

The Use of Al-Maslahah Al-Mursalah in The Ijtihad of Imam Ash-Shafi'i

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Abstract: The position of Imam al-Shafi'i regarding *al-maslahah al-mursalah* remains one of the most debated issues in Islamic legal theory. While the dominant view maintains that he rejected *al-maslahah al-mursalah* as an independent legal source, other scholars argue that he implicitly applied it through his legal reasoning. Existing studies primarily focus on determining whether Imam al-Shafi'i accepted or rejected *al-maslahah al-mursalah*, but they have not sufficiently explained the epistemological relationship between *qiyas* and *al-maslahah al-mursalah* within his legal methodology. This study aims to reconstruct that relationship by examining Imam al-Shafi'i's theory of *qiyas* and its application in selected fiqh cases. Employing normative legal research with conceptual, historical, and *usul al-fiqh* approaches, this study analyzes classical legal sources and relevant contemporary scholarship through qualitative and interpretative methods. The findings demonstrate that Imam al-Shafi'i rejected *al-maslahah al-mursalah* only as an autonomous legal proof (*dalil mustaqill*), while substantively integrating considerations of public welfare into the methodological structure of *qiyas* through the identification of '*illah*' and *al-ma'na*. Accordingly, *maslahah* functions not as an independent source of law but as the internal normative logic guiding analogical reasoning toward the realization of justice and the objectives of the Sharia (*maqasid al-shari'ah*). The novelty of this study lies in reconstructing Imam al-Shafi'i's legal methodology into an integrated epistemological model linking revelation, '*illah*', *al-ma'na*, *qiyas*, and *maslahah*. This reconstruction contributes to contemporary *usul al-fiqh* scholarship by providing a more coherent framework for understanding Shafi'i legal reasoning and its relevance to addressing modern legal issues while maintaining fidelity to revealed sources.

Keywords: Imam al-Shafi'i; *al-maslahah al-mursalah*; *qiyas*; *usul al-fiqh*; *maqasid al-shari'ah*.

Introduction

A rule states that there is no law without dalil (argument), so arguments are needed to establish the law. Dalil means something that is used as a guide based on comprehensive analysis to establish practical shara'. The arguments used as the basis for determining the law of Fiqh include those that have been agreed upon by the majority of Muslims, namely the Qur'an, Hadith, Ijma' and Qiyas. Some of the arguments are still disputed, namely *al-istihsan*, *al-istishab*, *al-'urf*, *mazhab shahaby*, *syar'u man qablana*, and *al-maslahah al-mursalah* - a benefit that is not mentioned by shara' and there are no arguments that tell to follow it or not to follow it, but if it is followed, it will be beneficial.

According to experts, determining the law based on *al-maslahah al-mursalah* aims to realize the benefit of humans in the sense of achieving benefits and preventing humans from harm.¹ Specifically, regarding Imam ash-Shafi'i in the matter of *al-maslahah al-mursalah*, in general, it is known that Imam ash-Shafi'i does not view *al-maslahah al-mursalah* as the basis for determining the law of Fiqh.² This is what is considered so far about Imam ash-Shafi'i. However, recently there have been statements made to Imam ash-Shafi'i that, theoretically, indeed he did not accept *al-maslahah al-mursalah* as the basis for establishing law, but, practically, Imam ash-Shafi'i using *al-maslahah al-mursalah* in establishing the law.³

Beyond its historical significance, this debate has important implications for contemporary Islamic legal thought. Modern legal issues such as Islamic financial technology, biomedical ethics, environmental governance, and digital transactions increasingly require legal reasoning that extends beyond explicit textual evidence while remaining faithful to the objectives of the Sharia. Consequently, clarifying Imam al-Shafi'i's actual position on al-maslahah al-mursalah is not merely a historical inquiry but also contributes to understanding the methodological capacity of classical usul al-fiqh to address contemporary legal challenges.⁴¹

If you pay attention to the description above, it appears that there are two statements regarding the issue of Imam ash-Shafi'i's view of *al-maslahah al-mursalah*, namely:

- a. The first statement states that Imam ash-Shafi'i did not specify *al-maslahah al-mursalah* as the argument for establishing the law. If this statement is true, it

¹ Muhammad Muslehuddin, *Filsafat Hukum Islam Dan Pemikiran Orientalis*, Cet. I (Yogyakarta: Tiara Wacana, n.d.).

² Abd. al-Wahab Khallaf, *Mashadir At-Tasyri al-Islamy Fi Ma La Nashsha Fih*, Cet. III (Kuwait: Dar al-Qalam, n.d.).

³ Mustafa Sa'id Al-Khin, *Asar Al-Ikhtilaf Fi Qawa'id al-Ushuliyah* (Kairo: Muassasah ar-Risalah, 1973).

⁴ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008), h. 21-25

can be assumed that, ideally, Imam ash-Shafi'i certainly did not apply this *al-maslahah al-mursalah* in an effort to establish the law.

- b. The second statement states that Imam ash-Shafi'i, theoretically, did not accept *al-maslahah al-mursalah*, but, practically, Imam ash-Shafi'i used *al-maslahah al-mursalah* in an effort to establish Fiqh law. If the second statement is true, it can be assumed that there may be indications in the legal provisions made by Imam ash-Shafi'i using *al-maslahah al-mursalah*, so Imam ash-Shafi'i can be considered inconsistent. This is because there is a difference between ideal/theoretical conditions and factual/practical conditions.

Some questions arise related to the information above: Which of the two statements can be considered most in accordance with the reality, namely the legal thought of Imam ash-Shafi'i with the operational practice of establishing Imam ash-Shafi'i law contained in his books. What is the actual reality, does Imam ash-Shafi'i accept or not accept *al-maslahah al-mursalah* as a legal argument? Or maybe theoretically he doesn't accept it but practically he uses *al-maslahah al-mursalah* as the argument for establishing the law? or maybe there has been a difference in perception of the meaning of *al-maslahah al-mursalah* and the practice of Imam ash-Shafi'i in establishing the law, resulting in differences of opinion between researchers and legal observers ?

The research that has been carried out related to this writing is Noorwahidah's writing on the essence of al-mashlahah al-mursalah in the theory of istinbath of the law of Imam Shafi'i. He concluded that Imam Shafi'i did not make al-mashlahah al-mursalah as one of his methods of legal istinbat. Because Imam Shafi'i believed, all legal issues that do not have an explicit nash in the Quran or hadith can be resolved through ijihad. The ijihad is qiyas.⁵ Then Aris's writings which discuss Imam Shafi'i's thoughts on the position of mashlahah mursalah as a source of law. He concluded that although Imam Shafi'i was considered a mujtahid who opposed the use of mashlahah mursalah in the istinbath of law, he basically also used mashlahah as a source of law as long as it was not based on the impulse of lust and did not contradict the goals of the Shari'ah. There are several requirements that must be met in its use.⁶ Furthermore, Taufiqur Rohman's writing compares the thoughts of Imam Malik and Imam Shafi'i about mashlahah mursalah as a source of law. In his writings he concluded that Imam Malik used mashlahah mursalah as a

⁵ Noorwahidah Noorwahidah, "ESENSI AL-MASHLAHAH AL-MURSALAH DALAM TEORI ISTINBAT HUKUM IMAM SYAFI'I," *Syariah: Jurnal Hukum Dan Pemikiran* 13, no. 1 (2013), <https://doi.org/10.18592/syariah.v13i1.88>.

⁶ Aris Aris, "PEMIKIRAN IMAM SYAFI'I TENTANG KEDUDUKAN MASLAHAH MURSALAH SEBAGAI SUMBER HUKUM | DIKTUM: Jurnal Syariah Dan Hukum" (Fakultas Syariah dan Hukum Islam Institut Agama Islam Negeri (IAIN) Parepare, December 5, 2017), <https://doi.org/10.35905/diktum.v1i1.97>.

source of law, which was different from Imam Shafi'i who did not use it as a source of law.⁷

Although previous studies have discussed whether Imam al-Shafi'i accepted or rejected al-maslahah al-mursalah, they generally stop at a descriptive comparison between theoretical statements and practical legal rulings. Existing scholarship has not sufficiently reconstructed the epistemological relationship between qiyas and al-maslahah al-mursalah within Imam al-Shafi'i's legal methodology. Consequently, the implicit structure of maslahat reasoning embedded in Shafi'i qiyas remains underexplored. This article addresses that gap by reconstructing Imam al-Shafi'i's qiyas as an integrated epistemological framework in which al-maslahah al-mursalah operates as an internal methodological principle rather than as an independent legal source.⁸

Accordingly, this study contributes to contemporary scholarship on *usul al-fiqh* by offering a reconstructed understanding of the relationship between qiyas and al-maslahah al-mursalah in Imam al-Shafi'i's legal methodology. Rather than viewing the two concepts as separate legal methods, this article argues that al-maslahah al-mursalah operates implicitly within the epistemological structure of qiyas, thereby providing a more coherent explanation of Imam al-Shafi'i's legal reasoning.⁹

Based on the foregoing discussion, this study aims to reconstruct the epistemological relationship between qiyas and al-maslahah al-mursalah in Imam al-Shafi'i's legal theory through an analysis of his *usul al-fiqh* methodology and selected *fiqh* rulings. Accordingly, this article addresses the following question: Does Imam al-Shafi'i reject al-maslahah al-mursalah as an independent legal source, or does he implicitly incorporate it into his methodology of qiyas?

Discussion

A. Conceptual Framework of al-Maslahah al-Mursalah in Ushul al-Fiqh

To find out the meaning of *al-maslahah al-mursalah*, which is also referred to as *al-munasib al-mursal*, or *al-istidlal al-mursal*, or *al-istislah*, it is definitively important to obtain information from experts in *Usul Fiqh*, including al-Gazaly (d. 505 H), al-Amidy (d. 631 H), al-Baidhawiy (d. 658 H), as-Subky (d. 771 H), ash-Shathibi (d. 790 H) and ash-Shaukany (d. 1255 H) from classical scholars. Meanwhile,

⁷ Taufiqur Rohman, "KONTROVERSI PEMIKIRAN ANTARA IMAM MALIK DENGAN IMAM SYAFI' TENTANG MASLAHAH MURSALAH SEBAGAI SUMBER HUKUM," *International Journal Ihya' Ulum al-Din* 19, no. 1 (September 7, 2017): 73, <https://doi.org/10.21580/ihya.18.1.1743>.

⁸ Wael B. Hallaq, *Authority, Continuity, and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001), h. 1-23.

⁹ Wael B. Hallaq, *Authority, Continuity, and Change in Islamic Law*.

information from modern scholars can be obtained from Muhammad Abu Zahrah, Abd. Al-Wahab Khalaf, and Umar Abdullah.

According to al-Gazaly, *al-maslahah al-mursalah* is:

ما لم يشهد له من الشرع بالبطلان و بالإعتبار نصّ معيّن

Meaning: A *maslahah* for which there is no specific *shara'* text which states that it is not valid (void) and no one states that it is valid.¹⁰

In line with al-Gazaly, al-Amidy also seems to express an understanding that can be said to be the same as what was stated above. al-Amidy said that *al-maslahah al-mursalah* is:

ما لم يشهد الشرع لها باعتبار ولا إلغاء

Meaning: A *maslahah* for which there is no *shara'* that admits its validity, nor does it declare that it is not valid.¹¹

Al-Baidhawiy as suggested by al-Badakhshy, states that *al-maslahah al-mursalah* is:

ما لم يشهد له أصل اعتبار أو إلغاء

Meaning: A *maslahah* for which there is no basis (law) that recognizes whether or not the *maslahah* is valid.¹²

As-Subky as reviewed by al-Mahally mentioned that:

قال ابن السبكي المناسب ... وإلا فهو المرسل وقال الشارح (وإلا) أي وإن لم يدل الدليل على إلغائه كما لم يدل على اعتباره (فهو المرسل) لإرساله أي إطلاقه عما يدل على اعتباره أو إلغائه ويعبر عنه بالمصالح المرسله وبالإستصلاح

It means Al-Munasib (logical relationship between a certain trait and the established law). If there is no evidence that shows its invalidity as well as no evidence that shows its validity, then it is called al-Munasib with al-Munasib al-mursal. It is called *mursal* because regardless of the arguments that explain the validity or non-applicability of the *syara'*; *al-munasib al-mursal* is also called the terms *al-maslahah al-mursalah* and *al-istislah*.¹³

¹⁰ Abu Hamid Muhammad ibn Muhammad Al-Gazaly, *Al-Mustasfa Min 'Ilm al-Ushul* (Mesir: al-Jundiyah, 1981).

¹¹ Saifuddin Abi al-Hasan 'Ali Al-Amidy, *Al-Ihkam Fi Ushul al-Abkam* (Beirut: Dar al-Fikr, 1981).

¹² Nasiruddin Abdullah ibn Umar Al-Baidhawiy, *Minhaj Al-Wushul Ila 'Ilm al-Ushul* (Mesir: Muhammad Ali Shabih, n.d.).

¹³ Jalaluddin Al-Mahally, *Syarh Jam' al-Jawami'* (Mesir: Dar al-Ihya' al-Kutub, n.d.).

The definition stated by as-Subky and then reviewed by al-Mahally above shows that there is a slight difference from the previous definition. This is because in this definition as-Subky uses the word *al-munasib al-mursal*. However, this definition is essentially no different from the previous one. It is said so, because al-Mahally explicitly states in his syarah that *al-munasib al-mursal* is *al-masalib al-mursalah* and is also called *al-istislah*.

Then, moving on to the next definition, ash-Shathiby al-Maliky explains that:

المصالح المرسله يرجع معناه الى اعتبار المناسب الذي لا يشهد له أصل معين على هذا شاهد شرعي على الخصوص ولا كونه قياسا بجيث إذا عرض على العقول تلقته بالقبول

Meaning: Al-mashlahat al-mursalah means to take a suitable trait (as a legal bond) that has no particular basis, does not have a specific shari'a argument, it is not qiyas, but when confronted with reason, it will certainly be accepted.¹⁴

Basically, this definition explains that there is an attribute, namely *al-munasib* that can be used as a legal bond, but that *al-munasib* does not have any information from the shara' which states to accept or reject it and if *al-munasib* is used, it is acceptable. This is what is meant by *al-mashlahah al-mursalah* or *istidlal al-mursal*. However, it should be noted that it is not the usual *qiyas ushuly*.

In the book *al-Muwafaqat*, ash-Syathiby also mentions *al-istidlal al-mursal*. The meaning of *al-istidlal al-mursal*, as described by Abdullah Daraz, is *al-mashlahah al-mursalah*, namely *maslahah* which has no legal basis from shara', either texts or ijma' which accepts or rejects it.¹⁵ Ash-Shaukany stated that *al-mashlahah al-mursalah* is a *maslahah* that is not known whether it is accepted or not by the shara'. It is the *maslahah* that does not have a certain legal basis from shara' which admits or rejects it.¹⁶

Furthermore, scholars who live in modern times such as Abu Zahrah, Abd. Al-Wahab Khalaf¹⁷ and Umar Abdullah¹⁸ have discussed the notion of *al-mashlahah al-mursalah* whose main point is a *maslahah* for which there is no particular argument from the shara' specifically that admits or rejects it.

¹⁴ Ibrahim ibn Musa ibn Muhammad al-Lakhami Ash-Shatiby, *Al-I'tisham*, Jld. II (Beirut: Dar as-Saqafah, n.d.).

¹⁵ Ibrahim ibn Musa ibn Muhammad al-Lakhami Ash-Shatiby, *Al-Muwafaqat*, Jld. I (Mesir: at-Tijariyah al-Kubra, n.d.).

¹⁶ Muhammad ibn Ali Ash-Shaukany, *Irsyad Al-Fuhul* (Beirut: Dar al-Fikr, n.d.).

¹⁷ Abd. al-Wahab Khalaf, *Ilmu Ushul Al-Fiqh*, Cet. VIII (Kuwait: Dar al-Kuwaitiyah, 1968).

¹⁸ Umar Abdullah, *Sullam Al-Wushul Li 'Ilm al-Ushul* (Mesir: Dar al-Ma'arif, 1956).

If the definitions that have been described above are analyzed, it indicates that editorially there are differences among the definitions. However, essentially, there are similarities which in essence state that *al-maslahah al-mursalah* is *maslahah* which is not mentioned by *shara'*. This means that there are no specific *shara'* postulates that specifically indicate whether to use (*al-i'tibar*) or not to use (*al-ilgha'*) *maslahah* as the basis or purpose of determining the law. However, if *maslahah* is applied as the basis for determining the law, it will bring benefits and goodness to humans and at the same time can prevent them from harm and destruction.

An example of the operational application of *al-maslahah al-mursalah* as the basis for determining the law can be seen in the historical case regarding the collection and recording of the Qur'an that Umar al-Khattab offered to Abu Bakr. The background of the offer was put forward by Umar because many of the memorizers of the Qur'an passed away in the battle of Yamamah. Therefore, Umar was worried if the Qur'an was not recorded.

Responding to the solution proposed by Umar, Abu Bakr in his capacity as a State Official who was authorized to make decisions at that time replied, "How can I do something that Rasulullah has never done?". From Abu Bakr's answer, it can be understood that it seems that Abu Bakr was reluctant to accept Umar's solution because there is no Sunnah of the Prophet that specifically stipulates this matter. Then Umar replied, "*Huwa, wa Allabi, kbair*".¹⁹ This (collecting and recording the Qur'an) brings goodness. Finally, Abu Bakr accepted Umar's suggestion and carried it out.

Observing the dialogue of the two companions above, the question that immediately arises is what is the law for collecting and recording the Qur'an? If so, what is the rationale? The answer is clear there is no *shara'* text that explains the law; and there is no specific argument that specifically stipulates or rejects it. Therefore, Abu Bakr could not decide to determine it. However, on the other hand, if the Qur'an is not recorded, then the Qur'an, as the main basic guideline for Muslims, will be destroyed so that Muslims no longer have guidance in religious life. This is a great danger (*mafsadah*) for Muslims. On the other hand, if the Qur'an is immediately recorded, the Qur'an will be preserved and at the same time, the religious affairs (*maslahah*) of Muslims will be preserved. This understanding is summed up in Umar's words: "For God's sake, there is good in that". The meaning of collecting and recording the Qur'an is *maslahah*. *Maslahah* like this is what ushul experts call *al-maslahah al-mursalah* because there is no *dalil* (argument).

After paying attention to the important things and characteristics that exist in the act of recording the Qur'an and also paying attention to and considering the

¹⁹ Ash-Shatiby, *Al-I'tisham*.

act of shara' in determining the law is to realize the benefit of humans which is the general goal of shari'ah, a process or istinbath steps are arranged in a framework based on *istidlal al-mursal* or *al-maslahah al-mursalah* which is reconstructed in the following syllogistic pattern:

- In the act of recording the Qur'an there is a benefit for humans, namely maintaining religious affairs (*hifẓ al-din*)
- Every *maslahah* to maintain religion is required by shara', because maintaining religion is included in shara' goals in determining the law that must be realized
- the recording of the Qur'an is also required by shara' to be realized as a logical and rational consequence of the use of mashlahah by the policy of shara' law.

Thus, based on the legal framework described above, it is determined that the law of recording the Qur'an is permissible by using the proposition of *al-maslahah al-mursalah*.

B. Scholarly Debate on Imam al-Shafi'i's Position toward al-Maslahah al-Mursalah

From the literature studied, it has been found that some scholars of Usul Fiqh think that Imam ash-Shafi'i used *al-maslahah al-mursalah*. The scholars referred to are ash-Syaukany az-Zaidy (d. 1255 H), ash-Shathiby al-Maliky (d. 790 H), al-Asnawy (d. 772 H), Imam al-Haramain al-Juwainy (d. 478 H) and al-Zanjany (d. 656 H). The last three figures are from the Imam ash-Shafi'i school of thought.

Ash-Shaukany mentions Imam ash-Shafi'i thinks that laws can be determined based on *al-maslahah al-mursalah* on the condition that they are following the *maslahah* recognized by shara'.²⁰ Then ash-Shathiby said that Imam ash-Shafi'i adhered to *istidlal mursal*.²¹ It means holding on to *ma'na* which is not based on valid *asl*, but the *ma'na* is close to the *ma'na* obtained from recognized sources.²² Similar statements are also found in the writings of al-Asnawy.²³

In this matter, both ash-Shaukany, ash-Shathiby, and al-Asnawy did not directly examine the legal thinking of Imam ash-Shafi'i. However, they only quoted the statement of Imam al-Haramain al-Juwainy, a prominent figure who has the authority and competence to speak about Imam ash-Shafi'i legal thoughts because they only quoted the results of al-Juwainy's report. Therefore, to obtain more accurate data, it is necessary to directly examine al-Juwainy's writings.

²⁰ Ash-Shaukany, *Iryad Al-Fuhul*.

²¹ Ash-Shathiby, *Al-Muwafaqat*.

²² Ash-Shathiby, *Al-I'tisham*.

²³ Abdurrahim ibn al-Hasan Al-Asnawy, *Nihayah As-Sul Fi Syarh Minhaj al-Ushul* (Mesir: Muhammad Ali Shabih, n.d.).

Al-Juwainy, in his book *al-Burhan*, discussed *al-maslahah al-mursalah* about forty-five pages in Kitab *al-Istidlal*. In that book, al-Juwainy explained the opinion and reasons of Imam ash-Shafi'i regarding *al-maslahah al-mursalah* which was called al-Juwainy with the terms *istidlal* and *istislah*.

At the beginning of his writing, al-Juwainy mentioned that scholars differed on the use of *istidlal (al-maslahah al-mursalah)* as the basis for determining the law.²⁴ If al-Juwainy is asked a question regarding (a) does Imam ash-Shafi'i hold to *al-maslahah al-mursalah*?, and (b) what are the conditions?. Al-Juwainy gave an answer through his writings in order as follows:

- a. Imam ash-Shafi'i thinks that it is permissible to adhere to *istidlal (al-maslahah al-mursalah)* even though it is not based on the agreed-upon *asl*. He allows establishing the law by depending the law on *maslahahs* which are estimated to have similarities with those recognized by shara' and with *maslahahs* which are based on laws that have their origin in shara'. In another part, al-Juwainy mentions again that Imam ash-Shafi'i adheres to al-ma'na even though it is not based on an *asl* on the condition that al-ma'na is close to the existing *ma'na asl* on shara' Imam al-Haramain Al-Juwainy, *Al-Burhan Fi Ushul al-Fiqh*, Jld. II (Qatar: Amir Daulah Qatar, n.d.).
- b. Then in the second problem regarding the conditions for taking *al-maslahah al-mursalah*, al-Juwainy mentioned that *maslahahs* (places to depend the law) are estimated to have similarities with *maslahahs* that are recognized by shara', and with *maslahahs* that are based on laws with *asl* in shara'. Or maybe *al-ma'na* which does not have *asl* is close to *ma'na* which has *asl* in shara'. In another part, al-Juwainy mentions again that Imam ash-Shafi'i mentioned, that if the legal bases (*usul*) that have '*illat* have been agreed upon by *qiyas* experts regarding their *illat*, then I (Imam ash-Shafi'i) make the '*illat* as my guide, and I make the *istidlal* close to the al-ma'na, although it can't be exactly the same, so that it seems as if it becomes a *mu'tabar istidlal*. (Because) taking an *al-ma'na* because it is close to the *ma'na asl* (in a different surah) is more important than taking a form because it is close to its *asl* form based on the '*illat* that combines it because the field of difference of opinion on the *asl* issue lies in the meaning, not in the law. If reasoned *ijtihad* is close to shara' and does not contradict a proposition, then that is an attempt to find an accepted argument (*istidlalan maqbulan*) Al-Juwainy..

Al-Juwainy's answer above shows that Imam ash-Shafi'i to establish the law adheres to *ma'na ijthadi* which does not have a specific and specific *asl*, but on the condition that the intended *ma'na* or *maslahah* has similarities with *maslahah* which is

²⁴ Imam al-Haramain Al-Juwainy, *Al-Burhan Fi Ushul al-Fiqh*, Jld. II (Qatar: Amir Daulah Qatar, n.d.).

recognized by shara' or close (not the same) with *ma'na-ma'na* which has *asl* in shara'.

Taking *ma'na* can happen because it has the same nature or condition, and it is also possible because the *ma'na* is close. One thing that should be noted is that the *ma'na* has no *asl* in the sense that it does not have a specific *asl*, so *ma'na* is obtained by way of *ijtihad*. However, because it is close to the *ma'na* or *maslahah* which has an *asl* in the shara', in other words, it is by the shara' policy and does not conflict with the shara' argument, then this *istidlal* is acceptable.

Relying on the law of an event on *ma'na ijthadi* because it does not have a special and certain *asl*, but the meaning is by the laws that are *asl* in shara' and not contrary to the shara' argument, then whatever name is given to the argument in such a formulation does not matter. However, what is important is that the essence is substantially the same as what later people called *al-maslahah al-mursalah*. Thus, based on the analysis of the data-informed by al-Juwainy above, if it cannot be said for sure, at least it is strongly suspected that Imam ash-Shafi'i used *al-maslahah al-mursalah* practically, even implicitly accepting it theoretically. It is considered like that because even though Imam ash-Shafi'i does not mention the term *al-maslahah al-mursalah* explicitly in his *ar-Risalah*, but implicitly *al-maslahah al-mursalah* can be accepted because *al-maslahah al-mursalah* is included in the Imam ash-Shafi'i *qiyas* formulation.

Therefore, based on this kind of framework, it can be said that every *al-maslahah al-mursalah* is *qiyas* and not vice versa. If *qiyas* is a postulate in Imam ash-Shafi'i's theory of legal thought, then of course *al-maslahah al-mursalah* is also a postulate in Imam ash-Shafi'i's theory of legal thought which he uses to establish law and is at the same time an implicit acceptance of al-Shafi'i *al-maslahah al-mursalah* as a legal proposition because *al-maslahah al-mursalah* itself is included in the *qiyas* of Imam ash-Shafi'i.

The foregoing discussion demonstrates that the primary disagreement among classical scholars does not concern the legitimacy of *maslahah* itself, but rather the methodological framework through which *maslahah* operates in legal reasoning. Consequently, the crucial question is no longer whether Imam al-Shafi'i accepted *al-maslahah al-mursalah*, but how it functioned within his methodology of *qiyas*. Answering this question requires examining Imam al-Shafi'i's practical legal reasoning.

C. Fiqh Issues Based on al-Maslahah al-Mursalah

In this section, the issue of Fiqh will be discussed to see the decisions and legal basis used by Imam ash-Shafi'i in determining the law against an event. Then the decision and legal basis mentioned by Imam ash-Shafi'i will be analyzed, so it

can be seen that Imam ash-Shafi'i also uses al-maslahah al-mursalah in determining the law of Fiqh.

The issue of Fiqh in this case relates to inheritance known as al-musharaka, for example: A woman has died, and she leaves a husband, a mother, 2 (two) brothers and sisters (siblings). In this case, the husband gets 1/2, the mother gets 1/6, 2 (two) brothers and sisters get 1/3, and the heirs get a certain share which is called *ashhab al-furudh*. Meanwhile, siblings as '*ashabah*' get the rest of the inheritance. However, after *ashhab al-furudh* took their share, it turned out that there was no longer any share left for the siblings as '*ashabah*'. Here the question arises. Because siblings do not have a share in the inheritance, are siblings given shares with their mother's siblings in their third share?

In the historical context, it is found that Umar, in the first year of his reign, had decided that the siblings were not to be shared with the maternal siblings in their 1/3 share so the siblings did not get anything. Then in the second year of his reign, he decided that the siblings were to be shared with the half-siblings in their 1/3 share. Thus, siblings get a share of the inheritance.

Here it can be seen that there are 2 (two) decisions made by Umar in the same matter. Why did that happen? Facing this problem, at first, Umar decided not to give the inheritance to the siblings as in his first decision because the inheritance had been taken by Ashhab al-furudh. However, when Umar was about to decide the law on the matter, Umar's siblings interrupted him while proposing the following reasons: One-third of the siblings got 1/3 only because of their relationship with their mother since they are our mothers too. Then the sibling said, now suppose our father is *himar* or a stone thrown into the sea, are we not one mother. Umar was able to accept and understand the good thing (*istahsana*) in that opinion, then he decided to share the 1/3 part with them.²⁵

From the narration above, it is clear that Umar could understand the reasons put forward by the siblings. Therefore, he decided to give them a share of their mother's property by sharing it with his mother's brother. If they are not given, surely justice will not be realized, and this will cause difficulties. Meanwhile, the law is made to seek and enforce justice. Therefore, Umar's second decision was taken based on benefit; in the form of upholding justice and rejecting adversity. Al-Maridiny stated that Umar's first decision was based on *qiyas*, and his second decision was based on *istihsan*.²⁶

Actually, in this matter, among the Companions and the scholars of fiqh thereafter, there are differences of opinion which are divided into two parts, namely:

²⁵ Al-Maridiny, *Syarb Matn Ar-Rabbiyah* (Surabaya: as-Saqafiyah, n.d.).

²⁶ Al-Maridiny.

- a. Do not share with siblings of one mother in the 1/3 part, as was the opinion of Umar in the first place. Those who agree with this opinion are Abu Bakr, Ali, and Ibn Abbas. This opinion was later taken by Abu Hanifah and Ahmad Ibn Hambal.
- b. In contrast to the first opinion, the second opinion divides siblings with their mother's siblings in their 1/3 share, like the second opinion of Umar. Those who agree with this opinion are Zaid Bin Sabit and Ibn Mas'ud. This opinion was later adopted by Imam Malik and Imam ash-Shafi'i.²⁷

Imam ash-Shafi'i agrees with Umar's second opinion, namely giving the inheritance to siblings by sharing with their mother's siblings in their 1/3 share. Imam ash-Shafi'i said, "We think that the husband gets 1/2, the mother gets 1/6, 2 (two) brothers and sisters get 1/3 share with siblings because of the father's kinship, if the law is invalid, the siblings are the same with brothers and sisters".²⁸

If Imam ash-Shafi'i is asked why are they shared in the 1/3 part which is the right of one's mother? Then Imam ash-Shafi'i replied, "We share them with their mother's brothers only because the mother joined them and the father's law is invalid. When the father's law is invalid, it will be as if he did not exist. If the father has a position that can make siblings get a share, we will use it. Either the father's position makes their share a little or a lot, this opinion is based on Umar's statement and based on qiyas as we have explained".²⁹

If you pay attention to the people who become heirs in this *al-musharakah* issue, they can be divided into 2 (two) types. The first one is *ashbab al-furudh* like husband, mother, and mother. The second one is the '*ashabah*' which are like siblings'.

Normatively, the original law for one's mother has been determined by QS. An-Nisa'/4: 12. According to this verse, the mother's brother gets a share of 1/6 when he is alone. If there is more than one sibling, then they will get 1/3 by sharing among themselves. While the original law for siblings is determined based on the QS. An-Nisa'/4: 176, the share of siblings is determined to be if she is a woman, then 2 (two) female siblings will get 2/3. As for biological brothers, they get the '*ashabah*' share. Then the technical instructions for the implementation of the distribution of inheritance, it is based on the hadith of the Prophet:

أَلْحَقُوا الْفَرَائِضَ بِأَهْلِهَا فَمَا بَقِيَ فَلْأُولَىٰ رَجُلٌ ذَكَرَ (الْحَدِيثُ)

²⁷ Muhammad Ali Ash-Shabuni, *Al-Mawaris Fi al-Syari'at al-Islamiyah* (Surabaya: Diponegoro, 1988).

²⁸ Muhammad bin Idris as-Syafi'i, Terj. Ismail Yakub, *Al-Umm*, vol. 3 (kuala Lumpur: Victorie Agency, 2000).

²⁹ Muhammad bin Idris as-Syafi'i, Terj. Ismail Yakub.

According to this hadith, when the heirs of the *ashhab al-furudh* group gather with the '*ashabah*' group, the *ashhab al-furudh* group takes their share first, then the rest is taken by the '*ashabah*' group. This is a popular general rule in Islamic heritage regarding '*ashabah*'.³⁰

Therefore, based on the provisions of the verses above, it is known that both mother and sibling have their provisions that differ from one another. Imam ash-Shafi'i stated that the share of heirs determined by the Book of Allah and the Sunnah of the Prophet must be preserved. We can't reduce or add to it.³¹

The first opinion which states that siblings are not shared with their mother's siblings is determined based on qiyas to the popular rule relating to the administration of the distribution of '*ashabah*', namely when *ashhab al-furudh* gathers with the '*ashabah*' group, the inheritance must first be given to *ashhab al-furudh*, then the rest is given to the '*ashabah*' group. In addition, another reason put forward by the first opinion is that if you share a sibling with a sibling, no text explains it.³²

Based on *qiyas* on this popular general rule, siblings do not get anything because the inheritance has been completely taken by *ashhab al-furudh*, which in this case includes husband 1/2, mother 1/6, and half-brothers 1/3 without sharing. With this kind of stipulation, it can be seen that each of them gets a share of the original legal provisions mentioned in the Qur'an.

As already mentioned earlier, Imam ash-Shafi'i confirms the sibling to the mother's brother; does not rely on the popular general rule. The problem now is what is the basis used by Imam ash-Shafi'i to denounce the sibling to his mother and abandon the popular general rule? whereas abandoning the general rule results in changing the status of siblings from '*ashabah*' to *ashhab al-furudh*. Doesn't that mean that you have reduced the portion of your brothers and sisters? Meanwhile, Imam ash-Shafi'i himself has stated that the share of heirs determined by the Qur'an and the Sunnah of the Prophet should not be reduced.

If we analyze why the mother and sibling inherit the inheritance, it is a kinship relationship. Siblings who get an inheritance are due to a kinship with the mother of the deceased. Siblings inherit due to kinship with the father and mother of the deceased. From the point of view of this kinship relationship, the position of siblings is stronger than the position of the mother's siblings.

Siblings, in this case of *al-musharakah*, have the position of '*ashabah*'. Therefore, it should be based on these general rules. However, according to Imam ash-Shafi'i, conforming to this rule will result in siblings not getting a share because the inheritance has been taken by *ashhab al-furudh*. It is unfair if the sibling who is

³⁰ Al-Maridiny, *Syarh Matn Ar-Rabbiyah*.

³¹ Muhammad bin Idris as-Syafi'i, Terj. Ismail Yakub, *Al-Umm*.

³² Hasan Ahmad Khatib, *Al-Fiqh al-Muqaran* (Kairo: Jami'ah al-Qahirah, 1957).

stronger than the deceased does not get a share while the sibling who is weaker than the deceased gets a share of the inheritance. Therefore, Imam ash-Shafi'i said, "If the father has a position that can allow the siblings to get a share, we will use it, whether the position of the father allows them to get a little or a lot of shares".

If the original law of siblings as '*ashabah*' due to their kinship with the father was still being considered and maintained, this would undoubtedly lead to difficulties and injustice. While justice and eliminating difficulties are *maslahah* which is the will and purpose of shara' in applying the law. Therefore, Imam ash-Shafi'i canceled the father's law, which means also canceling the law of a sibling as '*ashabah*', then *qiyas* the sibling to his mother's brother. Thus, the siblings have become brothers of the same mother, and are entitled to a share. That is the meaning of the words of Imam ash-Shafi'i, when the father's law has been canceled, it will be as if he did not exist, and the siblings become the mother's brothers. In other words, siblings have changed status from '*ashabah*' to *ashbah al-furudh*, so they get a share of 1/3 by sharing.

Imam ash-Shafi'i said that sharing siblings with one's mother is because it is the mother who unites them. It means the same mother gets the inheritance because of their relationship with the deceased of one mother. The siblings also had a one-mother relationship with the deceased. If a sibling gets an inheritance because the mother is with the deceased, then the siblings must also get an inheritance because the sibling has the same mother as the deceased. This is what Imam ash-Shafi'i meant by *qiyas* which was explained earlier.

From the above analysis, it can be seen that the basis used by Imam ash-Shafi'i, leaving the *qiyas* that should be based on these general rules, and switching to *qiyas* against one's brothers and sisters, is to uphold justice and reject difficulties that are *maslahah* by the objectives and basis of the policy of shara' in deciding the law. Based on the description of the discussion and analysis of the data above, a reconstruction of Imam ash-Shafi'i's way of thinking in the *istinbath* process regarding the issue of *al-musharakah* can be seen as follows:

According to Imam ash-Shafi'i, if a relationship with the deceased is seen through the father's path, the sibling becomes '*ashabah*'. As '*ashabah*', he does not get a share of the inheritance. For the siblings to get the inheritance, the father's relationship was aborted. Then his part must be shared with siblings of the same mother. In regards to this sharing, there is no specific shara' about this problem. Therefore, Imam ash-Shafi'i uses *qiyas* for brothers and sisters of the same mother. The goal is to realize *maslahah*, which is to uphold justice and avoid difficulties.

Maslahah upholding justice and avoiding difficulties is the basic objective of shara' policy in establishing laws that are known and obtained not from one particular text, but *istiqlal* to the arguments of shara' which are numerous in various

legal issues. Such *maslahah* is called *al-maslahah al-mursalah*. In this case, the *qiyas* of Imam ash-Shafi'i is *qiyas maslahah*. *Qiyas maslahah* is *qiyas* that relies on *al-maslahah al-mursalah*.

Thus, even though Imam ash-Shafi'i, in establishing the law of sharing, only mentions *qiyas*, Imam ash-Shafi'i's *qiyas* is *qiyas maslahah*. *Qiyas maslahah* is based on *al-maslahah al-mursalah*. If Imam ash-Shafi'i uses *qiyas* which is based on *al-maslahah al-mursalah*, then it can be said that Imam ash-Shafi'i uses *al-maslahah al-mursalah*, even though he does not mention it explicitly. This must be understood because as described earlier, that *al-maslahah al-mursalah* is included in the *istinbath qiyas* pattern of Imam ash-Shafi'i. Thus, even though Imam ash-Shafi'i used *qiyas* for siblings of the same mother considering the relationship with their mother, what is the main basis of Imam ash-Shafi'i's logic is *al-maslahah al-mursalah*. In other words, what is written is *qiyas*, but what is implied is *al-maslahah al-mursalah* whose influence is greater in determining the law of sharing.

It is said that *al-maslahah al-mursalah* has a greater influence in determining the law of sharing because if there is no *maslahah* of course Imam ash-Shafi'i will not abort the father's law and carried out *Qiyas* to siblings of the same mother. Not carrying out the *Qiyas* means unfair and difficult. Unfair and difficult means opposing the purpose and basis of the shari'a policy in establishing the law. Therefore, Imam ash-Shafi'i left *qiyas* to the general rules and switched to *qiyas* siblings of the same brother because maintaining the original law was no longer effective for realizing *maslahah* which was the goal of shara' in establishing law. Since it is no longer effective for realizing *maslahah*, it needs to be transferred. If so, there is nothing to encourage Imam ash-Shafi'i to make the transition of *qiyas* except *maslahah*. Therefore, it is clear that *maslahah* has a greater influence in determining the law of sharing.

D. Reconstruction of Imam al-Shafi'i's Qiyas: Between Formal Analogy and Maslahah Reasoning

The discussion presented in the previous sections demonstrates that the debate concerning Imam al-Shafi'i's position on *al-maslahah al-mursalah* cannot be adequately resolved merely by examining whether he explicitly accepted or rejected the terminology of *al-maslahah al-mursalah*. Such an approach remains confined to terminological differences and overlooks the methodological structure underlying Imam al-Shafi'i's legal reasoning. A closer examination of his theory of *qiyas*, the explanations of leading Shafi'i jurists, and his practical legal decisions indicates that the real issue concerns the epistemological function of *maslahah* within the process of legal reasoning rather than the formal recognition of *al-maslahah al-mursalah* as an independent legal source. Therefore, the present study argues that Imam al-Shafi'i's

methodology should be reconstructed not as a rigid system of literal analogy but as a dynamic model of legal reasoning in which *qiyas* functions as the principal methodological instrument for realizing legally recognized public interest.

This reconstruction begins from the observation that Imam al-Shafi'i consistently emphasized that every legal ruling must remain connected to revelation through the Qur'an, Sunnah, *ijma'*, or *qiyas*. Consequently, unlike Imam Malik, who explicitly recognized *al-maslahah al-mursalah* as an autonomous method of legal reasoning, Imam al-Shafi'i integrated considerations of public interest into the structure of *qiyas* itself. The distinction between these two approaches therefore lies not in their respective concern for human welfare but in the methodological route through which such welfare acquires legal legitimacy. Imam Malik placed *maslahah* as an independent proof (*dalil*), whereas Imam al-Shafi'i incorporated it into analogical reasoning by identifying an effective legal cause (*'illah*) and a juridical meaning (*al-ma'na*) that remained consistent with the objectives of the Sharia.³³

Such a reconstruction also explains why several classical scholars appeared to reach different conclusions regarding Imam al-Shafi'i's position. Those who focused exclusively on the terminology employed in *al-Risalah* concluded that Imam al-Shafi'i rejected *al-maslahah al-mursalah*, whereas scholars who examined his practical legal reasoning, particularly as interpreted by al-Juwayni and later Shafi'i jurists, recognized that considerations of public interest were implicitly embedded within his method of *qiyas*. Accordingly, the apparent contradiction between theoretical rejection and practical application results primarily from differences in methodological interpretation rather than from inconsistency in Imam al-Shafi'i's legal thought.

1. Formal Qiyas and Substantive Legal Reasoning

One of the most persistent assumptions in contemporary scholarship is that Imam al-Shafi'i's theory of *qiyas* is confined to formal analogical reasoning based solely on textual similarity. This assumption has contributed to the widespread conclusion that Imam al-Shafi'i rejected *al-maslahah al-mursalah* because no explicit textual evidence can be identified for many legal issues addressed through considerations of public welfare. However, the analysis undertaken in this study suggests that such an understanding oversimplifies the epistemological character of Shafi'i legal reasoning.

In Imam al-Shafi'i's legal methodology, *qiyas* does not merely compare two legal cases on the basis of superficial textual resemblance. Instead, it seeks to

³³ Imam al-Haramain al-Juwayni, *Al-Burhan fi Ushul al-Fiqh*, vol. 2 (Qatar: Amir Daulah Qatar, n.d.), 743-760; Muhammad ibn Idris al-Shafi'i, *Al-Risalah*, ed. Ahmad Muhammad Shakir (Cairo: Maktabah al-Halabi, 1940), h. 477-480.

identify the effective legal rationale (*'illah*) and the underlying juridical meaning (*al-ma'na*) that justify extending a legal ruling from an original case (*asl*) to a new case (*far'*). Consequently, the analogical process is inherently substantive rather than mechanical because it requires juristic reasoning to discover the normative objective embedded within revelation before applying that objective to new legal circumstances.³⁴

This characteristic becomes particularly evident in the inheritance case of *al-musharakah* discussed in the previous section. Imam al-Shafi'i did not simply abandon the established legal framework governing *'asabah* inheritance. Rather, he re-evaluated the juridical meaning underlying the legal relationship between the heirs in order to preserve justice and prevent legal hardship. The transfer of legal reasoning from the paternal relationship to the maternal relationship was therefore not arbitrary but reflected an effort to preserve the higher objective of equitable inheritance distribution without departing from the principles of *qiyas*. In this context, *qiyas* functions not merely as formal analogy but as substantive legal reasoning directed toward realizing the purposes of the Sharia.

The foregoing analysis indicates that Imam al-Shafi'i's *qiyas* possesses a dual dimension. On the one hand, it preserves textual authority by maintaining a continuous relationship between new legal rulings and revealed sources. On the other hand, it allows juristic reasoning to accommodate changing social realities through identification of legally relevant meanings. Consequently, *qiyas* should be understood not as a rigid deductive technique but as a dynamic interpretative methodology capable of balancing textual fidelity with juridical rationality. Such an understanding provides the foundation for reconstructing the relationship between *qiyas* and *al-maslahah al-mursalah* within Imam al-Shafi'i's legal thought.

2. *Al-Ma'na* as the Epistemological Bridge between *Qiyas* and *Maslahah*

The reconstruction proposed in this study cannot be separated from the concept of *al-ma'na*, which occupies a central position in Imam al-Shafi'i's legal methodology. Classical discussions of *qiyas* often emphasize the identification of *'illah* as the effective cause of legal rulings. However, a closer examination of Shafi'i legal reasoning demonstrates that the process extends beyond identifying a formal *'illah*. It also involves understanding the underlying legal meaning (*al-ma'na*) that explains why a particular ruling is established and how it should be extended to

³⁴ Muhammad ibn Idris al-Shafi'i, *Al-Risalah* (Cairo: Maktabah al-Halabi, 1940), h. 477–490; Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh* (Cambridge: Cambridge University Press, 1997), h. 22–30.

new circumstances. Accordingly, *al-ma'na* functions as the epistemological bridge connecting revealed texts with the practical realities addressed by Islamic law.³⁵

Within this framework, *al-ma'na* should not be understood merely as a linguistic explanation of legal texts but as the substantive rationale underlying divine legislation. The discovery of *al-ma'na* enables jurists to distinguish between literal textual application and the broader objectives embodied within revelation. Consequently, the validity of *qiyas* depends not only upon identifying textual similarities between the original case (*ashl*) and the new case (*far'*), but also upon demonstrating that both cases share the same normative purpose embedded within the Sharia.³⁶

This understanding explains why Imam al-Shafi'i consistently rejected arbitrary legal preference (*istihsan*) while simultaneously accepting *qiyas* as the principal method of legal reasoning. His objection was directed not against legal reasoning itself but against legal conclusions lacking demonstrable methodological linkage to revelation. Once an effective legal meaning (*al-ma'na*) could be identified through textual evidence and rational analysis, extending legal rulings through *qiyas* remained fully legitimate. Therefore, Imam al-Shafi'i's legal methodology preserved the authority of revelation while simultaneously providing sufficient flexibility to address legal questions that were not explicitly regulated in the Qur'an and Sunnah.

From this perspective, *al-ma'na* performs an integrative function within the process of legal reasoning. It links the textual foundation of Islamic law with the realization of justice, legal certainty, and public welfare. The jurist does not simply replicate the wording of revelation but seeks to understand the normative objectives embodied in the revealed text before applying them to newly emerging legal situations. Such an approach demonstrates that the process of *qiyas* is simultaneously textual and purposive, thereby avoiding both excessive literalism and unrestricted legal pragmatism.³⁷

The analysis of the *al-musharakah* inheritance case discussed in the previous section clearly illustrates this methodological process. Imam al-Shafi'i did not modify the legal distribution of inheritance merely because changing social circumstances demanded a different outcome. Rather, he reconsidered the juridical meaning underlying the relationship among heirs and concluded that maintaining absolute adherence to the formal classification of heirs would undermine

³⁵ Muhammad ibn Idris al-Shafi'i, *Al-Risalah*, h. 476-508; Wael B. Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh*, h. 21-24.

³⁶ Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Din al-Amidi* (Salt Lake City: University of Utah Press, 1992), h. 551-581.

³⁷ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, 3rd ed. (Cambridge: Islamic Texts Society, 2003), h. 197-202

distributive justice. The legal ruling therefore emerged through identification of the substantive rationale underlying the revealed rule rather than through subjective evaluation of public interest. In this sense, justice was realized through *qiyas*, not in opposition to it.

Accordingly, the relationship between *al-ma'na* and *maslahah* should not be viewed as two independent methodological concepts. Instead, *al-ma'na* provides the epistemological mechanism through which legally recognized public interest becomes incorporated into analogical reasoning. Public interest is therefore neither an autonomous legal proof nor a purely utilitarian consideration detached from revelation. Rather, it becomes legally operative only after passing through the methodological discipline imposed by *qiyas*. This reconstruction offers a more coherent explanation of why Imam al-Shafi'i consistently rejected *al-maslahah al-mursalah* as an independent legal source while nevertheless producing legal rulings that effectively realized the objectives of the Sharia.

Such an interpretation also reconciles the apparent disagreement among classical and contemporary scholars concerning Imam al-Shafi'i's position. Scholars emphasizing legal terminology conclude that Imam al-Shafi'i rejected *al-maslahah al-mursalah*, whereas those examining his practical legal reasoning recognize that considerations of welfare consistently influenced his legal judgments. Both observations are partially correct because they operate at different analytical levels. At the doctrinal level, Imam al-Shafi'i rejected the independent authority of *maslahah*. At the methodological level, however, considerations of welfare became inseparable from the discovery of *al-ma'na* within *qiyas*. Consequently, the apparent contradiction disappears once the epistemological structure of Shafi'i legal reasoning is properly reconstructed.

This reconstruction further demonstrates that *qiyas* should not be interpreted merely as a deductive legal technique but as a comprehensive methodology integrating textual authority, rational analysis, and the realization of the objectives of Islamic law. The process begins with revealed texts, proceeds through identification of '*illah*' and *al-ma'na*, evaluates their normative relevance to newly emerging legal circumstances, and ultimately produces legal rulings that preserve both doctrinal consistency and substantive justice. In this sense, *al-ma'na* constitutes the intellectual foundation that enables *qiyas* to function as a dynamic mechanism of legal development without compromising the authority of revelation. Consequently, the methodological distinction between Imam Malik and Imam al-Shafi'i lies primarily in the juridical formulation of *maslahah*, not in their shared commitment to realizing the objectives of the Sharia.

3. *Maslahah* as the Internal Logic of Imam al-Shafi'i's *Qiyas*

The reconstruction developed in this study leads to a fundamental proposition that has not been sufficiently articulated in previous scholarship: *al-maslahah al-mursalah* does not function as an external legal source within Imam al-Shafi'i's methodology but rather as the internal logic governing the operation of *qiyas*. This proposition explains why Imam al-Shafi'i consistently refused to recognize *al-maslahah al-mursalah* as an autonomous legal proof while simultaneously producing legal rulings that clearly promoted justice, prevented hardship, and realized public welfare. The apparent contradiction disappears once *maslahah* is understood as the substantive objective guiding analogical reasoning rather than as an independent source competing with revelation.³⁸

This reconstruction is supported by the methodological sequence consistently found in Imam al-Shafi'i's legal reasoning. Every legal judgment begins with the authority of the Qur'an and the Sunnah. When no explicit textual provision governs a newly emerging issue, the jurist proceeds to identify the effective legal cause (*'illah*) contained within the revealed texts. The identification of *'illah* is then followed by an examination of *al-ma'na*, namely the juridical rationale that explains why the legal rule exists. Only after these methodological stages are completed can the jurist extend the legal ruling through *qiyas*. Consequently, public interest does not determine the law independently; instead, it becomes legally relevant only after being validated through the disciplined structure of analogical reasoning.

Such a methodological sequence distinguishes Imam al-Shafi'i from approaches that permit unrestricted appeals to utility or social expediency. The legitimacy of legal reasoning is never determined by the perceived desirability of a legal outcome alone. Rather, every legal conclusion must remain demonstrably connected to revelation through a verifiable legal rationale. Accordingly, the realization of *maslahah* is not abandoned but disciplined. Public welfare becomes the consequence of valid legal reasoning rather than its independent starting point. This methodological discipline explains why Imam al-Shafi'i regarded *qiyas* as both an intellectual exercise and an act of fidelity to divine revelation.³⁹

The inheritance case examined in the previous section illustrates this relationship with considerable clarity. Imam al-Shafi'i did not formulate a new legal rule solely because social equity appeared desirable. Instead, he reassessed the legal meaning underlying the relationship among the heirs and concluded that maintaining justice required extending the original legal principle through *qiyas*. The resulting decision undoubtedly produced public benefit, yet the benefit itself was

³⁸ Muhammad ibn Idris al-Shafi'i, *Al-Risalah*, 488-508.

³⁹ Bernard G. Weiss, *The Search for God's Law*, h. 551-570.

not the formal legal proof. Instead, it represented the normative objective realized through a carefully structured process of analogical reasoning. This example demonstrates that *maslahah* operates as the substantive orientation of *qiyas*, not as an autonomous evidentiary source.

The same methodological pattern may also be identified in numerous areas of Islamic jurisprudence in which Imam al-Shafi'i expanded legal rulings beyond their immediate textual contexts while preserving their normative objectives. His legal reasoning consistently reflects concern for legal certainty, justice, proportionality, and prevention of hardship, all of which constitute essential objectives of the Sharia. Nevertheless, these objectives are never invoked independently from textual evidence. Rather, they emerge through systematic interpretation of revelation by means of *qiyas*. Such consistency confirms that Imam al-Shafi'i's rejection of *al-maslahah al-mursalah* should be understood as a rejection of its independent epistemological authority rather than a rejection of public welfare itself.

This reconstruction also clarifies why later Shafi'i jurists frequently incorporated discussions of *munasabah*, *maqasid*, and juridical wisdom into their analysis of *qiyas*. These concepts should not be interpreted as methodological innovations departing from Imam al-Shafi'i's legal theory but as analytical developments that make explicit the substantive rationality already embedded within his analogical method. Consequently, the evolution of Shafi'i jurisprudence represents methodological continuity rather than doctrinal inconsistency.⁴⁰

From an epistemological perspective, the reconstructed model proposed in this study positions *qiyas* as the meeting point between textual authority and legal rationality. Revelation remains the exclusive origin of legal authority, whereas *qiyas* functions as the methodological instrument enabling jurists to apply revealed norms to changing social realities. Within this process, *maslahah* provides the substantive orientation that ensures legal reasoning continues to achieve the objectives intended by the Lawgiver. Therefore, *maslahah* neither replaces revelation nor competes with *qiyas*; instead, it constitutes the normative logic that gives direction to analogical reasoning.

Accordingly, the long-standing debate concerning whether Imam al-Shafi'i accepted or rejected *al-maslahah al-mursalah* should be reformulated. The more productive question is not whether *maslahah* existed in his legal reasoning, because the foregoing analysis demonstrates that it clearly did. Rather, the decisive issue concerns the methodological status assigned to *maslahah*. This study concludes that

⁴⁰ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2008), h. 15-25; Wael B. Hallaq, *Authority, Continuity, and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001), 24-56.

Imam al-Shafi'i rejected *al-maslahah al-mursalah* only as an autonomous legal source detached from textual authority. At the same time, he consistently incorporated considerations of public welfare within the epistemological structure of *qiyas*. Such an interpretation not only reconciles seemingly contradictory scholarly opinions but also provides a more coherent understanding of Imam al-Shafi'i's theory of legal reasoning.

4. A Reconstructed Model of Imam al-Shafi'i's Legal Reasoning

The foregoing discussion enables the formulation of a reconstructed model of Imam al-Shafi'i's legal reasoning that provides a more comprehensive explanation of the relationship between *qiyas* and *al-maslahah al-mursalah*. Previous discussions have generally approached these two concepts as separate methodological entities, thereby producing the impression that Imam al-Shafi'i either rejected *al-maslahah al-mursalah* entirely or inconsistently applied it in his legal practice. The present study proposes an alternative interpretation by demonstrating that *qiyas* and *maslahah* are not competing legal methods but complementary components within a unified epistemological framework. Under this reconstruction, *qiyas* constitutes the formal methodological structure, whereas *maslahah* represents the substantive objective realized through that structure.⁴¹

The reconstructed model begins with the recognition that all legal authority originates exclusively from revelation, namely the Qur'an and the Sunnah. These primary sources establish not only specific legal rulings but also the normative principles that govern Islamic law. Whenever explicit textual evidence is unavailable for newly emerging legal questions, the jurist does not immediately resort to considerations of public interest. Instead, the process proceeds through the disciplined methodology of *qiyas*, beginning with the identification of the effective legal cause (*'illah*) contained within the revealed texts. This stage ensures that every subsequent legal development maintains its doctrinal continuity with divine revelation.

The second stage consists of identifying the underlying juridical meaning (*al-ma'na*) embodied in the relevant legal texts. Unlike the *'illah*, which functions as the immediate legal cause, *al-ma'na* explains the broader normative rationale that justifies extending legal rulings beyond their original context. Through this process, juristic reasoning moves from textual formulation toward substantive legal understanding. The identification of *al-ma'na* therefore serves as the epistemological mechanism through which revelation remains applicable to changing social circumstances without sacrificing its normative authority.⁴²

⁴¹ Wael B. Hallaq, *Authority, Continuity, and Change in Islamic Law*.

⁴² Bernard G. Weiss, *The Search for God's Law*, h. 551-570.

Only after these methodological stages have been completed does the jurist proceed to analogical reasoning through *qiyas*. At this point, the objective is not merely to transfer legal rulings mechanically from one case to another but to preserve the same juridical rationale and normative objective in newly emerging legal situations. Consequently, *qiyas* functions simultaneously as an interpretative and evaluative methodology. It interprets revelation by identifying its legal rationale and evaluates new legal problems by determining whether they share the same normative characteristics as the original case.

Within this reconstructed framework, *al-maslahah* occupies an indispensable yet carefully regulated position. Public welfare is neither ignored nor treated as an autonomous legal proof. Rather, it functions as the normative orientation that guides the application of *qiyas*. Every valid analogical judgment should ultimately realize justice, remove hardship, preserve social order, and protect the essential objectives of the Sharia (*maqasid al-shari'ah*). However, these objectives acquire legal legitimacy only after passing through the methodological discipline of textual interpretation, identification of 'illah, and analogical reasoning. Thus, *maslahah* becomes the substantive logic of *qiyas* rather than an alternative source of legal authority.

This reconstructed relationship may be illustrated through the following conceptual model.

Figure 1. Reconstructed Model of Imam al-Shafi'i's Legal Reasoning

Stage	Methodological Process	Function	Outcome
1	Primary Sources (Qur'an and Sunnah)	Establish the normative foundation of Islamic law	Textual authority
2	Identification of 'Illah	Determine the effective legal cause contained in the revealed texts	Legal rationale
3	Discovery of Al-Ma'na	Identify the underlying juridical meaning and objective of the legal rule	Epistemological foundation
4	Application of Qiyas	Extend legal rulings from the original case (<i>asl</i>) to the new case (<i>far'</i>) through analogical reasoning	Methodological legitimacy
5	Realization of Maslahah	Ensure that the legal ruling achieves justice, removes hardship, and protects the objectives of the Sharia (<i>maqasid al-shari'ah</i>)	Public welfare within the framework of revelation
6	Legal Decision (Hukm)	Formulate a legal ruling consistent with revelation, rational analysis, and public welfare	Valid Islamic legal ruling

The model above demonstrates that *maslahah* does not precede *qiyas* but rather constitutes its normative outcome. The jurist first establishes a legitimate

methodological connection with revelation before considering the realization of public welfare. Such a sequence distinguishes Imam al-Shafi'i's legal methodology from approaches that elevate *maslahah* into an autonomous legal source. It simultaneously explains why many legal rulings produced by Imam al-Shafi'i effectively promote justice and public welfare despite his explicit rejection of *al-maslahah al-mursalah* as an independent *dalil*.

This reconstruction also provides a coherent explanation for the apparent differences between Imam Malik and Imam al-Shafi'i regarding *al-maslahah al-mursalah*. Their disagreement should not be understood as a conflict concerning the importance of public welfare but rather as a methodological disagreement regarding the legal status of *maslahah*. Imam Malik recognized *maslahah* as an independent source under strict conditions, whereas Imam al-Shafi'i insisted that considerations of public welfare must remain embedded within *qiyas*. Accordingly, both schools sought to realize the objectives of the Sharia, although they adopted different epistemological pathways for achieving that objective.⁴³

From the perspective of contemporary Islamic legal theory, this reconstructed model possesses significant theoretical implications. It demonstrates that Imam al-Shafi'i's legal methodology is considerably more dynamic than is commonly assumed. Rather than representing a rigid form of textualism, his theory of *qiyas* provides a structured mechanism through which Islamic law may respond to changing social realities while preserving the authority of revelation. Consequently, Shafi'i legal methodology remains relevant for addressing contemporary legal issues that require careful integration of textual authority, rational analysis, and public welfare.

This relevance becomes increasingly apparent in the context of modern legal developments such as Islamic financial transactions, biomedical ethics, environmental governance, digital technology, and family law reform. Although these issues were unknown during Imam al-Shafi'i's lifetime, the reconstructed model proposed in this study suggests that they may be addressed through disciplined *qiyas* grounded in revealed texts and guided by the objectives of the Sharia. Such an approach avoids both excessive textual literalism and unrestricted legal pragmatism, thereby preserving the balance between doctrinal continuity and legal adaptability that characterizes classical Sunni legal theory.

Ultimately, the reconstructed model advanced in this study offers a new perspective for understanding Imam al-Shafi'i's contribution to Islamic legal methodology. Rather than portraying him as a jurist who rejected *maslahah*, the analysis demonstrates that he repositioned public welfare within a more rigorous

⁴³ Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law*, h. h. 15-25.

epistemological framework governed by *qiyas*. This interpretation reconciles classical scholarly disagreements, strengthens the coherence of Shafi'i legal theory, and contributes to contemporary discussions concerning the relationship between textual authority, legal reasoning, and the realization of the objectives of Islamic law.

Conclusion

This study demonstrates that the long-standing debate regarding Imam al-Shafi'i's position on *al-maslahah al-mursalah* cannot be resolved merely by examining his explicit theoretical statements concerning legal sources. Although Imam al-Shafi'i consistently rejected *al-maslahah al-mursalah* as an autonomous legal proof (*dalil mustaqill*), the analysis of his legal methodology and selected fiqh rulings reveals that considerations of public welfare were neither excluded nor marginalized from his legal reasoning. Instead, they were systematically incorporated into the methodological framework of *qiyas* through the identification of '*illah*' and *al-ma'na*. Consequently, the apparent contradiction between Imam al-Shafi'i's theoretical rejection and his practical legal reasoning is more accurately understood as a distinction concerning the epistemological status of *maslahah* rather than its substantive role in Islamic law.

The findings further demonstrate that *qiyas* in Imam al-Shafi'i's legal theory should not be interpreted merely as a formal process of analogical deduction. Rather, it represents a dynamic methodology that combines textual fidelity, rational inquiry, and purposive legal reasoning. Through the identification of '*illah*' and the discovery of *al-ma'na*, *qiyas* enables jurists to extend revealed legal principles to newly emerging cases while preserving the objectives of the Sharia. In this methodological process, *al-maslahah* functions as the substantive orientation that directs legal reasoning toward justice, public welfare, legal certainty, and the prevention of hardship. Accordingly, *maslahah* is not an alternative legal source competing with revelation but an integral element embedded within the epistemological structure of *qiyas* itself.

The principal novelty of this study lies in reconstructing the relationship between *qiyas* and *al-maslahah al-mursalah* as a unified methodological framework rather than treating them as separate or competing concepts. Previous studies have generally focused on determining whether Imam al-Shafi'i accepted or rejected *al-maslahah al-mursalah*. In contrast, this study argues that the more significant issue concerns the methodological mechanism through which public welfare is realized in Shafi'i legal reasoning. The reconstructed model proposed in this article demonstrates that legal reasoning proceeds through successive stages consisting of the Qur'an and Sunnah, identification of '*illah*', discovery of *al-ma'na*, application of

qiyas, realization of *maslahah*, and finally the formulation of legal rulings. This model provides a more coherent explanation of Imam al-Shafi'i's legal methodology while reconciling the apparent differences among classical and contemporary scholars regarding his position on *al-maslahah al-mursalah*.

Theoretically, this reconstruction contributes to the development of contemporary *usul al-fiqh* by offering a more integrated understanding of the relationship between textual authority, analogical reasoning, and the objectives of Islamic law. It demonstrates that fidelity to revelation and responsiveness to social change are not mutually exclusive but may operate simultaneously within the disciplined methodology of *qiyas*. Practically, the reconstructed model provides a conceptual framework that may assist contemporary Islamic legal scholars and fatwa institutions in addressing emerging legal issues—including Islamic finance, biomedical ethics, digital technology, environmental governance, and family law reform—through legal reasoning that remains firmly grounded in revelation while accommodating legitimate public interests.

This study is limited to a normative and doctrinal analysis based on classical *usul al-fiqh* literature and selected *fiqh* cases attributed to Imam al-Shafi'i. It does not investigate how this reconstructed methodology has been implemented within contemporary judicial practice, national fatwa institutions, or modern Islamic legal systems. Future research may therefore examine the application of Shafi'i's *qiyas*-based methodology in contemporary fatwas, constitutional adjudication, Islamic financial regulation, and comparative legal practice across different jurisdictions. Such studies would further clarify the practical relevance of Imam al-Shafi'i's legal methodology in responding to increasingly complex legal challenges while maintaining its epistemological coherence and commitment to the objectives of the Sharia.

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