Ijtihad Maqashid Sharia in the Thought of Asy-Syatibi and Muhammad At-Tahir Ibn Ashur

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Abstract:

The study of *ijtihad* in *maqashid shariah* within the thoughts of asy-Syatibi and Ibn Ashur contains a rational intellectual substance. However, previous studies have not fully explored asy-Syatibi and Ibn Ashur's perspectives in elaborating the methodological foundations of *maqashid shariah*. This study employs a qualitative approach through a literature review on the thoughts of asy-Syatibi and Ibn Ashur regarding *maqashid shariah*, utilizing content analysis as its research method. The primary data is sourced from a*l-Muwafaqat* and *Maqashid al-Shariah al-Islamiyyah*. Meanwhile, secondary data is derived from texts that correlate with the *maqashid* perspectives of both scholars. The data is then analyzed to understand the epistemological framework of asy-Syatibi and Ibn Ashur's *ijtihad*. The findings of this study reveal that Asy-Syatibi argues that the implementation of *shariah* for *mukallaf* aims to achieve *maslahah* in relation to religious well-being and sustenance in worldly life. Asy-Syatibi mapped the core principles of the *maslahah* framework onto the five primary necessities (*ad-dharuriyyat al-khams*). Flexibility in worship is positioned as a secondary need, while the cultivation of *akhlaq al-karimah* serves as a complementary element in achieving the objectives of *maqashid shariah*. Meanwhile, Ibn Ashur's concept of *maqashid shariah* distinguishes between *maslahah* that is general and *maslahah* that is specific. *Maslahah 'ammah* presents a framework that categorizes needs into primary, secondary, and tertiary levels. Meanwhile, *maslahah khassah* focuses on specific benefits for individuals, encompassing worship (*ibadah*), transactions (*mu'amalat*), family law, and criminal law. The concept of *ibadah* aims to purify both the soul and body, while *mu'amalat* seeks to establish justice in individual rights within social contracts. Family law serves to protect the rights of the husband, wife, and children, whereas criminal law is designed to uphold justice. The concept of *maqashid shariah* proposed by asy-Syatibi and Ibn Ashur serves as a bridge and provides solutions to contemporary challenges related to modern issues and Islamic law.

Abstrak:

Kajian ijtihad maqashid syariah dalam pemikiran asy-Syatibi dan Ibnu Asyur memuat substansi pemikiran yang rasional. Namun, penelitian terdahulu belum sepenuhnya membahas pemikiran asy-Syatibi dan Ibnu Asyur dalam mengelaborasi landasan metodologis maqashid syariah. Penelitian ini menggunakan pendekatan kualitatif berupa studi pustaka terkait pemikiran maqashid syariah asy-Syatibi dan Ibnu Asyur dan metode analisis konten. Data primer bersumber dari kitab al-Muwafaqat dan Maqashid Syariah al-Islamiyyah. Sedangkan data sekunder lainnya bersumber dari teks yang memiliki korelasi dalam maqashid kedua tokoh tersebut. Data kemudian

dianalisis untuk memahami kerangka epistemologis dari pemikiran asy-Syatibi dan Ibnu Asyur dalam berijtihad. Hasil kajian ini menemukan bahwa asy-Syatibi berpendapat pemberian syariat kepada mukalaf bertujuan untuk mewujudkan maslahah dirinya pada kemaslahatan agama dan keberlangsungan hidupnya di dunia. Asy-Syatibi memetakan pokok pemikiran maslahahnya pada lima kebutuhan primer (ad-dharuriyyat al-khams). Keringanan dalam beribadah diposisikan sebagai kebutuhan sekunder dan tercipatnya akhlaqul-karimah sebagai penyempurna maqashid syariah. Sedangkan gagasan maqashid syariah oleh Ibnu Asyur menunjukkan adanya maslahah yang bersifat umum dan bersifat khusus. Maslahah 'ammah menawarkan konsep kebutuhan primer, sekunder, dan tersier. Maslahah khassah menawarkan konsep kemaslahatan secara khusus bagi individu yang terdiri atas ibadah, muamalat, hukum keluarga, dan hukum pidana. Konsepsi ibadah bertujuan untuk membersihkan jiwa dan raga manusia, muamalat bertujuan untuk menciptakan keadilan pada hak-hak individu dalam kontrak sosial, hukum keluarga melindungi hak suami, istri serta anak, dan hukum pidana bertujuan untuk menegakkan keadilan. Gagasan maqashid syariah yang diutarakan oleh asy-Syatibi dan Ibnu Asyur mampu menjembatani dan menjawab tantangan zaman yang berkaitan dengan problem modern dan hukum Islam.

A. Introduction

Maqashid shariah serves as a fundamental principle in the formulation of Islamic law, with scholars of *fiqh* agreeing that *maqashid shariah* is oriented toward the *maslahah* of human life. *Maslahah* is considered essential for human existence, making it a primary necessity that must be realized. Consequently, *mujtahids* regard *maslahah* within *maqashid shariah* as the principal guideline in their *ijtihad*.[1]

The concept of *maqashid shariah* has evolved since the time of classical scholars, from the era of al-Juwaini to that of asy-Syatibi. The Muslim community regards asy-Syatibi as one of the founding figures of *maqashid shariah* due to a significant contribution through the work, *al-Muwafaqat*, which comprehensively explores *maqashid shariah*.[2] Previously, al-Juwaini had discussed *maqashid shariah* in terms of *maslahah* and *mafsadah*. However, al-Juwaini did not explore *maqashid shariah* as comprehensively as asy-Syatibi, who provided a more complete and systematic analysis of the concept.[3] Through a profound intellectual contribution in *al-Muwafaqat*, asy-Syatibi formulated *maqashid shariah*, which include the primary necessities of

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[1] Paryadi, "Maqashid Syariah : Definisi Dan Pendapat Para Ulama," *Cross-Border* 4, no. 2 (2021): 201–216, https://journal.iaisambas.ac.id/index.php/Cross-Border/article/view/742/586.

[2] Zulkarnain Abdurrahman, "Teori Maqasid Al-Syatibi Dan Kaitannya Dengan Kebutuhan Dasar Manusia Menurut Abraham Maslow," *Jurnal Al-FIKR* 22, no. 1 (2020): 52–70, https://doi.org/10.24252/jumdpi.v22i1.15534.

[3] Ikhsan Nur Rizqi, "Maqashid Syari ' Ah Perspektif Imam Haramain Al -Juwayni," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 7, no. 2 (2021): 112–23, https://doi.org/10.29062/faqih.v7i2.264.

maslahah, known as *dharuriyyat*. These consist of *hifdz ad-din* (protection of religion), *hifdz an-nafs* (protection of life), *hifdz al-aql* (protection of intellect), *hifdz an-nasl* (protection of lineage), and *hifdz al-mal* (protection of wealth). Additionally, asy-Syatibi outlined secondary needs, referred to as *hajiyyat*, and tertiary needs, known as *tahsiniyyat*, which further support human well-being.[4] However, Muhammad at-Tahir Ibn Ashur successfully expanded asy-Syatibi's concept of *maqashid shariah* by introducing *maqashid 'ammah* and *maqashid khassah* in *Maqashid Shariah al-Islamiyah*. Ibn Ashur's objective in developing *maqashid 'ammah* was to explain the overarching purpose of shariah without restricting it to a specific field, using *qiyas*.[5] Meanwhile, *maqashid khassah* aims to explain legal evidences derived from *nash* (textual sources of Islamic law) in an implicit manner.[6]

In the study of *fiqh*, there are differing opinions regarding *ijtihad maqashid shariah*. Asy-Syatibi, for instance, asserts that a mujtahid must perform *ijtihad* based on the textual sources of the Qur'an and Hadith, as Allah and the Prophet Muhammad have provided guidance on formulating Islamic legal rulings, which can be found within the verses of the Qur'an and Hadith.[7] Thus, the *ijtihad maqashid shariah* employed by asy-Syatibi can be understood as a tool for explaining and interpreting existing legal rulings found in the verses of the Qur'an and Hadith. The approach adopted by asy-Syatibi can be considered more textual. However, when definitive textual sources do not provide legal rulings relevant to the issue under examination, *ijma* and *qiyas* are utilized. Consequently, asy-Syatibi's *ijtihad maqashid shariah* is structurally classified into sources derived from the Qur'an, Hadith, *ijma*, and *qiyas*.[8]

However, Ibn Ashur argues that *ijtihad maqashid shariah* is not solely derived from the legal texts of the Qur'an and Hadith. If no legal evidence is found in the Qur'an and Hadith regarding a specific legal issue and analogy cannot be applied, *maslahah mursalah* is considered a valid source. Furthermore, in cases of *ta'arudh al-adillah*, where two legal evidences of equal strength contradict each other, *istihsan* is employed to select the legal ruling with a stronger

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[4] Herdiansyah, "Al-Muwafaqat Karya Masterpiece Imam Asy-Syatibi (W : 790 H / 1388 M) (Kajian Historis, Dan Kandungan Isi Kitab)," *Jurnal Hukum Das Sollen* 3, no. 1 (2019): 1–11, https://ejournal.unisi.ac.id/index.php/das-sollen/article/view/1334.

[5] Ibn 'Asyur, *Maqashidal Al-Syariah Al-Islamiyyah* (Kairo: Daar Al-Salam, 2009).

[6] 'Asyur, *Maqashidal Al-Syariah...*

[7] Fahmi. R and Firdaus, "Pemikiran Imam Al-Syhatibi Tentang Maqashid Syariah," *I'tisham : Journal of Islamic Law and Economics* 3, no. 2 (2023): 140–158, https://journal.iain-manado.ac.id/index.php/itisham/article/view/2164/1567.

[8] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syariat* (Beirut-Lebanon: Daar Al-Maarifat, nd.. Juz II,.).

meaning. Consequently, the framework of Ibn Ashur's *ijtihad maqashid shariah* is based on the Qur'an, Hadith, *qiyas, maslahah mursalah*, and *istihsan.*[9]

Several studies on *maqashid shariah* according to asy-Syatibi and Ibn Ashur can be classified into several categories. A conceptual study on asy-Syatibi's thought was conducted by Bekti Cikita Setiya Ningsih,[10] who compared the levels of necessity in *maqashid shariah* between asy-Syatibi and Ibn Ashur. Additionally, Mihan[11] examined the fundamental theory of *maqashid shariah* proposed by asy-Syatibi, focusing on the objectives of shariah and the intentions of the legal subjects. In addition, Agung Kurniawan and Hamsah Hudafi,[12] highlight asy-Syatibi's *maqashid shariah* as a concept in *usul al-fiqh* that is oriented toward *maslahah*. Meanwhile, research from a hermeneutical perspective was conducted by Rasy Rahmania Alfaatih et al.,[13] examining asy-Syatibi's *maqashid shariah* in the context of Qur'anic hermeneutics. Meanwhile, Dede Nurwahidah, Yadi Janwari, dan Dedah Jubaedah[14] explored asy-Syatibi's thought in Islamic economics, particularly in formulating the principles of *tawhid,* justice, *maslahah*, and balance. The concept of *maqashid shariah* developed by Ibn Ashur has been specifically studied by Husni Fauzan and Dzulkifli Hadi Imawan,[15] who explored its application in Islamic law, as well as by Sururi Maudhunati and Muhajirin,[16] who examined the implementation of Ibn Ashur's thought in Islamic economics. Comparative studies on *maqashid shariah* have also been widely conducted, such as the research by Ziadul Ulum Wahid and Dzulfikar Rodafi,[17] which compares the ideas of Ibn Ashur and Alal al-

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[9] Ibn 'Asyur, *Maqashid Al-Syari'ah Al-Islamiyah* (Tunis: Dar al-Sahnuin, 2009).

[10] Bekti Cikita Setiya Ningsih, "Comparison of Al-Syatibi and Thahir Ibn Asyria's Thoughts on Maqashid Shari'ah," *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, Dan Keagamaan* 8, no. 1 (2021): 11–22, https://doi.org/10.29300/mzn.v8i1.4685.

[11] Milhan Milhan, "Maqashid Syari'Ah Menurut Imam Syatibi Dan Dasar Teori Pembentukannya," *Al-Usrah : Jurnal Al Ahwal As Syakhsiyah* 9, no. 2 (2022): 83–102, https://doi.org/10.30821/al-usrah.v9i2.12335.

[12] Agung Kurniawan and Hamsah Hudafi, "Konsep Maqashid Syariah Imam Asy-Syatibi Dalam Kitab Al-Muwafaqat," *Al Mabsut* 15, no. 1 (2021): 29–38, https://doi.org/10.56997/almabsut.v15i1.502.

[13] Rasy Rahmania Alfaatih et al., "Konsep Maqashid Al-Syar'i Imam Al-Syathibi Dalam Studi Hermeneutika Al-Qur'an," *TAFAKKUR: Jurnal Ilmu Al-Qur'an Dan Tafsir* 4, no. 2 (2024): 152–160, https://doi.org/10.62359/tafakkur.v4i2.229.

[14] Dede Nurwahidah, Yadi Janwari, and Dedah Jubaedah, "Konsep Pemikiran Ekonomi Dan Maqashid Syariah Perspektif Imam Al-Syathibi," *MAMEN: Jurnal Manajemen* 3, no. 3 (2024): 175–189, https://doi.org/10.55123/mamen.v3i3.3918.

[15] Muhammad Idzhar, "Konsep Maqasid Syariah Menurut Muhammad Thahir Ibnu 'Asyur," *QONUN: Jurnal Hukum Islam Dan Perundang-Undangan* 5, no. 2 (2021): 154–165, https://doi.org/10.21093/qj.v5i2.4095.

[16] Sururi Maudhunati and Muhajirin, "Gagasan Maqashid Syari'ah Menurut Muhammad Thahir Bin Al-'Asyur Serta Implementasinya Dalam Ekonomi Syariah," *Jurnal Hukum Ekonomi Syariah* 6, no. 2 (2022): 196–209, https://doi.org/10.26618/j-hes.v6i02.9315.

[17] Zaidul Ulum Wahid, Dzulfikar Rodafi, and Nur Hasan, "Konsep Maqashid Kontemporer Ibnu Asyur Dan Al-Fasii," *Hikmatina: Jurnal Ilmiah Hukum Keluarga Islam* 3, no. 2 (2021): 99–108, https://jim.unisma.ac.id/index.php/jh/article/view/11497/8897.

Fasi, and the study by Alfa Syahriar dan Zahrotun Nafisah,[18] which discusses the differences in the *maqashid shariah* concepts of asy-Syatibi and Ibn Ashur within the framework of *usul al-fiqh* in the four Sunni schools of thought (*madhhabs*). Moreover, a broader study was conducted by Dona Pertiwi dan Sri Herianingrum,[19] who reviewed various scholars' perspectives on *maqashid shariah* in general, including the views of asy-Syatibi and Ibn Ashur. Based on the existing research, this study will focus on a comparative analysis of *maqashid shariah* as formulated by asy-Syatibi and Ibn Ashur, particularly from the perspective of *ijtihad* in deriving Islamic law.

Based on the previously mentioned studies, no research has been found that specifically examines *ijtihad maqashid shariah* according to the views of asy-Syatibi and Ibn Ashur. Previous studies have not comprehensively discussed the methodology of ijtihad *maqashid shariah* from the perspectives of asy-Syatibi and Ibn Ashur, particularly in comparing the application of their theories. Therefore, this study aims to conduct a more in-depth examination of the *ijtihad maqashid shariah* framework as conceptualized by asy-Syatibi and Ibn Ashur. This study examines the conceptual framework of *maqashid syariah* in both classical and contemporary periods through the thoughts of asy-Syatibi in *al-Muwafaqat* and Ibn Ashur in works such as *Maqashid Syariah al-Islamiyyah*. This research is of significant importance as it delves into and explores *ijtihad maqashid syariah* within the intellectual frameworks of Asy-Syatibi and Ibn Ashur. This discussion raises two key questions to analyze the nature of *ijtihad maqashid syariah* according to asy-Syatibi and Ibn Ashur: How is *ijtihad maqashid syariah* formulated by asy-Syatibi in *al-Muwafaqat* and by Ibn Ashur in *Maqashid Syariah al-Islamiyyah*? How is the conceptual landscape of *maqashid syariah* perceived in the views of asy-Syatibi and Ibn Ashur?

B. Method

This study uses a library research approach, which involves systematically collecting and analyzing relevant literature. The study is descriptive-analytical in nature and adopts a

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[18] Alfa Syahriar and Zahrotun Nafisah, "Comparison of Maqasid Al-Shari'ah Asy-Syathibi and Ibn 'Ashur Perspective of Usul Al-Fiqh Four Mazhab," *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam* 3, no. 2 (2020): 186–197, https://doi.org/10.30659/jua.v3i2.7630.

[19] Tanza Dona Pertiwi and Sri Herianingrum, "Menggali Konsep Maqashid Syariah: Perspektif Pemikiran Tokoh Islam," *Jurnal Ilmiah Ekonomi Islam* 10, no. 1 (2024): 807–820, https://doi.org/10.29040/jiei.v10i1.12386.

comparative approach.[20] It aims to explain, analyze, and compare the thoughts of asy-Syatibi and Ibn Ashur by systematically examining research data on their development of the concept of maqashid sharia. The data analysis technique utilized in this study is comparative analysis, which explores the perspectives of asy-Syatibi and Ibn Ashur on maqashid sharia to identify key similarities and differences. The sources analyzed in this research are divided into two categories: primary and secondary data. The primary sources consist of *al-Muwafaqat* by asy-Syatibi and *Maqashid al-Shariah al-Islamiyyah* by Ibn Ashur. Meanwhile, the secondary sources include scholarly literature, such as books and journal articles, that are relevant to the perspectives of asy-Syatibi and Ibn Ashur on maqashid sharia.

C. Result

The findings of this study demonstrate that asy-Syatibi's thought in *al-Muwafaqat* proposed the concept of *maqashid syariah* through *ijtihad*, grounded in textual sources from the Qur'an and *hadith*, while employing a rational and analytical approach in formulating Islamic law. However, when definitive textual sources such as the Qur'an and *hadith* did not provide specific legal rulings on a particular issue, asy-Syatibi adopted the approaches of *ijma'* and *qiyas*. Asy-Syatibi emphasized that the formulation of legal rulings is categorized into three levels of *maslahah*: *dharuriyyat* (primary benefits), *hajiyyat* (secondary benefits), and *tahsiniyyat* (tertiary benefits). The findings of this study reveal that in *ijtihad*, asy-Syatibi focused *maqashid syariah* on achieving *maslahah* and preventing *mafsadah* by drawing analogies (*qiyas*) to legal texts in the Qur'an and *hadith* as the primary sources for considering *maqashid syariah*. Meanwhile, Ibn Ashur's thought, as presented in *Maqashid Syariah al-Islamiyyah*, proposed *maqashid syariah* as an *ijtihad*-based framework that incorporated contextual, rational, and analytical foundations in formulating Islamic law. Ibn Ashur successfully introduced the concept of *maqashid syariah* into two main categories. The first, *maqashid 'ammah*, outlines the general objectives of Islamic law, employing *qiyas* as a method of *istinbath al-ahkam*. The second, *maqashid khassah*, presents an implicit interpretation of legal rulings derived from *nash*, such as the legislation of pawning (*al-rahn*), which aims to foster trust between the pledger and the lender in debt transactions. Furthermore, Ibn Ashur's *ijtihad maqashid syariah* suggests that legal formulation can incorporate the concept of *maslahah mursalah* when no direct legal evidence is found in the Qur'an and *hadith*, making *qiyas*

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[20] M. Ishom El-Saha, *Metodologi Riset Dan Studi Hukum Islam Di Indonesia*, ed. Muhammad Idris, Cetakan Pertama (Bekasi: alif.id, 2020).

inapplicable. Thus, Ibn Ashur proposed *maslahah mursalah* as a method for formulating legal rulings. The concept of *maqashid syariah* introduced by Ibn Ashur is fundamentally rooted in asy-Syatibi's framework. However, Ibn Ashur successfully refined and expanded it into a broader *maqashid syariah* framework. It has been identified that Ibn Ashur lived during the era of *taqlid*, a period characterized by the closure of the gates of *ijtihad*. Scholars such as Abd al-Majid Umar al-Najjar and Ismail al-Hasani have assessed that Ibn Ashur was a scholar of *usul al-fiqh* who introduced innovations in the study of *maqashid syariah*, building upon asy-Syatibi's framework in *al-Muwafaqat*.[21] Musthafa Zaid, Ramadhan al-Buthi, and Said al-Afghani assert that the development of *maqashid syariah* formulated by Ibn Ashur embodies elements of progressiveness, refinement of *maqashid syariah*, and the revival of *maqashid syariah* thought during the period when the gates of *ijtihad* were considered closed.[22] Accordingly, this study concludes that the *ijtihad maqashid syariah* of asy-Syatibi and Ibnu Asyur serves as a bridge for the formulation of Islamic law and provides an objective solution to social phenomena.

The following presents the *ijtihad maqashid syariah* in the thought of asy-Syatibi and Ibnu Asyur.

Title: *Ijtihad Maqashid Syariah* of asy-Syatibi
Table 1.1.

Ijtihad Maqashid Syariah	Sources of *Ijtihad*	Characteristics of *Maqashid Syariah*	The Concept of *Maslahah*
Classifies *maslahah* into three categories: *ad-dharuriyat*, *hajiyat*, and *tahsiniyat*.	The Qur'an and Hadith as the primary sources. However, *ijma* and *qiyas* are used when no evidence is found in the *nash*.	Textual approach (emphasizing the principles of *maqashid syariah*).	*Ad-dharuriyat* encompasses the preservation of religion, life, intellect, lineage, and wealth as primary necessities. *Hajiyat* refers to

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21 Abd Al-Majid Umar Al-Najjar, *Fushul Fi Al-Fikr Al-Islami* (Beirut: Dar Al-Gharb Al-Islami, nd.).

22 Isma'il Hasani, *Nadhariyat Maqashid 'Inda Al-Imam Muhammad Al-Tahir Ibnu Asyur* (Cet I, Virginia: Ma'had Al-Islami Lil Fikr Islami, 1995).

	secondary needs, while *tahsiniyat* represents tertiary needs.

Title: *Ijtihad Maqashid Syariah* of Ibnu Asyur
Table 1.2.

Ijtihad Maqashid Syariah	Sources of *Ijtihad*	Characteristics of *Maqashid Syariah*	The Concept of *Maslahah*
Classifies maslahah into two categories: *maqashid 'ammah* and *maqashid khassah*.	Al-Qur'an, Hadith, *qiyas, maslahah mursalah*, and *istihsan*.	Reformist (innovative thought).	The concept of *Maqashid 'Ammah* presents *Ad-Dharuriyat Al-Khamsah* (*hifdz ad-din, nafs, aql, nasl*, and *mal*). Meanwhile, *Maqashid Khassah* introduces a more specific framework of *maslahah*, which encompasses *ibadah*, *mu'amalat*, family law, and criminal law.

Title: Comparison of *Maqashid Syariah* Thought
Table 1.3.

Maqashid Syariah of asy-Syatibi	*Maqashid Syariah* of Ibnu Asyur
Asy-Syatibi emphasizes the concept of	Ibn Ashur develops the concept of *maqashid*

maqashid syariah on the five fundamental human necessities.	*shariah* within the realm of societal affairs.
Tends to be traditional and textually oriented.	Tends to be modern and contextual.
The application of *maqashid shariah* in *fiqh* rulings.	Develops *maqashid syariah* in social reform.

Referring to the tables above, the author observes that the substance of *ijtihad maqashid syariah* in the thoughts of asy-Syatibi and Ibnu Asyur exhibits similarities, differences, and novalties. Asy-Syatibi's *maqashid syariah* has a classical characteristic, whereas the *maqashid syariah* proposed by Ibnu Asyur reflects a modern characteristic. The *maqashid syariah* concepts of asy-Syatibi and Ibnu Asyur share a similarity in emphasizing the preservation of *ad-dharuriyat* (primary necessities) as fundamental human well-being. However, they differ in their approach to formulating Islamic law. Asy-Syatibi primarily relies on textual sources (*nash*-based), while Ibnu Asyur adopts a contextual approach, considering social realities. The novelty of Ibnu Asyur's *maqashid 'ammah* and *maqashid khassah* concepts indicates that the door of *ijtihad* remains open rather than closed, highlighting the necessity of continuous legal adaptation to maintain the relevance of Islamic law in contemporary developments.

D. Analysis and Discussion

1. ### The Concept of *Ijtihad* and *Maqashid Syariah* in the Discourse of Islamic Legal Thought

Ijtihad originates from the Arabic words *al-jahd* and *al-juhdu*, which mean effort, power, and capability. The term *ijtihada* is derived from the past verb (*fi'il madhi*) by adding *hamzah* and *ta* to the root word *jahada*, forming *ijtahada* in the *wazan ifta'ala*, which conveys the meaning of striving earnestly. Thus, *ijtihad* refers to the act of exerting maximum effort and utilizing one's full capacity to resolve issues related to Islamic law.[23] *Ijtihad* is regarded as a rigorous and in-depth effort undertaken to resolve legal issues by referring to *dalil naqli* such as the Qur'an and Hadith.[24]

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[23] Rahmat Syafe'i, *Ilmu Ushul Fiqh* (Jakarta: Pustaka Setia, 1999).

[24] M. Lathoif Gozali, *Dinamika Ijtihad Tidak Pernah Tertutup* (Surabaya: Imtiyaz, 2020).

Linguistically, *Maqashid Syariah* originates from the Arabic language, where *maqashid* is the plural form of *maqshad*, which is a *masdar mimi* of the verb *qasada–yaqshudu–qashdan*, meaning "goal" or "objective." Meanwhile, *syariah* refers to Islamic law. Therefore, *Maqashid Syariah* is defined as the objectives or purposes of Islamic law.[25] Based on the explanation above, the following presents the definitions of *ijtihad* and *maqashid syariah* according to the opinions of *fiqh* scholars.

Imam al-Ghazali defines *ijtihad* as the process of exerting maximum effort and utilizing all available resources to accomplish a task. This term is only used when the effort involves substantial difficulty and sincere dedication.[26] Imam al-Ghazali asserts that it fundamentally revolves around *maslahah*, defined as the preservation of the objectives of *shari'ah*, which encompass five key principles: the protection of religion, life, intellect, lineage, and property. Preserving these five essential elements constitutes *maslahah*, while anything that threatens them is considered *mafsadah*. Thus, preventing *mafsadah* is itself an act of *maslahah*.[27]

Meanwhile, asy-Syatibi asserts that *ijtihad* entails exerting one's full capacity and dedicating one's abilities to acquiring both definitive (*qat'i*) and probabilistic (*dzanni*) knowledge of Islamic law (*syara'*).[28] In developing the concept of *ijtihad*, asy-Syatibi argues that the typology of *ijtihad* includes *tahqiq al-manath*, which refers to the exertion of one's ability in determining the substance of a legal object after establishing its legal status based on valid evidence, such as verses from the Qur'an and *hadith*. Furthermore, *tanqih al-manath* is interpreted as refining a legal ruling through a logical approach to establish a definitive legal judgment. Meanwhile, asy-Syatibi asserts that the conditions for engaging in *ijtihad* must meet two criteria: a comprehensive understanding of *maqashid syariah* and the ability to derive legal rulings based on knowledge and proficiency in comprehending *maqashid syariah*.[29] In the discussion of *maqashid syariah*, asy-Syatibi codifies the concept in *al-Muwafaqat* and categorizes *maqashid syariah* into three levels: *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. Regarding *maqashid syariah ad-dharuriyyat*, the concept of well-being is considered an essential foundation for human life, with its fulfillment deemed necessary to prevent societal disharmony. *Maqashid syariah ad-*

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[25] Busyro, *Maqashid Al-Syariah (Pengetahuan Mendasar Memahami Maslahah)* (Jakarta Timur: KENCANA, 2019).

[26] Abu Hamid Al-Ghazali, *Al-Mustafa Min Ilmi Al-Ushul* (Riyadh KSA: Dar Al-Maiman Linasr Wa Al Tauzi', nd.).

[27] Abu Hamid Al-Ghazali, *Al-Mustasfa Min 'Ilm Al-Ushul* (Beirut: Al-Risalah, 1997 M/1418 H).

[28] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Ushul Asy-Syari'ah* (Beirut: Daar Al-Kutub Al-Ilmiyah, tt,), IV.

[29] Asy-Syatibi, *Al-Muwafaqat....*

dharuriyyat is classified into five fundamental aspects: *hifdz ad-din* (protection of religion), *hifdz an-nafs* (protection of life), *hifdz an-nasl* (protection of lineage), *hifdz al-mal* (protection of property), and *hifdz al-'aql* (protection of intellect). According to asy-Syatibi, *maqashid syariah hajiyyat* refers to human needs that ensure a prosperous life and prevent hardship. The absence of *maqashid syariah hajiyyat* leads to suffering and difficulty. In *maqashid syariah tahsiniyyat*, the emphasis is on elements that enhance human well-being. If these aspects are not well maintained, they may reduce the completeness of life, although they do not necessarily result in suffering. An example is the requirement for purification and modest dress in Islamic worship, which serves to uphold personal and spiritual well-being.[30] Examining the framework of *maqashid syariah* as formulated by asy-Syatibi, *maqashid syariah ad-dharuriyyat* serves as the foundational principle for *maqashid syariah hajiyyat* and *tahsiniyyat*. Meanwhile, *maqashid syariah hajiyyat* functions as a complement to *dharuriyyat*, whereas *maqashid syariah tahsiniyyat* further enhances *maqashid syariah hajiyyat*.

The conception of *maqashid syariah* by al-Ghazali and asy-Syatibi originates as an extension of *maqashid syariah* developed by al-Juwaini within the hierarchy of *ushul maqashid syariah*. This assertion is reinforced by Hisham and al-Raisuni, who state that al-Juwaini's *maqashid syariah* has significantly influenced al-Ghazali and asy-Syatibi in formulating their respective frameworks of *maqashid syariah*.[31] In *al-Burhan fi Ushul al-Fiqh*, Imam al-Juwaini does not specifically discuss *maqashid syariah* but rather elaborates on the concept of *ushul al-syariah* in *al-Bab al-Thalith fi Taqasim al-'Illah wa al-Ushul.*.[32]

In the development of contemporary thought, in line with asy-Syatibi's perspective, Ibn Ashur states that *ijtihad* should be conducted with full diligence and effort to thoroughly explain the legal evidence of *maqashid syariah*, both in its primary (*ashliyah*) and subsidiary (*tabaiyah*) forms.[33] *Maqashid ashliyah* and *tabaiyah* refer to the alignment of original meanings and the analogy of legal matters based on *shar'i* evidence, whether derived from Quranic texts or *hadith*. These meanings and wisdom are extracted from *shar'i* evidence while taking into account the principles of Islamic law. According to Ibn Ashur, as cited by Manshur Al-Khalifi, *maqashid syariah* refers to *al-ma'ani wa al-hikam* (interpreted as meanings and wisdom)

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    [30] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat* (Kairo: Dar Ibn Affan, nd.).

    [31] Azhar, *Maqashid Al-Shari'ah 'Inda Imam Al-Haramain Wa Atharuha Fi Al-Tasharrufat Al-Maliyyah*. Ahmad Zaki Yamani, ed., *Maqashid Al-Shari'ah Al-Islamiyyah Dirasat Fi Qadhaya Al-Manhaj Wa Majalat Al-Tathbiq* (Kairo: Mu'assasat Al-Furqon Li Al-Turath Al-Islami MarkazDirasat Maqashid Al-Shari'ah Al-Islamiyyah, 2006).

    [32] Imam Al-Haramain Abu Al-Ma'ali 'Abd Al-Malik Ibn 'Abdillah Ibn Yusuf Al-Juwaini, *Al-Burhan Fi Ushul Al-Fiqh* (Qatar, 1979).

    [33] Ibn 'Asyur, *Maqashidal Syariah* (Yordania: Daar Al-Nafais, 2001).

as established by Allah SWT and His Messenger in the Qur'an and *hadith*. Ibn Ashur asserts that the evidence found in the Qur'an and *hadith* provides general legal rulings, necessitating the use of *qiyas*.[34] However, Ibn Ashur also proposes the concept of *maslahah mursalah*, considering its application when no legal evidence is found in the Qur'an and *hadith* regarding a particular issue, making *qiyas* inapplicable. In cases where there is *ta'arudh al-adillah* within legal sources, a *mujtahid* may employ the *istihsan* approach to select the stronger legal evidence.[35] Thus, *Maqashid al-Shari'ah al-Islamiyyah* expands the scope of *maqashid al-shari'ah* as formulated by Ibnu Ashur, including *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*, by further classifying them into *maqashid al-shari'ah al-'ammah* and *maqashid al-shari'ah al-khassah*.[36] The *maqashid al-'ammah* framework employs the *qiyas* approach to interpret legal sources from the Qur'an and Hadith, whereas *maqashid al-khassah* utilizes the *ashliyah* approach, which emphasizes adherence to the original meaning of the textual evidence (*nash*).[37]

Sheikh Wahbah az-Zuhaili asserts that a mujtahid must examine the nash of the Qur'an as the primary source of legal evidence. If a mujtahid identifies a *rajih nash* (whether from the Qur'an or Hadith, whose legal authority is stronger and more definitive than any seemingly contradictory evidence), adherence to that *nash* is obligatory. If no such *nash* is found in the Qur'an, the *mujtahid* should seek guidance from the *Sunnah* of the Prophet. If neither source provides a clear ruling, then *ijma'* should be considered, followed by *qiyas* as a logical approach consistent with Islamic legal principles.[38]

Meanwhile, Sheikh Ramadhan al-Buti asserts that in *ijtihad*, prioritizing *maslahah* as the ultimate objective of *shar'i* rulings must be realized and fulfilled to preserve religion, life, intellect, lineage, and wealth.[39] According to Sheikh Ramadhan al-Buti, *maqashid syariah* fundamentally aim to safeguard five essential aspects of life: religion, life, intellect, lineage, and wealth. Ensuring their proper realization is crucial for the continuity of human existence. Anything that has the potential to harm these aspects of *maslahah* is considered *mafsadah*. Citing the views of earlier scholars, Sheikh Ramadhan al-Buti classifies *maqashid syariah* into *dharuriyyat*, *hajiyyat*, and *tahsiniyyyat*.[40]

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[34] Manshur Al-Khalifi, *Al-Maqashid Al-Syariah Wa Atsaruha Fi Fiqh Al-Mu'amalat Al-Milkiyyah* (Kuwait: Maktabah Al-Istisyarat Al-Syar'iyyah, 2004).

[35] Ibn 'Asyur, *Maqashid Ash-Shari'ah Al-Islamiyyah* (Damaskus: Daarl Al-Kolam, 2001).

[36] 'Asyur, *Maqashidal Al-Syariah Al-Islamiyyah*....

[37] 'Asyur.

[38] Wahbah Az-Zuhaili, *Fiqih Islam Wa Adillatuhu* (Kairo: Darul Fikir.).

[39] Muhammad Sa'id Ramadhan Al-Buti, *Dhawabit Al-Maslahah Fi As-Syari'ah Al-Islamiyyah* (Beirut: Mu'assasah Ar-Risalah, 1973).

[40] Al-Buti, *Dhawabit Al-Maslahah Fi As-Syari'ah*....

According to Jaser Auda, *ijtihad maqashid syariah* aims to preserve human well-being, aligning with the classification established by earlier scholar into three categories: *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. *Ad-dharuriyyat* consists of five fundamental necessities: the preservation of religion (*hifdz ad-din*), life (*hifdz an-nafs*), intellect (*hifdz al-'aql*), wealth (*hifdz al-mal*), and lineage (*hifdz an-nasl*). According to Jaser Auda, some *fiqh* scholars include *hifdz al-'irdh* to safeguard human dignity. Jaser Auda also introduces the concept of *hifdz al-bi'ah*, emphasizing that environmental preservation is crucial for human survival and the sustainability of natural ecosystems.[41]

After examining the discussion on *ijtihad* and *maqashid syariah* as presented by classical and contemporary *fiqh* scholars, the following section presents the characteristics of *ijtihad maqashid syariah* in the thought of asy-Syatibi and Ibnu Asyur. To analyze the specific approach to *ijtihad* employed by asy-Syatibi and Ibnu Asyur as the primary subjects of this study, three types of *ijtihad* in the application of *maqashid syariah* will be outlined. According to Sheikh Wahbah az-Zuhaili, *ijtihad* can be categorized into three approaches: *ijtihad bayani*, *ijtihad qiyasi*, and *ijtihad istislahi*. *Ijtihad bayani* refers to the effort of a *mujtahid* in deriving legal rulings directly from *nash*. *Ijtihad qiyasi* involves identifying legal parallels by drawing analogies between cases explicitly addressed in *nash* and new issues. Meanwhile, *ijtihad istislahi* is conducted by applying *sharia* principles to contemporary matters not explicitly mentioned in the Qur'an or *sunnah*, relying on *ra'yu* (independent reasoning) based on *istislah*.[42]

According to Muhammad Salam Madkur in *al-Ijtihad fi al-Tashri' al-Islami*, the principles of *istislah* are classified into three levels: *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*.[43] Examining the framework of *ijtihad maqashid syariah* proposed by Asy-Syatibi, this study argues that asy-Syatibi aligns with *ijtihad bayani*. This classification is based on the fact that asy-Syatibi structured *maslahah* into *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*, deriving these categories from the *dalil* of the Qur'an and *hadith*. Additionally, asy-Syatibi employed the *ijtihad qiyasi* approach when no explicit legal ruling was found in the Qur'an and *hadith*. As previously mentioned, asy-Syatibi's methodology of *ijtihad* was rooted in the Qur'an, *hadith*, *ijma'*, and *qiyas*.

Regarding *ijtihad maqashid syariah* as formulated by Ibnu Ashur, the approach encompasses *ijtihad bayani*, *ijtihad qiyasi*, and *ijtihad istislahi*. This classification is based on the

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[41] Jasser Auda, *Memahami Maqashid Syariah (Peranan Maqashid Dalam Pembaharuan Islam Kontemporer) Translation Of: Jasser Auda "Bayn As-Syariah Wa As-Siyasah".*, trans. Marwan Bukhari bin A. Hamid (Kuala Lumpur: PTS Publications & Distributors, 2014).

[42] Wahbah Az-Zuhaili, *Al-Wajiz Fi Ushul Al-Fiqh* (Damaskus: Daar Al-Fikr.).

[43] Muhammad Salam Madkur, *Al-Ijtihad Fi Al-Tasyri Al-Islam* (ttp. Dar An-Nahdah, 1984).

fact that *maslahah* is structured into *'ammah* and *khassah*, deriving these categories from the *dalil* of the Qur'an and *hadith*. Additionally, the *ijtihad qiyasi* approach is employed when no explicit legal ruling is found in the Qur'an and *hadith*. In *ijtihad istislahi*, Ibnu Ashur applies the approach of *maslahah mursalah* and *istihsan*, referring to considerations of public interest that are not explicitly mentioned in the Qur'an or *hadith* but align with the objectives of *sharia* as outlined in *maqashid syariah*. Consequently, the sources of *ijtihad* employed in this framework include the Qur'an, *hadith*, *qiyas*, *maslahah mursalah*, and *istihsan*.

2. **Comparative Analysis of Asy-Syatibi and Ibnu Ashur's Thought on *Maqashid Syariah***

According to Jujun Suria Sumantri, epistemology is defined as the framework of the thought process that serves as the source of knowledge. From another perspective, epistemology is also understood as an individual's ability to systematically construct knowledge in a scientific manner. Thus, epistemology serves a scientific methodology employed in the formulation of valid knowledge.[44] Muhammad Nur asserts that epistemology and the structure of knowledge are interrelated. Epistemology seeks to understand how knowledge is acquired, constructed, and validated.[45] In this discussion, an epistemological foundation serves as the basis for asy-Syatibi and Ibnu Ashur in formulating *maqashid syariah* through *ijtihad*.

In *al-Muwafaqat*, asy-Syatibi asserts that *maslahah* serves as the foundational principle of *maqashid syariah*.[46] Asy-Syatibi emphasizes that the concept of *maqashid syariah* is established based on *maslahah* by upholding *maslahah ad-dharuriyyat* in worldly affairs. If its continuity is not preserved, it may lead to harm in the afterlife. This includes safeguarding religion through the implementation of *zakat* and protecting life and intellect by consuming permissible food and beverages that comply with Islamic law, free from prohibited and intoxicating substances. In addition to *maslahah ad-dharuriyyat* as a fundamental necessity in human life, asy-Syatibi also emphasizes the significance of *hajiyyat* in providing *tawassu'* (legal concessions) and alleviating difficulties faced by *mukallaf*.[47] The lack of *maqashid syariah hajiyyat* may lead to difficulties for a *mukallaf* and could even threaten the preservation of *maqashid syariah ad-dharuriyyat*. An example of *maqashid syariah hajiyyat* can be found in *rukhsah*

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[44] S. Suria Sumantri Jujun, *Filsafat Ilmu Sebuah Pengantar Populer* (Bandung: UNISBA Press, 1995).

[45] Muhammad Nur, *Menyibak Tabir Filsafat Ilmu Mencari Makna Ilmu Pengetahuan*, Cetakan 1 (Yogyakarta: LaksBang Akademika, 2024).

[46] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah* (Beirut, tt, Juz II: Dar Al-Kutub Al-Ilmiyah.).

[47] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*

in worship, such as allowing an ill person who is unable to fast during Ramadan to break the fast and make up for it on another day. Asy-Syatibi further elaborates on *maslahah* within *maqashid syariah tahsiniyyat*. *Tahsiniyyat* is realized by upholding the objectives of *syara'* through virtuous customs and practices, such as noble character, politeness, refraining from immoral acts, and maintaining proper speech. These principles are reflected in both acts of *ibadah* and social *muamalah*.[48]

Based on the hierarchical relationship among the three levels of *maslahah*, this study argues that *maslahah ad-dharuriyyat* serves as the primary foundation, followed by *maslahah hajiyyat* as a complement, and *maslahah tahsiniyyat* as an enhancement of *hajiyyat* and *tahsiniyyat*. In *al-Muwafaqat*, asy-Syatibi asserts that *maslahah ad-dharuriyyat* constitutes the fundamental necessity for all aspects of *masalih*. The absence of *ad-dharuriyyat* leads to the loss of all forms of well-being, whereas the absence of *tahsiniyyat* and *hajiyyat* does not eliminate *ad-dharuriyyat*. Therefore, safeguarding *masalih ad-dharuriyyat* necessitates the preservation of *masalih hajiyyat* and *tahsiniyyat*.[49]

The epistemological framework of Ibnu Asyur, as outlined in *Maqashid Syariah al-Islamiyyah*, is structured upon four foundational principles: *fitrah* (innate disposition), tolerance (*al-samahah*), equality (*al-musawah*), and freedom (*al-hurriyah*). The first principle, *fitrah*, is understood by Ibnu Asyur as comprising both *dzahir* and *bathin* dimensions. *Dzahir* refers to sensory perception, while *bathin* pertains to the use of human intellect, which naturally enables individuals to distinguish between good and bad. Based on this innate nature, Ibnu Asyur emphasizes the necessity of discussing legal principles in religious life. As stated in Surah Ar-Rūm (30:30), religion is a manifestation of *fitrah* that extends beyond creed and monotheism, necessitating the inclusion of legal discourse. Consequently, the natural disposition of human beings serves as the foundational basis for Ibnu Ashur in formulating the epistemological framework of *ijtihad* within *maqashid syariah*.

The second principle, *al-samahah* (tolerance), in Ibnu Ashur's epistemological framework emphasizes a balanced approach to religious diversity, aiming to provide spiritual and emotional tranquility for individuals in receiving and embracing divine guidance. This principle seeks to prevent extreme tendencies, such as *tafrit*, which denotes religious negligence, leading to despair and a weakened commitment to faith, as seen in the Murji'ah sect. Conversely, *ifrat* refers to excessive religious zeal, where decisions are driven by intense

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[48] Herdiansyah, "Al-Muwafaqat Karya Masterpiece Imam Asy-Syatibi (W : 790 H / 1388 M) (Kajian Historis, Dan Kandungan Isi Kitab)."

[49] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*

emotions rather than sound knowledge, as exemplified by the Khawarij group. Therefore, the concept of tolerance proposed by Ibnu Ashur serves to facilitate the acceptance of *maqashid syariah* principles within religious communities, extending beyond Islam to encompass broader societal contexts. The third principle, *al-musawah* (equality), in Ibnu Ashur's epistemological framework of *maqashid syariah* asserts that Islamic law upholds the principle of equality for all individuals, without discrimination. As a result, both men and women are equally subject to legal sanctions if they violate *maqashid syariah* regulations. The fourth principle, *al-hurriyah* (freedom), emphasizes that every individual has the right to live freely without intimidation, including the freedom of belief and expression. Within *maqashid syariah*, freedom is understood as the ability to exercise free will without discrimination, except in cases where such actions infringe upon established legal or ethical principles.[50]

Historically, Ibnu Ashur's ijtihad was influenced by a rigid intellectual environment and the prevailing closure of the gates of ijtihad, which led to the formulation of the four epistemological foundations for maqashid syariah as a reformative effort.[51] Historical records indicate that scholar from Iraq was known as proponents of *ahl al-ra'yi*, led by Imam Abu Hanifah, whereas scholar from Madinah was recognized as *ahl al-hadith*, led by Imam Malik. Similarly, Ibnu Asyur, a contemporary scholar from Tunisia, was renowned with the title *Syaikhul Islam.*[52] This title signifies Ibnu Ashur's expertise in *usul fiqh* and *fiqh*, as reflected in the development of *maqashid syariah* presented in *Maqashid Syariah al-Islamiyyah*.

Asy-Syatibi was awarded the title *Mujaddid fi al-Islam*, meaning a reformer of Islamic *sharia* understanding, as demonstrated by the codification of *maqashid sharia* in *al-Muwafaqat.*[53] Asy-Syatibi's title signifies an important role in pioneering Islamic legal thought, particularly in the field of *maqashid sharia*. Unlike earlier scholars such as al-Juwaini, who primarily discussed *maslahah*, asy-Syatibi provided a more in-depth examination of *maqashid sharia*. To this day, the contributions of asy-Syatibi's framework, including *maqashid sharia ad dharuriyyat, hajiyyat,* and *tahsiniyyat*, along with Ibn Ashur's concepts of *maqashid ammah* and *maqashid khassah*, continue to be relevant, particularly in integrating positive law with Islamic law in

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[50] 'Asyur, *Maqashid Al-Syari'ah Al-Islamiyah....*

[51] Mohammad Fauzan Ni'ami and Bustamin, "Maqāṣid Al-Syarī'Ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda," *Juris: Jurnal Ilmiah Syariah* 20, no. 1 (2021): 91–102, https://doi.org/10.31958/juris.v20i1.3257.

[52] Inama Anusantari, "Konsep Kemaslahatan Maqāṣīḍ Syarīah Ibnu 'Ashur Terhadap Permasalahan Di Era Milenial: Polemik Kebijakan Lockdown Dan PSBB Pemerintah Indonesia Dalam Menangani Pandemi Covid-19," *Al-Maslahah : Jurnal Ilmu Syariah* 17, no. 2 (2021): 189–213, https://doi.org/10.24260/al-maslahah.v17i2.1936.

[53] Alfaatih et al., "Konsep Maqashid Al-Syar'i Imam Al-Syathibi Dalam Studi Hermeneutika Al-Qur'an."....

modern society.[54] The concept of *maqashid sharia* proposed by asy-Syatibi and Ibn Ashur has significantly influenced the development of Islamic law. Asy-Syatibi is recognized as a pioneer of classical *maqashid sharia*, while Ibn Ashur is regarded as a key figure in the advancement of modern *maqashid*. The concept of *maqashid sharia* developed by asy-Syatibi and Ibn Ashur faces modern challenges in Islamic law from an empirical perspective. In the context of Islamic criminal law, asy-Syatibi emphasizes the enforcement of *hudud*. Therefore, *hudud* penalties must be implemented in accordance with legal evidence that is *qath'i*.[55] However, Ibn Ashur proposes an alternative approach in which the *hudud* punishment for theft can be replaced with imprisonment if guilt is established. This is emphasized within his concept of *maslahah 'ammah* as a preventive measure for society and *maslahah khassah* as a deterrent for the individual offender.[56]

3. The Contemporary Implications of Asy-Syatibi's Thought on *Maqashid Syariah*

Asy-Syatibi's full name is Abu Ishak Ibrahim bin Musa bin Muhammad Allakhami al-Gharnathi. He was born in the year 730 H and passed away on 8 Sha'ban 790 H or 1388 CE. The name "Syatibi" is derived from his father's place of birth in the city of Syatibah, located in eastern Andalusia, Spain.[57] Asy-Syatibi authored *al-Muwafaqat*, a work that extensively discusses *maqashid sharia*. This book was written with the objective of bridging the tension between *Ahl al-Hadith* (the Maliki school) and *Ahl al-Ra'y* (the Hanafi school). Initially, *al-Muwafaqat* was titled *al-Ta'rif bi Asrar al-Taklif*. However, asy-Syatibi later changed the title to *al-Muwafaqat* after experiencing a dream involving his teacher. In the dream, the teacher said to asy-Syatibi, "Yesterday, I saw you carrying a book that you had written yourself. I asked you about its title, and you replied that it was called *al-Muwafaqat*. When I inquired about its meaning, you explained that you were attempting to reconcile the two schools of thought, Maliki and Hanafi." Following this dream, asy-Syatibi decided to rename the book *al-Muwafaqat*.[58]

In *al-Muwafaqat*, asy-Syatibi asserts that the purpose of *Sharia* for *mukallaf* is to realize *maslahah* in both religious matters and worldly affairs. To safeguard *maslahah* for *mukallaf*, asy-

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[54] Muhammad Anis Mashduqi, "The Integration-Interconnection Paradigm in Islamic Law: Al-Syatibi's Thought in Al-Muwafaqat," *Al-Mazaahib Jurnal Perbandingan Hukum* 12, no. 2 (2024): 206–221, https://doi.org/10.14421/al-mazaahib.v12i2.3915.

[55] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah* (Beirut: Dar Al- Kutb Al-Ilmiyah, Jilid III).

[56] Ibn 'Asyur, *Maqashid Al-Syariah Al-Islamiyyah* (Ardan: Dar Al-Nafais, 2001).

[57] Ahmad Al-Sudani Al-Tanbakati, *Nailu Al-Ibtihaj Bi Tathrizy Ad- Dibaj* (Beirut: Dar Al-Kutub Al-'Ilmiah, nd.).

[58] Abu Ishaq Asy-Syatibi, *Al-Muwafaqat Fi Ushul Al-Syari'ah* (Beirut: Dar Al- Kutb Al-Ilmiyah, Jilid I).

Syatibi classifies it into three categories. First, *maslahah ad-dharuriyyat*, which constitutes the fundamental necessities and consists of five key elements: *hifdz ad-din* (protection of religion), *hifdz an-nafs* (protection of life), *hifdz al-'aql* (protection of intellect), *hifdz an-nasl* (protection of lineage), and *hifdz al-mal* (protection of wealth). Second, *maslahah hajiyyat*, which pertains to the maintenance of well-being in daily life, such as the codification of laws in *muamalah*. Third, *maslahah tahsiniyyat*, which focuses on the refinement of moral and religious conduct to ensure a well-ordered life.[59] Thus, *maslahah ad-dharuriyyat* applies to acts of worship, *maslahah hajiyyat* pertains to *muamalah*, and *maslahah tahsiniyyat* encompasses human conduct. These three categories are interrelated and influence one another. In analyzing legal verses from the *nash*, asy-Syatibi employs the *istiqra'* approach.[60] The *istiqra'* approach, or inductive analysis, follows a structured methodology in legal research by examining specific legal evidences (*juziyyat*) and then deriving conclusions that apply to general legal principles (*kulliyyat*).[61]

According to asy-Syatibi, Allah SWT has established legal evidences for humanity to ensure the well-being and continuity of life. This well-being is categorized into *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. The following outlines their explanations and the operational framework of *maqashid shariah*. First, *maslahah ad-dharuriyyat*. This category holds a fundamental position as an essential necessity. Asy-Syatibi classifies *maslahah ad-dharuriyyat* into five components: *hifdz ad-din*, which refers to the preservation of religion; *hifdz an-nafs*, which ensures the protection of life; *hifdz al-'aql*, which safeguards intellect; *hifdz al-mal*, which maintains property; and *hifdz an-nasl*, which secures lineage. In the context of *maslahah ad-dharuriyyat*, asy-Syatibi argues that acts of worship performed by Muslims serve to preserve religion. This includes performing prayer as an act of devotion, fasting as a means of self-purification, giving *zakat* to purify wealth, and undertaking *hajj* to complete one's religious obligations. To sustain life and intellect, eating and drinking are prescribed. Marriage is instituted to ensure lineage continuity, while *muamalah* is mandated to maintain financial stability. Asy-Syatibi emphasizes that *maslahah ad-dharuriyyat* constitutes primary needs. If these needs are not fulfilled, it could threaten both religion and human survival, affecting life in both this world and the hereafter. The *istiqra'* approach as a research methodology in legal proofs aims to preserve the five essential necessities (*ad-dharuriyyat al-khams*). Asy-Syatibi provides an example regarding the obligation to enforce *qisas*, as stated in the words of Allah in Surah al-Baqarah (2:179). This verse indicates that *qisas* is prescribed to protect human life

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[59] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*
[60] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*
[61] Asy-Syatibi.

from harmful criminal acts. Thus, *qisas* is understood as a means to ensure security, tranquility, and the establishment of justice for the continuity of human life.[62]

Second, *maslahah hajiyyat* refers to facilitating ease and removing hardship in acts of worship. Asy-Syatibi asserts that if this necessity is not fulfilled, human well-being will not be fundamentally threatened. He provides examples of *maslahah hajiyyat*, such as the concession (*rukhsah*) allowing a traveler to shorten or combine prayers, the exemption for the sick or traveling individuals from fasting during Ramadan with the obligation to make up for it later, the application of *diyat* as compensation in cases of unintentional killing or bodily harm, and the suspension of the *hudud* punishment for theft when the perpetrator steals out of severe hunger to preserve life. Thus, *maslahah hajiyyat* is categorized as a secondary necessity.[63]

Third, *maslahah tahsiniyyat*. Asy-Syatibi explains that *tahsiniyyat* necessities contribute to achieving perfection, and their absence does not result in hardship. Asy-Syatibi provides examples such as drawing closer to Allah through charity, the prohibition of trading items containing unlawful elements in *muamalat*, such as selling pigs or dogs, and the cultivation of good character. Therefore, *maslahah tahsiniyyat* is categorized as a tertiary necessity.[64]

After analyzing the classification of *maqashid sharia* based on *maslahah ad-dharuriyyat al-khams* from Asy-Syatibi's perspective, the author argues that in order to maintain the existence of religion, acts of worship such as prayer (*salat*), almsgiving (*zakat*), and fasting (*sawm*) categorized as *ibadah mahdhah* (worship directly related to the individual's relationship with Allah SWT) are necessary. To sustain human life, essential needs such as food, drink, and shelter commonly referred to as clothing, food, and housing must be fulfilled. To prevent harm to the preservation of life, the implementation of punitive measures such as *qisas* and *diyat* is required for those who violate the safety of human life. In preserving human intellect, acquiring extensive knowledge through education is essential. To ensure the continued existence of sound reasoning, the implementation of *hudud* punishments is necessary. These punishments, as prescribed by Islamic sharia in the Quran and hadith, apply to specific crimes, such as administering forty or eighty lashes to those who consume alcohol. Contemporary issues that threaten mental and cognitive well-being, such as drug abuse, may also warrant the application of *hudud* as a preventive measure. To preserve the continuity of lineage and family, marriage is essential. To safeguard the sustainability of progeny, the implementation of *hudud* punishments for adultery is prescribed. In order to

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[62] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*
[63] Asy-Syatibi, *Al-Muwafaqat Fi Ushul....*
[64] Asy-Syatibi, *AL-Muwafaqat Fi Ushul Asy-Syari'ah....*

maintain financial stability, Islamic law establishes regulations in *muamalah*, such as *ijarah* (leasing) and *ba'i* (buying and selling). Additionally, to protect wealth, the enforcement of *hudud* punishments, including amputation for theft, and the prohibition of *riba* are necessary. To preserve the needs of *maslahah tahsiniyyat*, certain concessions in worship are necessary. For instance, travelers and individuals who are ill are permitted to postpone fasting and make up for it later or combine their prayers (*jama'*). Moreover, to complement *maslahah ad-dharuriyyat* and *tahsiniyyat*, good morality is essential for sustaining life and achieving the ultimate objectives of Islamic *shariah*.

4. The Contemporary Implications of Ibn Ashur's Thought on *Maqashid Syariah*

Ibn Ashur's full name is Muhammad al-Tahir Ibn Muhammad bin Muhammad al-Tahir bin Muhammad bin Muhammad al-Syadzili bin al-'Alim Abd al-Qadir bin Muhammad bin 'Ashur. He was born in Tunisia in 1296 H and passed away in 1973 CE.[65] Ibn Ashur authored *Maqashid al-Shariah al-Islamiyyah*, a work that explores the objectives of *shariah*. One of the primary reasons that led him to compose this book was the prevailing belief that the door of *ijtihad* had been closed.[66] This period, which spanned the 20th century, was marked by a decline in religious knowledge, leading to a rigid adherence to previous scholars without further development through *ijtihad*. According to Jasser Auda, as cited by Mohammad Fauzan Ni'ami and Bustamin, the notion that the door of *ijtihad* is closed is unjustified, as the Islamic system should remain open. The belief in the closure of *ijtihad* leads to intellectual stagnation, ultimately reinforcing the perception that *ijtihad* is no longer accessible.[67] To demonstrate that the door of *ijtihad* remains open, Ibnu Ashur expanded upon asy-Syatibi's concept of *maqashid sharia* through his influential work, *Maqashid Syariah al-Islamiyyah*.[68]

In examining the legal evidences of *nash*, Ibnu Ashur employed the *istiqro'* approach. This methodology aligns with asy-Syatibi, who also analyzed legal evidences using the *istiqro'* approach.[69] In his book, *Maqashid Syariah al-Islamiyyah*, Ibnu Ashur expanded on asy-Syatibi's classification of *maqashid syariah* into *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. The innovation introduced by Ibnu Ashur was the distinction between *maqashid 'ammah* and *maqashid*

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[65] Hasani, *Nadhariyat Maqashid 'Inda Al-Imam Muhammad Al-Tahir Ibnu Asyur*....

[66] Safriadi, *Maqashid Al-Syari`ah & Mashalah (Kajian Terhadap Pemikiran Ibnu'asyur Dan Sa'id Ramadhan Al-Buthi)* (Aceh: Sefa Bumi Persada, 2021).

[67] Ni'ami and Bustamin, "Maqāṣid Al-Syarī'Ah Dalam Tinjauan Pemikiran Ibnu 'Āsyūr Dan Jasser Auda."

[68] Ibn 'Asyur, *Maqasid Asy-Syari'ah Al-Islamiyah* (Tunisia: Makatabah Al-Istiqamah, 1366 H).

[69] 'Asyur, *Maqasid Asy-Syari'ah*....

khassah.[70] The following presents an explanation of *maqashid 'ammah* and *maqashid khassah* according to Ibnu Ashur, along with the functional framework of *maqashid*.

First, *maqashid 'ammah* refers to objectives aimed at ensuring overall well-being. This concept encompasses *ad-dharuriyyat al-khams*, which include the preservation of religion, life, intellect, wealth, and lineage. These fundamental necessities, if left unfulfilled, would lead to disruptions in human existence. *Hajiyyat* plays a crucial role in addressing human needs by providing legal concessions, such as the allowance for a traveler to combine (*jama'*) prayers. *Tahsiniyyat* serves as a complementary factor in fulfilling human necessities, exemplified by socially upheld virtuous customs. Furthermore, *maqashid 'ammah* includes *maslahah kulliyah* (universal well-being) and *maslahah juz'iyyah* (specific well-being). An example of *maslahah kulliyah* is the principle of social justice, where penalties such as *diyat* and *qisas* serve to protect human life in cases of murder or bodily harm. The implementation of proportionate punishment ensures justice for both the victim and the perpetrator. Meanwhile, *maslahah juz'iyyah* applies to individuals or specific groups, as demonstrated in the inheritance distribution system regulated by Islamic law.

In *maqashid 'ammah*, ibn ashur introduces the concept of *maslahah* as a general necessity for human well-being. These necessities are categorized into *ad-dharuriyyat* (essential well-being, which must be fulfilled in relation to *al-kulliyat khamsah*), *hajiyyat* (secondary needs that ensure a prosperous life, such as economic transactions in *muamalah*), and *tahsiniyyat* (complementary well-being, which enhances comfort and tranquility in life). Second, *maqashid khassah* refers to specific objectives for the Muslim community, which include *maqashid khassah* in worship (*ibadah*), economic transactions (*muamalah*), family law, and criminal law. This category provides a specialized framework for individual well-being. In *ibadah*, the goal is spiritual purification of the soul and heart. In *muamalah*, the objective is to establish individual rights within social contracts. In family law, legal principles ensure the protection of the rights of husbands, wives, and children. In criminal law, justice and social order are upheld to maintain societal harmony.[71]

Ismail al-Hasani, in *Nadhariyat Maqashid 'Inda al-Imam Muhammad al-Tahir Ibn Ashur*, explains that Ibn Ashur outlines three categories of individual rights: the rights of Allah, the rights of individuals, and shared rights. The rights of Allah require *mukallaf* to fulfill divine commands, such as acts of *ibadah mahdhah*, including prayer (*salat*), almsgiving (*zakat*), and fasting (*sawm*). The rights of individuals pertain to personal welfare, such as the right to

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[70] 'Asyur, *Maqashidal Al-Syariah Al-Islamiyyah....*
[71] 'Asyur, *Maqasid Asy-Syari'ah Al-Islamiyah....*

receive financial assistance or loans. Shared rights encompass both public and individual welfare, as seen in the implementation of *qisas*, which ensures security and social stability. From a broader perspective, *qisas* functions as a mechanism to uphold justice and maintain social order. On an individual level, it addresses grievances by alleviating the anger of a victim's family following an unjust killing, thereby serving as a form of personal reparation.[72]

After examining the fundamental concepts of *maqashid syariah* according to Ibn Ashur, which consist of *maqashid 'ammah* and *maqashid khassah*, this study finds that the structure of *maqashid 'ammah* encompasses the elements of *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. The concept of *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat* proposed by Ibn Ashur closely resembles the framework outlined by asy-Syatibi in *al-Muwafaqat*. For instance, the preservation of religion requires the acknowledgment of divine worship through the observance of *salat*. To sustain religious practice, *hajiyyat* functions as a secondary necessity, aiming to alleviate hardship and prevent undue difficulty. An example of this is the provision of *rukhsah* that allows individuals suffering from severe illness to abstain from fasting. Furthermore, the maintenance of human existence necessitates the practice of *akhlaq al-karimah* as a form of *tahsiniyyat*, which serves to promote harmony and peace in social life. Additionally, *maslahah kulliyah* embodies the principle of social justice. The implementation of *maslahah kulliyah* is evident in cases where an individual commits murder or causes bodily harm, such as breaking another person's bone through physical assault. In such cases, the perpetrator is required to provide *diyat* (compensation), which includes covering the victim's medical expenses until full recovery. This process aims to uphold justice for the victim by ensuring accountability, as the offender is held responsible through the obligation of *diyat* as an alternative form of restitution.

The mechanism of *maslahah juz'iyyah* focuses specifically on individuals or specific groups, such as the distribution of inheritance between men and women in accordance with Islamic law. The mechanism of *maslahah qath'iyyah* refers to absolute rulings derived from the Qur'an, such as the obligatory nature of fasting for both men and women and the requirement to obey Allah and the Prophet. The mechanism of *maslahah dzanniyyah* is based on rational reasoning. For instance, society may perceive a decline in public trust due to government officials engaging in arbitrary actions and lacking integrity. Meanwhile, the mechanism of *maslahah wahmiyyah* involves analyzing a case using logical reasoning where the truth remains uncertain, necessitating further examination and review. The mechanism of

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[72] Hasani, *Nadhariyat Maqashid 'Inda Al-Imam Muhammad Al-Tahir Ibnu Asyur....*

maqashid khassah is first applied to the rights of Allah. This is manifested through acts of devotion performed by every *mukallaf*, such as performing prayer and giving *zakat*. Worship that entails obligations also includes the responsibility of earning a livelihood to meet basic needs. The implementation of *hudud* punishments serves as a deterrent for acts such as theft. The mechanism of *maqashid khassah* concerning individual rights is exercised when a person repays or collects debt as a form of accountability. Meanwhile, the mechanism of *maqashid khassah* regarding rights between individuals and the public is applied to ensure the preservation of human life, preventing murder or bodily harm. This is viewed from the perspective of general *maslahah*. Additionally, the enforcement of *qisas* or *diyat* serves a specific *maslahah*, as *qisas* is applied as retribution for taking a life, while *diyat* functions as compensation, both morally and materially.

E. Conclusion

This article examines *ijtihad* in *maqashid shariah* according to asy-Syatibi and Ibn Ashur. The study concludes that asy-Syatibi, as the founding figure of *maqashid shariah*, provided intellectual insight that enabled Ibn Ashur to further develop the framework. The *ijtihad* of asy-Syatibi demonstrates that the concept of *maqashid shariah* consists of *ad-dharuriyyat*, *hajiyyat*, and *tahsiniyyat*. Meanwhile, Ibn Ashur successfully expanded asy-Syatibi's *maqashid shariah* into *maqashid 'ammah* and *maqashid khassah* during a period when *ijtihad* was considered closed. The significant implication of *ijtihad* in *maqashid shariah* by asy-Syatibi and Ibn Ashur lies in reconstructing the *fiqh* approach. Asy-Syatibi's concept of *maqashid shariah* is primarily text-based, whereas Ibn Ashur adopts a more contextual perspective, considering *maslahah* and social justice. Integrating the approaches of asy-Syatibi and Ibn Ashur is essential for developing *shariah*-based legal solutions that remain adaptable to social change.

This article is limited to analyzing the *ijtihad* of asy-Syatibi and Ibn Ashur in formulating *maqashid shariah*. Future researchers are encouraged to explore their perspectives from alternative viewpoints. Additionally, this article contributes to the dissemination of asy-Syatibi and Ibn Ashur's thoughts on *maqashid shariah*.

F. Conflict of Interest Statement

The author declares that there is no conflict of interest in the publication of this article.

G. Acknowledgement

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I. Author's Biography

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