
**Initiating how to Work the Maqashid Al-Syariah Theory from Asy-Syahtibi towards
the Problem of Thrifting (Trading in Second-Hand Clothes) in Indonesia**

Ridho Bawana Jati¹, Wardah Yuspin²¹Fakultas Hukum, Universitas Muhammadiyah Surakarta (ridhobj9.7@gmail.com)²Fakultas Hukum, Universitas Muhammadiyah Surakarta (wy204@ums.ac.id)

ABSTRACT

This research has the aim of how the maqasid sharia theory works on the problem of thrifting (used clothing trade) in Indonesia. The research method using normative juridical qualitative research is a research method where the research is sourced from legal norms which are obtained from statutory regulations and court decisions. This research approach uses literature studies, official documents and books that are relevant to the problem of this research. This research focuses on Islamic legal regulations regarding Thrifting (Used Clothes Trade) according to Asy-Syahtibi's maqasid sharia theory, while previous research explored more about the law of this object, whether or not it is prohibited for the Thrifting (Used Clothes) Trade. The application of Thrifting (Trading in Used Clothes) is in the theory of maqashid al-syariah where the theory discusses two (2) benefits, namely first, the realization of benefits, goodness and pleasure which is called *jaib al-munafi'*. Second, avoid evil and damage which is called *dar' al-mafasid*. Where Thrifting brings about ugliness and chaos or is called *dar' al-mafasid* because it causes various problems such as many shops selling Thrifting clothes, many garment shops are closed and there is a lot of environmental pollution. Thrifting (trading in used clothes) causes a lot of harm and damage, such as many shops selling thrifted clothes, many garment shops are closed and there is a lot of environmental pollution.

Keywords: Thrifting (Trading in Used Clothes), Maqashid Al-Syariah Theory, Benefits

INTRODUCTION

In the current development of Thrifting (Used Clothes) export and import activities, people are increasingly tempted by an increasingly modern lifestyle to behave consumptively. To be accepted in their environment, people nowadays have to follow up to date (current) trends, such as having to wear clothes from well-known and new brands, this can happen due to the rise of social media that is used today.(1)From 2000 to 2020, world production of clothing or garments doubled in the world from previous years. With this increase, in many parts of the country, used clothing waste has piled up in landfills.(2)There is one country on the African continent, namely Ghana, where Ghana receives 15 million used clothes every week.(3)After that, many of the used clothes are sorted by traders and sold to the second-hand clothing market. After the last few months, it has decreased so that the used clothes sent are not suitable for sale, so they end up in the trash. This causes rubbish in the country of Ghana to pile up with used clothes and some are also washed into the sea. This kind of thing causes environmental pollution on land and waters in the country. Meanwhile in Indonesia, Thrifting clothing began to mushroom in mid-2022 until now, starting with the emergence of box containers containing used or Thrifting clothes from various countries. This is what makes many teenagers, adults and parents start buying second-hand Thrifting clothes because the prices are quite cheap when compared to new clothes of the same quality. Thrifting (Trading in Used Clothes) has created various problems, such as many garment shops closing because their products are not selling because the price is less expensive than Thrifting clothes. Many Thrifting clothing shops have appeared in Indonesia because it is more

profitable for traders to sell Thrifting clothes. because the capital spent is not too large compared to spending capital to sell new clothes and environmental pollution occurs because more and more Thrifting clothes are mushrooming in this country of Indonesia so that a lot of used clothes are thrown in the trash or rivers so that they become mountains and pollute the environment .

The issue of Thrifting (Trading in Used Clothes) is very much in line with the perspective of legal theory, namely the maqashid al-syari'ah theory from an ushul fiqh reformer who lived in the 8th century Hijriah, namely al-Syathibi, who introduced a theory called the maqashid al-syari'ah theory. Sharia states that the main topic is wisdom and illat in a law. How does Asy-Syathibi's maqashid sharia theory work on the problem of Thrifting (Used Clothes Trade) in Indonesia.

The benefit of this research itself is to know that the maqasid sharia theory works on the problem of Thrifting (Trade in Used Clothes) in Indonesia. In the theory of maqasid sharia from al-Syathibi itself, it has meaning according to the science of ushul fiqh, illat and hikmah have the meaning of illat which is a certain characteristic of the clarity of an objective (zahir), and its benchmark (mundhabit), as well as in accordance with legal provisions (munasib).), which determines the law. Meanwhile, wisdom is something that will be the goal or in the sense prescribed by law to achieve the goal of benefiting humans. Benefits according to the maqasid sharia theory are divided into two (2) ways, including the realization of benefits, goodness, pleasure for humans which is called jaib al-munafi'. And avoid or prevent evil and damage which is often referred to as dar' al-mafasid.(4)

RESEARCH METHODS

This research uses qualitative normative juridical.(5)The data from this research is not in the form of numbers but the data was obtained from literature study sources, official documents such as and books that are relevant to the problem of this research.(6)The aim of qualitative normative juridical research is to describe a phenomenon or event in the field regarding how the maqashid sharia theory works on the problem of thrifting (used clothing trade) in Indonesia.

Therefore, the normative juridical approach is qualitative in the form of words or references from documents and books that answer the problems of this research.(7)Qualitative normative juridical research requires references from Islamic legal documents such as the Al-Qur'an and Al-Hadith which are relevant to the problem along with references from literature studies such as books and journals which are also relevant to the problem being researched. In this research the author wants to explain how the maqashid sharia theory works on the problem of Thrifting (Trade in Used Clothes) in Indonesia.

RESULTS AND DISCUSSION

Asy-Syathibi's Maqashid Al-Syariah Theory Works in the Problem of Thrifting (Used Clothes Trade) in Indonesia

Maqashid Al-Syariah is an extraordinary method for developing the values and spirit of Islamic law in the aspects of human life. But this theory experienced a degradation that also befell other theories. The theory of maqashid al-syariah is experiencing degradation because Muslims prefer to memorize with old examples, rather than using it as an analytical tool. Efforts to understand this theory often fail due to poor language and perspective.(8)

The theory of maqashid al-syariah was coined by Abu Ishaq Ibrahim Ibn Musa al-Garanati Asy-Syatibi or better known as Asy-Syatibi. Estimologically, maqashid al-syariah contains two (2) words, namely maqashid and al-syari'ah. Maqashid is the plural form of maqashid which means gap or goal. Meanwhile, according to language, syari'ah means the path to a water source. The purpose of the road

to the water source is the road to the main direction of life. According to Asy-Syatibi, the content of the theory of maqashid al-syari'ah or the purpose of law is the benefit of humanity.(4) Thus, all obligations (taklif) are created in order to realize the benefit of the servant. According to several ushul fiqh experts regarding the benefits of realizing benefits in this world and the hereafter, there are five main elements that must be maintained and realized. The five main elements are religion, good deeds, soul, lineage and property. The realization of these five main elements means that a Mukullaf person will get benefits when he can maintain these five main elements. On the other hand, he will receive mafsadat, if he does not carry out the five main elements well.

The Ash-Syahtibi principle divides maqashid al-syariah into three groups in relation to the five main elements, namely dharuriyyat, hajiyat, and tahsiniyyat. This is intended to maintain these five elements. Only the level of importance differs from one to another. The needs in the first group are said to be primary needs, where if these five basic elements are ignored, the existence of these five basic elements will be threatened. The needs of the second group are said to be secondary needs. If these five basic elements are ignored, it does not threaten the existence of the five main elements but will complicate or narrow human life. Meanwhile, the needs of the third group are closely related to maintaining etiquette in accordance with compliance, will not make things difficult, and will not threaten the existence of the five main elements. Thus, the need for the third group is more complementary or complementary. Within these three groups, Asy-Syahtibi saw that this group had to be divided again into two large groups, namely the worldly aspect and the afterlife aspect. From this problem, Asy-Syahtibi divided maqashid al-syariah or the objectives of law into two content orientations. The two contents are al-masalih al-dunniawiyah (the goal of world benefit); and al-masalih al-ukhrawiyyah (the goal of benefiting the afterlife). In obtaining these two benefits, Ash-Syahtibi used four methods through understanding his maqashid al-syari'ah, including:

- a. Carry out analysis through the recitation of commands and prohibitions in both the Qur'an and al-Sunnah. In the context of commands and prohibitions, according to Asy-Syahtibi, it must be understood as wanting what is ordered to be realized or carried out. The realization of the contents of this command is the goal desired by Syar'i (God). Likewise, with prohibitions, it can also be understood that carrying out prohibited actions must be abandoned. The requirement to abandon prohibited actions is a goal desired by God.
- b. Review of 'illah al-amr (commandments) and al-nahy (prohibitions). In this context, according to Asy-Syahtibi, understanding maqashid al-syar'iah can be done through analysis of the 'illah of law contained in the Al-Quran and al-Sunnah. 'There are some laws that are clearly written and some are not clearly written. If the 'illah is written clearly in the Al-Qur'an and al-Sunnah, then you must follow what is written. By following what is written, the legal objectives in the commands and prohibitions can be achieved. For example, God is written clearly, according to Asy-Syahtibi, it can be seen from the regulations on marriage with the aim of preserving offspring, the regulations on buying and selling and other economic activities, useful for mutual benefit through transactions and so on.
- c. Analyst according to sukut al-syari`. In this context, Asy-Syahtibi understands legal issues that are not mentioned by al-Syari'. Because legal problems have a positive impact on life. Methodologically, it can be illustrated by human activities to gain benefits for their lives, even though they are not detailed in the Al-Qur'an and Al-Sunnah. In this case what is meant is in terms of ritual, social and economic matters. For example, in the economic field, meeting needs is done through ways of getting benefits for the perpetrators.
- d. Understanding maqashid al-syari'ah from the perspective of ashliyyah and tabi'iyah. In short, from the author, this method of understanding maqashid al-syariah is as a trait, not as a method. The above division of maqashid into maqashid which contains worldly and ukhrawi benefits

was not intended by Ash-Syahtibi to draw a sharp dividing line between the two orientations of the content of Islamic law. Because they are essentially inseparable in Islamic law.

Thus, *dharuriyyat*, *hajiyyat*, and *tahsiniyyat*, as well as the division into *duawiyyat* and *ukhrawiyyat* orientations are very important. These two developments embody a content in the development of law. Apart from that, it is an indication to researchers of Islamic law to draw a clear line between legal fields where *ijtihad* is permitted and legal fields where *ijtihad* is not permitted. And the division mentioned above, which has been explained in detail, becomes a starting point in understanding the laws prescribed by Allah SWT.(9)

In the legal theory of *maqashid al-syariah*, Asy-Syahtibi in his book *Al-Muwafaqat fi Ushul Al-Syari'ah*. He said that in fact the *Shari'ah* was established for nothing other than the benefit of humans in this world and the hereafter. Thus, the *Shari'ah* was created to realize individual and congregational happiness, maintain rules and disguise the world with all means that convey perfection, goodness, culture, and a noble life, because the message of Islam is a blessing for all humans.

From the definition above, the topic of discussion in *maqashid al-syariah* is the wisdom and illat of establishing a law. In the study of *ushul fiqh*, wisdom is different from illat. Illat is a certain characteristic that is clear and can be known objectively (*zahir*), and has a benchmark (*mundhabit*), and is in accordance with legal provisions (*munashib*) whose existence determines the existence of law. Meanwhile, wisdom is everything that is the purpose or goal prescribed for the benefit of humans. Benefits are achieved in two ways, namely as follows:

- a) Realizing benefits, goodness and pleasure for humans is called *jalb al-manafi*. These benefits can be felt directly or the benefits can be felt in the future.
- b) Avoiding damage and ugliness which is termed *dar' al-mafasid*.

Thus, the benchmark for determining the good and bad (benefits and *mafsadah*) of everything that is done is what is necessary for human life. The demands for human life are at various levels, namely primary needs, secondary needs and tertiary needs.(10)

From the problem of Thrifting (Trading in Used Clothes) which is mushrooming in Indonesia at the moment according to the workings of Asy-Syatibi's *maqashid al-syariah* theory. That Thrifting (Trading in Used Clothes) causes various problems and its distribution is actually prohibited in Indonesia. In the regulation of the Minister of Trade of the Republic of Indonesia Number 48/M-DAG/PER/2015 concerning General Provisions in the Import Sector and Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 concerning the Prohibition of Importing Used Clothing. Article 2 explains that imported goods must be new. And also violates Law no. 7 of 2014 concerning Trade. In Article 50 paragraph (2) of the Trade Law, it is stated that there are three reasons for the prohibition, namely as follows: 1. In order to protect national security or public interests, including social, cultural and public morals; 2. Protect intellectual property rights or IPR; 3. In order to protect the health and safety of humans, animals, fish, plants and the environment. And in general the impact of thrifting in Indonesia is as follows:

1. Shutting down MSMEs (Micro, Small and Medium Enterprises) in the country.
2. Reduces state income, because there is no tax collection by Customs officers.
3. It threatens national health, because thrifting (trading in used clothes) has not been clinically tested for cleanliness from germs or bacteria, which can cause various diseases when buyers buy these goods.
4. Being the country of Indonesia as a "disposal place" for used goods from abroad, the meaning of the dumping place is that Indonesia becomes an import of used goods where the used goods are goods which abroad themselves are goods which are no longer suitable for sale and these goods also already exist. in the trash there, but in Indonesia it sells.

5. There is a lot of environmental pollution, such as on land and waters. On land, for example, there are lots of used clothes scattered in rubbish bins until they become mountains, while in water, for example, there are lots of used clothes that are thrown into rivers because they are no longer suitable for sale and used clothes that are washed into the sea. This causes the waters and land in Indonesia to become unhealthy and cause many diseases, especially when the waters become dirty.(11)

If it is connected to Asy-Syahtibi's own theory of maqashid al-syariah, the problem of Thrifting (Used Clothes Trade) has caused a lot of damage or ugliness (dar' al-mafasid) in Indonesia because it has caused many negative problems for Indonesia, including violating the law stipulated by Indonesian Minister of Trade Number 48/M-DAG/PER/2015 concerning General Provisions in the Import Sector and Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 concerning Prohibition of the Import of Used Clothing. Article 2 explains that imported goods must be new. And also violates Law no. 7 of 2014 concerning Trade, causes MSMEs (Micro, Small and Medium Enterprises) to go bankrupt and garment shops also go bankrupt because many new shops sell Thrifting clothing, causing pollution in the land and sea environment. In the maqashid al-syariah theory of Asy-Syahtibi Thrifting (Used Clothes Trade) violates the methods of Asy-Syahtibi, including:**First**, carrying out an analysis through the pronunciation of commands and prohibitions in both the Al-Qur'an and al-Sunnah, it is explained that we must carry out the commands and stay away from the prohibitions mentioned in the Al-Quran and al-Sunnah where in this issue of Thrifting (Used Clothes Trade) we should must follow the commands of the Koran and al-Sunnah to stay away from this problem because there are many prohibitions in it;**second**, reviewer of `illah al-amr (commandments) and al-nahy (prohibitions), where Thrifting (Trade in Used Clothes) does not have a clear `illah, but if it causes badness or damage to humans in this world and the hereafter, it should be abandoned;**third**, analysts according to sukut al-syari`, that in sukut al-syari' there are legal issues that are not in the shari' or in the Al-Qur'an and al-Sunnah, which give rise to benefits for the perpetrators for human life. So if according to the issue of Thrifting (Trade in Used Clothes) this is not in the Al-Qur'an and al-Sunnah but Thrifting (Trade in Used Clothes) violates Indonesia's own positive law which violates the Law stipulated by the Indonesian Minister of Trade Number 48/M-DAG/PER/2015 concerning General Provisions in the Import Sector and Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 concerning the Prohibition of Importing Used Clothing. Article 2 explains that imported goods must be new. And also violates Law no. 7 of 2014 concerning Trade. Therefore, thrifting (trading in second-hand clothes) does not bring benefits to the perpetrators in human life, on the contrary.

CONCLUSION

In the problem of Thrifting (Trade in Used Clothes) in Indonesia which was researched using the theory of maqashid al-syari'ah from Asy-Syahtibi, it is that the problem of Thrifting (Trade in Used Clothes) causes damage and ugliness or what is termed dar' al-mafasid. The problem of Thrifting (Trading in Used Clothes) in Indonesia also violates Asy-Syahtibi's social methods, namely violating carrying out analysis through reciting commands and prohibitions in both the Qur'an and al-Sunnah; Reviewer of `illah al-amr (commandments) and al-nahy (prohibitions); and Analyst according to sukut al-syari`. That the methods of benefit from Asy-Syahtibi are actually methods for obtaining benefits in this world and the hereafter for humans, but this is in contrast to the problem of Thrifting (Trading in Used Clothes) where there are no benefits in this world and the hereafter and must be abandoned. according to the prohibition by Allah SWT

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