

## ***Maqasid al-Shariah* and Performance of *Zakah* Institutions<sup>1</sup>**

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### **I. Introduction**

*Maqasid* is presumably one of today's most important intellectual means and methodologies for Islamic studies. *Maqasid* theory has been used by Muslim scholars to propose Islamic reform and revival in many important aspects of life. Islamic jurisprudence is perhaps an area of Islamic studies that used this approach extensively. This can be seen, among others, from extensive research and many publications in this field.<sup>2</sup>

More recently, some scholars have started to use the *Maqasid* approach for non-law studies. This approach is increasingly used by scholars in Islamic economics, particularly after some critics were directed to the development of Islamic economics and finance which was seen as far beyond achieving the true objectives of Islamic teachings. Indeed, in practice, Islamic financial institutions seem to be more oriented toward profits and mimicked practices of the conventional (and secular) institutions, which were seen as a social failure of Islamic economics (Asutay, 2011). Accordingly, by employing the *Maqasid* approach or at least inspired by the perspective on *Maqasid al-Shariah*, some scholars attempted to provide 'alternative' studies to evaluate performance of Islamic banking and financial institutions.<sup>3</sup>

Beyond that, however, other Islamic institutions such as *zakah* are rarely discussed in contemporary Islamic scholarships (Siddique, 2004) including in relation to *Maqasid al-Shariah*. *Zakah* is the third pillar of Islam, which is also believed to be an institution for eradicating poverty and distributing income more equally (see, among others, Al Qardawi, 2000; Benthall and Bellion-Jourdan, 2003; Ahmed, 2004). In practice, however, development and performance of *zakah* institution has been relatively poor. Studies reported that *zakah*

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2 The International Institute of Islamic Thought (IIIT) is arguably the most productive institution in producing series of books about *Maqasid* in Islamic Law. Indeed, most of literature on *Maqasid al-Shariah* used in this study is published by IIIT under the *Maqasid* Project (i.e. the project to translate and publish series of books and working papers on *Maqasid al-Shariah*).

3 Martan et. al. (1984), for instance, used a "fuzzy-set" approach which also touched on some non-financial measures such as income distribution and social solidarity, economic development, investments and motivation to invest to measure the performance of Islamic banks vis-à-vis the traditional banking. Hasan (2004) suggested that performance of Islamic banks be evaluated with reference to their social responsibilities in an Islamic framework. Meanwhile, Dusuki (2005) examined the Islamic perspective on Corporate Social Responsibility (CSR) in relation to *Maqasid al-Shariah*.

collections in Muslim countries are in average very low, less than 1% of GDP (Kahf, 1999) although in a country level the collection might range from 0-8% of GDP (Ahmed, 2004). This is in contrast with Islamic banks which has shown a consistent double digit growth in the last decade (Financial Times, 2011).

It is arguable that the poor performance of *zakah* institution is partly due to the lack of appropriate assessment methods to measure a comprehensive performance of the institution, especially from the non-financial aspects. At the moment, just like Islamic banking and financial institutions, absence of such measures has indirectly ‘forced’ it to use conventional yardstick to measure such performance (Kahf, 1999; Ahmed, 2004). Albeit very important, monetary/financial measure is only one aspect in evaluating the contribution of *zakah* institutions. Emphasizes on this aspect could therefore regarded as something that prevent in understanding contribution of such social institution comprehensively.

In lights of the above, the paper mainly aims to discuss the possibility of measuring financial and social performance of *zakah* institution by using the *Maqasid* approach. Realizing that there are many perspectives in interpreting the *Maqasid* approach, from the Shatibi’s approach to the Ghazalian Maxims and to what is known as the Qayyimian paradigm, the study also reviews the development of *Maqasid* theory and relates it with the objective of *zakah* institution prior to examine the most promising approach to evaluate performance of the institution given the institution’s current state of development in the Muslim world.

The study hopes that the discussions could enrich knowledge and understanding regarding the *Maqasid al-Shariah* approach, which is argued as an ‘alternative’ method that is genuinely developed from Islamic traditions and applicable to Islamic economics studies. It also hopes to invite more discussion regarding potentials of using the approach to measure financial and social performance of Islamic institution, most notably *zakah* institution. Ultimately, the study expects to contribute to the knowledge in Islamic economics, banking and finance and Islamic studies in general.

## II. Perspective on *Maqasid al-Shariah*

### 2.1. Basic Concepts

The term ‘*Maqsid*’ (plural: *Maqasid*) literally means a purpose, intent, objective, principle, goal or end. *Maqasid al-Shariah* could therefore be literally defined as the objectives, purposes, intents, ends or principles behind the Islamic law or Islamic rulings (Ashur, 2006). It could also be interpreted as the higher objectives of the law giver (Al-Raysuni, 2005). Some scholars also refer *Maqasid al-Shariah* as ‘people’s interests’ (*masalih*),<sup>4</sup> which seems to be

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<sup>4</sup> For example, Imam al-Juwayni uses the term *al-Maqasid* and public interest (*al-masalih al-ammah*) interchangeably. Imam al-Ghazali places *Maqasid* under what he called as ‘unrestricted interests (*al-masalih*)’

slightly ‘wider’ than the literal meaning and reflect the ‘interest for humanity’ in the meaning of *Maqasid al-Shariah* (Auda, 2008).

*Maqasid al-Shariah* is normally classified according to levels of *maslahah*, beginning with the essentials (*daruriyyah*), the needs (*hajiyyah*) and the luxuries (*tahsiniyyah*). The essentials or primary interest can be defined as things which are vital to human survival and wellbeing, such that their ‘destruction’ will jeopardize a normal order of life in society.<sup>5</sup> The needs or complementary interest (*hajiyyah*) can be seen as benefits which seek to remove severity and hardship that do not pose serious threats for the survival of normal life.<sup>6</sup> While the luxuries or embellishment (*tahsiniyyah*) can be regarded as things that seek to attain refinement and perfection in the conduct of people at all level of achievement (Kamali, 2008).<sup>7</sup>

Recently, following some critics regarding the ‘inability’ of the *Maqasid* approach described above to cope with complexities of time and solve current problems of the *ummah*, dimensions of the ‘classical’ *Maqasid* have been extended into various aspects within particular scopes. In this respect, the contemporary *Maqasid* theory includes new dimensions based on the scope of the rulings and the people included in the purposes (Auda, 2008). *Maqasid* has also been classified according to their goals, so as to include definitive goals (*al-Maqasid al-Qat’iyyah*) and speculative purposes (*al-Maqasid al-Zanniyyah*) as well as general purposes (*al-Maqasid al-Ammah*) and particular purposes (*al-Maqasid al-Khassah*) (Kamali, 2008). The contemporary perspectives or the new ‘theories’ of *Maqasid* are elaborated in the next section.

## **2.2. Perspectives on *Maqasid al-Shariah***

The history of ‘speculating’ a certain underlying objective, aim or intent of Qur’anic or

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*al-mursalah*), which is agreed by his followers al-Razi and al-Amidi. Meanwhile, al-Qarafi links *maslahah* and *Maqasid* through a fundamental principle in which “*a purpose (Maqsid) is not valid unless it leads to the fulfillment of some good (maslahah) or the avoidance of some mischief (mafsadah)*”.

5 It is often classified into what preserves one’s faith, soul, wealth, mind and offspring. In relation to this, adultery, alcohol or wine-drinking and intoxicants are banned in Islam as they pose threats to the protection and wellbeing of family (off-spring) and the integrity of human intellect (soul and mind) respectively. Islam also bans thefts, monopoly, hoarding of wealth (*rikaz*), *riba* and *gharar* transactions to protect the human wealth. The preservation of faith is also a necessity for human life, albeit probably more in the afterlife sense because Islam perceives life as a ‘comprehensive’ journey in the world and the hereafter (Kamali, 2008).

6 With respect to ritual worship (*ibadah*), for example, *shariah* has granted many concessions (*rukhas*) such as shortening of prayers and opening of fast for the sick and traveller in order to make things easier for Muslims. In daily ‘worldly’ life (*muamalah*), examples of this need are marriage, trade and means of transportation. Although Islam encourages and regulates these activities, the lack of any of these needs is not a matter of life and death especially on an individual basis. However, if the shortage becomes widespread and jeopardizes people’s life, they could be considered as necessities and thus move from the level of complementary interests to the level of necessities.

7 This is reflected in the use of, among others, perfume, jewellery, stylish clothing, beautiful homes and sporty cars. These things are important and perfecting human life, although in a lower priorities than the essentials and the needs. They also serve as further signs and proofs for God’s endless mercy and generosity towards human life.

prophetic instructions can be traced back to the Prophet's period of time. This is reflected, among others, in the narrations regarding a number of 'controversial' incidences such as the dispute over the timing of afternoon prayers at Banu Qurayzah among the Prophet's companions<sup>8</sup> and the inclusion of horses as *zakatable* assets by Caliph Umar bin Khattab.<sup>9</sup> In the first case, the Prophet (pbuh) agreed on the Companions' acts based on 'speculations' on the intentions of his orders. Meanwhile, in the second case, Umar's decision to include horses as *zakatable* assets is seen as in line with Islamic spirit and thereby supported by the Companions.

After the Companion's era, the classification and attempt to theorize *Maqasid* started to evolve. Based on the similarity and significance of works in developing the *Maqasid* theory, especially in relation to human well-being (social welfare) which presumably becomes a main objective of *zakah* institution, the historical development of *Maqasid* theory can be classified into three important periods. First, ***the formation period***, in which the basic principles of the *Maqasid* were developed by jurists during the first four Islamic centuries (1–4 M). In this period, works on *Maqasid* was dominated by attempts to survey and find '*wisdoms-behind-rulings*' from the scripture and not directly to the well-being objectives. Second, ***the major development period***, a period in developing the *Maqasid* theory which lasted between the 5th–8th of Islamic century. This is the 'golden' period where Islamic scholars really devoted their time and attention to develop appropriate juristic methods and subsequently construct fundamentals of the *Maqasid* theory in which human well-being became the central theme in the theory. Finally, ***the extension period*** (from 9M–now, but especially from 13th Islamic century onwards) which is marked by extensions of the 'classical' theories of *Maqasid* based on the complexities of time and the need to reform the contemporary Islamic world which is, sadly, recognized as home of millions of poor people. The three developmental milestones are elaborated below.

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8 The story is based on a multi-chained *hadith* by Bukhari and Muslim regarding the 'afternoon prayers at Banu Qurayzah'. It is mentioned that the Prophet (pbuh) sent a group of Companion (*sahabah*) to Banu Qurayzah and ordered them to pray their afternoon prayer (*Asr*) there. As the companion reached the place when *Asr* prayer time had almost expired, they found themselves divided into supporters of two different opinions: praying at Banu Qurayzah's place one they arrive (even if it is not the *Asr* prayer time anymore) or praying on the way (before the *Asr* prayer time was over). The first group argued that the Prophet's opinion was clear in asking everybody to pray once they arrived in the destination. However, the second group argued that the Prophet's intention of the order was to ask the group to hasten to Banu Qurayzah such that the group could travel and arrived quickly (before the *Asr* time finished), rather than to postpone prayer after its due time. According to the narrators, when the Companions later told the story to the Prophet (pbuh), he approved both opinions. This approval is seen by the jurists as permissibility and correctness of both views (Auda, 2008).

9 Despite the Prophet's clear instruction to exclude horses in the type of wealth subjected to obligatory *zakah* obligations, Caliph Umar decided to include it as a *Zakatable* wealth. Umar's rationale was that horses at his time were becoming significantly more valuable than camels, which the Prophet included in *zakah* at his time. In other words, Umar understood and applied the 'purpose' of *zakah* in terms of social assistance that is paid by the wealthy and directed towards the poor, regardless of the exact types of wealth mentioned in the prophetic traditions and understood via its literal implications. This perspective is shared by most of classical and contemporary Islamic scholars (Auda, 2008).

### **2.2.1. The Formation Period**

During the first four centuries, the idea of purposes or causes (*hikam, ilal, munasabat* or *maani*) appeared in a number of reasoning methods employed by the Imams of the classical schools of Islamic jurisprudence, such as reasoning by analogy (*qiyas*), juridical preference (*istihsan*) and interest (*maslahah*). Nevertheless, the ideas were still limited to explain the wisdoms behind Islamic rulings instead of the ‘real’ and universal purposes of *Maqasid al-Shariah*. In relation to this, some notable scholars in this period are Al-Tirmidhi al-Hakim (d. 296 AH/908 CE), Abu Zayd al-Balkhi (d. 322 AH/933 CE), Abu Mansur al-Maturidi (d. 333 AH/944 CE), Al-Qaffal al-Kabir Shashi (d. 365 AH/975 CE), Abu Bakr al-Abhari (d. 375 AH/985 CE), Ibn Babawayh al-Qummi (d. 381 AH/991 CE) and Al-Baqillani (d. 403 AH/1112 CE).

The first known manuscript dedicated to the topic of *Maqasid*, in which the term ‘*Maqasid*’ was used in the book’s title, is perhaps *Kitab al-Salah wa Maqasiduha* (the Book of Prayers and Their Purposes) by al-Tirmidhi al-Hakim. The book basically discusses the wisdoms and spiritual ‘secrets’ behind each of the prayers rituals, such as ‘confirming humbleness’ as the *Maqsid* or purpose behind glorifying God’s with every move during prayers (*takbeer*) or ‘focusing on one’s prayers’ as the *Maqsid* behind facing the direction of the *Ka’bah*. Similarly, Abu Zayd al-Balkhi wrote a book dedicated to *maslahah* called *Masalih al-Abdan wa al-Anfus* (Benefits for Bodies and Souls). This book explains how Islamic practices and rulings contribute to human’s health, physically and mentally. A more comprehensive volume of 335 chapters was later written by al-Qummi, which ‘rationalize’ believing in God, Prophets, heavens as well as the wisdoms behind prayers, fasting, pilgrimage, charity, caring for parents and other moral obligations. In contrast, other scholars such as al-Maturidi and al-Abhari touched these issues rather indirectly in their jurisprudence works including as *Ma’khadh al-Shara’i* (The Sources of Religious Laws) and *Mas’alat al-Jawab wa al-Dala’il wa al-ilal* (The Issue of Answers, Indications and Reasons) respectively.

Other important works in ‘theorizing’ *Maqasid* are the writings of Al-Qaffal Shashi and Al-Baqillani. Al-Shashi wrote a book titled *Mahasin al-Shara’i* (The Beauties of the Laws) and mentioned in the book’s introduction that he dedicated the book for those who asked questions about the true reasons and wisdoms behind the rulings. In the book, he elaborates on purposes and wisdoms behind ‘traditional’ fiqh themes (purification, ablution, prayers, etc.). Meanwhile, al-Baqillani wrote various books on Islamic jurisprudence, including *al-Taqrir wa al-Irshad fi Tartib Turuq al-Ijtihad* (The Assistance and Guide, Providing an Orderly Arrangements of the Methods of Legal Investigations) and *al-Ahkam wa al-Ilal* (The Laws and the Reasons), all of which are connected to the study of the Law’s objectives. Prominent works of these scholars are believed to be an early conception of *al-Maqasid* theory which,

arguably, influences the thinking of later *Maqasid* theorists most notably al-Juwayni and al-Ghazali (Al-Raysuni, 2005; Auda, 2008).

### 2.2.2. *The Major Development ('Golden') Period*

The idea of 'theorizing' *Maqasid* really developed mostly during the 5–8th Islamic Centuries. In attempts to cope with the evolving civilization, scholars employed various methods and developed many theories to analyze 'what was not mentioned in the scripture'. Accordingly, for instance, concepts such as 'unrestricted interest' (*al-maslahah al-mursalah*) was developed and filled-in a gap in the literal methodologies which later gave birth to a firmer theory of *Maqasid al-Shariah* (Auda, 2008). Wider and more universal perspectives on *Maqasid* in relation to human well-beings were also introduced by some scholars. During this period, a number of scholars made significant contributions to the *Maqasid* theory. The prominent scholars include, among others, Abu Maali al-Juwayni (d.478 AH/1085 CE), Abu Hamid al-Ghazali (d. 505 AH/1111 CE), al-Izz ibn Abd al-Salam (d. 660 AH/1209 CE), Shihabuddin al-Qarafi (d. 684 AH/1285 CE), Ibn Taymiyyah (d. 728 AH/1327 CE), Shamsuddin ibn al-Qayyim (d. 748 AH/1347 CE) and Abu Ishaq al-Shatibi (d. 790 AH/1388 CE).<sup>10</sup>

Imam al-Juwayni was probably the first scholar that introduces a theory of the 'levels of necessity' which later inspired his followers to develop the *Maqasid* theory. He wrote *al-Burhan fi Usul al-Fiqh* (The Proof in the Fundamentals of Law) and used the term '*Maqasid*' in the book. Al-Juwayni argued that legal rulings in Islam may be understood in their underlying bases (*ilal*) or objectives (*Maqasid*). In line with this, he suggested five categories of *Maqasid* namely necessities (*darurat*), public needs (*al-hajah al-ammah*), moral behavior (*al-makrumat*), recommendations (*al-mandubat*) and a somewhat unclear category called as 'what cannot be attributed to a specific reason'. He also proposed that the purpose of Islamic law is the protection for people's faith, souls, minds, private parts and money (Al-Juwayni, in Auda, 2008).

Al-Juwayni's ideas were further developed by his student, Abu Hamid al-Ghazali, who wrote at length on public interest (*maslahah*) and rationalization (*ta'lim*) most notably in his works *Shifa al-Ghalil* (Healing of the Sickness) and *al-Mustasfa* (The Purified Source). In his book *al-Shifa*, al-Ghazali divided the objective of the law into 'spiritual' and 'worldly' affairs objectives and asserts that "It is known for a certainty that preservations of human life, the faculty of reason, chastity and material possessions are the intent of the Law". He also stated that, "Appropriate meanings (objectives) are what point to the various aspects of interests

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<sup>10</sup> Some other jurists also discussed the *Maqasid* in their works. Nevertheless, they did not really develop new ideas on the theories and mostly summarized or commented on the previous works in the area. The jurists include Fakhr al-Din al-Razi (d. 606 AH/1209 AC), Sayf al-Din al-Amidi (d. 631 AH/1233 AC), Ibn al-Hajib (d. 646 AH/1248 AC), al-Baydawi (d. 685 AH/1286 CE), al-Isnawi (d. 772 AH/1370 CE) and Ibn al-Subki (d. 771 AH/1369 CE). Therefore, they are not discussed in details in this paper. For more discussion about their works, please see al-Raysuni 2005 (especially chapter 1).

and their indications, where... 'interest' is based on achievement of a benefit or prevention of harm..." (Al-Ghazali, in Al-Raysuni, 2005: 17–18). This unrestricted interests (*al-masalih al-mursalah*) principle later becomes the fundamental for the practice of basing legal rulings and an important maxim in Islamic jurisprudence.

In *al-Mustasfa*, unlike in his other books, he started the book with a criticism of this world for being deceptive and for not being a place of happiness (Abu-Sway, 1996). Thus, there is a sense that the principles discussed in the book are basically intended for understanding Islamic ways to achieve happiness and human well-being. Furthermore, he repeated the overall objectives of the law in a more refined form and placed preservation of religion (faith) on top of the law's essential objectives and preservation of wealth as the last priority. Thus, given this 'revision', al-Ghazali reformulated the basic objectives (necessities) of the Law: "*The objective of the Shari'ah is to promote the well-being of all mankind, which lies in safeguarding their faith (din), their human self (nafs), their intellect ('aql), their posterity (nasl) and their wealth (mal)*". He further stated, "*Whatever ensures the safeguard of these five serves public interest and is desirable*" (Chapra, 2000: 118). Later, Imam Nawawi further suggest that the essentials covers basic needs such as food, clothing, shelters, education and other really needed things in the society (Abu-Bakar and Abd-Ghani, 2011). Finally, he also suggested that the higher order necessity should have priority over a lower-order necessity, if they generate opposite implications in practical cases (Abu-Sway, 1996).

More than a century later, al-Izz ibn Abd al-Salam wrote two small books about *Maqasid* namely *Maqasid al-Salah* (Purposes of Prayers) and *Maqasid al-Sawm* (Purposes of Fasting) albeit more in a 'wisdoms-behind-rulings' style. In relation to *Maqasid* theory, he wrote a more specific book called *Qawaid al-Ahkam fi Masalih al-Anam* (Basic Rules Concerning People's Interests) which emphasizes that the Islamic law basically consists of two main interests: either interest that prevent what would cause harms or achieve what would bring benefits. This idea was in line with al-Ghazali's perspective. He also suggested that the universal principle governing the interpretation of Islamic law is to achieve people's well-being (Al-Raysuni, 2005). His views are agreed by his follower, namely Shihab al-Din al-Qarafi, who later contributed to the *Maqasid* theory by reclassifying and differentiating the prophetic actions based on the prophet's 'intents'. According to al-Qarafi, there is a difference between the prophet's actions in different capacities as, to name a few, God's messenger, judge or a leader, which in turn influence meaning of the *Maqasid*. The prophetic actions in his position as a messenger should be understood as general and permanent rulings. Meanwhile, decisions related to public matters are not permanent in nature. Furthermore, he wrote about 'opening the means to achieving good ends' which is seen by scholar as significant expansion of the *Maqasid* theory (Auda, 2008).

While most scholars agreed that *Maqasid* could be limited to specific hierarchy of

needs,<sup>11</sup> Ibn Taymiyah was presumably the first scholar that departed from the notion of confining the *Maqasid* to a specific number. Indeed, he added aspects such as the love of God, sincerity, trustworthiness and moral purity to the existing list of the *Maqasid* in relationship to faith. In relation to the worldly affairs, he introduced principles such as fulfillment of contracts, preservation of the kinship ties and honoring the rights of one's neighbor into the *Maqasid* lists (Kamali, 2008). He also stressed that, "*Islamic Law came to realize and enhance human well-being, and to minimize and neutralize sources of harm and corruption...*" (Al-Raysuni, 2005: 34). Thus, Ibn Taymiyah did not only 'revise' the scope of the *Maqasid* from a specific list into an open-ended list of values, albeit he still placed preservation of human being's religion on top of the list, but also suggested a wider perspective of the law's objectives.

Shamsuddin ibn al-Qayyim, who was a student of the prominent Ibn Taymiyah, continued his teacher's study on *Maqasid*. His contribution to the theory of *Maqasid* was mainly through a detailed critique of what is called as juridical tricks (*al-hiyal al-fiqhiyyah*), where a legal transaction such as sale or a gift is actually 'fake' and thereby contradict with *Maqasid*. Like Ibn Taymiyah, Ibn Qayyim also emphasized that, "*Islamic law is all about wisdom and achieving people's welfare in this life and the afterlife. It is all about justice, mercy, wisdom and good*" (Auda, 2008: 20–21). This is a very fundamental rule of Islamic law, which seems to position the *Maqasid* principle as a philosophy of the law.

Nevertheless, it was Al-Shatibi who is seen by scholars as the most important 'theorist' that systematically developed the *Maqasid* concepts.<sup>12</sup> Shatibi's perspectives are mostly in line with the thinking of al-Juwayni and al-Ghazali, as reflected in his writing *al-Muwafaqat fi usul al-Shariah* (Congruence in the Fundamentals of the Revealed Law) especially chapter three entitled *Kitab al-Maqasid* (The Book of Higher Objectives). In his book, he suggested that the fundamentals of Islamic jurisprudence are definitive in nature and founded on the law's universals (objectives) included in the essentials (*daruriyyah*), exigencies (*hajiyyah*) and embellishments (*tahsiniyyah*). Furthermore, based on an inductive method rooted in the Qur'an, the essential objectives can be observed in five dimensions namely religion (*din*), human life (*nafs*), progeny (*nasl*), material wealth (*mal*) and human reason (*aql*). These fundamentals are in line with the thinking of al-Juwayni and al-Ghazali.

Furthermore, he divided the *Maqasid* into objectives of the lawgiver and of those accountable before the law (human objectives). He also affirmed that the obligations entailed

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11 In addition to al-Juwayni and al-Ghazali (as pioneers), others (classical) scholars who followed this notion are al-Amidi, al-Qarafi, al-Subki, al-Shawkani and al-Shatibi.

12 This is reflected in various writings about Imam Shatibi, such as Al-Raysuni (2005) which dedicated a whole book to study Al-Shatibi's theory of *Maqasid al-Shariah*. Al-Shatibi's book also became a standard textbook on *Maqasid al-Shariah* in Islamic scholarship until the 12th century. Nevertheless, his proposal to present *Maqasid* as 'fundamentals of the *shariah*', as the title of his book suggests, it was not widely accepted in Islamic world.

by the Law are intended for the purpose of fulfilling its objectives among human beings, which fall under one of aforementioned three categories or order of interests. He also argued that Islamic law is aimed to preserve the essential interests by preserving their existence and protecting them from annihilation. Thus, in his *Maqasid* theory, he did not only integrate the divine and human objectives, but also stressed that the higher objectives of the lawgiver can only be fulfilled by safeguarding the human objectives. In last part of his book, he listed several principles related to *Maqasid* and further suggested the means to preserve the interests (Al-Raysuni, 2005). These contributions lead contemporary scholars to conclude that Shatibi considered *Maqasid* to be the “fundamentals of religion, basic rules of the law and universals of belief.” With the rich perspective and analysis, he was considered as the most prominent figure in developing the *Maqasid* theory (Auda 2008).

To conclude, the 5th–8th Islamic centuries has witnessed the emergence and flourishing of the *Maqasid* approach especially as a philosophy of Islamic jurisprudence. The most influential works on *Maqasid* during this period is probably the works developed by al-Ghazali with his ‘order of necessities’, al-Shatibi and his postulate ‘*Maqasid* as fundamentals’ and Ibn Taimiyyah and Ibn-Qayyim who calls for ‘what *shariah* is all about’. In relation to human well-being, wider and universal perspectives on *Maqasid* that emphasize on preserving humanity were also introduced by the scholars, especially al-Shatibi. The preservations go beyond the material preservation. Indeed, social and religious dimensions are more prevalent than the (material) wealth aspect in the well-being concepts suggested by the scholars. The multidimensional interests for humanity could therefore be seen as the rational basis for the ‘*Maqasid* Theory’ developed during the golden period.

### **2.2.3. The Extension Period**

Contemporary theories of *Maqasid* is presumably born as a response to the critics for the classical theories of *Maqasid* discussed above, which is seen as unable to cope with the complexities of time and the need to reform the Islamic world. Some scholars felt that the scope of the traditional *Maqasid* was limited to individual rather than families, societies and human beings in general and thereby restricted Islamic revivalism. They also criticized the classical theories for not including the most universal and basic values of Islamic teaching such as justice and freedom in its basic conceptions,<sup>13</sup> which are very important for Muslim world nowadays. Nevertheless, other contemporary scholars suggested that such universal values are implicitly included in the classical theories.<sup>14</sup> Indeed, basic values such as justice and human well-being were repeatedly mentioned by the classical scholars in their writings.

Despite the ongoing ‘debate’ above, modern scholarship introduced new dimensions and

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13 Auda’s interview with Syaikh Al-Turabi (Auda, 2008: 6).

14 This view is based on Auda’s interview with Syaikh Ali Jumah (Auda, 2008: 24).

classifications of the *Maqasid* theory by reclassifying and extending the classical approaches. They extended the scope of rulings aiming to achieve the purposes, the scope of people included in the purposes and the level of universality of purposes to meet challenges in current time. The ‘new’ theories developed mostly from the 13th Islamic century period onwards.<sup>15</sup> Some prominent contemporary scholars in this area are Al-Tahir Ibn Ashur (d. 1325 AH/1907 CE), Rashid Rida (d. 1354 AH/1935 CE), Mohammad al-Ghazaly (d. 1416 AH/1996 CE), Yusuf al-Qardhawi (1345 AH/1926 CE-now), Muhammad Umer Chapra (1352 AH/1933 CE-now), Taha al-Alwani (1354 AH/1935 CE-now) and Mohammad Hashim Kamali (1363 AH/1944 CE-now).

Based on the scope of rulings covered by the *Maqasid* theory, contemporary scholars divided the *Maqasid* into three levels (Auda, 2008). First, *general Maqasid*, which is the *Maqasid* observed in all parts of the Islamic law. This general *Maqasid* includes the three basic needs (necessities/*darurat*, needs/*hajiyyat* and luxuries/*tahsiniyyat*) as well as the ‘new’ dimensions such as justice, universality and facilitation. Second, *specific Maqasid* or higher purposes which are observed throughout a certain ‘chapter’ of the Islamic law such as children welfare in family law and monopoly rules in financial transactions law. Finally, *partial Maqasid* or *Maqasid* that refers to the ‘intents’ behind specific scriptures or Islamic rulings. Example of the partial *Maqasid* is the intents of discovering the truth in seeking a certain number of witnesses in certain court case or in introducing ‘controversial’ financial transactions/products such as *bay al-inah* (sale and repurchase transaction), *tawarruq* (reverse *murabahah* transactions) and various ‘hybrid’ products which contain ‘legal tricks’ (*hiyal*).

In addition to the scope of rulings covered by the *Maqasid*, the scholars expanded the scope of people included in the purposes from individual/household to community, nation or humanity in general. According to the proponents, this expansion allows them to respond to global issues and current affairs in their time. Ibn Ashur, for instance, emphasized purposes dealing with the ‘nation’ (*ummah*) instead of those dealing with individuals. Rashid Rida, included ‘reform’ and ‘women’s rights’ in his theory of *Maqasid*. Meanwhile Yusuf al-Qardhawi embraced global ‘human rights’ in his perspective of *Maqasid* (Auda, 2008).

Finally, with respect to the universality of the purposes, the contemporary scholars have also introduced ‘new’ universal *Maqasid* that were directly induced from the scripture instead of the *fiqh* literature according to different Islamic schools of law. In other words, detailed rulings should primarily stem from these universal principles derived from the scripture’s higher values instead of the *fiqh* edicts (Auda, 2008). Ibn Ashur, for example, proposed that the universal *Maqasid* of the Islamic law is to maintain “orderliness, equality,

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<sup>15</sup> One might wonder why there was no significant development of *Maqasid* theory from 9th to 12th Islamic century. While at this junction the author could not find specific information about this ‘missing gap’, it is possible that the decline in the *Maqasid* theory’s discourses is strongly related to the decline and decadence of Islamic world (and civilization) during the period.

freedom, facilitation and the preservation of pure natural disposition (*fitrah*)” (Ashur, 2006). Rashid Rida surveyed the Qur’an to identify its *Maqasid* and concluded that they should include, importantly, reform of the pillars of faith, reason, knowledge, wisdom, proof, freedom, independence, social-political-economic reforms and women’s rights (Auda, 2008). Meanwhile Muhammad al-Ghazali called for ‘learning lessons from the previous fourteen centuries of Islamic history’ and incorporated ‘justice and freedom’ values in *Maqasid* at the necessities level (Attia, 2007).

More recently, al-Qardhawi also surveyed the Qur’an and suggested that the universal *Maqasid* are, “*Preserving true faith, maintaining human dignity and rights, calling people to worship God, purifying soul, restoring moral values, building good families, treating women fairly, building a strong Islamic nation and calling for a cooperative world*” (Auda, 2008). Kamali agreed with these higher objectives, albeit added economic development and strengthening of R&D (research and development) in technology and science for strengthening the standing of the *ummah* in the world community in the lists (Kamali, 2008). Chapra believed that the ultimate objective of all Islamic teaching is to be a blessing for all mankind, which could only be fulfilled by promoting the real well-being (*falah*) of all people on earth. Moreover, in addition to the needs associated with the essentials, the human real well-being also depends on realization of other needs such as peace, happiness, justice and brotherhood (Chapra, 2008). Meanwhile Al-Alwani proposed a more ‘compact’ list and suggests that the universal *Maqasid* should be “the oneness of God (*tawheed*), purification of the soul (*tazkiyah*) and developing civilization on earth (*imran*)” (Auda, 2008).

While it is noticeable that there are many similarities in the ‘new’ dimensions proposed by the modern scholars with the classical view, the new perspectives should be understood as the ‘products’ of contemporary scholars’ perception based on the problems in their time. It is evident that currently the Muslim world is in a tremendous decline in various aspects, especially in education, science, technology and economy. The results, among others, are poverty and backwardness as compared to Islamic civilization in the past as well as to other nations nowadays. Accordingly, there is a need for reform in the Muslim world (Chapra, 2008). Perhaps this is why the ‘new’ *Maqasid* are focused on extended universal values which are expected to contribute in reviving and reforming the Islamic civilizations.

Overall, the literature suggests that the idea of human well-being (social welfare) as an important higher purpose of Islamic law (*Maqasid al-Shariah*) and Islamic teaching in general is well recognized by scholars, especially scholars in the classical period of time. This is reflected in their writings and conceptualizing of *Maqasid al-Shariah* in which human well-being became the central theme in the theory. While this purpose is also acknowledged by contemporary scholars, in the past few decades attention has been given to other purposes such as freedom and justice which is much needed by Muslim nations in the context of

Islamic revivalism. Nevertheless, in today's context where many Muslim countries face problems of poverty and backwardness in many important aspect of live, human well-being is arguably 'return' to be a central higher purpose of *Maqasid al-Shariah*.

### **III. Theoretical Framework for Assessing Performance of *Zakah* Institution by using the *Maqasid al-Shariah* Approach**

#### **3.1. Approaches to Asses Performance of *Zakah* Institutions**

Before discussing the most appropriate approach to assess performance of *Zakah* institution, it is worth to briefly review the meaning of performance with respect to objective or the theory of *Maqasid* (higher objectives). Generally speaking, the word 'performance' has been interpreted in many ways by different authors. Nevertheless, in relation to performance measurement, performance can be regarded as a feedback which an organization received from the activities that it has undertaken (Lynch, 1997). It is also seen as a process of determining whether an organization has achieved its objectives or not (Rouse and Putterill, 2003). Thus, performance is strongly related with objective of an organization or institution.

Objective itself could be generally defined as specific commitments which are consistent with the mission of the organization over a specified time period. Due to their contribution to the fulfillment of organization's commitments and goals, objectives should be clearly defined, measurable and operational. Hence, organization's objectives or purposes should have a direct relationship with performance measurements. Indeed, performance indicators allow an institution to align and benchmark its activities against its specific objectives (Lynch, 1997).

Based on these perspectives, it could be suggested that any attempt to measure performance of *Zakah* institution can be basically done by linking specific objectives of the institution to its specified performance indicators. Thus, to measure performance of *Zakah* institution, one needs to know in advance the main objective of the institution. One then can proceeds to derive appropriate operational indicators to measure such performance, given the chosen method to do so.

In this respect, scholars have anonymously agreed that *Zakah* is an important Islamic institution with the main objective to promote social welfare and just distribution. *Zakah* is also believed to be an effective instrument to eradicate poverty and distribute income more equally within a society (see, among others, Benthall, 2003; Kahf, 1999; al-Qardawi, 2000; Ahmed, 2004; Asutay, 2011), as has been also the case in the past.<sup>16</sup> It is also notable that the

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<sup>16</sup> During the reign of the second Caliph Omar Ibn Al-Khattab, Mu'adh Ibn-Jabal as governor of Yemen did not find a poor person to whom he could give *Zakah* in the country. It was reported that the second Caliph had admonished Mu'adh after the latter had sent him one third of the *Zakah*-proceeds informing him that "I have not sent you as a tax-collector, but to take from the rich and give to the poor". Mu'adh answered the Caliph "I would not have done so, had I found somebody to take it from me". During the second year, Mu'adh sent half of the *Zakah* proceeds to the Caliph, and on the third year he sent all the proceeds of *Zakah* of Yemen to Medina telling the Caliph Omar that he did not find any poor person to accept *Zakah*. A similar

aforementioned objectives are especially relevant in today's environment. It has been reported that more than half a billion of the world's poor who lived under abject is Muslim (Obaidullah, 2008a). Most of them also have very limited of access to education and healthcare facilities as well as lived with poor housing and sanitation facilities (Ahmed 2004). Interestingly, improving human well-being or reducing poverty, as the other side of the 'coin', is also the main objective of Islamic rulings as advocated by most proponents of the *Maqasid* theory discussed earlier. Thus, with this perspective, it is argued that performance of *Zakah* institution can be principally assessed by evaluating whether the institution has contributed to improve well-being and reduce poverty in Muslim societies.

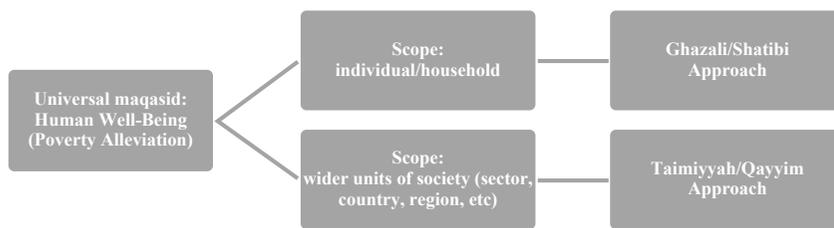
Assessment of the performance, however, also requires that the general objectives be linked to appropriate (group of) people involved with the 'achievement'. In other word, performance measurement requires focus or clear scope of people involved with fulfillment of the objective. This specification or 'classification' is an important aspect that has been recognized by contemporary scholars when they 'reinterpreted' the classical theory of *Maqasid* in the context of current Muslim world. The classification based on the scope of people involved in the rulings is also very relevant in *Zakah* studies. This is so because the scope of recipients of *Zakah*, by definition and intentions as described in the Qur'an Surah At-Taubah verse 60, is basically limited to eight groups of people only. This group of people is known as eight *asnaf* and consists of the indigent (*fuqara*), the poor (*masakin*), those in charge of the distribution of *Zakah* (*amil*), the new Muslim converts (*muallaf*), those who are freeing themselves from bondage (*riqab*), those who are in debt (*gharimin*), those who serve the cause of Islam (*fi sabil Allah*) and the wayfarer (*ibnu sabil*). People who do not belong to this group do not deserve to get *Zakah* assistance.

In line with this contemporary approach, it is argued that performance of *Zakah* institution could be generally assessed by first specifying the scope of people included in the purposes and afterward developing the most suitable method (operational indicators or measurement tool) based on the most promising *Maqasid* approach to achieve the purposes. With this view, based on the scope of people included in the purposes, it is suggested that performance of the institution could be evaluated at the micro and macro level of society. The micro level includes people in small scale communities, such as individuals and households. Meanwhile, the macro level covers people in wider units of societies and with more diverse characteristics such as a sector, region, country and other wide-based society.

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story was reported during the reign of Imam Omar Ibn Abdul-Aziz (Cited from Salih, S. A. (1999), *The Challenges of Poverty Alleviation in IDB Member Countries*, Jeddah: IRTI IDB, 71)

**Figure 1: The Scope of *Maqasid* Theory for Assessing Human Well-Being as Higher Objective of *Zakah* Institution**



In relation to measuring human well-being, particularly with critical potential for measuring well-being of *zakah* recipients, it is further argued that in a micro perspective the Ghazalian/Shatibian maxim which emphasizes the safeguarding of five basic necessities is more appropriate to examine multidimensional aspects of human well-being due to its relevance to current situation especially for the context of *zakah* recipient’s life. In a macro context, however, the Taimiyyan/Qayyimian approach which focuses on justice and equality is regarded more suitable to analyze social welfare in a wider society context as they involve or influence more people and more complex institutions (government, etc.) in a higher scope of society (See Figure 1).

The Ghazalian/Shatibian approach is relatively promising when one investigating the well-being of poor individual or household that become *Zakah* recipients (*mustahik*) due to its focus on safeguarding and promotion of the essentials, which is narrowed down to five dimensions including faith (*din*), human self (*nafs*), intellect (*aql*), posterity (*nasl*) and wealth (*mal*). Protection of these essentials is highly relevant for the poor and needy (*mustahik*) because fulfillment of these needs is paramount to the poor and his/her family’s survival yet could hardly be (satisfactorily) fulfilled. The lack of provision or access to these basic needs will jeopardize one’s life and make it difficult for them to do their spiritual and worldly affairs in good manners. In the long run, this situation could also lead to ‘destruction’ of the normal order of society.

The relevance of this approach is obvious when one consider the current situation in the Muslim world. A recent study from Islamic Development Bank reported that more than half a billion poor Muslim lives in abject poverty with income less than USD 2 per day (Obaidullah, 2008a). Furthermore, in a more general context, 47 IDB member countries with 1.1 billion population in 2001 only have combined GDP of USD 1.31 trillion which is less than that of the UK (USD 1.33 trillion) or around 15% of the US’s GDP (USD 9.01 trillion). Most Muslims are also live in deprivation, as reflected in poor housing and sanitation facilities and limited access to education and healthcare facilities (Ahmed, 2004). United Nation also reported that five of the poorest nations in the world, based on their Human Poverty Index<sup>17</sup>

<sup>17</sup> Human Poverty Index is calculated from several poverty indicators in three dimensions, namely

calculated for the Human Development Report 2007, are countries with Muslim majority. The countries include Burkina Faso, Chad, Mali, Niger and Afghanistan (UNDP, 2008). More recently, poverty, unemployment and other deprivations have presumably triggered the so-called “Arab Spring” that has impacted lives of Muslim throughout the world.

Considering this situation, what is urgently needed by the Muslims is *presumably protection and promotion of these basic needs*. Promotion of job opportunity in relation to protection of wealth, for instance, could reduce unemployment and provide people with resources for a decent living. In contemporary context, this could have prevented people from depression and destruction to one’s self which might have been triggered civil unrest in Tunisia and later inspired the wave of ‘Arab Spring’ to Egypt the neighboring Muslim countries. Likewise, opening access to education in the context of promotion of soul and mind could enable people to gain knowledge to improve well-being. Technology for improving farming productions learnt from education, for instance, could be used to increase food production in rural areas (where the poor usually concentrated) and improve well-being in general. Protection and promotion of these essential needs, especially for the poor and needy *mustahik* who are usually situated in disadvantage situations, is therefore something that must be promoted in Muslim societies. This has been strongly advocated by scholars of *Maqasid* theory, especially al-Ghazali and al-Shatibi. Without these, it can be predicted that one’s or one’s family life will be very hard and might not be long lasting.<sup>18</sup> Thus, provision or ‘preservation’ of needs is something that must be supported by *Zakah* institution.

Nevertheless, while al-Ghazali emphasizes that protection of the essentials is done by ‘blocking the means’ principle that leads to the ‘annihilation’ of the essentials, al-Shatibi further added that the safeguarding can also be done by preserving or promoting their existence. Al-Shatibi’s opinion is in line with al-Qarafi’s recommendation about ‘*opening the means of achieving good ends*’. Arguably, these principles suggest that promotion or opening access to provision of such necessities, especially for the poor and needy, is an essential method for achieving the multidimensional human well-being which is the main objective of *Zakah* institution. This principle is in line with the basic need approach to human development developed since 1970s, which has encouraged many countries to provide basic needs of their people and presumably ‘produce’ what is called as ‘the welfare state’ (Alkire and Deneulin, 2009).

In current context, however, contemporary scholars such as Parid (Parid, 2001) asserted that *Zakah* distribution must acquire at least a level of sufficiency and comfort living for the recipient and his family. The distribution must be in certain proportion that ensures continuity health, education and decent standard of living. This index is further discussed in the next section.

18 There are many examples of this ‘hypothesis’. For instance, the lack of food consumption or famine which has caused many Muslim people in poor countries such as Ethiopia and Bangladesh die in the mid of the 19th century. Likewise, the shortage of medicine supplies (which is strongly related to preservation of one’s soul), for example during war, time has taken many lives. Indeed, every ‘man-made’ disaster and their bad consequences normally related to the lack or shortage of provision of these essential aspects.

of quality life and fulfillment of certain standard of living of the household, namely the basic essentials (*daruriyyah*) and comfort (*hajiyyah*). This is agreed by al-Habshi, who expressed that the proportion of *Zakah* received by the poor should help them to improve their living standard as well as fulfill their necessities and comfort needs (to minimum of their quality of life). Thus, the *zakah* received should enable them to enhance their life. Similar view is also shared by Afzalur Rahman, Mannan, Muslehuddin, Sadeq and Abu-Bakar and Abd-Ghani (Abu-Bakar and Abd-Ghani, 2011). While this ‘extended’ perspective is relevant for certain group of Muslims, in general the Ghazalian/Shatibian perspective is still more relevant to most of the Muslim people particularly the main recipients of *Zakah* (the poor and needy).

Another perspective on why using the Ghazalian/Shatibian approach for measuring well-being of *Zakah* recipients is related to the ‘capability’ of the poor and needy to fulfill their needs and ‘claim’ their basic human rights especially from the government. The idea of ‘capability’ is particularly advocated by Amartya Sen and Martha Nussbaum. Capability or the opportunity to achieve valuable of human functioning, i.e. what a person able to do or be, is strongly related to promoting and opening access to fulfilling basic needs. Indeed, in his 1979 Tanner lecture, Sen identified the importance of basic capabilities such as “*the ability to meet one’s nutritional requirements, the wherewithal to be closed and sheltered, the power to participate in the social life of the community*” in improving human well-being and development in general (Sen 2005).<sup>19</sup> It is also recognized that poorness is usually followed by powerlessness or dysfunctional (inability to function) in a society. The poor might have ‘voices’ and eager to claim their basic human rights, such as provision of food and shelter from the ‘higher authority’, but in many cases they cannot make the potential becomes reality due to their ‘powerlessness’ (Deneulin and Shahani, 2009). This has encouraged other scholar, such as Nussbaum, to specify a definite set of capabilities as the most important ones to protect and ‘claim’ from the higher authority in which basic needs suggested by al-Ghazali are on top priorities in her list (Nussbaum, 2003).

It is also realized, however, that protection and promotion of basic human needs is strongly interrelated with the fulfillment of universal yet open-ended list of values such as justice, freedom and equality encouraged by Ibn Qayyim. In fact, it normally follows that the aforementioned global values will influence the narrower dimensions of well-being as suggested by the former *Maqasid* theory and rarely vice versa. This is maybe the reasons behind the call for Islamic reform and revivalism by contemporary scholars. Yet in situation where most of Muslim countries, especially in the Arab world, are less democratic and, according to some commentators, led by dictators, it is difficult to expect national or wide level changes in regulations/policies that promote well-being of the poorest people.

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19 See also Sen, A. (1987). “The Standard of Living”, in G. Hawthorn (ed.), *The Standard of Living*, Cambridge University Press, Cambridge; Sen, A. (2000), “Capability and Well-Being”, *Development: Challenges for Development*, 3.

A final note is related to measurement issue. Generally speaking, technical measurement is easier when it involves relatively limited number of concepts. In this respect, despite its limitations, human well-being as measured by the five levels of necessities is relatively easier to measure than those described under an unlimited or open-ended list of human well-being indicators. In practical context, it is also more useful to be able to say useful things of what happening and thereby contribute to or at least inspire policy making with the useful empirical findings<sup>20</sup> while keeping ‘alternative’ discourses alive. Thus, measuring human well-being under the Ghazalian/Shatibian approach is somewhat simpler and more useful than measuring the same concept under the Qayyimian approach. Technical issues related to this are briefly discussed in the next section.

To conclude, appropriate approach to evaluate performance of *Zakah* institution apparently depends on the scope of people involved or supported by the institution. In a micro level, which predominantly involves individuals and households, the Ghazalian/Shatibian approach which relies on preservation of five essentials seems to be more promising as a conceptual framework to measure performance or contribution of *Zakah* institution towards improving well-being and reducing poverty of the Muslim society. In a macro level, however, the well-being indicators become an open-ended list (above the necessities) depending on the dynamics within the wider society. Therefore, the Qayyimian approach seems to be quite appropriate in this context.

### **3.2. Methods to Measure Performance of *Zakah* Institution**

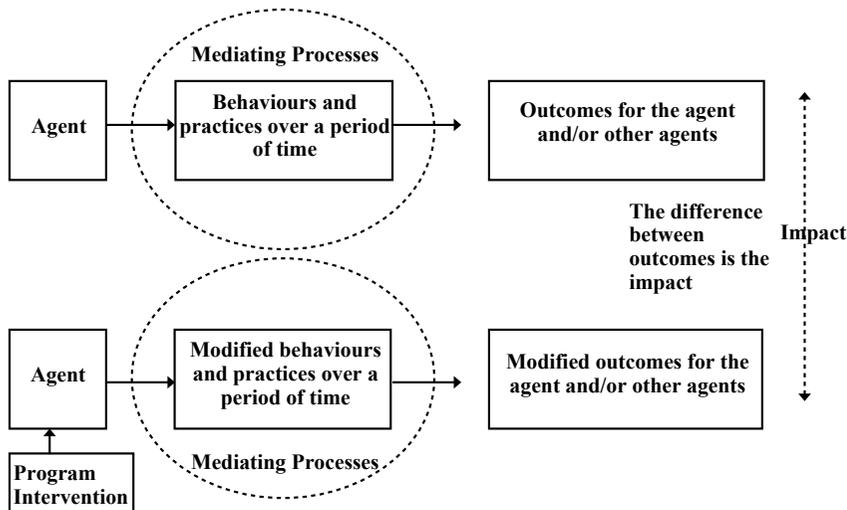
There are many methods to measure performance of an institution in a way that linking objective and performance of an institution. The simplest method might be to look at an institution’s objectives and compare them with performance or results achieved by that organization. Another method would be identifying input (resources) and output of an organization, both in financial and non-financial aspects, and compare them with strategic objectives of the organization. More recently, many organizations develop multidimensional ‘scorecards’ that evaluate performance in various dimensions or various stakeholders’ perspectives, including ‘customer’ or ‘beneficiaries’ of the organization. Some variants of this model are known as Balance Score Card or Performance Prism models. Perspectives covered in these performance models include, among others, performance from customers, employers, financial and external party’s perspective.<sup>21</sup>

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<sup>20</sup> In relation to this, in an article on the revolutions that occur within economics, a prominent British economics John Hicks acknowledges economists’ need for focus: “In order that we should be able to say useful things about what is happening, before it is too late, we must select, even select quite violently. We must concentrate our attention, and hope that we have concentrated it in the right place. We must work, if we are to work effectively, in some sort of blinkers” (1983, p. 4). Quoted from Alkire, S. (2007), “Why the Capability Approach?”, *Journal of Human Development*, 6 (1), 115–116.

<sup>21</sup> For more discussion, please see Poister, T. H. (2003). *Measuring Performance in Public and*

**Figure 2: The Conventional Model of the Impact Chain**



Source: Hulme (2000)

If one consider *zakah* assistance given to the poor and needy as a kind of ‘intervention’ that will influence or have impact on the lives of the recipient, it is possible to evaluate the impact and effectiveness of such intervention by comparing conditions before and after the intervention. This method, which is initially developed from the ‘experimental design’ method implemented in (scientific) laboratory, is increasingly used by social scientist to examine the impact of (social) policies such as microfinance on the recipients (Hulme, 2000). The impact of microfinance ‘intervention’ on SME (small medium enterprise), for instance, can be examined by looking at profit (and other performance indicators) before and after provision of capital through microfinance (see Figure 2). Nevertheless, while this ‘impact evaluation’ method seems to be an ideal way to rigorously determine the impact of a social intervention on society it has many limitations and exposed to some ethical problems (Ravallion, 2009). It is also relatively costly and time consuming (Rogers, 2009).

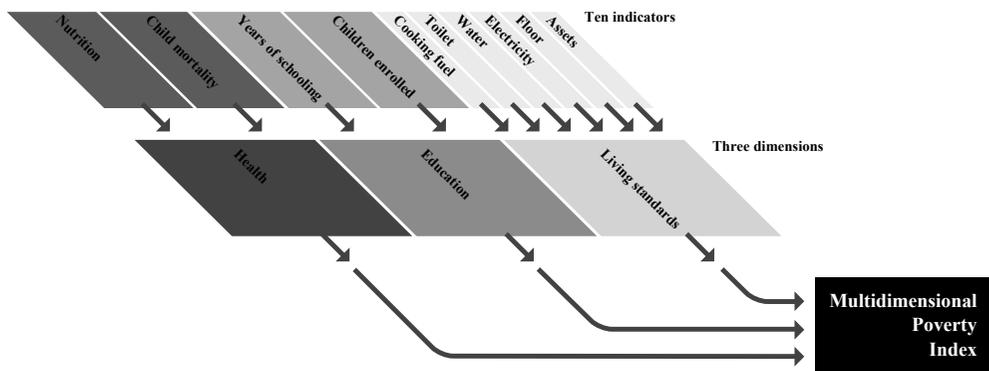
One promising and relatively simple method to measure organizational performance, with critical potential to measure performance of *zakah* institution in achieving its poverty reduction objective, is by using the operationalization method developed by Sekaran and Bougie (2010). This method breaks down abstract notions or ‘Concepts’ (C), be it objective or other specific concepts, into observable characteristic/behaviors or ‘Dimensions’ (D) and measurable characteristic/behaviors or ‘Element’ (E). For example, imagine the concept of thirst (‘Concept’). The behavior of thirsty people is to drink a lot of fluid (‘Dimension’).

*Nonprofit Organizations*, San Fransisco, Jossey-Bass; Kendall, J. (2003). *The Voluntary Sector: Comparative Perspectives in the UK*, Routledge; Kaplan, R. S. and Norton, D. P. (2001). “Transforming the Balanced Scorecard from Performance Measurement to Strategic Management: Part 1”, *Accounting Horizons*, 15, 87–104; Niven, P. R. (2008). *Balanced Scorecard Step-by-Step for Government and Nonprofit Agencies*, Wiley.

Meanwhile, the degree of thirst can be measured by the number of glasses drunk by each thirsty individual ('Element'). Despite its possible limitations,<sup>22</sup> it provides simple measurement and interpretations for analyzing well-being changes.

The simple and general method has been used in many empirical studies, albeit not in exactly the same terminologies. The Human Development Index (HDI) and the most recent Multidimensional Human Poverty Index (MHPI) launched by the United Nations, for instance, use similar approach to translate the abstract notion of development into operational and measurable indicators. Specifically, the Multidimensional Human Poverty Index (MHPI) is calculated from 10 indicators (proxies) which are derived from three important dimensions of human development, namely health, education and living standard (UNDP, 2011). Similarly, a study by Mohammed (2008) has also employed the method to develop performance indicators and measure performance of Islamic banking in several Muslim countries from financial (welfare) and education (education individual) perspective.<sup>23</sup> Nevertheless, to best of our knowledge, such method has never been used in the context of assessing performance of *Zakah* institution in Muslim countries.

**Figure 3: The Multidimensional Poverty Index**



Source: Alkire and Santos (2010), in UNDP (2011:96)

With respect to the two *Maqasid* approaches potentially promising to measure performance or contribution of *Zakah* institutions, it is argued that the Ghazalian/Shatibian approach is easier to measure than the Qayyimian approach. First, the approach has specific and limited number of dimensions given that poverty reduction is the main objective (or

22 This method potentially undermines various dimensions inherent in an abstract concept and unable to include too many operational indicators in it. Nevertheless, this is an issue that always appears in any 'modeling' or measurement attempt and must be deal with certain considerations.

23 Mohammad (2008) actually attempted to include the concept of justice in his analysis. This concept is translated into two major operational indicators, namely fair price of Islamic banking products and fair return to Islamic banks. However, he could not find the appropriate data for measuring the concept and proxies that he has designed, and subsequently drop this concept from his analysis.

‘concept’) of the institution. The former only has five dimensions rather than an open-ended list of human well-being indicators suggested by the latter. Second, it has a smaller scope of analysis due to the smaller scope of people included in the purposes, i.e. individuals or households vs. wider society units respectively. Consequently, in terms of data collection, developing measurement models and collecting primary data based on the Ghazalian approach will be relatively easier and cheaper than collecting data under the Qayyimian approach.<sup>24</sup> There are of course many trade-offs between these alternative. Choice, therefore, must be made in line with objective of the study undertaken.

#### IV. Concluding Remarks

Despite the beliefs that *Maqasid al-Shariah* is probably one of today’s most important intellectual means and methodologies for Islamic reform, it is hardly used beyond Islamic Jurisprudence studies. This study, therefore, attempts to review the development of *Maqasid* theory and discuss the possibility of measuring contributions of *Zakah* institution by using the *Maqasid* approach. It also discusses some possible operational methods to measure financial and social performance of *zakah* institutions in improving human well-being and reducing poverty that characterized Muslim *ummah* nowadays. It is further suggested that it is highly possible to developed methods to measure contributions of *zakah* institution towards human welfare by employing the *Maqasid al-Shariah* theory.

The study also proposes a simple method to operationalize the concepts derived from the *maqasid* approach in measuring the (changes in) well-being particularly in the micro level. This method translates the abstract notion of concepts into observable characteristic/behaviors and measurable characteristic/behaviors. Thus, five necessities concepts suggested by al-Ghazali can be translated into several dimensions and operational indicators that reflect the change in human well-being particularly the *zakah* recipients. While it is acknowledged that this method has limitations, it provides simple measurement and interpretations for analyzing well-being changes that hopefully contributes to policy making. It is also less costly and less time consuming as compared to other methods such as the experimental design methods.

The study hopes that discussions in this paper could enrich understanding regarding the ‘alternative’ approach and method, namely the *Maqasid al-Shariah* approach, to address problems of the *ummah* in a way that is in line with Islamic tradition and aspirations. It also hopes to invite more discussions regarding potentials of using the relevant concepts to measure financial and social performance of Islamic institution, most notably *Zakah* institution. Ultimately, the study expects to contribute to the stock of knowledge in Islamic

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<sup>24</sup> Actually, it is possible to use existing national ‘indicators’ to look at various dimensions of life in a particular Muslim country, as exercised by Rehman and Askari (2010). However, since the existing index might be designed for specific purposes, it might not be suitable for other purposes. Thus, this approach also has limitations.

economics, banking and finance.

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