

## Adaptation and Simulation of Fiqh Method in Academic Writing of Islamic Studies

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### Abstract

Research in the discipline of Islamic studies is usually in the form of qualitative such as to research the *hukm* for fiqh contemporary issues that require an instrument of *hukm* issuer in the form of *nassi* or *ijtihad*. Fiqh method is one of the instruments of *hukm* issuer in the form of *ijtihad*. Islamic studies research can also be in the form of quantitative in the event of such studies require statistical analysis to verify the relevance of the law enforcement that is flexible in nature (*al-Murunah*). For this purpose, researchers should analyze the fiqh method, because it is of a general nature (*Kulliyah* or *Aghlabiyyah*) on the execution of a law or practice to confirm its current relevance. As a scholarly research trainee, graduate students in the Islamic studies discipline need to learn the technique of adapting fiqh method on issues concerning the research. Therefore, this article aims to expose to the trainees of scholarly research in the Islamic Studies discipline the concept of Fiqh methods, the position of Fiqh method in *Usul al-Syarīah*, source of fiqh methods in al-Quran and al-Sunnah, benefits in learning Fiqh method, the argumentation of fiqh method as an instrument of *hukm* issuer and the categorization of Fiqh methods and its relation to the *Maqasid al-Syari'ah* concept (*Jalb Al-Maslahah wa Daf'u Al-Madarrah*) and earlier works of Fiqh method. In addition, this article also discusses the need of scholarly research trainee in the Islamic Studies discipline to master the technique of adapting fiqh method on issues concerning the research either in the form of inductive or deductive or both depending on the objectives of the research being carried out. This article entirely uses the qualitative method whereby the data were collected through document analysis from classic and modern scriptures related to fiqh method. The outcome of this article will be of an advantage for Islamic studies researchers in producing quality research concerning current issues and to achieve hypothesis by simulating discussions through adaptation of fiqh methods that correlate with the title of the research.

**Keywords:** Fiqh Method, Islamic Studies Research.

### Introduction

Fiqh methods which is the result of the development of fiqh knowledge is not a creation or invention of the *fuqaha* (*experts in fiqh*), or specific groups in the studies discipline at any part

of the time. In fact, it is taken by the fuqaha from the previous ummah such as the *al-Tabicin* and *al-Mujtahidin*, even though it was not booked; recorded at that time. Scholars of the development of Islamic fiqh knowledge have found the origins of this knowledge as what has been mentioned above, as a guideline for the fuqaha, to gather issues of fiqh issues from getting left out.

The determination of the preceding fuqaha in issuing *hukm hakam* related to the fiqh issues based on the verses of Al Quran and *hadith* al-Nabawi has created less complex fiqh methods but, yet comprehensive to gather issues of fiqh that are unison in *‘Illah*. Verses of the Al-Quran and hadiths al-Nabawi that is made as fiqh method has gathered a lot of issues of fiqh that is unison in *‘Illah* of command or prohibition of certain commandment (Al-Qurtubi, 1994M). For that reason, it is added to the *al-Qa‘idah definition, the trait of ‘kulliyah’* which is the trait of ‘as a whole’ or comprehensive to the extent that the fiqh method is able to gather all the issues of fiqh that is unison in *‘Illah* (al-Nadwi, 1994M).

Examining the compilation of verses in fiqh method, some of them are similar to the compilation of verses in *hadiths al-Nabawi* that is concise or known in the knowledge of *al-Nahw* as *Jawami‘ al-Kalam*. Thus, a number of fiqh methods are taken directly from *hadith al-Nabawi* in which that is concise and became a very powerful source of *hukm* issuer. The Prophet PBUH was sent to mankind with his words that are in the form of *Jawami‘ al-Kalam* (Hanbal, t.t.). When the Prophet PBUH said something, it is usually in the form of *Jami‘* (gatherer) all matters in the phrase and meaning of the utterance whether the matter has happened at that time or it has not yet happened (Al-Asqalani, 1379H). As an example, when it comes to matters related to eating and drinking, the Prophet PBUH said ‘*Kullu Muskir Haram*’ which means: All that is intoxicant are haram (Al-Bukhari, 1987M).

The *matn* (main text) of this *hadith* tells us that every drink or food regardless of its type, whether it exists in the time of the Prophet PBUH such as alcohol or newly found at the moment such as drugs is haram based on *‘Illah* prohibition of that matter in which to lose one’s sanity. If in the future, there are other forms of food or drink that have similarities of *‘Illah* with alcohol and drugs (intoxicating to the extent of losing sanity or common sense) then it also receives the same ruling of *haram* based on the words of Prophet PBUH that is *Jami‘*. There are several other methods that are directly taken from the *matn hadith* such as, Prophet PBUH said ‘*Kullu qard jarr manfa‘ah Fahuwa Riba*’ which means: *every loan that brings a benefit to the lender is riba* (al-Manawi, 1356H).

The above *hadiths* use the phrase ‘*Kull*’ in its *matn* which serves as ‘*Jawami‘ al-Kalam*’. In *al-Nahw*’s method, the word ‘*Kull*’, ‘*Man*’ and ‘*Ayy*’ is generally applicable to the subject, in which it is mentioned before it, either generally or reserved with certain attributes or adjectives. Thus, the *matn hadiths* which contain words that serve to gather everything in front of the word as mentioned above has been used as a comprehensive and effective fiqh method against fiqh issues that have similarities of *‘Illah*.

However, not all fiqh methods are taken directly from the verses of the Qur’an and *matn* al-Sunnah. There are several fiqh methods that is in a form of summary or gist from both *Syariat* sources. For example, the method of ‘*al-Umur bi Maqasidiha*’ is a screening of verse 5 al-Bayyinah al-Quran and *hadith Sahih* ‘*Innama al-‘amal bi al-niyat*’ which means: The deeds

depend on the intention (al-Bukhari, 1987M). This can be understood that there are two types of fiqh methods. First; Fiqh method in which the *matn* is taken directly from al-Quran and al-Sunnah. Second; Fiqh method in which the *matn* is not taken directly from al-Quran and al-Sunnah, instead it is a screening, a summary or gist of al-Quran and al-Sunnah.

### Definition of Fiqh Method

The term method comes from the Arabic word *al-Qa'idah*. *al-Qa'idah* from the point of Arabic language means *al-'Asas* (Al-Raghib al-'Asfahani, 1961M). According to Ibn Manzur, *al-Qa'idah* derives from *al-'Uss*. The plural form *al-Qa'idah* is *al-Qawa'id* as Allah SWT said in al-Nahl verse 26. *al-Qawa'id* derives from *al-'Isas* (Ibn Manzur, 1990M). *al-Qawa'id* is the foundation for something and is its origin (*'Usus al-Syay' Wa 'Usuluh*) either in the form of *Hissiy* like the foundation of a house or in the form of *Ma'nawiy* like the foundation of religion or its pillars (al-Nadwi, 1994M) as Allah has stated in surah al-Baqarah verse 127.

The word *al-Qa'idah* in both of the verses above defines as foundation that something is erected on it. While the meaning of the word *al-Qa'idah* from the terminology by the fuqaha has defined it in several definitions. According to al-Suyuti, 1998M; Al-Jurjani, 1983M, *al-Qa'idah* can be defined as 'A comprehensive fiqh issues or (*qadiyyah kulliyah*) that is used on the fraction of the whole issue'. According to al-Subki, 1991M dan al-Taftazani, t.t. *al-Qa'idah* can be defined as 'A comprehensive *Hukm* (*hukm kulliy*) that is used on the large fraction of fiqh issues so that they can understand and recognise the *hukm* from it. According to al-Subki, 1991M *al-Qa'idah can be defined as* 'A matter that is comprehensive (*'amr kulliy*) that is used on the large fraction of fiqh issues so that they can understand and recognise the *hukm* from it.'

All disciplines of knowledge have their own *al-Qa'idah*. The above definitions give a very clear picture of the meaning of *al-Qa'idah* inherent in all disciplines of knowledge. Based on the given definition above, *al-Qa'idah* is thorough or comprehensive that applies to the branches of problems in any discipline of knowledge. As an example, the methods in the discipline of al-Nahw studies, such as *al-Fa'il* mesti *Marfu'*, *al-Maf'ul* mesti *Mansub* dan *al-Mudaf* *Ilayh* mesti *Majrur*. The methods in the discipline of Usul al-Fiqh on the other hand such as *al-Amr* receives the *hukm wajib* (obligatory) whereas *al-Nahy* receives the *hukm haram* (forbidden). The methods in both of the disciplines of knowledge are applicable to all of the issues related to both of the discipline.

Although, to certain extent, there are a small portion of issues that the *hukms* are exempted in certain methods in any discipline of knowledge this rare occurrence do not affect the application of such rules in any discipline of study. While according to some fuqaha', *al-Qa'idah* is the *hukm* to most (*aghlabiyyah*) fiqh issues. This is because any method of all disciplines is not without the presence of isolated fiqh issues (*al-syuwaz*) or issues that are exempted (*al-mustathnayath*) *hukm* from it (al-Nadwi, 1985M).

Therefore, *al-Qa'idah al-Fiqhiyyah* is the *hukm* for most (*akthari*) fiqh issues and not the *hukm* for all (*kulli*) fiqh issues (al-Hamawi, 1985M). Thus, they define *al-Qa'idah al-Fiqhiyyah* as '*Hukm-hukm* Syarak in most (*'aghlabiyyah*) fiqh issues that is comprehensible of the *hukm-hakam* included therein'. In examining the above definitions, there are two statements that can be analyzed. First, by looking at the definition of *al-Qa'idah* whether it is a Fiqh issue or

*hukm* Secondly, from a perspective of its competence either in total as a whole or just several. The analysis that can be done here is:

First: Definition from al-Suyuti and al-Jurjani that define *al-Qa'idah* as fiqh issue. From this definition, we can comprehend that *al-Qa'idah* is the fiqh methods built from the branches of fiqh issues. On the other hand, the definition by al-Subki and al-Taftazani that defines *al-Qa'idah as hukm* gives us the understanding that the construction of *al-Qa'idah* aims at issuing *hukm* for fiqh issues. This definition is clearer because issuing *hukm* is the essence that is intended to achieve from *al-Qa'idah*. In defining *al-Qa'idah* as *Qadiyyah* (issues) will list under it all the doings of mukallaf (a sane person that is obliged to abide Islam). In defining *al-Qa'idah* as *al-Hukm* on the other hand will list all the *hukms hakams*.

Second: Ulama that defines *al-Qa'idah as hukm Akthari or Aghlabi* (*hukm* for most of fiqh issues) is because of the exemption of *hukm (al-Mustathnayath)* and isolated issues (*al-Syuwaz*) in fiqh methods. Whereas to the ulama that defines *al-Qa'idah as hukm Kulli* on the other hand perceive the exemption of *hukm (al-Mustathnayath)* and isolated issues (*al-Syuwaz*) in fiqh method does not affect the comprehensive attribute of a certain method. According to them, *al-Mustathnayath* and *al-Syuwaz* in the basic 5 fiqh method is too small that it does not require the alteration of the definition from '*Kulliyyah*' to '*Aghlabiyyah*'. *al-Kulliyyah's attribute* in a method is in the form of ratio and not as a whole thus creating issues with isolatedly *hukm* in certain method. Thus, the definition of *al-Qa'idah* can be summed up as 'The origin of a comprehensive fiqh that contains general Islamic *hukm* on issues of discussed topic.

The definition of *al-Fiqh* in terms of language is to think of something ('*idrak al-syay'*), to learn (*al-ilm bihi*) and to understand (*al-fahm lahu*). Everything learned is term as Fiqh. *al-Fiqh* is then specified to learning Syariah because of its glory and advantages over another knowledge (Ibn Manzur, 1990M). Dalil (proof) regarding to comprehend in knowledge is evident in surah al-Nisa verse 78, Taha verse 28 dan v Al-Tawbah : 122 and *hadiths* such as '*Allhamma faqqihhu fi al-din*' which means : *O Allah! Grant us understanding of Deen* (al-Bukhari, 1987M). From the point of terminology, al-Amidi said, 1404H *al-Fiqh* can be term as A knowledge that is a result of branches of *hukm* Syariat and reasoning technique. According to Ibn al-Liham, 1400H on the other hand said *al-Fiqh* from the point of terminology means '*To learn the branches of hukm Syariat from its evidence that is detailed in reasoning*'.

While according to al-Fayruzabadi, 1405H he stated '*To comprehend the hukms of Syariat as al-Ijtihad*'. Al-Ghazali (1996M) on the other hand termed *al-Fiqh* as '*To comprehend the hukms of Syariat that is related to the actions of Mukallaf particularly*'. However, the definition that is often used is the definition made by, al-Baydawi, 1401H which is '*To comprehend the practical hukms in Syariat that have been taken from its evidence with such detailed*.' It can be concluded from the given definitions of Fiqh as above, *al-Fiqh* is a knowledge of *hukm-hakam* in Syariat that is related to the act of *mukallaf as a result of research and discussion of its evidences either from the al-Quran, al-Sunnah and others that is detailed*.

The definition of *al-qawā'id al-fiqhiyyah* according to Mustafa Ahmad al-Zarqa, 1993M is the *usul fiqh* (roots of knowledge) that is comprehensive in nature that is simple and in the form of legal text that contains general principles of *Syariah*.

### **The Position Of Fiqh Methods (*Al-Qawā'id Al-Fiqhiyyah*) In *Usul Al-Syarīah***

In *Usul al-Syarīah*; *al-Quran*, *al-Sunnah*, *al-Ijma'* and *al-Qiyas* are the main sources of adapting *hukms* (Khallaf, 2003M) according to the order as mentioned. All four as mentioned above are the *dalils* of *syarak* agreed upon by *ulama* oh his argumentation in determining the *hukm-hakam* in religion. *Mazhab al-Nizamiyyah*, *al-Zahiriyyah* and certain sect of *Syī'ah* do not acknowledge *al-Qiyas* as *hujah syar'iyyah* and term it as *Nafat al-Qiyas* (*Abd al-Wahhab Khallaf, 2003M*). The word *al-Dalil* in terms of language means: Indication of a matter in *Hissi* or *Ma'nawi* either towards good or evil. Whereas from the point of *Usul al-Fiqh* *ulama al-Dalil* is termed as 'Something that is shown with a proper research of *hukm Syar'i* either with certainty (*Qat'i*) or near certainty (*Zanni*) (Khallaf, 2003M).

Aside from the 4 main sources that has been agreed upon *jumhur ulama* as mentioned above (*al-Quran*, *al-Sunnah*, *al-Ijma'* dan *al-Qiyas*), there are several other sources for adapting *hukms* used by a number of *ulama*. However, the argumentation sources were not agreed upon by the *ulama* because some of them accepted the sources, while others rejected the use of these resources as a basis for adapting of the *hukm*. The sources are *al-Istihsan*, *al-Maslahah al-Mursalah*, *al-Istishab*, *al-Urf*, *Madhhab al-Sahabi* and *Syar' Man Qablana*.

How about the position of *fiqh* method in *Usul al-Syarīah*? Is it one of the four sources agreed upon or the six sources for adapting *hukm* that is not agreed upon or is it a separate source altogether? This question of position of *fiqh* method in *Usul al-Syarīah* can only be answered when the sources, the argumentation of the *fiqh* methods is known from the discussion of the next topic.

### **Sources of Fiqh Methods (*Al-Qawā'id Al-Fiqhiyyah*) In *Al-Quran* And *Al-Sunnah***

The knowledge of *al-Qawā'id Al-Fiqhiyyah* is not a newly created knowledge. It exists along with the revelation of Prophet Muhammad PBUH. From this revelation came the rules of *fiqh* which was then placed as a special discipline to facilitate researchers to conduct studies oh *hukm*. General method '*al-Darurat Tubih al-Mahzurat*' for example is a derivative of verse 173 surah *al-Baqarah*, verse 119 dan 145 surah *al-An'am*, verse 115 surah *al-Nahl* and verse 3 surah *al-Ma'idah*. In fact, there are many *fiqh* methods derives from *al-sunnah* itself. From *hadith 'Innama al-'amal bi al-niyat'* (*al-Bukari, 1987M*) as an example, is the birth of a comprehensive method which is '*al-Umur bi Maqasidiha*'. Whereas method '*al-Darar Yuzal*' is created from *hadith marfu'* to Prophet PBUH that reads '*La darar wa la dirar*' (*al-Naysaburi, 1990M*).

The above explanation clearly shows that knowledge of *al-Qawā'id al-Fiqhiyyah* is a knowledge that is parallel to the descent of *al-Quran* and *al-Sunnah*. It is not the invention or fabrication of the *ulama'*, on the contrary, it is created from excerpt of *al-Quran* or *matn al-Sunnah*. Only it has been harmonized as a discipline of knowledge for the purpose of facilitating the issuing of *hukm*.

**Argumentation of Fiqh Methods (*Al-Qawā'id Al-Fiqhiyyah*) As an Instrument of *Hukm* Issuer**

From past discussions on the importance, privilege, and the source of *al-Qawā'id al-Fiqhiyyah* the writer has found that *al-Qawā'id al-Fiqhiyyah* serves as a guideline for *hukm* researches to come out with *hukm* hakm that is in line with it in any field of fiqh issues. The question that arises is to what extent the argumentation of *al-Qawā'id al-Fiqhiyyah* as an instrument of *hukm* issuer? According to Imam al-Haramayn al-Juwayni, t.t. fiqh method is not an instrument of *hukm* issuer. Instead, it is just an opinion or a point of view.

The same goes with Ibn Nujaym in *al-Fawa'id al-Zayniyyah* in which he stated that one should not issue a fatwa based on *al-Qawā'id al-Fiqhiyyah* because it is not a *hukm* that is the whole (*kulliyah*) of fiqh issues, instead it is just a *hukm* for several (*aghlabiyyah*) fiqh issues (al-Hamawi, 1985M). In *Syarh Majallah* by 'Ali Haydar, t.t. mentioned that fiqh *hukm* that cannot be backed by naqal that is Sarih, a *hukm* cannot be issued based solely on the Fiqh methods.

According to them, it is not allowed to rule fatwa with fiqh methods if it is the only means of basing the *hukm* without any other sources of *hukm* that the argumentations are agreed upon by the ulama. This is because the fiqh methods contain fiqh issues that are exempted from *hukm* (*al-Mustathnayāt*) and also contain fiqh issues that are isolated (*al-Syuwaz*) in certain method. It is of a concern that the fiqh issues that need to be issued the *hukm* belongs to the issues that are exempted from *hukm* or isolated issues that cannot be issued a general *hukm* like the rest of the issues in fiqh method.

There is a group of ulama who says that the above opinion is not the only opinion.

This is because some of the basic fiqh method are constructed from excerpts of al-Quran and al-Sunnah. According to them, fiqh methods can be used as the basis of *hukm* or the source of issuing a fatwa if it is based on dalils that are Sarih: al-Quran and al-Sunnah. There are several methods that is taken directly from excerpt of al-Sunnah such as the method of *La Darar Wa La Dirar*, *al-Darar Yuzal*, *al-Kharaj bi al-Daman* and *al-Bayyinah* 'Ala al-Mudda'i Wa al-Yamin 'Ala Man Ankar, *al-Adah Muhakkamah* and others (al-Nadwi, 1994M).

From the observation of the writer, both of the opinions above do not contradict each other. The first opinion that prohibits the use of the fiqh methods as an instrument of *hukm* issuer is not a prohibition that is *mutlaq*. On the other hand, the prohibition applies only when the fiqh method that is intended to be used as an instrument of *hukm* issuer is not constructed based on dalils *Usuli* which are the al-Quran and al-Sunnah (*al-Qawā'id al-Mustanbatah*)) and is the only basis for the fiqh issue. And if the fiqh method is from dalil *Usuli* (*al-Qawā'id al-Mansusah*) therefore it is not any form of restriction to argue with it. Same goes in arguing with fiqh methods that is not constructed from excerpts of *Usuli* if excerpts of *Usuli* that are Sarih serve as the main basis in any of the fiqh issue.

The opinion that permitted the use of fiqh methods as an instrument of *hukm* issuer is not based on the fact that it is a fiqh method but it is based on the method as excerpt *Usuli* Should the fiqh method that is intended to be used as an instrument of *hukm* issuer is not constructed on excerpts of *Usuli* and no excerpts of *Usuli* can be use as the basis of *hukm* in any fiqh issues, therefore the argumentation of the fiqh method in that particular situation is also not permitted by this second opinion.

The conclusion from this this discussion is that the fiqh methods that are constructed from excerpts of Usuli can be made as an argument, instrument or source of *hukm* issuer. Fiqh methods that are not constructed directly from excerpts of Usuli too, can be made as argument, instrument or source of *hukm* issuer if there is the basis or other sources of Usuli excerpts. The argumentation of fiqh methods is the same of the likes of excerpts of al-Quran or al-Sunnah that is directly constructs Fiqh methods (fiqh method sounds the same with excerpts and *matn*) or indirectly (fiqh method serves as a summary or gist of the excerpts or *matn*).

However, the ulama disagreement about the strength of the argument of Fiqh method that is not built directly from the excerpts of al-Quran or *matn* al-Sunnah is not so much so that it rejects a method, instead the dispute is whether fiqh method can be an argument alone or it must be supported by the excerpts of al-Quran or the *matn* of al-*Hadith*.

### **Benefits of Learning Fiqh Method (*Al-Qawā'id Al-Fiqhiyyah*)**

There are a lot of benefits and privilege in learning the knowledge of al-Qawā'id al-Fiqhiyyah. It is considered as a knowledge that can sharpen the mind because it connects al-Qawā'id al-Fiqhiyyah with the branches under it. The fiqh methods that are comprehensive is a glorious knowledge and helpful to researchers including in the quest to find the secrets and wisdom of the provision of a *hukm* (al-Qarafi, t.t.).

For each method, there are countless of branches in Syariat. These fiqh methods are vital in fiqh knowledge and extremely beneficial because it increases the vigilance of a fiqh member as his knowledge deepens. Their fatwa methodology will be clearer and more revealed. The ulama are competing to master this knowledge because the mastery of this knowledge causes them to be highly regarded (al-Qarafi, t.t.).

Among others, the importance and privilege of this knowledge is that, learning al-Qawā'id al-Fiqhiyyah enables fiqh member to compile and list out the fiqh issues in a list that is similar to *hukm* and justification (al-Zarkasyi, 1402H; al-Suyuti, 1998M). A fiqh member who deepens this knowledge will clearly understand the objectives of the legislation of a law and know in depth the wisdom of the legislation of the practice. The knowledge of al-Qawā'id al-Fiqhiyyah will make it easier for a fiqh member to identify the rulings for a new fiqh issue by researching and studying existing fiqh problems based on the appropriate fiqh issues based on an appropriate fiqh methods. al-Qawā'id al-Fiqhiyyah helps fiqh member to remember the branches of fiqh issues that are abundance by examining Fiqh method. (al-Subki, 1991M; al-Zarkasyi, 1402H).

Making shortcuts in the issuance of *hukm* by simply remembering the branches of fiqh issues or arranging the fragments of *hukm* without knowing the cause of the source is unacceptable to the sane soul and the rest of the knowledge seeker. (al-Subki, 1991M). These fiqh methods made the learned with fundamentals of mazhab and the origin of taken sources until the very end and to arrange the problems or issues that are scattered on a path (al-Zarkasyi, 1402H).

The knowledge of *al-Qawā'id al-Fiqhiyyah* is also able to expend the talent of issuing a *hukm* amongst the researchers of fiqh issues by uncovering the facts of fiqh and the findings of the *hukm*, finding its sources and justifications, facilitate memorization and memory, enabling

researchers to perform correlation and review of the evidence, able to differentiate the *hukm* of fiqh issues that are not in right path, knowing events or cases occurring in the past (al-Suyuti, 1991M).

### **Categorization of Fiqh Methods and Its Relationship with the concept of *Jalb Al-Maslahah* and *Dafu Al-Madarrah* (*Maqasid al-Syari'ah*)**

The descent of Syariat has its *al-Maqasid* or purpose which is the arrangement of law and discipline that preserves human well-being. Syariat is also a form of syllabus that has been prescribed by Allah SWT to be followed by human kind. Syariat entirely, whether those that were descended to Prophet Muhammad SAW and to the previous Rasuls before Him such as Prophet Musa AS and Prophet Isa AS; It is aimed at safeguarding human's interests in two ways, namely; Benefiting humans (*Jalb al-Maslahah*) and to prevent harm from befalling them (*Dafu Al-Madarrah*) whether the result is in immediate (*al-'Ajil*) or delayed (*al-'Ajil*) ('Ibn 'Asyur, 1997M).

The concept of *Jalb al-Maslahah* and *Dafu Al-Madarrah* is created by humans' act guided by Syariat, whether it is in the form of a specific ibadah (worship) that is fardu 'Ayn such as solat, zakat, Haj and others, or general ibadah that is fardu *kifayah* such as providing service in various fields. According to this *Maqasid* or Syaria objectives, the ulama have published a number of fiqh methods as a foundation or formula to achieve the purpose of the syariat in all aspects of life including treatment procedure. In other words, the concept of *Jalb al-Maslahah* and *Dafu Al-Madarrah* are the objectives or *Maqasid al-Syari'ah*, whereas methods of *al-Darurah* is the procedure, formula or method in producing the objectives of the syariat.

Beginning with the method of determining the direction, vision and mission known in the syariat as intention which is *al-Umur bi Maqasidiha* until to the fragments of fiqh methods related to criminal conviction, economy, ibadah and others. Likewise in the concept of *Jalb al-Maslahah* and *Dafu Al-Madarrah*, methods of *al-Darurat* as discussed above which is taken from the al-Quran and al-Sunnah has been enacted by ulama as a benchmark in producing *al-Maslahah* and opposing *al-Mafsadah* or *al-Madarrah*.

The Usuli ulama categorise the fiqh methods to several parts. Most of them, divide it into 5 main<sup>1</sup> fiqh method which are *al-'Umur bi Maqasidiha*, *al-Yaqin La Yazul bi al-Syaqq*, *al-Masyaqqah Tajlib al-Taysir*, *al-Darar Yuzal* and *al-'Adah Muhakkamah*. Among the ulamas who divide the main fiqh methods into five parts are Ibn Taymiyyah and al-Suyuti (al-Suyuti, 1998M). Some of the other ulama of 'Usuli divide it into more than five (Ibn Nujaym, 1993M). Each of the main fiqh method has the branch of fiqh methods under it.

The main fiqh method of *al-'Umur Bi Maqasidiha* has a branch of fiqh methods such as *al-'Ibrah Fi al-'Uqud Li al-Maqasid wa al-Ma'ani La Li al-Alfaz Wa al-Mabani*. Whereas The main fiqh method of *al-Yaqin La Yazul bi al-Syaqq* has a lot of fiqh method branches such *al-Asl Baqa' Ma Kan 'Ala Ma Kan*, *al-Qadim Yatruk 'Ala Qadamini*, *al-Asl Bara'ah al-Dhimmah*, *Ma Thabata Bi Zaman Yahkum Bi Baqa'ih Ma Lam Yujad Dalil 'Ala Khilafih*, *al-Asl Idafah al-Hadith 'Ila 'Aqrab 'Awqatih*, *al-Asl Fi al-Kalam al-Haqiqah*, *La 'Ibrah Bi al-Zann al-Bayyin Khata'uh* and few other fiqh method branch.



The main fiqh method of *al-Masyaqqah Tajlib al-Taysir* has branch of methods such as *Al-Darurat Tubih Al-Mahzurah*, *Ma 'Ubih Li Al-Darurat Yuqaddar Bi Qadriha*, *Ma Jaza Li 'Uzr Batal Bi Zawalih*, *Yatahmmal Al-Darar Al-Khas Li Daf' Al-Darar Al-<sup>c</sup>Am*, *Al-Hajah Tunazzal Mahzilal Al-Darurah* and *Al-Taharra Yajuz Fi Kull Ma Jawwazathu Al-Darurah*. While the main method of *Al-Darar Yuzal* on the other hand has fiqh method branch such as *La Darar Wa La Dirar*, *Al-Darar La Yuzal Bi Al-Darar (Bi Mithlih)* and *Al-Darar Al-Asyadd Yuzal Bi Al-Darar Al-Akhaff*, *Al-Tasarruf 'Ala Al-Ra'iyah Manut Bi Al-Maslahah* and *Dar'u Al-Mafasid Muqaddam 'Ala Jalb Al-Masalih*.

However, there are contemporary ulamas that combines the two main methods above under one theme which is *Daf' al-Darar wa Raf' al-Haraj*. This theme is significant in *Maqasid al-Syari'ah*. Under this theme, all the above branches of fiqh methods are compiled. These fiqh rules are able to match any current research issue with the fiqh method that have been formulated by the ulama of Usul al-Fiqh.

While for the main method of fekah *al-<sup>c</sup>Adah Muhakkamah*, branch of fiqh method that is placed under it are *Isti'mal al-Nas Hujjah Yajib al-<sup>c</sup>Amal Biha*, *al-Mumtani' 'Adatan Ka al-Mumtani' Haqiqatan*, *La Yunkir Taghayyur al-'Ahkam Bi al-Taghayyur al-'Azman*, *al-Ma'ruf 'Urfan Ka al-Masyrut Syartan*, *al-<sup>c</sup>Ibrah Li al-Ghalib al-Sya'ir* *La Li al-Nadir*, *al-Ta'yin Bi al-<sup>c</sup>Urf Ka al-Ta'yin Bi al-Nas* dan *Innama Tu'tabar al-<sup>c</sup>Adah 'Idha 'Ittradat Aw Ghalabat*.

Aside from the main fiqh methods and branches of fiqh methods that has been mentioned above, there are numerous more fragments of fiqh methods in which the application is limited in specific topics such as fiqh methods related to the use and abandonment of words or speech, fiqh method related to *al-Mani'c* (preventer) and *al-Muqtadi* (omnipotent), fiqh method related to conditions, conduct, ownership, *al-Daman* (compensation), grant, *siyasah syar'iyah*, conviction, testify and responsibility in criminal case and others.

### Academic Writing on Fiqh Method ( *Al-Qawa'id Al-Fiqhiyyah* )

Writing on fiqh methods (*al-Qawa'id al-Fiqhiyyah*) are in abundance. Writing about it began as early as the 4th century hijri. According to Dr. Isma'il bin Hasan, 2000M the earliest writing of *al-Qawa'id al-Fiqhiyyah* is in the form of *Mazhab Hanafi*, the *Usul al-Karkhi* authored by Al-Karkhi ('Umamah (2004M) printed together with *Ta'sis al-Nazr* authored by Al-Dabusi (Dr. Isma'il bin Hasan, 2000M). In *Mazhab Maliki*, the earliest writing of *al-Qawa'id al-Fiqhiyyah* is the *'Usul al-Fitya* authored by al-Qayrawani. While the earliest writings of *al-Qawa'id al-Fiqhiyyah* in *Mazhab Syafie* is *Qawa'id Fi al-Furu'c* authored by al-Jajarumi and in *Mazhab Hanbali*, the *al-Qawa'id al-Kubra Fi al-Furu'c* authored by al-Tufi (Hasan, 2000M).

Among the famous writings in the knowledge of *al-Qawa'id al-Fiqhiyyah* is *Qawa'id al-Ahkam fi Masalih al-Anam* ('Izz al-Din 'Abd al-Salam, t.t.), *al-Qawa'id al-Nuraniyyah al-Fiqhiyyah* (Ibn Taymiyyah, 1994M), *al-Furuq* (al-Qarafi, t.t.) and *al-'Asybah wa al-Naza'ir*. The *al-'Asybah wa al-Naza'ir* is not the only book because there were several authors who named their book as *al-'Asybah wa al-Naza'ir*. Among the authors of *al-'Asybah wa al-Naza'ir* are Ibn Nujaym (Ibn Nujaym, 1993M), al-Subki (al-Subki, 1991M), Ibn al-Wakil al-Misri, Ibn al-Mulaqqin (Ulwan, 2000M) and al-Suyuti (al-Suyuti, 1998M). Based on these authors' date of death (Al-Misri (761H); al-Subki (771H); Ibn al-Mulaqqin (804H); al-Suyuti (911H); Ibn Nujaym (970H); the

author assumes that the earliest author of *al-'Asybah wa al-Naza'ir* ialah is either Ibn al-Wakil al-Misri or al-Subki for their death is in the third quarter of the 8th century hijra and there is a 10 year gap of their death compared to other authors.

While the writings detailing *al-'Asybah wa al-Naza'ir* has more authors such as ; *Al-Asybah wa al-Naza'ir Fi al-Furu'* authored by al-'Ala'i, Salah al-Din Khalil bin Kaykaldi (M761H); *Al-Asybah wa al-Naza'ir Fi al-Furu'* authored by al-Asnawi, Abu Muhammad Jamal al-Din (M772H); *Riyad al-Nawadir Fi al-Asybah wa al-Naza'ir* authored by al-Sarsari, Abu Rabi' Najm al-Din al-Baghdadi (M716H); and others (Isma'il bin Hasan bin Muhammad 'Ulwan, 2000M). Recent writings on fiqh methods are *al-Qawa'id al-Fiqhiyyah* (al-Nadawi, 1994M), *al-Qawa'id al-Fiqhiyyah Bayn al-Asalah wa al-Tawjih* (Muhammad Bakr Isma'il, 1997M) and *al-Wajiz Fi Syarh al-Qawa'id al-Fiqhiyyah Fi al-Syari'ah al-Islamiyyah* (Zaydan, 2003M).

In 1286H, writings of fiqh methods were published in *Majallah al-Ahkam al-'Adliyyah* and was passed by the Uthmaniyyah empire on 26 Sya'ban 1292 *Majallat al-Ahkam al-'Adliyyah*. 1968M). There are 99 fiqh methods in *Majallah al-Ahkam al-'Adliyyah* beginning from clause 2 until clause 100.

### **Techniques of Adapting Fiqh Methods in Scientific Academic Writing**

Adaptation is the adjustment of new or different situations (Kamus Dewan 4<sup>th</sup> ed). In the current situation, there are various issues that require research to obtain the appropriateness of *hukm*. Research activities to obtain *hukm* views on new issues are always carried out by those who are given responsibility in issuing the *hukm* such as the mufti's department through the method of *ijtihad* or *qiyas* which mostly uses the fiqh method as the formula for the solution. The appointed committee will meet and discuss what are the appropriate fiqh method (if there is no clear excerpts) to be adapted in an issue that arises or questioned by authorities.

A simulation is an act (exercise and others) that is based on or uses something designed or fabricated but similar to or close to the real thing. Simulation is to reproduce certain conditions for the purpose of study or practice (Kamus Dewan 4<sup>th</sup> ed). In the context of scholarly research, the training activity of adapting the fiqh methods on new issues that require *hukm* views can be considered as a simulation activity of scholarly training for researchers at the postgraduate level.

Researchers can adapt the fiqh methods on current fiqh issues in two ways, either inductively or deductively. Inductive research aims to create new knowledge by identifying research problems from the field of Islamic studies. Researchers will then need to collect and develop data or research questions through interview method or observation method, or any other method. In the final stage of inductive research, the researchers adopt the appropriate fiqh method using data and patterns that are identified in the issue research. This adaptation is done by focusing on new issues that are specific to the fiqh method that is general, which is also known as the bottom-up approach.

Deductive research on the other hand is a category of research that includes the hypothesis process to confirm the theory or fiqh method in the discipline of Islamic studies. Deductive research aims to test theories or methods of fiqh on new research issues. The deductive

approach is more suitable to be applied in quantitative research where the researchers try to validate the theory or the fiqh method on the issues of research and propose statistical analysis. The deductive research uses a top-down approach.

### Conclusion

Both of these analytical approaches may be used in the research of Islamic studies depending on the objective of the research, either to adapt the fiqh method according to the issue of research or to validate the use of the fiqh method in research issues through the statistical results of the research.

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