

The Importance of Maqasid Syariah in the Formation of State Government Policy

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Abstract: In order to ensure that all the policies taken meet the Islamic principles, the Ulama' decided some methods and rules should be adhered to while implementing any laws. Knowledge about maqasid syariah need to be fully understood and applied it accordingly to ensure all the regulations implemented as according to the Islamic shari'a. The main purpose of this article is to analyze the importance of maqasid syariah in the field of siyasah shar'iyah, which considered as among the most essential recommendation in the formulation of siyasah guidelines in the administration of an Islamic country. This writing uses the analysis method of document to review on how the maqasid is taken into account to set up the laws that related to siyasah shar'iyah. This article concludes that the stages of maqasid should be consider to come to a decision about the weight of significance when the opposition between the maqasid happen.

Keywords: Maqasid, Siyasah Shar'iyah, country policy.

INTRODUCTION

The Maqasid Syariah knowledge is one of the vital acquaintance in the process of ijthad especially in the field of Siyasah Shar'iyah in today's world since there are too many new things which do not have the rules to justify it previously. To face this thing, Muslims will be divided into few groups. There will be group that will not really understand due to their lack of knowledge which make them proud with the things that in fact is against the syariah although Muslims need it.

This will cause problems and troubles. Upon seeing this condition, the leaders tend to only go after the laws that is away from syariah assigned by Allah S.W.T since they assume the Ulama' have narrow minded.

Maqasid Syariah

Maqasid as according to language is the plural form of maqasad. It has several meanings such as committing or do something towards it [1].

Meanwhile, literally as defined by Ibn 'Ashur [2] is understanding of syarak meaning which is being His observation in all or most of His laws. In the mean time, Al- 'Alim [3] said that it is a human maslahah (benefit) whether in here or hereafter, and either the way to produce it from the giving of benefit or the denial of harm. Al-Raysuni [4] at the same time stated that it is a goal which determined by syarak to make good for human beings. Al-Khadimi (1412H) [5] on the other hand defined it as the understanding that can be seen from the syarak laws, in which it comes as wisdom (hikmah) of juz'iyah, masalih kuliyyah (comprehensive importance) or through the ijmal sign, which everything is gather on one mission, and it is

agreed with ubudiyyah (servant) to Allah SWT and as the public interest to human in this world and hereafter.

The definition given by al-Khadimi has a slight difference from the others because he emphasizes that the goal of syarak in setting the law is to strengthen and agreed that human is a servant while Allah S.W.T is the only Creator. It also covers the importance of the world here and hereafter.

Maqasid Sections

Maqasid Syariah can be divided to few sections.

First: About The requirement and its effect, it can be put under 3 categories [6].

a) Daruriyyat

According to maqasid ulama', it is a thing, where its absence or imperfection will cause the harm to the soul that later leads to no life.

Daruriyyat is about taking care of the religion, life, mind, ancestry and wealth. Religion can be maintained with iman, implement the five Islamic laws, struggle to against bidaah (innovations in religious matter) things. Besides, taking care of life is by

appreciating it, provide good facilities for life as well as applying qisas (Islamic Penal Law) to the invaders. Other than that, mind can be preserved with knowledge, by avoiding alcohol and misuse of drugs. Meanwhile, the marriage tie is to sustain the ancestry and to evade from committing adultery. In addition, to protect the wealth is to fertilize, and not to destroy it, ensure the protection (Daman) as well as to give the punishment to the thief and the party that take other's property.

b) Hajjiyyat

It is an item which is highly needed to ease human's life, which usually its absence will cause a great difficulty and mess to man's life. The example for ibadah matter is the rukhsah (ease) which will be given to the sick person or traveller and Muslim also allow to be a deceiver when they are force to. Meanwhile, in terms of action, hunting is required. The example of Hajjiyyah In daily routine rules (muamalat) is al-ijarah (rent or wage) and al-mudarabah. In addition, the model for crime rules is to pay the compensation to al-'aqilah (victim's family) and to put on daman to all the handyman (tadmin al-sunna).

C) Tahsiniyyat

It does not involved in daruriyyat and hajjiyyat category, but it is good to be implemented and use it as the guidelines in any action. For instance, the faeces cleaning process and aurah coverage in ibadah matter. Meanwhile, the example in adat pula is the adab in eating and drinks. In mualamat matter is like the prohibition to kill the slave and the punishment to the one that kill their slave.

Second: From the source of mentioned muamalat (maqсад), it can be separated into two parts:

a) Maqasid al-Shari'

It is the main purpose of Allah SWT the most gracious dan nobel is to do as many good deeds and oppose as many wrong doing from human in which Allah SWT wants in what the do's and dont's decided by Him.

b) Maqasid al-Mukallaf

This is the concern about the objective that wants to be achieved by the slave while doing any action either about the belief (iktikad), saying or action. Their aim or goals will differentiate between the good and bad intention, which also will set apart the norms or ibadat and which one is done sincerely because of Allah or with the meaning only to show off.

Third: From the time angle, it can be divided into two sections.

a) Akhirat

Usually the purpose is to get profit for hereafter, which will allow one to be rewarded and will have exception from punishment. However it does not prevent if one wants to as well gain the excellent in this world. Prayers, which the basis is to have the good in

hereafter, that solely aim to get the blessing from Allah SWT, it at the same time brings the good in this world such as to put human away from the forbidden and wrong action. In addition, endowment is originally to aim for the benefit of hereafter where human hope to get Allah's pleasures, it also will be able to foster the love and relationship among the society. The same thing happen for fasting which people do it for the sake of hereafter, will also promote the good in this world by help to purify the soul. Whereas, the pilgrimage that the purpose to seek for Allah's blessing and rewards, it can help to get to know one another and to expand their business.

b) Dunia

It is the worldly goal where the purpose is to gain as much good deeds and to avoid from doing harm in this world.

Forth: In terms of general and specific perception, it can be divided in three sections.

a) Maqasid 'Ammah

The general objective that be put into the account of syariat in order to determine all or most of the rules as explained by in the daruriyyah matter previously.

b) Maqasid Khassah

Is the aim that want to be achieve by the syariah while implementing the rules in some matters as such in marriage, financial affairs, judiciary and worship.

c) Maqasid Juz'iyah

The purpose of syarak while conveying any regulations in the rules of taklifi and wad'i. Taklifi is to tell about something which is wajib (compulsory), haram (forbidden), sunat (not compulsory), makhruh (offensive) and harus (required). Wad'i is to decide a condition, reason, obstacle (مانع) or illah (علة) to another thing.

Fifth: From qat'i and zani field, it can be separated into three sections.

a) Maqasid Qat'iyah

It is a maqasid that has been decided as an exact one by mutawir from various syarak like the principle of al-taysir (facilities), ease the problem and difficulty (رفع الحرج) and to seek for justice.

b) Maqasid Zaniyyah

Is the maqasid that that the level is lower than the above maqasid which here there are numbers of opinion about it, such as the forbidden of alcohol, a wife is considered being divorce with her lost husband (mafqud), beat someone who has been accused stealing, bequeath the wife that have been divorced for three times in marad al-mawt and so on.

c) Maqasid Wahmiyyah

A maqasid that is believe to bring good and avoid the wrong, however the actual fact it happen in vice versa.

Sixth: It involves general community or individual.

a) Maqasid Kuliyyah

A maqasid that involves all human beings and the benefit is to cover everything, for instance the preservation of al-Quran and al –Sunnah from any abuse and to seek for the justice.

b) Maqasid Aghlabiyyah

This kind of maqasid engages all the majority of the community and rejects any harm from most of them, like giving the guarantee to the one who are responsible to take care of the property (tadmin al-sunna) and to get the treatment from hospital.

c) Maqasid Fardiyyah

In this maqasid, it only involves particular people in which it only happens in certain situation. For example memfaskhkan the marriage of a woman if the husband is lost (mafqud) and give divorced to the wife which equal three times divorce from her husband that is marad al-mawt.

Seventh: The origin or branch of a specific goal [6].

a) Maqasid Asliyyah

It is a maqasid that does not involves human in its concern, because it is general and absolute which is not specific to the specific condition, place and time. It is daruriyyah or need that should be considered by every religion. It consists of the need towards individual ('ayni) or society as a whole (kifa'i).

b) Maqasid Tab'iyyah

A maqasid that put a weight pertaining to the need of human beings and through it, human will be able to achieve anything they wish to as long as it is allow by syarak. This maqasid is the completion to maqasid Asliyyah.

Examples of Rasulluh's P.B.U.H actions which showed he put Maqasid into his account. In order to understand the importance of having maqasid in all action of siyasah (community), we can refer to few examples from the action taken by Rasulallah P.B.U.H which clearly shows that he really concerns about one of the maqasid above in all his act. This can be the guideline for today's leader which altogether will shows that Islam is a religion where every action taken by its followers solely just to aim for the good whether in here and hereafter.

First: Be careful in releasing the Jewish and Christian from the peninsular of Arabic land.

Saiyyidina Umar RA once said that he listened to Rasulallah's words: Which means: I will for sure

take out Jewish and Christian from the peninsula of Arabic Land until the only left is Muslims [7].

What is clear here is, Rasulallah P.B.U.H mentioned these words in the beginning of Madani era. Among the prove that support this statement is:

Ibn 'Umar said that the Jewish from Banu al-Nadir and Qurayzah had opposed Rasulallah P.B.U.H that caused Banu al-Nadir tribes to be chased. He however allows Banu Qurayzah to stay and forgive them until they once again shows their opponent towards him which later Rasulallah P.B.U.H ordered his people to kill the man among Bani Qurayzah. He then commanded to distribute the womans and child from Bani Qurayzah to Muslims. There are few of them that seek for Rasulallah's protection, hence he gave the peace to them which they later embrace Islam. Rasulallah P.B.U.H chased all Jewish from Banu Qaynuya' which consists from Abdullah ibn Salam and Banu Harithah tribes as well as the Jewish in Madinah [7].

Rasulallah P.B.U.H only chased them from Madinah, but not from the peninsula of Arabic land. However, there are few Jewish that still live at the end of Madinah city. This is as stated in hadith uttered by Abu Hurayrah RA which he said: "When we are at mosque, Rasulallah came out and said: "let us go to Jewish". Hence, we went out with him. Once we reached at their place, Rasulallah P.B.U.H stand and spoke to them: "O Jewish, embrace Islam and you will be safe". They then answered; "You have told us o Abu al-Qasim". Rasulallah P.B.U.h then continues: "Bear in your mind, this world is belongs to Allah and His messenger. I want to realaese you from this world (territory). Whoever among you owns something, they need to sell it, If not, please remember that this world belongs to Allah and His messenger" [7].

This hadith was voiced by Abu Hurayrah RA that embraced Islam on the seventh year of Hujrah. As stated, rasulallah took away Jews from Madinah and defeated i Khaybar on that year. The Jews here is the balance that appealed for the Rasulallah's P.B.U.H forgiveness before the Khaybar war.

No matter how the condition is, when he is still alive, Rasulallah P.B.U.H never take them out from the peninsular of Arabic land. He only took out Jews from Madinah o Khaybar but he didn't take them out from Khaybar to peninsular of Arabic Land. The question is, why he did that?

This is because Rasulallah P.B.U.H wants to implement few masalah from syarak perspective to his followers. There are few jews who appealed from him to work in the farm and plantation in Madinah, hence he allow them to do so. As uttered by Ibn 'Umar RA: "RASulallah P.B.U.H gave Khaybar to jews to work in

the plantations and the farms with the condition that they will get half of the profit” [8].

Hence, Rasulullah P.B.U.H decided not to chase them since he consider the maqasid which the purpose is to give ease to Muslims that can give benefits from the skills possessed by Jews in terms of planting, and reject the corruption that Muslims army are so busy with their plant which later will forget to worship Allah.

He then fell sick which caused to his death. He commanded his companion to take out the general Musyrikin including Jewish and Christian from the peninsular of Arabic Land as said in the hadith by Ibn ‘A Abbas RA that when Rasulullah P.B.U.H is about to die, he said three things to him : “You must take out Musyrikin people from peninsular Tanah Arab” [8].

Umar bin al-Khatab has put Rasulullah’s P.B.U.H into action when he took out the Jewish from Khaybar to Sham. Meanwhile, Rasulullah P.B.U.H did not take out the Jewish people in the peninsular of Arabic land. Christian people and the residence of Najran once came to Madinah to talk to Rasulullah P.B.U.h. He then made an agreement with them and they continue to hold onto the words in that contract and the agreed to pay for the jizyah (tax). This action includes as the benefit (maslahah) to Muslims that is allowed by syarak. Hence, Rasulullah P.B.U.H let them stay in peninsular of Arabic land. He also placed them with one of his companion named Abu ‘Ubaydah ‘Amir ibn al-Jarrah RA [7].

Second: Sulh al- Hudaibiyah

At the end of the sixth year of Hijrah, Rasulullah is in the state of ihram together with almost 1400 companions. Upon reaching a place named al-Hudaibiyah, his camel sat down, and do not want to walk anymore. Then, all his companions said: “al-Qawsa (The name of camel belongs to Rasulullah P.B.U.H) did not want to continue its journey!” Rasulullah P.B.U.H then explained that: “It’s not that way. That is not its routine. It has been stop by Allah that once stop the elephant army previously” [8].

Rasulullah said that the condition on that time was no longer an umrah ibadah (devotion to Allah) but it has changed to the war and bloodshed. Quraysh tribe then sent several representatives to inform Rasulullah P.B.U.H and all his followers that they are not allowed to enter Makkah. He then later signed an agreement with Quraysh people and went back to Madinah. Why he decided not to continue his journey to Makkah?

This is because he uses the maqasid syariah which is to take smaller risk and avoid the biggest harm. The decision took by Rasulullah P.B.U.H is to avoid a great bad impact of war to Muslims society where the the smaller impact for that event caused the feeling of

dissatisfaction among Muslims people in accepting few conditions that seems not fair to theirs side.

Some of companions thought, that action just give a huge loss to them where they are not able to perform umrah (non-mandatory lesser pilgrimage). Its only give a small benefit that there was a small amount of people embraced Islam.

However, after that agreement, Rasulullah P.B.U.H has ample time to spread the da’wah to all kings and leaders by sending letter to them. He also able to explained to them that Islam religion accept peaceful and agreement as well as do not practice violence or war unless in certain situation forced them to do so. This absolutely a thing that can give improvements towards the image of Islam among the outsiders, which later will invite them to accept and embrace Islam.

Ibn al-Qayyin [9] said about the benefits that consist in Sulh al-Hudaibiyah : “ Among them, human at that time can feel the peace between each other”. Muslims that stay together with Non-Muslims start to spread the da’wah in an open manner, read the Holy Quran to them and speak as well as arguing with them about Islam publicly. There are many people embraced Islam during that particular time.

CONCLUSION

Maqasid knowledge is very essential to be known, understood and implemented especially in the field of siyasah shar’iyyah. This is because it help to do things in order mainly in today’s world that there are too many new things happen which never occurred before. It is also pertinent to be employed in siyasah field since maqasid is the base while siyasah itself is the reality. This is the task of Mujtahid while applying any rules, which he should know the base of the things they want to decide and the reality or condition where the rule wants to be executed later on. From the previos discussion, it can be clearly seen that Rasulullah P.B.U.H really concerns about the and took maqasid into his account in his siyasah shar’iyyah action.

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