COMPARATIVE STUDY OF THE THEORY OF ABŪ HĀomid AL-GAZALĪ’S MASLAHAH AND JEREMY BENTHAM’S UTILITY

A BACHELOR THESIS SUBMITTED TO FACULTY OF SYARI'AH AND LAW IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR OBTAINING SARJANA DEGREE IN ISLAMIC LAW

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ABSTRACT
Comparative Study of The Theory of
Abū Hamīd al-Ghazālī’s Maslahah and Jeremy Bentham’s Utility

Writer thinks that maslaha mursalah is defined as utility, Maslaha can serve as a basis for rulings if it is supported by some legal proof such as Al-qurān, Sunnah, and Qiyas. Maslaha is the same concept as utility found in the legal etymology which we can understand from this exploration that such as: first, the happiness sought here depends on human desires or reason. The pursuit of such happiness may or may not coincide with the form of benefit/Manfa’ah intended by the shari’ah. Second, the emphasis on the form of happiness will always be on the collective utility. Third, Pursuit of pure utility may ultimately lead to the economic analysis of law which may or may not suit the goals of the Shari’ah. Both come, then, from philosophical different civilization. In the modern era, some philosophers always discuss both concepts on justice and human rights discourse. So writer is interested to do comparative study of both concepts.

In this research, the writer uses analytical content used to analyze the idea of Abū Ḥāmid al-Gazālī in Mustaṣṭa’ book and idea of Jeremy Bentham in book of Introduction to the principle of legislation and morals. In the theoretical framework, the writer uses philosophical approach. Meanwhile, writer analyzes the concept by using description and critical evaluation in philosophical approach. By using description and critical evaluation writer can compare both concepts and find the similarities or differences comprehensively. Then writer get the excess and weakness from critical evaluation.

From this research, Maslahah is actually an expression for the acquisition of manfa’ah (benefit) or the repulsion of madarrah (harm). Maslahah expressed that acquisition of manfa’ah and the repulsion of madarrah represent human goals, but Maslahah the preservation of the aims of the Shari’ah, we see that it is very different from the understanding of utility/benefit. Three things are obvious from the statements: first, Pursuit of human goals and the principle of utility based on human reason is not what by means maslahah. Second, Maslahah is the securing of goals or values that the Lawgiver has determined in the Shari’ah. Third, Goals determined for the Shari’ah by the lawgiver may or may not coincide with values of human reason. And both concepts have no sense of justice as fairness and human rights, and both fall into dictator majority. Both ignore individual rights and freedom of choice.
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Assalamu’alaikum wr. wb.

After having read, researched, and corrected to whatever extent necessary, we, as supervisor, think that the bachelor thesis belongs to:

Name: SAIFULLAH
SIN: 05360012
Department: Comparative law and Madzhab
Title: Comparative study of Abu Hamid al-Ghazali’s maslahah and Jeremy Bentham’s utility could be submitted in a partial requirement to obtain a bachelor degree in Islamic Law. Thus, it could be immediately tested.

Thanks a lot for being available and understanding, may this bachelor thesis be useful, amin.

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November 21, 2010 AD

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No: UIN.02/K.PMH-SKR/PP.009/142/2010

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Prepared and written by:
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Was examined on: Friday, November 26, 2010
Examination Score: 95 (A)
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UIN Sunan Kalijaga Yogyakarta.

Prof. Yudian Wahyudi, M.A., Ph.D
OIN: 19600417 198903 1 001
The system of Arabic transliteration used in this thesis is based on Joint Circulating Letter of Minister of Religious Affairs and Minister of Education and Cultural Affairs of Republic of Indonesia No. 158/1987 and 0543b/U/1987.

A. Single Consonant

<table>
<thead>
<tr>
<th>Arabic Letters</th>
<th>Names</th>
<th>Letters of Latin</th>
<th>Assertions</th>
</tr>
</thead>
<tbody>
<tr>
<td>ا</td>
<td>alif</td>
<td>not symbolized</td>
<td>not symbolized</td>
</tr>
<tr>
<td>ب</td>
<td>ba</td>
<td>b</td>
<td>be</td>
</tr>
<tr>
<td>ت</td>
<td>ta</td>
<td>t</td>
<td>te</td>
</tr>
<tr>
<td>ث</td>
<td>ša</td>
<td>š</td>
<td>es (with point on top)</td>
</tr>
<tr>
<td>ج</td>
<td>jîm</td>
<td>j</td>
<td>je</td>
</tr>
<tr>
<td>ح</td>
<td>ḥā’</td>
<td>ḥ</td>
<td>ha (with point below)</td>
</tr>
<tr>
<td>خ</td>
<td>khā’</td>
<td>kh</td>
<td>and ha</td>
</tr>
<tr>
<td>د</td>
<td>dâl</td>
<td>d</td>
<td>de</td>
</tr>
<tr>
<td>ذ</td>
<td>žâl</td>
<td>ž</td>
<td>zet (with point on top)</td>
</tr>
<tr>
<td>ر</td>
<td>ra’</td>
<td>r</td>
<td>er</td>
</tr>
<tr>
<td>ز</td>
<td>zai</td>
<td>z</td>
<td>zet</td>
</tr>
<tr>
<td>س</td>
<td>sin</td>
<td>s</td>
<td>es</td>
</tr>
<tr>
<td>ش</td>
<td>syin</td>
<td>sy</td>
<td>es and ye</td>
</tr>
<tr>
<td>ص</td>
<td>sâd</td>
<td>š</td>
<td>es (with point below)</td>
</tr>
<tr>
<td>ض</td>
<td>dâd</td>
<td>d</td>
<td>de (with point below)</td>
</tr>
<tr>
<td>ط</td>
<td>tā’</td>
<td>t</td>
<td>te (with point below)</td>
</tr>
<tr>
<td>ظ</td>
<td>za’</td>
<td>z</td>
<td>zet (with point below)</td>
</tr>
<tr>
<td>ع</td>
<td>‘ain</td>
<td>‘</td>
<td>comma reversed from above</td>
</tr>
<tr>
<td>غ</td>
<td>gain</td>
<td>g</td>
<td>ge</td>
</tr>
<tr>
<td>ف</td>
<td>fā</td>
<td>f</td>
<td>ef</td>
</tr>
<tr>
<td>ق</td>
<td>qâf</td>
<td>q</td>
<td>qi</td>
</tr>
<tr>
<td>ك</td>
<td>kāf</td>
<td>k</td>
<td>ka</td>
</tr>
<tr>
<td>ل</td>
<td>lâm</td>
<td>l</td>
<td>’el</td>
</tr>
<tr>
<td>م</td>
<td>mim</td>
<td>m</td>
<td>’em</td>
</tr>
<tr>
<td>ن</td>
<td>nun</td>
<td>n</td>
<td>’en</td>
</tr>
<tr>
<td>-----</td>
<td>--------</td>
<td>-----</td>
<td>-----</td>
</tr>
<tr>
<td>و</td>
<td>wawu</td>
<td>w</td>
<td>w</td>
</tr>
<tr>
<td>ه</td>
<td>há’</td>
<td>h</td>
<td>ha</td>
</tr>
<tr>
<td>ء</td>
<td>hamzah</td>
<td>’</td>
<td>apostrophe</td>
</tr>
<tr>
<td>ي</td>
<td>yā</td>
<td>y</td>
<td>ye</td>
</tr>
</tbody>
</table>

B. Double Consonant Caused by *tasydīd*, Written in Double

<table>
<thead>
<tr>
<th>شخصية</th>
<th>written</th>
<th>syakhsiyyah</th>
</tr>
</thead>
<tbody>
<tr>
<td>مودة</td>
<td>written</td>
<td>mawaddah</td>
</tr>
</tbody>
</table>

C. *Ta’ Marbūtah* on The End of Word

1. Written by *h* if Read in *Sukūn*

<table>
<thead>
<tr>
<th>رحمة</th>
<th>written</th>
<th>rahmah</th>
</tr>
</thead>
<tbody>
<tr>
<td>سكينة</td>
<td>written</td>
<td>sakīnah</td>
</tr>
</tbody>
</table>

(This stipulation is not required on Arabic words that has been assimilated into English language e.g. zakah etc, except if the original word is wished)

2. When followed by article ’al’ and the second word is separated thus it’s written by *h*

<table>
<thead>
<tr>
<th>حاشية الباجوري</th>
<th>written</th>
<th>Ḥāsyiah al-Bājūri</th>
</tr>
</thead>
</table>

3. If *ta’ marbūtah* lives by using *fatḥah, kasrah or dammah* thus it’s written by *t* or *h*

<table>
<thead>
<tr>
<th>بداية المجتهد</th>
<th>written</th>
<th>Bidāyah/ Bidāyat al-Mujtahid</th>
</tr>
</thead>
</table>

D. Short Vowels

<table>
<thead>
<tr>
<th>ـ</th>
<th>fatḥah</th>
<th>written</th>
<th>a</th>
</tr>
</thead>
<tbody>
<tr>
<td>فعل</td>
<td>ـ</td>
<td>written</td>
<td>fa’ala</td>
</tr>
</tbody>
</table>
E. Long Vowels

<table>
<thead>
<tr>
<th></th>
<th>Written</th>
<th>Transliteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>fatḥah + alif جاهية</td>
<td>written</td>
</tr>
<tr>
<td>2</td>
<td>fatḥah + ya’ dead ميتة</td>
<td>written</td>
</tr>
<tr>
<td>3</td>
<td>kasrah + ya’ dead كريم</td>
<td>written</td>
</tr>
<tr>
<td>4</td>
<td>dāmmah + wawu dead فروع</td>
<td>written</td>
</tr>
</tbody>
</table>

F. Double Vowels

<table>
<thead>
<tr>
<th></th>
<th>Written</th>
<th>Transliteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>fatḥah + ya’ dead بينكم</td>
<td>written</td>
</tr>
<tr>
<td>2</td>
<td>fatḥah + wawu dead قول</td>
<td>written</td>
</tr>
</tbody>
</table>

G. Consecutive Short Vowels in a Word Separated by Apostrophe

<table>
<thead>
<tr>
<th></th>
<th>Written</th>
<th>Transliteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>أنتِ</td>
<td>written</td>
<td>A’antum</td>
</tr>
<tr>
<td>اعدت</td>
<td>written</td>
<td>U‘iddat</td>
</tr>
<tr>
<td>لنن شكرتم</td>
<td>Written</td>
<td>La’in syakartum</td>
</tr>
</tbody>
</table>

H. Article Alif + Lam

1. If it’s followed by letter of ḍomariyyah, thus it’s written by ”I”

<table>
<thead>
<tr>
<th></th>
<th>Written</th>
<th>Transliteration</th>
</tr>
</thead>
<tbody>
<tr>
<td>القرآن</td>
<td>written</td>
<td>Al-Qur‘ān</td>
</tr>
<tr>
<td>القياس</td>
<td>written</td>
<td>Al-Qiyās</td>
</tr>
</tbody>
</table>
2. If followed by letter of *Syamsiyyah*, thus it’s written by the letter of *Syamsiyyah*, with omitting the letter of *l* (*el*)

<table>
<thead>
<tr>
<th>اسم</th>
<th>كتاب</th>
<th>اسم</th>
</tr>
</thead>
<tbody>
<tr>
<td>السماء</td>
<td></td>
<td>As-Samā’</td>
</tr>
<tr>
<td>الشمس</td>
<td></td>
<td>Asy-Syams</td>
</tr>
</tbody>
</table>

I. Arranging Words in a Sentence

Written by the arranging:

<table>
<thead>
<tr>
<th>اسم</th>
<th>كتاب</th>
<th>اسم</th>
</tr>
</thead>
<tbody>
<tr>
<td>ذوى الفروع</td>
<td></td>
<td>Zawi al-furuḍ</td>
</tr>
<tr>
<td>أهل السنة</td>
<td></td>
<td>Ahl as-sunnah</td>
</tr>
</tbody>
</table>
MOTTO

The best people are the most useful

For other people

MUHAMMAD SAW
DEDICATION

Alhamdulillah,

this bachelor thesis is completed as an academic scientific work.

I dedicate this work to:

________________________

My dad and mom:
Saifur Rijal and Maesaroh

My brothers:
Khairul Fata, Khusnul Khotimah,
Halimatus sa’diyah, Dina Shofiy
Akmala, Ummi Niza’ Nabilah, and all my families

My alma mater UIN Sunan Kalijaga and all knowledge
lovers all over the world
ACKNOWLEDGMENT

All praise and glory allways be to Allah the only owner of greatness, glory, and majesty, who grants mercy, guidance and forgiveness to all of us although we forget to ask, so we could keep the faith, Islam, and Ihsan, as well as commitment as young generation to always be thirsty for knowledge.

Invocation and peace hopefully always be poured to Prophet Muhammad SAW, along with his families, friends, and people who grasp adamantly and firmly to the teachings he had brought up to the end of time.

This bachelor thesis is structured to meet the final assignment given by the Faculty of Syari‘ah and Law as one of many conditions that must be met to obtain a bachelor degree on the field of Islamic Law.

I realize that the bachelor thesis could not be structured thoroughly and completely without any support, guidance, and prayer from the people around, who gived wisdom and experience to me so far. Therefore, I rightly have to thank to:
1. Saifur Rijal and Maesaroh, my parent who become my biologic and spiritual
dad and mom in my life and introduce Islam to me for the first time.

2. Drs. Yudian Wahyudi, M.A., Ph.D as Dean of Faculty of Syari'ah and Law
Sunan Kalijaga State Islamic University Yogyakarta and his staff.

3. Budi Ruhiatuddin, S.H, M.Hum. as Chairman of Department of Comparative
Law and Madzhab and her staff.

4. H. Agus Moh. Najib, S.Ag., M.Ag. and Witiyani, S.S., M.Hum., as
supervisor 1 and supervisor 2 who always support, motivate, and provide
direction and guidance in the preparation of this bachelor thesis.

5. Luqman, Purnomo, Wahyu, Andi, Hary, Arsyad, Ilmi Zadah, Umi, and all my
friends in Class A, and all my friends in Tribakti: Dedy, Rohim, Taufiq,
Kanibal, harits. Also my friend the great, the name is Farhan.

6. Everyone makes sense in my life that I could not mention one by one.

I also realize that this bachelor thesis is less perfect and more deficient, so
that I hope that the readers would be prepared to render suggestion, advice, and
wise critique to patch insufficient part in this thesis. Eventually, may this bachelor
thesis can be savored to improve treasure of Islamic knowledge. Amin.

Yogyakarta, Dzulhijjah 14, 1431 AH
November 10, 2010 AD
Sincerely Yours,

Saifullah
SIN: 05360012
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CHAPTER I
INTRODUCTION

A. Background

Legal philosophy correlates to evolution of philosophy as whole. Its emergence is repeatedly around the certain problems. So that it becomes the discourse of social welfare (public interest) in correlation to law. Because order of law or legislation ought to be welfare of public society or public interests, but application is often not real or obvious.

In 18 century there was the utilitarianism (school of utility) in the philosophy of western law to answer for what is the law. This theory is introduced firstly by Jeremy Bentham (1789) in the book entitled *An Introduction to the Principle of Morals and Legislation*. This theory had been popular as basic concept: *The greatest happiness of the greatest number of people*. According To Jeremy Bentham, world lays in 2 big orders that are pain and pleasure.¹

Basically the utilitarianism gives ethical Procedures for reconstruction of the law in England, especially in the field of criminal law. So Jeremy Bentham did not want to constitute the theory of abstract moral but to reformulate the concrete moral. Law has purpose to improve welfare of

citizen, not to impose commands of god or to protect the interest of natural rights.\(^2\)

The utilitarianism is that we all act maximally to produce an results of happiness as much as possible to individual itself and public society in general. Thus utilitarianism is greatest ethics. According to utilitarian we must act maximally to get much goodness as possible and avoid the effects of badness as possible.\(^3\)

The Utilitarianism is universal principle, because it is moral norms which produce not only the goodness for individual itself but also others as whole. It recommended attention to the interest of all party or society affected by the action, include individual itself. Different from ethical egoism, the utilitarianism is not only to individual satisfaction but also to others. Hence, it is morally the greatest-valued action.\(^4\)

Public welfare only will be comprehended if it is sought, in position, as reality which will be implemented by law or legislation. Efforts to realize welfare of society, in legislation, are a dynamic process and ought to be fought. Thus efforts to actualize welfare society are often dominated by power fighting in dominant public structure. People can assume that public welfare is a reality, and the comprehensive understanding of it is only gotten by philosophical efforts that are very difficult and rigid. People can also assume that public welfare is a result of religious common debate or


\(^4\) *Ibid* 125.
philosophy about world in general. So people can define public interest or public welfare into one of the knowledge that is different from this conception.

Correlation between law and public welfare is a long time discourse in the history of legal philosophy. It happened also in the philosophy of Islamic law. When sources of Islamic law -al-Qurān, al-Hadīs, Ijmāʿ- can’t answer the complexity of human beings and religious Texts or legal norms are limited, Hence Imam Mafik expounded firstly the theory recognized as maṣlaḥah. maṣlaḥah is always researched and studied by the philosophers of Islamic law (master of usūl fiqḥ), especially when they study Maqāṣid asy-Syarīʿah and ethical purpose of law.

Maṣlaḥah emerges to answer complex problems of society and accommodate the public interest, and Maṣlaḥah, in function, will protect utility and prevent pernicious. Maṣlaḥah response to change mankind from some aspects of various life, such as: social change, culture, science, economic, politic, and technology.

From the aspect of legitimacy of religious texts, Maṣlaḥah is divided into three categories: First, maṣlaḥah muʿtabarah is maṣlaḥah obtaining legitimacy of šariʿah or religion texts; Second, maṣlaḥah mulgah is maṣlaḥah obtaining rejection of šariʿah or divine texts; Third, maṣlaḥah mursalah is maṣlaḥah

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delayed or hushed by divine texts. From the aspect of interests of people, it is divided into three principles: First is *maṣlaḥah darūriyah*, it concerns fundamental interest covered five basic needs (preservation of religion, mind, property, progeny, soul); Second is *maṣlaḥah ḥafiyyah*, it relates to secondary requirements of human being as supporting the first principle; Third is *Maṣlaḥah tahsīniyyah* it relates to ornamental-decorative requirement, as complementary of *Maṣlaḥah darūriyah* and *ḥafiyyah*.

Imam al-Gazālī divided the purpose of *hukm*, as cited by Ahsan Khan Nyazee, into three parts: *darūriyyah, ḥafiyyah, and tawassu’ wat taysir*. The categorization, that is classified into two purposes: first is the supplementary value; second is the complementary value which we called *taḥṣiniyyat*. After al-Gazālī explained the division of it, He divides it into two different level. He argued that conformity (*munāsib*) is divided into two categories, Those two categories are *haqīqī aqli* and *khiyālī iqnā‘ī*. From those two categories, *haqīqī aqli* has been compatible with sources of Islamic law, Which included *darūriyyah* and *ḥafiyyah*; and *khiyālī iqnā‘ī* is admitted in the mode of *taḥṣiniyyah*, which is called complementary ethics and moral norms.

al-Juwaynī analyzed the *maṣlaḥah*, as cited by Dr. Muḥammad Khālid Masʿūd, as an extra-textual basis in the context of analogy by ‘īlāh (ratio-legis) into five categories: First is the category where its significance (*ma’na*) is rationally understandable and where it related to fundamental necessities.

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(darūrī) which is inevitable; the Second category concerns what is in general needs (al-ḥājah al-ʿāmmah), but below the level darūriyyah; Third is the belongs to neither of above,, but rather concerns something which is sublim (al-mukarramah); Fourth category is similar to the third category, yet, in the terms of priorities; fourth comes latter; the fifth category concerns those usūl whose significance (ma’na) is not obvious, and is not demanded by darūrah, ḥājah, and also mukarramah.8

Maslahah and utility has the same fundamental principles in the study of legal philosophy. Its principles always discuss about ethical purpose of law. Law is created for the sake of public society. Therefore, both concepts are method of legal philosophy giving contribution to criticize the law and legislation. Consequently, both give formulation standard of ethical evaluation to law and legislation.

Both concepts emerged from different civilization. Maslahah emerged from Muslim people binding strongly to civilization of text. It means, law, emerged in Muslim society, is a interpretation of texts of al-Quran and as-Sunnah. Beside Islamic law is still influenced by theological aspects. Whereas utilitarianism emerged among secular European people, Law is created from the construction of idea and experienced reality an sich without binding with aspects of religious theology.

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8 Dr. Muḥammad Khālid Mas’ud, Filsafat Hukum Islam dan Perubahan Sosial, translated by Yudian Wahyudi Asmin, first edition (Surabaya: Al-Ikhlas, 1995), 156.
Therefore, writer is interested to write and study both concepts with some considerations: first, both concepts have the same questions about for what the law is made, what standards are applied in legislation. Both concepts are basis of legal epistemology emerged from different civilization and having significant similarities and differences from the aspect of the forming of law.

B. The Problems of the Study

1. What is the Concept of Maslaha’s Abū Ḥāmid al-Gazālī and Jeremy Bentham’s utility?
2. What are the similarities and the differences of both concepts?
3. How are implications of both concepts to justice and human right?

C. Objectives and Significances

By taking attention to the subject matter, hence exploration of this bachelor thesis aims to objectives:

1. To understand the concepts of Maslahah’s Abū Ḥāmid al-Gazālī and Utility’s Jeremy Bentham.
2. To know the differences and the similarities of both concepts.
3. To know the implications of both concepts to justice and human rights.
By seeing the objectives of this research which will be reached, writer hopes the significances:

1. To give scientific contribution to the thinking expansion, especially in the field of legal philosophy and Usūl Fiqh.
2. To encourage other researcher to develop Research of usūl fiqh and legal philosophy. And writer hopes researchers to study of usūl fiqh and legal philosophy more detail and comprehensive.
3. To give comprehensive understanding about both concepts, especially in the context of justice and human rights. Also to encourage the legislator and official government to use terms of utility and maṣlahah based on basic values of justice and human rights.

D. Literature Review

In fact, there is no the comparative study of both concepts written and studied specifically, but many jurist of usūl fiqh and legal philosopher have been written separately maṣlahah and utility. Actually, it is no the new study. Because many muslim jurists or experts of usūl fiqh, legal philosopher and intellectual have studied both concepts. The study will research especially maṣlahah and ethical purpose of law, as it looks like research of bachelor thesis written by Ahmad Kamal ( examination on 5 august 2003) entitled The Concept of Maqāṣid asy-Syarī‘ah between al-Gazālī and asy-Syāṭībī. In his bachelor thesis, he researched both the conceptions of maṣlaḥah in Islamic rule which the same is based on rationality and ḥikmah. Purpose of the
forming of law takes goodness and prevents badness. But in the research of this bachelor thesis, writer gave fundamentally the methodological differences from both the figures to determine principles or purpose of *sharʿ*, al-Gaḍarī applied the theory of conformity (*munāṣib*), while as-Syaṭarı expressed inductive collaboration which discussed extensively what became principles of al-Gaḍarī. Writing of bachelor thesis emphasizes on *socio-historical* for the mode of ideas of al-Gaḍarī and Syaṭarı.9

Beside the research of *maṣlaḥah* mentioned above, as far as the writer observes, there is no book which compares specifically the concepts of *maṣlaḥah’s* Muḥammad al-Gaḍarī and Jeremy Bentham’s utilitarianism, the related books or articles are book “*Islam Akomudatif : Rekontruksi Pemahaman Islam yang universal*” by Dr. Abu Yasid, LLM, published by LKiS, the book explained two aspects: (1) Characteristic of Islamic teaching (2) *Maṣlaḥah* as formal reference of Islamic teaching such as: definition, common character, types of *maṣlaḥah*. This book described briefly the difference between concept of *maṣlaḥah* and utilitarianism on page 4. Writer of this book expressed that utilitarianism didn’t give well-balanced proportion between individual interest and majority interest. In this book also al-Gaḍarī explained about *maṣlaḥah* into 3 classifications: public interest, majority interest, individual interest.10

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Then Wael B Hallaq’s book, translated by E. Kusanadiningrat and Abdul Haris bin Wahid, entitled: “Sejarah Teori Hukum Islam”. In this book he elaborated the history of forming of the Islamic law, the articulation of the islamic law 1 and 2, and Response of Islamic law to social reality. This book has 7 chapter, at chapter 3 explains shortly about *mašlaḥah mursalah*, also studied problem of *Maqāṣid al-Shari‘ah* at chapter 5. Later at chapter 7 explains religious utilitarianism as alternative way from dominating the religious texts to theory of Islamic law.\(^{11}\)

While the utilitarianism has been studied by many philosophers and writers in some introductory books covered legal philosophy, ethical philosophy, history of western philosophy, science of ethic, science of law, etc. As Barten’s book entitled "Ethics". In This Book, Barten explained into 2 parts: classical utilitarianism and rule-utilitarianism. The classical Utilitarianism concept has two principles: *the greatest happiness and the greatest number*. This book also explored that happiness can be calculated quantitatively so-called concept of *the hedonistic calculus*. A classical Utilitarianism is called act utilitarianism. To complement insufficiency of act-utilitarianism, utilitarian philosophers offer rule-utilitarianism as alternative, which is defined by Barten as moral codes arranging our attitude.\(^{12}\)

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Additionally, book of utilitarianism is written by Franz Magnes-suseno, entitled "Etika Dasar: Masalah-Masalah Pokok Filsafat Moral". This book studied problem of utilitarianism at sub-chapter 4 in chapter 8. Franz, at this book, examined that excess of utilitarianism is the rationality and universality. Utilitarianism is challenge to legal ethics, because it claims that of moral regulations to be responsible, and if it can’t give advantage it could be eliminated. This book expressed about utilitarianism services as concept of rational ethic having purpose of the greatest value for happiness of man. But this book also explored lacking of utilitarianism principle which can’t guaranty justice and human right.13

Because of no research comparing both the figures, more and more maşlaḥah and utilitarianism, writer feels this research requires to be lifted, because of importance of their function and position as one of epistemological law in forming of rule, and main debate of maşlaḥah and utilitarianism focus on centrally, then, how its application and implication to the interests of public society as well as how is the development of that concept in forming law is very interested to be known by some academicians and legislators, So, from this research, it is expected to get epistemological construction of both concepts as one of methodology of law.

E. Theoretical Framework

When one would deal with an idea of philosophy or epistemology of science, the first frequently question is the relevant of idea or epistemology to be analytical tool to the reality. Then legal product itself associates closely with public life. Therefore, before we should comprehend the concept comprehensively and correctly rather than we tell about the relevance of knowledge, as the concept of Maṣlaḥah’s al-Gazali and utilitarianism’s Jeremy Bentham will be researched.

Maṣlaḥah is derived from word *s.l.h.* being formed of *ṣalaha, ṣaluḥa, salahan, ṣulūḥan, and ṣalāhiyatan*. According to al-fayumi as cited by Kamal Mukhtar, a verb “ṣaluḥa” belongs to the contradiction meaning with “fasada” (broken ). The word “maṣlaḥah” is singular form, and its plural form is “maṣālih” which means good and correct. Additionally, as noted from Izz al-Din Ibn Abd al-Salam, Kamal Mukhtar explained that maṣlaḥah into 4 parts: deliciousness and all something can provide deliciousness, happiness. In other word, also maṣṣadah is divided into four ways: sick and something that can provide sick. So it means that anything can provide maslaha, more and more maṣṣadah can cause maṣlaḥah.

Likewise, from lingual aspect, maṣlaḥah can be classified as follow:¹⁵

1. Utility, useful, functioned, no deformity, good,delicious, happy, fun, advantage, success in business, and its antonym is maṣṣadah.

¹⁵ Ibid, 217.
2. All causes, which can affect *maṣlaḥah*, are *maṣlaḥah*, and all causes, which provide *mafsadah*, are *mafsadah*.

3. Mafsadah sometime can take *maṣlaḥah* away. So all causes, which can provide maṣlaḥah, could be either mafsadah or *maṣlaḥah*.

4. Maṣlaḥah is formed physically and *roḥāni*, worldly and *ukhra>wi*, generally and specifically, spiritually and materially, etc.

Professor Nyazee had been a notion that Maslaha is the most important instrument to use in judicial thinking or Ijtihad in modern age.\(^{16}\) Jurists of Islamic Law have divided the purposes of law into two portions: the religious and Dunyāŵi/worldly purposes. Furthermore some scholars such as Professor Khan Nyazee subdivided it into five categories: preservation of religion, life, progeny, intellect and wealth. According to most jurists, Nyazee told us "the essential goals of the *Shari’ah* are to free man from his own whims and fancy, so that he may be the servant of Allah by choice.\(^{17}\)

Nevertheless, those two interested views are drowned by the more popular and majority that the purposes of Islamic law are known by not only reason but also revelation. Al-Gazali and Syātibi, with the latter being credited for having successfully elaborated the purposes of Islamic legal thought, stated that, purposes of law have been determined by the texts, through the process of

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\(^{16}\) Imran Ahsan Khan Nyazee, *Islamic Jurisprudence*, (Islamabad: International Institute of Islamic Thought & Islamic Research Institute, 2003), 248.

\(^{17}\) Ibid, 203.
induction (‘istiqra’) rather than through deduction, this is why the *Maqāsid* is considered *qāti‘* definitive.\(^{18}\)

Prof. Hasan Hanafi expressed that of preservation of *Maṣlaḥah* and avoiding of *Mafṣadah* is based on principles of realistic constitutional (‘*tashri‘*) natural rule, codes of mankind, social reality, and environmental law. While he argued that it is universal rule which govern life as whole. Rules of the world will not be constituted by carnal desire (‘*ahwa‘*).\(^{19}\) Professor Anver Evon explains that Abdu had two principles "the first principle is that rational thought (‘*al Nāẓar al-‘Aqli*’) which it means for the attainment of true faith (‘*wasīlat al-Iman al-ṣalih*’), the second principle is that where revelation and reason are in conflict, reason should take priority (‘*taqdim al-‘aql ‘alā al-syar‘*’).\(^{20}\) *Maṣlaḥah* mentioned above is divided into three parts. First, the type of *maṣlaḥah* has supported by divine text in favor of its consideration. Second is the type which denied by textual source. The third is the type which is neither textual legitimacy nor textual contradiction.\(^{21}\)

Whereas, utilitarianism is broad study in correlating to the rule, ethic, and welfare of society. Utilitarianism, as stated by Mel Thompson, Is one of the most influential and widely theories of ethic used in ordinary “common sense” decisions. He claimed that an action should be judged according to its ability to

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\(^{18}\) Nyazee Imran Ahsan Khan, *Theories of Islamic law*, 242


offer happiness, goodness, and benefit to everyone involved.\textsuperscript{22} It maintains that we should seek to develop maximally the total account of happiness in the mankind, it does not maintain that we seek to maximize our own happiness.\textsuperscript{23} Utilitarianism is the tendency of an object or action to increase or decrease happiness. In the simplest form, utilitarianism claims that the right thing to do is likely to produce the greatest happiness for the greatest number of people in any situation where there is moral choice. Hence the best nation is of which produces the most happiness for the most people. As noted by Mel Thompson, this formulation was promoted in 1725 by Francis Hutcheson, it is the rule of assessing political powers.\textsuperscript{24}

Additionally the utilitarianism is divided into 2 ways: the first is act-utilitarianism which means to assess whether act is wrong or right in the effects of an individual action context. Act utilitarianism relates to assessment about pain and happiness in the context of the personal action.\textsuperscript{25} It does not only allow people to do something simply because it makes them happy. The happiness of the other people included must also be taken account.\textsuperscript{26} Second is Rule-utilitarianism. It states that we should be act based on statements which are judged to seek the greatest goodness in the world as possible rather than causes of the greatest badness.\textsuperscript{27} It recommends to look at the consequences of having

\begin{itemize}
\item \textsuperscript{22} Mel Thompson, \textit{Teach Yourself: Ethics}, (New York: Mcgraw-Hill company, 2003), 67.
\item \textsuperscript{24} Mel Thompson, \textit{Teach Yourself, op. cit}, 68.
\item \textsuperscript{25} Ibid, 70.
\item \textsuperscript{26} Theodore Schick, JR. and Lewis Vaughn, \textit{Doing Philosophy, op. cit}, 328
\item \textsuperscript{27} Prof. Dr. Juhaya S. Praja, \textit{Aliran-Aliran Filsafat dan Etika}, (Jakarta: Pernada Media, 2003), 66
\end{itemize}
everyone follow a particular rule and calculates the overall utility of accepting or rejecting the rule.

According to Kahneman a premises of the (strong) theory of experienced utility can be stated in a few propositions. Firstly, at every moment we are experiencing utility, meaning pleasure and/or pain (this is termed *instant utility*). Second, this utility has *quantity* and *valence*, with a neutral point on the boundary between desirable and undesirable, pleasure and pain. Third, the utility is all that makes an experience good or bad. Fourth, by integrating instant utility over a period we obtain the *total utility* for that period. Fifth, an optimal decision is one that maximizes total utility (or expected total utility). Finally, to make this a workable theory, instant utility must be measurable, up to at least an ordinal and ultimately a ratio scale.\(^{28}\) So this premises which are called *hedonistic calculus* or measure of utility are based on circumstances: intensity, duration, certainty or uncertainty, purity, etc.

By explaining the theory *Maṣlaḥah* and Utilitarianism above, writer interested to use philosophical-comparative approach by using *description* and *critical evaluation* in theoretical framework. *Description* means to show the similarities and differences from both figures in terminology, argumentation, focus, basic assumption, and thinking orientation. While critical evaluation means to look for the excess and weakness each both concepts.\(^{29}\)


F. Research Method

In a compilation of scientific masterpiece, the usage of method is absolutely required, besides to make it easy, the research conducts also as mode of rational and effective activity to reach optimal research result. In general research method applied in this bachelor thesis is method of analytical content used to analyze the idea of Abū Ḥāmid al-Gazālī in Mustaṣfa book and idea of Jeremy Bentham in book of Introduction to the principle of legislation and morals. Analysis, which is used, is theories in science of usūl fiqh and legal philosophy concerning correlation of law and social change and also purpose of law itself. Following complete presentation:

1. Kind of Research.

This research type is literal or library research, it means, this research is based on written book, journal, and sources of data which support this research. Scanning This data is applied to the related books or literatures of legal philosophy, written by either philosopher or expert of usūl fiqh / jurist, and moreover the ethical philosophy, usūl fiqh, and the others related to this research theme.

2. Data Collection.

Method of data collection depends on type and source of data required. In general, data collection can be conducted with a few methods, it is either a alternative or cumulative character which is inter-
complementary. Method, applied in this research, has the character of bibliography and written documentation especially the related books and other written data.

3. Data Sources.

Determination of data source is based on data type which has been determined. At this step is determined primary sources and secondary source, especially the normative-philosophical research is based on source of documents or material readings. Primary sources is fundamental document related to idea of figures about both concepts in the book of *al-Mustasfa* as masterpiece of Abū Ḥāmid al-Gazālī and book of *An Introduction to the Principle of Legislation and Morals* as masterpiece of Jeremy Bentham. Secondary data taken away from book that supported the study of this research, either related book to legal philosophy, ethical philosophy, history of philosophy such as *fiqh, uṣūl fiqh, tarih tasyrî*, etc.

4. Data Analysis.

Basically, data analysis is decomposition of data through few steps: categorization and classification, comparison and seeking away inter-correlation specifically among data about both concepts. At the first phase selects the data which has been collected and then classified according to certain category. In this research, data is classified into two

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types: First phase, ideas of figures (Abū Ḥāmid al-Gazālī and Jeremy Bentham), both types are viewed as result of understanding of source of legal methodologies. Second phase, it is to compare the elements of difference and similarity of the both concepts.

G. Structure of This Bachelor thesis

To get optimal research the exploration has to be conducted gradually and systematically. Writer divides fundamental discussion of this bachelor thesis into five chapters, at each chapter belongs to sub-chapter becoming its detail. As for systematic of discussion is more completely as follow:

Chapter 1; the introduction explains the basic ideas. Activity of this research is based on fact or interested phenomenon such as: 1) Background; 2) the Problems of the study; 3) Objectives and Significances; 4) Literature Review; 5) Theoretical framework; 6) Research Method; 7) Structure of this bachelor thesis.

Chapter II: in this chapter, the writer express generally the concepts of Maṣlahah and utilitarianism covered aspect of philosophical epistemology and methodological construction.

Chapter III in this chapter, the writer explores biography Jeremy Bentham: his activity, his masterpieces and his idea about utilitarianism. Also biography of Al-Gazālī: his activity, his masterpieces and his idea about maṣlaḥah.
Chapter IV: comparative analysis: In this chapter writer analyze about *maṣlaḥah* and utilitarianism according to both figures. The exploration starts from differences and similarities to implication of that concept to welfare of society.

Chapter V: the conclusion: it explores conclusions the comparative study which has been explored, then writers give some suggestions to the academician and official government.
CHAPTER V: CONCLUSIONS

A. CONCLUSIONS

Concept of Bentham’s utility

The fundamental imperative of utilitarianism is: Always act in the way that will produce the greatest amount of good in the world. The enjoyable feeling we experience when a state of deprivation is replaced by fulfillment. Utilitarianism is a morally demanding position for two reasons: It always asks us to do the most, to maximize utility, not to do the minimum. It asks us to set aside personal interest.

Actions are to be judged right or wrong solely in virtue of their consequences. Nothing else matters. Right actions are, simply, those that have the best consequences. For most utilitarians, maximizing intrinsic good means maximizing happiness. We should always do what we can to maximize the overall happiness in the world. This is called hedonistic utilitarianism.

Concepts of Maslahah’s al-Gazali

Actually law is produced to fulfil fundamental interest of human beings; it has five principles: Religion, life, progeny, Intellect, Property. And Maṣlaḥah, as methodology of law, produce law based on some considerations: fundamental interest; definitive utility; universal needs.

Maṣlaḥah must not contradict with clear textual evidence, because Maṣlaḥah is to prevent purpose of shari’ah where it is understood from al-Qur’ān, Sunnah, ijma’. Actions are to judged right or wrong in life of their
theological value. Nothing else matter, right actions, fundamentally, have to be theological legitimacy.

**Similarities and differences**

In similarities, *Masla*ḥah and utility have the same considerations: both offer, in the unqualified context, equally to consent for fulfillment of human interests; both equally, in the world, attain welfare of society as whole. Both try to free from restrains of normative law and political authority. Both are, then, the same in promoting social goodness.

In differences: *maṣla*ḥah and utility have different sources. As we know that *maṣla*ḥah is influenced by religious texts in interpretation of law. Because *Maṣla*ḥah comes from textual tradition. So *Maṣla*ḥah tend to theological nature. Whereas, utility is pure thinking of ethical value, as we understood, religion itself is one of four sanctions of utility. law must be free from restrains of religious, moral, political authority. In the other world, rule must be evaluated by value of utility.

**Problems with justice and human rights**

*Maslahah* and utility which provides to establish social welfare can defeat personal interests. In this case, social welfare can be reason to eliminate individual rights and freedom. So it is not compatible with *justice as fairness*. every body, under principle of justice, has basic rights and liberty. By reason “the greatest welfare of society to the number of people”, *maslahah* and utility Practically fall into dictator majority, a mean, majority of muslim
society judge and do intervention to individual rights and minority of society, who has different interests.

B. SUGGETIONS

To know product and concept of law critically, we have to study epistemology of law itself. Because academician have responsibility to criticize and participate in development of law. Hence, before we have obedience to law, we must be study some critical epistemology of law, in order to get knowledge of law which have sense of justice. So writer suggests to academician or advocator to study some epistemology of law, include the concept of Maşlaḥah and utility.

Writer thinks that Maşlaḥah and utility is often used as reasons by official government and lawyer to make decision into society. Hence, writer let academician and our official government to study and research as fellow:

1. Study and research maşlaḥah and utility comprehensively and critically. It conducts us whether law is made by legislator have sense of justice to minority and poor society or not.

2. Analyze the concept of maşlaḥah and utility in practical, because executer of official government often use reason “the greatest welfare to the greatest society”.

3. Don’t fall into romantic thinking when we study epistemology of knowledge. So we don’t criticize the weakness of that epistemology.

4. It is important to academician to reinterpret, criticize, reformulate, re-actualize maşlahah and utility in legal practice. So we all find
development and enforcement of law having sense of justice and harmony with changing and growing up of society.
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**BACHELOR THESIS, THESIS, AND DESERTATION**


**WEBSITE**


APPENDIXES

Appendix 1

TRANSLATION OF ARABIC TEXTS

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<tr>
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<tr>
<td>1</td>
<td>8</td>
<td></td>
<td>We sent you not, but as a mercy for all creatures</td>
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<td>2</td>
<td>9</td>
<td></td>
<td>He has imposed no difficulties on you in religion</td>
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<tr>
<td>3</td>
<td>10</td>
<td></td>
<td>Allah intends every facility for you, he doesn’t want to put you difficulties</td>
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Appendix 2

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<tr>
<td>1</td>
<td>45</td>
<td>12</td>
<td>in essential meaning it (mašlāhah) is an expression for seeking something useful (manfa’at) or removing something harmful (madarra). But this is not what we means, because seeking safety and removing harm are purposes (maqāṣid) at which the creation aims and the goodness of mankind consists in realizing their goals. What we mean by mašlāhah is preservation of the objective (maqāṣid) of the rule (syar’) which consist five things: preservation of religion, of reason, of life, of generation, and of property. What assures the preservation of five principles is mašlāhah and whatever fails to preserve them is mafsādah and its removal is mašlāhah</td>
</tr>
</tbody>
</table>
| 2  | 15   | 47 | Every mašlāhah, which is no foundation to preserve objective law (Al-Quran, Hadits, Ijma’), is mašlāhah gariḥbah that is not supported by an individual text nor compatible with the purpose of law. so it is invalid. Anybody used it so they made it rule as anybody made it reference so they made it rule. Every mašlāhah is to preserve objective law (maqṣūd syari’ah) which can be understood based on l-Qur’ān, Ḥadīṣ, Ijma’ nor out from this sources. This is not category of analogy but mašlāhah mursalah. Because analogy is based on specific source. To understand the objective meaning is not by one evidence but some evidences which is investigated from al-Qur’ān,
Appendix 3

**BIOGRAPHY OF ULAMA’/SCHOLARS**

1. **Abu Hanifah (AH 80-150/699-767 CE)**

   More fully Abu Hanifah Al-Nu’man ibn Tsabit ibn Zuta; theologian, jurist, and founder of the first of the four orthodox schools of law in Sunni Islam. As a theologian, he persuasively argued against Khariji extremism and espoused several positions that became an integral part of orthodox doctrine, especially the idea that sin did not render one of unbeliever. As a jurist, he reviewed the then-existing body of legal doctrines, elaborated the law by formulating views on new questions, and integrated these into a coherent system by anchoring them to an elaborate and basically consistent legal theory.

   Abu Hanifa was born in Kufa, then the capital of Iraq and major intellectual center of the Islamic world. He was of non-Arab origin: his grandfather was a freed slave from Kabul who became a client (*mawla*) of an Arabian tribe, Taym Allah. His father, Thabit, was certainly a Muslim, and presumably even his grandfather had converted to Islam. The family was prosperous, and Abu Hanifah himself became a successful manufacturer and merchant of silk. Renowned of his income to charitable purposes, especially in helping scholars in need.
2. **Malik ibn Anas (d. AH 179/795 CE)**

Renowned Muslim jurist and eponymous founder of Maliki school. Malik was born sometime between 90 and 97 AH (708 and 715) in Medina, where he spent most of his life and where he died. Biographical tradition records that he was, for a while, a professional singer, because he was ugly, his mother advised him to give up that career. Instead, he became, like an uncle and a grandfather before him, a religious scholar. Malik studied with a number of well-known scholars of Medina and then, as his fame spread, acquired many pupils of his own.

In 762 he lent the weight of his reputation to a revolt against the Abbasid caliph al-Mansur. When that failed, he was punished by the governor of Medina, but his prestige did not suffer, and he regained royal favor. The next three caliphs, al-Mahdi, al-Hadi, and Harun al-Rashid, were personally interested in his work, and Harun, while on pilgrimage in the last year of Malik’s life, even attended one of his lectures.

Malik’s intellectual activity belongs to the period of Islamic jurisprudence when the explicit legislative legacy provided by the Qur’an and the Prophet Muhammad was proving insufficiently complete for the needs of the rules of the expanding empire, and they were turning for further guidance to religious specialists such as Malik. Malik’s achievement was to combine these two sources of authority. In his major work, *Kitāb al-Muwatī‘a'* (Book of the Smoothed Path), which is the earliest surviving law book of Islam, Malik set forth, within the context of the hadīṣ, the legal practices that had evolved in Medina.

3. **Al-Shafi‘i (AH 150-208/767-820 CE)**

More fully Muhammad ibn Idris; the founder of a school of law and the author of several works of Islamic law (*shari‘ah*). Perhaps more important, he wrote the first treatise of jurisprudence in Islam, in which he discussed the nature and sources of law and developed a legal methodology for the systematic study of the *shari‘ah*.

Little is known of al-Shafi‘i’s childhood and early life. The earliest biographies are very brief, while the detailed accounts given by classical biographers are mixed with legendary stories. The authorities disagree on whether al-Shafi‘i was born in Gaza, a small town on the coast of Palestine, or in Ashkelon, a larger town not far away. His ancestors belonged to the Banu Hashim, the clan of the prophet Muhammad. Some of them, it seems, went with the Arab armies in the early days of the Muslim conquests and stayed in the eastern Mediterranean region. When al-Shafi‘i was about ten years old, his father died, and his mother took him from Palestine to Mecca.
Traditional stories, legendary for the most part, state that he learned the Qur’an by heart the age at the age of seven, committed Malik’s Muwatta’ to memory at the age of ten, and was declared fit to give legal opinions at the age of fifteen. His school was divided to two parts differed one to another, the first was qaul qadi>m when he lived in Iraq, and qaul jadi>d when he lived Egypt. Al-Shafi’i’s legal system is to be found in his collected works: the Kitāb al-Umm (The Mother Book).

4. **Ahmad ibn Hanbal**

   Like al-Shafi’i before him, was of pure Arab atock, and like al-Shafi’i, whom he greatly admired, he gave a preponderant place to the sunnah of the Prophet as sacred scripture alongside the book of God, the Qur’an. His teaching’s form the doctrinal basis of the maz{hab that bears his name.

   He was born in Baghdad in December 780 and died in July 855. He was known as ‘The Imam of Baghdad.’ Profoundly interested in the study of hadis, he began to devote him self to it at the age of fifteen and made his way throughout the land of the eastern caliphate in search of its authoritative transmitters. He traveled in Iraq (Kufa and especially Basra), the Hejaz, Yemen, and Syria, the regions of the so-called geographical schools of law. Between the ages of twenty-three and thirty-four he made the pilgrimage to Mecca five times, along with two pious retreats in Medina.

5. **Ibn Hazm (AH 384-456/994-1064 CE)**

   More fully Abu Muhammad ‘Ali bin Ahmad ibn Sa’id ibn Hazm; Muslim theologian and man of letters. Born in Cordova to a rich and influental family, Ibn Hazm received a distinguished education in relihious sciences, literature, and poetry. Nonetheless, he grew up in period of disruptive ethnic and clean rivalries that saw the decline of the Umayyad caliphate at Cordova and the formation of tiny kingdoms fighting among themselves. His own childhood was marred by the disgrace of his father after the fall of Caliph Hisyam II and by the destruction of the family home at Balat Mughith in the course of bloody battles between Arabs and Barbers.

   As a result of his political activities on behalf on the legitimist (Umayyad) party, Ibn Hazm met with imprisonment, banishment, and flight but was appointed ti high position as well, serving as vizier at least twice, under ‘Abd al-Rahman III al-Murtadha and ‘Abd al-Rahman V al-Mustazir, and possibly a third time under the last caliph, Hisyam al-Mu’tadd. Profoundly disappointed by his political experience and offended by the conduct of his contemporaries, Ibn Hazm subsequently left public life and devoted his last thirty years to literary activities.
In *Al-Iḥkām fī ʿUṣūl al Aḥkām*, Ibn Hazm develops his method for classifying human acts within the five established judicial categories (*aḥkām*) of obligatory, recommended, disapproved, forbidden, and lawful: for an action to fall into one of the first four categories, there must be a text that establishes its particular status; otherwise, the act is lawful. This method is *madrasahs* (colleges) established in the Muslim world.

Appendix 4

**BIOGRAPHY OF PHILOSOPHERS**

James Mill (April 6, 1773-June 23, 1836)

James Mill born April 6, 1773, Northwater Bridge, Forfarshire, Scot.—died June 23, 1836, London, Eng.) Scottish philosopher, historian, and economist. After distinguishing himself as a Greek scholar at the University of Edinburgh, James Mill was licensed a Presbyterian preacher in 1798. He soon turned to teaching, however, and embarked on historical and philosophical studies. In 1802 he went to London to devote himself to a career in journalism. In 1804 he wrote a pamphlet on the corn trade, arguing against a bounty on the exportation of grain, and in 1806 he began his *History of British India*, 3 vol. (1817).

Mill became acquainted with Jeremy Bentham, who founded Utilitarianism, in 1808. As Bentham's chief companion and ally for many years, he adopted Bentham's principles in their entirety and did more to propagate them and to oppose the beginnings of Romanticism than anyone else. He was a regular contributor (1806–18) to the *Anti-Jacobin Review*, the *British Review*, the *Eclectic Review*, and the *Edinburgh Review* (1808–13). In 1814 Mill undertook to write various articles on politics, law, and education for the six-volume Supplement to the 4th, 5th, and 6th editions of the *Encyclopædia Britannica*. As reprints they enjoyed a wide circulation in his time. One of the articles, “government,” had considerable influence on public opinion in the 1820s. Also he helped prepare the ground for passage of the first Reform Bill by Parliament in 1832.

In 1819, two years after Mill's *History of British India* appeared, he was appointed an official in India House, despite his drastic criticisms in the *History* of British rule in India. He rose gradually through the ranks until he was appointed head of the examiner's office in 1830. The *History*, his major literary achievement, was the first full historical treatment of the British conquest of India. Mill harshly criticized the British administration of India, and during his 17 years with the India House he helped completely reform the system of government in the colony. However, the *History*'s severe Utilitarian analysis of Indian civilization also popularized among European readers an image of the subcontinent as perpetually backward and undeveloped.
John Stuart Mill (May, 20, 1806—died May 8, 1873)

John Stuart Mill was born on Rodney Street in the Pentonville area of London, the eldest son of the Scottish philosopher, historian and economist James Mill, and Harriet Burrow. John Stuart was educated by his father, with the advice and assistance of Jeremy Bentham and Francis Place. He was given an extremely rigorous upbringing, and was deliberately shielded from association with children his own age other than his siblings. His father, a follower of Bentham and an adherent of associationism, had as his explicit aim to create a genius intellect that would carry on the cause of utilitarianism and its implementation after he and Bentham had died. Mill was a notably precocious child. He describes his education in his autobiography. At the age of three he was taught Greek. By the age of eight he had read Aesop's Fables, Xenophon's Anabasis, the whole of Herodotus, and was acquainted with Lucian, Diogenes Laërtius, Isocrates and six dialogues of Plato. He had also read a great deal of history in English and had been taught arithmetic.

At the age of eight he began learning Latin, Euclid, and algebra, and was appointed schoolmaster to the younger children of the family. His main reading was still history, but he went through all the commonly taught Latin and Greek authors and by the age of ten could read Plato and Demosthenes with ease. His father also thought that it was important for Mill to study and compose poetry. One of Mill's earliest poetry compositions was a continuation of the Iliad. In his spare time, he also enjoyed reading about natural sciences and popular novels, such as Don Quixote and Robinson Crusoe. At age fourteen, Mill stayed a year in France with the family of Sir Samuel Bentham, brother of Jeremy Bentham.

In 1851, Mill married Harriet Taylor after 21 years of an intimate friendship. Taylor was married when they met, and their relationship was close but generally believed to be chaste during the years before her first husband died. Brilliant in her own right, Taylor was a significant influence on Mill's work and ideas during both friendship and marriage.

Between the years 1865-1868 Mill served as Lord Rector of the University of St. Andrews. During the same period, 1865-8, he was a Member of Parliament for City and Westminster. In 1866 became the first person in Parliament to call for women to be given the right to vote. Mill became a strong advocate of women's rights and such social reforms as labor unions and farm cooperatives. In Considerations on Representative Government, Mill called for various reforms of Parliament and voting, especially proportional representation, the Single Transferable Vote, and the extension of suffrage. He was godfather to Bertrand Russell. He died in Avignon, France, in 1873, where he is buried alongside his wife.
CURRICULUM VITAE

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Educational background

Formal

1. SD Ketupat V Ra’as Sumenep 1998
2. MTs ASWAJA Ambunten Sumenep 2002
3. MA Tribakti Lirboyo Kediri 2005
4. Syari’ah Faculty of UIN Sunan Kalijaga Yogyakarta 2010

Non Formal:

1. Madrasah Diniyah al-Munawwirah Ketupat Ra’as 1998
2. Madrasah Diniyyah PP. as-Sadad Ambunten Sumenep 2002
3. Madrasah Diniyyah PP. Mahrus Ali Lirboyo kediri 2005

Organizations

1. KeMpeD (Student Family of democracy lover) 2006
2. ARENA: University Press 2007