



The Concept Of Maslahah Mursalah According To Ash-Syatibi In Islamic Law

Sakban Lubis, Syarifuddin

Faculty of Islamic and Humanities

Universitas Pembangunan Panca Budi, Medan, Indonesia

Email – sakbanlubis@dosen.pancabudi.ac.id

ABSTRACT: *The problem is one of these mursalah Islamic law that is still disputed by scholars of Fiqh. This is the proposition mursalah Maslahah to assign a new issue that has not been mentioned explicitly in the primary sources, the Qur'an and as-Sunnah, either accepted or rejected. This paper discusses the application of the method of maslahah mursalah in determination of an Islamic law. Writing review thought sy-Syâtibî, which defines the maslahah mursalah is maslahah found on new cases that are not designated by certain nash but he conceived the benefit which coincided (al-munâsib) with action syara'. The concept of action (tasharrufât) syara' in this regard should not be supported with specific evidence for standalone and pointed at the maslahah group basis but can benefit for sure (qat'i). New problems that there has not been confirmation, either permitted or denied, and contain the benefit that was decided by maslahah mursalah is related to issues of muamalat pertaining to worship instead. The use of maslahah mursalah as evidence for the determination of the law just for the needs of the nature dharûrî and hâjî. Determine the benefit of an action that would later be made the basis of consideration in the Canon of maslahah mursalah can use its full potential. This mursalah maslahah resting on the benefit. Observing the main postulate basis maslahah mursalah, then found out about the theory of inevitability into a benefit in the use of maslahah mursalah as evidence Islamic law. Many scholars of Fiqh in the proposal that are trying to develop the concept of maslahah mursalah. Among the scholars of Fiqh proposal is Al-Syâtibî.*

KEYWORDS: *Concept, Syatibi, Masalahah Al-Mursalah, Islamic Law.*

I. INTRODUCTION

The problem is one of these mursalah Islamic law that is still disputed by scholars of Fiqh. This is the proposition mursalah Maslahah to assign a new issue that has not been mentioned explicitly in the primary sources, the Qur'an and as-Sunnah, either accepted or rejected. The first originator of maslahah mursalah as Canon law this is attributed to the priest Mâlik, figure and founder of the sect Mâliki. Maslahah mursalah as legal evidence for this option starts from the death of Muhammad. As the prophets and Apostles. Along with the death of the Prophet, the Quran revelation had stopped falling, and the word-words of the Prophet have stopped anyway. In the meantime, the problem continues to grow along with the development of the community itself. This is where the idea of emergence of maslahah mursalah as options evidence Islamic law.

In its application, this mursalah maslahah resting on the benefit. Observing the main postulate basis maslahah mursalah, then found out about the theory of inevitability into a benefit in the use of maslahah mursalah as evidence Islamic law. Many scholars of Fiqh in the proposal that are trying to develop the concept of maslahah mursalah. Among the ulema proposal fikih is Al-Syatibi. This paper tries bringing thought Al-mursalah maslahah about Syatibi. In this paper, will be preceded by a presentation of the life of Al-Syatibi, the concept of maslahah secara umum, Al-Syatibi and thinking about maslahah mursalah.

II. DISCUSSION

A. The Biography Of Al-Syatibi

Al-Syatibi, a character who will review his thoughts on maslahah mursalah, has the full name of Abu Ishaq Ibrahim bin Musa al-Syatibi Al-Garnati. He was born in Granada in the year 730 H and died in 790 H in the same place. Al-Syatibi, a popular name that exists behind his full name, name of the town is the birth family. Al-Syatibi family originally lived at Syatibi, but due to the political situation at that time, the temple family Syâtibî does not allow to live at Syâtiba. They were forced to live in Granada. As it known that Syâtiba of that time are being hit by internal political struggles of



1st INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

Muslims which resulted in the beralihnya of power from Islam to Christianity so that Al-Syatibi was allegedly not strong born in the city of Syatiba, city of the birth place of his family.

Al-Syâtibî was in Granada was estimated during the reign of Ismâ'îl bin Farraj's ruling in the year 713 H. As quoted by Abû al-Afjan, that political life in the country at the time of Granada Al-Syatibi is unstable due to internal friction as incessant.

A power struggle between Muslims do not seem to be unstoppable without regard to the future of Islam in the future. Internal conditions Moslems full this conflict gave a fresh wind for other groups, notably the Christian who has long wanted to master the Granada from the hands of the Muslims. Although the political turmoil continues to run, the academic climate in Granada at the time Al-Syâtibî has not turned the public to continue to turn the scientific studies, even arguably still the rapid development, particularly the life touch the world of science. For example, when it has been established a University of Granada. In addition to the University as a symbol of the strong academic development, Granada also owns the popular alhambra Palace. It is a form of the symbol of the high level of civilization developed. However, this rapid scientific developments are not comparable to the political conditions that continue to be turbulent.

The political situation being turbulent, ash-Syatibi do not recede to study so he became cleric honours celebrities in the fields of Fiqh proposal. Since childhood, Al-Syatibi has shown interest in the world of science, in particular the Islamic sciences. Diligently, he learned the Arabic language to the scholars, for example, Abû ' Abd Allâh Muhammad Ibn Fakhkhâr al-Birî (d. 754), Abû Qâsim Muhammad ibn Ahmad (d. 760), and Abû Ja'far Ahmad Al-Syarqâwî (d. 762). Regarding the study of Hadîth-Hadith of the Prophet, he learned to Abû Qâsim bin Bina and Shams ad-Dîn Al-Tilimsâni (d. 781 AH). The science of kalam he earn from Abû ' Alî scholars Mansur Al-Zawâwî (d. 770 H). As for the science of Fiqh, science of the proposal later toss his name as scholars of Fiqh in the proposal through a monumental work in the field of jurisprudence, that suggested al-Muwâfaqât fi Ushûl al-Ahkâmdan al-Itishâm, he gained from Abû ' Abd Allâh scholars Muhammad ibn Ahmad al-Miqarri (d. 761) and Abû ' Abd Allâh Muhammad ibn Ahmad Al-Syarîf Al-Tilimsâri (d. 771).

He taught disciplines, especially the Fiqh and Fiqh proposal. Many scholars of the time studying him, especially as a student. Call it here, for example, Abû Yahyâ Ibn Âshim, Abû Bakr al-Qâdzî and Abû ' Abd Allâh al-Bayânî. The latter name is scholars ever to assume the post of qâdzî in those days, a high position in a Caliphate of Granada. One of the books written by al-Bayânî, Tuhfah al-Hukkâm is is a fairly known among judges at the time for being the reference book of judges in resolving the issues raised by the citizens.

Al-Syâtibî as a cleric with a breadth has written numerous books, both with regard to jurisprudence and jurisprudence of the proposal as well as other fields. The works ever written by ash-Syâtibî, among them the Syar ' Jalîl ' alâ al-Khulâshah fî al-Nahw, Khiyâr al-Majâlis, Syarh Rajz Ibn Mâlik fi al-Nahw, Inwân al-Ittifâq fî Isytiqâq al-Ilm, and Ushûl al-Nahw. These works constitute the writings of Al-Syâtibî that have not been published and published to the public. In addition to these works, there are still other works written Al-Syâtibî. Among them is al-Muwâfaqât fi Ushûl al-Ahkâm al-I» tishâm, and al-Ifâdât wa al-Irsyâdât. Three works called this is the work that has been published so that Muslim communities in various parts of the Islamic world can read and understand it well.

Thoughts of law of Al-Syâtibî has gained a positive response from many Muslims from different generations, which in essence are very appreciative towards the thought of ash-Syâtibî. For example, a high appreciation given by the scholars told Al-Syâtibî because of his skill in the appeal of his contemporary scholars. The confession of one of the original scholars of Spain, namely Abû Wâsim bin Siraj (d. 848 H), attest to the keulamaan Al-Syâtibî in the field of Islamic law. According to Abû Wâsim, he found it difficult to berfatwa with the fatwa a fatwa-different to what difatwakan by Al-Syâtibî. The same has been said recognition by Abû ' Abd Allâh al-Majarî al-Andalûsî. According to his testimony, Al-Syâtibî was famous in his day the Supreme Master.

B. Understanding

Maslahah mursalah consists of two words, i.e. words maslahah and mursalah. Seen from the etymologically, the word is a form of masdar maslahah (adverb) of fi'l (verb), namely صلح (saluha). As for the views of the side of the shape, the next word is a form of maslahah adverb, it is also a form of ism (noun) a singular (singular, singular) of the word masâlih (jama ', plural). The word maslahah has been absorbed into the language of Indonesia into Affairs, likewise said the benefits and avail.



1st INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

A large Indonesian Language Dictionary distinguish between Affairs said with the benefit. Affairs said, according to the dictionary, refers to something good, and to avail. Whereas the said benefits have the meaning of usefulness, the good, the benefit, the benefit. From here clearly that Large Indonesian Language Dictionary to see that the words of the Affairs to be included as a basic Word, whereas the word benefit included as a noun derived from the verb jadian Affairs that get the prefix and suffix to an.

Etymologically, the word has a meaning: manfa'ah maslahah (منفعة), avail, nice, good (good), guna (usability). According to Yûsuf Hâmid al-' Âlim, in his book al-Maqâsid al-' Âmmah Al-Syarî'ah li al-Islâmiyyah States that it has two maslahah sense, i.e. the meaning of majâzî and the haqîqî. That is the meaning of majâzî here, said al-an ' Âlim, is an act of (al-fi'l) in which there is goodness (saluha) which has the meaning of benefits. An example of the meaning of this majâzî, for example, seek knowledge. With science will result in benefit. Other examples, for example, farming and trade, by doing this, all will be obtained benefits, namely acquired ownership of the property. The meaning of maslahah like this is the opposite of mafsadah because it is not possible, both of which can be met in an act. The meaning of maslahah in majâzî this clearly can be found in the books of ma'âjim allugah, including the dictionary of al-Muhît and al-Misbâh al-Munîr.

Whereas the definition of the meaning of maslahah in haqîqî is maslahah which are mention has meaning almanfa'ah. Meaning as is different from the meaning of majâzî. Meaning like this can be seen in mu'jam al-Wasît as-almaslahah, that the wrong wa an-naf '. If saluha, said al-' Âlim is surely missing the damage because of it, said Al-saluha syai ' it means it is useful or appropriate (munâsib). Based on this meaning, al-' Âlim provide examples, for example, the pen has the benefit to writing. Therefore, the almaslahah is majâzî in the sense of certainty humans benefit from what is done. While almaslahah in the sense of haqîqî is in the Act itself contains the benefits. Here al-' Âlim does not explain how to obtain the benefits of it as what and how.

Taufiq Yûsuf al-Wa'i, in one of his books mention that everytime something in which there is a benefit, whether obtained by searching the avail-avail or pleasure-pleasure or by way of avoiding or withdrawing from the damage, all It can be categorized as maslahah. Based on this search, then it can be inferred that in the language, the meaning is that every good of maslahah (al-khair) and benefits.

Husain Hamîd Hassan, in his book Nazariyyah al-Maslahah, argues that, seen from the side of maslahah mention nor meaning it is identical with the word benefit or a job which contains or bring benefits. Ahmad ar-Raisuni in his book Nazariyah al-Maqâsid ' inda al-Imâm Al-Syatibi trying to clarify these benefits from expressions of expediency. According to him, the meaning that is bringing the benefits of maslahah or avoiding kemudaratan. Whereas the definition of benefit here is the expression of the pleasure or whatever path leads to pleasure. As for kemudaratan is meant by the expression of pain or anything the road leads to pain.

Ibn ' Abd al-Salâm, said Ahmad Al-Raisûnî, dividing the maslahah there are four, namely the enjoyment, the reasons for delight, happiness and the causes that makes happiness. According to ar-Râzî, in his book Muhtâr Al-Sihhah, explains that meanings are the opposite of salâh al-fasâd. AR-Râzi concludes that looking for the maslahah is an action that the opposite of getting damages or malice.

So is al-Jauharî, in a raw Taj al-Lugah, he defines the Word as-salâh as opposed to said al-fasâd. While al-Fayûmî, in his book al-Misbâh al-Munîr, gives the meaning of al-salâh is alkhair (good) and as-sawâb (the truth). Based on this meaning, the word al-Fayûmî fî expression, if there is al-amri maslahah, then this phrase means something that has al-khair (good). Through the search of meaning expressed by some of these figures, it can be concluded that the meaning that identical salâh al-with benefits, goodness and truth. If it is associated with the objectives of Islamic law, then the benefit, goodness and truth here is for humans, either directly or indirectly, either in the world or in the hereafter.

Al-Buti, in his book, Dawâbit al-Syarî'ah al-fîasy Maslahah-Islâmiyyah, interpret the maslahah equal to the benefits that can make fun of, or an act which could prevent damage (results) can provide the benefits of pleasure. This pleasure, said al-Bûtî, can be felt instantly. Because, it is an innate pleasure that always searched every man, therefore, people will always be able to find pleasure.

'Izzu ad-Dîn bin Abd as-Salâm (w. 660) when explaining the meaning of al-masâlih (jama', the plural of the word maslahah) associate with antonym (opposite) of al-masâlih al-mafâsid, i.e. the (jama', the plural of the word mafsadah). According to him, is the al-masâlih it is the al-khair (good), al-naf ' (benefit), al-hasanât (good), while mafâsid is meant by it all is (bad), syurûr madarah (the



1st INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

danger), and sayyiât (ugly). In the Qur'an, the word ' Izzu ad-Dîn more, often use the word al-hasanât is al-masâlih, whereas the use of the word sayyiât is meant by the word al-mafâsid.

C. Track and conditions of Maslahah al-Mursalah

According to the fiqh, Usul al-mursalah maslahah is the benefit that has been disyari'atkan by syari ' in the form of law, in order to create the benefit, in addition to not there is evidence that justifies or blame.

Therefore, al-mursalah maslahah called absolute because there was no evidence that States right and wrong. Based on such understanding, the establishment of law based on the benefit is solely intended to seek the benefit of the human being. This means that, in order to look for something that is profitable, and also avoid the human kemudharatan which is very broad. Affairs to it is something that evolves based on developments that always exist in any environment. Regarding the formation of the law, sometimes seem profitable at some point, but at some point the other thus elicit regard. Similarly, in an environment sometimes favourable in certain environments, but regard another environment.

As for proofs about to-Ibn an maslahah al-mursalah is as follows:

1. The real problem about repair man always comes up and never stops. If not using maslahah al-mursalah then cannot set a new permasalahanpermasalahan that arise to improve human beings.
2. Verily, there have been many people who use maslahah almursalah, i.e. from the companions, the Tabi'in and the mujtahid. They use al-mursalah maslahah to the truth is needed, such as Abu Bakr Companions collecting mushaf-mushaf and then entered into the Qur'an.

Regarding the various requirements to make theses maslahah almursalah that will be applied to dig a law, is:

1. Al-mursalah Maslahah used on an object the real truth, not to object to his righteousness in just guesswork.
2. Hendaknya maslahah al-mursalah digunakan pada obyek yang bersifat universal bukan pada obyek yang bersifat individual/khusus.
3. Should not contradict the laws of sharee'ah which has been set by Nash or consensus.

Other opinions, expressed by Maliki as stated in the book of Abu Zahrah essay entitled, Usul fiqh, explained that the terms of maslahah al-mursalah can be used as the legal basis is:

1. qualifications between the pros used reliably in accordance with their condition and one of the purposes of those that use an element of maslahah al-mursalah. While an element of maslahah al-mursalah not of political appointees from basis-basis of the tree and did not contradict the basis-basis of Qat'iyah.
2. Should al-mursalah maslahah acceptable rationally in the case against the existing problems. That is to say against the corresponding problem in sense. Then when an element of maslahah almursalah offered to scholars, then they can accept it.
3. Let use maslahah al-mursalah that doesn't get rid of existing, and in case when not using the theory of rational, then humans will experience was limited in thinking. God in his word mention, which meant, God is not religion for you guys in narrow.

Related some groups who do not want to use the al-mursalah maslahah as the Foundation and footing in establishing legal, the reason is as follows:

1. Indeed, the sharia is enough to organise human problems with indicators generated from qias.
2. Indeed the law of sharee'ah can already establish the certainty of a truth.
3. Sesungguhnya maslahah al-mursalah tidak dapat mendatangkan dalil yang khusus, yang dalam keadaannya maslahah al-mursalah itu hanya semacam kesenangan yang sesuai dengan keinginan.
4. The use of maslahah al-mursalah is an action that is not based on a Nash, so will bring or lead to tyranny in humans, as well as run the rulers dzalim.
5. When al-mursalah maslahah taken by reason of what it is, will surely bring good difference difference tribes, regions or in the same thing. This will certainly create a dualism of the opposite legal solutions. One look at one thing forbidden area while other areas should look at because there are benefits. This is clearly not in accordance with the law of souls ' eternal syara and cater for all mankind.

According to the theory of Usul fiqh, if in terms of or no evidence in favor of a mutual relationship, maslahah is divided into three kinds, namely:



1st INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

1. Masalahah Al-Mu'tabarrah, Masalahah al-mu'tabarrah yakni al-maslaah yang diakui secara eksplisit oleh syara' dan ditunjukkan oleh dalil (Nash) yang spesifik. Agreed upon by the scholars, that these types of masalahah shar'iyah hujjah is a valid and authentic. The organic manifestation of type almas lahah is nothing to applications. For example, in the QS. Al-Baqara (2): 222 Allah SWT said, paragraph 10:

Meaning: they ask you about the menstruating. Say: "Hah is a dirt ". Therefore, you should keep away from menstruating women at the time; and do not approach them, before they are sacred. If they have, Then they were campurilah in the place God commanded you. Verily, God loves the people who repent and liked people who purify themselves.

Of the verse, there is a norm that wives who are menstruating (menstruation) may not (haram) disetubuhi by her husband due to the existence of the danger of the disease caused.

1. An element of masalahah Al-Mulghah al-mulghah is an element of Masalahah al-maslahah which is not acknowledged by syara' , even rejected and deemed permissible batil. As an illustration of the stated legal opinions that said the portion of the inheritance rights of lakilaki should be as large and the equivalent portion of the inheritance rights of women, with reference to the basic thoughts of the spirit of gender equality. Rationale in this regard is indeed pregnant al-maslahah, but does not correspond to the conditions outlined by Allah SWT, so almaslahah like this is mentioned by al-maslahah almulghah.
2. Al-mursalah Masalahah Masalahah al-mursalah namely al-maslahah explicitly unrecognized by syara' nor rejected and deemed false by syara', but still in line with the substantive law of universal kaidahkaidah. As an example, taxation law policy set by the Government.

Al-mursalah Masalahah Masalahah al-mursalah namely al-maslahah explicitly unrecognized by syara' nor rejected and deemed false by syara' , but still in line with the substantive law of universal kaidahkaidah. As an example, taxation law policy set by the Government.

D. Masalahah al-Mursalah As Legal Basis according to the Asy-Syatibi

Asy-Syâtibî including the fuqahâ ' Mâliki sect that views the motion fikihnya, including about masalahah mursalah, researched by various thinkers that came later. The thought of Al-Syâtibî of masalahah mursalah poured in two of his books are popular in Muslim lands at this time. Two of the book is al-Muwâfaqât fi Ushûl al-Ihtishâm and al-Ahkâm.

Al-Muwâfaqât fi Ushûl al-Ahkâm, Syâtibi Al-mursalah masalahah suggests that is the proposition that can serve as the technique of determination of Islamic law. Even so, as a legal proposition, said Al-mursalah masalahah Syâtibî, has not yet been agreed upon by the scholars validitasnya jurisprudence suggested to serve as evidence for the determination of Islamic law.

In Al-Syâtibi, there are at least four of the attitude shown by the scholars of Fiqh in the proposal with regard to the use of masalahah mursalah:

First, opinions that approved the use of masalahah mursalah as evidence for the determination of the law when it based on the evidence.

Second, the opinion which recognizes absolutely the use of masalahah mursalah as evidence of legal designation, such as Imam Mâlik.

Third, the opinion of who received it with a meaning close to the basis of the Qur'an and as-Sunnah al-Maqbûlah.

Fourth, the opinions received use of the evidence for the benefit of masalahah mursalah dharûf only as for the benefit of hâjî and unacceptable tahsini.

Al-Syâtibî in al-Muwâfaqât fi Ushûl al-mursalah masalahah defines Ahkâm is masalahah found on new cases that are not designated by certain nash but he conceived the benefit which coincided (al-munâsib) with action syara. Kesejalanan action (tasharrufât) syara' in this regard should not be supported with specific evidence for stand alone and pointing at maslahtersebut but be a group basis which gives benefits for sure (qat'î). When the proposition is for sure the meaning of kullî, then the basis of the kullî of a sure strength equal to one basis of certain.

The definition proposed above, evidence of the use of keywords masalahah mursalah is kesejalanan (mulâ'im, almunâsib) between the benefit that was conceived in a new problem and the concept of maqâshid Al-syarî» ah which is not shown directly by nash. In his book al-Istisham, Al-Syâtibî gave an explanation of the position of masalahah conceived in a new problem as seen from the kesejalanan that may serve as the basis of consideration in the determination of the law. Seen from this side of the consonant masalahah, be divided into three.



First, the *maslahah* contained unacceptable *eksistensinyakarena* based on *kesejalanannya* with hints of *sharee'ah*. The scholars justify *maslahah* like this. In other words, this first category of *maslahah* accepted because his appointment was based on evidence *syara'*. An example of this is the law of *maslahah qishas* to maintain the safety of the human body and soul.

Second, the *maslahah* conceived in these new issues is based on subjective human thinking but rejected by *syara'*. Turned this *maslahah* because *maslahah* found contrary to *nash*. This kind of *Maslahah* driven purely by lust so its existence can not be used as a consideration in the determination of the law.

Third, the *maslahah* found in a new issue not appointed by a special or particular propositions proposition but also there is no evidence to justify or reject it.

According to Al-Syâtibî, for the *maslahah* like this, there are two possibilities: first, there is the *kesejlanan* confirm with *nash* *maslahah* conceived by new problems; and second, the *maslahah* aligns with universally *sharee'ah*, rather than with a particular proposition. This second model is commonly referred to with the *maslahah mursalah*. In other words, every *maslahah* from an action or conduct that *kemaslahatannya* not described by *nash*, but in line with the actions of *sharee'ah* universally, then it becomes correct *maslahah* so he can serve as a technique the determination of the law.

Al-Syâtibî in al-Istisham gave ten examples of cases the determination of the law formulated by using *maslahah mursalah* as the technique of determination of law. Taufîq Yûsuf al-Wâ'î added that the discovery of the new issue on *maslahah* must be grounded in a certainty based on evidence-*sharee'ah* are authentic. Canon law does not stand alone but must be combined with the other evidence. In the reading of Taufîq Yûsuf al-Wâ'î, Al-Syâtibî by some circles considered defenders Mâlik *maslahah mursalah* sat with on a proper understanding. Taufîq Yûsuf al-Wâ'î added that the explanation of *maslahah* Syâtibî Al-*mursalah* can be returned to the appropriate statement (al-*munâsib*). The corresponding statement that there was no reason that points about it, in this case there is no legitimate basis that shows specifically on the appropriate statement and its existence is also not based on *qiyâs* that can be accepted by common sense. That is, the invention of conformity with *nash* is not based on the *qiyâs*.

New problems that there has not been confirmation, either permitted or denied, and contain the benefit that was decided by *maslahah mursalah* is related to issues of *muamalat* pertaining to worship instead. The reasons expressed Al-Syâtibî on the use of *maslahah* legal assignment technique *mursalah* for *muamalat* is because issues can be tracked *muamalat rasionalitasnya* while *ubudiyah* problem cannot be traced *rasionalitasnya*.

The use of *maslahah mursalah* as legal assignment techniques just for the needs of the nature *dharûrî* and *hâjî*. The nature of *dharûrî* here the intent is as a rule: your fatherless *mâlâ al-wâjibu fahuwa wâjib bihi illâ*. Meanwhile, the nature of the needs of *hâjî* intent is to eliminate the difficulties so that with the use of a person's life be light *maslahahmursalah* (*takhffif*).

The explanation that has been said by Al-Syâtibî in two of his works in the above, the conclusion that can be taken that can be *mursalah* *maslahah* as evidence for the determination of the Islamic law which is independent, with some of the terms. First, the benefit of a legal basis in the evidence for the *maslahah* *maslahah mursalah* is not mentioned by *syara'* but there is no evidence to justify or reject it and in line with the will to achieved by *syara'*. When there are special propositions appointed her, then it is included in the *qiyâs* study area. Second, the determination of the consideration made *maslahah* such laws do indeed include logical. Third, the determination of the consideration made *maslahah* law is *dharûrîyyah* and *maslahah hâjîyyah*. Fourth, the *maslahah* can improve a life and eliminate the trouble or the pettiness of life which is not desired by *syara'*.

According to al-Wâ'î, Al-Syâtibî has its own *manhaj* can so distinguish Al-*manhaj* this Syâtibî with al-Ghazali, Al-Tûfî, and other scholars of Fiqh in the proposal. First, Al-Syâtibî did not stop only at *nash* solely as a where *Dhâhiriyyah* followers that do not acknowledge the existence of the spirit of the Sharia but Al-Syâtibî trying to see the spirit of the Sharia in determining the *maclahah* for the benefit of mankind. Second, Al-Syâtibî in his not rigid in an orderly sort in accordance with the ranking of *maslahah* but ash-Syâtibî more view on the essence of *maslahah* itself. Third, ash-Syâtibî don't let common sense beyond Shariah but resourceful remain maximized in *sharee'ah* Guide to obtain the benefit of the world and the hereafter. Fourth, Syâtibî Al-*mursalah* *maslahah* divides into three, namely Sharia can accept its existence; Sharia refuse reject it; and there are no special provisions that accept or reject it. For this third Division, ash-Syâtibî divides into two parts, namely,



1st INTERNATIONAL HALAL CONFERENCE & EXHIBITION 2019

nash turned it down and i received it» syar. This is called with the *istidlâl mursal* *mursalah* *maslahah* or. This can be used as evidence for legal determination to develop the study of law. Fifth, *Al-mursalah maslahah Syâtibî* based on reason, *nash*, and the exemplary examples in the *salaf as-shâlih*. Sixth, *Al-mursalah maslahah* to distinguish between *Syâtibî* and *bid'ah*. *Maslahah mursalah* used for *muamalah* whereas *innovation* has to do with *worship*.

Determine the benefit of an action that would later be made the basis of consideration in the technique of *maslahah mursalah*, according to *Al-Syâtibî*, can use its full potential. Even the word *Al-Syâtibî*, the use of maximum intellect itself is a form of benefit.

III. CONCLUSION

Based on the description of the previous descriptions it can be concluded that *Al-mursalah maslahah Syâtibî* define is *maslahah* found on new cases that are not designated by certain *nash* but he conceived the benefit which coincided (*al-munâsib*) *syara* with action. Action (*tasharrufât*) *syara*» in this case should not be supported with specific evidence for standalone and pointed at the *maslahah* group basis but can benefit for sure (*qat'î*). When the proposition is for sure the meaning of *kullî*, then the basis of the *kullî* of a sure strength equal to a certain proposition.

New problems that there has not been confirmation, either permitted or denied, and contain the benefit that was decided by *maslahah mursalah* is related to issues of *muamalat* pertaining to *worship* instead. The reasons expressed *Al-Syâtibî* on the use of *maslahah* as evidence of the legal assignment *mursalah* for *muamalat* is because problems *muamalat* *rasionalitasnya* can be tracked while the *ubudiyah* problem can not be tracked *rasionalitasnya*. The use of *maslahah mursalah* as evidence for the determination of the law just for the needs of the nature *dharûrî* and *hâjî*. The nature of *dharûrî* here the intent is as a rule: your fatherless *mâlâ al-wâjibu fahuwa wâjib bihi illâ*. Meanwhile, the nature of the needs of *hâjî* intent is to eliminate the difficulties so that the use of *maslahah mursalah* person's life be light (*takhfîf*). Determine the benefit of an action that would later be made the basis of consideration in *dalilmaslahah Al-mursalah*, according to *Syâtibî*, it can use its full potential. Even the word *Al-Syâtibî*, the use of maximum intellect itself is a form of benefit.

IV. REFERENCES

- [1] Faishal Haq, A. *Faisal Haq, Usul fiqh norms Applying Islamic law*, Surabaya: Citra Media, 1997.
- [2] Abû al-Afjan, *Min AoearFuqahâ' al-Andalus: Fatâwâ al-Imâmasy-Syâtibî*, Tunis: Matba'ah al-Kawâkib, 1985.
- [3] Ahmad ar-Raisûnî, *Nazariyah al-Maqâsid 'inda al-Imâm asy-Syâtibî*, Herndon: ad-Dâr al-'Âlamî li al-Fikr al-Islâmîy, 1995.
- [4] Al-Bûtî, *Dawâbit al-Maslahah fiasy-Syarî'ah al-Islâmiyyah*, Beirut: Muassasah al-Risâlah, 2001.
- [5] Al-Fayûmî, *al-Misbâh al-Munîr*, Mesir: Mustafâ al-Bâbî al-Halabî, 1950.
- [6] Asy-Syâtibî, *al-Muwâfaqât fi Usûl al-Ahkâm*, Beirut: Dâr al-Ma'rifah, t.t.
- [7] Ibn al-Manzûr, *Lisân al-'Arabal-Muhîr*, Beirut: Dâr al-Fikr, 1972.
- [8] Izzu ad-Dîn b `Abd al-Salâm, *Qawâid al-Ahkâm fi Masâlih al-Anâm*, Kairo: Maktabah al-Kulliyât al-Azhariyyah, 1994.
- [9] Miftahul Arifin, *Usul fiqh norms Applying Islamic law*, Surabaya: Citra Media, 1997.
- [10] Mucmafâ Al-Marâgî, *al-Fat' al-Mubîn fil abaqât al-Ushûliyyîn*, Beirut: Muhammad Amîn RamjwaSyirkah, 1974.
- [11] Muhammad bin Husain bin Hasan Al-Jizani, *Mu'alim Usul Al-Fiqh*, Riyad: Dar Ibnu Al-Jauzi, 2008.
- [12] Muhammad Khalid Mas'ud, *Islamic Legal Philosophy: A Study of AbûIshâq al-Shâtibî's Life and Thought*, Islamabad: Islamic Research Institut, 1977.
- [13] Rachmat Syafé'i, *Ilmu Ushul Fiqh*, Jakarta: Prenada Media Group, 2010.
- [14] Said Agil Husin Al-Munawar, *Build Methodology Usul fiqh*, Jakarta: PT. Ciputat Press, 2014.
- [15] Sayfuddin Abi Hasan Al Amidi, *Al-Ahkam fi usul al-Ahkam*, Juz 3, Riyad: Muassasah Al-Halabi, 1972.
- [16] Taufiq Yûsuf al-Wâ'î, *al-Bid'ahwa al-Maslahah al-Mursalah: Bayanuhâ, Ta'siluhâwaAqwâl al-Ulamâfihâ*, Kuwait: MaktabahDâr at-Turâoe, t.t.
- [17] The Ministry of education and culture, the great Indonesian Language Dictionary, Jakarta: Balai Pustaka, 1996
- [18] Yûsuf Hâmid al-'Âlim, *al-Maqâsid al-'Âmmah li asy-Syarî'ah al-Islâmiyyah*, Herndon Virginia: The International Institute of Islamic Thought, 1991.