

The Meaning of *al-Hurriyyah* in QS. al-Baqarah [2]: 256 and QS. al-Kahfi [18]: 29: A *Maqâsid* Approach of Ibn ‘Asyur

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Abstract

Ibn ‘Asyur is a modern Muslim scholar, he is also a commentator and expert on jurisprudence. His well-known works of interpretation and fiqh suggestions are Tafsir al-Tahrir wa al-Tanwir and Maqâsid al-Syari’ah al-Islamiyyah. Furthermore, this article explores the meaning of “al-hurriyyah” in the context of the maqâsid al-syari’ah from the perspective of Ibn ‘Asyur. The object in this discussion is his interpretation work entitled Tafsir al-Tahrir wa al-Tanwir, which focuses on analysis in QS. 2: 256 and QS. 18: 29. This research is motivated by the new maqâsid al-syari’ah concept which was initiated by Ibn ‘Asyur since the vacuum of the maqâsid concept which was previously brought by al-Syathibi. This concept of Ibn ‘Asyur is universally oriented. One of the terms in the maqâsid al-syari’ah is “al-hurriyyah.” This research was conducted to answer questions about how the concept of maqâsid al-syari’ah Ibn ‘Asyur is implemented in the QS. 2: 256 and QS. 18: 26. The method used in this research is descriptive analytical. After conducting the research it can be concluded that in the two letters that have been analyzed, the meaning of “al-hurriyyah” which is meant by Ibn ‘Asyur is a freedom to choose the religion that is believed and there is no compulsion in choosing it. Ibn ‘Asyur explained that a Muslim is allowed to help fellow humans in the social aspect and not in the aspect of religion, belief or creed

Kata Kunci

Ibn ‘Asyur, Maqâsid al-syari’ah, Tafsir al-Tahrir wa al-Tanwir, al-Hurriyyah

Abstrak

Ibn ‘Asyur merupakan salah satu sarjana Muslim modern, ia juga seorang mufasir dan ahli usul fikih. Karya tafsir dan usul fikihnya yang terkenal adalah Tafsir al-Tahrir wa al-Tanwir dan Maqâsid al-Syari’ah al-Islamiyyah. Lebih lanjut, artikel ini mengeksplorasi lebih dalam tentang makna “al-hurriyyah” dalam konteks maqâsid

Ibn 'Asyur merupakan salah satu sarjana Muslim modern, ia juga seorang mufasir dan ahli usul fikih. Karya tafsir dan usul fikihnya yang terkenal adalah Tafsir al-Tahrir wa al-Tanwir dan Maqâsid al-Syari'ah al-Islamiyyah. Lebih lanjut, artikel ini mengeksplorasi lebih dalam tentang makna "al-hurriyyah" dalam konteks maqâsid al-syari'ah perspektif Ibn 'Asyur. Adapun objek dalam pembahasan ini adalah karya tafsirnya yang berjudul Tafsir al-Tahrir wa al-Tanwir, dengan menghususkan analisis pada QS. 2: 256 dan QS. 18: 29. Penelitian ini dilatarbelakangi oleh adanya konsep maqâsid al-syari'ah baru yang digagas oleh Ibn 'Asyur sejak kevakuman konsep maqâsid yang sebelumnya telah dibawa oleh al-Syathibi. Konsep Ibn 'Asyur ini berorientasi universal. Salah satu term dalam maqâsid al-syari'ahnya adalah "al-hurriyyah." Penelitian ini dilakukan untuk menjawab pertanyaan tentang bagaimana konsep maqâsid al-syari'ah Ibn 'Asyur diimplementasikan dalam QS. 2: 256 dan QS. 18: 26. Metode yang digunakan dalam penelitian ini adalah deskriptif analitis. Setelah dilakukan penelitian dapat disimpulkan bahwa dalam dua surat yang telah dianalisis tersebut, makna "al-hurriyyah" yang dimaksud Ibn 'Asyur adalah sebuah kebebasan untuk memilih agama yang diyakini dan tidak ada paksaan dalam memilih hal tersebut. Ibn 'Asyur menjelaskan bahwa seorang Muslim diperkenankan membantu sesama manusia pada aspek sosial dan bukan pada aspek agama, keyakinan atau akidah

Introduction

Maqâsid al-syari'ah is the spirit, and essence of the provisions of every command and prohibition in Islam. Its use as a spirit in determining of law, has been practiced since the time of the Prophet Muhammad, the era of companions, and tabi'in period. Even so, its existence as an object of scientific study as well as an aspect of legal formulation considerations, only started around the end of 3rd century H.¹

The journey of *maqâsid al-syari'ah* into a separate scientific discipline occurs through a long process. It was recorded from the generation of companions, attention to the aims and objectives of shari'a began to be developed in accordance with the times when they lived, because shari'a could adapt to the development of civilization. The demand to develop shari'a without breaking

up and far from the main goal then encourages them to carry out various creative innovations in formulating the design of legal products. The appointment of Abu Bakar as the first caliph to maintain unity and integrity of the ummah, the compilation of the Qur'an in manuscript form during Utsman's time, the abolition of the cutting of hands by Umar during famine are some examples of breakthroughs in developing shari'a, by developing it according to the period in which they lived, beyond ignoring the noble wisdom of the shari'a itself.²

The problems contained in Islamic law which experienced a period of withdraw and flow in following the times made al-Syathibi motivated to design a theoretical study of fiqh proposals, especially the conception of *maqâsid al-syari'ah*. Syathibi's success in conceptualizing *maqâsid al-syari'ah* made him named a figure of *mu'assis*

¹Muhammad Aziz, et.al., "Reconstruction of Maqashid Shari'ah Perspective Muhammad Thahir Ibn 'Asyur: Efforts to Re-Discuss Sharia with Reality," *Jurnal Hukum Islam* 17, no. 2 (2019): 233.

²Ibid., 238.

*'ulum al-maqâşid al-syari'ah.*³

Al-Syathibi then developed the concept which is divided into several specific terms, namely; *maqâşid al-shari'ah* and *maqâşid min syar'i al-hukm*. Al-Syathibi argues that all laws revealed by Allah have a special purpose for humans, namely to provide boundaries and also separate humans from their desires.⁴ He then holds the view that *maqâşid al-syari'ah* aims to provide limits for someone to think, behave and act for the benefit. Syathibi's thinking can be seen from two perspectives, firstly *maqâşid al-syar'i* which is related to the goal of Allah in which Allah sends down rules or laws for the benefit of mankind. Second, *maqâşid al-mukallaf* which aims at something that is given responsibility. The purpose of this *mukallaf* is that it is impossible for Allah to give the shari'a to people who are not able to understand and implement it.⁵

Al-Syathibi then succeeded in making the Maqâşid conception in Islamic law as part of the science of fiqh proposals. This concept was later developed by Ibn 'Asyur, especially the study of *maqâşid al-syari'ah*, one of which discusses "*al-hurriyah*."

Besides Ibn 'Asyur, there is also a study on "*al-hurriyah*" by Jamal al-Banna. He divides the concept of "*al-hurriyah*" into several aspects, namely the doctrine of guaranteeing freedom in Islam, the doctrine infreedom of slaves and women, the doctrine of war in Islam, the doctrine of freedom in Qur'an, the doctrine of freedom in Sunnah and behavior of Prophet Muhammad's companions.⁶

There are several academic reasons related

to urgency of research that make Ibn 'Asyur's interpretation need to be studied in depth, especially the concept of "*al-hurriyah*." First, Ibn 'Asyur is a great figure from Tunisia who has a strong influence in the field of interpretation. His appointment as mufti is a testament to his capabilities. Second, Ibn 'Asyur was one of pioneers *maqâşid al-syari'ah* discourse after al-Syathibi and conditionally helped to pour his *maqâşid* ideas into his commentary. Third, Ibn 'Asyur is a scholar who is objective in his attitude. This objective attitude can be seen from the way Ibn 'Asyur determines the law professionally and proportionally. Even though he is a Maliki school of thought, he does not turn a blind eye to other schools if one has a stronger legal basis than his school. Fourth, the book "Tafsir al-Tahrir wa al-Tanwir" is a phenomenal work of Ibn 'Asyur which has influence and appeal to international commentators who often discuss it in a special forum of interpretation, namely "Multaqa Ahl al-Tafsir."⁷

The method of interpretation with the concept of *maqâşid al-syari'ah* deserves further discussion. One of the modern and no less important commentators in which he emphasizes that it is necessary to conceptualize the *maqâşid* dimension in the works of commentary is Ibn 'Asyur.⁸ The concept of *maqâşid al-syari'ah* as an interpretive method that was initiated and used by Ibn 'Asyur is also something that needs to be paid attention to.

In Fatimatuz Zahro's writing entitled "The Approach of Maqasidy Ibn 'Asyur's Tafsir," she emphasizes the aspect of the verses "Hifzu al-Aql." It gives an idea that reason or morality is a reflection of one's religion. When they behave well, it can be concluded that he is also a good religious person.⁹

³Ainol Yaqin, "Revitalisasi Maqashid Al-Syari'ah dalam Istibath Hukum Islam: Kajian atas Pemikiran Muhammad Al-Thahir Ibnu 'Asyur," *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 50, no. 2 (2016): 316.

⁴Fatimatuz Zahro, "Pendekatan Tafsir Maqasidy Ibn Ashur" (Skripsi UIN Sunan Ampel Surabaya, 2018), 22.

⁵Muhammad Lutfi Hakim, "Pergeseran Paradigma Maqasid Al-Syariah: Dari Klasik Sampai Kontemporer," *Jurnal Al-Manahij* 10, no. 1 (2016): 4.

⁶Ahmad Soleh Sakni, "Kebebasan Berpikir dan Berkeyakinan Dalam Perspektif Jamal Al-Banna," *Jurnal el-Fikr* 1, no. 1 (2017): 41.

⁷Abd. Halim, "Kitab Tafsir al-Tahrir wa al-Tanwir Karya Ibnu 'Asyur Dan Kontribusinya Terhadap Keilmuan Tafsir Kontemporer," *Jurnal Syahadah* 2, no. 2 (2014): 17-18.

⁸Johanna Pink, *Muslim Qur'anic Interpretation Today; Media, Genealogies and Interpretive Communities* (London: Equinox Publishing Ltd, 2019), 129.

⁹Fatimatuz Zahro, "Pendekatan Tafsir Maqasidy Ibn Ashur," 2018.

Then in Salma Mursyid's writings about the concept of inter-religious tolerance contained in the Qur'an by conducting research on the side of *al-samahah*. As for the verses about *al-samahah* contained in the QS. al-Isra [17]: 84, QS. al-Qashash [28]: 55 and also found in the QS. al-Kafirun [109]: 6. He stated that in matters of worship and belief, Islam has zero tolerance for other religions. However, in situations of a social nature, Islam provides tolerance for helping each other.¹⁰

The author's position in this study will describe the concept of "*al-huriyyah*" in the context of *maqâsid al-syari'ah* Ibn 'Asyur. This study emphasizes discussion about how the concept of "*al-huriyyah*" Ibn 'Asyur is implemented in the QS. al-Baqarah verse 256 and QS. al-Kahfi verse 26. The author chose the verse in the QS. al-Baqarah and QS. al-Kahfi because the two verses in this surah reveal about freedom in religion. This research is considered important because until now, the author has not found any research on the concept of "*al-huriyyah*" in the *maqâsid al-syari'ah* Ibn 'Asyur in these two verses. Therefore, to describe the research discussion, the author uses "Tafsir al-Tahrir wa al-Tanwir" so that the convergence of this research is specifically about the concept/ meaning of "*al-huriyyah*" in *Maqâsid al-syari'ah* Ibn 'Asyur.

Sirah Ibn 'Asyur and the Definition of *Maqâsid al-Syari'ah*

Ibn 'Asyur's full name was Muhammad al-Tahir bin Muhammad bin Muhammad al-Tahir bin Muhammad bin Muhammad al-Syadiliy bin 'Abd al-Qadir bin Muhammad bin 'Asyur. Born in the city of al-Marasiy, a suburb of the Tunisian capital, in Jumadil 'Ula exactly 1296 H coincided with September 1879 AD,¹¹ and died

at the age 94 years on Sunday 13 Rajab 1393 H coinciding with 12 October 1973 AD before Maghrib prayer.¹² He was born into a respectable family originating from Andalusia. His father's name was Muhammad bin Muhammad al-Tahir, his mother's name was Fatimah bint Muhammad al-Aziz.¹³ Ibn 'Asyur married Fatimah bint Muhammad bin Mustafa Muhsin, this Muhsin family is a respected family, known for their knowledge and leadership. From his marriage to Fatimah, he was blessed with five children, three sons and two daughters.¹⁴

He is a mujtahid scholars, mufassir, hadith expert, sociologist, reformer of Islamic education, linguist, writer, literary critic. He also mastered fiqh, philosophy and medical science.¹⁵ During his lifetime he spent his life studying and teaching in Tunisia, leading the Zaitunah University and its branches, having served as Chairman of the Mufti (*Syaikhul Islam*) of the Maliki school in Tunisia, and was also a member of the Arabic Language Institute in Damascus and Cairo. Ibn 'Asyur's works cover various disciplines, including, ranging from interpretation (*Tafsir al-Tahrir wa al-Tanwir*), usul fiqh (*Maqâsid al-Shari'ah al-Islamiyah*), fiqh (*al-Waqfu wa Atsaruhu fi al-Islam*), literature (*Usul al-Insya' wa al-Khithabah, Mujiz al-Balaghah*), sociology (*Usul al-Nidham al-Ijtima'iy*) and others.¹⁶

The journey of life that was passed by Ibn 'Asyur was not easy, at least he experienced two important periods that changed his determination and desire to make changes for the better. First, during the Ottoman Empire. This period was one of important events experienced by Ibn 'Asyur

¹²Muhammad al-Tahir Ibn 'Asyur, *Syarh al-Muqaddimah al-Adabiyah li al-Marzuqy 'ala Diwani al-Amamah* (Riyadh: Maktabah Dar al-Minhaj, 2008), 11.

¹³Abdul Qadir Muhammad Salih, *al-Tafsir*, 109.

¹⁴Muhammad al-Tahir Ibn 'Asyur, *Syarh*, 15.

¹⁵Balqasim al-Ghaliy, *Syaikh al-Jami' al-A'dham Muhammad al-Tahir ibn 'Asyur: Hayatuh wa Atsaruh* (Beirut: Dar Ibn Hazm, 1417 H/ 1996 M), 35, 249.

¹⁶Khairuddin al-Zirkliy, *Al-A'lam Qamus Tarajum li Asyuhur al-Rijal wa al-Nisa' min al-'Arab wa al-Musta'ribin wa al-Mustasyriqin*, Ed. 15, Vol. VI (Beirut: Dar al-'Ilmi li al-Malayin, 2002), 174.

¹⁰Salma Mursyid, "Konsep Toleransi (Al-Samahah) Antar Umat Beragama Perspektif Islam," *Jurnal AQLAM* 2, no. 1 (2016).

¹¹Abdul Qadir Muhammad Salih, *al-Tafsir wa al-Mufasssirun fi al-'Asr al-Hadits: 'Arad wa Dirasah Mufasssilah, li Ahammii Kutub al-Tafsir al-Ma'asir* (Beirut: Dar al-Ma'rifah, n.d.), 109.

because at that time the power of Ottoman Turks was in decline. In this situation, European countries launched colonial actions against a number of countries in the Middle East, then North Africa and West Africa. These conditions make people's lives in colonized countries difficult and bitter. The bitterness of colonialism experienced by the Tunisian people made them wake up and fight against imperialism in order to get out of a situation full of adversity.

The second period experienced by Ibn 'Asyur was post-independence life. After being free from the colonization of European countries, Ibn 'Asyur devoted his energy and thoughts and all his abilities in the world of education. Ibn 'Asyur served as the official teaching staff at the university. In addition, he also occupied the position of Supreme Court Justice of the Maliki school. Then in 1926 AD, he served as the Grand Mufti of Tunisia. He is not only active in the national scope, but also participates in international world. His positions among others, in 1940 AD, he was a member of the "Majma' Lughah al-'Arabiyyah" (Center for Arabic Studies) in Cairo, Egypt. Then in 1955 AD, he held a position as a member of the "Majma' al-'Ilmi al-'Arabi" envoy in Damascus.¹⁷

The studies and thoughts of Ibn 'Asyur then opened horizons of Islamic scholars in the next period. In general, the objects of study that are the main focus of these contemporary scholars include four things, namely:¹⁸

1. Studies related to grouping, which are then mapped into partial, specific, and general sections.
2. A study related to the target, by not giving specific limitations only on safeguarding, but also on development.
3. Studies related to coverage that do not limit

individuals to individuals, but cover broader aspects of the unit.

4. Studies related to sources, which are no longer induced from fiqh cases, but are extracted directly from the Qur'an and Sunnah.

When referring to the classical era, the definition of *maqâşid al-syari'ah* cannot be concluded comprehensively and firmly with a straightforward explanation, even Imam al-Syathibi also does not provide a standard explanation of the definition of *maqâşid al-syari'ah*. The definition of *maqâşid al-syari'ah* is more comprehensively put forward by contemporary scholars, one of which is Ibn 'Asyur. He argues that *maqâşid al-syari'ah* are the meanings and wisdoms that must be considered and maintained by *al-syari'*, who of course is the maker of the shari'a in every form of legal determination.¹⁹ In addition, he also studied science about *maqâşid*, especially *maqâşid al-syari'ah*. He then developed *maqâşid al-syari'ah* into a concept that contains several aspects, namely: *fitrah*, *samahah*, *musawah*, *taisir*, and *hurriyah*.

Maqâşid – a popular term in contemporary legal methodology and interpretation – denotes a goal, purpose or objective. At the heart of this methodology is the idea of an overarching goal that governs the interpretation of individual expressions. *Maqâşid* as an approach to interpretation or interpretation allows an interpreter to stay away from the direct meaning of certain verses of the Qur'an and embed it in a larger system of meaning.²⁰

In a book written by Jasser Auda entitled "Maqasid al-Shariah as Philosophy of Islamic Law", he explains that *maqâşid al-syari'ah* is a principle that provides answers to questions about Islamic law. *Maqâşid* includes the wisdom behind the law, such as increasing welfare for

¹⁷Chamim Tohari, "Pembaharuan Konsep Maqasid Al-Shari'ah dalam Pemikiran Muhammad Tahir Ibn 'Ashur," *Jurnal Al-Maslahah* 13, no. 1 (2017): 9-10.

¹⁸Mufti Hasan, "Tafsir Maqasidi: Penafsiran Al-Quran Berbasis Maqasid Al-Syariah," *Jurnal Maghza* 2, no. 2 (2017):18.

¹⁹Sutrisno, "Paradigma Tafsir Maqasidi," *Jurnal Rausyan Fikr* 13, no.2 (2017): 327.

²⁰Johanna Pink, *Muslim Qur'anic Interpretation Today*, 128.

community which is one of wisdom behind deeds, and developing awareness of God. *Maqâşid* preserves one's mind and soul by explaining the provisions and prohibitions in Islam. *Maqâşid* is also a group of divine intentions and moral concepts based on Islamic law, such as justice, human dignity, free will, generosity, facilitation, and social cooperation.²¹

Maqâşid al-syari'ah itself is a compound word consisting of two words, namely *maqâşid* and *al-syari'ah*. *Maqâşid* is the plural form of *maqşad* which means intention and purpose, which is rooted in the word *qaşada-yaqşudu-qaşdan* (قصد-يقصد-قصدًا) is desire or intention. While *al-syari'ah* lexically means going to a place or road that aims to seek happiness and safety. Based on this understanding, *maqâşid al-syari'ah* can be concluded as a rule that has been set by Allah which has the aim of obtaining benefit for humans.²²

Furthermore, modern and contemporary scholars have expanded the five core areas of *maqâşid* which are usually known as *daruriyat al-khams* (*al-din*, *al-nafs*, *al-'aql*, *al-mal*, and *al-nasl/al-nasb*). For example, Rashid Rida included women's rights in his theory of *maqâşid*, Muhammad al-Ghazali added justice and freedom, Yusuf al-Qardawi included human dignity and rights. Al-Qardawi argues that *maqâşid al-syari'ah* is the main goal that forms the basis of particular laws in human life that are realized. The realization is in the form of orders and prohibitions for individuals, families, congregations, and people.²³ Meanwhile, Ibn 'Asyur includes values such as equality, freedom and order among others as part of universality in

maqâşid Islamic law.²⁴

The Essence of *Maqâşid al-Syari'ah* in the Thought of Ibn 'Asyur

In his book entitled "Maqâşid al-Shari'ah al-Islamiyyah," Ibn 'Asyur argues that *maqâşid al-syari'ah* can be found by examining the workings of the shari'a through research on the *ilat* of laws it prescribes. According to Ibn 'Asyur this method can be done through two approaches; First, by examining the laws whose *ilat* is known, if a number of laws have *ilat* that lead to a certain wisdom, then the wisdom in question is *maqâşid al-syari'ah*.²⁵ Second, by examining the arguments to find the same *ilat* from a number of different laws, if a number of different laws are found to have the same *ilat*, then the *ilat* in question is designated as *maqâşid al-syari'ah*.²⁶

The next source of *maqâşid al-syari'ah* is the texts of al-Qur'an which are *al-wađihah al-dalalah*, which by themselves show a clear meaning so it is unlikely that what is meant is other than that meaning. The next source is through the *sunnah mutawatir*.²⁷ According to hadith scholars, the *sunnah mutawatir* is a valid hadith which in each period of narration is narrated by a number of people who logically and habitually cannot agree to lie.²⁸

Ibn 'Asyur without mentioning a definition, distinguishes the *sunnah mutawatir* into *mutawatir ma'nawiy* and *mutawatir 'amaliy* as a reference to *maqâşid al-syari'ah*. *Mutawatir ma'nawiy*, according to him, is the general understanding of companions to their attention to a practice of the Prophet so that the same understanding is formed about position of the practice in

²¹Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2007), 1.

²²Abdurrahman Misno BP dan Rusdiana Priatna Wijaya, "The Implementation of Maqashid Shari'ah as the Tool of Data Analysis in Islamic Economic Law Research," *Al-Iktisab: Journal of Islamic Economic Law* 2, no. 1 (2018): 61.

²³Chamim Tohari, "Pembaharuan Konsep Maqasid Al-Shari'ah dalam Pemikiran Muhammad Tahir Ibn 'Ashur," 6.

²⁴Adis Dedurija, *Maqasid al-Shari'a, Maqasid al-Shari'a and Contemporary Reformist Muslim Thought* (United States, New York: Palgrave Macmillan, 2014), 6.

²⁵Muhammad al-Tahir Ibn 'Asyur, *Maqâşid al-Syari'ah al-Islamiyyah*, Ed. 2 ('Amman: Dar an-Nafa'is, 1421 H/ 2001 M), 190-191.

²⁶Ibid., 192.

²⁷Ibid., 193-194.

²⁸Subhi al-Shalih, *'Ulum al-Hadits wa Mushthalahuh*, Ed. 21 (Beirut: Dar al-'Ilmi lil-Malayin, 1997), 146-148.

shari'a, for example the shari'a regarding alms or charity, or in terms of worship, for example about the sermon on two holidays after prayer. While *mutawatir 'amaliy* is that which is formed from the individual understanding of the companions who continuously witnessed the various apostolic activities of the Prophet so as to produce an essential conclusion behind these various apostolic activities, for example regarding rukhsah or relief in matters relating to the shari'a.²⁹

Ibn 'Asyur in his book distinguishes *maqâshid al-syari'ah* into *maqâshid al-syari'ah al-'ammah* (which is general) and *maqâshid al-syari'ah al-khasah bi anwa' al-mu'amalat* (specifically in group muamalat).³⁰

Citing other sources, *maqâshid al-syari'ah* Ibn 'Asyur is divided and discussed in three areas: *maqâshid al-'am* (general purpose), *al-khas* (specific) and *al-juz'i*. Moreover, Ibn 'Asyur mentions that the general objectives are justice and welfare, while the specific objectives are objectives of shari'a which must include the preservation of order, the improvement of human welfare, the prevention of corruption, the enforcement of justice and, maintaining stability and harmony.³¹

Maqâshid al-'am is a general purpose that is built on human nature. The general goals include equality, freedom, tolerance, and the loss of coercion. Then *maqâshid al-khas* is a special purpose based on human nature. This particular goal includes attitudes in determining rights through creation. The meaning of sentence above according to Ibn 'Asyur is the right for humans to use the body fully, then the rights to what has been born, and also the rights to something that is born from the item that are their rights. While *maqâshid al-juz'i* is benefit for individuals or

several individuals.³²

Furthermore, in *maqâshid al-syari'ah al-'ammah* found at least 10 things that were put forward by Ibn 'Asyur, namely *fitrah*, *samahah*, benefit, universality, equality, legal substantiality, *sadd al-dzariah*, rule of law, *hurriyyah*, and stability. social resilience.³³

Ibn 'Asyur discusses in detail the various aspects and dimensions of *maqâshid*, then makes far-reaching recommendations about how he engages in holistic study of *maqâshid* and is even called upon to consider *maqâshid al-syari'ah* as a distinct and independent discipline from *ushul al-fiqh*. In the view of Ibn 'Asyur, there are several methods that can establish *maqâshid al-syari'ah*. The first is to examine the policy/*tasharrufat* of the shari'a. This step is divided into two forms. First, examine the laws that are known to their 'illah (cause) by using *masalikul 'illah* in *ushul fiqh*, and then find wisdom behind rules. Second, examine the facts using inductive method in seeing similarities of 'illah.³⁴

From the division and explanation above, it can be seen in general that the *maqâshid al-syari'ah* offered by Ibn 'Asyur is not only limited to five core areas of *maqâshid* which are usually known as *dlaruriyat al-khams* (*al-din*, *al-nafs*, *al-'aql*, *al-mal*, and *al-nasl/al-nasb*), in which this section deals with the problem of benefit, but the problem of benefit itself is still divided into several types. Ibn 'Asyur divides it based on three views; first, the benefits based on urgency are divided into *daruriyyah*, *hajiyyah*, and *tahsiniyyah* benefits;³⁵ second, the benefits based on the broad scope are divided into *kulliyyah* and *juziyyah khasah* benefits;³⁶ third, the benefit based on the need for realization is divided into *qat'iyyah*, *zanniyyah*,

32Moh. Toriquddin, "Teori Maqashid Syariah Perspektif Ibnu Ashur," *Jurnal Ulul Albab* 14, no. 2 (2013): 201.

33Muhammad al-Tahir Ibn 'Asyur, *Maqâshid*, 249, 411, 259, 268, 278, 317, 329, 340, 365, 371, 390, 401.

34Abdurrahman Misno BP dan Rusdiana Priatna Wijaya, "The Implementation of Maqashid Shari'ah as the Tool of Data Analysis in Islamic Economic Law Research," 67.

35Muhammad al-Tahir Ibn 'Asyur, *Maqâshid*, 300.

36Ibid., 313.

29Muhammad al-Tahir Ibn 'Asyur, *Maqâshid*, 194-195.

30Ibid., 249.

31Abdurrahman Misno BP dan Rusdiana Priatna Wijaya, "The Implementation of Maqashid Shari'ah as the Tool of Data Analysis in Islamic Economic Law Research," 68.

and *wahmiyyah*.³⁷ While the five core areas of *maqâshid* above are included in *daruriyah*.

The offer of *maqâshid al-syari'ah* from Ibn 'Asyur which is not limited to *daruriyat al-khams*, but he also includes many other values in his *maqâshid* concept, indicates an expansion of the field of *maqâshid al-syari'ah*. The existence of this kind of thing is in order to improve the previous *maqâshid al-syari'ah* (classical/traditional) which is more concerned with things that are individual rather than universal.

As stated by Jasser Auda regarding the traditional *maqâshid*, that this *maqâshid* is more concerned with matters that are individual in nature compared to matters of kinship, society, and humans in general. In other words, the subject of this traditional *maqâshid* is limited to the life, honor and property of the individual, and does not cover the life, honor and dignity of the community or even the economy of the community. The traditional *maqâshid* in its classification also does not include basic and universal values, such as justice and freedom in its basic theory at the *daruriyah* level.³⁸

In order to improve this traditional *maqâshid*, many modern scholars have introduced new concepts. The essence of the new *maqâshid al-syari'ah* concept covers the wider field of society, community, nation and mankind in general. Ibn 'Asyur is one of them, in his *maqâshid al-syari'ah*, he is more concerned with the problems of the ummah than individual problems. Ibn 'Asyur proposes and offers a more universal *maqâshid al-syari'ah* which includes order, equality, freedom, the provision of convenience, and *fitrah*. He also put forward the value of freedom (*hurriyyah*) in a contemporary context which is different from freedom in terms of slavery (*itq*).³⁹

Ibn 'Asyur offers an update in *maqâshid al-syari'ah*. The renewal in Ibn 'Asyur's thought

is universal for ummah not only specific to one individual. So, it gives the impression that religion does not provide coercion or restraint for anyone who wants to determine the purpose of his life. Ofcourse, this is not in the context of one's beliefs, but from the social aspect of society. One of the values of freedom that is being discussed here is *al-hurriyyah* from Ibn 'Asyur.

The Meaning of Freedom (*Hurriyyah*)

According to Ibn 'Asyur

Ibn 'Asyur added universal values who can be prioritized as individual and social issues such as *fitrah*, *samahah* (tolerance), *musawah* (egalitarianism), *taisir* (generosity), and *hurriyyah* (freedom). His *maqâshid* thoughts are not limited to general classifications of *maqâshid* such as *daruriyat* (primary needs), *hajiyyat* (secondary needs), and *tahsiniyat* (luxury), but he discusses the concept of *maqâshid* which is broader than the classical concepts proposed by Imam Ghazali and al-Syathibi.⁴⁰

There is no doubt that Ibn 'Asyur is one of modern scholars who offers a more universal concept of *maqâshid al-syari'ah* by incorporating other values that are more focused on the problem of the *ummah*, including issue of freedom (*hurriyyah*).

Al-hurriyyah (freedom) is denotatively antonym of *al-'ubudiyah* (slavery), and is connotatively used as the opposite of shackled and blocked, namely the right to act according to the law for oneself as desired without being hindered.⁴¹ It is called so because people who are bound or banned have very limited activities and depend on others, such as the condition of a slave whose behavior cannot be separated from the permission

⁴⁰Abdurrahman Misno BP dan Rusdiana Priatna Wijaya, "The Implementation of Maqashid Shari'ah as the Tool of Data Analysis in Islamic Economic Law Research," 68.

⁴¹According to Ibn 'Asyur, the use of the word *al-hurriyyah* with this meaning was first used by Arab descendants at the beginning of the 13th century hijriyah following the French revolution. See more in dalam Muhammad al-Tahir Ibn 'Asyur, *Ushul al-Nidham al-Ijtima'i fi al-Islam* (Tunisia: al-Syarikah al-Tunusiyah, n.d), 160.

³⁷Ibid., 314.

³⁸Jasser Auda, *Maqashid al-Shari'ah: A Beginner's Guide* (United Kingdom: Cromwell Press, 2008), 6-7.

³⁹Ibid., 8.

of the owner. *Al-hurriyah* with its two meanings, denotative and connotative, according to Ibn ‘Asyur is part of *maqâsid al-syari’ah al-’ammah*.

Al-hurriyah with its denotative meaning as *maqâsid al-syari’ah* is understood from various laws that show Islam’s intensive efforts to eradicate slavery. Various factors of slavery before the arrival of Islam were forbidden by leaving infidels who were captured in war as the only factor being enslaved, on the contrary various ways were used as a way of liberating slaves, such as: one of the places where *zakat mal* was distributed;⁴² as an option to redeem a number of violations of Islamic law committed by the *mukalaf*;⁴³ In addition, more humane treatment of slaves is required and it is forbidden to employ them beyond their capabilities and in a manner that can cause harm. This phenomenon shows the will of the shari’a to abolish slavery in a persuasive manner, not by spontaneous prohibition, in order to avoid a *mafsadat* greater than slavery itself, considering that at that time the dependence on slave labor was very high, it could even be said to have become a basic household need in general. Prohibitions that are lowered all at once will cause bad social unrest and have a wide impact. As for slavery which is still legalized, it is limited to infidels who are prisoners of war, it is a punishment commensurate with their efforts to fight the religion of Allah.⁴⁴

Ibn ‘Asyur argues that when given the same legal treatment for all forms of behavior, then this

⁴²QS. al-Taubah: 60.

⁴³Such as: *kafarat* of murder (QS. al-Nisa’: 92); *kafarat* of oath (QS. al-Maidah: 89); *kafarat* of *zihar* (QS. al-Mujadalah: 03); *kafarat* of intercourse with wife during the day of Ramadan (See more in Muhammad bin Ismail Abu ‘Abdillah al-Bukhari, *al-Jami’ al-Musnad ash-Shahih al-Mukhtashar min Umur Rasulillah wa Sunanihi wa Ayyamihi*, Vol. I, *al-Muhaqqiq* Muhammad Dahir bin Nashir an-Nashir (t.tp.: Dar Thuq an-Najat, 1422 H), 335.

See also Muslim bin al-Hajjaj Abu al-Hasan al-Qusyairi an-Naysaburi, *al-Musnad as-Şahih al-Mukhtashar bi Naql al-’Adl ‘an al-’Adl ila Rasulillah*, Vol. III, *al-Muhaqqiq* Muhammad Fuad ‘Abd al-Baqi (Beirut: Dar Ihya’ ats-Turats al-’Arabi, n.d.), 128.

⁴⁴Muhammad al-Tahir Ibn ‘Asyur, *Maqâsid*, 391-395.

can be categorized as a characteristic of *hurriyah*.⁴⁵

As for *al-hurriyah* with a connotative meaning, a number of legal phenomena in Islamic law are indicators of their existence as *maqâsid al-syari’ah*. These phenomena are closely related to the fundamental aspects of belief, words, and actions with the conclusion that every individual under the auspices of Islamic government is free to do everything that is permitted by shari’a according to the provisions and rules of shari’a, it is not permissible for someone to be burdened with more than that. Therefore, Allah urges firmly not to look down on and vilify one group with another.⁴⁶

The principle of freedom (*al-hurriyah*) which was initiated by Ibn ‘Asyur is not freedom which can be interpreted as an act of being free to do everything regardless of the applicable boundaries, but the freedom in question is to remain bound by applicable laws and be guided by the principles of previous.⁴⁷ One example that illustrates things that uphold freedom is seen in several forms of punishment to free slaves from the side of *jinayah* fiqh, then the statement about the absence of compulsion to practice religion in the Qur’an. Because essentially all humans and creatures in the universe are born together with the right to freedom which he carries until the end of his life.⁴⁸

As the words of God:

قُلْ مَنْ حَرَّمَ زِينَةَ اللَّهِ الَّتِي أَخْرَجَ لِعِبَادِهِ وَالطَّيِّبَاتِ مِنَ الرِّزْقِ قُلْ هِيَ لِلَّذِينَ ءَامَنُوا فِي الْحَيَاةِ الدُّنْيَا خَالِصَةً يَوْمَ الْقِيَامَةِ كَذَلِكَ نَفَصَّلُ الْآيَاتِ لِقَوْمٍ يَعْلَمُونَ ﴿١١٥﴾ قُلْ إِنَّمَا

⁴⁵Alif Jabal Kurdi, “Ishlah dalam Pandangan Ibn ‘Asyur dan Signifikansinya dalam Upaya Deradikalisasi (Telaah Penafsiran Q.S. al-Hujurat: 9 dalam Kitab Al-Tahrir wa Al-Tanwir),” *Jurnal Nun* 3, no. 2 (2017):135.

⁴⁶Muhammad al-Tahir Ibn ‘Asyur, *Maqâsid*, 395-396.

⁴⁷Alif Jabal Kurdi, “Ishlah dalam Pandangan Ibn ‘Asyur dan Signifikansinya dalam Upaya Deradikalisasi (Telaah Penafsiran Q.S. al-Hujurat: 9 dalam Kitab Al-Tahrir wa Al-Tanwir),” 142.

⁴⁸Chamim Tohari, “Pembaharuan Konsep Maqasid Al-Shari’ah dalam Pemikiran Muhammad Tahir Ibn ‘Ashur,” 17.

حَرَّمَ رَبِّيَ الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَّنَ وَأَلَّا تُمَّ وَالْبَغْيَ
بِغَيْرِ الْحَقِّ وَأَنْ تُشْرِكُوا بِاللَّهِ مَا لَمْ يُنَزَّلْ بِهِ سُلْطَانًا وَأَنْ
تَقُولُوا عَلَى اللَّهِ مَا لَا تَعْلَمُونَ ﴿٤٩﴾

The freedom of opinion is indicated by a statement of opinion and belief, which is still within the territory of Islamic law.⁵⁰ Allah commands this in His words:

وَلَتَكُنَّ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ
وَيَنْهَوْنَ عَنِ الْمُنْكَرِ وَأُولَئِكَ هُمُ الْمُفْلِحُونَ ﴿٥١﴾

Freedom of belief is shown by criticizing and canceling teachings that impose a belief without trying to understand, without arguments, on the contrary ordering to convey facts and strong arguments in proclaiming the Islamic creed, dialogue in a good way with opposing parties, trying to bring them into the truth with wisdom, sincere advice, and argue in the best way if necessary, not by coercion. Freedom of expression is also understood from a number of partial laws such as the invalidity of vows and various contracts that are carried out under threat and coercion.⁵²

Analysis of the Meaning of *al-Hurriyyah* in *Tafsir al-Tahrir wa al-Tanwir* by Ibn ‘Asyur (Analysis of QS. 2: 256 and QS. 18: 29)

With the development of the times, from time to time, the interpretation of the Qur’an has also developed with various methods and basic rules. Starting from the basic rules that emphasize the linguistic side, or commonly known as *al-‘ibroh bi ‘umum al-lafz*, the basic rules that determine the specificity of the cause or *al-‘ibroh bi khusus al-sabab*, to the existence of a relatively new approach is called *al-‘ibroh bi maqâsid al-*

syari’ah. The emergence of the rule of *al-‘ibroh bi maqâsid al-syari’ah* is an answer to various new problems that arise and social changes that take place in society related to the dynamics of Islamic law which contain worldly and hereafter benefits.⁵³ This rule tries to find interpretation of the text by adhering to the purpose for which a doctrine is prescribed. Therefore, the verses of the Qur’an must be understood in terms of the moral message or *maqâsid al-syari’ah*.⁵⁴

The concept of *al-hurriyyah* carried by Ibn ‘Asyur in this verse is seen at beginning of verse which means “there is no compulsion in religion.” According to Ibn ‘Asyur, the meaning of this verse is that there is no compulsion on people to embrace Islam. People who do not want to convert to Islam, there should be no coercion against them to convert to Islam. This verse, according to him, contains *isti’naf bayani*, which *isti’naf* in this verse appears to respond to his listeners who seem to think that as Muslims we must fight against our enemies in order to convert to Islam. This erroneous understanding, then responded by Allah with this verse, that there is no compulsion for someone to enter Islam.⁵⁵

QS. al-Baqarah[2]: 256

لَا إِكْرَاهَ فِي الدِّينِ ۗ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ ۗ فَمَنْ يَكْفُرْ
بِالطَّغُوتِ وَيُؤْمِنْ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا
أَنْفِصَامَ لَهَا ۗ وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴿٢٥٦﴾

The meaning:

“There is no compulsion in religion; Indeed, the right path has become clearer than the erroneous path. Therefore, whoever disbelieves in Thaghut and believes in Allah,

⁵³Ridwan Jamal, “Maqashid Al-Syari’ah dan Relevansinya dalam Konteks Kekinian,” *Jurnal Al-Syir’ah* 8, no. 1 (2010): 1-2.

⁵⁴Abdul Mustaqim, *Epistemologi Tafsir Kontemporer* (Yogyakarta: LkiS Yogyakarta, 2010), 64.

⁵⁵Muhammad al-Tahir Ibn ‘Asyur, *Tafsir al-Tahrir wa al-Tanwir*, Juz 5 (Tunisia: al-Dar al-Tunisiah li al-Nasyr, 1984), 25.

⁴⁹QS. al-A’raf: 32-33.

⁵⁰Muhammad al-Tahir Ibn ‘Asyur, *Maqâsid*, 396-397.

⁵¹QS. Ali Imran: 104.

⁵²Muhammad al-Tahir Ibn ‘Asyur, *Maqâsid*, 395-399.

then indeed he has clung to a very strong knot that will not break. And Allah is All-Hearing, All-Knowing.”

This verse was revealed after the *Fathu al-Makkah* incident. The revelation of this verse is related to the verses that were revealed before or the verses that were revealed after it, which are of three kinds. First, the verses that command to fight polytheists with the aim of defense, and this kind of war is not based on the intention to invite them to Islam, but as a defense and defense of Muslims against the cruelty of the polytheists. The second verse is an order to fight the polytheists and the unbelievers who have no purpose. This kind of thing may be limited with one condition, such as the polytheists or the infidels must pay *jizyah*. Such verses do not contradict the term “there is no compulsion in Islam.” The third verse is inversely proportional to the second verse, which has a purpose.⁵⁶

From the explanation above, it can be seen that the concept of *al-hurriyyah* promoted by Ibn ‘Asyur is applied in this verse. For him, freedom to have religion and to embrace religion is universal. They may embrace Islam, or they may not embrace Islam. The concept of *maqâsid* like this can be related to the principle of *daruriyat al-khams*, in which it is obligatory for *hifz al-nafs*, namely guarding the soul. The common thread that can be drawn from this is that in the absence of coercion to convert to Islam, there will be no war between Islam and non-Muslims, so there will not be many lives lost on the battlefield.

QS. al-Kahfi[18]: 29

وَقُلِ الْحَقُّ مِنْ رَبِّكُمْ ۗ فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ
إِنَّا أَعْتَدْنَا لِلظَّالِمِينَ نَارًا أَحَاطَ بِهَا ۗ إِنَّهُمْ مُرَادِقُهَا ۗ وَإِنْ يَسْتَغِيثُوا
يُغَاثُوا بِمَاءٍ كَالْمُهْلِ يَشْوِي الْوُجُوهَ ۗ بِئْسَ الشَّرَابُ
وَسَاءَتْ مُرْتَفَقًا ﴿١٩﴾

⁵⁶Ibid., 27.

The meaning:

“And say: “The truth comes from your Lord; so whoever wants (to believe) let him believe, and whoever wants (disbelievers) let him disbelieve”. Verily, We have prepared for the wrongdoers a hell, whose turbulence surrounds them. And if they ask for a drink, they will be given to drink with water like boiling iron that scorches the face. It is the worst drink and the worst resting place.”

The concept of *al-hurriyyah* offered by Ibn ‘Asyur in this verse is seen in the middle of the verse which means “then whoever wants, let him believe, and whoever wants, let him disbelieve.” In this part of the verse, Ibn ‘Asyur begins his explanation from the language aspect, more precisely from the *balaghah* aspect, the words “*falyu’min*” and “*falyakfur*” are forms of *taswiyah*, the *majazi* meaning of the form of *amr* (command), part of *insya’ thalabi* in ‘*ilm al-ma’ani*. *Taswiyah* indicates that the two are the same, nothing more than one another. In other words, the position of the two words that are classified as *taswiyah* is free to choose, neither the first word nor the second word is exaggerated or favored between the two. People are free to choose whether they want to believe or become infidels, there is nothing special between the two, because both are *taswiyah*. It’s just that according to Ibn ‘Asyur in the following explanation “*falyu’min*” implies “*wa’d*” which means promise, and “*falyakfur*” implies “*wa’id*” which means threat.⁵⁷ From this it can be seen that the value of *al-hurriyyah* promoted by Ibn ‘Asyur is also visible in this verse. Freedom of belief is also contained in this verse. As a human being, you may believe, you may also disbelieve, there is no compulsion in it. All have the same freedom, both in belief and in expressing opinions and choices, without exception.

Furthermore, Ibn ‘Asyur explained about

⁵⁷Muhammad al-Tahir Ibn ‘Asyur, *Tafsir al-Tahrir wa al-Tanwir*, Juz 15 (Tunisia: al-Dar al-Tunisiah li al-Nasyr, 1984), 307.

prioritizing “*falyu’min*” over “*falyakfur*”. According to him, prioritizing faith over kufr in the verse because faith is easier to like than kufr.⁵⁸

Theoretically, Ibn Asyur prioritizes *maṣlahah* for individuals, groups and the whole society rather than *mafsadah*. This is because *maṣlahah* can bring goodness, harmony and peace so that it can have a positive impact on society. While *mafsadah* can cause damage, upheaval and conflict that can have a negative effect on society. So, it can be understood that “*falyu’min*” is more important than “*falyakfur*” because believers get *maṣlahah* while people who disbelieve will get *mafsadah*.

Conclusion

Based on the discussion above, it can be concluded that *maqâṣid al-syari’ah* is a goal and a way to gain knowledge in several fields. According to al-Syathibi, the purpose of *maqâṣid al-syari’ah* can be seen from two perspectives, firstly *maqâṣid al-syar’i* which is related to the rules or laws of Allah for the benefit of mankind. Second, *maqâṣid al-mukallaf* which Allah does not give responsibility to people who do not understand and are able to carry it out. This *maqâṣid* is the characteristic of al-Syathibi.

The *maqâṣid* according to Ibn ‘Asyur can be studied by examining the workings of the shari’a through research on the *ilat* of the laws that it stipulates. This way of working can be done through two approaches; First, if a number of laws have *ilat* that lead to a certain wisdom then the wisdom in question is *maqâṣid al-syari’ah*. Second, if it is found that a number of different laws have the same *ilat*, then the *ilat* is defined as *maqâṣid al-syari’ah*.

The meaning of *al-hurriyyah* in the context of *maqâṣid al-syari’ah* according to Ibn ‘Asyur in the interpretation of his work entitled *Tafsir al-Tahrir wa al-Tanwir*, especially in QS. 2: 256 and QS. 18: 29 is a freedom to have an opinion, an opinion,

even in choosing a belief. In the two letters that have been analyzed above, it can be concluded that the meaning of *al-hurriyyah* referred to by Ibn ‘Asyur is a freedom to choose the religion that is believed and there is no compulsion in choosing it. For Ibn ‘Asyur, the freedom to have religion and to embrace a religion is universal, so that when someone does not want to embrace Islam, there should be no compulsion on him to convert to Islam. Ibn ‘Asyur emphasized that freedom in religion is freedom in embracing one’s own religion and believing and believing in it. It is not justified to intervene in people so that there are no differences and have similarities to what other people believe. But in the social aspect, a person is allowed to help others of different beliefs. However, if changing different beliefs to be similar, then it is not allowed.

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⁵⁸Ibid., 307.

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