Fwd: Komen Penilai artikel bertajuk THE APPLICATION OF SIYASAH AND MAQASID AL-SHARI‘AH CONCEPT IN PUBLIC POLICY: A MALAYSIAN CASE

2 messages

SHARIFAH HAYAATI BINTI SYED ISMAIL <sashsiq@um.edu.my>  Thu, Sep 28, 2017 at 10:13 AM
To: lukman thailb <cottring@yahoo.com>, sitiarni staff <sitiarni@um.edu.my>

Assalamualaikum Dr Lukman & Dr Arni,

Didoakan berada dalam sihat sejahtera.

saya ingin memanjangkan email dr. jurnal al-tamaddun berkaitan komen penilai bagi article yang telah saya submitkan on behalf of Dr lukman (with assistance on the formatting part as well) for your perusal.

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with kind regards to all.

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To: SHARIFAH HAYAATI BINTI SYED ISMAIL <sashsiq@um.edu.my>

Assalamu'alaykum warahmatullah,

Prof Madya Dr Sharifah Hayaati, moga berada dalam keadaan sihat wal'afiat,

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Segala kerjasama daripada pihak Dr amatlah dihargai dan didahului dengan ucapan terima kasih.

Pihak Pengurusan Al-Tamaddun,
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Thu, Sep 28, 2017 at 2:43 PM

SITI ARNI BINTI BASIR Basir <sitiarni@um.edu.my>  
To: SHARIFAH HAYAATI BINTI SYED ISMAIL <sashsiq@um.edu.my>

Salam,

allright kak, nanti saya tengokkan ya....TQ.

[Quoted text hidden]
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Didoakan berada dalam sihat sejahtera.

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Assalamualaikum warahmatullah,

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THE APPLICATION OF SIYASAH AND MAQASID AL-SHARI’AH CONCEPT IN PUBLIC POLICY: A MALAYSIAN CASE

Abstract

In Islamic political thought (fikri al-siyasi al-Islami), politics is ‘siyasa’ which means, “actions that are based on the contemporary need or interests of human being”. Man in their lives often act based on the benefit (maslahah) of actions. The act that is based on its benefit (maslahah) is called siyasa, and an act which is in accordance to shari‘ah guidance is called ‘siyasa shar‘iyyah’ (Islamic Public Policy). Based on this rationale, siyasa al-shar‘iyyah can be defined as “actions that are based on the needs and interest (maslahah) of the Muslim community and in line with the spirit of shari‘ah laws”. For that reason Ibn ‘Uqayl defined ‘siyasa al-shar‘iyyah’ as “actions that drives human beings towards doing what is good (maslahah) and preventing them from doing what is bad (mafsadah), even though they was not performed by the Prophet (pbuh), and is not included in any revelation (waqiy) delivered by God.” From the stated definition it can be said that ‘siyasa al-shar‘iyyah’ are “acts that protect the needs and interest of Muslim community in governing their communities or state.” This paper will examines what is siyasa al-shar‘iyyah and the maqasid al-shar‘iyyah, why human being need for the shari‘ah, the relationship between the Maqasid al-Shari‘ah and country administration (politics), and in what way the Malaysian public policy formulation has applied the principles of maqasid al-shari‘ah especially in the New Economic Model (NEM), in the Economic Transformational Programme (ETP) as well as in the Government Transformational Programme(GTP).
Key Words: Siyasa al-Shar’iyyah, Maqasid al-Shar’iyyah, Policy formulation, New Economic Model (NEM), Economic Transformational Programme (ETP) and the Government Transformational Programme (GTP).

Introduction.

Politics (siyasa) as a science is broadly defined as the ‘art of power struggle’. Political scientist Harold Laswell define politics as “concerning the determination by official governmental decision-making and action who gets what, when and how in a political society.” 1 In Islamic political thought, politics is ‘siyasa’ which means, “actions that are based on the contemporary need or interests of human being”. 2 As we are aware that man in their lives often act based on the benefit (maslahah) of actions. The act that is based on its benefit (maslahah) is called siyasa, and an act which is in accordance to shari'ah’s guidance is called ‘siyasa al-shar’iyyah (Islamic Public Policy).

Nevertheless, scholars have used ‘siyasa al-shar’iyyah’ for various purposes, for it multiple interpretations, for example, a shari’ah-oriented policy, a shari'ah-oriented public policy, and a government that rules in accord with the shari’ah’s explicit guidance in all areas (e.g., legal, economic, political, foreign affairs, and public affairs), provided that the relevant rulings do not contradict the Islamic law (shari'ah’s) main principles. 3

On the other hand, Ibn Qayyim (d. 1350) broadly considers this term to mean “any measure that actually brings the people closest to beneficence (falah) and furthest away from

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1 Taken from Esizahura Abdul Aziz (2014), Politics and the Way of Islam, In IKIM Views, March 4.
corruption (fasad) partakes in just siyasah even if it has not been approved by the Prophet (pbuh) or regulated by divine revelation. Anyone who says that there is no siyasah shar'iyyah when the shari'ah itself is silent is mistaken and has misunderstood the companions (Sahabah). Despite its different interpretations, siyasah shari'yyah is strongly connected with the shari'ah's spirit and objectives. In fact, it can only be considered if both of them are in harmony.

In addition, siyasah al-shar'iyyah can also be used to refer to the various maslahah (public interest) that God as legislator has neither upheld nor overruled it "implies decisions and policy measures taken by the religious leaders (Imam) and the ruling elites or the leader of the community (ulu al-amr) on issues for which no specific ruling can be found in the shari'ah. Similarly, it "denotes the administration of an Islamic polity's public affairs in such a way that the interests of the community are in harmony with the shari'ah general principles, even if the policy in question disagrees with the rulings of particular mujahidin."5

For that reason, certain fuqaha' like 'Abdul Rahman Taj (1975), has used siyasah shar'iyyah in the sense of implying flexibility (tawsi'ah) for rulers and judges in their decisions. In other words, it is used to indicate the authorities' discretionary powers on a specific issue, provided that the issued ruling does not contradict the shari'ah's principles.6 Then, the main objective of shari'ah can be achieved none other than to benefit mankind (to achieved maslahah), and the actions of a leader or ulu al-amri in a Muslim country is to ensure that the objectives of the fulfilling public interest (maslahah) can be achieved, and must be in line with the spirit of the shari'ah. For that reason, a Muslim leader should act according to the objective of Jalb al-masaleh and wa

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6 Abdul al-Rahman Taj (1973), Al-Siyasah al-Shari'ah Wa Fiqh al-Islami, Cairo: Matba'ah Dar al-Ta'liif, p.3.