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MAQĀSHID AL-MUKALLAF (Applicative Solutions to Comprehensive Fatwa)

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Abstract: This paper aims to explain about Maqashid Al-Mukallah as an Applied Solution to Comprehensive Fatwa. The concept of maqāshid al-syarī'ah is one of the most important subjects in the study of usul fiqh. Maqāshid consists of three levels, namely: maqāshid al-dharūriyāt, maqāshid al-hājiyāt, and maqāshid al-tahsīniyāt. Dharūriyāt means his existence is required for the benefit of the slave. Hājiyāt means something that is needed to remove trouble, such as rukhshah (lightness) does not fast for the sick. Tahsiniyāt means something that is taken for the good of life and avoids ugliness, such as noble character, eliminates unclean and close aurat. According to al-Shāthibiy, dharūriyāt is detailed in five purposes, namely: (1) Maintaining religion (hifzh al-dīn); (2) Maintaining the soul (hifzh al-nafs); (3) Keep the mind (hifzh al-'aql); (4) Keeping offspring (hifzh al-nasl); (5) Maintain property (hifzh al-māl).

Keywords: Maqashid, Al-Mukallah, Solutions, Applicative, Fatwa, Comprehensive.

1. INTRODUCTION

The concept of maqāshid al-syar"ah has actually started from the time of al-Juwainiy famous with Imam Haramain and Imam al-Gazāliy (Aliasyadi Kahar, 2007). The concept was then systematically arranged by an expert ushul jurisprudih bermazhab Maliki from Granada (Spain), namely Imam al-Syāthibiy (790 H) (Muhammad Makhlūf, 1349H). The concept is written in his famous book titled al-Muwāfaqāt fī Ushūl al-Syar"ah, especially in juz II which al-Shāthibiy called kitāb al-Maqāshid. According to al-Shāthibiy, the Shari'ah is basically established to bring about the benefit of the servant (mashālih al-'ibād), both in the world and in the hereafter. It is this welfare, in his view of becoming maqāshid al-syari'ah. In other words, the determination of the Shari'a, whether in whole (jumlatan) or in detail (tafshīlan), is based on an illat (the motive of the determination of a law), that is to realize the benefit of the servant in the world (Abū Ishāq al-Shātibī, 2004).

The concept of maqāshid al-syarī'ah is one of the most important subjects in the study of usul fiqh. The ulama ushul, both classical and contemporary always relate the issue of law with the aim of its determination. This is due to the Islamic clerics' strong conviction that all provisions of syara 'law must have a noble purpose, since Allah decreed a legal provision prescribed by shāri' to contain the purpose of sanction.

Among ushul scholars there are different terms between each other. Muhammad Abū Zahrah, for example, calls him the term maqāshid al-ahkām ie the intention of the enactment of law (Muhammad Abū Zahrah, 2006). Meanwhile Zakī al-Dīn Sya'bān (1965) and Abd al-Wahhāb Khallāf (1990) termed maqāshid al-tasyrī'yaitu the purpose of alms. While maqāshid al-syarī'ah is a term used by Imam Abū Ishāq al-Syāthibiy and 'Abd al-Karīm Zaidān (1977). Although there are different terms among ulama ushul, but contains the same meaning that is the purpose of Allah to decrease the Shari'a.

To realize that benefit, al-Shāthibiy divided the maqāshid into three levels: maqāshid al-dharūriyāt, maqāshid al-hājiyāt, and maqāshid al-tahsīniyāt. Dharūriyāt means his existence is required for the benefit of the slave. This means that if it does not exist it will cause damage, such as pillars of Islam. Hājiyāt means something that is needed to remove trouble, such as rukhshah (lightness) does not fast for the sick. Tahsiniyāt means something that is taken for the good of life and

avoids ugliness, such as noble character, eliminates unclean and close aurat. According to al-Shāthibiy, dharūriyāt is detailed in five purposes, namely: (1) Maintaining religion (hifzh al-dīn); (2) Maintaining the soul (hifzh al-nafs); (3) Keep the mind (hifzh al-'aql); (4) Keeping offspring (hifzh al-nasl); (5) Keeping property (hifzh al-māl) (Abd al-Karīm Zaidān, 1977).

In practice, maqāshid al-syar"ah is not alone in influencing the rule of law, since essentially syarī'ah and maqāshid al-mukallaf also participate in influencing the enactment of the law. Thus, there are three things that influence the determination of the law, namely maqāshid al-syarī'ah, syarī'ah and maqāshid al-mukallaf. Therefore, the relevance between maqāshid al-syar"ah and maqāshid al-mukallaf is closely related, because in many cases found both in reading in the books of fiqh and in reality in society today, there is often the problem of the fulfillment of an act according to maqāshid al-syarī'ah but the aspect of his maqāshid al-mukallaf is problematic ie the intention of that person.

Every human action will be influenced by several factors. There are factors from within and some are from the outside. Factor from the inside can be a motivation that is born in a person who can move him to do something, while external factors can be encouragement from the people around him or it could be a target or goal to be achieved. But from both it seems that the external factor is the initial determinant of an activity. For the motivation and morale of a person sometimes burning if there is an impulse from the outside, especially those associated with the desired goals. From that goal then the actions of a person will be different from the actions of others.

Ibn Hazm a thinker said that the goal pursued by humans is free from suffering, whereas eternal happiness belongs only to God (Umar Sulaymān al-Ashbar, 2006). Thus, every work of man should be directed to God alone, even if the orientation of his activity, especially a Muslim is worship, while the requirement of worship is sincerity solely to Him. Sincerity itself is closely related to one's intentions.

2. OVERVIEW OF MAQĀSHID

The fiqh scholars and classical prophets, when using the maqāshid pronunciation are not confined to one meaning, in contrast to other pronunciations having meaning related to maqāshid or adjacent meanings (Abdu al-Rahman Ibrāhim al-Kailāniy), but when viewed from the use of pronunciation maqāshid which is widely used by scholars, it is meant the etymological meaning of the pronunciation itself, for example, the rules (Acts and Words depend on the intention). The purpose of the maqāshid in that rule is what tops the goal of a mukalaf and who is kept in his intention and a goal in his deeds.

Ibn Taimiyah often uses maqāshid in the following context:

1. In the act of God there is a lovable goal and great reward.

2. Al-hikmah is the result of the purpose of God and the purpose of such actions.

3. Whoever denies that in sharia includes both maslahat and maqāshid towards man in the world and in the Hereafter, then it shows a clear error. It is known through al-dharūrāt (Yūsuf Ahmad Muhammad al-Badawiy).

Departing from the phrase will be abstracted maqāshid views in several points as follows:

1. Ibn Taymiyyah uses the words al-'awāqib, al-gāyāt, al-manāfi ', al-maqāshid, al-hikam, al-mashālih, al-mahāsin with the same meaning.

2. Ibn Taymiyya says that Allah has the same purpose and purpose in his creation and command.

3. Indeed when the goal desired by Allah is syar'i achieved, then it ensures the realization of 'ubūdiyyah to him.

Usama scholars have given some definitions of maqāshid. The issues that are deemed important to emphasize are those which are often used in the context of maqāshid, which by knowing them can capture the meanings of the maqāshid itself. Furthermore, from that term, will help understand the theories of maqāshid. The terms include:

1. Intention:

Al-Baidhāwiy defines etymologically on the pronunciation of intent by specializing the intentions on the meaning of al-irādah (desire) and the attempt to do good deeds for the pleasure of Allah swt. and apply His wisdom. Opinions embraced

by al-Baidhāwiy followed and transferred from one generation to the next by the majority of scholars. There are two opinions about intention in sharia:

a. Intention according to syari'ah is the desire to do something along with the work. The first group is the scholars who tend to the opinion that the intention of the language is spoken for the meaning of desire accompanied by deeds to realize the desire, or the desire to perform an act that will be implemented in the future. Therefore, the Shari'a establishes intentions with the wishes accompanied by his actions. This is so that some scholars require intent along with their work as in prayers, zakat and hajj. Once they have defined the meaning, they recite: the intention according to the meaning of the epistemology is that it must coincide with the work, if not simultaneously, it is not called intention.

b. Intentions in the term language include the purpose or purpose of the work aimed at hoping for the pleasure of God or even benefits, then syāri 'specializes that it intends to do something because it wishes God's pleasure.

2. Al-Gāyah:

Al-Gāyah can come from two different roots. First, al-gāyah comes from the root غ-و-ي which means the opposite of al-rusyd / clever and darkens the object and the second means damage to something. And can also come from the root word غ-ي-ى which means boundary something, the end of something and the purpose of something.

From both the origin of the word, all can be attributed to the meaning of purpose, though closer to the root غ-ي-ى. Al-Gāyah from the root of the first word is defined as darkening objects. This means al-gāyah is like an umbrella that shade an object as well as the purpose that became the umbrella of the morning of a job, while al-gāyah derived from the root of the second word has already led to the meaning of purpose.

3. Al-Ahdāf:

Al-Ahdāf is a plural form of ه-د-ف root meaning upright and tall. Ibn Manzhūr reveals that al-hadaf is every thing high, whether in the form of buildings, sand dunes or mountains. Thus, al-hadaf interpreted the purpose because he became the tip or top of a job like the top of the building, the tip of the sand dune and the mountain peak. The same is expressed by al-Manāwī by saying that al-hadaf is any great thing anymore high.

4. Al-Agrādh:

Al-Agrādh is a plural form of the root غ-ر-ak has several meanings. Among its meanings are rope tie mounts, boredom, longing. While Ibrāhīm Mushthafā in al-Mu'jam al-Wasīth reveals the meaning of al-gardh is the goal to be achieved, desire, needs and intentions. From the meaning of etymology, al-Manāwī explains that al-gardh is the intention of a work that requires thoroughness in knowing it, while al-Syarīf in al-Manāwī explains that al-gardh is a benefit that results from something that the purpose of doing a job.

5. Irādah:

Irādah is the will or desire, while in the dictionary Maqāyīs al-Lugah interpreted the arrival and departure or can also be interpreted as consideration and demands, said irādah very much mentioned in the Qur'an is 153 times who talked about it from various forms either with verbs or in the form of nouns.

6. 'Azm:

The recitation of 'azm means sincerity or perseverance, al-Laith says that al-'azm's pronunciation also means something that the heart believes that he will do. The recitation of al-'azm mentioned in the Qur'an is nine times five times mentioned in the form of Islam and four times mentioned in the form of work pronunciation.

3. OVERVIEW OF MAQĀSHID AL-SYARĪ'AH

The term shari'a is a common word circulating among Muslim societies from the early days of Islam, but the one they use is always syarā'ī (plural form) not syarī'ah (mufrad form). The narrations show that people who have just converted to Islam and came to the Messenger of Allah from various corners of the Arabian Peninsula asked the Messenger of Allah to send someone to them to teach syarāi 'Islam.

While the term sharia is almost never used in the early days of Islam. From the development of meaning, the term shari'ah is introduced with a narrow meaning change to bring a special meaning, ie Islamic law in the later period. Sharia is an

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Arabic vocabulary that literally means the source of water or the source of life. In Mukhtār al-Shihhah is expressed as follows: Shari'a is the source of water and it is the goal for the one who will drink. Shariah is also something that Allah has decreed. to his servant in the form of religion that has been laid to them.

The Arabs apply this term specifically to the path to a fixed water trough and given a clear sign of the eye. So, this word means a clearly visible path or a highway to follow. The Qur'an uses the word syirah and shari'ah in the sense of religion, or in the sense of the clear path that God shows for man.

Shari'a is often used as a synonym for the word dīn and millah which means all the rules that come from Allah swt. contained in the Qur'an and hadith which is qath'ī or clear nas.

While the definition of Islamic shari'ah according to Mahmud Syaltūt is shari'a according to the language is the place visited by or directed by humans and animals to drink water.

According to the terms are the laws and rules of Allah disyariahkan for his servants to follow and their relationships among human beings. Here the meaning is meant in terms of sharia is directed to the laws imported by the Qur'an and His Messenger, and then agreed by the companions of the laws that did not come about his affairs nas something from the Qur'an or sunna. Then the law which is depicted by the way of ijtihad, and enter into the room of ijtihad establishes the law with intermediaries of kias, karinah, signs and theorems.

While the Shari'a according to Salam Madkur: tasyrik is the familiar pronunciation of the word shari'ah which among its meaning in the Arabian view is a straight path and is used by Islamic jurists to name for the laws God established for His servants and poured by the Messenger Him so that they work with full knowledge whether the laws are related to deeds or with aqeedah or with character morality.

Named with the meaning of this tasyrik sentence which means to create the law and make its rules, then tasyrik in this sense is to make the law both come from the law and called the celestial tasyrik or from the pebuatan man and their minds called tasyrik wadh'ī.

The definition expressed by Shaltūt clearly separates religion from sharia. According to him, Islam consists of two main teachings namely aqidah and shariah. Where sharia is more devoted to the problem of amaliah. Furthermore, still according to Syaltūt, aspect of aqidah is the foundation where sharia grows and develops, whereas sharia is something that must grow from the aqidah.

The definition indicates that sharia as a provision governing the problems of amaliah consists of two categories; first, the legal provisions directly established by syāri '. They are immutable and unchanging, for no one has the authority to change them except Allah.

While the term sharia in the context of the study of Islamic law more describes the legal norms that are the result of tasyrik process, namely the process of establishing and making sharia. Furthermore, Sharia terminology in Islamic jurists has a general and special understanding. Shariah in the general sense is the whole way of life of every Muslim, including knowledge of the divine. Shariah in this sense is often referred to as fiqh akbar.

While in a special sense connotes fikih or often referred to ashghār fiqh, namely provisions of law resulting from understanding a Muslim who fulfill certain shari'a about al-Qur'an and sunna by using ushul fiqh method. Based on the definition of sharia is formed the term tasyrik or tasyri 'al-Islāmī which means the legislation is arranged in accordance with the foundations and principles contained in the Qur'an and sunna. The legislation is formulated into two major sections, namely the field of worship and the two fields of muamalah.

4. MAQĀSHID AL-MUKALLAF AND ITS EFFECT

Maqāshid al-mukallaf consists of two words namely maqāshid and al-mukallaf, so to get a more comprehensive understanding, it is necessary to explain one by one of the word. Maqāshid has been described in full in the previous chapter, so in this chapter, the researcher will explain the notion of al-mukallaf only.

Al-Mukallaf is ism al-mafʿūl (object) of kallafa-yukallifu-taklifan. Kallafa itself is a transitive form of the caliph. If it is said kallafahu taklifan means anger bimā fīh masyaqqah (commanded him something that contains masyaqqah (difficulty).

There are several arguments explaining the maqāshid al-mukallaf, whether in the Qur'an or in the hadith, among them:

a. The case of the Qur'an:

The recitation of al-qashd is used in the Qur'an, but the Qur'an not only uses the pronunciation. There are some pronunciations used in pointing to the meaning of al-qashd that leads to intent or purpose.

Generally the verses that speak of al-qashd are depicted in the form of al-irādah, al-ikhlāsh and ibtigā ', while the use of the nayah pronunciation (intention) is not found at all, thus raising the notion that the Qur'an does not regard intention as something that is important in carrying out the activities, whether religious or otherwise.

### b. The argument of the hadith of the Prophet:

The theorem used by scholars about the importance of al-qashd or the intention in carrying out a practice is a hadith narrated by 'Umar ibn al-Khaththāb as its meaning; "I've heard 'Umar bin al-Khaththāb on the pulpit saying; I heard the Messenger of Allah. said: "All deeds depend on the intention, and (reward) for each person (dependent) what is intended; Whoever the intention of his hijrah because the world he wants to achieve or because a woman who wants to marry, then hijrahnya is to what he intended ". This hadith received much special attention from scholars. Many of them put this hadith in the first order of the hadith books. Among them are: Shahīh al-Bukhārī, Arba'īn al-Nawāwī, and several other books of other traditions. Ibn Rajab says that al-Bukhāriy places the hadith about the intention in the first part of his Shah'h, as an opening to his book, as well as his cue that any charity which is not intended to hope for the pleasure of Allah is a charity that is void, of no value in the world and hereafter."

The discourse of Maqāshid al-Mukallaf among the Jurists:

The discourse of maqāshid al-mukallaf among the scholars receives great attention, especially the classical scholars who discuss it a lot, although the terminology used is the intention or in the rule of fiqh is al-umūr bimaqāshdihā. In this case will be discussed about the discourse of scholars about maqāshid al-mukallaf or intention.

Discussion about intention has graced most of Islamic discipline such as: fiqh, morality, monotheism, ushul fiqh, tafseer and science of syarh al-hadīts. Scholars agree on the importance of intention, even there yag considers that the intention is a quarter of religion, some even claim that the intention is half of Islam.

Based on the above description, the maqāshid al-mukallaf framework can be visualized as follows:
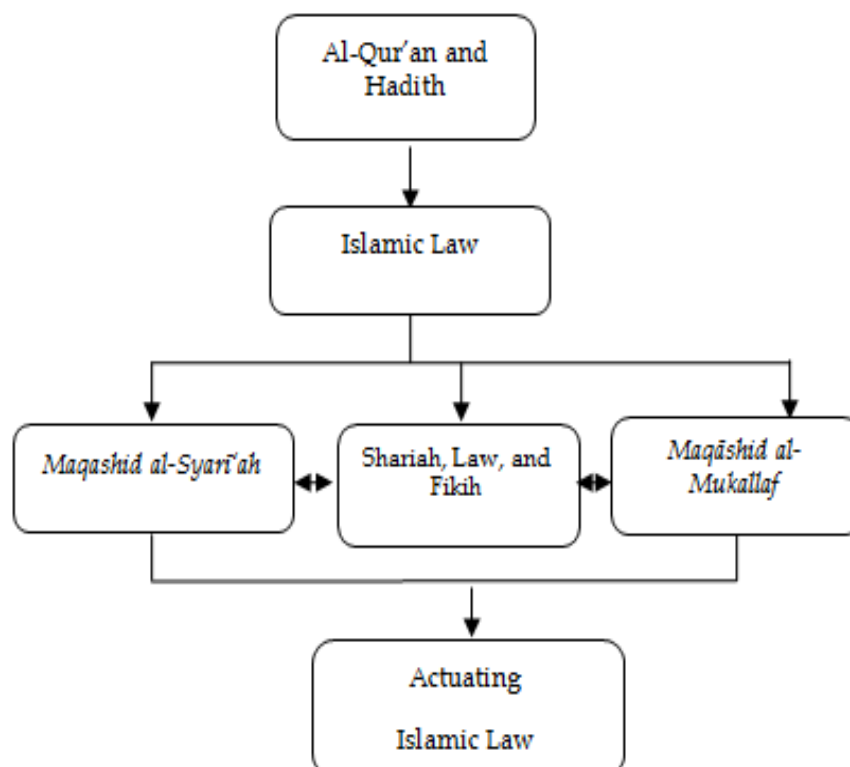
5. CONCLUSION

Based on the preceding explanation some conclusions can be made in answer to the sub-issues discussed in this paper about maqāshid al-mukallaf as follows:

1. The meaning of maqāshid al-mukallaf is the intent or motivation of a person to carry out the law of taklif which has been charged. The term maqāshid al-mukallaf is introduced by al-Shāthibiy in the study of ushul fiqh, whereas in the discipline of al-qawā'id al-fiqhiyyah the exact terminology is al-umūr bimaqāshidihā. Both terminology is widely contained in the books of jurisprudence with the term intention.

2. The rule of maqāshid al-mukallaf is not the same as the rule built in the discipline of al-qawā'id al-fiqhiyyah. The rule of maqāshid al-mukallaf consists of seven rules, namely:

a. Maqāshid became a reference in judging the actions, so that all actions are viewed from the intent of his actions, whether in the matter of worship or in the matter of custom or habit.

b. In line between maqāshid al-mukallaf with maqāshid al-syarī'ah. The relevance of maqāshid al-mukallaf with maqāshid al-syarī'ah is so close that both are not only viewed from one aspect but need to combine the two types of maqāsid.

c. Acts contain self-benefit and harm to others. This rule implies a prohibition to be mutually harmless, both to oneself and to others. Thus, the act of self-benefit but intended to harm others is strictly prohibited.

d. Perform the benefit of mukalaf. Mukalaf is obliged to fulfill his own benefit and should not be replaced by others.

e. Aiming only to execute orders to gain maslahat. In this case there are three levels in fulfilling the benefit.

f. Trick or trickery should not leave the benefit. The trick or manipulation of the law is prohibited if it destroys the maslahat in maqāshid al-syarī'ah, so the legal manipulation that does not destroy it is permissible.

3. The influence of maqāshid al-mukallaf in everyday life can be divided into two parts:

a. The influence of the object of law is divided into three parts, namely:

1) The influence of al-qashd or intent on the mubah case. In this case the intention plays a role in determining whether to be worship or not.

2) The influence of al-qashd or intention on the case of the haram. Al-qashd does not apply to something forbidden, so as good as any intentions or intentions of that person will not be taken into account.

3) The influence of al-qashd or intention on the worship case is to determine the worship with custom and distinguish the quality of worship.

b. The influence of al-qashd on the subject of law is divided into two, namely mukallaf and gair al-mukallaf. While those included in the non mukalaf section then al-qashdnya can not be taken into account because they are not included in people who are exposed to taklif load.

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