences.
6. The meeting point of Pancasila and Islam is the goal of religion and state, which equally protects religion, soul, reason, property, lineage, and the dignity of the nation.

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