



A New Paradigm In Economy About Maqashid Al-Sharia Theory: Reformulation Of Ibn-Asyur

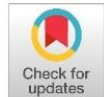
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Abstract

Introduction: This article examines the theory of sharia maqasid based on the thoughts of Ibn Assyria. Maqasid sharia, as one of the most important concepts in the study of Islamic law, is a universal goal that will be achieved by sharia and realized in life. There is a large framework of sharia maqasid according to Ibn Assyria, namely the principle of Qashdi, the principle of responsibility, the principle of Istikhlaf and Fitrah, and the principle of equality. The objectives of sharia that ibn Assyria has set are Kath's.

Purposes of the Research: To elaborate the paradigm of sharia maqasid, especially in terms of economics as the fruit of thought from Ibn Assyria.

Methods of the Research: This research uses qualitative research methods where the data is based on literature studies.

Results of the Research: For Maqasid sharia is not separated from maslahah. Ibn Assyria sets out on five criteria to recognize which are categorized as maslahah and masadah among others: (1) Benefits and mudharat on a thing must exist and manifest in general nature. (2) Real and clear benefits and benefits in circumstances acceptable to common sense, so as not to contradict reason and logic. (3) All things that cannot be replaced in bringing about a maslahah and mudharat. (4) Its benefits and mudharat have things that can both be measured and chosen. (5) Its benefits and benefits are standardized on the obvious. (3) All things that cannot be replaced in bringing about a maslahah and mudharat. (4) Its benefits and mudharat have things that can both be measured and chosen. (5) Its benefits and benefits are standardized on the obvious. (3) All things that cannot be replaced in bringing about a maslahah and mudharat. (4) Its benefits and mudharat have things that can both be measured and chosen. (5) Its benefits and benefits are standardized on the obvious.

Abstrak

Latar Belakang: Artikel ini mengkaji teori maqashid syariah berdasarkan pemikiran Ibnu Asyur. Maqashid syariah, sebagai salah satu konsep terpenting dalam kajian hukum Islam, merupakan tujuan universal yang akan dicapai syariah dan diwujudkan dalam kehidupan. Ada kerangka besar maqasid syariah menurut Ibnu Asyur, yaitu prinsip Qashdi, prinsip tanggung jawab, prinsip Istikhlaf dan Fitrah, dan prinsip kesetaraan. Tujuan syariah yang telah ditetapkan ibn Asyur adalah tujuan Kath.

Tujuan Penelitian: Untuk mengelaborasi paradigma maqashid syariah, khususnya dalam bidang ekonomi sebagai buah pemikiran dari Ibnu Asyur.

Metode Penelitian: Penelitian ini menggunakan metode penelitian kualitatif dimana datanya berdasarkan studi kepustakaan.

Hasil Penelitian: Bagi Maqasid syariah tidak lepas dari masalah. Ibnu Asyur menetapkan lima kriteria untuk mengenali yang dikategorikan sebagai masalah dan maslahat antara lain: (1) Manfaat dan mudharat pada sesuatu harus ada dan terwujud dalam sifat umum. (2) Manfaat dan mudharat yang nyata dan jelas dalam keadaan yang dapat diterima akal sehat, sehingga tidak bertentangan dengan akal dan logika. (3) Segala sesuatu yang tidak dapat diganti dalam mewujudkan masalah dan mudharat. (4) Manfaat dan mudharatnya memiliki hal-hal yang dapat diukur dan dipilih. (5) Manfaat dan mudharatnya distandarisasi secara jelas. (3) Segala sesuatu yang tidak dapat diganti dalam mewujudkan masalah dan mudharat. (4) Manfaat dan mudharatnya memiliki hal-hal yang dapat diukur dan dipilih. (5) Manfaat dan mudharatnya distandarisasi secara jelas.

1. Introduction

Islam has sharia in the form of law which aims to achieve happiness and goodness in the world and the hereafter or known as Malahat. All actions that bring goodness or benefits must be carried out so that the benefits are felt either immediately or in the future. Referring to the definition of Malahat, Ibn Asyur defines it as an action that will bring goodness and benefits that can be felt widely by both the majority and a few people.¹ This is because Islamic law also upholds various noble values that have universal, fair, free, tolerant, compassionate, brotherly, humanitarian, and nurturing dimensions. Imam al-Ghazali likes that in essence benefit is an act that brings benefits and rejects harm or Masada.

Islamic law that is believed in Muslims is a law that is sourced from the revelation of Allah SWT. Thus, beliefs based on reality or the fact that the source of Islamic law is the Qur'an, as-Sunnah, Allah and His Messenger are commonly referred to as al-Syar'i and Law Givers. However, in addition to its content which has a general meaning, it is still limited in terms of events and timing of legal stipulations, while more and more events are being found, especially in economic activities.² In the current era, Muslims are faced with various events or phenomena that pose serious problems related to Islamic law itself. According to Allah SWT, as the shari'a determining the shari'a does not just create laws and regulations, some laws and regulations were created with a specific purpose and purpose.³

¹ Nor Hadi and Jadzil Baihaqi, "The Motive of CSR Practices in Indonesia: Maqasid Al-Sharia Review" 8, no. 2 (2020): 327-352.

² Retna Gumanti and Faculty, "Maqasid Al-Syariah According to Jasser Auda (System Approach in Islamic Law)," *Distribution of Inheritance (Analysis Study of Mandailing Clans in Pasaman Regency Based on Basic Concepts of Sociology of Law)* 2 (2018): 217-230.

³ Nur Rofiq & M. Zidny Nafi 'Hasbi, "Reconciling Muslim Traditions and Modern Science: An Exploratory Study of Nidhal Guessoum's Thought," *International Journal of Pegon: Islam Nusantara civilization* 6, no. 2 (2021): 10.

Maqasid sharia, as one of the most important concepts in the study of Islamic law, are universal goals to be achieved by sharia and realized in life. The essence of the sharia maqasid theory is related to jab al-mashallah was dau al-afraid, namely realizing the good and avoiding the bad. This makes legal theorists make it science that must be understood and carried out by mujtahids of ijtihad. When associated with the basics of Islamic economics, maqasid sharia is placed on a reference where the system and knowledge are specifically designed to provide benefits that can deal with the complex economic problems today.⁴

The Qur'an as one of the fundamentals of Islamic law has given and exemplified its attention to economic issues in QS. Ash-Syu'ara' which means;

إِذْ قَالَ لَهُمُ شُعَيْبٌ أَلَا تَتَّقُونَ إِنِّي لَكُمْ رَسُولٌ أَمِينٌ فَاتَّقُوا اللَّهَ وَأَطِيعُوا أَمْرِي إِنَّا كُنَّا عَلَيْهِم مِّنْ أَعْيُنٍ مُّصَوِّبَةٍ تَتَّبِعُنَا أَنبَاءً وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ وَأَنْتُمْ الَّذِينَ خَلَقْتُمْ وَالْحِيلَةَ الْأُولَىٰ فَأَلَوْا إِنَّمَا أَنْتَ مِنَ الْمُسَحَّرِينَ

It means "Remember when Shu'aib said to them (the people of Aikah): 'Why don't you be pious?' Indeed, I am an apostle who has earned your trust. Therefore fear Allah and obey me. I do not demand a reward from you for this invitation, my reward is none other than the God who is the Lord of the universe. Be precise when you measure and don't let you become people which losers. Weigh with the right scale. Do not violate the rights of others and do not do evil and cause mischief on earth." (Surat Ash-Syu'ara': 177-183).

Currently, the capitalist economy can be said to bring things that are quite speculative because the interest system is suspected to be the cause of a crisis that has hit anywhere as long as these countries use a capitalist economic system. Thus, when compared with Islamic economics, the basic or basic assumptions in the process of interacting with economic activities that are implemented by Islamic economics with Islamic sharia are thoroughly treated both for individuals, groups, and communities in their physical and spiritual needs. While the capitalist system emphasizes individual property ownership and freedom of competition which causes economic inequality in the community.⁵

Examining more deeply about the theory of maqasid, Ibn Asyur's thought is inseparable from the discussion of *maslahah* because *maslahah* is the estuary of the end of the process of Islamic law. So, in practice in the world of economics or *muamalah* is to purify it according to the law that has been prescribed. Ibn Ashur started on five criteria to identify which ones are categorized as *maslahah* and *masadah*, among others: (1) The benefits and harms of something must exist and be real. (2) The benefits and harms are real and clear in circumstances that can be accepted with common sense so that they do not conflict with reason and logic. (3) all things that cannot be replaced in bringing about harm and harm. (4)

⁴ Wan Hakimah Wan Ibrahim and Abdul Ghafar Ismail, "Humanomics Article Information:," *Humanomics* 31, no. 3 (2015): 272-98.

⁵ Akrom Auladi, "Reinterpretation of Hifdzul Aqli and the Relevance of Maqasid Syariah to Face-to-Face Learning Policies in a Pandemic Period," *Ejournal.Insuriponorogo.Ac.Id* 13, no. 1 (2021): 23-34, <https://ejournal.insuriponorogo.ac.id/index.php/qalamuna/article/view/633>.

The benefits and harms have the same thing that can be measured and chosen. (5) The benefits and harms are standardized on clear things.⁶

However, according to toast religious literature certainly has a limitation or even incompatibility with current reality because times are always changing and the development of times and civilizations is something that can never be avoided. A new methodological device is what is needed to harmonize the messages contained and religious doctrines in the current era. Thus, efforts to relevant religious texts, many scientists and scholars offer this method, one of which is maqasid al-Syariah.⁷

Maqasid al-Sharia's theory will offer and present relevant laws in the reality of today's life by taking messages of universal value. The treasures of Islamic civilization are like seeds that were spread and planted at the time of the Apostle, so the science of maquis sharia can be said to be a rare and new science because it has a fairly slow development. Thus, the purpose of this descriptive study is to elaborate on the maqasid sharia paradigm, especially in terms of economics as the fruit of the thoughts of Ibn Asyur.⁸

2. Method

The research method used by the author is qualitative with the type of literature study, where the research problem is based on data from various literature. Qualitative research is meaningful to understand the phenomenon of what and how the phenomenon occurs in terms of the research subject. all matters relating to history and descriptions in the form of words and language in special contexts that are naturally researched to obtain research results. The identification of the data in this study was carried out by the following procedures: (1) Formulating specific goals related to the things to be achieved. (2) Identify important terms that must be explained in depth such as maqasid al-syariah. (3) Specializing units of analysis. (4) Searching for relevant data and sources. (5) Build rationality and conceptual relationships to produce results related to research objectives. The sources of this research are secondary data sourced from literature studies, literature, and documents related to the topic or research written.⁹

3. Results and Discussion

Ibn Assyria was one of the people who proclaimed that maqasid sharia is an independent science. Ibn Assyria himself's full name is Muhammad at Tahir Ibn Muhammad bin Muhammad at Thahir bin Muhammad bin Sheikh Muhammad as Syadzili bin Abdul Qadir bin Muhammad bin Assyria who was born in the capital of Tunisia in 1296 H/1879 AD.¹⁰

⁶ Muhammad Fahri Asep Saepudin Jahar, Amany B. Lubis, "Al-Risalah THE USE OF MAQĀ ID AL-SHARĪ A IN MARITIME AND NATIONAL RESILIENCE CONTEXT" (2021).

⁷ Ataina Hidayati and Achmad Tohirin, "A Maqasid and Shariah Enterprises Theory-Based Performance Measurement for Zakat Institution," *International Journal of Zakat* 4, no. 2 (2019): 101-10, <https://doi.org/10.37706/ijaz.v4i2.192>.

⁸ Jani Arni, "Tafsir Al-Tahrir Wa Al Tanwir by Muhammad Al-Tahrir Ibn Asyur," *Journal of Ushuluddin* XVII, no. 1 (2011): 80.

⁹ AM Yusuf, *Quantitative, Qualitative & Joint Research Methods* (Jakarta: Kencana, 2016).

¹⁰ MT Ibn'Ashur, *Maqasid Al-Shari 'ah Al-Islamiyyah*, Umman: Dar Al-Nafa'is, 2001.

Ibn Asyur is one of the most prolific contemporary scholars where one of his works is *Maqashid as Sharia al Islamiyah* and *Tahrir was at Tanwir* (Toriquddin, 2013). Ibn Ashur decides the objectives of sharia using Kath's arguments, either in the form of sharia texts or scientific phenomena. Several main principles form the grand framework of Islamic maqasid according to Ibn Asyur. The first is the Qashdi principle where Ibn Assyria argues that Islamic law must have a goal desired by Allah SWT as its qath'i arguments.¹¹

Among the contemporary scholars who introduced a new conception and classification of mashed Shari'ah, was At-Tahir bin 'Assyria (d.1393 H). He classified mashed ash-shari'ah into 2 (two) sections of discussion, namely: 1) general mashed of legal regulation (*tasyri'*), namely: maintaining nature, tolerance, presenting benefits, and eliminating harm, changing evil, and establishing goodness, equality, and justice. freedom, and 2) maqasid specifically in the field of muamalah, such as family law, commercial law, employment law, tabarru'at law, judicial law and testimony, and criminal sanctions. Maqashid ash-shari'ah specialized in the field of property exchange or commercial law (*muamalah*) are *al-Rawaj* (circulation/turnover), *al-Wuduh* (transparency), *al-Hifz* (preservation), *al-Tsabat* (force of law), *al-'Adl* (justice).¹²

a. *al-Rawaj* (circulation/cycle)

Circulation (*al-Rawaj*) is part of mashed shari'ah (sharia goals) to create distribution or transfer of assets through property exchange transaction contracts between humans with the correct mechanism. If this objective is implemented in a property exchange transaction contract, including the purpose of the contract (*maudhu' al-and*), it is the main purpose that each party wants to realize. The purpose of the contract in a sale-purchase transaction is to transfer ownership of an item with compensation as a tangible manifestation, namely a reciprocal exchange in which the seller transfers ownership of an item to the buyer and the seller receives payment of the price given from the buyer

b. *al-Wuduh* (transparency)

Transparency (*al-Wuduh*) is part of the goal of sharia (mashed ash-syari'ah) to avoid the occurrence of *madharat* in the form of quarrels and disputes over property exchange transaction contracts, it is necessary to have transparency or clarity of form, shape , and price exchanged. This goal when implemented in the asset exchange contract, includes the object of the contract (*mahalla al-and*) is the object which is the target to be achieved by each party through the closing of the contract. Where the object of the contract can be in the form of goods, benefits, work or services, or others that are not contradictory according to sharia. The object of the contract has requirements that must be met by the actors of the

¹¹ M Abu Zaharah, "Usul Al-Fiqh," Cairo: Dar al-Fikr al-'Arabi (1997).

¹² M. Zidny Nafi' Hasbi, "Fiscal Policy in the Maqashid As-Kitab Al-Muwafaqat Spectrum" 1 (2021): 1-13.

contract, namely the object can be submitted or can be implemented, can be determined or must be specific,¹³

c. al-Hifz (preservation)

Preservation (al-Hifz) is part of the objectives of sharia (mashed ash-syari'ah) to protect property from the improper transfer of ownership of property exchange transactions. In other words, the transfer of ownership incorrectly depends on the fulfillment of the responsibilities of each party for the agreement made together.

d. al-Tsabat (force/legality of law)

The power of law (al-Tsabat) is part of the objectives of sharia (mashed ash-syari'ah) so that the transfer of property ownership of each party as a result of the property exchange transaction has legal legality. Contracts are needed in property exchange transactions to have strong legality. The contract itself is an encounter of the will of the parties in which the will is expressed by each party through a statement that can be in the form of speech or other forms. This means that the makers of the contract (al-'aqidain) and the statement of the contract (high aqad) must meet the requirements in a contract.

e. al-'Adl (justice);

Justice (al-'Adl) is part of the objectives of sharia (mashed ash-shari'ah) so that no party is harmed in property exchange transactions. In other words, property exchange transactions must be based on the principles of balance and justice. Where the principle of balance is implemented by each party in transactions and in taking risks. While the principle of justice is implemented by each party in the negotiation aspect of making contract clauses.

The five special shari'ah mashed above in the exchange of assets according to Ibn 'Asyur serves as a guide for the validity of the muamalah contract and other technical matters in the contract. In other words, a contract will be considered valid if the five mashed shari'ah are fulfilled and if one of the mawashi is not fulfilled then basically the contract is invalid. However, the contract can still be legal even though the mashed is not fulfilled if the benefit that can legitimize a contract is far greater than just the mashed being perfection in a contract.

Maqasid is the main feature of the systems approach that functions as a binder among all other basic systems, such as cognition, holistic, openness, hierarchical, interdependent, and multidimensional. The maqasid-based approach is projected to contribute to the development of fiqh proposals so that the humanist-responsive-progressive Islamic legal Steinbach can be carried out. The second is the principle of responsibility. In this case, it is important to carry out the Shari'a that has been determined by Allah SWT with full

¹³ Syamsul Anwar, *Sharia Agreement Law Study of Contracts in Muamalat Jurisprudence*, Jakarta: PT, Raja Grafindo Persada, 2010.

responsibility. The third is the principle of Istikhlaf and Fitrah. This principle emphasizes that humans on earth are the caliphs of Allah SWT to prosper it and make good in it.¹⁴

Humans are the only creatures of Allah SWT who accept this mandate. The task of man is to find various reasons for maintaining a good life and efforts to sustain it. The Istikhlaf principle implies that there must be characteristics of the Islamic law that support the task of mankind as caliphs in creating benefits on earth. The fourth is the principle of equality. Ibn Assyria explained this principle at length. All Muslims are equal in position and rights when faced with sharia laws. The fifth is the principle of tolerance and convenience.¹⁵

Ibn Assyria explained this principle and strengthened it with various arguments from the Qur'an and al-Sunnah. If humans are created by nature as weak creatures and this Shari'a is based on human nature, then this makes it easier for them to implement it.

يُرِيدُ اللَّهُ أَنْ يُخَفِّفَ عَنْكُمْ وَخَلَقَ الْإِنْسَانَ ضَعِيفًا

Meaning: "God wants to give you relief because humans were created weak" (Surah Al-Nisa: 28)

Sixth, namely, the universal principle of Islam is a universal religion for all human beings. The last Shari'a brought by the Prophet Muhammad must reach all people of all ages and all places. The universality of Islam, as explained earlier, has become a necessity. The evidence from the Qur'an and al-Sunnah on this matter has reached the degree of Mutawatir management. Ibn Assyria defines *maslahah* as the nature of actions that can bring goodness, benefits forever, both in the majority and individually. *Maslahah* in the field of modern *muamalah*, whether general or specific.¹⁶

While *masa dah* is the opposite of *mashlahah*, which is an act that causes damage or danger, whether it lasts forever or not, is felt by the majority of people or by a few people. Based on this definition, there are two parts, namely: first, *mashallah amah* (public benefit) is *mashallah* that includes the interests of many people, and does not pay attention to individuals but looks at them from the aspect of a group of people, such as protection of valuable objects. from fire and destruction, because the preservation of these objects has many benefits for many people to use and possess them in ways that are justified by the *shari'ah*.¹⁷The majority of *mashallah ummah* types are found in the Qur'an and are judged to be *fard kifayah*, such as seeking knowledge and *jihad*. Second, *mashallah Hadassah* (special *mashallah*) is *mashallah* that touches only a few people to get *mashallah* together, from the beginning what was the concern of this particular form of *mashallah* on individuals then spread to many people as a logical consequence.

¹⁴ M. Zidny Nafi' Hasbi, "Portrait Of Economic Life In The Age Of The Prophet," *Al-Mutsla: Journal of Islamic and Social Sciences* 3, no. 1 (2021): 1–8.

¹⁵ Asep Saepudin Jahar, Amany B. Lubis, "Al-Risalah THE USE OF MAQĀ ID AL-SHARĪ A IN MARITIME AND NATIONAL RESILIENCE CONTEXT."

¹⁶ Auladi, "The Re-interpretation of Hifdzul Aqli and the Relevance of Maqasid Syariah to Face-to-Face Learning Policies in a Pandemic Period."

¹⁷ Al Madani Hanan, "The Compliance of Sukuk with Maqasid Al Sharia'a: A Case Study of the Medium Term Note Sukuk Program of the Islamic Development Bank," Thesis University of Bolton, no. April (2018).

Ibn Ashur emphasized that the purpose of establishing law is for the benefit of humans both in the world and in the hereafter to see whether a law has benefits or will bring benefits, so he limits the benefits based on the first four aspects, the benefits are seen in terms of its influence for the establishment of the ummah divided into dharuriyat, hajiyat, and tahsiniyat. Second, the benefit in terms of its relationship with the ummah in general, groups, or individuals is divided into two, namely maslahat kulliyah, and Malahat juz'iyah. Third, the benefit in terms of realizing the need or preventing damage is divided into three parts, namely the qat'iyah benefit, the dandiya benefit, and the Tamiya benefit. Fourth, there is a benefit as the goal of an action or because of the implications of the act.¹⁸

Ibn Ashur starts on five criteria to identify what is categorized as maslahah and the first masadah is that the benefits or harms in something must exist and are general, such as feeling the benefits of air, sunlight, and other forms in which it does not contain harm. Examples of real harm such as burning plants in the garden to destroy them. The second is that the benefits or harms apply in most circumstances and can be accepted by common sense if they do not conflict with logic when contemplated in depth. Mashallah or masa dah in this type are mostly found in share. Like saving a drowning person.

Something that cannot be replaced by others in bringing mashallah and masa dah is the third point, such as drinking khamr which contains harm in the form of damaging the mind, causing quarrels, wasting wealth, and also bringing benefits in the form of awakening courage, generosity and eliminating sadness. However, the harmful side cannot be replaced with the benefit and the benefit or benefit side can be replaced with other actions in the form of a suggestion to do good with mau'idhah Hashanah. Fourth, the benefits or harms in one of the two cases appear to be the same, but one of them is chosen and favored because there are murajjih factors, such as the necessity of compensation for someone who intentionally damages another's property.¹⁹

4. Conclusion

Ibn Assyria is one of the scholars who want maqasid sharia as an independent science. Ibn Assyria sets the goals of sharia-based on Kath's or definite arguments. This maqasid science is one of the sciences that is needed because in the fatwa on legal issues, this science is one or several parts of the equipment or requirements that must be met for a mujtahid. Maqasid sharia is inseparable from maslahah. Ibn Assyria defines maslahah as the nature of actions that can bring goodness, benefits forever, both in the majority and individually. Ibn Ashur started on five criteria to identify which ones are categorized as maslahah and masadah, among others: (1) The benefits and harms of something must exist and be real. (2) The benefits and harms are real and clear in circumstances that can be accepted with common sense so that they do not conflict with reason and logic. (3) all things that cannot be replaced in bringing about harm and harm. (4) The benefits and harms have the same thing that can be measured and chosen. (5) The benefits and harms are standardized in clear terms.

¹⁸ Hadi and Baihaqi, "The Motive of CSR Practices in Indonesia: Maqasid Al-Sharia Review."

¹⁹ I Tramitació D Urgència, "Contributions of Tafsir Al-Tahrir Wa Al-Tanwir Ibn 'Ashur and Its Relationship with Tafsir Al-Mishbah M. Quraysh Shihab" 2, no. 2 (2017): 1-23.

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