

Forensic Science Application towards *Rahmatan Lil Alamin*: An Appraisal within the Context of Justice

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Abstract

The idea of *Rahmatan Lil 'Alamin* is predominantly derived from Surah al-Anbiya, verse 107. The lexicon "*rahmat*" connotes various interpretations that include Islam and al-Qur'an. Meanwhile, al-Qur'an was revealed to Prophet Muhammad (p.b.u.h.) which contains principles and injunctions as a proclamation and guideline to mankind. This revelation intends to preserve the public interests while preventing from harm. The objective of this study is to analyse the appraisal of forensic science application within the context of justice. This study aims to appraise the nexus between concept *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*. This qualitative study used documentary research method in collecting primary and secondary data. The data have been analysed using content analysis method by adapting inductive reasoning. The appraisal of forensic science application within the context of justice indicates numbers of findings; the forensic science application is permissible in Islam. It also denotes forensic science have been long practiced since the prophet era, where numbers of forensic methods have been applied to uphold the justice at that time. Apart from that, there was also a nexus between the concept of *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*. The relation can be seen from the common purpose of both concepts which are preserving the public interest and preventing harm. Therefore, the application of forensic science shall be the meeting point between forensic science application, concept *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*. It bridges the gap between science and shariah. This study contributes in building the integration between science and shariah elements through application of forensic science and the concept of *Rahmatan Lil 'Alamin*. This study has also indirectly proved the concept of *al-shumūl*, *al-thabāt*, and *al-murūnah* in Islamic teachings that encompassed various fields of knowledge. This study suggests more research to be conducted in regards to the application of fiqh forensics in various field.

Keywords: Fiqh Forensics, Forensic Science, *Rahmatan Lil 'Alamin*, *al-Maqāṣid al-Sharī'ah*, Justice

Introduction

Rahmat means sympathy, kindness, and mercy (Wehr, 1976). According to al-Jawhari (1987) and Ibnu Manzur (1994), *rahmat* refers to gentleness and condescendence. Meanwhile, Ibnu al-Jawzī (1984) stated that *rahmat* refers to grace on the needy. Furthermore, al-Rāghib al-Aṣfahānī (1992)

opined that the word *rahmat* sometimes connotes *al-riqqah* (gentleness) and *al-ihsān* (beneficence).

The lexicon “*rahmat*” is mentioned in al-Quran in numerous verses and carries various interpretations. There are sixteen interpretations as collected by Ibnu al-Jawzī (1984), and the related interpretations with this study are Islam and al-Qur’an. These are the relevant interpretations of “*Rahmatan Lil ‘Alamin*” that predominantly derived from Surah al-Anbiya, verse 107. These exegeses were made based on the results of the appraisal on verses 107 and 106, Surah al-Anbiya (al-Shanqīṭī, 1995; al-Zuḥaylī, 2009).

إِنَّ فِي هَذَا لَبَلَاغًا لِقَوْمٍ عَابِدِينَ (106) وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ (107)

“Verily in this (Qur’an) is a Message for people who would (truly) worship Allah. We sent thee not, but as a Mercy for all creatures.”

(Surah al-Anbiya (21): 106-107)

Meanwhile, the exegesis of “*Rahmatan Lil ‘Alamin*” in the aforementioned verse refers to the purpose of Allah (s.w.t.) sending Prophet Muhammad (p.b.u.h.) and Islam which comprises of divine teachings and legal provisions; is not only as blessing in this world and hereafter, but also as a mercy and guidance to all human affairs (al-Marāghī, 1946; al-Shawkānī, 2000). Ibnu ‘Abbas interpreted the verse as a mercy for all mankind, either Believers or non-Believers. Mercy for Believers refers to the reward of heaven in the hereafter, while mercy for non-Believers refers to the delayed punishment in this world. This exegesis is pronounced by al-Ṭabarī (2000) in the 3rd centuries which later been maintained and followed by the other prominent interpreters (*mufassirūn*) (Ahmad Sanusi & Mohd Yusuf, 2018), including Ibnu al-Jawzī (2001), al-Qurtubi (2006), Ibnu Kathir (1999), al-Suyūṭī (2007), and al-Zuḥaylī (2009).

This verse also connotes one of the prophetic missions carried by Prophet Muhammad (p.b.u.h.) that goes beyond ethnic boundaries (Rubin, 2004). Unlike other previous prophets who were sent to their own nation or people, this substantive mission was given to Prophet Muhammad (p.b.u.h.) as the manifestation of Allah’s grace to all mankind (Hamka, 1990). The message of Prophet Muhammad (p.b.u.h.) was a manifestation of grace to his own people and towards humanity. According to al-Rāzī (1981) and Sayyid Quṭb (2006), such manifestation is referring to the divine guidance provided in the al-Quran. Meanwhile, al-Qur’an has been regarded as the basic code of living for all mankind as it ensures their happiness and leads them to the highest level of perfection of humanity (al-Ṣābūnī, 1997; al-Zuḥaylī, 2009). In addition, al-Marāghī (1946) and al-Shawkānī (2000) elucidates that al-Qur’an contains divine guidance and legal provisions that regulate the human daily life. These are the reason why al-Quran is referred as “*rahmat*” in the above verse (al-Rāzī, 1981). This is further evident from the crucial explanation by Sayyid Quṭb (2006) in his magnum opus:

“This book sets out the principles and the framework of a permanent code for an ever-renewing human life, leaving to human beings the task of deducing detailed rules necessary for organizing their relations as life progresses. It is also up to human beings to determine the methods and the means of implementation, according to their different situations and circumstances, without conflict with the principles of the permanent code. Having guaranteed the right to freedom of thought and established the society that allows

the human mind to think, this book also allows the human mind the freedom to determine what actions need to be taken. Thus, under Islam and within its fundamental principles, man is free to develop and progress towards the highest attainable standard of human life.” (Sayyid Quṭb, 2006)

These facts clearly portray the mission brought by Prophet Muhammad (p.b.u.h.), containing divine teachings, guidelines, and regulations derived from al-Qur’an and his sayings, shall be regarded as manifestation of Allah’s grace to all mankind. Furthermore, this grace is comprehensive and flexible thus applicable at all times and places. As for this study, while it aims to appraise the nexus between concept *Rahmatan Lil ‘Alamin* and *al-Maqāṣid al-Sharī‘ah*, it also intends to evaluate the forensic science application within the context of justice.

Methodology:

This qualitative study uses documentary research methods to appraise the books written by scholars and academicians. In addition, the same methodology is used to evaluate the findings of recent studies cited in the literatures that are authored in quality and indexed journals. Documentary research methods are used to gather and obtain data through studies of the documents, literature and records that have been produced (Neely & Ponshunmugam, 2019; Prior, 2008). Its primary purpose is to educationally evaluate particular written documents either public domain or private (Payne & Payne, 2004; Walsh, 2014). It also can be either primary or secondary documents. For the purpose of this research, we evaluate both types of documents.

In this study, we appraised public or primary documents from the Quranic verses, Prophetic traditions, and legal provisions from Shariah Court Evidence (Federal Territories) Act 1997. We determined the data from these primary documents shall be the primary data as these data were from a direct source, reliable and not influenced by any individual view or opinion. Then, the secondary data of this study is the discussion in the classical and contemporary Islamic exegesis and jurisprudence around the theme of forensic science, Islamic law of evidence, *Rahmatan Lil ‘Alamin*, and *al-Maqāṣid al-Sharī‘ah*. Furthermore, secondary data were obtained from the writings in indexed journals mainly Scopus and WOS which were obtained from the Scopus database accessed through the Ezproxy portal of the Universiti Sains Islam Malaysia.

Then, the obtained data were analysed by using content analysis method to understand, comprehend, and extract meaningful interpretations of data that circulate in texts (Leavy, 2017; Roller & Lavrakas, 2015). Since this research is a qualitative work, therefore, the content analysis in this research was applied in an inductive manner (Julien, 2008). This process involved the development of a recursive process of data collection and analysis related to the application of a rule, definition, or procedure to successive results (Hayes, Navarro, Stephens, Ransom, & Dilevski, 2019; Leavy, 2017; Liew, Grisham, & Hayes, 2018).

Results

The prominent result of the study is the application of forensic science in upholding justice shall be the meeting point between forensic science application, the concept *Rahmatan Lil ‘Alamin* and also *al-Maqāṣid al-Sharī‘ah*. This is because it bridges the gap between science and Shariah. The application of forensic science in question is focusing on the perspective of Shariah Courts in Malaysia.

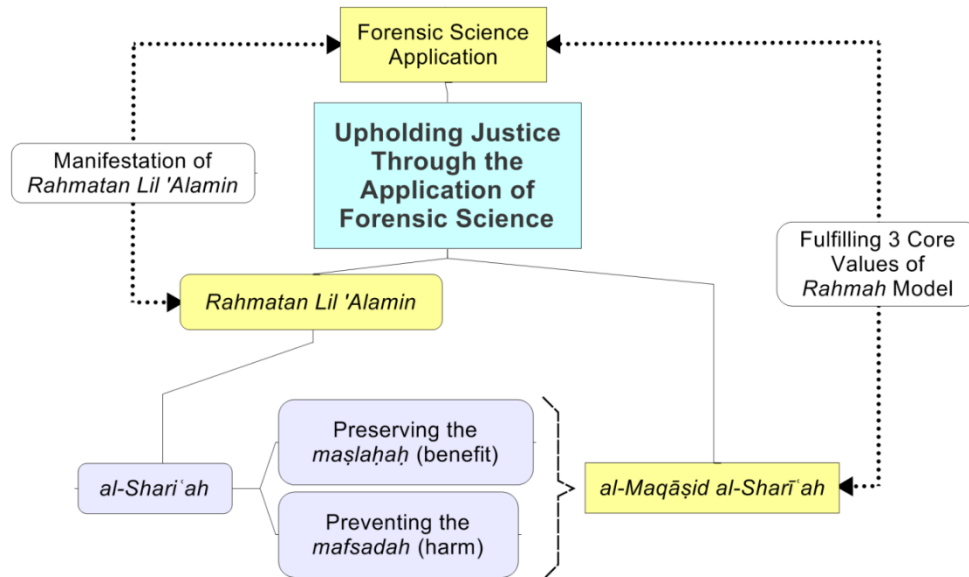


Figure 1: Theoretical Framework of Upholding Justice through the Application of Forensic Science

Figure 1 above illustrates the overall finding in this study. Upholding justice through the application of forensic science requires three attributions, namely, forensic science application, *Rahmatan Lil 'Alamin*, and *al-Maqāṣid al-Sharī'ah*. In fact, these attributions are interrelated. The relationship between *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah* exists through *al-Sharī'ah* where it shall be the essence of *Rahmatan Lil 'Alamin* and at the same time become the main theme of *al-Maqāṣid al-Sharī'ah*. Meanwhile, the forensic science application is having connection with *Rahmatan Lil 'Alamin* by way of manifestation. The said manifestation occurred since the application of forensic science during the prophethood era has managed to uphold justice among the accused person and innocent person. Besides that, the forensic science application also bare association with *al-Maqāṣid al-Sharī'ah* as a breakthrough in studies on Shariah law in the Malaysian context. This happened by way of fulfilling three core values of *Rahmah* model namely *Rahmatan Lil 'Alamin*, *al-Maqāṣid al-Sharī'ah*, and Malaysia Model.

Discussions:

At this juncture, there numbers of important points to be discussed thoroughly.

The Permissibility of Forensic Science Application in Islam.

Forensic science is the utilization of scientific or technical practices to the identification, collection, evaluation and interpretation of evidence for civil and criminal law or administrative issues (Metwally, 2019). According to Saferstein (2015), it is an umbrella term enveloping a diverse of professions that utilize their skills and expertise to assist legal enforcement officials in handling their investigation. He further stated eleven professions that practicing forensic science such as criminalistics, questioned documents, odontology, legal or jurisprudence, digital and multimedia science, pathology, toxicology, and pathology. However, this list is not exclusive as it differs according to the state's practice. In Malaysia, there are numbers of governmental and non-governmental agencies that carry out forensic science application, including Centre of Analysis for Forensics Science of Kimia Malaysia, Forensics Unit of Royal Malaysian Police, CyberSecurity Malaysia, Malaysian Communications and Multimedia Commission, and Forensic Department in governmental and non-governmental hospitals.

The application of forensic science is permissible in Islam. This is evident from numerous Islamic sources including Quranic verses, Prophetic traditions and his companion practices that indicate the application of forensic science to uphold the justice either by convicting the accused or exonerate the innocent. As for example, in verses 18, Surah Yusuf, Allah (s.w.t.) mentioned:

وَجَاءُوا عَلَى قَمِيصِهِ بِدَمٍ كَذِبٍ قَالَ بَلْ سَوَّلَتْ لَكُمْ أَنْفُسُكُمْ أَمْرًا فَصَبِرْ جَمِيلًا وَاللَّهُ الْمُسْتَعَانُ عَلَى مَا تَصِفُونَ
(18)

“They stained his shirt with false blood. He said: “Nay, but your minds have made up a tale (that may pass) with you, (for me) patience is most fitting: Against that which ye assert, it is Allah (alone) Whose help can be sought”

(Surah Yusuf (12): 18)

The brothers of Prophet Joseph (p.b.u.h.) have handed over the garment of Prophet Joseph (p.b.u.h.) to Prophet Jacob (p.b.u.h.). They had put false blood to support their claim that Prophet Joseph (p.b.u.h.) had been eaten by a wolf (Rashīd Riḍā, 1999). Prophet Jacob (p.b.u.h.) performed a comparative analysis of the blood condition on the garment (Ahmad Syukran, 2017b). His analysis showed that the appeared blood is not consistent with the human blood, but it was likely from animal in terms of the features or specifically known as blood morphology (al-Qurtubi, 2006). The result is further confirmed by the discovery of additional fact, that there was no wiggle or wolf's bite effect on the said garment (al-Naḥḥās, 1988; al-Shawkānī, 2000; Ibnu Abī Ḥātim, 1998). Based on the analysis of the facts and evidence, Prophet Jacob (p.b.u.h.) refuted the false allegations made by his children regarding the death of the Prophet Joseph (p.b.u.h.) (al-Sa‘dī, 2000). In today's forensic science application, the analysis conducted by the Prophet Jacob (p.b.u.h.) is known as bloodstain analysis on the fabric (Dicken, Knock, Carr, & Beckett, 2019; Wu, Michielsen, & Baby, 2019), as well as physical analysis towards textile damage (Sloan, Fergusson, & Robertson, 2019a, 2019b).

The above-mentioned verse explained the Locard's Exchange Principle which stated that every contact will leave a trace (Byard, James, Berketa, & Heath, 2015). This principle plays an integral part in forensic science application particularly on the crime scene investigation. The exchange occurred when the perpetrator of a crime brings something into the crime scene and he will leave with something from it (Mistek, Fikiet, Khandasammy, & Lednev, 2018). In the above situation, it was claimed that the Prophet Joseph (p.b.u.h.) has been eaten by a wolf, however, there is no wiggle or wolf's bite effect presented on the said garment. Therefore, due to no exchange happened, Prophet Jacob (p.b.u.h.) refuted such claim. This principle also applied in another verse of Surah Yusuf, which is in verse 26 until 29.

قَالَ هِيَ رَاوَدْتَنِي عَنْ نَفْسِي وَشَهِدَ شَاهِدٌ مِنْ أَهْلِهَا إِنْ كَانَ قَمِيصُهُ قُدَّ مِنْ قُبُلٍ فَصَدَقَتْ وَهُوَ مِنَ الْكَاذِبِينَ
(26) وَإِنْ كَانَ قَمِيصُهُ قُدَّ مِنْ دُبُرٍ فَكَذَبَتْ وَهُوَ مِنَ الصَّادِقِينَ (27) فَلَمَّا رَأَى قَمِيصَهُ قُدَّ مِنْ دُبُرٍ قَالَ إِنَّهُ مِنْ
كَيْدِكُنَّ إِنَّ كَيْدَكُنَّ عَظِيمٌ (28) يُوسُفُ أَعْرَضَ عَنْ هَذَا وَاسْتَغْفِرِي لِذَنبِكِ إِنَّكِ كُنتِ مِنَ الْخَاطِئِينَ (29)

“He said: “It was she that sought to seduce me – from my (true) self.” And one of her household saw (this) and bore witness, (thus):- “If it be that his shirt is rent from the front, then is her tale true, and he is a liar! But if it be that his shirt is torn from the back, then is

she the liar, and he is telling the truth! So when he saw his shirt,- that it was torn at the back,- (her husband) said: "Behold! It is a snare of you women! Truly, mighty is your snare! "O Joseph, pass this over! (O wife), ask forgiveness for thy sin, for truly thou hast been at fault!"

(Surah Yusuf (12): 26-29)

In the said verses, the Locard's Exchange Principle has been successfully established as there was an exchange between the perpetrator's action and the trace left by her. The perpetrator was al-'Azīz's wife as she attempted to commit sexual harassment against the Prophet Joseph (p.b.u.h.). The Prophet Joseph (p.b.u.h.) attempted to escape; unfortunately such attempt had resulted in his clothes being torn from the back due to the pull by al-'Azīz's wife. The tear on the clothes of the Prophet Joseph (p.b.u.h.) was from the collar to the bottom of his shirt on the back (al-Ṭabarī, 2000). The effect of the tear was a result from the intentional force made by al-'Azīz's wife to prevent him from escaping (Ibnu Kathir, 1999; Sayyid Quṭb, 2003). The effect of such a tear is considered to be as trace evidence which is in line with the Locard's Exchange principle.

A part from that, several Prophetic Traditions revealed the application of forensic science in convicting the accused person or proves the claim.

عَنْ عَبْدِ الرَّحْمَنِ بْنِ عَوْفٍ رَضِيَ اللَّهُ عَنْهُ فِي قِصَّةِ قَتْلِ أَبِي جَهْلٍ قَالَ: فَأَبْتَدَرَاهُ بِسَيْفَيْهِمَا حَتَّى قَتَلَاهُ، ثُمَّ انْصَرَفَا إِلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَأَخْبَرَاهُ، فَقَالَ: «أَيُّكُمَا قَتَلَهُ؟ هَلْ مَسَخْتُمَا سَيْفَيْكُمَا؟» قَالَ: لَا. قَالَ: فَنَظَرَ فِيهِمَا، فَقَالَ: «كِلَاكُمَا قَتَلَهُ، سَلْبُهُ لِمُعَاذِ ابْنِ عَمْرٍو بْنِ الْجُمُوحِ»

Abdul Rahman bin 'Auf (r.a.) narrated regarding the story of the killing of Abu Jahal, '...they both (Mu'az bin Amru bin al-Jamuh and Mu'az bin 'Arfa') hastened to him with their swords till they killed him. Afterward, they went to the Prophet (p.b.u.h.) and informed him (of what they had done). The Prophet (p.b.u.h.) asked them, "Which of you killed him? Have you wiped your swords?" They said: "No." The Prophet (p.b.u.h.) then looked at the swords and said, "Both of you killed him." He then ordained the belongings (weapons, shields etc...) of Abu Jahal should go to Mu'az bin Amru al-Jamuh. (Hadith. Al-Bukhari. Bāb Man lam yukhammis al-aslāb, wa man qatala qatīlan salabuhu min ghayr an yukhamisa, wa hukmun al-imam fihi: Vol. 4: #3141; Muslim. Bāb Istiḥqāq al-qatīl salaba al-qatīl: Vol. 3: #1752)

It is permissible to rely on circumstantial evidence in the judiciary because the Prophet (p.b.u.h.) inferred the presence of bloodstains on their swords to confirm who killed Abu Jahal ('Azzām, 2009). By inferring to the said swords, the Prophet (p.b.u.h.) found out that Mu'az bin Amru al-Jamuh who cut off Abu Jahal with a fatal blow that eventually killed him (Badr al-Din al-'Ayni, 2001). Among the inferences been made was the deep of swords penetrated into the body of Abu Jahal (Badr al-Din al-'Ayni, 2001). Due to that, the Prophet (p.b.u.h.) ordained the belongings of Abu Jahal to him. Meanwhile, according to al-Nawāwī (1972), the reason why the Prophet (p.b.u.h.) said "Both of you killed him." is actually to keep Mu'az bin 'Arfa' at peace as he also contributed to the killing of Abu Jahal. In today's technology, the possible forensic science application to be used in this situation is blood pattern analysis (BPA) on suspected weapon to identify the owner of bloodstains on the said swords (Comiskey, Yarin, & Attinger, 2019; Williams, Graham, Jermy,

Kieser, & Taylor, 2019), and autopsy on dead body to determine the cause of death either caused by slashing or stabbing of objects (Banwari, 2017; Koehler, 2016).

In another tradition, there was an event that can be served as a reference to the forensic analysis of the foot and shoe impression, which is from the folklore of tribe 'Ukl and 'Uraynah.

عَنْ قَتَادَةَ، أَنَّ أَنَسًا رَضِيَ اللَّهُ عَنْهُ، حَدَّثَهُمْ: أَنَّ نَاسًا مِنْ عُكْلٍ وَعُرَيْنَةَ قَدِمُوا الْمَدِينَةَ عَلَى النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَتَكَلَّمُوا بِالْإِسْلَامِ، فَقَالُوا يَا نَبِيَّ اللَّهِ: إِنَّا كُنَّا أَهْلَ ضَرْعٍ، وَمَنْ نَكُنْ أَهْلَ رَيْفٍ، وَاسْتَوْحَمُوا الْمَدِينَةَ، «فَأَمَرَ لَهُمْ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِذَوْدٍ وَرَاعٍ، وَأَمَرَهُمْ أَنْ يُخْرِجُوا فِيهِ فَيَشْرَبُوا مِنْ أَلْبَانِهَا وَأَبْوَالِهَا»، فَانْطَلَقُوا حَتَّى إِذَا كَانُوا نَاحِيَةَ الْحَرَّةِ، كَفَرُوا بَعْدَ إِسْلَامِهِمْ، وَقَتَلُوا رَاعِي النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، وَاسْتَأْفَقُوا الدَّوْدَ، «فَبَلَغَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَبَعَثَ الطَّلَبَ فِي آثَارِهِمْ، فَأَمَرَ بِهِمْ فَسَمَرُوا أَعْيُنَهُمْ، وَقَطَعُوا أَيْدِيَهُمْ، وَتَرَكُوا فِي نَاحِيَةِ الْحَرَّةِ حَتَّى مَاتُوا عَلَى حَالِهِمْ» قَالَ قَتَادَةُ: بَلَّغْنَا أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعْدَ ذَلِكَ كَانَ يَحْتُ عَلَى الصَّدَقَةِ وَيَنْهَى عَنِ الْمُثَلَّةِ وَقَالَ شُعْبَةُ: وَأَبَانُ، وَحَمَّادٌ، عَنْ قَتَادَةَ، مِنْ عُرَيْنَةَ، وَقَالَ يَحْيَى بْنُ أَبِي كَثِيرٍ: وَأَبُوبُ، عَنْ أَبِي قِلَابَةَ، عَنْ أَنَسٍ قَدِمَ نَقَرَ مِنْ عُكْلٍ

From Qatadah, Anas (r.a.) narrated: Some people of the tribe of 'Ukl and 'Uraynah arrived at Medina to meet the Prophet (p.b.u.h.) and embraced Islam and said, "O Allah's Prophet! We are the owners of milch livestock (i.e. Bedouins) and not farmers (i.e. countrymen)." They found the climate of Medina unsuitable for them. So Allah's Messenger (p.b.u.h.) ordered that they should be provided with some milch camels and a shepherd and ordered them to go out of Medina and to drink the camels' milk and urine (as medicine) So they set out and when they reached Al-Harra, they reverted to Heathenism after embracing Islam, and killed the shepherd of the Prophet and drove away the camels. When this news reached the Prophet, he sent some people in pursuit of them. (So they were caught and brought back to the Prophet (p.b.u.h.). The Prophet (p.b.u.h.) gave his orders in their concern. So their eyes were branded with pieces of iron and their hands and legs were cut off and they were left away in Harra till they died in that state of theirs. (Hadith. Al-Bukhari. Bāb Qiṣṣatun 'Ukli wa 'Urainah: Vol. 5: #4192)

Based on this tradition, al-Qaṣṭallānī (1905) expounded that the Prophet sent some men to track down those 'Ukl and 'Uraynah people who have reverted to Heathenism after embracing Islam, killed the shepherd of the Prophet and drove away the camels. In addition, Ibnu Hajar al-'Asqalani (1960) said that those sent were some twenty Anṣār youth along with an al-qā'if, but did not name the individuals involved in the tracking operation. They managed to track down 'Ukl and 'Uraynah people based on the foot and shoe impression they left behind on their way home (Ibnu al-Mulaqqin, 2008; Mullā 'Alī al-Qārī, 2002). The forensic analyses of the foot and shoe impression also implied the Locard's exchange principal as discussed earlier. Furthermore, the evidence can be obtained in the form of dynamic and static footprints, foot impressions on the insoles of footwear, such as shoes, on a variety of surfaces, such as soils, sand, or snow (Kanz, 2015; Krishan & Kanchan, 2015).

Another tradition reveals that Prophet Muhammad (p.b.u.h.) used breath-test method in confirming the intoxication case. This is provided in the following tradition:

عَنْ ابْنِ بُرَيْدَةَ، عَنْ أَبِيهِ، «أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اسْتَنْكَه مَاعِزًّا»

Narrated from Ibnu Buraidah, he said: "The Prophet (p.b.u.h.) smelt the breath of Ma'iz".
(Hadith. Abu Daud. Bāb Rajmi Mā'iz bin Mālik: Vol. 6: #4433)

The word "istinkah" is derived from the root word of "nakaha" which means smelt the alveolar breath from a person's mouth (Ibnu Faris, 1979). In addition, al-Fuyūmi (1994) explained that this action is carried out to determine whether that person drank the intoxicant drink or not. The above tradition is the shorter version while the longer version can be found from the narration of Muslim, hadith number 1695 (al-'Azīm Ābādī, 1995). In this hadith, the Prophet (p.b.u.h.) was doubt with the confession made by Mā'iz, therefore he conducted *istinkah* to confirm his confession (al-Khaṭābī, 1932; Ibnu Ruslān, 2016). In the eyes of forensic toxicologists, the practice in the said tradition is similar with the breath testing on suspected drunk person. The toxicologists conducted the test using the breath tester which measures the alcohol concentration in the pulmonary artery by calculating its concentration in alveolar breath (Millo, Jaiswal, Prasad, & Murty, 2010). The widely used instrument for calculating the alcohol content of alveolar breath is the *Breathalyzer* (Harding & Field, 1987; Saferstein, 2015).

In addition, there are several events occurred during the companion time where they practice scientific evidence to prove the case or exonerate the innocent. Among the notable event is as narrated by Ibnu Qayyim (2011) from Ja'far bin Muhammad:

أُتِيَ عُمَرُ بْنُ الْخَطَّابِ رَضِيَ اللَّهُ عَنْهُ بِامْرَأَةٍ قَدْ تَعَلَّقَتْ بِشَابِّ مِنَ الْأَنْصَارِ، وَكَانَتْ تَهْوَاهُ، فَلَمَّا لَمْ يُسَاعِدْهَا اخْتَالَتْ عَلَيْهِ، فَأَخَذَتْ بَيْضَةً فَأَلْقَتْ صُفَارَهَا، وَصَبَّتِ الْبَيَاضَ عَلَى ثَوْبِهَا وَبَيَّنَّ فُحْدَيْهَا، ثُمَّ جَاءَتْ إِلَى عُمَرَ صَارِحَةً، فَقَالَتْ: هَذَا الرَّجُلُ غَلَبَنِي عَلَى نَفْسِي، وَفَضَحَنِي فِي أَهْلِي، وَهَذَا أَثَرُ فِعَالِهِ. فَسَأَلَ عُمَرُ النِّسَاءَ فَقُلْنَ لَهُ: إِنَّ بَدَنَهَا وَثَوْبَهَا أَثَرُ الْمَنِيِّ. فَهَمَّ بِعُقُوبَةِ الشَّابِّ فَجَعَلَ يَسْتَعِيثُ، وَيَقُولُ: يَا أَمِيرَ الْمُؤْمِنِينَ، تَثَبَّتْ فِي أَمْرِي، فَوَاللَّهِ مَا أَتَيْتُ فَاحِشَةً وَمَا هَمَمْتُ بِهَا، فَلَقَدْ زَاوَدْتَنِي عَنْ نَفْسِي فَأَعْتَصَمْتُ، فَقَالَ عُمَرُ: يَا أَبَا الْحَسَنِ مَا تَرَى فِي أَمْرِهِمَا، فَظَرَّ عَلَيَّ إِلَى مَا عَلَى الثَّوْبِ. ثُمَّ دَعَا بِمَاءٍ حَارٍّ شَدِيدِ الْغَلْيَانِ، فَصَبَّ عَلَى الثَّوْبِ فَجَمَدَ ذَلِكَ الْبَيَاضُ، ثُمَّ أَخَذَهُ وَاشْتَمَّهُ وَذَاقَهُ، فَعَرَفَ طَعْمَ الْبَيْضِ وَزَجَرَ الْمَرْأَةَ، فَأَعْتَرَفَتْ.

A woman was brought to Umar bin al-Khattab (r.a.) and she was in love with a young man from al-Ansar. She was very fond to him, and when he did not obey her, she tricked him. The woman took an egg, threw away its yolk and put the white jelly of the egg on her dress and between her legs. Then she came to Umar (r.a.) shouting that: "This man assaulted and disgraced me among my family and this is the mark of what he did". Umar consulted other women and they said that there is a mark of the sperm on her body and dress. Umar intended to punish the young man, but the man appealed for help and said: "O commander in chief of the faithful, verify (be sure) in my case, by Allah I never committed any sin nor intended to and she was the one who tried to seduce me but I refused." Umar said: "O Abu al-Hassan, what do you think of these two?" Ali looked at what was on the dress (the mark) then he ordered for some boiling water then he poured it on the dress. The white solidified.

Then Ali smelled and tasted it and he knew the taste of the egg and scolded the woman so she confessed.

Saidina Ali (r.a.) used the boiling water (in chemical analysis known as reagents) to test the purity of the evidence (Ahmad Syukran, 2017a). Reagent is a substance or compound added to the system to cause a chemical reaction, or added to test if the reaction takes place. In this situation, possible forensic science application is screening test to detect the presence of semen. Among the widely screening test practiced to detect the semen is acid phosphatase (AP) screening test. This test has been considered as the primary test used in the forensic science community as a presumptive test for the detection of semen stains. This is because semen contained AP. The Brentamine test is used to detect AP activity. The screening test involves the pressing dampened filter or blotting paper onto the surface of the item to transfer a proportion of any seminal fluid present to the paper. The paper is then tested with the chemical reagent (Lewis et al., 2013). The presence of semen can be observed by formation of purple dye resulting from reaction of naphthol (in sodium a-naphthyl phosphate that coupled with brentamine salt) with acid phosphatase in semen stain (Davidson & Jalowiecki, 2012). As for the above case, the result from analysis conducted by Saidina Ali (r.a.) showed no semen found instead the white jelly of the egg. Therefore, the case was dismissed and the innocent person successfully been exonerated from the charge.

A part from that, there was an intoxication case been brought before Abdullah bin Mas‘ūd, and he applied the field sobriety test to confirm the allegation.

عَنْ أَبِي مَاجِدٍ الْحَنْفِيِّ قَالَ: جَاءَ رَجُلٌ بِابْنِ أَخِي لَهُ إِلَى عَبْدِ اللَّهِ سَكْرَانَ، فَقَالَ: إِنِّي وَجَدْتُ هَذَا سَكْرَانَ، فَقَالَ
 عَبْدُ اللَّهِ: تَرْتَرُوهُ، مَزْمُزُوهُ، وَاسْتَنْكِهِوهُ.

Narrated Abū Mājid al-Ḥanafī, he said: A man came to Abdullah bin Mas‘ūd with his nephew drunken, and then he said: I found him drunken. Then Abdullah bin Mas‘ūd said: “Move him, shake him hard, and then smell his alveolar breath”. (Hadith. Al-Ṭabrānī. Khuṭbah Ibnī Mas‘ūd, wa min kalāmihī: Vol. 9: #8572)

The word “*tartara*” and “*mazmaza*” refers to action of moving and shaking hard of a person to smell his alveolar breath in order to determine whether he is drunk or not (al-Suyūṭī, 2004; Ibnu Al-Athir, 1979). These actions are closely related with the current test for intoxication, which is field sobriety test. It has been determined as preliminary tests before ordering the suspect to be tested with evidential breath or blood test. This test typically consists of a series of psychophysical tests (Saferstein, 2015). Examples of these tests are the one-leg-stand test, horizontal gaze nystagmus test, walk-and-turn test, hand-pat test, Romberg test, and tracing of shapes test (Smith, Robinson, Bazdar, & Geller, 2016).

No.	Sources	Forensic science application
1	Surah Yusuf, verse 18	Bloodstain analysis on the fabric
		Physical analysis of damaged textile
		Locard’s Exchange Principle
2	Surah Yusuf, verse 26 - 29	Physical analysis of damaged textile

		Locard's Exchange Principle
3	Hadith Al-Bukhari, <i>Bāb Man Lam yukhammis al-aslāb, wa man qatala qatīlan salabuhu min ghayr an yukhamisa, wa hukmun al-imam fīhi</i> : Vol. 4: #3141	BPA on suspected weapon to identify the owner of bloodstains on the said swords or physical analysis on the weapons used
	Hadith Muslim, <i>Bāb Istihqāq al-qātil salaba al-qatīl</i> : Vol. 3: #1752	Autopsy to determine the cause of death
4	Hadith Al-Bukhari. <i>Bāb Qiṣṣatun 'Ukli wa 'Urainah</i> : Vol. 5: #4192	Locard's Exchange Principle
		Dynamic and static footprints, foot impressions on the insoles of footwear, such as shoes, on a variety of surfaces, such as soils, sand, or snow
5	Hadith Abu Daud. <i>Bāb Rajmi Mā'iz bin Mālik</i> : Vol. 6: #4433	Breath testing on suspected drunk person
6	Ibnu Qayyim, <i>al-Ṭuruq al-Ḥukmiyyah fī al-Siyāsah al-Shar'īyyah</i>	AP screening test on the semen stain sample to the detect the presence of semen
7	Hadith Al-Ṭabrānī. <i>Khuṭbah Ibni Mas'ūd, wa min kalāmihi</i> : Vol. 9: #8572	Field sobriety test

Table 3: The Application of Forensic Science from the Islamic Perspective

Table 1 concludes that the application of forensic science as part of the evidence have been practiced by our Prophets (p.b.u.h.) and Companions of Prophet Muhammad (r.a.). This also indicates the permissibility of forensic science application from the Islamic perspective. These facts also revealed that the concept of forensic science has been practice to uphold the justice long time ago before it has been reintroduced with modern terminologies and epistemologies.

The nexus between the concept of *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*

Based on the appraisal towards verses 106 and 107 of Surah al-Anbiya, this research found significant nexus between the concept of *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*. In verse 106 and 107, as discussed above, the messages brought by Prophet Muhammad (p.b.u.h.), containing divine teachings, guidelines, and regulations derived from al-Qur'an and his sayings shall be regarded as manifestation of Allah's grace to all mankind. These messages can be deduced into a concise word which is *al-Sharī'ah*. Literally, *al-Sharī'ah* means a way to the watering place or the path (Ibnu Manzur, 1994). Technically it refers to what been ordained by Allah to His slaves covering faith, worship, manners, interaction, and system of life to organize relationship between people with their Lord and their relations with one another (al-Qattān, 2001).

It has been considered as *rahmat* for human being because from his messages people gradually drew closer to these principals, which later started to be acceptable and easier to be implemented (Sayyid Quṭb, 2006). This is in accordance with the connotation provided in verse 57, Surah Yunus:

يَا أَيُّهَا النَّاسُ قَدْ جَاءَتْكُمْ مَوْعِظَةٌ مِنْ رَبِّكُمْ وَشِفَاءٌ لِمَا فِي الصُّدُورِ وَهُدًى وَرَحْمَةٌ لِّلْمُؤْمِنِينَ (57)

“O mankind! There hath come to you a direction from your Lord and a healing for the (diseases) in your hearts, - and for those who believe, a guidance and a Mercy.”

(Surah Yunus (10): 57)

In addition, Abu Zuhrah (n.d.) elucidated that the enactment of *al-shari‘ah* is suitable with the benefit and interest of human being. Everything provided in *al-shari‘ah* containing benefits, and these benefits are engrossed extrinsically and intrinsically in all human affairs. Furthermore, al-Shātibī (2011), who is among the prominent maqāṣidic scholar, explained the establishment of *al-Sharī‘ah* is only for the benefit of mankind in the world and in the hereafter.

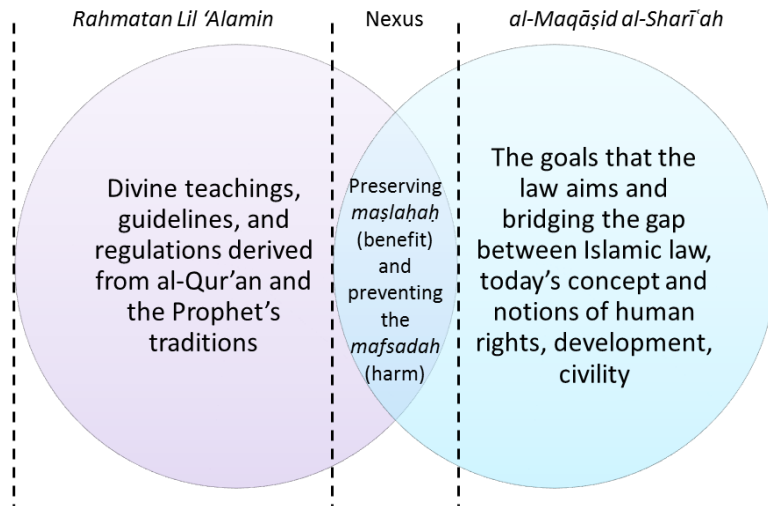


Figure 2: Nexus between the concept of *Rahmatan Lil 'Alamin* and *al-Maqāṣid al-Sharī'ah*

Therefore, as illustrated in Figure 1 above, it is clear that the crux of the concept *Rahmatan Lil 'Alamin* is served as the main theme of *al-Maqāṣid al-Sharī'ah*. The said crux is preserving *maṣlaḥah* (benefit) and preventing the *mafṣadah* (harm) for the human being in this world and hereafter. Then, at the same time, this crux is served as the main theme of *al-maqāṣid al-sharī'ah* (al-Ghazālī, 1971; Ibnu Abdul Salam, 1999). In fact, al-Ghazālī (1993) explained the idea of *maqāṣid al-sharī'ah* as matters that preserve the religion, life, intellect, progeny, and property. Any conduct that preserves these five attributes is *maṣlaḥah*, and any conduct that infringes these attributes is *mafṣadah*.

Technical definition of *maqāṣid al-sharī'ah* has been provided by numerous Scholars based on their understanding from the idea and concept put forward by al-Ghazālī (1971, 1993) and al-Shātibī (2011). Ibnu 'Āshūr (2012) has elucidated the meaning of *maqāṣid al-sharī'ah* as deeper meanings and inner aspects of wisdom considered by the Lawgiver in all or most of the areas and circumstances of legislation. Similarly with al-Fāsī (2013) who defined the *maqāṣid al-sharī'ah* as the purpose and secrets that the Lawgiver put in each of its provisions.

On the similar vein, al-Raysūnī (1995) opined that it is the goals that set-up by the law for the sake of their people. As for the purpose of this research, *maqāṣid al-sharī'ah* is briefly defined as the goals that the law aims and bridging the gap between Islamic law, today's concept and notions of human rights, development, civility and others, linked with preserving *maṣlaḥah* and eliminating *mafṣadah* concept, that need to be obtained for the benefit of human being (Ahmad Syukran,

2017b). In short, *maqāsid al-shari'ah* or the purpose of law is for the benefit of human being (Elviandri, Farkhani, & Dimiyati, 2018). It means the law that has been enacted and inherited to human being is not made for the law itself but for the benefit of human being (Mokhtar & Albaraka, 2016).

Meeting Point between the Forensic Science application, Concept *Rahmatan Lil 'Alamin* and *Maqāsid al-Shari'ah*

Based on the earlier discussion, it is undeniable that our Prophet Muhammad (p.b.u.h.), his companions, and other Prophets (p.b.u.h.) including Prophet Jacob (p.b.u.h.), Joseph (p.b.u.h.) and Solomon (p.b.u.h.) have practiced the application of forensic science in solving the dispute before them. Their actions give direction that it is permissible to apply forensic science as means of proving in upholding the justice during trial.

Furthermore, Ibnu 'Ashūr (2012) once said the *maqāsid al-shari'ah* in the whole judiciary are that it should include everything that helps to reveal the truth and eliminate the untruth, whether it is extrinsic or intrinsic (Ahmad Syukran, 2017b). His reasoning is based on the Prophet tradition narrated by Ummu Salamah:

عَنْ أُمِّ سَلَمَةَ رَضِيَ اللَّهُ عَنْهَا قَالَتْ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «إِنَّكُمْ تَخْتَصِمُونَ إِلَيَّ، وَلَعَلَّ بَعْضَكُمْ أَنْ يَكُونَ أَحْسَنَ بِحُجَّتِهِ مِنْ بَعْضٍ، فَأَقْضِي لَهُ عَلَى نَحْوِ مِمَّا أَسْمَعُ، مِنْهُ فَمَنْ قَطَعْتَ لَهُ مِنْ حَقِّ أَخِيهِ شَيْئًا، فَإِنَّمَا أَقْطَعُ لَهُ قِطْعَةً مِنَ النَّارِ»

Allah's Messenger (p.b.u.h) said: "Indeed, you bring your disputers to me, and perhaps some of you are more eloquent in their plea than others, so that I give judgement on their behalf according to what I hear from them. Therefore, whatever I rule for anyone which by right belongs to his brother, I am only granting him a portion of Hell-fire." (Hadith. Al-Bukhari. Bāb Man aqāma al-bayyinah ba'da al-yamin: Vol. 3: #2680; Muslim. Bāb al-Hukmi bil-zāhir wa laḥni bil-hujjah: Vol. 3: #1713)

The hadith above clearly indicates there are numerous ways to arrive at the truth. This includes by way of applying forensic science into judicial process particularly in scrutinizing the evidence submitted before the court. In fact, it is the duty of the judge to investigate as fully as possible all the pieces of evidence leading to the truth, even if these results in the protection of only certain rights over others, for safeguarding some rights is better than losing them all. Therefore, it is clear that the application of forensic science in upholding the justice is in accordance with *maqāsid al-shari'ah*.

A part from that, the application of forensic science in upholding justice can also be considered as manifestation of *Rahmatan Lil 'Alamin*. This connection exists since numbers of the application of forensic science have been provided in al-Qur'an and Sunnah. In fact, these provisions have given impressions that numbers of forensic methods been applied by our Prophets, Prophet Muhammad, and their companions in solving the disputes and upholding the justice. Furthermore, as we discussed earlier that *Rahmatan Lil 'Alamin* refers to the messages brought by Prophet Muhammad (p.b.u.h.), containing divine teachings, guidelines, and regulations derived from al-Qur'an and his sayings. These messages can be deduced into a concise word which is *al-Shari'ah*. Since the practice of forensic science is derived from is *al-Shari'ah*, while *al-Shari'ah* has been regarded as *Rahmat*

for all human being, therefore, it can be considered that the application of forensic science in upholding justice can also be considered as manifestation of *Rahmatan Lil 'Alamin*.

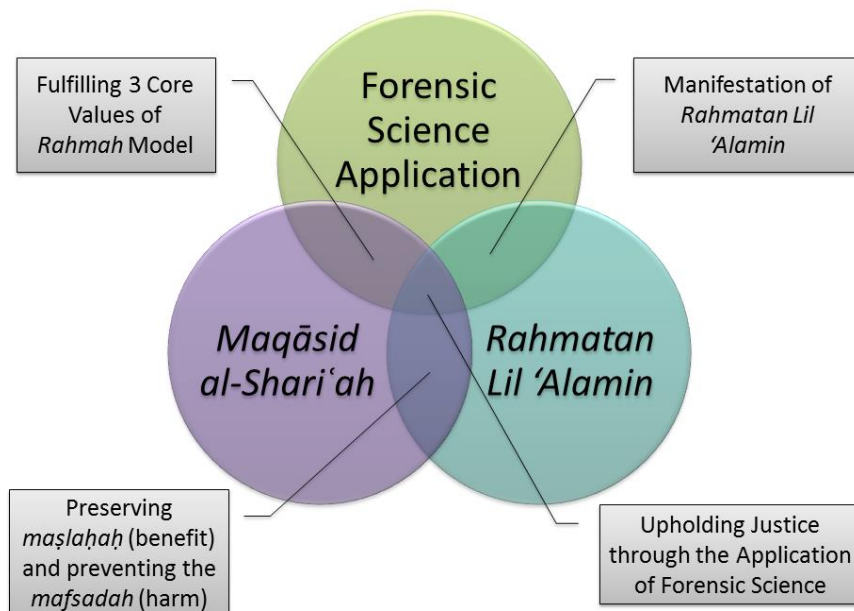


Figure 3: Meeting point between the forensic science application, concept *Rahmatan Lil 'Alamin* and *Maqāsid al-Shari'ah*

Figure 2 illustrates the meeting point between three main components of this study, which are forensic science application, *Rahmatan Lil 'Alamin*, and *Maqāsid al-Shari'ah*. The said meeting point is upholding justice through the application of forensic science in Shariah Courts throughout Malaysia. It is possible to apply forensic science in Shariah Courts since section 33(1) of the Shariah Court Evidence (Federal Territories) Act 1997 have provide provision for expert opinion for matters related to science, identification, fingerprint, handwriting, and paternity. These matters are closely related with forensic science and forensic experts may be called to give their expert opinion before the court for Shariah cases. The forensic officer will prepare the analysis report once all relevant processes have been completed. The report will then be confirmed by the Head of the Forensic Laboratory Unit before being handed over to the Shariah enforcement or prosecution division (Muhammad Hazim et al., 2019).

According to the Shariah Court Evidence (Federal Territories) Act 1997, forensic analysis report is a documentary evidence within the Public Documents category for the purpose of section 57(a)(iii) "documents forming the acts or records of the acts of public officers". In addition, section 198(1)(2)(c) of Shariah Criminal Procedure (Federal Territories) Act 1997 states that the Shariah Court may call the forensic officer who certifying the report or the forensic officer who conducting the analysis specified in the report. Procedures like this have been implemented in the case of *Pendakwa Syarie Negeri Sabah lwn. Rosli bin Abdul Japar* (2007) relating to the admission of DNA analysis as evidence in the criminal offense of committing illegal intercourse to give birth to an illegitimate child. Similarly, in the case *Eddyham bin Zainuddin lwn. Rahimah bt. Muhamad* (2015) on the acceptability of DNA analysis in the determination of *nasab*. If the Shariah Court calls forensic expert to attend as the witness, the testimony given by him relating to the analysis report shall be considered as evidence of expert opinion under section 33(1) of the Shariah Court Evidence (Federal Territories) Act 1997.

Furthermore, Figure 2 also elucidates three main connections among the components. First connection is between forensic science application and the concept of *Rahmatan Lil 'Alamin* where forensic science can be considered as manifestation of *Rahmatan Lil 'Alamin* since it is permissible by Shariah laws prescribed in al-Qur'an and Sunnah. In addition, *al-shari'ah* has been regarded as *Rahmat* since it has become divine teachings, guidelines, and regulations for all human being which lead mankind to the right path. Second connection is between forensic science application and *maqāsid al-shari'ah* where the application is in accordance with *maqāsid al-shari'ah*. This is evident from the authorities cited at the earlier discussion where forensic science application helps to reveal the truth, eliminate the untruth, convict the accused, and exonerate the innocent. The third connection is between the concept of *Rahmatan Lil 'Alamin* and *maqāsid al-shari'ah* where the core of the concept *Rahmatan Lil 'Alamin* is served as the main theme of *al-Maqāsid al-Shari'ah*. The said core is preserving *maṣlahah* (benefit) and preventing the *mafsadah* (harm) for the human being in this world and hereafter.

Malaysia as the country of *Rahmat*

Malaysia is leading towards the country of *Rahmatan Lil 'Alamin*. This is the vision of the ruling government in Malaysia (Mujahid, 2018a). According to Mujahid (2019b), the Malaysian concept of *Rahmat's* country is closely linked to the *maṣlahah* (benefit) which is the core of the *maqāsid al-shari'ah* as it is suitable for all people in all places and times; whether for Muslims or non-Muslims. He also introduced three core values of *Rahmah* model as the mechanism to administrate the Islamic affairs in Malaysia.

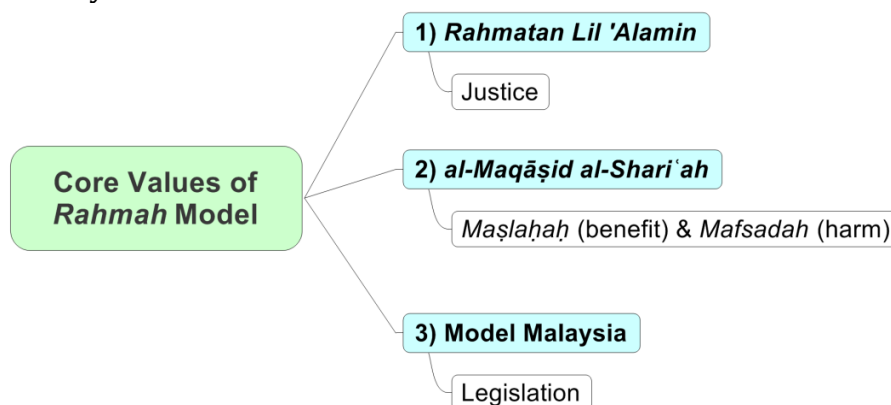


Figure 4: Core values of *Rahmah* Model (Mujahid, 2019b; Prime Minister's Department, 2019)

There are three core values of *Rahmah* as displayed in Figure 4 above. The core values are comprised of *Rahmatan Lil 'Alamin* as a manifestation of the true teachings of Islam, *al-Maqāṣid al-Shari'ah* as a guiding principles, and Model Malaysia as a framework or product of governance in various fields (Mujahid, 2018b). Each core values have their own focusing areas, and as for this study, the related focusing area for each core values are as shown in Figure 4 above namely justice, *maṣlahah* (benefit) and *mafsadah* (harm), and legislation. By reading all core values of *Rahmah* model with their focusing areas, it can be deduced into upholding the justice through preservation of *maṣlahah* (benefit) and prevention of *mafsadah* (harm) within the context of Shariah legal system in Malaysia.

A part from that, he also established seven *Rahmah* Cluster, and among the cluster is judiciary and legislation (Mujahid, 2019c). The main focus of this cluster is empowering Shariah judiciary and legislation through the continuous reform of the administration of justice, legislation and

increasing the professionalism of the Syariah judges (Muhammad Shamsul, 2019). The ideas contributed by Mujahid (2019b, 2019c) are warmly welcomed by the Department of Syariah Judiciary Malaysia (JKSM) and they are working to realize it. Among the realization of the core values of *Rahmah* model and *Rahmah* cluster been conducted by JKSM is the establishment of the Special Court of Custody and Maintenance which expected to start operating by August 2019 at Jalan Duta, Federal Territory of Kuala Lumpur (Corporate Communication Unit JKSM, 2019).

As far as this research concerned, the core values of *Rahmah* model are likely to be the continuation and extension to the model of *Indeks Syariah Malaysia* (Malaysia Syariah Index) introduced by the previous ruling government (Mujahid, 2019a). The later model has been regarded as an important initiative by laying the framework for the Syariah implementation in Malaysia (Department of Islamic Development Malaysia, 2016). This model will assess and measure the level of seriousness of the government in carrying out its duties and responsibilities in accordance with Islamic principles. This model also will measure the extent to which the country's commitment to its implementation based on the goals of the *maqāsid al-shari'ah*. Among the main areas that are used as a measure of compliance with Malaysia Syariah Index is Syariah law in Malaysia.

This research believes that the implementation of forensic science application in Syariah Courts is relevant to the mission and vision of Malaysia as the country of *Rahmatan Lil 'Alamin*. This due to the application of forensic science may be considered as manifestation of *Rahmatan Lil 'Alamin* as it may be used to uphold the justice for the accused person and innocent person. Furthermore, it is also appropriate with the cluster of Syariah judiciary and legislation since the application forensic science in Syariah Courts can be considered as part of the reformation in the administration of justice in Syariah Courts enforceable by the JKSM in future. This is because, the paths for the admission of forensic science evidence in Syariah Courts have been provided under numerous sections in the Syariah Courts Evidence Act and Enactments including expert opinion and documentary evidence.

Conclusion

This study concludes the application of forensic science shall be the meeting point between forensic science application, concept *Rahmatan Lil 'Alamin* and *al-Maqāsid al-Sharī'ah*. It bridges the gap between science and syariah. Furthermore, the application of forensic science in Syariah Courts is relevant and suitable with the mission and vision of the new Malaysia as the country of *Rahmatan Lil 'Alamin*. By applying forensic science as part of evidence in Syariah Courts, this study believes it is appropriate with the cluster of Legal and Judicial since the application forensic science in Syariah Courts is part of the reformation in the administration of justice in Syariah Courts.

This study contributes to building the integration between science and syariah elements through the application of forensic science and the concept of *Rahmatan Lil 'Alamin*. This study has also indirectly proved the concept of *al-shumūl*, *al-thabāt*, and *al-murūnah* in Islamic teachings that encompassed various fields of knowledge. This study suggests more research be conducted on the application of fiqh forensics in related field.

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