

Al-Syatibi Methodology Analysis In The Unification Of Usul Al-Fiqh Methods

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Abstract

Imam al-Syatibi is a great figure in Islamic law knowledge. He wrote a lot on the understanding method of Islamic legal resources to create unity of views and ijthihad. Among them is by linking the Usul Method with Maqasid syariah (syarak objective). Al-Syatibi also outlines the understanding of the method of amar and nahi, mafhum mukhalafah and unification between two opposing arguments to produce uniformity of legal views. Among the reasons for this effort is because the differences between ijthihad among mujtahid may bring a conflict to the community and governance of law and fatwa. Even though the difference in opinion can lead to goodness and grace, it has recently been the opposite. The attitude of some extremists to their follow-up figures will cause fights and partly confuses other members of society. Hence, the study of the al-Syatibi methodology is conducted to look at his efforts in standardising the usul method. This research is done qualitatively by referring to the debates of the usul fiqh books. The study found that among the main elements of al-Syatibi in the standardisation of the usul method was to use maqasid al-Syariah. The study suggests that the theory brought by al-Syatibi will rise to the ranks of official fatwa bodies, especially in Malaysia with 14 official fatwa departments, in order that the fatwa or legal decisions issues will uniforms.

Keywords: Al-Syatibi, Usul Fiqh, Fatwa, Maqasid Syariah, Law

Introduction

The dispute of the fuqaha' is common in instinbat Islamic law. This shows the extent of the ijthihad field among Islamic scholars and the freedom of expression (Asni, et al., 2017). However, this dispute must occur in a small context such as matters interpretation that branches (furu'). The existence of this dispute should be well-received and not rigid so that benefits and maslahat can be felt by the public (Asni, 2017). But if the dispute is dealt with in extreme ways and exceeding, it can bring enormous conflicts such as fights and hostilities to infidelity issues (Khallaf, 2003). At the same time to avoid disputes in the matter of usul fiqh, the jurists are trying to narrow the dispute in matters involving the principle of usul, in order to avoid larger disputes (Musa, 1958). Hence this paper will discuss this by focusing on al-

Syatibi and his methodology in standardising references to Islamic law through the knowledge of Usul Fiqh.

Imam Al-Syatibi And His Education

Al-Imam al-Syatibi or his real name, Ibrahim bin Musa bin Muhammad Abu Ishaq al-Lakhmiy al-Gharnatiy is among the Usul Fiqh fuqaha' who writes about the consistent and dynamic production of Islamic law (al-Fasi, 1416H). He is from Lakhm, Gharnatah and Syatibah, therefore he is called by the names of al-Lakhmiy, al-Gharnatiy and al-Syatibi (al-Zinki, 2010). Al-Syatibi is estimated born before 720H and died about 70 years later, on Tuesday, in the month of Sya'ban in 790H (al-Raisuni, 1995). He was known as al-Hafiz and Mujtahid because of his skill in Islamic knowledge (al-Karim, 2001).

Syatibi has many pupils, among them are Abu Yahya bin 'Asim (d.813H), al-Qadi Abu Bakr bin 'Asim (d.829H), Abu 'Abd Allah al-Majari (d.862H) (Ahmad, 1351H). Among his writings are al-I'tisam, al-Muwafaqat, al-Khulasah fi al-Nahwi, al-Majalis, 'Inwan al-Ittifaq fi 'ilmi al-Isytiqaq, Usul al-Nahwi and al-Ifadat wa al-Insyadat (al-Majari, 1982). Al-Syatibi's contribution in the field of usul knowledge has led Muhammad Rasyid Redha, Muhammad 'Abd Allah Darraz and Mustafa al-Zarqa' have described him as 'mujaddid' (reformer) especially in the knowledge of usul al-Fiqh and maqasid al-Syariah (al-Karim, 2001). The mastery of al-Syatibi and his influence in this knowledge is because he lived in the golden age of the Andalusian Islamic civilisation, which that time was ruled by the Bani Umayyah (Zaki, 2008). At this time, the Islamic knowledge were matched with the external knowledge in particular relating to philosophy, thought and language until influenced al-Syatibi to reform in legal knowledge especially the knowledge of usul al-Fiqh (Joseph, 1964).

The focus of al-Syatibi amongst them is to unite fiqh madhhabs, especially those involved in the usul fiqh method so that Muslims can enjoy a uniform system, preserve the common good and strengthen the source of reference. Hence, this study will discuss the method of al-Syatibi based on his book al-Muwafaqat fi Usul al-Syariah.

Linking The Usul Method With Maqasid Al-Syariah

Maqasid Syariah is the objective of syarak which become the purpose of an order or shari'a and it has several levels of preference in its execution claim which begins with daruriyyat, hajiyyat and tahsiniyyat. The method of linking a method of usul in a legal reference with the element of maqasid can affirm and strengthen a law into the qat'i stage or almost qat'i (Ibn 'Asyur, 2009). Indirectly, when the mujtahid suggested several methods of usul to be used, the precedence of the method can be measured and evaluated based on its relation to the maqasid syara'. Among the usul methods analysed in this study are the concepts of al-amru and al-nahyu, mafhum mukhalafah and arguments opposite each other (al-ta'arud baina al-adillah).

Amar And Nahi Methods

The concept of amar (order) and nahi (ban) in nas Syarak are within the context of important issues of usul. This is because it is a determination to the taklif as affirmed by al-Sarakhsi, "the matter of amar and nahi is very closely related to the act of mukallaf which is to know the laws whether a matter is halal or haram" (al-Sarakhsi, 1973). However, the fuqaha' differ in opinion in determining what is required from the purpose of amar and nahi.

Al-Amru by language is the command or direction (al-Kufawi, t.t.). While al-Amru by term, a claim (order) to do something from a higher party to its lower position (al-Amidi,

2010). While al-Nahyu according to language is a ban or barring (Zaidan, 2009). While al-Nahyu according to the term is, a claim or instruction from the superior to the subordinates in order not to do any works (al-Zuhaili, 2008).

Generally, the fuqaha agree on the meaning of al-amru and al-nahyu which has a clue or sign (qarinah) which gives a specific purpose whether obligatory, sunnah, haram or makruh (Al-Al-Kharabsyah, et al., 2012). But the fuqaha disagreed with the view on the determination of al-amru and al-nahyu which did not have any indication which as absolute amar or nahyu. This is because there are no specific instructions for determining it as compulsory, sunnah, or otherwise. Hence, in this matter, there have been several different opinions among the usul ulama (Al-Kharabsyah, et al., 2012).

The majority of fuqaha' argue that the word amar mutlak mean obligatory and so does the absolute prohibition mean haram. This is because it is the original meaning according to the Arabic language (al-Syawkani, 2009). According to al-Amidi and Imam al-Haramain, it is the opinion of the fuqaha' of Hanafi madhhab, the scholars of the Kalam sect like Abu al-Husein al-Basri, Abu Ali al-Juba'i who Syafi'i madhhab (al-Juwaini, 1997; Al-Amidi, 2010). This opinion has also given rise to a method that is, "Every instruction shows to mandatory law as long as there is no indication that shows otherwise" (al-Zuhaili, 2008). And that is the opposite.

However, minority fuqaha' think that amar mutlak carries sunnah signals. This is Abu Hasyim's opinion, the Mu'tazilah kalam scholars and a group of Hanafi fuqaha. This is because the sunnah law is in the middle of the level of obligatory and mubah, in accordance with the moderation of Shari'ah purpose in all matters and only the mandatory demands shown by the clear and confidential argument (qarinah exist) (Al-Kharabsyah, 2007). For the law of al-nahyu, this absolute prohibition will mean the meaning of makruh in parallel with the argument for the above sunnah (Al-Kharabsyah, 2007).

There are also those who say that the meaning of amar and nahyu brings mubah law which it is the lowest level of taklif. This is because there is no clear indication of it and the law based on the original state that is mubah. In addition, there is also fuqaha' usul that does not define any law by deferring it (tawaqquf) until there are clues that determine such a law (Al-Kharabsyah, 2007). This is the opinion of Qadhi Abu Bakar and al-Ghazali (al-Ghazali, 1997).

Al-Syatibi suggests that approximately 70 nas amar mutlak and 90 nas nahi mutlak are interpreted according to the suitability of the maqasid syariah, especially in adat and muamalat (al-Syatibi, 2010). This is because the Islamic Sharia principle is maslahah and is not cited Islamic law unless it is to bring maslahah. In this case, all customary and muamalat laws governing human relations must be based on human interest (al-Syatibi, 2010). Hence, any matter of harm and spoil is compulsory to be prevented. While the problem contains goodness and benefit are obligatory. These maslahah considerations give a specific indication of the law to amar and nahyu nas which absolute (al-Qurafi, 2001). Based on this, there is no option for mukallaf to choose without any guidance as there will be guidance from the maslahah context and maqasid syariah access (al-Marini, 2002). Hence, even if the words or the pronouncement are absolute, there will be an appropriate meaning for the meaning and the level of the law on the pronouncement amar and nahyu is according to the rate of maslahah and mafsadah (al-Raisuni, 1997).

Mafhum Mukhalafah Method

When tracing the Quranic verses, not all of the verses give a direct understanding, but there are some verses that give indirect understanding. In this case, several methods have been developed to understand the implied text to explain the contents of the Qur'an. However, the fuqaha' usul disagreed with this methodology until it causes a dispute among themselves.

Among the methods built is the mafhum mukhalafah which is implicit understanding by the speech, which is understood in opposition to the law mentioned (mantuq) (al-Zuhaili, 2008). The meaning of this method in terms of phrase is the understanding of the law that is understood is different from the speech (mantuq) either in deciding or abolishing (nafi) (Al-Kharabsyah, et al., 2012). For example, the word of Allah SWT which means, "O you who have believed, when [the adhan] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. (al-Jum'ah: 9)." Based on the concept of mafhum mukhalafah, this verse is not only understood that the prohibition of a sale and purchase transaction after the Friday prayer, but it is also understood that the sale and purchase must be before and after Friday prayers (Al-Kharabsyah, et al., 2012).

There are several types of mafhum mukhalafah such as mafhum sifah, mafhum syarat, mafhum ghayah, mafhum 'adad and mafhum laqab. All interpretation methods are based on direct understanding and vice versa based on the specific nature, terms, goals, numbers and titles contained in the passage. For example, mafhum sifah is the setting of a law based on the nature mentioned in nas and if it is otherwise, it is invalid (al-Hanbali, 1408H). As Allah SWT says, "And whoever kills a believer by mistake - then the freeing of a believing slave (al-Nisa': 92)." In this verse, it is legitimate to pay the kifarah by freeing of a believing slave and illegitimate if freeing of an unbelieving slave (Al-Kharabsyah, et al., 2012). That is the same in the Mafhum syarat (condition), mafhum ghayah (purpose) and Mafhum 'adad (al-Khin, 1982).

The majority of Malikiyyah scholars, Shafi'iyah and Hanabilah recognise the mafhum mukhalafah's argument as a guide in the judgment together with certain conditions (al-Baji, 1407H; al-Amidi, 2003). However, the interpretation of mafhum mukhalafah is based on certain conditions which are not contrary to the stronger argument either dalil mantuq or mafhum. For example, dalil mantuq which means "Do not kill your children for fear of poverty. (al-Isra': 31)" is contrary to dalil mantuq that means, "Do not kill the soul which Allah has forbidden [to be killed] except by [legal] right (al-An'am: 151)."

But not all fuqaha' accept the interpretation method of mafhum mukhalafah. For example Abu Hanifah, Ibn Suraij, al-Baqillani, Imam al-Haramain, al-Qadhi Abd al-Jabbar, Abu al-Husein al-Basri, al-Baji and Ibn Hazm did not accept it as an argument because this method can cause confusion as can occur the interpretation is contrary to Islamic law (al-Gharnaty, 2002; al-Syirazi, 1403H). In fact, it may result in waiver of the law itself, while the contrary enforcement law (mukhalafah) may be taken from the other text arguments or based on the method "origin of the thing is mubah" (Al-Kharabsyah, et al., 2012).

Al-Syatibi states that the dispute over the mafhum mukhalafah can be harmonized with the maqasid syariah approach. This is because the shari'a nature is dynamics which are always assessed and interpreted according to the current suitability, because it basically gives maslahat to human. In seeking this adaptation, the Arabic language aspect and its relation to culture in the past must also be a measure and a valuation so that it does not give a rigid interpretation to Muslims in different cultures (al-Syatibi, 2010). The analysis of language, culture and its accuracy with the maqasid syariah should be parallel in interpreting the sources of syarak so wasilah in the interpretation of nas is deeper and thorough (al-Wad'an,

1430H). In this case, the logic of the language needs to be adjusted to the logic of maqasid syarak which coincides with the goal of syarak to achieve justice, goodness and kindness (al-Zinki, 2010; al-Jawziyyah, 1973). For example, the word of Allah SWT which means, "And if someone (debtor) is in hardship, then [let there be] postponement until [a time of] ease." (Al-Baqarah: 280) Based on this verse, who faces hardship in paying his debts must be given time until his financial condition improves and vice versa for the capable debtor. The implications of this nas understanding need to be seen in parallel with the mukallaf benefits that bear the debts and benefits of creditors to recover the money they lent (al-Duraini, 1997).

Based on this syariah maqasid perspective, mukhalafah interpretation contradiction with the maqasid will be rejected. For example the word of Allah SWT which means, "Indeed, the number of months with Allah is twelve [lunar] months in the register of Allah [from] the day He created the heavens and the earth; of these, four are sacred. That is the correct religion, so do not wrong yourselves during them." (Al-Taubah: 36). This nas cannot be interpreted by mukhalaf because it will lead to deeds of injustice and this is contrary to the maqasid syariah (Iwad, 2008). Hence, it cannot be understood otherwise in the verse that it can do tyranny other than the illegal months. It is prohibited to do so by some others verses of the Qur'an (Surah Fussilat: 46, Surah al-Nisa': 49 and Surah Ali-Imran: 140) as well as the hadith by Bukhari (1422H) and Muslim (2006). The mafhum mukhalafah method also cannot be applied to the prohibition of usury (Ali-Imran: 130) and drink alcohol, as well as nafkah to divorced wives during pregnancy (al-Talaq: 6) (Al-Kharabsyah, et al., 2012). This is because it results in contrary implications to syariah maqasid if implemented (al-Zinki, 2010). In this case, it can be concluded that the application of the mukhalafah method is on the scales maqasid syariah (al-Duraini, 1997; al-Zarkasyi, 1992).

Method Of Tackling Two Different Arguments

Literally, there are verses that contrary the meaning and pronouncement in syarak sources. In this case, the fuqaha' have several approaches when interacting with such arguments, first by gathering both the opposite arguments (al-Barzanji, 1993). If cannot, the second step is to reinforce one of the opposite arguments based on a certain condition without dropping arguments that marjuh (al-Rahim, 1404H). Then the third step is by practicing one of the arguments by dropping the arguments that marjuh based on nasikh and mansukh if it is known for its execution period (al-Suyuti, 1403H).

Based on the maqasid syariah, Imam al-Syatibi provides several steps in dealing with these opposite arguments, by looking at two aspects ie, if a general method is contrary to the arguments of juz'i (branch), then in this case there are some solutions,

- I. Keep in mind that the argument is authentic and can be used as an argument. This is because the conditions for the contradictory verses must be among the arguments that have same strong. Not considered contradictory between strong proponents with weak or false arguments.
- II. If the juz'i argument is from the Qur'an and the authentic hadith, and then in this case the mujtahid should interpret the argument. However, the interpretation should be accepted by the Islamic law which is accepted from the point of view of the language and is not contrary to the religious principles.
- III. If the mujtahid cannot use the second method because the juz'i argument cannot accept the interpretation, then it is necessary to practice the arguments as the exception of method or general principles. It also does not harm the power of general principles (al-Syatibi, 2010).

But if the two *juz'i* arguments are contradictory, but the meaning of each of these arguments are parallel with the general principle, in this case there are several resolving steps ie,

- I. It should be ascertained that the validity of the arguments is like seeing and judging from the corner of *sanad* and *matan hadith*. If there is a criticism and proved defective in the arguments, then it does not qualify the opposite argument. Similarly, when one of the arguments is invalid, it is revealed that the argument is revoked.
- II. If the argument is authentic, the *mujtahid* must practice both the arguments based on their particular circumstances. In other words, the *mujtahid* should not use both the arguments simultaneously in one problem but use them differently on a specific problem according to its suitability.

However, if the text is contradictory between the two arguments of *juz'i*, at the same time both are not included in the same principle as between the *daruriyyat* and *tahsiniyyat* matter, for example, one does not find water for *wudu'* or dust for *tayammum*, then in this case he should priorities the main principle of prayer which is within the framework of *daruriyyat* principle, even if the purification requirement is *wudu'* which becomes a complementary condition cannot be completed. Hence, it is not possible to leave the original due to branch problems which are conditions cannot be implemented (al-Syatibi, 2010).

Subsequently in the case of the two opposite verses, then the interpretation of the law should look to the legal *maqasid*. For example between the two verses of the Qur'an which partially denounced the world (al-Hadid: 20; Ali-Imran: 14) and some praised it (Qaf: 6; Al-Nahl: 5), then choose absolutely one is wrong (Al-Syatibi, 2010). Hence, celebrate the world if there is a need for the good of religion. Similarly, in the hadith contradiction that states, "One who is in *Ihram* may not marry, or be given in marriage. He should not ask someone's hand in marriage, nor give someone in engagement (al-Bukhari, 1422H)," and hadith meaning, "Surely the Prophet SAW marries Maimunah in the state of *ihram* (al-Bukhari, 1422H)." So the method recommended by al-Syatibi is to strengthen one of the arguments. Hence, based on the method of *maqasid syariah* is based on the priorities, the first hadith to be aimed at maintaining religion (the short time of pilgrimage) needs to be preceded than the preservation of the offspring (a lot of time for marriage) (al-Ramli, 1938; al-Murtada, 1947).

Similarly, the contradiction of the text on the verse of the will (al-Baqarah, 180), verse of heir (al-Nisa', 11) and hadith which means, "There is no will for the heirs (al-Qurtubi, t.t.; al-Daruqutni, 2004) In this case, the *maqasid syariah* approach does not abolish one argument except with a strong reason. Both arguments can be harmonised with the first verse which is general for non-beneficiaries, while the second verse is specific to the heirs. Hence, a will is valid to non-Muslim parents and not vice versa. Islam does not break the relationship between Muslims and non-Muslims who are relatives.

The findings from this research have formed a concept framework (see Figure 1) brought by al-Syatibi in bringing renewal to the methods of *usul*.

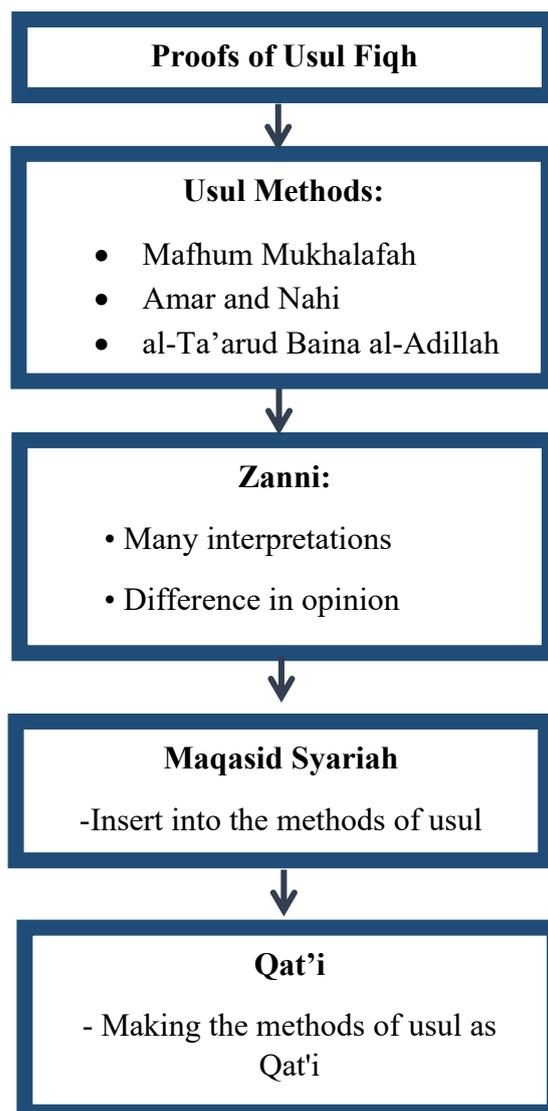


Figure 1: The renewal of the usul method based on Al-Syatibi's view

Conclusion

The concept of uniformity brought by al-Syatibi has strengthened syarak arguments to have the authority. This al-Syatibi approach is not only at the branch level, but involves usul methods that all mujtahid must obey. Among the important elements brought by al-Syatibi in this regard is the incorporation of elements of maqasid al-shariah which are the main pillars of Islam, because al-Syatibi is the founder and figure in the field of maqasid al-Syariah knowledge. This approach is especially appropriate in the determination of current judicial code at various levels so that the laws issued parallel to maslahah, it is also uniform and strong. Research suggests that this method of usul can be practice at the level of official departments that issue laws and fatwa.

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