Vol. 04, No. 2, pp. 138-154 | DECEMBER 2024
DOI: https://doi.org/10.34118/jskp.v4i02.4015

Article history (leave this part):
Submission date: 2024-04-15
Acceptance date: 2024-11-07
Available online: 2024-12-23
Keywords:
Maqasid Al-Shari'ah, Epistemological, Methodology, Ossul fiqh, Science terms **Funding:**
This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.
Competing interest:
The author(s) have declared that no **competing interests** exist.
Cite as (leave this part):
Kadous , abdellah, & Allali , M. (2024). Title-. Journal of Science and Knowledge Horizons, 4(01), 663-690. https://doi.org/10.34118/jskp.v4i01.3892

The authors (2024). This is an Open Access article distributed under the terms of the Creative Commons Attribution (CC BY NC) (http://creativecommons.org/licenses/by-nc/4.0/) , which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited

Journal of Science and Knowledge Horizons
ISSN 2800-1273-EISSN 2830-8379

THE EPISTEMOLOGICAL DIMENSION OF MAQASID Al-SHARI'AH SCIENCE

ahmed dib * University of Larbi Ben M'hidi Oum El Bouaghi,Algeria ;

dib.ahmed@univ-oeb.dz

https://orcid.org/0009-0001-4884-2501

Abstract:

Here is an apparent methodological problem in the knowledge arena. The more we talk about a particular knowledge concept, the more we get surprised by its transformation into an independent science without completing the scientific requirements and necessary conditions. This applies to what is as «Maqasid Al-Shari'ah» .We would not be exaggerating, if we claim that the «Maqasid Al-Shari'ah». is still looking for its methodological identity. It is unable to draw its epistemological boundaries with other fields of knowledge that are close to it; As well as its inability to create new procedural tools in the construction of legal rulings. May be the reason for that is the nature of the scientific upbringing that accompanied the emergence of the theory of the «Maqasid Al-Shari'ah It witnessed a difficult and intermittent birth.

This article seeks to ask the following methodological questions: - Does the «Maqasid al-Shariah» theory possess all the characteristics of a complete scientific theory, such as the conceptual apparatus and independent methodology?

By relying on the inductive and critical approaches, we have reached the following results:

First result :It is noticeable in the contemporary discourses of the Maqasid Al-Shari'ah that they do not have an independent dictionary of the Maqasid Al-Shari'ah terms. Even the concept of the Al- (Maqasid Al-Shari'ah) -which is its pillar- was not deeply analyzed in order to transform it into an epistemological concept with creative procedural energy

Vol. 04, No. 2, pp. 138-154 | DECEMBER 2024
DOI: https://doi.org/10.34118/jskp.v4i02.4015

Second result : The «Maqasid Al-Shari'ah» in its present form is a pattern of conscious thought, but it is not a science; Because it does not have a subject that is different from the topics of the «ossul fiqh»

Third result :One of the most important imbalances noticed by research in the science of «Maqasid Al-Shari'ah»: Leniency in generalities, Inflated descriptive (scholastic) research (This explains the large number studies in the Al-Shari'ah Objectives registered in the name of heritage personalities), The personalization of knowledge, (we mean by that: referring knowledge back to the era of the first founders, as a notice of the inability to advance science towards new fields).All are interesting topics

Keywords: Maqasid Al-Shari'ah, Epistemological, Methodology, Ossul fiqh, Science terms

***ahmed dib**

A.Introduction:

There is an apparent methodological problem in the knowledge arena. The more we talk about a particular knowledge concept, the more we get surprised by its transformation -in a short period of time- into an independent science without completing the scientific requirements and necessary conditions.

It is clear that this phenomenon is not limited to Arab knowledge circulation. People in the West used to give the title "scientific" to the simplest systems and theories that do not respond to the science conditions. They facilitated it until the word "science-logy became a descriptor of many partial ideas, even sometimes myths.

If we look at the science of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) as an epistemological field, we find that it was connected to the science of jurisprudence, and was not taught as an independent science except in recent decades.

In fact, this is a normal situation for the path of scientific progress in any branch of knowledge. The more science accumulates its topics and issues, the more tensions, problems and paradoxes that are difficult to the prevailing guiding model appear. This leads to science entering the crisis stage[(1)]

The innovative scholars in the field of Islamic sciences used to engage in providing clear answers to the questions raised by that science, and to look at its points of crisis, so that their answers are like a "systematic resumption" to that science.

It is known that science matures and becomes completed with a lot of questioning, but if it is satisfied with itself, its guiding models (paradigms), and if does not face the challenges that compel it to review its cognitive patterns and its subjective postulates, it ends up over time in a state of public discourses and unproven verbal narratives.

Ibn al-Azraq pointed out that "downloading knowledge over the course of customs is a correction of that knowledge, and a proof of it, if it is done correctly" According to Henri Moniot, "Knowledge always knocks on the door twice: with its content and its intellectual relations. If it knocks on the door once, it is not knowledge"[(2)]

We would not be exaggerating, if we claim that the Maqasid knowledge is still looking for its methodological identity. It is unable to draw its epistemological boundaries with other fields of knowledge that are close to it; As well as its inability to create new procedural tools in the construction of legal rulings. May be the reason for that is the nature of the scientific upbringing that accompanied the emergence of the theory of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah). It witnessed a difficult and intermittent birth. It is clear that if science is not born naturally, it will face various difficulties that make its promotion to a theoretical model difficult, if not impossible.

Thus, the Objectives knowledge remained dependent on the axiomic systems of the founders. It is known that the criterion for the adoption of scientific addition in any science depends on the ability to move it from the level of axiomatic foundation (the primitives) to the level of reliable collective circulation. The cognitive addition is like a monetary currency that is strengthened by circulation and popularity; otherwise it is nothing more than a monologue (internal dialogue) and a cognitive ambition.

These methodological concerns call for the necessity of questioning contemporary the Maqasid Al-Shari'ah discourses with an epistemic question, to define its limits, measure its capabilities, and develop its subjects.

The question in the title "When will the Al- Shari'ah Objectives become a science?" should not be understood as a detractor of the Objectives knowledge, or

the efforts of its owners; Because asking "scientific questions" is a well-known path in all fields of knowledge that are experiencing methodological crises, such as: sociology, political science, Islamic economics, and philosophy...

The first purpose of this study is to try to raise awareness of the interruptions and internal controls in the Maqasid Al-Shari'ah discourse, and take precaution against the blanks and whiteness that have been accumulated by the proliferating studies in the intentional research for decades.

Although our previous scholars did not raise enough question about science or the theory of science as a special art, they considered it as the introduction, the machine and the servant of other arts. Therefore, to search for this question, they issued the first books on different arts and knowledge, whether logical, fundamentalism or theological. It was also present in the books of interpretation, jurisprudence, grammar, rhetoric and the histories of sciences(3)

Al-Amidi says: "Anyone who tries to acquire any knowledge, has the right **to imagine what it means first**, **by limitation** or drawing; To be aware of what he asks for, and **to know its subject** - The thing that searches in that science about its conditions that present it – **that distinguishes it from others**, and **what is the intended purpose of its acquisition**; In order not to be vain, and **imagine its principles to get the possibility of building on them**"(4).

This important transfer from Al-Amidi summarizes for us the evolutionary path of the religious sciences, as they form their cognitive systems through four basic stages:

1. The construction of the terminological apparatus; It is required that it should be narrow in meaning, limited in number, sufficient in expressing the topics and issues of science. We do not mean by

sufficiency here: abundance. What matters is its terminological maturity, not its numerical abundance.

2. Defining the scientific topic (the field of work) that justifies its existence as an independent science, so that its issues include a set of completely specific ideas and concepts.
3. Theoretical formulation of laws and results that the application of the method led to on the subject (scientific models that translate the theoretical structure of science). It is a meeting of laws and an integrated theoretical apparatus that guarantees the transformation of knowledge into a tradable and usable material.
4. Creating independent methods that achieve mechanical competence in his study, expressed in the description of fertility, which means: the ability to produce more knowledge and to ask the questions.

These developmental stages can also be expressed in another way, framed by three basic stages:

- The Descriptive stage.
- The experimental stage.
- The deductive stage.

This evolutionary path of science applies -without discrimination- to all sciences. The sciences reach the stage of systemic construction based on a set of primary axioms (the axiomatic stage), and this is the last stage reached by Islamic sciences.

The attempt to apply the word "science" to the theory of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) or deny it, is not limited to saying that it is independent from the science of jurisprudence, but rather requires its realization in the sense of (science), which is every system of knowledge that organizes a

subject, a method, and a purpose, like the science of the principles of jurisprudence, and the science of Al-Hadith and other Islamic sciences.

If this paves the way, we may ask about the theory of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah):

-Does it possess all the specifications of the theory, such as axioms, and a conceptual apparatus?

-Does it have the requirements to be independent from the science of jurisprudence?

B.The maturity of terms:

It is known that the differentiation of sciences starts from concepts; The terminological aspect is the source of the differentiation of each science from the other sciences. The same time it is the scientific nucleus in any epistemological discourse that brings it closer to science. It is noticeable in the contemporary discourses of the Maqasid Al-Shari'ah that they do not have an independent dictionary of the Maqasid Al-Shari'ah terms. Even the concept of the Al-(Maqasid Al-Shari'ah) -which is its pillar- was not deeply analyzed in order to transform it into an epistemological concept with creative procedural energy.

Clearly, we cannot imagine an independent science or seeking autonomy which is based on the terms of another science. Just like the mathematician who deals with a mathematical equation without using the symbols that are the descriptive language. It is true that the sciences benefit from each other, whether at the level of importing concepts, or borrowing themes and relationships, just as the research in the properties of sound has benefited from research in the properties of light, and the research in the atom has benefited from an astronomical model, but this does not mean that the concepts of one science can be traced back to the concepts of another science[(5)].

C.The subject independence:

Medicine has a subject, which is the human body; Politics has a subject, which is power; Economics has a subject, which is wealth; Jurisprudence has a subject, which is the actions of those who are addressed according to the provisions of Al- Shari'ah, and are obliged to implement it; The principles of jurisprudence have a subject, which is evidences.

- ***What is the subject of the «Maqasid Al-Shari'ah» theory?***

We can say that the «Maqasid Al-Shari'ah» in its present form is a pattern of conscious thought, but it is not a science; Because it does not have a subject that is different from the topics of the «ossul fiqh» (principles of jurisprudence). Even if, their subjects are the same, they differ in the view of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) thinkers about the subject. The difference in vision does not require a difference in the subject, but rather requires a different approach and trend. Therefore, we can say that the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) is a procedural trend or a way of thinking, but it is not a science in the exact idiomatic sense of science.

For this reason, we find that Ibn Khaldûn - for example - when he spoke about the science of human social organization (al-umrân), considered it as a "science derived from its origin", although it is preceded by Aristotle, Ibn al-Muqaffa, and al-Tartushi.

On this, Ibn Khaldûn says: "And then, if you reflected on our speech about the section on states and royal authority, and you give it its due of browsing and understanding, you will find the interpretation of these words and the detail of their totality met with the most compelling statement and explained evidence and

proof. We became aware of these things with God's help without Aristotle's education, nor the testimony of the Môbedhân.

Likewise, many of our book's issues are as unexplained in the words of Ibn al-Muqaffa about the political subjects, and in his letters. He just mentioned them in the flowing prose style and eloquence of speech.

Also, Judge Abû Bakr al-Tartushi had the same idea in his book "Sirâj al-Mulûk". He covered it on chapters close to the chapters of our book and its issues, but he didn't come across the throw (not achieve his aim), he didn't reach the truth and he didn't complete the issues. Also he did not clarify the evidence. He just categorizes the chapter on the issue, then he multiplies stories and traditions, and he reports scattered remarks by Persian sages such as Buzurjmihr and the Môbedhân, and by Indian sages, as well as material transmitted on the authority of Daniel, Hermes, and other great men. He does not reveal the truth , nor give the natural proofs. His work is merely a transmission and installation similar to sermons exhortations" (6).

The reason for this is that these thinkers mentioned by Ibn Khaldûn talked about human social organization with political, philosophical and jurisprudential approaches, not urban. Therefore, Ibn Khaldûn did not consider them as a historical origin for this emerging science, as they deal with issues of urbanization in the context of demonstrating the issues of their sciences, that is: their talk about urbanization is not independent of itself, nor is it complete with its proofs(7)

The conclusion from Ibn Khaldûn's words is that the independence of **the scientific subject** requires three conditions(8)

1. To be independent by itself, by building his coherent theory, which means the unity of the coherent relations between his concepts in a single structure.
2. That it fulfills its proofs, this condition follows its predecessor. Giving a subject of knowledge its right of proofs is not possible, except in the presence of an integrated and coherent theory, in which the concepts are interconnected in a necessary deductive manner. Establishing the proof of the statement is necessary to determine its scientific. The proof takes the saying out of the opinion (or rhetoric and eloquence of speech) to science.
3. Its subject should not mix with the topics of other sciences, thus losing his identity.

D.The Form laws and patterns

Adjusting the cognitive system is a next stage after the formation of concepts and defining the topic. After the research topic of science is determined, there is a need to derive laws that frame how to arrange borders and proofs.

The only difference between philosophy and science is the law. Every study that does not contain laws is a philosophical or intellectual study, because science is a construction of overlapping and interrelated concepts, phrases and images, so that it is difficult to imagine them independent of the organic whole.

If we look at the principles of jurisprudence science, we can say that it is a comprehensive science that establishes the premises and theoretical foundations of different knowledge. This contrast the Al-Shari'ah Objectives (Maqasid Al-Shari'ah), which is partial knowledge. Hence, Al-Razi considered the ratio of Al-Shafi'i to the science of jurisprudence, as the relation of Aristotle to the science of logic, and the relation of Al-Khalil bin Ahmed to the science of prosody. They all similar in the success of all of them in finding a theoretical systems and an universal laws, thanks to which science moved from the stage of gonorrhea to the stage of complete control, in other words: from soft knowledge to rigid and strict knowledge.

Consequently, we can say that the absence of patterns in a knowledge results in a set of imbalances, we summarize them in the following points:

- **Leniency in generalities**, most of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) knowledge is a generalization. The science refuses hasty generalizations that lead to false analogies.
- **Inflation**, this is what happened to the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) knowledge, as the research has reached the point of waste and

chaos, as Delacroix[9] says. The one diligence track was named by many names; it is known that one food does not become many foods, if it has many names.

- **The personalization of knowledge,** we mean by that: referring knowledge back to the era of the first founders, as a notice of the inability to advance science towards new fields. It is true that the experiences of the early founders are as inspiring to those who are late in receiving and practicing knowledge, but at the same time, they may be captivating and hindering progress in the event that the latecomers fail to create new knowledge systems. Therefore, the sciences that did not succeed in rationalizing their first experiments ended up in a state of imitation and reprehensible accompaniment.

After the Islamic heritage reflected the effort of a nation in its solidarity, its schools argue, and its affiliation with the open topic; We soon became confronted with the dilemma of division and the personalization of heritage, so our conversation today becomes about Al-Ghazaliah, Taymiyyah, Reshdiya and Shatibiya..

This personalization would not have happened, if contemporaries can develop new paradigms that would ensure science's continuity and progress. This explains the large number studies in the Al-Shari'ah Objectives registered in the name of heritage personalities ,such as Al-Juwayni, Al-Ghazali, Al-Shatibi, Al-Izz bin Abdul Salam, and Ibn Ashour..

These titles are acceptable at the stage of discovery and announcement, because they express the beginning of the scholars' contact with the heritage of their ancestors, but if they continued and multiplied, they would be a heavy burden that weighed heavily on science, pushing it towards boring repetition.

It is true that the human nature thinks through a model, but there is a difference between using the model as an example, and using it as an asset to be measured against. When the originally model is taken in advance, it becomes a compelling reference authority, containing the ego and losing its personality [10]

- **Open topics**, today, the researcher in the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) does not deal with specific and clear characteristics and advantages, but rather aspires to make the Objectives an encyclopedia of knowledge that breaks into different cognitive patterns.
- **Dysfunction**, which means inaccurate definition of the purpose of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) on the one hand, and the nature of the relationships that exist between it and the sciences close to it, or overlapping with it on the other hand.

E.The method

Most of the crises addressed by science's epistemology result from gaps, related to the methods used by these sciences. Any reform of these imbalances have to rely on the creation of new methods. Science that "changes its methods becomes more methodic [11]

One of the issues worthy of pausing in this context is to point out that the actual driver of Shatiby's thought - as the first teacher - was a methodological per excellence, and he disclosed that starting with his scientific introductions that began his book (Al-Muwafaqat), wich is basically a methodical aspiration.

We agree with Abdul Majeed Al-Saghir when he regrets the omission of these methodological rules, even by those who highlighted the theory of the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) according to Al-Shatiby. They turned their attention to the second part of Al-Muwafaqat, which is related to the general Objectives, although it is based only on those methodological premises

Whoever considers the Al-Shari'ah Objectives (Maqasid Al-Shari'ah) as an independent science, without devising an independent method for it, has exposed the Shari'ah to chaos, and opened the door to rebellions on the texts.

We should not forget in this regard: that the epistemological battles that are taking place over the attempt to delineate a particular school of thought usually require a methodological resolution

F.Conclusion

In the end; We have concluded through this research that**:** The following results**:**

-Religious sciences are they form their cognitive systems through four basic: The construction of the terminological apparatus, Defining the scientific topic, Theoretical formulation of laws, Creating independent methods

- The terminological aspect is the source of the differentiation of each science from the other sciences. The same time it is the scientific nucleus in any epistemological.

- It is noticeable in the contemporary discourses of the Maqasid Al-Shari'ah that they do not have an independent dictionary of the Maqasid Al-Shari'ah terms. Even the concept of the Al- (Maqasid Al-Shari'ah) -which is its pillar- was not deeply analyzed in order to transform it into an epistemological concept with creative procedural energy.

-It is true that the sciences benefit from each other, whether at the level of importing concepts, or borrowing themes and relationships, but this does not mean that the concepts of one science can be traced back to the concepts of another science.

- The «Maqasid Al-Shari'ah» in its present form is a pattern of conscious thought, but it is not a science; Because it does not have a subject that is different from the topics of the «ossul fiqh»

-The only difference between philosophy and science is the law. Every study that does not contain laws is a philosophical or intellectual study

- One of the most important imbalances noticed by research in the science of «Maqasid Al-Shari'ah»: Leniency in generalities, Inflated descriptive (scholastic) research (This explains the large number studies in the Al-Shari'ah Objectives registered in the name of heritage personalities), The personalization of knowledge, (we mean by that: referring knowledge back to the era of the first founders, as a notice of the inability to advance science towards new fields).All are interesting topics.

Bibliography:

1-Jornal article:

- **Thomas Kuhn (2006)**. The Structure of Scientific Revolutions ,articles on Epistemology, Alam al-fikr magazine, Vol. 1, 2006
- **Farid Al-Ansari**, The Fundamentalist Terminology of Al-Shatibi, and Idris Al-Jabri, Hiwarat Namaa, Volume 7-8, Winter and Spring 202.

2-books:

- **Fouad Abu Al-Hatab(2013)**. Towards an Islamic Perspective for Psychology.N book: Foundations of Islāmic Psychology (pp.229-234)
- **Henry Moniot (1993).** Didactics of History, Nathan Medagogy, Paris
- **Khadija Wahami (2002)**. An attempt to put a didactic model in history, Dar Al-Qarawiyin, Casablanca, 1st Ed,
- **Ali Hussein Karkari (2014)**. Epistemology in the Field of Knowledge, Beirut: Forum Knowledge, 1st Ed,
- **Al-Jabri, Mohamed Abed (1996)** , The Structure of Arab Reason: The Epistemological Order of Arab Culture, Markaz dirāsāt al-wahda al-. 'Arabia,Beirut , P56.
- **Al-Amidi (2001)**. Judgment in the origins of judgments, The rule of achieving the concept and subject of the principles of jurisprudence, part 1,
- **Ibn khaldun, (2002)**,History of Ibn Khaldun, Aounat Brahim; 1st edition
- **Nasser al-Baazati (1997)**. Inference and construction, Research in the characteristics of the scientific mind
- **Ali Karkari**, **(2014)**,The Scientific Thought of ibn Khaldun,(with a significant disposition)
- **M.Maingueneau(1976)**. Initiation to methods of discourse analysis ,Hachette
- **Jawdat Saad (1993)**. Iqra wa rabuk al'akram, Beirut: Dar al-fikr al-moasir, 2nd Ed,
- **Gaston Bachelard** (1947). Epistemology, Librairie José Corti, paris .P.U.F.

(1) **Thomas Kuhn (2006)**. The Structure of Scientific Revolutions ,articles on Epistemology, Alam al-fikr magazine, Vol. 1, 2006.
(2) **Henry Moniot (1993).** Didactics of History, Nathan Medagogy, Paris, P21.
(3) **Ali Karkari**, **(2014)**,The Scientific Thought of ibn Khaldun,(with a significant disposition), P59.

(4) **Al-Amidi (2001)**. Judgment in the origins of judgments, The rule of achieving the concept and subject of the principles of jurisprudence, part 1, p3 .

(5) **Nasser al-Baazati (1997)**. Inference and construction, Research in the characteristics of the scientific mind ,P114.

(6) ibn khaldun, (2002),History of Ibn Khaldun, Aounat Brahim; 1st edition , p51

(7) **Ali Karkari**, **(2014)**,The Scientific Thought of ibn Khaldun,(with a significant disposition),P56/ P59.

(8) **Ali Karkari**, **(2014)**,The Scientific Thought of ibn Khaldun,(with a significant disposition), P59.

(9) **Maingueneau(1976)**. Initiation to methods of discourse analysis ,Hachette**,** p 9

(10) Al-Jabri, Mohamed Abed (1996) , The Structure of Arab Reason: The Epistemological Order of Arab Culture, Markaz dirāsāt al-wahda al-. 'Arabia,Beirut , P56.

(11) **Gaston Bachelard** (1947). Epistemology, Librairie José Corti, paris .P.U.F.p129.