

Meaning of Islamic Perspective Analogy (Thematic Studies According to Islamic Leaders)

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Abstract: *Regarding the role of analogy in efforts to establish Islamic law, al-Baidawi gives the opinion that analogy is very functional and influential in the formation of Islamic law, when Muslims are faced with a certain case, which cannot be found clearly based on the law of the Qur'an and Hadith. For him, analogy is a method of formulating law that is systematic compared to other methods of conducting ijtiḥad. In this case, the role of analogy is very dependent on the authority of ijtiḥad in Islamic law. Using data collection methods through library research, the research also uses several methods including historical methods, content analysis methods, and comparative methods. The historical method is used because the object of study involves the thoughts of a character who lived in the lamp era, which can be known based on his scientific works.*

Keywords: *Thematic Studies; Analogy; Islamic Perspective*

I. Introduction

Intellect is the key to explore and find Islamic law, therefore it has a high position in the Islamic teaching system. The progress that Islam had in the past was none other than the influence of a sincere and deep use of reason. Because of this important role, the Qur'an and hadith have revealed several times about the use of reason in understanding Islamic law (Daud Ali: 1993). Thus the role of reason in ijtiḥad becomes an important thing in responding to God's will, with the aim of making it easily realized in the practice of everyday human life.

Ijtiḥad is an eternal need for humans, which is always needed at all times (Baidhaw: 1984), as long as the conditions of society are always changing and developing and as long as Islamic law is dynamic and suitable at every time and place, then ijtiḥad is still applied to every case faced. human (Qardawi: 1987).

One form of ijtiḥad recognized by the majority of fiqh scholars as a method of establishing law is qiyas. This method seeks to find the law by equating a case that has no text to something that is clear in its text and law based on the similarity of illat, which is believed to be a link to the existence of law in creating the desired masalah.

In general, the jurists dispute about the authority of qiyas and the permissibility of using it for all syara' laws. Some of them allow it on the grounds that all syara' laws are one unit, which if one of them can be determined by qiyas, then the others can be determined based on qiyas as well. According to other jurists, qiyas cannot stipulate all syara' laws, because even though they are one unit, there are differences in character from one another. What is contained in some, may not necessarily be applied to others, because each has its own characteristics.

In principle, to use qiyas, four points are needed that form the pillars of the implementation of qiyas, namely the origin, branch, original law and illat. The four pillars of qiyas become the benchmark for the implementation of qiyas. Its use as a method of ijtiḥad, can be done after the problem cannot be found a solution based on its main source, namely the Qur'an and Sunnah.

As for the four elements of qiyas, the actual problem is the existence of illat. There is or there is no law in a problem, depending on the existence of illat, which can create masalah in accordance with the desired objectives of the shari'ah (maqasiq al-syari'at). This is because illat is a pillar of qiyas which is an important object and must be owned methodologically.

II. Research Methods

This research is to provide a contribution of thought to Muslims. To know in depth the main ideas of al-Baidawi, especially regarding the methods and arguments used, a content analysis method is needed specifically that seeks to examine the data systematically and objectively (Muhajir: 1990).

The comparative method is applied to compare al-Baidawi's thoughts with scholars who contradict him. Furthermore, because the topic discussed concerns the issue of the ijthad method of a character, this study cannot be separated from the methods that have been formulated in the science of usul al-fiqh, whose orientation is to seek to know the purpose of the shari'ah as desired, namely to provide benefit by taking advantage and benefiting from it. refuse harm.

As has been explained in the background of the problem, there are differences of opinion among the usul scholars regarding the use of qiyas in establishing kaffarat law. Differences occur based on different assumptions about the limits of the validity of qiyas in syara' law.

Some scholars are of the opinion that the proof of qiyas applies absolutely to all syara' laws so that it is permissible to stipulate kaffarat law. Some other scholars are of the opinion that the proof of qiyas does not apply absolutely to all syara' laws, including kaffarat, because kaffarat belongs to ta'abbudi matters which cannot be reached by illat and its wisdom is based on the power of human reason alone. For them, there is no illat and wisdom that can be known in ta'abbudi matters, but can only be known based on the instructions of the text.

Al-Baidawi as one of the scholars who allowed the use of qiyas in establishing kaffarat law, only gave a brief opinion without providing a more detailed description in the book Minhaj al-Wusul ila ilm al-usul, as desired in this study. However, al-Baidawi's brief opinion, in principle, can be used as a basis for thinking about the proof of qiyas in establishing kaffarat law.

III. Result and Discussion

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Illat became one of the elements causing differences of opinion among the usul scholars regarding the proof of qiyas as a proof, especially with the emergence of several conditions and methods used in formulating the validity of an illat against a case, which is termed masalik al-illat. This paradigm leads to the question of the existence of qiyas as a proposition or method, especially in determining the syara' law, both on ta'abbudi matters as well as ta'aqquli including the proof of qiyas in determining kaffarat which will be discussed in this study.

To lead to the problem in question, first put forward some of the opinions that developed regarding the hujjahan qiyas globally. Sya'ban Ismail in his book *Dirasat Haul al-Ijma' wa al-qiyas*, argues that qiyas is basically part of the basis of Islamic law (shari'a) related to amaliyah law. It is obligatory to practice the laws that have been established based on qiyas, as is obligatory to practice those that have been determined based on the Qur'an and Sunnah.

Talking about the proof of qiyas, of course it cannot be separated from the evolutionary history of the practice of applying qiyas which has emerged since the time of the Prophet Muhammad, which is used as a method of reasoning to find answers about the laws that developed in Islam. Qiyas originally came from ra'yu which is believed to be the most widespread scientific way of reasoning in early Islam. The emergence of the term qiyas is caused by the pressure of social needs that are faced.

Qiyasis a form of thinking method which is actually an inheritance or example that was exemplified by the Prophet. through *ijtihad*. This is because the form of work that compares the characteristics that have similarities in two different cases is part of the habit that the Prophet saw. during his life.

Likewise, what happened during the friend's period, the form of qiyas work became the right legal consideration in answering all problems that arose against the social needs of the community. One of the well-known practices of using the qiyas method is when the companions are busy determining who is the rightful candidate to be the caliph to replace the Prophet.

At that time the companions pledged the allegiance of Abu Bakr to the caliphate at the command of the Prophet. who ordered Abu Bakr to replace him as Imam of prayer which eventually became a legal stipulation based on the agreement of the scholars called *ijma'*.

After the period of prophethood and companions passed, the working form of qiyas was developed by some scholars to become an accurate formulation of the ra'yu method in answering legal issues that arose in the Islamic community. Although in the next period the use of qiyas as evidence or the argument for establishing the law, there were fundamental differences of opinion. Consistently among them there are those who accept qiyas as shari'ah evidence and some make qiyas as sharia hujjah against syara' law regarding human actions, so that qiyas ranks fourth as a source of law.

Meanwhile, some scholars, such as al-Qaffal and Abu Husein al-Basri from Mu'tazillah as well as some Syafi'iyah scholars, argue that qiyas can only be used as evidence for things that are aqliah, not ta'abbudiyah.

Some other scholars argue that qiyas can be applied as evidence, but in its application it only allows the use of *illat* which is *mansusah* or *illat* which is determined based on the text or *furu'* which is in qiyas is more important in law than what is in the text, such as *illat* hitting parents who are considered more haraam than saying hurtful words to parents, as explained in the text.

This is different from the opinion of Daud az-Zahiri and some Shia and Nizamiyah scholars who expressly reject the use of qiyas as evidence of sharia on the grounds that there are no instructions regarding the order to use it. This fact may happen because ssssssthey are scholars who are well-known for having principles that accept the truth of the law which is based on the directives of the texts and do not want the will or the will of human reason in establishing the law. For them, using qiyas in Islamic law is impossible because reason is created with very limited capabilities and it is feared that it can lead people astray.

Al-Baidawi's opinion in this case argues that qiyas can be used as hujjah shari'ah that can be applied as a proposition or method in establishing Islamic law. This opinion was expressed on the basis of his thinking that the use of qiyas is based on the evidence of the Qur'an and hadith that justify its use in efforts to establish Islamic law.

Those who reject qiyas as evidence of sharia reasoned with the following arguments:

- a. That qiyas is based on an element of conjecture, so it is feared that it will produce something that is also conjecture (zanni). In this case Allah forbids people who rely on guesswork, as Allah says in QS al-Isra ': 36,
- b. Among their clearest doubts is the opinion that qiyas is based on different views on the provision of legal illat. In other words, qiyas is the object of legal dispute, while the shari'ah is unlikely to arise in conflict.
- c. Statements of some friends who criticized the determination of the law by using ra'yu. Like Umar's statement which forbids "you should keep away from ra'yu, because ra'yu is an enemy of as-Sunnah".

In addition to the arguments or reasons above, which are evidence or arguments for making qiyas as evidence, al-Baidawi also expresses his opinion specifically. He explained that there are at least two important reasons why qiyas is a method or proposition that can be used as evidence, namely:

1. That qiyas is permissible because it functions to find the law from something original to something furu'.
2. That Qiyas is allowed to be used as a legal argument because it is an application of the word "i'tibar". While the word "i'tibar is a direct command from Allah.

Regarding the role of qiyas in efforts to establish Islamic law, al-Baidawi gives the opinion that qiyas is very functional and influential in the formation of Islamic law, when Muslims are faced with a particular case, whose law cannot be found clearly based on the Qur'an and Hadith. For him, qiyas is a method of formulating law that is systematic compared to other methods of conducting ijti'had.

In this case, the role of qiyas is very dependent on the authority of ijti'had in Islamic law, which in principle rests on the Word of Allah SWT as follows:
And those who exert all their efforts to (seek the pleasure of) Us, we will indeed show them Our ways. QS 29:69.

This verse explains the need for ijti'had or the exertion of efforts to seek law from the Qur'an and Sunnah, but how to realize the formulation of these laws is explained by Allah in QS 4:59: "If you disagree about something, then return it to Allah (the Qur'an) and the Messenger. (Sunnah)".

There are some scholars, taking the basis of the verse above which says that the Qur'an and Sunnah are sufficient to be sources of law making, they reject qiyas and reason in the process of formulating law, but there are also those who only reject reasoning. For them, reason is nothing more than presumption on the basis of the word of Allah: "Indeed, prejudice is of no use whatsoever to the truth." Meanwhile, they accept the use of qiyas and see the need for an illat link between the origin of the law and the new case.

However, there are still jurists who argue that qiyas cannot be used for all problems, because it tends to use reason. The quiet debate over this issue causes confusion for some people, and it is not uncommon for people to not even know which sources are actually the guides in formulating the law. In fact, human reason differs from place to place, from time to time and the use of reason will result in differences in the legal system which ultimately results in the division of Muslims, and this is clearly contrary to the goal of Islamic law, which aims to unite Muslims. Likewise, reason cannot be used as the basis for concluding a law without relying on the Qur'an and Sunnah.

Parasupporters of this pattern take the hadith that tells the dialogue of the Prophet. With Mu'az bin Jabal. "With what will you decide a case?" asked the Prophet. Mu'az replied: 'With the Book of Allah'. 'What if you don't find it?' 'I will decide by the Sunnah of His Messenger'. 'What if you don't find it?' 'I will ijti'had with my own opinion', replied Mu'az. The Prophet also confirmed Mu'az's attitude.

The fatal mistake of those who think of this hadith as their basis is their failure to observe Mu'az's statement: "I will ijti'had with my own opinion". This statement actually hints

at Mu'az's attitude to always look for arguments or texts and not fully stick to his personal opinion.

According to Nawir Yuslem, based on the hadith of Mu'az above, it is concluded that doing charity with ra'yu is obligatory if the problem posed is not found in the legal provisions in the Qur'an and Sunnah. With the above arguments, it is possible to establish the validity of qiyas and reject the opinions of those who oppose the use of qiyas in the formulation of law.

In an effort to study the method of ijthihad Khulafa ar-Rashidin, it should be stated here that during the life of the Prophet there have been no problems and problems that have involved them intensely in the legal formulation process, but after the Prophet death which means cut off revelation from the sky, they began to exert efforts to explore the law from the Koran or from the practice of the Prophet alone. For example, in the case of the election of Abu Bakr, they began to use qiyas, namely the Prophet. once asked Abu Bakr to be a prayer priest. If only in religious leadership (religious matter) the Prophet saw trust Abu Bakr, then in matters of qiyadah duniyawiyyah (worldly leadership) it should be more important. More than that, the friends saw that there was an illat similarity between the two cases which later gave birth to the decision to appoint Abu Bakr.

No one doubts that the Khulafa ar-Rashidin are the most understanding and understanding of the Qur'an and hadith. They lived in the time of the Prophet, witnessed and closely followed the behavior and life of the Prophet. A very clear example is Umar bin Khattab's interpretation of the verse that explains the distribution of zakat assets. In the Qur'an it is stated:

"Indeed, the zakat is only for the needy, the poor, the administrators of zakat, the converts who are persuaded by their hearts, to (free) slaves, people who are in debt, for the way of Allah and those who people who are on the way, as a statute ordained by Allah." QS 9:60.

This verse explains clearly about people who are entitled to receive zakat, but Umar bin Khattab apparently refused to give zakat to converts. Umar looked at the context of this verse and concluded that the main purpose of the law on this issue was to attract the sympathy of the people to convert to Islam. Umar refused to give zakat to the mu'allaf because there were signs of abuse that deviated from the objectives of the Shari'ah. "The Messenger of Allah gave you zakat," said Umar, pointing to the converts, "so that you will sympathize with Islam. Now Allah has glorified Islam and no longer needs you. If you still choose Islam, yes please; If not, then the sword will decide between us and you." In this case Umar managed to dive behind the literalist goal towards the ultimate goal of Islamic law.

Imam Shafi'i seems to have succeeded in building his theory on the practice of the khulafa ar-Rashidun, and is the most appropriate way towards the unity of the shari'a and society. If qiyas is based solely on personal opinion, the unity of shari'a and society will be threatened. Principally, Syafi'i does recognize qiyas tamm (absolute qiyas), but does not intend to oppose qiyas which is based on clear arguments from the texts (Qur'an and Sunnah) themselves.

Muhammad Musa al-Tiwani divides ijthihad into three objects. First, ijthihad in order to provide an explanation and interpretation of the text; Second, ijthihad in doing qiyas against existing and agreed laws; third, ijthihad in the sense of using ra'yu.

Al-Tiwani's view above refers to two broad choices of objects of ijthihad. First, there are issues that already have nas provisions, but are still of a zanni nature. Regarding the object of ijthihad like this, the method taken is research in determining al-'am (generality) or al-khas (specificity) of the text, al-mutlaq (absolute) or al-muqayyad (absolutely) of the text. Second, the problem is that there is no text at all. To solve problems like this, the ijthihad efforts used are qiyas, istihsan, istislah, and other legal arguments.

The object of ijthihad described by al-Tiwani can encourage us to always look at the dynamics of qiyas and its possible larger role in Islamic law. In general, the field or object of qiyas as a method of ijthihad is the achievement or excavation of the syara' law which is not

confirmed by the texts (Qur'an and Sunnah). This ambiguous legal text is a field or object of qiyas/ijtihad. Nadiah Syarif emphasized that strict legal texts cannot be used as a field for ijtihad.

Using the term Ali Hasballah, the object of ijtihad is everything that is not explicitly regulated in the texts, both the Qur'an and Sunnah as well as problems that have absolutely no textual basis, which in Abd's term. Al-Wahab Khalaf is said to be *ma la nassa fih*.

Starting from the object of ijtihad, there are two modes of reasoning that need to be put forward in applying the objectives of law as the dynamics of Islamic law in the face of change. In these two styles, there is a method of ijtihad that needs to be further developed, namely the ta'lili reasoning style and the istislahi reasoning style.

3.1 Ta'lili Reasoning Pattern

The pattern of ta'lili reasoning is an effort to extract the law which is based on determining the 'illah of law contained in a text. The development of the pattern of ta'lili reasoning is supported by the fact that both the Qur'an and the hadith in their narratives about a legal problem are partly accompanied by the mention of the 'illah of law. On the basis of the 'illah contained in a text, the legal problems that arise are sought by mujtahids to solve them through reasoning against the 'illah in the text. In the development of fiqh proposal thinking, this ta'lili reasoning style is in the form of qiyas and istislahi methods.

Qiyas means measuring, equating and collecting. As a method of ijtihad, qiyas is defined by a slightly different language editor, but has the same meaning. According to Khalaf, qiyas is an attempt to connect an event that does not have a legal text with an event that has a legal text, because there is an equation of 'illah.

In the development of the world of education, especially after the rolling reforms, new phenomena have arisen in educational institutions, which are schools that use the term Integrated Islamic Schools (Titik in Ayuningsih, 2020)

Qiyas a method of ijtihad used by almost all schools of law in Islam, although its use in different intensities. Qiyas is included in the category of legal arguments which are *muttafaq 'alaih* (agreed upon), after the Qur'an, hadith and *ijma'*. The inclusion of qiyas into the agreed arguments can be reviewed from several considerations, including:

- a. The closeness of qiyas to the source of legal texts in the ta'lili ('illah Hukum) reasoning mechanism. This can be seen from the pillars (*arkan*) in the application of qiyas, namely first, origin (*maqis 'alaih*) namely events that already have a text; second; *far'* (*maqis*) i.e. events for which there is no text; third, the original law, namely the shari'a law stipulated by a text; and fourth, 'illah, which is an attribute contained in the original event. The nature of this article gives birth to a law. Because this characteristic is also found in the branch (*far'*), the branch law is equated with the original law. The closeness of qiyas to the texts through the ta'lili mechanism is what makes qiyas the source or legal proposition agreed upon in Islam.
- b. The first consideration above at the same time makes qiyas as the first step in the process of extracting the law, from laws that exist in the text to laws that do not have a textual basis with a focus on the analysis of the 'illah of law.
- c. Efforts towards analogical thinking are advocated by Allah in the Qur'an. In addition, the analogical thought pattern has essentially been used throughout the history of the development of Islamic legal thought

The fundamental problem that needs to be studied in relation to qiyas is how urgency to consider *maqasid al-syari'ah* in the qiyas method as a pattern of ta'lili reasoning. Talking about the closeness of qiyas with the text, according to the author, means talking about the relationship of qiyas with *maqasid al-syari'ah*. Because *maqasid al-syari'ah* as the purpose of enacting the law by God is substantially extracted from the text itself. Methodological linkages appear between qiyas and *maqasid al-syari'ah*. Qiyas which focuses on 'illah research, while

one way to understand maqasid al-syari'ah proposed by al-Syatibi is an analysis of 'illah commands and prohibitions in a text. Humans must be guided by the written 'illah as the purpose of the law, the commands and prohibitions can be achieved.

Efforts to solve legal problems that always arise and develop with various methods of ijtihad, among others, qiyas must start from a basic study of the 'illah contained in the syara' texts'. 'Illah is part of the essence of maqasid al-shari'ah. The development of law with the qiyas method must pass the example of 'illah who was born by Allah swt. in the text in order to realize maqasid al-syari'ah such as benefit and justice.

Ibn al-Qayyim al-Jauziyyah said that the process of qiyas must be in harmony with the commands and prohibitions of the shari'ah. If the thought of common sense does not contradict the shari'a, Allah and His Messenger as al-Shari' do not convey anything that is contrary to common sense and does not prescribe something that is contrary to justice. The process of correct qiyas as common sense thinking, must not conflict with maqasid al-shari'ah and even strive to realize maqasid al-syari'ah. 'Illah which is the focus of qiyas is part of maqasid al-syari'ah.

From the description above, it can be said that qiyas as istinbat ta'lili is an effort of reasoning that has a close relationship with the text. Qiyas as ta'lili reasoning must always be sharpened by considering maqasid al-syari'ah both related to society, economy as well as politics and morals. Consideration of maqasid al-syari'ah makes the qiyas method more dynamic as a solution to legal problems.

3.2 Patterns of Istislahi Reasoning

The pattern of istislahi reasoning is an effort to extract laws that are based on the principles of benefit which are concluded from the Qur'an and hadith. The benefit referred to here is the benefit generally designated by the two sources of law. The benefit cannot be returned to a verse or hadith directly either through the process of bayani reasoning or ta'lili, but is returned to the general principle of benefit contained in the text. In the development of fiqh ideas, this style of istislahi reasoning appears, among others, in the masalih mursalah and al-zari'ah methods.

IV. Conclusion

The proof of qiyas against the interpretation of kaffarat law, explicitly provides more open opportunities for ijtihad, especially on the issue of kaffarat which is considered to be an alternative punishment given to those who so easily violate the commands of Allah SWT. For example, he allows pengqiyas that occur between people who break their fast in the month of Ramadan intentionally without reason to be qiyas to those who do jima' in the month of Ramadan. For those who allow this pengqiyas, including al-Baidawi and some of the Syafi'iyah scholars, assume that the illat contained in both is seen as being able to damage the honor of the month of Ramadan.

Qiyas, it is clearly revealed that al-Baidawi allows the use of qiyas in determining the law of kaffarat and hudud, as long as both have clear and definite similarities in illat. However, his opinion is only focused on finding the law that exists in furu', not looking for the law that exists in the origin, because the law that exists in the origin is already a definite and clear law.

The arguments that support his opinion on this issue are the generality of the textual arguments contained in the Qur'an and hadith, which are the basis for absolute proof of qiyas without any limitations, either in the form of specialization (takhsis) or limitations (taqyid).

For al-Baidawi himself, the generality of the arguments used to establish qiyas as evidence shows the permissibility of qiyas to be applied in any case as long as there is an illat relationship between the two (origin and furu'), and there are no other arguments that prohibit the occurrence of qiyas against the problems at hand. For example, confirming the

permissibility of breaking the fast in the month of Ramadan due to illness and traveling long distances (travelers) with the permissibility of offering prayers for travelers and sick people. According to him, the text only provides relief in offering prayers for travelers and not for people who are sick. Because for people who are sick there is no command to perform the permissibility of performing prayers, because the illat that exist in both have different illat purposes. as well as the absence of other arguments that prohibit the occurrence of pengqiyas on the problems at hand. For example, confirming the permissibility of breaking the fast in the month of Ramadan due to illness and traveling long distances (travelers) with the permissibility of offering prayers for travelers and sick people. According to him, the text only provides relief in offering prayers for travelers and not for people who are sick. Because for people who are sick there is no command to perform the permissibility of performing prayers, because the illat that exist in both have different illat purposes. as well as the absence of other arguments that prohibit the occurrence of pengqiyas on the problems at hand. For example, confirming the permissibility of breaking the fast in the month of Ramadan due to illness and traveling long distances (travelers) with the permissibility of offering prayers for travelers and sick people. According to him, the text only provides relief in offering prayers for travelers and not for people who are sick. Because for people who are sick there is no command to perform the permissibility of performing prayers, because the illat that exist in both have different illat purposes. According to him, the text only provides relief in offering prayers for travelers and not for people who are sick. Because for people who are sick there is no command to perform the permissibility of performing prayers, because the illat that exist in both have different illat purposes. According to him, the text only provides relief in offering prayers for travelers and not for people who are sick. Because for people who are sick there is no command to perform the permissibility of performing prayers, because the illat that exist in both have different illat purposes.

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