

The Relation between Theology School and Rational Ijtihad of At-Tufi Al-Hanbaly

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ABSTRACT: At-Tufi did not consistently follow one stream of theology paradigm. In his *Tafsir al-Isha'rah al-Ilahiyyah*, the interpretation of a clause is in line with Qadariyah, and other verses his interpretation is accordance with Asy'ariyah, Mu'tazilah, Jabariyah, or even Syi'ah. The writer is in line with the theory of Fazlur Rahman who suggested that al-Ash'ari tend to deny the existence of the relationship between theology and Islamic law. Ash'ari viewed that theology embraced by the fuqaha did not give an effect to their thoughts on Islamic law. So, it can be concluded that the at-Tufi as one of the jurist of Hanbali school has been traced that his views are not consistent with a single stream of theology. It is difficult to say that he converted his mazhab into other school of theology based on his thoughts, because in practice Mu'tazila itself does not touch on the discussion of Islamic law. It could be someone's opinion is same with another mazhab, because it is more acceptable to his opinion in accordance with the existing context, but it does not mean moving or follow that mazhab. The turn of mazhab is not only defined in terms of his thoughts, but it must be the totality of his personality. Therefore, the author does not agree with Malcolm H. Kerr who suggested that there is a necessary connection between theology and Islamic law, in which the fuqaha have tended in accordance with the school of theology that was followed. In the end, the writer found that at-Tufi is a sunnah tolerant expert jurists, free thinking, who flows his mind, dare to differ with another jurists with what he believes is right, because he was right with what he believes is right.

Keywords: Maslahah, Theology, intelligence, Nas} Ijtihad

I. INTRODUCTION

Faraug Abu Zaid stated that the emergence of Hanbali school is a natural reaction to the outrageous attitudes of a number of muslim groups, such as Syi'ah, Khawa'rij, Mu'tazilah, Qadariyah, Jahmiyyah and Murji'ah. Ahmad Ibn Hanbal held to the Hadith and Sunnah as acounter of religion misuse conducted by rationalists group. For example Mu'tazila which stated that the Koran was creature. In contrast to the Shafi'i who argued against deception of ijtiha'd by combining tradition with the ratio, while Ahmad Ibn Hanbal argued that ijtiha'd must be resisted by holding to the Qur'an and Sunnah strictly (Zaid F. A., pp. 17-18).

With the support of his students, Hanbali School (Mazhab) firstly had been spread from Baghdad, then dilating from Iraq to Egypt; and eventually became official Mazhab of Saudi Arabia kingdom. This Mazhab is less comprehensive development area, though there are many followers coming from outside Saudi Arabia such as Palestine, Syria, Iraq and others (Mahmassani, 1977, p. 55). since the Reformation era in Indonesia, this Mazhab began to appear in public like Al-Irsyad school, *khalaqah* (religious circle) and it also has been indicated it is developed by certain political parties based on fundamentalist Islam.

The wellknown disciples of Ahmad bin hanbal as Fiqh Ulama and developer of Ibn Hanbal thought, are Abu Bakr Ibn Hani famous as al-Astam, the author of *al-Sunnah fi al-Fiqh*; Abu al- Qasim al-Khirqi (334 H), the author of *al-Mukhtassjar*, Abdul Aziz Ibn Ja'far, Muwa'fiqhuddin bin Qadamah (620 H) the author of *al-Mugni*, a best fiqh book of Hanbali mazhab, and the book of *al-Umdah fi al-Fiqh al-Hanbali*; Syamsuddin Qadamah Ibn al-Muqaddasi (628 H), the author of *al-Syarkhu al-Kabi'r ala Matan al-Mugni*; Taqiyuddin Ahmad Ibn Taimiyah (661-727 H), known as Ibn Taymiyyah; and Abu Abdillah bin Bakar az-Zar'i, known as Ibn Qayyim al-Jauziyah (751 H) (Mahmassani, 1977, p. 55).

Ibn Taymiyya, an outstanding faqih and follower of Hanbali mazhab, has major works, such as *Fataawa Ibn Taymiyya*; *As-Siyasah as-Syari'ah fi Isla'h ar-Ra'yi wa Ra'iyah*; *Rasa'il Syekh al-Islam Taqiyuddin Ibn Taimiyah*; *Manhaj al-Sunnah an-Nabawiyyah fi naql kala'm as-Syiah wa qadariyah*; *Al-Maql fi ma baina al-Hjkmah wa as-Syari'ah min al-Ittisjal*; dan *Al-Furqan baina Auliya ar-Rahman wa Auliya asy-Syaihan* and a number of books in usul fiqh subject which its contain criticized many jurists in term of law basis and ijma' (consensus). This method book of making a legal decision by *nas}* and *ijma'* was a Rebuttal against those who said that *dalalah lafziyyah* could not provide conclusive knowledge (Mahmassani, 1977, p. 240).

Ibn Qayyim al-Jauziyah (691-751 / 1292-1350), an expert in the field of fiqh and usul fiqh of Hanbali mazhab, was also an experts in hadith, *nahwu* and a famous poet. Ibn Taymiyyah was the longest teachers followed by Ibn Qayyim. He even loved him very much; a lot of Ibn Taymiyyah's thoughts and attitudes

followed in such of manner that almost his opinions could not escape from influence of his teacher mind. As Ibn Qayyim's book in fiqh and usu>l fiqh: *Al-Furu>' al-Hukmiyah fi as-Siya>sah al-Syar'iyyah dan I'la>m al-Muwa>qi'i>n ar-Rabb al-Alami>n*, we can see the obvious influence of the ideas of Ibn Taymiyyah to Ibn Qayyim's work (Mahmassani, 1977, pp. 254-255).

These two great scholars, Ibn Taymiyyah and Ibn al-Qayyim are very influential on at-T}u>fi. Even in the book of *al-Isya>rah al-Ilahiyah ila al-Maba>his al-Usu>liyyah* mentioned several prominent Hanbalian Ulama as a teacher at T}u>fi (At T}u>fi, *Al-Isya>rah al-Ilahiyah ila al-Maba>his al-Usu>liyyah*, 2002, pp. 114-124). Al-T}u>fi, lived in the same era with Ibn Taymiyya and Ibn al-Jauziyah, -Indeed according to a statement, is considered as a student of Ibn Taymiyya, al-Zayyi, Al-Barza>li and Ibn Hamzah. Therefore, these three great scholars (Ibn Taymiyya, Ibn Qayyim and at-T}u>fi) are known with a trio great scholars who think independently from among adherents of Hanbali maz\hab (Zaid Z. M., 1964, p. 73).

In the case of Fiqh and Usu>l Fiqh development, at-T}u>fi learnt from Ibn Fara' al-Harani (Ismail ibn Muhammad ibn Ismail ibn Fara' al-Harani, al-S{ars{ari), Ali ibn Muhammad al-Bagdadi al-S{ars{ari al-Nahwi and Jamaluddin al-Bagdadi (Yusuf ibn Mahmud ibn Abd al-Bagdadi al-Muqiry). While in the field of Arabic language and literature, he learnt from al-Ba'ly (Muhammad ibn al- fat {ibn Abi al-Fad {al al-Ba'ly); Abu Hayyan an-Nahwi; al-Barza> li (Muhammad ibn Muhammad ibn Mahmud al-Barzaly). Despite of many teachers, at T}u>fi only had two teachers affiliated with Shafi'i maz\hab, they are al-Faru'y (Abdullah ibn Abi Ar-Rid {a al-Faru'y, an expert scholars of Fiqh-Usu>l Fiqh, Arabic grammar and *mantiq* science, and al-Ha>fizz ad-Dimyati, (Abd al-Mu'min ibn Halaf ad-Dimyati) ulama *ha>fiz* and *d{abit* in religion sciences (Zaid Z. M., 1964, pp. 118-119).

His book entitled *al-Bulbul fi Usu>l Fiqh* is a summary of *Raud}ah an-Na>z}ir wa Jannatu al-Mana>z}ir* belong to Ibn Qadamah al-Hanbali. The book of Al-Bulbul was too dense and took a long time to understand it, then at T}u>fi wrote us *Sharh* (a commentary book) entitled *Sharh Mukhtas}ar Raud}ah* which originally consisted of two volumes (At T}u>fi, 2002, p. 10). That is why Shaykh Ibn Badran in his book *al-Madkhal fi Usu>l Maz\hab al-Imam Ibn Hanbal* judged that *Sharh Mukhtas}ar at-T}u>fi* is the same level with the book *Mukhtas}ar Ibn Ha>ji*. (At T}u>fi, 2002, p. 15).

The *Sharh Mukhtas}ar at-T}u>fi's*, among Hanbalian, is considered as main reference, because it does not only express the view of Ibn Qadamah, but also at T}u>fi gives many additional explanation sharpening the discussion (At T}u>fi, 2002, p. 15). Many of the great Hanbalian figures refer and hold on the book *Mukhtas}ar*, as Alauddin Ali Ibn Sulaiman Ibn Ahmad al-Mardawi (w.880 H) who wrote *Tahri>r al-Manqu>l wa Tahz}ib ilmu al-Usu>l* which always refered that *Sharh*. Imam Taqiyuddin al-Futu>hy (w.979 H) took the *Sharh at-T}u>fi* as references for Hanbali maz\hab in Egypt, and made it as guide book to solve problems that developed in Egypt. He often took at-T}u>fi opinion in his book *Sharh al-Kaukab al-Mun> ir* (At T}u>fi, 2002, p. 16).

Because of his expertise on Islamic Jurisprudence (Fiqh) and ushul fiqh, At-T}u>fi had some faithful disciples of the Hana>bilah such as Abd ar-Rahman al-Qu>sy (724 H) and Muhammad ibn Fadal Ibn Khatib al-Maraji al -Qu>sy, even as written by Ibn Rajab that Ibn Taymiyyah included his students in Arabic language (At T}u>fi, 2002, pp. 71-72).

When we deeply comprehend his expertise in fiqh and ushul filqh eihter involving his teachers or his students, and his views, it is apparent that he is at-T}u>fi cannot be separated from Hanbali maz\hab. That is why many scholars who claimed that at-T}u>fi is a scholars figure on Fiqh-Ushul fiqh, who think independently under Hanbali maz\hab. Abdullah Ibn Abd al-Muhsin at-Turki wrote: at-T}u>fi is one of Hanabila Jurist whose all of his fiqh works are affiliated to Hanbali school. In line with this, al-Murdawi al-Hanbali said at-T}u>fi is a great Fuqaha> of Hanbali circles who think rationally and capable to do *ijtiha>d* (At T}u>fi, 1998:Vol 1, p. 10). This statement is supported by Zahrah who relied on Ibn Rajab and Mustafa Zaid by analyzing strong arguments and relying on the life journey of at T}u>fi (Asmin, 1995, pp. 182-183). In the meantime, the analysis of methodology of Islamic law and defining legal proposition reflect that at-T}u>fi is real Hanbalian and could not separated from maz\hab of Hanbali

II. RELATION BETWEEN THEOLOGICAL THOUGHT AND ISLAMIC LAW

Thought of theology and Islamic law can be seen, at least, from some major aspects that are often associated with Islamic law.

2.1 Iman Is A Confession Of Faith Within Heart

at-T}u>fi argued that faith or belief is quite simple; confessing by our heart (*tas}di>q bi al-qalbi*) about the existence of God, angels, holy books, messengers and judgment day. While the unbelievers is the opposite of belief defenition (At-T}u>fi, 2002: vol. 1, p. 40). Knowledge of God, the apostles and of all that come from God in general not in detail called faith. Thus, the faith does not have the nature of increases or decreases, and there is no difference between people in matters of faith.

Shuch Arguments of at-T}u>fi had been expressed when he interprets this verse:

وَلَقَدْ عَلِمُوا لَمَنِ اشْتَرَاهُ مَا لَهُ فِي الْآخِرَةِ مِنْ خَلَقٍ وَلَبِئْسَ مَا شَرَوْا بِهِ أَنْفُسَهُمْ لَوْ كَانُوا يَعْلَمُونَ

And they knew that the buyers of [magic] would have no share in the happiness of the Hereafter. And vile was the price for which they did sell their souls, if they but knew! (Q.S. Al-Baqarah, 2: 102).

The meaning of شَرَوْا بِهِ أَنْفُسَهُمْ لِلنَّارِ فِي الْآخِرَةِ is. Therefore (witches) are not punished conducting suicide in the world, but (wait) in the hereafter after the coming of judgment day.

Discussion of magic is strongly connected with this verse, because magic is included in *furu'* (branches matters) related with *al-kufru* and *al-qatlu*. Whereas at-Tuḥfi viewed that *al-kufru* and *al-iman* are sub of *al-Asma' wa al-ahkam* in theology. Thus the essence of *kufri* is to deny the religious teachings which are definite.

ان الكفر انما هو انكار ما علم كونه من الدين ضرورة فما لا يدخل تحت هذا لا يكون كفرا

"Indeed, *infidel -kufri-* is to deny any religious teaching that is known for certainly. Hence, the denial to things outside it is not *kufri*"

Anything that is excluded from this definition does not consider *kufur*. Hence *al-kufru* is opposite of *al-iman*, while *al-iman* is (At-Tuḥfi, 2002: vol. 1, p. 285):

الايمان هو التصديق بالله و ملائكاته و كتبه و رسله و اليوم الاخر و جب ان يكون الكفر هو التكدب بذلك او بعضه

"Faith-*iman-* is to believe in Allah, angles, holy books, messengers of God, and Judgment Day. It is an obligation to believe that infidelity is unbelieving, denying all those principles or some of them".

In other occasion, 'Faith is a confession by heart firmly stated by at-Tuḥfi when he is interpreting this verse:

كَلِمًا أَلْفِي فِيهَا فَوْجٌ سَأَلُهُمْ خَزَنَتُهَا أَلَمْ يَأْتِكُمْ نَذِيرٌ

Almost bursting with fury: Every time a Group is cast therein, its Keepers will ask, "Did no Warner come to you? (Q.S. Al-Mulk, 67: 8).

He agreed with Murji'ah opinion stating that no one will go to hell unless infidels. There will be no punishment (in the world) for those who believe even though he has sins, for faith is a virtue. There is no effect doing something bad (*sai'ah*), and vice versa. The Word of God:

وَقَالُوا لَوْ كُنَّا نَسْمَعُ أَوْ نَعْقِلُ مَا كُنَّا فِي أَصْحَابِ السَّعِيرِ

"Dan mereka berkata, sekiranya kami mendengarkan atau memikirkan (peringatan itu) niscaya tidaklah kami termasuk penghuni-penghuni neraka yang menyala-nyala".

They will further say: "Had we but listened or used our intelligence, we should not [now] be among the Companions of the Blazing Fire! (Q.S. Al-Mulk, 67: 10)

This verse is related to previous verse, Al-Mulk: 6, stating:

وَالَّذِينَ كَفَرُوا بِرَبِّهِمْ عَذَابُ جَهَنَّمَ

For those who reject their Lord [and Cherisher] is the Penalty of Hell: and evil is [such], Destination.

By labeling status of 'infidels' then (later) someone will get the punishment of Jahanna (At-Tuḥfi, 2002: vol. 3, p. 356-357). At the next turn, at-Tuḥfi reiterated his opinion when interpreting:

فَأَنْذَرْتُكُمْ نَارًا تَلَظَّى لَا يَصْلَاهَا إِلَّا الْأَشْقَى الَّذِي كَذَّبَ وَتَوَلَّى

Therefore do I warn you of a Fire blazing fiercely. None shall reach it but those most unfortunate ones. Who give the lie to Truth and turn their backs. (Q.S. al-Lail, 92: 14-16)

Kalau dalam surat *Al-Mulk* ayat 9 hanya disebutkan "tidak akan masuk neraka kecuali orang kafir", maka dari surat *al-lail* ini dapat ditegaskan:

If in chapter *Al-Mulk* verse 9 God just mentioned "will not go to hell unless infidels", then in the chapter *al-Lail* the point can be highlighted:

من يدخلها في الاشقى المكذب بالنفى والاثبات

"the most unfortunate people are those who reject and disbelieve the truth either by eradicating or affirming".

Therefore it is obvious that our opinion about infidels who will go to hell are those belied and turned away from the faith. This opinion is stronger than our previous expression which is stating that the only entrance to hell is merely *kafir*, unbeliever (At-Tuḥfi, 2002: vol. 3, p. 412).

2.2 God's attributes and human actitons

Related to attributes of God, he supports *Asy'ariyah*, by adhering *sifat fi'liyah* and *z'atiah*, when he is interpreting:

...وَالْأَرْضُ جَمِيعًا قَبْضَتُهُ يَوْمَ الْقِيَامَةِ وَالسَّمَاوَاتُ مَطْوِيَّاتٌ بِيَمِينِهِ... "On the Day of Judgment the whole of the earth will be but His handfu...". (Q.S. Al-Zumar, 39: 67)

The word *al-Qabdu* and *al-Yamin* are similar meaning with:

بل يدها ميسو طتان وم يكشف عن ساق يحمل السموات على اصبع وجهه ربك

At the same time, at-Tuḥfi is line with *mazhab* of *Asy'ariyah* which states that God has a face, hands, eyes and so on, but they are not the same as human body. Thus he refused anthropomorphisme, as *Asy'arite* (At-

T}u>fi, 2002: vol. 3, p. 196-197). The issue of Qur'an also included in this matter; is it qadim or hadith, he argued as Asy'arite that the Qur'an is uncreated, because it is qadim, as well as the problem of al-jihah (direction) (At-T}u>fi, 2002: vol. 2, p. 42-43).

In contrast to the problems of *af'a>l al-iba>d* (human action), he is not in line with the theory of *Kasab* belonged to al-Asy'arite, he tend to the Jabariyah school. He had different view with the Mu'tazilah in matters of human actions, the Qur'an is a creature and denying *ru'yah* (seeing God) (At-T}u>fi, 2002: vol. 1, p. 99).

2.3 The issue of h}usn and qubh (good and bad)

The issue of good or bad deeds (*h}usn -qabh*) appeared in usu>l fiqh science in the form of position of human mind as theorem beyond the na}s. In this case the *ijtihad*, Islamic scholars are divided into three streams: Mu'tazila, Maturidiyah and Asy'ariyah.

Mu'tazila argued that knowledge of God and the good and bad can be obtained with reasonable power. Because reason can know the good and bad, everyone should do good thing like honest, just and leave bad deeds like lie and unjust. Abu Zahrah quoted the opinion Mu'tazilah which argued that human actions can be categorized into four kinds. (1) bad action because it is prohibited (*qabih {li an-nahyi*), bad action because its essence (*qabih {li an-nafsih*), good because because it is ordered (H {asan li al-Amri BIH), and good as its essence (Zahrah, 2001, p. 52). If the essence action contains some advantages or the doer does not get critic, the act should be done. On the other way, when bad things essentially to the marked presence of censure or loss for the perpetrator, the act should be abandoned. Based on this way of thinking, when there is no shari'ah or revelation, man has been burdened to do good and leave the bad. When *nas}* did not give any cues, then the human mind serves to determine good or bad deed. Intellect has the authority that is impersial, assuming that the shari'ah revealed by God is for the sake of human interest and welfare of human being.

Nevertheless Mu'tazila viewed that human still need and be guided by the revelation. The mind only knows the general things, while on the detailed things human need clarification and confirmation of the revelation absolutely. Thus revelation enhances the knowledge about the good and bad sense.

Maturidiyah, either Samarkand or Bukhara, agreed that our mind can know good things which are essentially good, and bad things which are essentially bad. Our mental also knows that being bad is bad and being good is good. A very fundamental difference with Mu'tazila, whether intellect capable of determining whether or not a mandatory action. According Maturidiyah, reason cannot oblige people to do good deeds and to avoid bad deeds. The one who has authority over all things imperative is only God, not reason or human mind. This means an obligation to do well and leave bad deeds can only be known through revelation.

Human mind is a tool to be able to know the good and bad, while actually God made it as a compulsory. God did not make the order as a liability in the absence of any sense of human beings. According to Abu Uzbah, extensions sense analogous to the function of the messenger. Envoy did not make anything mandatory, he just tells what must be known by man. The actual charge is God's own command (Uzbah, p. 36).

On this basis, if there is no *nas}* (scriptural text), reason cannot determine the law of action, but man should refer to scriptural text through some methods such as *Qiyas, istihsan, istislah, sadd az-zari'ah* and so. It does not stand alone, so, the reason does not have the right and determinative imperative authority to *mukallaf*.

Outside of these two streams, Asy'arite holds that human reason does not have anything except the ability to know God. While three other things can only be known through information of revelation. Problem of Good - bad value of an act cannot be established by reason, it should be noticed by revelation. Lying is bad deed, for revelation says so. If the revelation states that lie is good, so lie must be a good thing. Had the Lord required of his servants to do a lie, of course it is not possible to refuse to do so. Al-shahrastani Asy- Asy'ariyah followers assert that reason cannot determine good and bad deed. Neither is what is notified by the Shari'ah with honors on people who do. While the bad meaning is what is notified by the Shari'ah with reproach for those who do (Asy-Syahrastani, 1951, p. 250).

On this logical reason, it can be seen that the asy-Asy'arite regards the value of a good or bad is not the essence of an act, but only in the form of quality on the deed. Mind does not have the potential and qualities to determine whether the act is worth value or bad value, so the absolute of revelation information is strongly needed. None of requires for every man to do good and avoid bad things, except if the revelation had come to inform. The phrase could be understood the tendency of Asy'arite stated that mind is nothing more than a tool in understanding revelation, in order to explore the substantive meaning of the text through *istinbat* methods already practiced by law jurists, such as *qiyas, istihsa>n, istisla>h* and *saddu az-z}ari>'ah*. This means apparent closeness of Asy'arite with a view Maturidiyah.

From those three schools, we are able to read that Mu'tazila arguing that human mind has imperative authority which actually can shift the understanding of *al-hukmu* which not only means *khitab Allah*, but also by human reason it can be *mujib* in terms of no *nas}* }, implies that *khitab Allah* shifted on *khitab* of mind. If this happens it seems contrary to basic Islamic belief that the only *sya>ri* is God alone, as mentioned in the Qur'an 6: 57.

It is possible that *khitab* Allah does not solely refer to al-Qur'an, but also to all forms of legal reasoning which are validated likee hadith, *ijma'*, *qiyas*, *istihsan*, *istislah* and so forth. If so, this would not mean that mind has no imperative authority at all which means our reason is always under the subordination of the Lord.

It seems that the views of Maturidiyah bridge and simultaneously accommodate both forms of the difference between Mu'tazila with Asy'ariyah. Maturidiyah agreed with Mu'tazila about the potentiality of mind, but they disagree on the authority of mind. In other case, Maturidiyah is opposite to Asy'ariyah in terms of potentiality of mind, but both are contiguous to the rejection of authority sense. In other word, though Maturidiyah recognizes the potential of sense, but this school still rejects the authority of reason.

2.4 Theory of effective cause (illat) and maslahah

The most important in the study of Usul fiqh, relating with *Al-H}usn* and *al-qubh*, is disagreement of scholars about illat theory, as a determinant factor (*al-Mu'arrif*) of the existence or absence of a legal provision.

Al-Mu'arrif li al-hukmi is the essence of law content in the law itself. Asy'ariyah argued that *al-mu'arrif li al-hukmi* made by sya'ri in legal was not because the essence of which is contained in the law. Based on this perspective Mutazilah insisted that effective cause of law happened by itself, and it can be known by human reason based on the essential nature (good and bad) that was contained. Meanwhile Asy'ariyah argued that illat of law does not happen by itself but it is determined by God.

Mu'tazila reasoning brings a consequence; every illat of law must contain goodness (*maslahah*), generate benefits (*h}usn*), and or reject badness (*qubh*). Thus, every act of God must have *illat* (touch upon the benefit and follow good-bad contained essentially in each cases. Thus their theory is in parallel with *al-s}alah wa al-as}lah* which is an obligation for the Mighty to provide its *illat*. While Asy'ariyah in their theory did not result in the necessity of *ta'lil af'al Allah bi al-Maslahah*, because for them God as creator is not driven by a certain purpose in conducting deeds.

III. RATIONAL IJTIHAD OF AT-TUFI AND ITS RELATION TO THEOLOGY MAZHAB (SCHOOL)

Based on theological thought of Murji'ah, Mu'tazila, Maturidiyah and Asy'ariyah above, we could analyze the tendency of theology at-T}ufi in expressing his *maslahah* concept based on several issues.

3.1 Issue of effective cause of law (illat al-hukum)

Does God conduct his action because of *illat* or not? Arguments of proponent that support *illat* assume that the action without *illat* is considered a meaningless and useless action. Whereas Allah is purified and sacred from of vain things. For them, many Qur'anic verses support this *illat*.

In the contrary, other groups who do not agree that the action of God should be accompanied with *illat* argued anyone who acts as a boost something, meaning he still needs something else. Thus, it means he is not perfect depending on external factors surrounding him. While the existing of negative attributes to Allah is impossible.

To answer some reasons given by those groups above (pros and cons) have put, at-T}ufi look that their opinion do not get the point of issue, because actually the acts of God are containing *illat* associated with welfare and perfection of *mukallaf*. God does not need an *illat* to do, since the nature of God is perfect and does not need help from anyone or other factor.

Public goodness for human is a gift of Allah, that what *ahl al-sunna* explains about. While Mu'tazila believes that it is an obligation on God to give and implement the goodness (*maslahah*) for humans being. According to at-T}ufi that preservation of *maslahah* essentially constitutes an obligation for God the Giver and the Gracious, not an obligation on Allah.

Allah indeed has maintained *maslahah* for his creatures, but what is maintained is it whole *maslahah* absolutly or perfectly? Or Allah maintains all the common benefit both the absolute and the perfect or partial of the perfect, by the principle as long as *maslahah* gives the benefit to organize human life? It might be all *maslahah* are maintained by God, but the much closer to the truth is the last form of *maslahah*. In verse al-An'am: 12 above, Allah affirms that Allah accepts repentance is not an obligation imposed to God. Based on this argument, the objectives of Shari'ah are clearly to guard the soul and dignity of human being. It is surely right that every verse of the Qur'an contains and embeds *maslahah*, without any obligation to God to maintain *maslahah*.

3.2 Text of Intellect and acts of God

Maslahah method as a legal effort to achieve the public goodness and to avoid the evil, the parameter does not only refer to *nas} syara'*, but also it refers to sense as form of the existing tradition (*adat*). However *maslahah* sometimes shall take precedence over religion text}} and *ijma'*, because *maslahah* is the strongest argument which must be put forward. Thus, human mind (without confirmation of *nas}}*) is able to know good and evil-. *Istiqla}l al-Uqu}l biidra}k al Masa}lih wa al-mafa}sid*. al-T}ufi, in this case, restricted the issue

on *mu'amalah* and customs affairs only. This means that the virtues which concern with social life and rights of *mukallaf* can be determined by social custom and reason-. *Istiqlal al-Uquḥ biidraḥ al Masaḥih wa al-mafaḥsid*. This application is done through *ijtihād* as it has been pursued by the other *mujtahids*, through the arguments of *syarā'* that the *at-Tuḥfi* mentioned, there are 19 kinds, such as *qiyas*, *istihsan* and so on. if we look at *Illat* of law, the method of settlement taken by *at-Tuḥfi* is in line with Maturidiyah, a moderat school between two sides; Mu'tazilah and Asy'ariyah. God really establishes the law and it really does have *illat*, but *illat* is associated with welfare and perfection of human. *Illat* of goodness is the duty of God because of the nature of the Supreme giver and generous, not on base of liability for God. So *illat* of *maslahah* is not a burden borne by God. For instance Allah accepts repentance of man shall not imply an obligation on God. Based on this, *illat* of *maslahah* on every law always exists, without any obligation on God to preserve it. It means putting God on the one hand has absolute power and on the other hand putting men have the power and ability so that they are not in a weak position.

Related to action of God whether it is intended for human goodness or not, actually it has a great influence for activity and creativity of Muslim jurists. For those who see *maslahah* of humans as a destination of law, the Lord will provide a fiqh perspective that is not only theological but also humanistic, which all the commandments of God are considered as a reflection of his affection. Therefore the laws of God should advocate human interests and should be enforced upon interest of *maslahah*.

Meanwhile the opinion stating the purpose of God's action unrelated to human goodness, will serve a fiqh perspective that is both imperative and theistic. God determines commands based on the power and as a starting point that implementation obligations must be obeyed and done, they are not based on compassion and on human welfare.

Relating to the mind functions, he is in line with the Mu'tazilah opinion in terms of recognizing good and evil. Nevertheless it has been limited to *mu'amalah* and social custom issues. This means that power of mind is limited to social life which the truth is constrained by custom, the norms prevailing in society. It could be understood that the place of mind power anyway is under revelation that serves as motivator, like what Maturidiyah argued. Therefore in determining the law he referred to the sources of Islamic law and not referred to mind freedom without any control. In other words, he recognizes the potential of mind, not in term of an absolute of mind authority. In the meantime, the capacity of reason could not require anything to *mukallaf*. The obligation to do duty on the order of God, this means the only *al-hakim* (the judge) is Allah the all Mighty.

An outlook explains that mind cannot require anything; it does not constitute denying the role of mind in knowing the need for people to do good and leave evil deeds. In short, human mind at least serves as motivator for worshipping. Here there is a close relationship between God and human reason. If the sense to know the value of good and bad things, and encouraged to do something good and leave the bad. This means the mind power plays an important role and great functions even it does not exactly the same as Mu'tazila which has further and wider opinion. Unlike the Asy'ariyah who see the mind only has a small function.

The great function of mind actually describes human freedom and strength, while a small functions of mind reflects human frailty. Issues of human strengths and weaknesses is related to the ability and the power of human endeavor in receiving *talkiḥ* (responsible) from God. *Takliḥ* means a unit of demands which is burdened on human being and at the same time as responsibility. It is impossible to do if human did not have the knowledge and the power to carry it out.

IV. INCONSISTENCY OF AT-TUḤFI THEOLOGY

From elucidation above, it is clearly understood that *at-Tuḥfi* did not consistently follow one school of theology. In his exegesis *al-Ishaḥ rah al-Ilahiyyah*, *at-Tuḥfi* followed Qadariyah school in interpretation of a Qur'anic verse. Nonetheless in other verses he was agreed with interpretation of Asy'ariyah, Mu'tazilah, Jabariyah, even Syi'ah. For example, *at-Tuḥfi* argued that human deeds are less important than faith, while human faith has no space to increases or decreases, and there is no difference between people in matters of faith. Believes and unbeliefs included under the subject of *al-Asmaḥ wa al-ahkaḥ* in theology, therefore the nature of *kufr* is to deny and neglect absolute religious teachings. There would be no punishment (in the world) for believers eventhough he did sins, because faith definitely is a virtue whether he is a follower *murjah*? *at-Tuḥfi* stated that al-Qur'an is *qadim* (eternal). God has a face, hands, eyes and so on, but they are not the same as what belonged to humans, whether he is Asy'ariyah,? In issue of *af'āl al-ibaḥd* (human action), he did not agree with the theory of *kasab* al-Asy'ariyah. In this issue, he is closer to Jabariyah paradigm. And Then, when *at-Tuḥfi* argues that text is able to stand on its own as a source of law, that law has *illat* (effective cause). Is he *muktazila* follower? In fact, *at-Tuḥfi* is also was not in line with the Mu'tazilah in matters of human actions; the group that said al-Qur'an is creature and they deny *ru'yah* (human ability on seeing god in hereafter). He explained that the act of God had anything to do with human welfare, but the opinion of Mu'tazilites did not really get the problem, because actually the acts of God contains *illat* associated with goodness and perfection of *mukallaf*. God does not need an *illat* for his actions.

Therefore, the acceptance of sinner repentance is not an obligation imposed to God. We can conclude that the objective of the *shari'ah* is clearly to preserve life and human dignity, and every verse of the Qur'an contains definite *maslahah*, without any obligation to God maintaining *maslahah* or human goodness.

Relating to the functions of mind, at-T}u>fi was in accordance with Mu'tazilah opinion in terms of mind ability recognizing good and evil, but it is limited on the issue of *mu'amalah* and customs only. This means that capacity of mind is limited to human social life realm. The truth is constrained by custom, the norms prevailing in society. In this case at-T}u>fi placed human mind under revelation authority. Thus human mind serves as motivator, similar with Maturidiyah view. Therefore in determining the law he remains back to the sources of Islamic law; 19 sources, Instead of referring to the mind freedom without control. In other words, he recognizes the potential of human mind, but it does not constitute an absolute authority of reason. In the meantime, the capacity of reason could not require anything to *mukallaf*. The obligation to do duty on the order of God, this means the only *al-hakim* (the judge) is Allah the all Mighty.

Thus, when we regard him as Islamic jurist affiliated with theology of Murjiah – more over confined to the issue of faith and *kufir* merely- it is not fundamental reasoning. This case is the same as Imam Hanafi, founder of Hanafi School. He was allegedly as adherents Murjiah, because he had defined faith and *kufir* similar with Murjiah principles. Hanafi had a notion that no one has the right judging the believer as the infidel as long as muslim still believed in Allah and His Messenger, even though he has conducted various immoral deeds. Whoever labeled a muslim as an infidel and unbeliever, he has committed the sin anyway (ash-Syarqawi, 2000: 256).

Imam Hanafi defines faith as knowledge and recognition of God, His apostles, and everything that comes from God in a general and not in detail. Faith does not have the nature of increases or decreases, and there is no difference between people in matters of faith (Al-Gurabi, 1958, p. 203). The definitions given Abu Hanifah illustrates that the faith of all Muslims are the same. There is no difference between the faith of the great sinful Muslims and obedient muslim to God's command.

On the other hand, Ibn Hazm, a well-known figures of Z}ahiriyah also had appraising al-Ash'ari as the Murjiah school (Al-Hazm, 1964, p. 46). It is because al-Ash'ari argued that faith is a confession in the hearts about Oneness of God and the truth of messengers and all the things they bring. Saying this confessing trough verbal and performing pillars of Islam is a branch of faith. Great sinner, if it dies without repentance, His fate lies in the hands of God. It is possible that God will forgive his sins, but there is also the possibility that God may not forgive his sins and God would torture him according to the sins which he made and then just put in heaven, because he cannot eternally stay in hell (Asy-Syahrastani, 1951, p. 101).

Ibn Taymiyyah has accused al-shahrastani as adherents Syi> ah (Aziz, t.t: 47-51). Instead a *mufassir* Jamaluddin al-Qasimy actually supported Jahn bin Sofwan, a great figure of Jahmiyah school. And he put Jahn into muslimin group. He considered Jahn as *mujtahid* of the attributes of God. He was very diligent enforcing the laws of the Book (Qur'an) and the Sunnah. He was a famous preacher of al-kitab and sunnah acting so firmly to those who deviate from those two holy scriptures (Al-Qasimy, pp. 9-18).

In this case, can this discription be interpreted that Abu Hanifah argued that human actions are less important than the faith? Abu Hanifah, a well-known imam maz\hab who gives a high place for human ratio (logic), is great jurist. Presumably it is very awkward if Abu Hanifah as a figure Fuqaha> stated that human deed or worship was not important. As a founder of maz\hab fiqh always talking about the value of human deeds, it is very doubtful that he has such kind of thought; deeds are not important for a Muslim. Therefore as-Shahrastani said: "How could a man who was educated to perform good deeds from his childhood to his adulthood can encourage leaving deeds or actions" (Asy-Syahrastani, 1951, p. 146). Ahmad Amin said, Imam Hanafi is categorized as Moderate Murjiah group (Amin, 1964, p. 322).

Because there is no agreement of opinion among the scholars about who are Murjiah, moderate Murjiah or extreme Murjiah, then Abu Zahrah emphasizes to not judge Abu Hanifa and other ulama as adherent of Murji'ah group (Zahrah, 2001, p. 206).

Fatwa of Abu Hanifah about no right for anyone to judge Muslims as infidel just like explined above, it should be understood it in the historical context of that time in which the ruling reign easily considered other group as infidels particularly to their political opponents (Muslims), shed blood, limit the freedom of the people, and let the rulers do as they pleased, and let the strong suppress the weak. Thus it was indeed Abu Hanifa intended that the descendants of Abbas, particularly al-Mansur is no longer easy infidelizing his political opponents, and no more bloodshed among the sons of Abbas with the *Alawiyin* (partisans of Ali ra). All of these mean that there is freedom. Therefore, all the fatwa and the opinion of Abu Hanifah based on the spirit of freedom which is according to Shari'a law should be respected and protected. Abusing freedom has more lighter impact than restricted freedom (Asy-Syarqawi, 2000, p. 250).

According to Harun Nasution, the inclusion of Abu Hanifah and al-Asyari into Moderate Murjiah, is because moderate Murjiah teachings eventually became an accepted teachings into the group of ahli as-Sunnah wa al-Jama'ah (Nasution, p. 28).

Besides previous fatwa about infidelizing Muslims and definition of faith according to Abu Hanifah and al-Ash'ari is not empty from Syar'i reasons. Many traditions support their opinion as expressed by al-Qaradawi, for example:

ثلاث من اصل الايمان الكفّ عن قال لاله الا الله لا نكفره بذنوب ولا نخرجه من الاسلام بعمل
"Three matters are included as the principle of faith: Refrain to people who say *la ilaha illa Allah*, and do not accuse them as disbelieve because of sin, and do not exclude them from Islam because of deed" (Al-Qaradawi, 1997, p. 163)

كفّوا عن اهل لا اله الا الله لا تكفروهم من كفّر اهل لا اله الا الله فهو الى الكفر اقرب
"Hold yourselves from (accusing) person who says *La ilaha illa Allah*. do not call them infidels because of sin. Whoever considers person say *la ilaha illa Allah* as infidel, then he is closer to disbelief"

كلّ المسلم على المسلم حرام دمه وماله و عرضه
"Every Muslim is forbidden on other Muslim for his blood, property and honor". (Al-Qaradawi, 1997, pp. 159-165).

V. CONCLUSION

At-T}u>fi, well-known as a jurist of Hanbali school, hold logic too much, such as his *maslahah* concept. It does not mean that at-T}u>fi's view on a matter of faith follows Murjiah of theology. al-Bazdawi concluded that the Murjiah generally agreed with the scholars of al-Sunnah wa al-Jama'ah (Al-Bazdawi, 1963: 135). Harun Nasution viewed that moderate Murjiah group as the ones who stand itself has been lost in history, and their teachings about faith, kufr and great sin melted into al-Sunnah wa al-Jama'ah school (Nasution, tt: 3), Hence the phrase at-T}u>fi expression closely connected with al-Ash'ari who argued that expressing our faith by tongue that is not important, and performing the pillars of Islam is a branch of faith.

At-T}u>fi argued human action is definitively less important than faith itself. Such kind of way of thinking may exist in thought of at-T}u>fi - wellknown as a jurist of maz\ Hanbali that take human logic into account deciding law. But argument stating human action and worship is not important deeds, it is unacceptable. As a faqih been engaged in fiqh and Usul fiqh, certainly believes human action is important for a Muslim. This is in line with the interpretation of following verse:

إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ لَهُمْ أَجْرٌ غَيْرُ مَمْنُونٍ

"Except to those who believe and work righteous deeds: For them is a Reward that will never fail". (Q.S. *Al-Insyiqaq*, 84: 25.)

The word of 'amilu> connected with amanu> is included at}af:

من باب عطف الخاص على العام

"It is a kind at}af: specific to the general thing".

Thus, action or deed implicitly must be conducted by believers (becoming part of iman) (Nasution, t.t: 40).

The writer is in line with the theory suggested by Fazlur Rahman explaining al-Ash'ari tends to deny the existence of the relationship between theology and Islamic law (Rahman, 1990: 48-49). Ash'ari saw theology embraced by the jurists did not give effect to their thoughts on Islamic law. In the meantime, we could conclude that at T}u>fi as one follower of Hanbali school, is not consistent with a certain schools of theology, so it is difficult to say he converted his mazhab into a theological schools because of his thinking. We should not say that at-T}u>fi is Mu'tazila, because Mu'tazila itself in practice did not discuss on the discussion of Islamic law. And this is one of the shortcomings of Mu'tazila, a scholar may have a thought which similar with other maz\hab, because his view and thought is more acceptable in accordance with the existing context, and it does not mean that he have moved or followed other maz\hab. To be able to say, converting maz\hab is not only determined from thought aspect, but it must be the totality of his personality. Here, the writer is not in line with Malcolm H. Kerr suggested that between theology and Islamic law there is a necessary connection, where the jurists have a tendency corresponding an advocated theological school. (Kerr. 1996: p.6)

In the end, the writer argues that at-T}u>fi is a tolerant, free thinking, not bound in a single maz\hab. Certain theology paradigm outside ahl sunnah confirmed by Abu Asim, that at-T}u>fi as a scholars of jurisprudence who has flowing thoughts, freedom of thinking, courageous to be different with another jurist about what he believes is right, because he think so.

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