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IBNU ‘ASYUR’S MAQASHIDI INTERPRETATION PARADIGM AND ITS MODERATION IN EQUALITY DISCOURSES¹***Paradigma Interpretasi Maqashidi Ibnu ‘Asyur dan Kesederhanaannya dalam Wacana Persamaan***Halya Millati^a^aState Islamic University Sunan Ampel Surabaya

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Abstract

This article aims to describe the paradigm of *maqashidi* interpretation applied by Ibnu ‘Asyur in gender verses exegesis, with the focus discussions on patriarchal culture, *jilbab shar’i*, polygamy, and *nushuz*. It also describes the interpretation position among liberal and conservative interpreters which refer to Amina Wadud, Nasr Hamid Abu Zaid, Fatimah Mernissi, ‘Ali al-Sabuni, and al-Mutawalli al-Sha’rawi. This library research finds that Ibnu ‘Asyur applied *maqashid masalahah, sadd al-dhari’ah*, family law, and *maqashid* universality of Islamic law which is dominates in this exegesis, proved by his culture-friendly interpretation. In the meantime, there are three responses from Ibnu ‘Asyur. *The first*, he agreed with conservative interpreters and contradicted with liberal interpreters on the patriarchal culture and polygamy issues. *Secondly*, he contradicted with conservative and liberal interpreters on *jilbab shar’i* issue. *Thirdly*, he contradicted with liberal interpreters and didn’t fully agree with conservative interpreters on the issue of legality hitting wife at *nushuz*. Culture-friendly interpretation can be a mediator for contradictions of two paradigms above.

Keywords: Gender, Ibnu ‘Asyur, Maqashidi interpretation.

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الملخص

تهدف هذه المقالة إلى وصف نموذج تفسير المقاصدي الذي طبقه ابن عاشور في تفسير الآيات الجنسية مع التركيز على المناقشات حول الثقافة الأبوية ، والحجاب الشرعي ، وتعدد الزوجات ، والنشوز. كما يصف موقف التفسير بين المفسرين الليبراليين والمحافظين الذين يشيرون إلى أمينة ودود ، ونصر حامد أبو زيد ، وفاطمة مرنيسي ، وعلي الصابوني ، والمتولي الشعراوي. توصل هذه البحث المكتبتية إلى أن ابن عاشور يطبق مقاصد المصلحة ، وسد الذريعة ، وقانون الأسرة ، ومقاصد عموم الشريعة الإسلامية السائدة في هذا التفسير الذي أثبتته تفسيره الصديق للثقافة. ومع ذلك، هناك ثلاثة أجوبة من ابن عاشور. الأول ، اتفق مع المفسرين المحافظين وتناقض مع المفسرين الليبراليين حول الثقافة الأبوية وقضايا تعدد الزوجات. ثانيًا ، تناقض مع المفسرين المحافظين والليبراليين في قضية الحجاب الشرعي. ثالثًا ، تناقض مع المفسرين الليبراليين ولم يوافق تمامًا مع المفسرين المحافظين بشأن قضية ضرب الزوجة الشرعية في نشوز. يمكن أن يكون التفسير الصديق للثقافة وسيطًا لتناقضات نموذجين أعلاه.

كلمات مفتاحية: الجنس ، ابن عاشور ، التفسير المقاصدي.

Introduction

Stretching debate over gender issues among Islamic thinkers is rife since the late 20th century to the present. This is because the one of them triggered by disagreement between conservative and liberal groups. One group interprets the Quran textually, partially, and doesn't compromise contemporary issues. Meanwhile, each group is very sensitive to traditionalist interpretations, ambitious towards the spirit of freedom, so that sometimes they don't fully consider the *maslahah*. One of textual gender thinkers is al-Mutawalli al-Sha'rawi (1911-1998). In his interpretation, he explicitly claims that jilbab is the only one way to protect women's dignity and there is no absolute justice to be used as an excuse for the legality of opening jilbab (Al-Sha'rawi, n.d.). Another case with liberal *mufasssir*, the Afro-American descendant, Amina Wadud Muhsin (1952), has the antipathy with textual thinking. In issue of jilbab, she rejected Arab fashion model, because according to her, it distorted women's movements (Huda 2013).

The debate eventually led to various problems related to how Islam actually applied polygamy verses, *jilbab*, patriarchy, and other issues of gender in various regions that have diverse customs with no element of restraint or overreaching. Traditionalist

interpretations can rarely be applied to the scope of a minority Islamic state or even a democratic country that is predominantly Muslim. Likewise, the liberal interpretation cannot fill the needs of Muslim major community or the community whom don't adhere to the matriarchal system.

As a solution, *al-Tahrir wa al-Tanwir* written by Ibnu 'Asyur (1879-1973) can be considered as an intermediary in the problems above. The interpretation that applies *maqashid al-shari'ah* as the paradigm of its interpretation turns out to have a more flexible meaning of gender verses. For example, about jilbab (Al-Ahzab: 59), it doesn't directly require its absolute use. Ibnu 'Asyur compromised the obligation to wear jilbab with customs that differed in each region. So, as long as the women's clothing mode in the area is still within the bounds of decency, even without wearing jilbab as in the Arabic, it is considered to fulfill the purpose of the verse. (M. T. bin 'Asyur 1984)

Lately, *maqashidi* paradigm is loved by Quranic and exegesis scholar. Various studies has been carried out, including *maqashidi* interpretation as a paradigm of interpretation (Mustaqim 2007), (Abu Zaid 2013), (Mufti 2017), and (Kusmana 2018), its application in religious moderation (Mustaqim 2019), ecology verses (Ahmad 2015).

This rising study of *maqashidi* interpretation doesn't escape the *maqashid* theory of Ibn 'Asyur, a pioneer of contemporary *maqashid* with a variety of features it offers (Mawardi 2010). He also elaborated his *maqashid* theory on his tafsir book, *al-Tahrir wa al-Tanwir*. It can be seen from research oriented to the interpretation of ibn 'Asyur, including *Maqashidi's* interpretation as an approach in Ibn 'Asyur's interpretation (Mufidah 2013) and Interpretation of *Hifz al-Din* verses in the Interpretation of Ibn 'Asyur (Zahro' 2018). Meanwhile, in the gender issue, only a thesis was found about Ibn 'Asyur's perspective of polygamy (Haryati 2017), which didn't analyze the *maqashidi* paradigm specifically, whereas the *maqashid sharia* was the basis for culture-friendly interpretation of Ibn 'Asyur's interpretation in gender verses (Auda 2007). Therefore, this research focuses on gender scope more broadly, by taking terms of polygamy (M. T. bin 'Asyur 1984), *nushuz*, patriarchal culture (M. T. bin 'Asyur 1984), and jilbab (M. T. bin 'Asyur 1984), because *maqashid* universality of Islamic law dominates in it. Thus, it will bring out a gender-friendly interpretation, moderate, and upholding the *maslahah*, as *maqashid al-shari'ah's* main vision itself is to *jalb al-masalih wa dar' al-mafasid* (realize the benefit and eliminate the damage). On that basis, this study intends to seek a moderate view as well as a solitary critique of the contradictions of the thoughts of liberal and conservative figures, whom in this case consider the thoughts of Amina Wadud, Fatimah Mernissi, Nasr Hamid Abu Zaid (1943-2010), al-Mutawalli al-Sha'rawi (1911-1998), and 'Ali al-Sabuni (1930). This

maqashidi interpretation paradigm of Ibnu ‘Asyur is expected to be able to intermediate two thoughts that have contradictions before.

Methods and Materials

This article uses a descriptive method, by highlighting two variables, namely narrating how the implementation of the *maqashidi* interpretation paradigm by Ibn ‘Asyur in interpreting gender verses and how Ibn Asyur's interpretation moderates liberal and conservative interpretations. To represent a liberal interpretation, the gender thoughts of Amina Wadud, Fatimah Mernissi, and Nashr Hamid Abu Zayd are displayed, while the conservative interpretation is presented by al-Mutawalli al-Sha'rawi and ‘Ali al-Shabuni. In addition, the thematic approach is also used to counter verses of gender relations in the Quran, which will be the object of this research, namely polygamy, disharmonies in the household (*nushuz*), patriarchal culture, and jilbab *syar'i*.

The sources used in this article are library based. *Tafsir al-Tahrir wa al-Tanwir* and *Maqasid al-Shari'ah al-Islamiyyah* are the primary sources, to answer how the *maqashidi* paradigm works in Ibn ‘Asyur's interpretation of the gender verses, and that custom-friendly nuance dominates in this interpretation. Meanwhile, to answer the second variable, the literatures used are books, articles, and other research related to those two contradictory thoughts, then those are compared with Ibn ‘Asyur's thoughts. The literatures include; *Tafsir Rawa'i' 'al-Bayan fi Tafsir al-Ahkam* by al-Sabuni, *al-Mar'ah fi al-Qur'an* by al-Sha'rawi, *the Quran and Women* by Amina Wadud, etc.

The Geneology of *Maqashidi* Interpretation Paradigm

The existence of *maqashid al-shari'ah* as a method of extracting law in contemporary issues necessitates the birth of interpretations of the legal verses patterned in *maqashidi*. The intersection of *maqashid* with the interpretation of the Quran is because both have almost the same tendency. *Maqashid* simply, is an effort to preserve the universal messages of the Quran so that it can always answer diverse community problems. Whereas, the interpretation of the Quran is a methodological device that serves to interpret messages in the Quran in order to provide guidance to humans (Kusmana 2018). So, if *maqashid* today, being a methodology, of course it can be elaborated in the realm of Quranic interpretation as a more flexible approach.

According to Abdul Mustaqim, the *maqashidi* paradigm in the realm of interpretation starts from a criticism of *nuzul al-Qur'an* theory which is considered irrelevant. *Firstly, al-'ibrah bi 'umum al-lafzi la bi al-khusus al-sabab*, which results in the understanding of the text based solely on the textual-linguistic analysis of the redaction, so that it can neglect the *hikmah al-tashri'* contained in it (Shihab 2015). Whereas the second opinion, namely *al-'ibrah bi al-khusus al-sabab la bi 'umum al-*

lafdzi, sets the understanding of the text based on the specificity of causes, thus distorting the application of the verse to the current context (Zahro' 2018). Meanwhile, to contextualize it must be through *qiyas* (consensus of ulama) (Al-Zarqani 1995), and therefore, it will result in rigid interpretations, because it has the potential to be trapped by very strict conditions. As a solution to the criticism, a new theory finally emerged, namely *al-'ibrah bi maqashid al-shari'ah*, as a creative synthesis of both. (Mustaqim 2007)

Maqashid as paradigm of interpretation then called *maqashidi interpretation*. According to al-Thaqafi, al-Atrash and Qaid, *maqasidi* interpretation is the style of interpretation oriented to the expression of meaning and purpose in the Quran, both universally and partially applicable, and explaining the efforts to realize the benefit of the people inside it (Abu Zaid 2013); (Mufti 2017); (al-Atrash 2011). Thus, *maqashidi* interpretation can be categorized as part of *bi al-ra'yi* interpretation style, which is built on the sources of '*aqli* and *naqli*, and extends reason validation, either using rational measurements or empirical sources.

The *maqashidi* interpretation approach can be traced from various studies including the dissertation of the university of Muhammad V by Nur al-Din Qirat}, entitled *al-Tafsir al-Maqashidi 'inda 'Ulama' al-Maghribi*. Also, a professor from *Qarawiyyun* University, Jalal al-Marini presents a discussion around the *maqashidi* interpretation specifically in a book entitled *Dawabit al-Tafsir al-Maqashidi li al-Qur'an al-Karim* and Hasan Yasfu', a senior lecturer at the Oujda University Morocco also has a book entitled *al-Murtakazat al-Maqashidiyyah fi Tafsir al-Nass al-Din*. (Umayah 2016)

In order to popularize the *maqashidi* interpretation paradigm, many academics, intellectuals, and the community of Moroccan scholars worked together to hold an international scientific symposium at *al-Balagh al-Thaqafi* University, Oujda, from 18th to 20th April 2007, with the theme *al-Qira'at al-Jadidah li al-Qur'an al-Karim*. This event intensely discuss about the *maqashidi* interpretation approach (Umayah 2016), and from this, the *maqashidi* interpretation began to be known throughout the world.

The *maqashidi* interpretation approach began to be loved by modern-day interpreters, which included Muhammad 'Abduh, Rashid Rida, and Ibnu 'Asyur. The interpretations of that three interpreters can be said as representations of *maqashidi* interpretation style, starting from the application *maqashid* which is simple and only includes certain terms until the *maqashid* theory which more up-to-date and comprehensive.

Muh}ammad ‘Abduh (1848-1905) has a peculiarity in the paradigm of his interpretation in the form of rationalization of religion with expediency. Although he doesn’t have an independent building related to *Usul Fiqh* theory, he does consider the principle of benefit in formulating a text. Meanwhile, the principle of benefit that becomes the point of consideration has several forms, namely *istishlah*,² *istishab*,³ and *istihsan*.⁴ These three terminologies in the *Usul Fiqh* field, become part of reason performance, which in the process of achieving it, requires the role *maqashid* as a consideration.

The basis of ‘Abduh’s benefit-based rational thinking was then passed on by Rashid Rida. Rida formulates *maslahah* for seven considerations. *Firstly*, tracing the pure form of Islam in the Quran, *hadith* and consensus of the companions. *Secondly*, positioning the Quran as the main tendency of Islam. *Thirdly*, the *hadith* of the prophet relating to *‘ubdiyyah* is static, while the others are dynamic. *Fourthly*, as a consequence of the issue regarding worship, God has perfected it, so that it must not be changed at any time. While *muamalat*, God only mentions its basic principles, so that humans must always develop themselves, in accordance with the dynamics of the times. *Fifthly*, prioritize deliberation to solve worldly problems (Rida 2008). *Sixthly*, secularization of Islamic law is not legalized because of the principle of universality for every custom and tradition *seventhly*, consensus other than friends cannot be used as a basis, because it tends to be wrong in concluding the law. (Kusmana 2018).

After Rida, in Tunisia Ibnu ‘Asyur appeared. There are many contributions from Ibnu ‘Asyur in developing *maqashid al-shari’ah*. He dialogues *maqashid* in objectives, results, and frameworks that are far different from those of his predecessors, who generally positioned *maqashid* as scientific devices in uncovering wisdom in the law. (Kusmana 2018). Ibnu ‘Asyur formulates *maqashidi* interpretations as a science that is used to explore the meaning in the Quranic text and whatever is derived from the text, either in a concise or detailed manner, in order to achieve religious goals which are intended to be revealed. The nature of the interpretation as a science to explore God’s message so that it can be understood by humans and provide guidance on problems faced must have rational and objective methods, principles, and paradigms. Herein lays the construction of Ibnu ‘Asyur’s thoughts in interpreting the Quran. He approached the Quranic text by using a rational approach. (M. T. bin ‘Asyur 1984)

²*Maslahah* is a problem which has no legitimacy from shara’ or there is no syllable that shows its enactment or not. (Khalaf, n.d.)

³*Istishab* is perpetuating the legitimacy of the existing law, until the argument appears to change it. (Khalaf, n.d.)

⁴*Istihsan* is choose *qiyas khafi* and leave *qiyas jali*, or prioritize minority law over majority law, because of consideration of expediency. (Khalaf, n.d.)

Maqashidi approach that dominates from the three interpreters above shows that the *maqashid al-shari'a* has become their paradigm in interpreting the Quran. And the enrichment of the *maqashid* features initiated by Ibn 'Asyur as will be explained in the next sub-chapter is the shifting point of his *maqashid* paradigm with Abduh and Ridha.

Ibnu 'Asyur and the Sketch of His Interpretation

His full name is Muhammad al-Tahir bin Muhammad bin Muhammad Tahir bin Muhammad bin Muhammad al-Shadhili bin 'Abd al-Qadir bin Muhammad bin 'Asyur. Nicknamed Ibnu 'Asyur because he came from the tribe of 'Asyuriyyah, Andalusia.⁵ His predecessors migrated to the city of Sala, Morocco in 1620 AD, and in 1648 AD headed to Tunisia to avoid the attack of the Crusaders, escorted by Abu 'abd Allah Muhammad bin 'Asyur al-Hasani. Then, in Tunisia, Ibnu 'Asyur was born from the couple Muhammad bin 'Asyur and Fatimah binti Muhammad 'Aziz al-Bu'atur, on the southern coast of La Marsa Beach, in 1879 AD.

Life in a scholar's family and influential figures makes the learning climate good for Ibnu 'Asyur. Therefore, it is not surprised; he had memorized the Quran of the holy books at the age of six years (Zahro' 2018).⁶ Before entering adolescence, he studied with his father and grandfather. The grandfather of mother's path was famous as the prime minister, while his grandfather from father's path was famous as a 19th-century charismatic religious figure. He is an expert in the literature field, *fiqh*, and grammatical Arabic, while holding the position of *naqib al-ashraf*,⁷ teacher, and *mufti madhhab Maliki*. (Arnold H. Green 1982)

Ibnu 'Asyur is the third pillar of *maqashidiyyun* figures after al-Ghazali and al-Shatibi, which has succeeded in contemporary zing *maqashid* as an independent scientific discipline and striving *maqashid* as a more systematic approach to the interpretation of the Quran. To make his vision successful, he offers a paradigm that can bridge two currents of contradictory thinking. He realized that there were two currents of thought in addressing the thoughts of previous scholars. One is totally guided by supporting

⁵ *Asyuriyyah* is a clan of Ibnu 'Asyur's great-grandmother who was born in Morocco, after his father migrated from Andalusia. His great-grandson then had a child named Muhammad Tahir bin 'Asyur (1230 AD). (Al-Ghali 1996)

⁶ According to al-Ghali, Ibnu 'Asyur memorized the Quran by studying with Muhammad Khiyari at the mosque next to his residence (Al-Ghali 1996). Among the basic books that he had memorized were *al-Ajrumiyyah* and *Risalah Qatr al-Nada*, which was taught by Khalid al-Azhari. (Khaujah 2004)

⁷ *Naqib al-Ashraf* is a governmental position of *Daulah 'Uthmaniyyah* who served as the supervisory body of the descendants of the Prophet Muhammad. (Winter 2003)

the opinions of previous scholars, while others are trying to deconstruct that thought. On the basis of his anxiety, Ibnu ‘Asyur tried to find a middle ground between the two contradictory thinking, by taking the thoughts of the previous ulama, taking its *maqashid*, then developing it (M. T. bin ‘Asyur 1984). Its reconstruction in the field of interpretation can be traced to the interpretation of *al-Tahrir wa al-Tanwir*.

Methodologically, based on al-Farmawi’s categorization of Ibnu ‘Asyur’s works is included in the category *tahlili Itnabi*, because it is structured based on *tartib mushafi* with complex interpretation and comprehensive (Al-Farmawi 1996). Meanwhile, this interpretation is patterned *lughawi al-adabi al-ijtima’i* (language, grammatical Arabic, and social). The interpreter focuses on the explanation of the Quranic texts in terms of their accurate editorials, then compiles the content of the verses in a beautiful redaction (*adabi*), by highlighting the main purpose of the Quran, which is a guide to human life. Meanwhile, when viewed from its form, this interpretation belongs to the category of *bi al-ra’yi* interpretation. Ibnu ‘Asyur very carefully analyzes the verse in terms of its language and is consistent with the objectives contained in it (M. T. bin ‘Asyur 1984). Nevertheless, Ibnu ‘Asyur doesn’t exclude the interpretation of the Quran with *al-ma’thur* source, such as the interpretation of the Quran with the Quran itself and because of the descent of the verse.

The systematics of interpreting begins firstly with an explanation of the letter globally and its correlation with the previous letter. *Secondly*, explain the verse vocabulary. *Thirdly*, interpret Quran with Quran itself. *Fourthly*, refer to the other verses that have similar meaning. *Fifthly*, explain the grammar of language, both in terms of *‘i’rab* (*nahwu/syntactic*), or semiotic (*balaghah*), at the end of the letter (Al-Qadir 1986). Meanwhile, if interpreted in the form of legal verses, Ibnu ‘Asyur doesn’t escape to analyze *maqashid* as the basis for interpretation. (Syibromalisi, n.d.)

Ibnu ‘Asyur’s *Maqashidi* Interpretation Theory

The way to find *maqashid* and its varieties

There are several important points that need to be elaborated, to understand the *maqashidi* paradigm of Ibnu ‘Asyur. Namely about how the method he uses in formulating *maqashid*, *maqashid qat’i and zanni*, *maqashid criteria*, *maqashid al-‘ammah*, and *maqashid al-khassah*.

Ibnu ‘Asyur specifies three ways that can be taken to form *maqashid*. Includes, research on the *nass* which has been clearly stated (*wadih dilalah*), examines the performance of the *Shari’ah* through by *masalik ‘illah*, and *hadith mutawatir*, both *mutawatir ma’nawi* or *‘amali*. (M. T. bi ‘Asyur 2011)

The level of *maqashid* validity divided by Ibnu 'Asyur becomes *maqashid qat'i* and *zanni*. *Maqashid qat'i* is the form of *maqashid* which comes from authentic text with authoritative interpretation, for example *maqashid* relieve (*al-taisir*), based on Al-Baqarah [2]: 185. Whereas, *maqashid* is limited to *zanni* if it doesn't meet the *qat'i* provisions, but can approach *qat'i* if there is a supporting proposition, such as keep the sense in legitimacy when drinking little wine or *nabidh*. (M. T. bi 'Asyur 2011)

Maqashid al-shari'ah which can be used for legal basis must be *ma'ani al-haqiqiyah* or *ma'ani al-'urfiiyah*. *Ma'ani al-haqiqiyah* is an axiomatic value, for example, justice, which is rationally a form of benefit (M. T. bi 'Asyur 2011). Whereas, *ma'ani al-'urfiiyah* is *maqashid* which originates from the empirical experience of all or a majority of people, for example giving a deterrent effect to the perpetrator and everyone in the legitimacy of *ta'zir* and his form of dirt shows the obligation to cleanse (M. T. bi 'Asyur 2011). To reach the level of *maqashid qat'i*, *ma'ani al-haqiqiyah* and *al-'urfiiyah* must fulfill four requirements, namely *mundabit* (having clear and identifiable limitations); *muttarid* (applies to the public and doesn't apply temporarily); *thabit* (there is *maqashid* for sure or close to certainty); and *zahir* (the meaning identified as *maqashid* is clear, unambiguous, as is the *maqashid* keeps the passage in marriages). (M. T. bi 'Asyur 2011)

Ibnu 'Asyur classifies *maqashid* into two divisions, namely *maqashid al-'ammah* and *al-khassah*. He has defined *maqashid al-'ammah* as follows:

المعاني والحكم الملحوظة للشارع في جميع أحوال التشريع أو معظمها بحيث لا تختص ملاحظتها في نوع خاص من أحكام الشريعة. فيدخل في هذا الأوصاف الشريعة وغايتها العامة والدعائي التي لا يخلو التشريع عن ملاحظتها ويدخل في هذا أيضا معان من الحكم ليست ملحوظة في سائر أنواع الأحكام ولكنها ملحوظة في أنواع كثيرة منها (M. T. bi 'Asyur 2011)

The meaning and wisdom desired by the *shari'ah*'s makers (*shari'*) in all or most of the conditions of the formation of Islamic law, are not limited to certain types of Islamic law. Thus, including this understanding, *awsaf shari'ah*, the general purpose of *shari'ah*, and the intentions that have never been ignored in *shari'ah* law formation, as well as a number of values of objectives which are not seen in all types of *shari'ah* but on which is a lot from *shari'ah* law.

Maqashid al-'ammah is built on three foundations, namely *al-awsaf* (characteristics of *maqashid*), which includes; *maqashid fitrah*, *samahah* (tolerance), and the universality of Islamic law. *Secondly*, *maqasid* (the purpose), which includes; *maqashid maslahah*, *sadd al-dhari'ah* (closing potential), social stability and resilience. *Thirdly*, principles/values, which includes; *maqashid al-musawah*

(equality), legal substantiality, *al-hurriyyah* (freedom), and the rule of law. (M. T. bi ‘Asyur 2011).

The ten features of *maqashid al-‘ammah* must be the basis for exploring the law, so that the intended legal product must not fight *fitrah* (natural tendency/character), moderate, be compatible with the situation and environment, bring significant benefits, applied equally as long as *fitrah* requires equality intended, is not easily manipulated, doesn’t cause greater losses than the problems produced, protects individual rights, and has a positive impact on strengthening the stability of social security.

From those ten features, it is necessary to note some formulas of Ibnu ‘Asyur, including:

1. Ibnu ‘Asyur confirms the important position of the universality of Islamic law. According to him, universality is one of the unique characters of Islamic law, which can adjust to the times of development. Here is the space of movement of customs and expanded traditions. To preserve the universality of the *shari’ah*, the *shari’ah* must be able to embrace the whole tradition and not distort other customs. A new tradition can bind other people if it tends to objective arguments that express its legitimacy in general and bind all people. As a logical consequence of the universality of Islamic law, all customs and traditions are permissible, as long as they don’t clash with Islamic principles themselves, and there are no arguments that show prohibitions. (M. T. bi ‘Asyur 2011)

The universality of Islamic law doesn’t need to be debated. This is because the partial law has *‘illat* and *maqashid* which are reasonable, so they are easily accepted and recognized by people across generations. This then makes Islam more flexible when faced with the presence of universal Islamic teachings this will make the culture of society more focused in continuing its civilization. (M. T. bi ‘Asyur 2011)

With this paradigm, it can eliminate the confusion faced by interpreters in understanding the reasons why Islamic law prohibits certain practices, such as prohibiting women from connecting their hair, flattening their teeth, or tattooing their skin. According to him, the correct understanding is that these practices mentioned in the *hadith*, in the Arabic context, are considered signs of deficiency in a woman’s honor. Therefore, the prohibition of these practices is basically intended for certain bad motivation.

2. Prioritize the *maslahah mursalah* than *qiyas*. Ibnu ‘Asyur doesn’t only agree with the views of *madhhab maliki* who recognize it as one of the sources of Islamic law, he even puts the *maslahah mursalah* just one level higher than *qiyas*.

3. *Sadd al-dhari'ah* is not limited to the source of law which is still debated its authenticity, but is one of the *maqashid al-shari'ah* which must inspire every product of interpretation/law.
4. The reference of *maslahah* and *mafsadah* in the matter of *maqashid al-shari'ah* is the general problem, while the individual benefit which in a number of *shari'ah* laws seems to be legal goal must be seen with the individual paradigm as elements that form the social entity of the *ummah*, not that individual benefit just for any individual; the collective *maslahah* formed from the problem of each element. Thus, individual problems which harm the public interest are not in fact serious. (Indra 2016).

Meanwhile, *maqashid al-khassah* is defined by Ibnu 'Asyur with:

الكيفيات المقصودة للشارع لتحقيق مقاصد الناس النافعة، أو لحفظ مصالحهم العامة في تصرفاتهم الخاصة كي لا يعود سعيهم في مصالحهم الخاصة بإبطال ما أسس لهم من تحصيل مصالحهم العامة إبطالا عن غفلة أو عن استئثار هوى وباطل شهوة. ويدخل فيه كل حكمة روعيت في تشريع أحكام تصرفات الناس، مثل قصد التوثق في الرهن، وإقامة نظام المنزل والعائل في عقد النكاح، ودفع الضررالمستدامة في مشروعية الطلاق. (M. T. bi 'Asyur 2011).

The procedure that is intended by *shari'ah* makers to realize human desires is beneficial or to protect their general benefits in their personal activities, so that their efforts for personal interests do not damage everything that has become the foundation for realizing their general, good benefit because of neglect or encouragement of lust and deviant desires. Included in this case is every goal that becomes a reference in every legal requirement that regulates human behavior. For example, strong evidence as the purpose of a pawn agreement, enforce the household order in marriage, and avoid prolonged emergencies as the purpose of divorce.

This second section has six branches, namely *maqashid al-shari'ah* family law; commerce; *muamalat* employment (services); *tabarru'at (infaq)*; court and witness, and; criminal sanctions. *Maqashid al-shari'ah al-khassah* itself is the application of the *maqashid al-'ammah*'s rules (M. T. bi 'Asyur 2011). This applicative form is contained in various aspects, for example in worship and *muamalat*. (Safriadi 2014).

In aspect *muamalat*, Ibnu 'Asyur classifies laws that regulate interactions between Muslims in certain clusters, then formulates the *maqashid* in each clusters. For example, he formulates *Maqashid* family law to various *maqashids*; affirming the bond of marriage, affirming the relationship of *nasab*, strengthening the relationship between the *musaharah*, and determining the procedure for terminating each relationship (M. T. bi 'Asyur 2011). He realized that the dynamics of *muamalat* would

continue to develop, so *ijtihad* would always be needed. Thus, through *maqashid al-khassah*, Ibnu ‘Asyur offers a concept as a device to facilitate *ijtihad* and make it closer to the truth.

The principle of gender equality

Gender equality is the alignment of the roles of men and women in the public or domestic aspect. This becomes something substantial for humans when interacting with other to realize justice between the two.

The Qur'an explains the principle of equality as a universal value for humanity. It also implies that God does not favor one person only because of his status as a male or female. This statement found in various places, for example; in At-Tur [52]: 56, Ali ‘Imran [3]: 195, and An-Nisa [4]: 32.

At least, gender equality is based on three principles in the Qur'an. The first, men and women are equal as the servants of God (Az-Zariyat [51]: 56). The second, equal as the person in charge of the earth (*khalifah al-ard*) (Al-An'am [6]: 165). The third, equal to be able to achieve achievement (Ali 'Imran [3]: 195).

The principle of equality is studied by various contemporary scholars to produce several terms and paradigms. In the realm of gender there are the terms of ‘kemitrasejajaran’ popularized by Nasaruddin Umar (Umar 2001), ‘the monotheism hermeunitic’ popularized by Amina Wadud (Webb and Wadud 2000), and the reciprocity that was popularized by Abu Shuqqah (Shuqqah 1990) and Faqihuddin Abdul Qodir. (Qodir 2019)

Like other contemporary scholars, Ibn ‘Asyur had a theory of equality called *maqashid al-musawah*. According to him, equality must animate all interpretations regardless of race, religion and gender. Meanwhile, fitrah and benefit are used as a barometer for the enactment of *maqashid* equality, so that equality must be in accordance with nature. According to him, such equality is giving equal rights and obligations to all humans although they differ in various aspects.

Ibn ‘Asyur didn’t apply this *maqashid* when dealing with the annulment factors, namely; natural/ biological, sharia, political, and social. This then led the theory of *maqashid al-musawah* on equality relativity based on certain conditions, and at the same time seemed friendlier with all cultures.

Ibnu Ashur's Interpretation on Gender Verses and Its Moderation in Contradictory Figures

Gender verses is a term for a group of verses that contains the roles and status of men and women. According to Nasaruddin 'Umar, in searching for gender verses the key words that can be used are all words used to refer to men and women (Umar 2001). Some examples of gender verses include; An-Nisa'[4]: 1 about human origins, An-Nisa' [4]: 3 about polygamy, An-Nisa'[4]: 34 about patriarchal culture in Nushuz, An-Nisa'[4]: 11 concerning the distribution of inheritance, Al-Ahzab [33]: 59 concerning the veil, and so forth. (Qodir 2019)

This paper will highlight the discourse of verse interpretation on polygamy, patriarchal culture, nushuz, and jilbab. The four terms that are currently being discussed today will be reviewed by presenting the interpretation of Ibn 'Asyur and some interpreters who have a textual and liberal paradigm as the comparisons.

1. Polygamy

In formulating the polygamy verse in An-Nisa' [4]: 3, Ibnu 'Asyur makes some *maqashid* as the basis of legitimacy of polygamy. To legalize polygamy, it requires the existence of benefits that can be achieved, namely the welfare of women, minimizing infidelity and divorce, and multiplying offspring. In addition, he also stated that the legality of polygamy with a maximum limit of four wives is a preventive measure for injustice against orphans. This is one form of consistent of Ibnu 'Asyur towards *maqashid sadd al-dhari'ah* (closing potential so that there is no misuse of other people's assets). Furthermore, he requires that the number of men must be more than women, the men fairs in fulfilling their livelihoods, attention, and guarantee of security, doesn't reveal a tendency (M. T. bin 'Asyur 1984).

The interpretation of Ibnu 'Asyur which legalized polygamy was close related to the Tunisian context at that time. The important character of Islamic family law in Tunisia is strongly influenced by the peculiarities of Arab families. The traditional Arab family is a social and economic unity, in the sense that all members work together to guard the livelihood. In addition, the family also becomes the dominant social institution. Another character of the Arab family is a patriarchal society, which positions women below men who ultimately influence all women's legal rights. The hierarchical structure also characterizes the Arab family.

When European modernism penetrated Tunisia, the government made many policies that were at odds with the benefit of society. Among them is the prohibition of polygamy which is stated in *Majallat al-Ahwal al-Shakhsiyyah*, under the support of Habib Bourguiba:

تعدد الزوجات ممنوع فكل من تزوج وهو في حالة الزوجية وقبل فكه عصمة الزواج السابق يعاقب بالسجن لمدة عام وبخطية قدرها مائتان وأربعون ألف فرنك أو بإحدى العقوبتين

Polygamy is prohibited. Every man remarried, although he was the husband of a wife and hadn't divorced her; he was sentenced to one year in prison and paid a fine of 240.000 francs or one of these two sanctions. (Haryati 2017)

Ibnu ‘Asyur opposed the declaration proclaimed by the government, because it had cut the principle of the welfare of Tunisian society. According to him, the practice of polygamy can be done as long as it meets the above criteria.

Apart from the various provisions, substantively, Ibn ‘Asyur made *maslahah* and *sadd al-dhari'ah* by adjusting it to the culture in Tunisia as a reference for taking steps to validate polygamy. Therefore, these provisions may change, because these are mediators, not substance.

Al-Mutawalli al-Sha'rawi agreed with Ibnu ‘Asyur in this matter. He also legalized the practice of polygamy in the basis of needs. That is, if circumstances indicate the need for polygamy, then it is permissible. al-Sha'rawi also stated that the husband shouldn't deliberately incline his heart to one of his wives. He also reiterated, the husband who wants to polygamy shouldn't feel worried about committing wrongdoing to their wives, unless the instinctive feeling is truly based on the heart, not on the element of intentionality (Al-Sha'rawi, n.d.). al-Sha'rawi also considered the number of men and women in each region, as a criteria of polygamy. As al-Sha'rawi's view, contemporary Syrian interpreter, ‘Ali al-Sabuni affirms the interpretation of Ibnu ‘Asyur on the verse of polygamy along with its conditions (al-Sabuni 1980).

Meanwhile, Amina Wadud Muhsin firmly rejected the legality of polygamy. There are three reasons that make her disagree with the practice of polygamy (Irsyadunnas 2015). The first, women today have been able to meet their own needs without burdening men, so the financial needs cannot be used as a reason for the legality of polygamy. The second, women's infertility is irrelevant as an excuse to legalize the practice of polygamy, because the best solution is to adopt orphans of Muslims or non-Muslims from areas that are in war and in ruins. The third, there is no tendency for the legality of polygamy either in the Quran or even the *hadith*, and it is also clearly not *Qurani* because it allows men to indulge in lust.

Wadud's rejection of the polygamy practice for this reason is actually not entirely true, because not all countries that legalize polygamy have cornered the role of women, and

even a few regions have coordinated women compared to those who protect them. The role of men as fulfilling the needs and protection of women actually shows only functional relationships, not their superiority over women. Women also have their own role in the family, such as giving birth and educating, which also requires physical strength and intelligence. This is far from being subordinated, because each has the role.

In addition, polygamy is not a place to indulge, but rather as a solution for regions with very large numbers of women compared to men and to minimize the practice of infidelity. This ultimately affects the welfare of women in the country.

From the side of justice that can be achieved, the views of Ibnu 'Asyur, al-Mutawalli al-Sha'rawi, and 'Ali al-Shabuni are equally moderate, because they don't allow polygamy before men determined not to abuse his wives. In addition, fulfilling both physical and non-physical needs must also be the same, protection and even, in terms of affection. They only give relief to the inclination that is truly from the conscience, there is no element of intentionality, and even so, may not reveal this tendency to the other wife. They also agreed to hand over the maximum amount of polygamy to the ratio of number of men and women, and even to the legality of polygamy itself.

2. *Jilbab Shar'i*

Ibnu 'Asyur emphasizes the urgency of preservation *maqashid* universality of Islamic law in interpreting *surah Al-Ahzab* [33]: 59. In order to be said as a *shar'i* veil, it doesn't have to fix it in one veil mode, so however custom veiled in various regions it is okay, as long as it can maintain the honour of women. To realize the protection of women while not giving up absolute freedom in choosing clothes, Ibnu 'Asyur underlines the other *maqashid* that must be fulfilled. *Maqashid* referred to it is *sadd al-dhari'ah*, namely the fashion must be able to cover the potential for harassment of women due to the clothes she wears. Reinforced by the argument at the beginning of his interpretation that the main purpose of this veil verse came down was to maintain the common good and eliminate the bad habits of men who like to tease women because the clothes he wears are considered vulgar (M. T. bin 'Asyur 1984).

Al-Sha'rawi counter with Ibnu 'Asyur in this matter. He requires women to wear Arabic *jilbab*. According to him, the obligation to wear headscarves is proof of respect for Islam and its concern for women, because women will be easily harassed if they don't use the headscarf. He doesn't consider the customs that are different in each region, rather than assuming the obligation of the headscarf as a form of resistance to human rights.(Al-Sha'rawi, n.d.)

More extreme opinions arise from ‘Ali al-Sabuni. He requires women to cover their entire body when going out, as the only preventive measure of female abuse in modern era. Crime, harassment, and acts of violence that are mushrooming in society now, are a factor required by women to cover their entire bodies (al- Sabuni 1980). Such a perspective feels reasonable, considering ‘Ali al-Sabuni has a conservative paradigm and tends to be rigid.

Meanwhile, Wadud considers *jilbab* not an obligation in religion, because the Quran doesn’t require it explicitly. Even so, he still wears a headscarf while in public space, and takes it off when in privacy room, to keep maintaining courtesy. However, she expressly expressed her disagreement with the headscarf model that covers the face and both palms.(Mutrofin 2015).

Ibnu ‘Asyur’s interpretation which gave the model dressed in each culture, provided that he was able to keep women from being harassed, could bridge ‘Ali al-Sabuni and al-Sha’rawi thoughts which are too rigid, with Amina Wadud who refused the *jilbab* style of Arab. Ibnu ‘Asyur is consistent in preservation *maqashid* universality of Islamic law, *maslahah* and *sadd al-dhari’ah* when interpreting the veil/*jilbab* verse.

3. *Patriarchal Culture*

Ibnu ‘Asyur uses language analysis to determine male superiority over women in An-Nisa’ [4]: 34. *al-Rijal* and *al-Nisa’* were interpreted as generally male and generally female, and directed it to *al li istighraq al- ‘urf* on the basis of existing facts (M. T. bin ‘Asyur 1984). So, he interpreted that generally, men become protectors for women. From this analysis, Ibnu ‘Asyur concludes that male superiority over women has the potential to be compromised by the culture (*al- ‘urf*), so that it may be possible for men and women to have an equal role (M. T. bin ‘Asyur 1984).

In the beginning, Ibnu ‘Asyur seemed to hope to uphold equality (*al-musawah*), because he compromised the *‘urf* in interpreting the superiority of men over women. However, given the social situation of Tunisia (and the majority of the Arabian Peninsula) at that time which was still closely related to patriarchal culture and women’s credibility was still low, he tended to reject the issue of gender equality, both in the domestic and public spheres. Even so, Ibnu ‘Asyur doesn’t forbid women to pursue a career or take part outside the home. However, he acknowledged that this is still rare. This is how Ibnu ‘Asyur tries to be consistent with the issue of the universality of Islamic law and benefit. Along with that, Ibnu ‘Asyur has annulled *maqashid* equality related to equality of men and women with the factor *jibillah* (*fitrah/nature theory*). (M. T. bi ‘Asyur 2011)

As the antithesis of Ibnu 'Asyur's view of patriarchal culture, there is a famous Egyptian contextual figure named Nasr Hamid Abu Zaid. His disagreement about the justification of the redaction of *qawwamuna 'ala al-nisa'* as a form of men superiority over women, is very much in conflict with Ibnu 'Asyur. He filters *maghza* the equality of the verse after analyzing the cause of the descent verse. And therefore, it contradicts patriarchal culture. (Busriyanti 2013)

Abu Zaid paradigm feels inconsistent. This is because he doesn't fully elevate *maghza* equality from the verse, because it doesn't give exception to the people who adhere to patriarchal culture. In contrast to Ibnu 'Asyur, which has included several factors that can annul the principle of equality. For example, nature factors, innate, and *shari'ah* factors.

Meanwhile, 'Ali al-Sabuni said that he agreed with Ibnu 'Asyur regarding the superiority of the responsibility portion of men in the family and public domain, because his tendency towards patriarchal culture was very strong. Even so, it doesn't limit women's movement to be able to contribute to domestic and public issues. It's just that, he claims that this is still fairly rare (al- Sabuni 1980).

Ibnu 'Asyur claimed that society in its time still tended to adopt patriarchal culture, so he interpreted this An-Nisa' [4]: 34 as the legitimacy of the culture. However, so that the universality of Islamic law remains sustainable, it compromises the custom/*al-'urf* as a basis for determining men superiority over women, thus providing a potential balance of men and women roles, although in the end he still disagrees with gender equality.

4. *Nushuz*

Still in the same verse, the *maqasidi* approach by Ibnu 'Asyur in the matter of *nushuz* is seen when he chooses to limit the beating of the wife, so that it doesn't have the potential to cause domestic violence. Through *maqashid sadd al-dhari'ah* and maintain household harmony (*hifz asirah al-nikah*), he argues that if the act of beating is not restricted, then there is a high potential for violence, because it's difficult not to involve the ego when hitting the wife (M. T. bin 'Asyur 1984).

On the other hand, Ibnu 'Asyur considers the culture in interpreting the verse as a legitimacy of the provision of beating the wife who was *nushuz*. He specifically stated that the act of hitting wife who is *nushuz* can only be applied in the scope of Arab society or any culture that has a strength character (M. T. bin 'Asyur 1984). As a logical consequence, if other communities don't make acts of beating as a

way to maintain household harmony, then it cannot be forced because there is no authoritative argument that absolutely requires the legitimacy of the culture.

Agree with Ibnu ‘Asyur, ‘Ali al-Sabuni claims the legality of hitting the wife as an alternative if the previous two steps were ineffective. He also requires that the beating is not painful and doesn’t hit the face area (al- Sabuni 1980). However, he disagrees with Ibnu ‘Asyur, when Ibnu ‘Asyur compromises the culture in the legality of hitting a wife.

Meanwhile, Amina Wadud directed An-Nisa’ verse 34 as a form of disharmony between husband and wife. In defusing the disharmony, she only took two opinions, namely rebuking and parting for a moment to calm the ego. She refused the beating as a last choice to reconcile the two. This is because beatings are acts of domestic violence. In this matter, Fatimah Mernissi agreed with Amina Wadud. Mernissi considered that the Prophet had never hit his wife during a conflict, so that verse 34 was considered only applicable to the local Arab community at that time.(Munfarida 2016).

The concept of *nushuz* offered by Ibnu ‘Asyur keeps trusty *maqasad sadd al-dhari’ah*, *maslahah*, and universality of Islamic law, so that it isn’t only accommodating to patriarchal culture, but also can accommodate the other cultures.

The culture-friendly interpretation of Ibnu ‘Asyur on gender verses shows the dominance of *maqasid* universality of Islamic law, although he also bases his interpretation on other *maqashid*. The consistency of Ibnu ‘Asyur to make *maqashid al-shari’ah* as a paradigm of interpretation is one proof of his seriousness in realizing this vision of making interpretations, namely as an intermediary between liberal and conservative figures.⁸ And with its efforts to bridge these two thoughts, this interpretation is still very relevant to meet the needs of today’s society.

Conversely, the construction of feminist interpretations is built by criticizing traditional interpretations as a form of women’s subordination, then taking verses that contain the principles of gender equality, and highlighting the verses –which seems to positioning women as subordinate to the *hadith* of the Prophet which have the opposite meaning, actually give rise to a biased interpretation product. In

⁸In an article mentioned that *al-Tahrir wa al-Tanwir* written by Ibnu ‘Asyur is *the persistence of classicism, but at the same time, both an internalization of and response to modernity* (Nafi 2005).

addition, it is also a condition for the politicization of texts in order to realize the interests of one side.

The reconstruction effort of Ibnu 'Asyur in the interpretation of the Quran should be appreciated. As an interpreter with a qualified scientific background, especially in the field of *maqashid*, he has been able to carry out the three steps which were once echoed by al-Shatibi to interpret the Quran. The three steps are contextualization (understanding the context when the verse comes down in order to gain the *maqashid*), de-contextualization (realizing the text with context when the verse comes down), and re-contextualization (interpreting the text in accordance with the current context based on *maqashid* which was formulated previously). (Ghazali 2005)

CONCLUSION

The paradigm of *maqashidi* interpretation applied by Ibnu 'Asyur in interpreting gender verses when related to his mission to mediate between liberal and conservative interpreters, has its own point of consistency and inconsistency. Based on the descriptive analysis method, this article concludes that in principle, the *maqashidi* paradigm applied by Ibnu 'Asyur is quite capable for mediating these two contradictory thoughts. This is reflected in the *maqashid* features elaborated in the four gender terms above which combines the spirit of progressivism while staying accommodating to the *al-ma'thur* sources. Those *maqashid* are *maslahah*, *sadd al-dhari'ah*, *maqashid* family law, and universality of Islamic law. Among the four features, *maqashid* universality of Islamic law is elaborated in all terms those are discussed based on the consistency of culture considerations in interpreting jilbab verses, the legality of polygamy, patriarchal culture, and beating as one solution to conflict between husband and wife (*nushuz*). So, in principle, the *maqashidi* paradigm formulated by Ibnu 'Asyur makes culture-friendly interpretations and can be an offer of mediation between conservative interpretations that tend to be textual and liberal interpretations which in some places tend to be free and deconstructive.

On the other hand, Ibnu 'Asyur is inconsistent when viewed from the two results of his interpretation of the gender verses. Evidenced by his partiality on patriarchal culture when interpreting the An-Nisa' [4]: 34 and legalizing polygamy with certain conditions when interpreting the An-Nisa' [4]: 3. Despite the demian, the patriarchal nuance in the interpretation of Ibnu 'Asyur is motivated by the social system in the region is still tended to patriarchal biases, so that in principle it remains in its efforts to preserve the culture-friendly interpretations in gender verses.

This simple paper only illustrates the *maqashidi* paradigm applied by Ibnu 'Asyur when he interpreted gender verses and examines his steps to mediate between liberal

and conservative interpreters. Gender research opportunities those relate with Ibnu ‘Asyur's ideas are still open. Among the thing that have not been much studied today is the feature of *maqashid* equality (*maqasid al-musawah*) by Ibnu ‘Asyur. In this feature, Ibnu ‘Asyur has the concept of reciprocity in analyzing the text of the Qur'an or Hadith that relate with male and female relations. This concept is interesting to be studied further, considering the reciprocal interpretation discourse is being loved by contemporary scholars, such as Faqihuddin ‘Abdul Qodir with the theory of *Qira'ah Mubadalah*.

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