

Objectives of Legislation and their Impact on Modern Interpretations of the Qur'an with Special Reference to Ibn Ashur's Interpretation

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ABSTRACT

Maqasid al-Shari'ah (the objectives of shari'ah/ or legislation) is one of the important subjects in Islamic studies. Moreover, the interest in Maqasid al-Shari'ah in recent decades has increased immensely. Contemporary scholars, especially those who are concerned with reform and renewal in Islamic societies, pay considerable attention to the issue of Maqasid. This research will focus mainly on a famous modern exegete known for his valuable contribution to the field of objectives of shari'ah and to the field of Qur'anic exegesis who is Muhammad bin Ashur. The current study aims to explore how considering maqasid affects understanding of the Qur'an with regard to Ibn Ashur. And that appears in several examples in the interpretation in which Ibn Ashur gives new insight concerning some modern concepts and legal rulings.

Keywords: Interpretation of the Qur'an, Objectives of Legislation, al-Tahrir wa al-Tanwir of Ibn Ashur.

INTRODUCTION

The interest in *Maqasid al-Shari'ah*, which means the objectives of legislation in Islam, in recent decades has increased and become obvious in the field of contemporary Islamic studies. Contemporary scholars, especially those who are concerned with reform and renewal in Islamic societies, pay considerable attention to the issue of *Maqasid*. In the field of Qur'anic Studies, a new term recently has been coined which is "*al-tafsir al-maqasid*" to highlight the importance and relevance of this trend in interpretation of the Qur'an.

It is worthwhile to note that considering the objectives of shari'ah is one of the cornerstones of reasoning *ijtihad* and that *maqasid* is an attempt to link between a teaching of Islam and the wisdom and reason behind that teaching. However, perceiving the wisdom can vary from one to another depending on the different perspectives and circumstances of the interpreter. What is good or beneficial for people is sometimes debatable. Additionally, human experience is relevant in such a matter. Therefore, that perspective of *maqasid* affects dealing with and interpreting some Qur'anic verses.

This paper will explore the issue of *maqasid* and its effect on understanding the Qur'an. To do so, the current research will focus on a famous modern exegete known for his valuable contribution to the field of objectives of shari'ah as well as to the field of Qur'anic interpretation. This well-known scholar is Muhammad al-Tahir bin Ashur, a Tunisian scholar born at 1879 and died at 1973 AD

The study will investigate how considering *maqasid* affects understanding of the Qur'an? And in what way Ibn Ashur was influenced by that? Moreover the study will show to what extent *maqasid* can affect the interpretation of the Qur'an.

To achieve that, the opinions of Ibn Ashur which are based on Objectives of Legislation will be highlighted, examined and compared with the opinions of other exegetes.

The division of the research will be as follows:

Introduction

1. Preface
2. Ibn Ashur and his Exegesis
3. Ibn Ashur on Maqasid; Theoretical Side
4. Ibn Ashur on Maqasid; Practical Side
 - 4.1. Highlighting General Qur'anic Objectives
 - 4.2. Reviewing the Command in the Light of Illustrating Advantages and Benefits of Legal Rulings
 - 4.3. Giving a New Fatwa
5. Conclusion

PREFACE

The definition of *Maqasid al-Shariah* that stated by Ibn Ashour is: "The meanings and insights observed by the Lawgiver in all or most cases of legislation". Other definitions by other scholars are mostly similar. For example, according to al-Raisuni, "al-maqasid" is "The goals that the Sharia has been established to achieve, for the benefit of the people".

The importance of maqasid comes from the fact that logic is very important in any philosophy or thought. According to the Qur'an, Allah has not created anything in the heavens and the earth in vain. In fact, it is stated in the Qur'an that the whole shar'ah is mercy. Moreover, Ibn Ashur agrees with al-Shatibi and others that *ahkam* of Allah, are to achieve *maslahah*. So, it is clear that the purpose of shari'ah is to achieve "interest" and prevent "harm". That means that every command in Islam should clearly contribute to that general purpose. Al-Shatibi states that all major and minor commands regardless their field or subject are not exempted from the purpose of achieving goodness for people. Regarding the history of maqasid, it can be said that concept of maqasid has been practiced throughout Islamic jurisprudential history. The term maqasid might not be used. however, many other concepts that have been closely linked to maqasid have been used such as the idea of public interests (*al-masalih al-ammah*)³⁹ and unrestricted interests (*al-masalih al-mursalah*),⁴⁰ juristic preference (*istihsan*) etc. Even "Analogy" which is frequently used by the majority of scholars, is not disconnected with maqasid.

Although, maqasid proves to be well-established field of shari'ah, has support in the Qur'an and Sunnah, and is agreed upon by Muslim scholars (modern and previous), maqasid-based ijtiḥad is not with no difficulties especially when it comes to a radical change in ahkam al-fiqh. This difficulty is highlighted by some scholars such as al-Jundi who admits that Maqasid can be "loose" "نفضاض". And therefore, scholars should benefit from maqasid in a moderate way "لا افراط ولا تفريط". Furthermore, the issue of uncertainty in determining maqasid is raised by some scholars. However, according to Auda still the maqasid approach is considered the most competent and appropriate approach comparing with other jurisprudential approaches. Because no approach is completely free from "uncertainty".

Ibn Ashur and his Exegesis

Muhammad al-Ṭāhir ibn 'Āshūr (d.1973), from Tunisia, was one of the most renowned scholars in recent time. He was shaiḫ of Jamī' al-Zaytounah and he held the position of the state Grand Mufti. He is considered one of reformists who influenced contemporary time. He is known for his distinguished status in Islamic sciences and his reformative effort to contemporary challenges.

Ibn Ashur, who is one of the students of the great reformist Muhammad Abduh, wrote a book in tafsir for which he chooses the title *al-Taḥrīr wa al-Tanwīr* (Liberation and Enlightenment). That title itself tells something about his approach. The introduction of the tafsir adds more explanations, that is, Ibn Ashur wants not to restrict himself to the sayings of previous exegetes and that he wants to deal directly with the language of the Qur'an. Clearly Ibn Ashur supports al-ijtiḥad in interpreting the Qur'an.

Furthermore, in his tafsir, ibn Ashur follows *maslahah*-based approach through which he reread the text of the Qur'an "in terms of the interests they achieve, rather than specific pre-conceived policies".

Ibn Ashur on Maqasid; Theoretical Side

Ibn Ashur is the one who has renewed 'ilm al-maqasid, revived the interest in it and regain its popularity, legitimacy and competence. Moreover, Ibn Ashur suggests that maqasid is to be an independent field of Islamic sciences, yet, to replace "usul al-fiqh".

Furthermore, Ibn Ashur "tried to remedy" some shortcomings in the field of maqasid such as the 'individuality drawback' (*al-fardiyyah*). He gives priority to 'societal' over 'individual' *maqasid*'. Additionally, the way of presenting

maqasid has been developed. For example, Ibn Ashur has used some new terms when establishing maqasid al-shari'ah such as, 'familial care' and 'al-umran'.

Perhaps the renewal reformative approach in the Qur'anic interpretation as advocated by Ibn 'Ashur is influenced by the school of thought which believes that the exegete should make use of situations and circumstances in which he/ she lives when understanding and interpreting the Qur'an. This particular approach revives the meanings of the Qur'an and allows minds to dive into the meanings of the Qur'an. This perspective of Ibn Ashur profoundly influenced his interpretation and allowed him to look freshly on the Qur'an, focus on contemporary needs, and elucidate its higher objective and purpose.

Moreover, Ibn Asur agrees with al-Shatibi and others that ahkam of Allah, are justified (معللة بالمصالح ودرء المفاسد). Ibn Taymiyah also insists that shari'ah is to achieve maslahah.

In fact, it is stated in the Qur'an that the whole shar'ah is mercy

So, it is clear that the purpose of shari'ah is to achieve "interest"/ "gain maslahah" and prevent "harm". That means that every command in Islam should clearly contribute to that general purpose. Al-Shatibi states that all major and minor commands regardless their field or subject are not exempted from the purpose of achieving goodness for people.

It should be noted here that scholars highlight an important issue which is differentiating between rules in *ibadat* and rules in *mu'amalat*. Rules in *ibadat* could be practiced with no need to know the exact justification of every single act in them. On the other hand, in the field of *mu'amalat*, scholars should understand and clarify the justification of each hukm. According to Ibn Ashur, the Ummah suffers from some difficulties because some scholars treat some transactional ahkam as if they belong to the field of *ibadat*. In other words, those scholars believe that there is no room for *ijtihad* in reassessing some ahkam. The point needs to be highlighted here is that it should be differentiated between *thabit* and *changeable*

Knowing maqasid helps to differentiate between that and to understand the Texts properly and to decide the intended meaning

Al-Shatibi highlights the issue of "ruh/ spirit" of the text. It is important to take the wording of the "text" and at the same time to look at the "spirit" deep meaning/ message of the text. Otherwise, shari'ah could have contradictions between its rules. In a similar approach, it is stated by some researchers that realization of maqasid plays a significant role in balancing text and context, i.e., harmonizing the context and the text.

It is clear that this approach, which is "to take the wording of the "text" and at the same time the "spirit", is the approach of Ibn Ashur. It can be said that Maqasid has recently come a long way in terms of theoretical study. However, in terms of implementation, it is clear that some Muslim scholars aspire to see more examples "or actually radical examples" of modern *ijtihad* and *tajdeed* in *ahkam al-fiqh* regarding benefiting from *maqasid*. Actually, it has been said that despite Ibn Ashur's contributions to the maqasid-based project of reform in the Islamic law, 'it was a project that has been left incomplete'.

Ibn Ashur on Maqasid; Practical Side:

This section can be divided into three categories to present clearly the influence of Maqasid on Ibn Ashur and his contribution to the field of Maqasid:

Highlighting General Qur'anic Objectives

This approach is related to what is called "Thematic exegesis" which means: the interpretation of the Qur'an based on consideration of a specific theme either in one *sūrah* or throughout the whole Qur'an.

In other words, this approach leads to linking together all Qur'anic directions and ideas. And that leads to a reading of the Qur'an as "unified text". The idea that the Qur'an should be treated as a unified text was an important influence on Qur'anic interpretation. Fazlur Rahman, a Pakistani-American modern professor, criticized early Muslims for their failure to 'understand the underlying unity of the Qur'an' and for their adoption of an 'atomistic approach'. with regard to verses related to rulings (*ayat al-ahkam*), this approach allows that these small number of verses "will extend from a few hundred verses to the entire text of the Qur'an. Chapters and verses addressing faith, prophets' stories, the hereafter, and nature, will then all comprise parts of a picture and, thus, play a role in shaping juridical rulings". Additionally, principles and moral values, which are the main themes behind the Qur'anic stories and sections on the hereafter will be highlighted and linked with the ahkam as the final goals behind these ahkam.

Clearly, we can see that Ibn Ashur determines the main themes of the Qur'an around which all verses revolve. In doing this, he, sometimes, establishes his own Qur'anic principles and highlights some new Qur'anic themes. He employs his excellence in maqasid to link between different verses that, according to him, serve the same goal. One of the examples that Ibn Ashur focuses on and refers to dozens of times throughout his interpretation is the issue of (*umran*). Ibn 'Ashur paid special attention to the issue of (*umran*), a term that expresses growth, urban

reformation, civilization, and prosperity. He mentions in the introduction of his tafsir that the issue of umran is important and it is one of the major objectives in the Qur'an.

Similarly, Ibn 'Ashur cares for the society; its development, reformation of its affairs, people's politics, public interest etc. In fact, he considers reforming and developing the globe as a religious requirement.

Throughout his tafsir, he gives a number of directions extracted from the verses of the Qur'an that lead to a civilized society. some of these examples are:

- in the verse: (And indeed, [appointed] over you are keepers; Noble and recording; They know whatever you do) [Q82: 10-12].

Ibn Ashur talks about documenting and preserving transactions in the community to facilitate people's affairs. So, the rights of individuals are not lost, and that results in less disagreement between individuals of the society and ultimately that leads to achieving safety and stability. Ibn Ashur adds: "it is derived from these verses that these four qualities are the most essential skills in every work for the Muslim nation; from governors to others. These four qualities are: trustworthiness, purity of the soul, preciseness, well-preservation.

In another verse which is

(But [insolently] they said, "Our Lord, lengthen the distance between our journeys," and wronged themselves, so We made them narrations and dispersed them in total dispersion. Indeed in that are signs for everyone patient and grateful) [Q34: 19].

According to Ibn Ashur, this verse has a clear indication that - paving and securing roads and facilitating transportation between countries, trading and importing goods from various places to meet people's needs and secure their livelihoods, all these are a divine blessing and a higher purpose of the Shariah that Allah loves for those whom Allah loves to bestow his mercy upon. For this reason, it is incumbent on the rulers to do their best to make every effort and using any means in making the country safe, guarding streets, easing travelling, and maintaining security all over the country. Moreover, spending public money and charity on these things should have the priority of the state since that is mercy for people which is included in the saying of the Prophet "Be merciful on the earth, and you will be shown mercy from Who is above the heavens".

In Another example we see that Ibn Ashur connects the Quranic command of devotion to one's parents with the "umran / civilization". He believes that the establishment of urbanization requires the relationships between family members to be well-built and solid, and that enhances love and compassion in the society.

Moreover, he says in interpreting one of the verses talking about charity [Al-A'raf: 95] that spending money on the needy contributes in building civilization and achieving economic welfare of the community.

What distinguishes Ibn Ashur's approach from that of others is that he deduces these points from verses that their contexts may not necessarily urge directly doing these matters.

This is how, according to Ibn 'Ashur, the Quran is not only a book of jurisprudence but a comprehensive and complete book that fulfills the interests of people.

It is clear that the concept of "umran / civilization" has occupied a significant place in Ibn 'Ashur's Quranic interpretation. Several articles have been written exclusively on this particular issue.

Reviewing the Command in the Light of Illustrating Advantages and Benefits of Legal Rulings

Manifesting the wisdom behind a legislation is amongst the matter that scholars place an importance. This approach aims to justify the legal rulings and explain their merits and benefits for people and society. Undoubtedly, such a justification substantiates the Shariah rulings and makes them more convincing and more logical.

In recent times, in the light of scientific development, many studies that discuss the wisdom behind certain rules have emerged. Mostly these studies do not focus on the *hukm* itself but rather on justifying the *hukm* and answering skeptics. Auda classifies them as "apologetic" and according to him, "Apologetic interpretations introduce 'sensible explanations' for traditional rulings that are thought to contradict 'reason' or 'acceptable behavior,' without entailing any change to the ruling itself on a practical level".

Ibn Ashur, however, although he justifies several Qur'anic rules, he sometimes, reevaluates some of the rulings. When justifying a *hukm*, Ibn Ashur benefits from modern philosophy and new scientific discoveries. So, he shows his extensive knowledge and understanding rather than just presenting a pre-established attitude. When he may not find a clear justification for the legal ruling, or he views it dissonant and inconsistent with the grace and ease of the Shariah, he would resort to link the ruling to a specific context so that the ruling may differ according to the context, circumstances, time, etc.

In Ibn Ashur' interpretation, there are many examples to show the beauty and wisdom of legislation. However, there are some examples in which Ibn Ashur faces a difficulty in justifying the ruling which caused him to relook at and reexamine the *hukm* and to reach a conclusion that the ruling is meant to be in a specific context for a specific situation.

One of these examples is in the Quranic verse [Q4:119] which says that (the Satan will command people so they will change the creation of Allah and whoever takes Satan as an ally instead of Allah has certainly sustained a clear loss).

Many exegetes mention in explaining this ayah the hadith of the Prophet which prohibits women from certain things such as to add hair extensions, to cleave their teeth, to tattoo themselves, to remove the hair of the eyebrows. However, Ibn 'Ashur asserts that these interpretations are problematic, he questions if such actions are actually part of changing Allah's creation that are meant in this Quranic injunction. He concludes that what the verse prohibits is the act of change done in obedience to Satan, i.e., in a way that the change is a sign of following the ways of Satan. It is implausible for every change to be so. Furthermore, he asserts that this prohibition is most likely to be a prohibition of signs connected with unchaste women or polytheistic women who were doing that at that time. This, according to Ibn Ashur, fits with the context of the Quranic verse and with the punishment mentioned in the hadith.

Thus, we see that Ibn 'Ashur does not just aim to justify the hukm, but rather he sometimes reexamines the hukm itself and relooks at its objective. Sometimes he comes up with a new ijihad.

In another example, which is considered as one of the most controversial issues in contemporary tafseer, which is (the issue of wife-beating) [Q4:34], we can see that Ibn Ashur presents it in a wise manner. He does not just accept the ruling and justify it. Rather, he considers first the purpose of the hukm. Ibn 'Ashur believes that this ruling is linked to the custom and environment of certain people. Ibn 'Ashur considers this ruling as one of the rulings which the Qur'an directs to some classes of people and tribes. He asserts that, not like some communities, the Bedouin people do not consider a such behavior as gruesome, nor do they see it as an aggression whether for their men or women. He concludes that the condition of this ruling to be applicable is to be in such an environment, otherwise it is neither permissible nor acceptable. Ibn 'Ashur here wants to preserve the language of the verse and at the same time, he gives an acceptable interpretation based on maqсад al-hukm and customs of societies.

Giving a New Fatwa

Sometimes Ibn Ashur present a fresh reasoning/ ijihad regarding some new matters that face people. An example of a unique fatwa can be found in a matter related to Hajj (pilgrimage) and it is mentioned in the interpretation of verse 37 from surah 22 which talks about sacrifices (ritual slaughter) during Hajj.

The verse says: (Their meat will not reach Allah, nor will their blood, but what reaches Him is piety from you. Thus have We subjected them to you that you may glorify Allah for that [to] which He has guided you; and give good tidings to the doers of good) [Q22:37].

It is known that during Hajj, many Muslims make sacrifice to what is called *al-badyi*, which could be either a ritual of Hajj or a *kaffarah* i.e., an expiation for some of the mistakes occurred during Hajj. Anyway, usually there is a huge number of sacrifices done during hajj season in Makkah for the reasons mentioned. And there is an excessive amount of meat that might be spoiled and not be of benefit.

Ibn Ashour issued a distinct fatwa that is based on the objective of the Shariah. Although he mentions that most scholars during his time did not even consider storing what exceeds the needs of people, Ibn 'Ashur allows the storage of meat to cater to the needs of the poor throughout the year. Not only that, but also Ibn 'Ashur did not see an impediment to some of the sacrificial animals to remain alive to be sold and benefited from their money to meet people's needs. This fatwa of Ibn Ashur is based on the objective of the Shariah, mainly that the whole issue of sacrifice is for people to benefit from.

He deduces this from the Quranic commandment and from the justification that comes after it. The Qur'an says: (And the camels and cattle We have appointed for you as among the symbols of Allah; for you therein is good. So mention the name of Allah upon them when lined up [for sacrifice]; and when they are [lifeless] on their sides, then eat from them and feed the needy and the beggar. Thus have We subjected them to you that you may be grateful. Their meat will not reach Allah, nor will their blood, but what reaches Him is piety from you. Thus have We subjected them to you that you may glorify Allah for that [to] which He has guided you; and give good tidings to the doers of good) [Q22:36-37].

Ibn 'Ashur strikes a balance between commandments of Allah and public interests, between the text and the goal. Ibn 'Ashur puts (مراعاة المقاصد) in mind when dealing with *fatwas*. He also criticizes jurists of his time for overlooking the objective of *ahkam*. it can be said that His fatwa was built upon the fulfillment of the objective behind the action; that if selling and preserving the meat is more beneficial to the people, then they are better. And doing so does not contradict being offered to the Kaabah since it is within the observance of the purposes of Shariah and avoidance of wastage of wealth.

This ijihad by Ibn 'Ashur is in line with his conviction that the science of maqasid makes Shariah capable of facing challenges and capable of adapting to social changes, economic and the likes.

CONCLUSION

The interest in *Maqasid al-Shari'ah* in recent decades has increased and become obvious in the field of contemporary Islamic studies. Some scholars such as Ibn Ashur pay considerable attention to the issue of *Maqasid* and this is reflected in Ibn Ashur's interpretation of the Qur'an. This research explores the concept of *maqasid* in Islamic studies in general. However, the main focus of this research is the influence of Objectives of Legislation on interpreting the Qur'an according to the exegesis of Ibn Ashur who is well-known in both fields; *maqasid* and exegesis. It is concluded that the issue of *maqasid* is highlighted and focused on in Ibn Ashur's work. That leads him to create a new term, such as civilization or welfare, to extract the purpose of some Qur'anic rules. Additionally, he justifies several legal rulings in the Qur'an. Sometimes he reexamines the *hukm* itself in the light of its objectives and reaches a new *ijtihad*.

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