MAQÂSHID AL-SYARÎ'AH AND HUMAN RIGHTS PROBLEMS
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Abstract: *Islam is a religion with a welfare orientation not only for Muslims but also for all humanity. Thus, a guide in Islam must certainly aim for good and benefit, and vice versa. However, several guidelines in Islam have clashed with various things including clashing with Human Rights, such as the application of Jizyah in an Islamic government is considered contrary to human rights, this is because Jizyah is only required for non-Muslims (kafir Dzimi) and not obliged by the Muslim community itself. Based on the background, this research aims to know, review, and explain how Sharia Maqashid as a method of Instinbath law such a response to human rights problems? This research used normative law research with the descriptive-analytical specification. The law materials used primary, secondary, and tertiary substances. The collection of law materials in this research pursued by conducting literature research and document studies. The main approach was taken by doctrinal. Based on the results of this study it can be concluded that between the Maqsidan and the realization of human rights (HAM) there is a close and inseparable relationship. The obligation of Jizyah for non-Muslims (kafir Dzimi) in an Islamic government is precisely a form of justice that does not contrary toward human rights, this because the obligation of Jizyah is a form of non-Muslim contributions (kafir Dzimi) as the obligation of zakat for Muslim communities towards an Islamic government. It can be concluded that both Muslims and non-Muslims (kafir Dzimi) should not be discriminated against in the government. Thus, this affirms that the guidance of Islam and human rights does not contradictory to one another if comprehensively studied with the Maqashid sharia approach.*
Key Word: Maqosid, fitrah, attitude

Introduction

Islam is a mercy religion that filled with instructions for achieving the happiness of the afterlife. All the instructions are contained in the main sources of law, namely the Qur'an and Sunnah. Nevertheless, all these instructions are not ready to be implemented. In certain issues, there are still basic messages that demand the ulama to make ijtihad. The problem of ijtihad in Islamic law is always interesting to be studied and researched, especially in this modern era whose lives are so rapidly growing and full of very innovative new things. Therefore, in dealing with this problem, interpretation and efforts to find the law and legal experts are highly demanded.

One of the studies that concern about the legal discovery effort is the study of maqāṣid Asy-syarī'ah. The issue of maqāṣid Asy-syarī'ah in the realm of thought on the ideas of fiqh has a very important role, although it is still being debated by ulama both classical and contemporary and is in the category of legal sources which are still in disagreement, the role is key in making breakthroughs in Islamic law or fiqh, therefore it is not surprising

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that the issue of maqāṣid Asy-syarī'ah continues to be an interesting issue to discussed around Islamic law reform studies. (Abdullah, 2011:91-92)

Islamic studies have been designed in such a way to always relevant in every place and time. Maybe some people ask, "What method does Islam use to achieve this? with the death of Prophet Muhammad, is the revelation from God has been disconnected? The text of the Quran and Sunnah is limited, how could be possible to answer the new problems that always arise? " This sequence of questions often confuses some circles. It even became one of the orientalists' ways to attack Islam.

In the first step to answering this question, Jalaluddin al-Suyuthi's opinion about the miracles of the Qur'an might be used as a reference. In his writing "al-Itqân fi Ulûm al-Qur'ân", al-Suyuthi said that the miracles of the Prophets were divided into two, sensory miracles (hissy), and mind miracles (aqly). The miracle of the Prophet Muhammad, in this regard, the Qur'an, is a miracle of the mind that will never fade as long as humans are still able to use it. Before moving on to the deeper discussion, I need to briefly explain the correlation between the explanation above with the discussion we will study this time.

Shari'a legislation is the main purpose of Revelation al-Quran to the Prophet Muhammad. But the limited number of verses requires us to know the Maqâshid Syarî'ah, to do a comparison between the new problems that are not expressly covered by the Qur'an, with the old and new problems that the law are clear in the verses of the Qur'an. This is where the discussion about the miracles of the Qur'an has great knowledge in revealing, discovering, and mastering the discussion about the Maqâshid Syarî'ah (al-Fasy, 2011:21).

Nowadays, human rights and democracy are important issues in nation and state life. A country that ignores human rights could certainly be subject to criticism by the international world, and it will also be alienated from international associations. Human rights, which are essentially moral and not political, became very important after World War II with the birth of the Universal Declaration of Human Rights (Deklarasi Universal Hak Asasi Manusia or DUHAM), on 10th December 1948, which was supported by most members of the United Nations. However, the implementation of human rights in many countries is still experiencing many obstacles, including in Muslim countries (Abdillah, 2014:375).

One of the guidelines of Islam which also an important issue in Islam state life is such as the application of Jizyah in an Islamic government which considered contrary to human rights because Jizyah is only required for non-Muslims (kafir Dzimi) and not obliged by the Muslim community itself. Based on such a reality as what is the guidance in an Islamic government is considered not in line with human rights, because it discriminates the treatment between Muslims and non-Muslims (Kafir Dzimi). Based on the background, this research aims to know, review, and explain how Sharia Maqashid as a method of istinbath law such a response to human rights problems?

Discussion
Definition and Urgency of Maqâshid Syarî'ah

Etymologically, the word maqâshid is a plural form of maqashid (al-masdar al-mîmy) which means purpose, or maqshad (ism al-makân) which

means the direction of purpose (Bayyah, 2006). The word is derived from the word qashd, which has many meanings, such as purpose, determination, and resurrection.   While the terminologically, al-Raisuny as far as his observations on the classical Fiqh literature, said that he did not find any concrete definition of Maqâshid, including Al-Muwâfaqât by al-Syathiby (al-Raisuny, 1995:17)   But nowadays, the definition can be found easily in various works of contemporary Muslim intellectuals, such as Allal al-Fasy who defines Maqâshid Syarî'ah as, "The purpose and wisdom of the Shari'a, following the secrets established by Allah in each of its laws."

The words "Purpose" in the definition above, refer to the universal goals (Al-Maqâshid al-Âmmah) desired by Allah in all or the majority of legislation process, such as making sharia as something that is prestige and obeyed in upholding justice among human beings. While the remainder refers to the purpose of sharia in certain conditions (al-Maqâshid al-Khâshshah), such as the purpose of realizing harmonious household rules, reconciliation of divorce to stop the prolonged Mudarat due to unharmonious relations, and so forth (al-Raisuny, 1995:20).

Before the Maqâshid Syarî'ah became a separate scientific discipline, the existence of the only knowledge (Malakah) in the Mujtahid. At this stage, Maqâshid Syarî'ah is still an embryo and has not yet had any specific terms as of today. Then after going through several phases of development, Maqâshid Syarî'ah finally became a new scientific discipline, although previously joined by the science of Ushul-fiqh (al-Raisuny, tt:267).

Maqâshid Syarî'ah has many urgency and privileges. For a mujtahid, this knowledge is very helpful in interacting with the sharia texts, both in the realm of the interpretation of the Quran and hadith. In this case, the Mujtahid will be facilitated to make ijtihad to the problems that do not have special texts from al-Qur'an and hadith. Besides, they are also facilitated in making Tarjih on propositions that seem contradictory, thus the results are aligned with the spirit of the Shari'ah and do not fall into stumbling.

This urgency underlying Abu Ishaq al-Syathibi makes an understanding of Maqâshid Syarî'ah's knowledge comprehensively as one of two criteria, which might be possessed by a mujtahid. In this case, al-Syathibi asserted that the level of ijtihad could only be reached by an ulama if it fulfilled two criteria: first, understanding the Maqâshid Syarî'ah comprehensively; second, the maturity in taking conclusions (istinbâth) from a law based on an understanding of the Maqâshid Syarî'ah (al-Syathiby, tt:1005-106)

There might be slight differences in attitudes regarding the difficulty of the ijtihad conditions that a mujtahid must fulfill. Some think of it as a wedge that shuts down the progress of Shari'a due to the difficulty of these conditions to be achieved, while the length of the prophetic period, a generation continues to experience scientific decadence. But according to the writer's opinion, precisely here lies the motivation for the student of the Islamic sciences, thus everyone speaks only according to their field and their degree. Moreover, it relates to Allah law.

Still about the benefits of Maqâshid Syarî ' ah that might be worthy of reflection, as well as to be applied, as explained by Abu Hamid al-Ghazali: (al-Syathiby, tt:105-106). "Knowing the motives of Shari'ah and principles of law can draw hearts on the peace naturally and quickly (enthusiastic)

because indeed the soul is more interested in receiving a logical and beneficial law rather than receiving the law provisions to run the bitter worship".

Maqâshid Syarî ' ah as Law Retrieval Resources

Essentially the main purpose of the law application is to maintain the benefit and avoid damage, both in the world and in the hereafter. All kinds of law cases both explicitly mentioned in the Qur'an and Sunnah, as well as produced through ijtihad, should refer to that purpose. In law cases that have been explicitly explained in the Qur'an and Sunnah, the benefit could be traced through the existing texts. If the benefit is explained, the benefit might be used as a measurement for the law determination. This kind of benefits are commonly referred to as Maslahah Mu'tabarah. Unlike if the benefit is not explained in the two human right resources, then the role of ijtihad becomes very important in finding the problems contained in the determination of the law. The search for the Maslahah by mujtahids is manifested in various methods of ijtihad. The diversity of ijtihad form has no other purpose except to find the Maslahah and make it as a tool to establish laws whose cases are not clearly stated in the Qur'an and Sunnah. Thus, it can be concluded that each method of determining the law used by the ulama of Ushul fiqh leads to maqāṣid Asy-syarīah. (Djamil, 1997:135).

If we often read and study the books of Fiqh or the fatwa collections, we will find such a close correlation between Maqâshid Syarî'ah and Mashâdir al-Tasyrî'. In this case, the role of Maqâshid Syarî'ah clearly could not be separated from the ijtihad process, because it is the spirit of Shari'a. Without the Maqâshid Syarî'ah, the sharia is like a lifeless body. The following excerpts from Maqâshid's experts regarding the position of Maqâshid Syarî'ah:

Shaykh 'Alal Al Fasi said: Maqashid Shari'ah is not external sources of law, then he asserted: the Shari'a is laws that contain goals and goals containing laws. Ahmad Araisuni said: Maqashid Syariah is not an additional proposition, but it is a proposition that always exists with the proposition, the proposition in every proposition and part of every proposition.

However, in its journey, the old-fashioned and radical nature some circles made the Maqâshid Syarî'ah neglected, because they consider Maqâshid Syarî'ah would potentially harm the sacredness of religious texts. Conversely, the pragmatic, selfish, and fond habits of the problem also make the other part of the community deify the Maslahah by ignoring the religious texts. To address this, the best step is to stand in the middle, to deliver the Maqâshid Syarî'ah and religious texts into a harmonious unity. This step certainly could not be pursued except after having a capable scientific provision, as well as throwing away the attitude of fanaticism and greed for sectarian interests.

Maqāṣid al-Syarī'ah is the final goal that might be realized by the application of Islamic law or sharia. The application of Shari'a in real life (the world), is to create the benefit or goodness of the creatures on earth, which then affect the benefit or goodness in the hereafter. Exploration of benefits by the mujtahids can be done through various methods of ijtihad. Basically, these methods lead to the discovery of "Maslahat", and make it as a tool to establish laws whose cases are not explicitly mentioned in the Qur'an and Sunnah. There are two methods of ijtihad that were developed by mujtahids

to explore and establish benefits. The two methods are: First the Ta'ilī method (substantive analysis method) which includes Qiyās and Istihsān. The two Istiṣlāhī methods (Method of Benefits Analysis) which include Al-maṣlahah al-Mursalah Danal-īarī'ah in both the categories of Sadd al-īarī'ah and Fathal-żarī'ah (Mutaqin, 2017:133).

The Division of Maqâshid Syarî‘ah Based on The Benefits

   Al-Juwainy was the first to classify the Maqâshid Syarî‘ah into five types. Sepeningal al-Juwainy, Al-Ghazali saw a common thread related to the classification made by al-Juwaini, so he then divided it into three parts: first, primary (al-dharûriyât), which is something that could not be completely ignored because it can cause destruction; second, secondary (al-hâjiyât), which is something that can cause narrowness and hardship in life if abandoned; third, tertiary (al-tahsîniyât), the additional needs (Al-Juwainy, 1979:939).

1.   **Al-Dharûriyât al-Khams**

      Al-Dharûriyât al-Khams is also called al-Kulliyât al-Khams. According to al-Bajury, this naming (naming al-Dharûriyāt al-Khams with al-Kulliyât al-Khams) in addition to the fact that all religious teachings require it, is also due to the many laws that branch off from al-Kulliyât al-Khams (Al-Bajuri, 2002:322) Until now, the discourse of al-Dharûriyât al-Khams publication is still warmly discussed and there has been no agreement among ulama regarding this issue. The difficulty of forming an agreement on this issue is none other than the difficulty of describing al-Kulliyat al-Khams to be suffced partly and sacrifice partly. Because in reality, all parts of al-Kulliyat al-Khams are Dharuriyyat which all must be exist. Therefore, the more precise sketch to explain this division is with a circular shape, not the order (Ali Jumu‘ah, 2010:93)

      Al-Syathiby and the majority of the ulama ranked al-Dharûriyât al-Khams as follows; Hifzhu al-din, Hifzhu al-Nafs, Hifzhu al-Nasl, Hifzhu al-mâl, and Hifzhu al-‘aql. Whereas Ali Jumu‘ah has other tendencies by sorting al-dharyriyât al-Khams into Hifzhu al-Nafs, Hifzhu al-‘aql, Hifzhu al-din, Hifzhu karāmah al-insân, and Hifzhu al-nāl, Hifzhu al-‘aql, Hifzhu al-din, Hifzhu karāmah al-insân, and Hifzhu al-māl or Hifzhu al-milk. The argument of Ali Jumu‘ah prioritizes Hifzhu al-Nafs and Hifzhu al-‘aql rather than Hifzhu al-din because religious preservation could not be carried out without preserving the soul and mind first because the mind is the main way of entering the burden of Shari'a (manâth al-taklîf). (Ali Jumu‘ah, 2010:46-72)

2.   **Al-Mashlahah al-Mursalah**

      Maqâshid Syarî‘ah has a close correlation with al-Mashlahah al-Mursalah because Maqâshid Syarî‘ah is circulating on the axis of Jalb al-mashâlih Wa dâr’u al-mafâsid. Al-Mashlahah al-Mursalah or istishlâh (a special designation from Imam al-Ghazali) is one of three types of Maslahah. Al-Qarafi explained that mashâlih, if viewed from the aspect of its validity sharply, then it is divided into three; first, the benefit of the Shari'a legitimacy; second, benefits that are not legitimized by the Shari'a; third, there is no statement of sharia regarding either legitimacy or delegitimation. This is what is called al-Mashlahah al-Mursalah which in the Maliki madhhab was made as a Hujah.

Speaking of the arguments from al-Mashlahah al-Mursalah, there are differences between classical ulama in addressing this problem. However, the difference collapsed after Imam al-Qarafi stated by saying, "If we examine more deeply, in truth al-Mashlahah al-Mursalah applies to all madhhab.." This statement was agreed by al-Zarkasyi (al-Zarkasyi, 1992:77) and contemporary scholars such as Ramadan al-Buthi. (al-Buthi, 2009:419).

Mashlahat Identification Methodology (restrictions)

Some people who feel uncomfortable with Islam often make superficial and complicated statements that the ulama are considered to monopolize religious issues by issuing a fatwa as they wish. Such expressions are certainly very unfounded. Even if there is a basis, the basis on which to base is wrong. Islam essentially provides a space for anyone to understand religious issues, but it must be following with their respective capacities.

Izzuddin Abdussalam gave a concrete answer about this problem as follows: 1) if the related problem is Maslahat and Mafsadat related to the afterlife and the instructions, then it can only be known by the Shari'a. However, because they are only written texts, someone who could understand them is needed. This is where the fields and the work of the mujtahid to migrate and explain it to the people. 2) The Maslahat or Mafsadat related to worldly problems can be determined through experiments, habits, and strong allegations. (Abdussalam, tt:13) From this, we can know that anyone has the right to play a role in understanding religious texts as long as they have a capable capacity and appropriate to their skills.

Umar bin Khatthab and Allegations of Nas Neglect

There is no doubt that Umar bin Khattab is one of the best mujtahids Islam has ever had. Umar's opinions and decisions in several laws reflect his brilliant, progressive, and open-ended mindset. However, this attitude made some sides accuse Umar as one of the figures who ignored the Nas for the sake of benefit.

Among some of Umar's opinions were made the foundation of this accusation of Umar's policy does not include converts as part of the recipient of zakat because it is seen as not producing more benefits. Besides, Umar's decision to not execute an adulterous woman even though he is known as the one who striving for the application of the stoning law when some people assume that stoning is not prescribed because it is not mentioned in the Qur'an would be another foundation of the allegations.

To get an answer for the problem above, the reader can directly refer to several authoritative references such as "Manhaj ' Umar ibn al-Khaththâb fi al-Tasyrî" by Muhammad Baltaji, or "Dirâsât fi Fiqhi Maqâshid al-Syarî ' ah" by Yusuf al-Qardhawi. To shorten the discussion, the author only suffice with the conclusion of Muhammad Baltaji stating the followi (Baltaji, 2006:390). From those cases, we hardly find the sharpness that does not refer to the general poverty, and if in a case has specific evidence Umar is committed to making it happen in a way that still manifests Mashlahat. Because a leader if only realized what he thinks Mashlahat but ignores the evidence texts intentionally then he has not been said to have executed the command according to the sharia.

Najmuddin al-Thufi and his controversial opinion

Another thing that is often used as a reference by "worshipers of Maslahat" is the statement of Najmuddin al-Thufi (716 H), one of the charismatic figures of the Hanbali madhab, as follows: (al-Thufi, tt:356). From these nineteen postulates, the most powerful evidence is the text and Ijma ', then both of them are likely to be in line with Mashlahat if it is the best, but can also be disputed then the obligatory to put forward Mashlahat utilizing Takhshis (specialization) and interpretation of both, not by ignoring both.

By birth, the editorial statement above indicates that al-Thufi prefers Maslahah if there is a conflict between the meanings of the Nas in birth with the agreement of the ulama. Prioritizing benefits, in this case, could be done through takhsîsh or bayân, not Nasakh. But the reality on the field turns out to be different. From the arguments and examples presented by al-Thufi practically, he wants Nasakh, not Takhshis. Although the two things are different.

Perhaps this is the background of the differences between the attitude of some ulama regarding al-Thufi true intentions. Ramadan al-Buthi, for example, claimed al-Thufi had been out of the ulama agreement (al-Buthi, 2009:216). On the other hand, Yusuf al-Qaradawi believes that the above statement to al-Thufi is less precise. Nevertheless, they both agreed that there is the clash between the Maslahat with the Nash and Ijmak thus impossible to abide by one of them. One reason is that the benefit itself is sourced from the text, and each text has the benefit. Therefore, taking one of them by removing the other, is the same as oranges eating oranges".

Maqâshid al-Syarî‘ah and the Concept of Upholding Human Rights

In Sura al-Isrâ ' vv. 70 Allah said, "And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference." The prophet also said, "None of you will have perfect faith till he loves his (Muslim) brother as he loves himself."

This is the first time human beings feel the essence of humanity, after having disappeared from the tyranny of the rulers of the time. The realization began to grow after a few moments of the descent of the Quran, which the prophet finally declared at the first "Congress" of human rights in the history of mankind (Muhammad, 2000:9-10). Precisely on Haji Wada, where Rasulullah SAW spoke less than 100 thousand humans. One of the contents of the speech is as follows: "Truly your God is one, your father is one, all of you are from Adam and Adam from the earth, the noblest on the side of Allah is the most righteous, and there is no superiority of the Arabs over non-Arabs except with god-fearing. Indeed Riba, life, revenge of ignorance are abolished and so on".

If there is a discussion about human rights, we could not help but touch the issue of freedom and justice. This assumption is reinforced by its existence as root as well as the core of human rights itself. Freedom is the dream of every human being, in addition to being a source of progress and success. In this case, Thahir ibn Asyur stated Muhammad al-Thahir ibn Asyur, 2010; 152-153. Indeed, freedom is a place in human beings in which

there is human energy, such as thinking, saying, and charity, and the freedom of liberty will bring a candor to always work.

But we also cannot deny that humans also have a negative bias by often being selfish, and never feeling satisfied, so that it always leads to discriminatory actions against the rights and freedoms of others. It would not be imagined how it would be if humans were left free to obey their passions without any binding rules. This is where the function of the Shari'a is revealed. The Shari'a was revealed not to support freedom but was used as a regulator of human nature and human instincts (Syaltut, 1971: 409- 411). Sharia teaches and directs human toward ultimate happiness, both in the world and the Hereafter.

A concrete example to explain this is a matter of biological necessity. This need, without being denied by anyone, is a natural need that is owned by all mankind. If this need is eliminated, there will be damage to humans. Conversely, if this need is left without rules, it will certainly lead to greater damage which is also unavoidable. The Shari'a comes to regulate, demand, and show humans how to meet this basic need in order not to inflict damage.

Before proposing the concept offered to regulate human rights, Islam first underlies the concept by implanting the value of faith in God, thus every Muslim will feel a point of similarity when interacting with other creatures of God, in the values of obedience to God. This is what will make people aware, so they are encouraged not to misbehave to other creatures of God, especially to humans whom Allah has crowned as caliphate on earth.

After we know the basic concepts above, then we turn to the discussion of concepts offered by Islam through the following example:
We take the example of the concept of Maqâshid al-Syarî'ah on human freedom to have a property and enrich themselves. In the economic world, we know the capitalist economic system, where the capital owner can freely control the market without any government intervention. With this situation, the rich will get richer, and the poor will be increasingly poor. On the other hand, on the socialist economic system, governments are interfering with the market, with the reason to prevent social gaps among economic actors. This method proved to fail as well because the people seize the rights of economic actors to enrich themselves.

Here we can see how Islam comes with a very ideal concept. With the Sharia economy, market participants are given the freedom to reap maximum profit after being asked to comply with the rules of law. After that, to maintain the harmony of community lifestyle, the Sharia economic system provides several solutions, such as requiring zakat, advocating waqf, grants, and so forth.

Now, how do people want to run those rules? The answer is to continue cultivating the foundation of the faith earlier. But don't other religions also implanted their adherents to the meaning of faith? Yes, right! Maybe they even have the same goal. But the foundations and objectives alone are not enough, still, need a mature concept and in line with human beings. Herein lies the advantages of Sharia economic system.

Maqashid al-Syariah and Human Rights Enforcement; Jizyah for Example

The obligation to pay jizyah which is only imposed on Ahlu Dzimmah has drawn a lot of protests from those who "do not like" towards Islam. Islam is accused of discrimination against citizens just because a different religion.

Answering this accusation is very easy. If they want to further analyze this problem, they will easily find out that any government system needs a source of funding to fund its programs that are planned for the benefit of the nation and the state. Well, that also happens in the Islamic government system. In this regard, al-Juwaini once stated (Al-Juwaini, tt: 179).

> So if it is clear that the leader could be strong with the army then there might be a strong preparation of funds.

In the Islamic concept, many things are used as sources of funding, whether it is no regular such as Ganimah, treasure, etc, or regular such as zakat, al-Kharaj, jizyah, and al-'usyûr.

In the application, the Islamic government requires payment of jizyah only to Ahlu Dzimmah, because on the other hand, Islam requires zakat only to Muslims. From this, we can see how Islam seeks to invite all elements of society without looking at differences in beliefs to work together and work together to build the country.

The Role of Maqâshid al-Syarî·ah in Combating Western Human Rights Hegemony

On 10th December 1948, the General Assembly of the United Nations declared a general statement of human rights (Universal Declaration of Human Rights). This declaration is one of the world's responses to humanitarian crimes committed by Nazi Germany during World War II. In this declaration, 30 articles were set out which outlined the views of the UN General Assembly regarding the guarantee of human rights for every individual in the international community. Before responding to this, we need to reiterate that Islam never closes a blind eye to anything useful, even though it comes from outside of Islam. A concrete example is how the Prophet accepted Salman al-Farisi's proposal to make the ditch as a fortress of Muslims' defense during the war of Ahzab. Furthermore, Ali ibn Abi Talib also asserted that wisdom is a lost item from a believer. Therefore, where he found the item, he had the right to take it.

The UN declaration, according to the author, is one of the wisdom that Muslims can take, although there are still some things that need to be straightened. In response to the UN declaration, at the XIX Islamic Conference Organization (ICO) congress which was attended by several foreign ministers from ICO member states issued a general statement related to human rights (Islamic Declaration of Human Rights) in Tehran in 1989 (al-Hilali, 2010: 404).

There are several points of intersection between the two declarations as detailed by the Wahbah al-Zuhaily. First, the right to freedom of action and behavior, to prohibit the restriction of abuse and humiliation of human dignity, and to prohibits the hostage of man. Second, freedom of expression and opinion. Third, the rights and freedoms to get security and not get pressured due to Aqidah problems. Fourth, freedom to form peaceful associations. Fifth, the right to participate in trade unions. Sixth, the right to rest and enjoy the day off. (al-Zuhaily, 2005: 34-35).

Conclusion

Based on the discussion that the author can convey in this short paper, it can be concluded that the obligation of Jizyah for non-Muslims (kafir

Dzimi) in an Islamic government is a form of justice that is not contrary to human rights, this because Jizyah obligation is a form of non-Muslim contributions (kafir Dzimi)) as the obligation of zakat for Muslim communities towards an Islamic government. Thus, both Muslims and non-Muslims (kafir Dzimi) should not be discriminated against in the government. This affirms that the guidance of Islam and human rights does not contradictory with one another if it is comprehensively studied with the Maqashid sharia approach.

Before ending, there are a few things that the author considers important to re-emphasize the author at the end of this paper. First, the science of Maqâshid al-Syarî'ah is comprehensive. Therefore, if we want to learn it, we should be willing to spend enough time to deepen the problems that exist in it. Secondly, regarding the attitude of Islam to human beings, Islam comes neither to muzzle, nor ignore it, but Islam came to teach, as well as directing to the path that corresponds to the human way itself, as well as for the benefit of humans themselves. Third, concerning human rights, Islam not only merely talks about foundations and goals but also offers concrete concepts to realize the objectives of the Shari'a. Herein lies the main difference between the Islamic version of human rights and the western version of human rights. Fourth, Islam teaches us to be objective in looking at things, because true wisdom is the lost goods that we can find from anyone. Wallâhu ta'âlâ a'lâ wa a'lam

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