



The Effect of *Masalikul 'Illat* in the Determination of Islamic Law in Indonesia

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Abstrak

Dalam penetapan hukum Islam, penentuan illat hukum memiliki peranan yang cukup signifikan. illat hukum adalah sesuatu yang dipahami dan dijadikan ulama sebagai dasar untuk menentukan dan menetapkan ada atau tidak adanya hukum. Karena itu, *masalikul illat* (metode pencarian dan penentuan illat hukum) harus dilakukan dengan baik dan maksimal. Dalam pemilihan *masalikul illat* Ulama memiliki cara pandang yang berbeda, sehingga memiliki pengaruh penetapan hukum Islam menjadi tidak sama. Puasa Arafah dan wuquf di Padang Arafah merupakan peristiwa yang sering dikaitkan dalam penetapan hukum syari'at puasa terutama pada zona wilyah yang jauh dari Mekah, karena itu penelitian ini bertujuan untuk mencari tahu illat hukum dalam penetapan syari'at puasa Arafah, apakah keduanya memiliki keterkaitan yang sama. Penelitian ini menggunakan data yang bersumber yuridis normatif dan disesuaikan dengan zona mathla' wilayah. Penelitian ini menyimpulkan bahwa penentuan *masalikul illat* hukum syari'at puasa 'Arafah memiliki pengaruh yang signifikan terhadap penetapan dan pelaksanaan hukum puasa 'Arafah di seluruh dunia (terutama wilayah yang jauh koordinatnya dari Mekah). Jika 'illat hukum yang ditentukan adalah wuquf di padang 'Arafah maka wilayah yang jauh dari Mekah sekalipun waktunya sudah malam maka syari'at puasa 'Arafah telah berlaku, namun bila illat hukum yang ditentukan adalah tanggal 9 Zulhijjah, maka syari'at puasa 'Arafah berlaku sesuai dengan penentuan waktu/tanggal di wilayah tersebut.

Kata kunci: *Masalikul 'illat*, istinbath al-ahkam, koordinat, zona mathla'

Abstract

In the determination of Islamic law, the determination of legal 'illat has a significant role. It is something that is understood and used by Islamic scholars as a basis to determine and establish the presence or absence of law. Therefore, *masalikul 'illat* (a method of finding and determining a legal 'illat) must be performed properly and totally. In the selection of *masalikul 'illat*, the scholars have different thoughts, so that the effect of the determination of Islamic law is not the same. Arafah fasting and *wuquf* (stay) in Arafah is an event that is often associated in the determination of the *Shari'ah* of Arafah fasting, especially in the zones which are far from Mecca. Therefore, this study aims to find out the flaws legal in determining the *Shari'ah* of fasting Arafah, whether the two are related each other. This study uses data sourced from normative jurisprudence and adjusted to the zone of the regional *mathla'*. This study concludes that the determination of *masalikul 'illat* of sharia law of Arafah fasting has a significant effect on the determination and implementation of the law of Arafah fasting in around the world (especially areas that are far from Mecca). If the legal 'illat determined is *wuquf* in Arafah, the areas far from Mecca even though it is night, the *Shari'ah* of Arafah fasting has applied. But if the legal 'illat determined is the 9th of Zulhijjah, then the *Shari'ah* of Arafah fasting has applied in accordance with the time/date in the region.

Keywords: *Masalikul 'illat*, istinbath al-ahkam, koordinat, zona mathla'

Introduction

The sources of the primary materials of Islamic law are Qur'an and Sunnah that the authority of both should not change in any time and circumstances at all times. Islamic law can sometimes be known through the meaning of *nash*, which is the laws that are explicitly written in Qur'an and Hadith. It sometimes must be explored through precision, accuracy, and maximization in understanding the meaning of the *nash* of law.¹ Therefore, in the determination of Islamic law, the determination of legal '*illat*' has a significant role. Something that is understood and used by Islamic scholars as a basis for determining and establishing the presence or absence of law can be understood as a legal '*illat*'. Meanwhile, the scholars of *Ushul Fiqh* mention that the rational-legal reason is what is understood as legal '*Illat*'.²

Masalikul 'illat is a step performed or a method of finding and determining the legal '*illat*'. The meaning of the law (*maqashid syari'ah*) cannot be understood clearly (*sharih*) so, the method of determining the legal '*illat*' of law must be performed properly and totally.³ In the selection of *masalikul 'illat*, the scholars have different thoughts, so that the effect of the determination of Islamic law is not the same. Therefore, the determination of law based on '*illat*' becomes an argument among scholars.

In connection with this, the Arafah Fasting and *wuquf* in Arafah are two legal events often associated with the determination of the *Shari'ah* law of the Arafah Fasting. It can affect, especially in the zone's outsides Mecca. For responding this question, greater attention is required to the basic sciences, knowing the sources of law, the methods used by previous scholars, and then choosing the most appropriate method as the basis for determining the law.

A similar problem applying a similar concept also occurs to the issues of contemporary Islamic law related to bank interest.⁴ In such a discussion, various laws regarding interest in the practice of bank interest can be determined through the method of legal determination based on '*illat*'.

In addition, there are other similar issues regarding Shariah banking practices that have been growing rapidly lately. Of course, this case also requires analysis as in the study of Pangiuk and Jalaludin who discuss the Shariah objectives of Shariah banking practices.⁵

¹ Asjmuni A. Rahman, *Metode Penetapan Hukum Islam*, 2nd ed. (Jakarta: PT. Bulan Bintang, 2004).

² Abdul Wahab Khallaf, *Ilmu Ushul Al-Fiqh* (Jakarta: Al-Majlis al-A"la al-Indonesi li al-Da"wat al-Islamiyyat, 1972).

³ Muhammad Abu Zahrah, *Ushul Al-Fiqh*, 6th ed. (Jakarta: Pustaka Firdaus, 6 by. Saefullah Ma"shum, 2000).

⁴ Rizal Bin Jami'an, "IJTIHAD JAMA' I NAHDATUL ULAMA (NU) DAN IJTIHAD QIYASI MUHAMMADIYAH TENTANG BUNGA BANK," *Jurnal Hukum Respublica* 16 (2016): 20–35.

⁵ Ambok Pangiuk and Jalalludin, "BAGI HASIL (STUDI TENTANG IMPLIKASI KONSEP MAQASID AL-SYARIAH AL-SYATIBY)," *Indonesian Journal of Islamic Economics and Business* 1 (n.d.): 133–144.

Therefore, this study elaborates the method of understanding *Masalikul 'Illat* in the determination of Islamic Law, understanding the events of *wuquf* in Arafah and the *Shari'ah* of Arafah fasting, and the effect of *masalikul 'illat* in the determination of Islamic law on the implementation of *wuquf* in Arafah and the law of *Shari'ah* implementation on Arafah fasting in Indonesia.

Understanding the Method of *Masalikul 'Illat*

'*Illat* is the most important element because the existence of '*illat* determines the existence of a law to be extended to other issues. It is a special property that is seen as the basis in the setting of the law. In principle, all *Shari'ah* laws are set to have a background, cause, and elements of benefits for humankind, namely rejecting danger and eliminating difficulties for human beings.⁶ The purpose can be seen from some of the signals or signs ('*illat*) found in the *nash* that set it. Some are clearly mentioned in Qur'an and Sunnah. Others are only signs, and some must be observed and analyzed first so that the *mujtahids* need a certain way or method to know it, called *masalik al-'illat* or *turuq al-'illat*.⁷

'*Illat* plays an essential role in formulating and developing Islamic law, whether related to legal changes or legal developments, determining what is the basis of a legal provision, and then extending its application to the issues covered therein. Some scholars have concluded that "law will always be related to its '*illat*. There is '*illat*, there is the law. If '*illat* does not exist, then the law does not exist. (*al-hukm yaduru ma'a 'illatihi wujudan wa'adaman*).⁸

Masalik al-'illat is a way or method used to find the nature or '*illat* of an event, which can be used as a basis in establishing the law. The popular methods used by the scholars of *Ushul Fiqh*, to find and know the '*illat*, include:⁹

1. Based on the context of *nash*, in this case, the *nash* of the Qur'an and Sunnah have explained a nature is the legal '*illat* of an event (occurrence). Defining *nash* as one of the ways in determining '*illat*, does not mean that it is directly mentioned in *nash*, but in words used in *nash*, it can be understood that there is '*illat*. The *nash* designation of the nature of an event as the '*illat*, is sometimes "*sarahah*" (clearly, directly) and sometimes with "*ima*" or "*isyarah*" (by gesture, indirectly).
2. Based on *ijma'*, the method of knowing '*illat* with *ijma'* means that if the *mujtahids* in a period have agreed that what is '*illat* of a *syara'* law is an attribute, then that attribute remains '*illat* for a law by *ijma'*. (The *mujtahids'* agreement is acceptable).
3. *As-Sabru wat Taqsim*, examines the possible properties of an event or occurrence. Then separating or choosing between the attributes, which is more appropriate for legal '*illat* is performed. *As-Sabru wat Taqsim* is

⁶ Abu Zahrah, *Ushul Al-Fiqh*.

⁷ Khallaf, *Ilmu Ushul Al-Fiqh*.

⁸ Muchlis Bahar, "METODE PENEMUAN ALASAN RASIONAL DALAM HUKUM ISLAM (MASALIK AL- ' ILLAT)," *FITRAH 1* (2015): 177-188.

⁹ Al-Syatibi, *Al-Muwafaqaat Fi Ushul Al-Ahkam, Jilid I* (Dar al-Fikr, n.d.).

performed when there is a *nash* about an event (occurrence), but there is no *nash* or *ijma'* that explains its '*illat*.

If several things are deemed appropriate proper as a legal '*illat* in a legal provision, it determines which of it is really as '*illat* performed *taqsim* and *sabr*. *Taqsim* is limiting what is felt appropriate as a legal '*illat*, and *sabr* is to examine things that have been restricted and felt appropriate as the legal '*illat* so that it can be known which should be set aside as an '*illat* and which should be taken or determined. This way is a vast opportunity for *ijtihad* and possible differences of opinion among the *mujtahids*.

In the study of *Ushul Fiqh*, it can be termed with the theory of '*illat* and reasoning of *ta'lili*. Every provision of law revealed by Allah, both command and prohibition, must have its own reasons, called '*illat*. Theory of '*illat* and reasoning of '*ta'lili* can be reached in two ways. They are:

1. '*illat qiyasi*
2. '*illat tasyri'i*

Performing '*illat qiyasi* is implementing the existing legal provisions in the texts on other issues that no provision of the legal texts but need answers. Between the two there is a similarity of '*illat*.

'*illat tasyri'i* is to apply the law by first knowing whether the underlying '*illat* has changed or not, so that whether the provisions of the law continue to apply or should have changed.

When a legal provision cannot be implemented or realized in life, we must return to look at the '*illat* that underlies the condition. It means that we must re-maximize the understanding in finding or searching for the legal '*illat* that underlies the establishment of the law, by reconsidering changes in times and circumstances, differences in places and regions so that the purpose of the legislation can run smoothly, not constrained by time differences because of unequal territorial zones. But those must be performed carefully and based on proper scientific mastery.

Understanding *Wuquf* in Arafah and *Shari'ah* of Arafah Fasting

Arafah, comes from Arabic '*Arfah* or '*Arafah*.¹⁰ Arafah is the name of a field about 25 km east of the city of Mecca and the place of *wuquf* of pilgrims, which is one of the pillars of Hajj.¹¹ In this place, Rasulullah (p.b.u.h) delivered the last sermon which was on Hajj Wada' (farewell) in 10 H. At that time, the last revelation was received, namely Surah (chapter) Al-Maidah verse 3. Another meaning states that Arafah means knowing. The Day of Arafah is the ninth day of the month of Zulhijjah, or the day before Eid al-Adha. If understood from the origin of the word, *wuquf* in Arafah is defined as *wuquf* or the cessation of the Hajj Jama'ah (pilgrims) in Arafah (some call it Arafah field) on the day of Arafah where

¹⁰ *Kamus Besar Bahasa Indonesia Departemen Pendidikan Nasional*, 3rd ed. (Jakarta: Balai Pustaka, 2007).

¹¹ "Ensiklopedi Hukum Islam," *Ensiklopedi Hukum Islam* (PT. Ihtiar Baru Van Hoeve, 1996).

that day is the peak of the Hajj ritual of performing the pillars of Hajj that is *wuquf* in Arafah.

In the Encyclopedia of Islamic Law, it is explained that *wuquf* in Arafah is present or located in any part of the land of Arafah. It is performed either in a state of sleeping, waking, driving, sitting, lying down, or walking, in a state of impurities, such as menstruation, childbirth, and *junub*. However, under normal circumstances, it is better for the person who performs *wuquf* to be in a perfect state of purity, face the Qibla, ask for forgiveness from Allah Almighty, do *dhikr*, and pray for the interests of religion, family affairs, and other worldly interests.¹²

Thus, it can be understood that the performance of *wuquf* in Arafah is related to two things, namely:

1. Related to the place, the place is Arafah (Arafah field)
2. Related to the time, the time is the 9th of Zulhijjah

So, the Hadith of the Prophet which mentions "Al-Hajjul Arafah/Hajj is Arafah", understood that the Hajj is in Arafah (Arafah field, it means the performance of Hajj with one of the pillars is *wuquf* in Arafah). The time (time of Arafah) is the 9th of Zulhijjah.

As for the meaning of the phrase of Arafah fasting is a sunnah (optional) fasting performed by those who are not performing *wuquf*. The time coincides with the 9th of Zulhijjah. The meeting point between these two worships (*wuquf* and fasting: *wuquf* in Arafah and fasting on the day of Arafah) is that the time coincides with the 9th of Dzulhijjah. But these two acts of worship are not interrelated with each other.

The Arafah fasting is performed not because the pilgrims are *wuquf* in Arafah, but because the 9th of Zulhijjah, and vice versa, the pilgrims *wuquf* in Arafah not because someone is performing the Arafah fasting but because of the 9th of Zulhijjah. It is must be well understood. So, the 'Illat/cause of the law here is the 9th of Zulhijjah, because it is on the 9th of Zulhijjah, then the law that arises is two, namely *wuquf* in Arafah and fasting on the day of Arafah.

So the following legal consequence is that *wuquf* will remain valid even if those who are not performing *wuquf*, are not performing fasting (such as people outside Mecca), as well as fasting sunnah Arafah on the 9th of Zulhijjah will remain valid even if people are on pilgrimage (performing Hajj) not performing *wuquf* (or indeed there is no Hajj because for example the situation is not safe or an outbreak of disease, such as COVID 19).

While the determination of the date is not the same in every existing zone, scholars have agreed that the standard of calculation of time/day related to worship in Islam is based on the moon's cycle.¹³ It is where the problem lies, especially how to determine when the 9th of Zulhijjah comes. So, the way to determine it is definitely by first knowing when the date of the 1st of Zulhijjah

¹² Ibid.

¹³ Muhyiddin Khazin, *Ilmu Falak Dalam Teori Dan Praktik* (Jakarta: Bina Pustaka, 2004).

comes. In this case, we will be reminded again how to determine the 1st of Ramadhan and the 1st of Syawal.¹⁴

The determination can be by the method of *rukayah* or *hisab*, *hisab wujud al-Hilal* or also *Hisab Imkan ar-Ru'yah*, or a combination of both.¹⁵ In the end, we will find the differences of scholars on the issue of local or international *rukayah*. Should each society follow the results of local calculations, or can it also follow the results

¹⁴ Abu al-Husein, *Shahih Muslim* (Kairo: Dar al-Kutub, 1918).

Hadith of Rasulullah (p.b.u.h):

إِذَا رَأَيْتُمُوهُ فَصُومُوا, وَإِذَا رَأَيْتُمُوهُ فَأَفْطِرُوا, فَإِنْ غَمَّ عَلَيْكُمْ فَأَقْدِرُوا لَهُ

Meaning: "If you see the crescent of moon, then fast. if you see it again, then celebrate. if the crescent of moon is closed, then complete it (the month of Sha'ban becomes 30 days)."

(Muttafaqun 'Alaih Narrated by Bukhari no. 1906 and Muslim no. 1080).

The crescent of moon in each country is the benchmark, that is the meaning of the hadith order. What also strengthens it is the narration from Kuraib, that Umm Fadhl bintu Al Harits once sent her to meet Muawiyah in Syria, in order to settle a business. Kuraib continued his story, when he arrived in Syria, I completed the business entrusted to Ummu Fadhl. At that time, it was the 1st of Ramadan and I was still in Syria. I saw the crescent of moon on Friday night. Then I returned to Medina. Arriving at Medina on the end of the month, Ibn Abbas asked me, "When did you see the crescent of moon?" Kuraib replied, "We saw it Friday night." "Did you see it yourself?" Ibn Abbas asked. "Yes, I saw it and the people in my country also saw it. They fasted and Muawiyah also fasted. " Replied Kuraib.

Ibn Abbas explains:

لَكِنَّا رَأَيْنَاهُ لَيْلَةَ السَّبْتِ فَلَا نَزَالَ نَصُومُ حَتَّى نُكْمِلَ ثَلَاثِينَ أَوْ نَرَاهُ

Meaning: "If we see Saturday night, we continue to fast, until we finish for 30 days or we see the crescent of moon of Syawal."

Kuraib asked again, "Why don't you follow Muawiyah's *rukayah* and Muawiyah's fast?" Ibn Abbas replied:

لَا هَكَذَا أَمَرَنَا رَسُولُ اللَّهِ -صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ-

Meaning: "No, this is what the Prophet (p.b.u.h) ordered us." (Narrated by Muslim no. 1087).Ibid.

This is a proof that the crescent of moon in our country must not be the same as the crescent of moon of the Kingdom of Saudi Arabia. So, the local crescent of moon must be followed. If the crescent of moon of another country is too forced to apply in this country, try to imagine how this is applied in the past whose communication is not as advanced as it is today.

Imam Nawawi explained for the hadith of Kuraib, "Each country has its own crescent vision. If they see the crescent of moon, then it does not apply to other countries." Imam Nawawi also explained, "Hadith Kuraib from Ibn 'Abbas as an evidence for the title delivered. According to a strong opinion among the *Syafi'iyah* (syafi'i scholar followers), the sighting of *rukayah* (hilal) does not occur in general. But it applies especially to those who are closest as long as they are still within a distance of the prayer. " (Syarh Shahih Muslim, 7: 175).Ibid.

However, some Shafi'i scholars state that the international crescent is the one that applies. That is, the sight of the crescent of moon in one place also applies to other places.

¹⁵ Tgk. H. M. Yusuf Harun, *Pengantar Ilmu Falak* (Banda Aceh: Yayasan Pena, 2008).

of other Islamic countries? This term is known as *wihdah al-Mathali' wa ikhtilaf al-mathali'*.¹⁶

It is the problematic result of the differences of the scholars in the matter of determining the beginning of the new moon (read. Hijriah months). We must not deny that many scholars also believe that each country is allowed to decide their own time of worship but must be based on the correct method.

So, if we correlate to the present, then as the government of Saudi Arabia can decide for itself about fasting, Eid al -Fitr, and Eid al -Adha. The same thing that the Indonesian government is also allowed to set its own time of fasting, Eid al -Fitr and Eid al -Adha.

Indeed, other opinions explain the ability to take testimony on the grounds of *wihdah al-Mathali'*, but it should also be noted that what is meant by an affidavit does not belong to Saudi Arabia alone. It is still possible for us to take decisions from other neighboring countries, even besides Saudi Arabia. As we can follow Saudi Arabia, the same thing is also true that Saudi Arabia can follow our state's decision, if only in its decision in the last time, we were the first to give the result.

However, it turns out that one of Saudi Arabia's leading scholars himself even suggested following the results of local decisions and not having to follow Saudi Arabia's decisions. The conclusion is that the matter is so loose that there is nothing wrong with our government, which has gone to great lengths to make an effort in the early determination of Zulhijjah. In the end, there is a difference between the outcome decided and what the Saudi Arabian government decides.

For Muslims who are in Saudi Arabia, from wherever they come, then they are bound by the time of Saudi Arabia in any matter, Praying, fasting, fast-breaking, *wuquf*, and Eid al -Adha, but for those outside Saudi Arabia, they also ought to follow the local time schedule.

Although specific to the Fast of Ramadan, the Fast of the 9th of Zulhijjah and the two Eids may follow the decision of Saudi Arabia. However, we must understand and state that fasting is related to the DAY, not related to its PLACE. If fasting is related to its place, then only Muslims in Arafah can perform Arafah fasting.

If this explanation is made in a tabular form, it can be seen as follows:

Table 1. Brief Explanation of Arafah Day and Arafah Fasting

ARAFAH DAY	ARAFAH FASTING
Day of Arafah is where all Hajj pilgrims perform the peak of the Hajj ritual by performing <i>wuquf</i> in Arafah. So <i>wuquf</i> in Arafah must coincide with two things; time and place: The time: the 9th of Dzulhijjah	Arafah fasting is a sunnah (optional) fast performed by those who are not performing <i>wuquf</i> and the time of which coincides with the 9th of Zulhijjah.

¹⁶ Susiknan Azhari, *Ensiklopedi Hisab Rukyah* (Yogyakarta: Pustaka Pelajar, 2008).

The location: in Arafah

It is what is meant by the Hadith of the Prophet that "*Al-Hajjul Arafah/Hajj is Arafah*" is understood by the Hajj in Arafah (Arafah Field), and the time (time of Arafah) is the 9th of Zulhijjah.

The meeting point between these two worships (*wuquf* and fasting) is that the time coincides with the 9th of Zulhijjah.

But these two worships are not related to each other.

Arafah fasting is performed not because the pilgrims are *wuquf* in Arafah, but because the day is the 9th of Zulhijjah, and vice versa. (Hajj pilgrims perform *wuquf* in Arafah not because someone performs Arafah fasting but because the day is the 9th of Zulhijjah).

So, the *'Illat*/cause of law here is the 9th of Zulhijjah, because its day is on the 9th of Zulhijjah, then the law that arises is 2, namely ***wuquf in Arafah*** and **Arafah fasting**.

So the next legal consequence is that *wukuf* will remain valid even if those who are not performing *wuquf*, are not performing fasting (for example, people outside Mecca), as well as sunnah fasting on the 9th of Zulhijjah will remain valid even if the person who is on pilgrimage is not performing *wuquf* (or indeed there is no performance of Hajj because for example the situation is not safe or because there is an outbreak of disease).

While the determination of the date is not the same in every zone, scholars have agreed that the standard calculation of time/day related to worship in Islam is based on the moon's cycle.

If traced further, it will be found information that the 9th of Zulhijjah is associated with the day of *Wuquf* in Arafah. It turns out that the 9th of Zulhijjah is called the day of Arafah based on the story of the dream of slaughtering in the time of Prophet Ibrahim:

إن إبراهيم رأى في ليلة التروية كأن قاتلا يقول: إن الله يأمرك بذبح ابنك، فلما أصبح روى في نفسه أي فكر أهدأ اللحم من الله أم من الشيطان؟ فسمي يوم التروية. فلما كانت الليلة الثانية رأى ذلك أيضا وقيل له الوعد، فلما أصبح عرف أن ذلك من الله فسمي يوم عرفة. ثم رأى مثله في الليلة الثالثة فهم بنحره فسمي يوم النحر

Meaning: Indeed, Prophet Ibrahim dreamed on the night of Tarwiyah (the 8th of Zulhijjah) as if someone said: "Indeed, Allah commanded you to slaughter your son". In the morning Prophet Ibrahim thought whether this dream was from Allah or Satan? So that day is called **Tarwiyah Day**. On the second night, Prophet Ibrahim dreamed again like the night before. In the morning, Prophet Ibrahim **knew** (Arabic **Arafa**) that the dream was from Allah. So that day is called the **Day of Arafah** (the 9th of Zulhijjah). On the third night, Prophet Ibrahim dreamed again, and then he decided to slaughter his son, so the day was named **Sacrificial Day** (the 10th of Zulhijjah)" (Al-Qurthubi 5/102).

With this information, it can be known that the name of Arafah (the 9th of Zulhijjah: Day of Arafah) has existed since the time of Prophet Ibrahim, were at that time there was no performance of Hajj and *wuquf* in Arafah. So, the term of the day of Arafah earlier exists before the performance of *wuquf* in Arafah. This is also reinforced by the information that mentions that the Prophet Muhammad (p.b.u.h) has also performed the *Shari'ah* of Arafah fasting on the 9th of Zulhijjah long before performing *Wuquf* in Arafah.

He only performs Hajj once, and is called Hajj *Wada'* (farewell). So *wuquf* in Arafah performed by the Prophet is also only once. In the years before the Prophet performed Hajj *Wada'*, it was known by the Companions that the Prophet fasted on the 9th of Dzulhijah:

عن أم الفضل بنت الحارث، أن ناسا اختلفوا عندها يوم عرفة في صوم النبي صلى الله عليه وسلم فقال بعضهم: هو صائم، وقال بعضهم: ليس بصائم، «فأرسلت إليه بقدر لبن وهو واقف على بعيره، فشربه»

Meaning: From Umm Fadl bint Harits, the Companions had different thoughts on the side of Umm Fadl on the day of Arafah about the Fast of the Prophet. Some of them said the Prophet performed fasting, and others said didn't. Then I sent a glass of milk to the Prophet when he was standing on his camel. The Prophet drank it" (Narrated by Bukhari)¹⁷

Therefore, Al-Hafidz Ibn Hajar said:

اختلف ناس من أصحاب رسول الله صلى الله عليه وسلم قوله في صوم النبي صلى الله عليه وسلم هذا يشعر بأن صوم يوم عرفة كان معروفا عندهم معتادا لهم في الحضر

Meaning: The Companions of the Prophet have different opinions in the Fast of the Prophet. these show that the Fast of Arafah was already known among the Companions and became their habit when not traveling¹⁸

This information indicates that on the 9th of Zulhijjah the Prophet and the Companions had performed fasting on that day even though the pilgrimage and *wuquf* in Arafah had not become sharia.

¹⁷ Abu 'Abdullah ibn Isma'il al-Bukhari, *Shahih Al-Bukhari*, 1st ed. (Kairo: Dar Ibn al-Hisyam, 2004).

¹⁸ Ibnu Hajar Al-Asqalani, *Fathul Bārī, Terj. Amiruddin*, (Jakarta: Pustaka Azzam, 2011).

The effect of *Masalikul 'Illat* in The Determination of Islamic Law (*Wuquf* in Arafah and the *Shari'ah* of Arafah Fasting)

Before explaining the effect of *Masalikul 'Illat* in the determination of Islamic law (*wuquf* in arafah and the *Shari'ah* of Arafah fasting), it must first be known what the basis ('Illat) of the law for the determination of *wuquf* in Arafah and Arafah fasting is.

As explained above that to seek and know the '*illat*', the popular methods used by Ushul Fiqh scholars, among them:

1. Based on the context of *nash*, sometimes "*sarahah*" (with clear, direct) and sometimes with "*ima*" or "*isyarah*" (with gestures, indirectly). Therefore, the day of Arafah and Arafah fasting based on the context of *nash* can be seen from the following information (it has also been mentioned above):

The determination of the day of Arafah (the 9th of Zulhijjah) is based on the story of the dream of Prophet Ibrahim commanded by God to slaughter his son Ishmael.

إن إبراهيم رأى في ليلة التروية كأن قائلًا يقول: إن الله يأمرك بذبح ابنك، فلما أصبح روى في نفسه أي فكر أهذا اللحم من الله أم من الشيطان؟ فسمي يوم التروية. فلما كانت الليلة الثانية رأى ذلك أيضا وقيل له الوعد، فلما أصبح عرف أن ذلك من الله فسمي يوم عرفة. ثم رأى مثله في الليلة الثالثة فهم بنحره فسمي يوم النحر

Meaning: Indeed, Prophet Ibrahim dreamed on the night of Tarwiyah (the 8th of Zulhijjah) as if someone said: "Indeed, Allah commanded you to slaughter your son". In the morning Prophet Ibrahim thought whether this dream was from Allah or Satan? So that day is called **Tarwiyah Day**. On the second night, Prophet Ibrahim dreamed again like the night before. In the morning, Prophet Ibrahim **knew** (Arabic **Arafa**) that the dream was from Allah. So that day is called the **Day of Arafah** (the 9th of Zulhijjah). On the third night, Prophet Ibrahim dreamed again, and then he decided to slaughter his son, so the day was named **Sacrificial Day** (the 10th of Zulhijjah)" (**Al-Qurthubi 5/102**).

Prophet Muhammad (p.b.u.h) only performed the pilgrimage once, at the time called Hajj *Wada'* (farewell). So *wuquf* in Arafah performed by the Prophet is also only once. In the years before the Prophet performed Hajj *Wada'*, it was known by the Companions that the Prophet fasted on the 9th of Zulhijjah:

عن أم الفضل بنت الحارث، أن ناسا اختلفوا عندها يوم عرفة في صوم النبي صلى الله عليه وسلم فقال بعضهم: هو صائم، وقال بعضهم: ليس بصائم، «فأرسلت إليه بقدر لبن وهو واقف على بعيره، فشر به»

Meaning: From Umm Fadl bint Harits, the Companions have different thoughts on the side of Umm Fadl on the day of Arafah about the Fast of the Prophet. Some of them said the Prophet performed fasting, and others said He didn't. Then I sent a glass of milk to the Prophet. when he was standing on his camel, then the Prophet drank it " (**Narrated by Bukhari**)¹⁹

Therefore, Al-Hafidz Ibn Hajar said:

¹⁹ Abu 'Abdullah ibn Isma'il al-Bukhari, *Shahih Al-Bukhari*.

اختلف ناس من أصحاب رسول الله صلى الله عليه وسلم قوله في صوم النبي صلى الله عليه وسلم هذا يشعر بأن صوم يوم عرفة كان معروفا عندهم معتادا لهم في الحضر

Meaning: The Companions of the Prophet have different opinions in the Fast of the Prophet. these show that the Fast of Arafah was already known among the Companions and became their habit when not traveling²⁰

This information indicates that on the 9th of Zulhijjah the Prophet and the Companions had performed fasting on that day even though the pilgrimage and *wuquf* in Arafah had not become sharia.

With this information, it can be established with a clear context (*sharahah*) that the name of Arafah (the 9th of Zulhijjah: Day of Arafah) has existed since the time of Prophet Ibrahim, where at that time there was no performance of Hajj and *wuquf* in Arafah. So, the term of the day of Arafah earlier exists before the performance of *wuquf* in Arafah. This is also reinforced by the information that mentions that the Prophet Muhammad (p.b.u.h) has also performed the *Shari'ah* of Arafah fasting on the 9th of Zulhijjah long before performing *Wuquf* in Arafah.

2. Based on *ijma'*, this method has not found evidence for the issue of the Day of Arafah and Arafah fasting.
3. *As-Sabru wat Taqsim*, there is a *nash* about an event (incident), but there is no *nash* or *ijma'* that explains its '*illat*, then *As-Sabru wat Taqsim* is performed. Although the context of *nash* has explained the meaning of legal '*illat* or the underlying law of Arafah fasting and *wuquf* in Arafah has been elaborated but it is based on understanding and not found *ijma'* of scholars about the determination of the legal '*illat*. So, a the theory of *As-Sabru wat Taqsim* needs to be performed to strengthen the determination of the legal '*illat* of Arafah fasting and *wuquf* in Arafah.

If this theory is applied, then based on the theory of *At-taqsim* it is determined that the naming of the day of Arafah has existed since Allah revealed prophet Ibrahim through a dream to slaughter his son Ishmael. The performance of Arafah fasting has been performed by the Prophet Muhammad before there was an order to perform Hajj.

And based on the theory of *As-sabr*, it is determined that the day of Arafah is the 9th of Zulhijjah. Therefore, Arafah fasting has been performed by the Prophet Muhammad before there is an order to perform Hajj which coincides with the day of Arafah, which is the 9th of Zulhijjah. It has nothing to do with the pilgrimages who perform *wuquf* in Arafah. If the date is on the 9th of Zulhijjah, the *Shari'ah* of Arafah fasting can be performed whether *wuquf* in Arafah is performed or not.

With this information, it can be determined that the legal '*illat* as the underlying determination of the law of Arafah fasting and *wuquf* in Arafah can be seen as follows: **Arafah fasting**, as for the underlying determination of the law ('*illat*) is the date of the 9th of Zulhijjah not because there is *wuquf* performance in

²⁰ Al-Asqalani, *Fathul Bārī*, Terj. Amiruddin,.

Arafah. So Arafah fasting is performed not because the pilgrims perform *wuquf* in Arafah, but because the date is the 9th of Zulhijjah. **Wuquf in Arafah**, as for the underlying determination of its law (*'illat*) is the date of the 9th of Zulhijjah not because someone performs Arafah fasting. It must be well understood. So, the *'Illat*/cause of the law here is the 9th of Zulhijjah, because it is on the 9th of Zulhijjah, then the law that arises is two, namely *wuquf* in Arafah and fasting on the day of Arafah.

Thus it can be seen that the effect of *Masalikul 'Illat* in the determination of Islamic law (*wuquf* in Arafah and *Shari'ah* of Arafah fasting) in this case is that with the determination of *'Illat*/the cause of the law of the date of the 9th of Zulhijjah for performing Arafah fasting and *wuquf* in Arafah. Then the next legal consequence is that *wuquf* will remain valid even if those who do not perform *wuquf*, do not perform fasting (such as people outside Mecca), as well as sunnah fasting of Arafah on the 9th of Zulhijjah will remain valid even if people are on pilgrimage (performing Hajj) do not [perform *wuquf* (or indeed there is no Hajj because for example the situation is not safe, or because there is an outbreak of disease)].

The determination of the 9th of Zulhijjah in Different Regions

In this case, the determination of the 9th of Zulhijjah will be counted for the determination of the 1st of Zulhijjah 1439 H (as one example). In Indonesia, based on calculation data that the initial determination of Zulhijjah or the 1st of Zulhijjah 1439 H is Monday August 13, 2018, so that the 9th of Zulhijjah 1439 H comes on Tuesday August 21, 2018 and the 10th of Zulhijjah 1439 H comes on Wednesday, August 22, 2018 (Eid al-Adha).

As for Mecca, it is determined that the 1st of Zulhijjah 1439 H is Sunday August 12, 2018, so that the date of the 9th Zulhijjah 1439 H comes on Monday, August 20, 2018, and the 10th Zulhijjah 1439 H comes on Tuesday, August 22, 2018 (Eid al-Adha). These data show that the 1st of Zulhijjah 1439 H is not the same between Indonesia and Mecca. It affects the determination of the 9th of Zulhijjah and the 10th of Zulhijjah 1439 H in each place. So that with these differences, it will also be different in the determination of Arafah fasting and Eid Adha between Indonesia and Mecca.

The difference in determining the 9th Zulhijjah and 10 Zulhijjah 1439 H will certainly occur in other regions. If the longitude of the region is farther (towards the East of Mecca), it will be slower (Mecca earlier) in determining the day and date. But if it is farther Longitude Value of the region (towards the West of Mecca) will probably be the same in determining the day and date as Mecca. These differences will also affect the determination of the 9th of Zulhijjah and the 10th Zulhijjah. The legal consequences are not the same between the performance of Arafah fasting and Eid al-Adha.

Because the differences in territorial zones and *mathla'* in each place are not the same, the determination of law/*istinbath al-ahkam* is also not the same. It includes in the determination of the *Shari'ah* of Arafah fasting. Arafah fasting is determined based on the provisions of the day in each zone of the region. It is in

accordance with the legal 'illat of Arafah fasting that the cause of 'Illat/law is: the 9th of Zulhijjah, because it comes on the 9th of Zulhijjah then there are 2 laws caused by the date. They are *wuquf in Arafah* and **fasting on the day of Arafah**. The 9th of Zulhijjah in Mecca results in the law of the performance of *wuquf* in Arafah and Arafah fasting in other regions. So it is determined that Arafah fasting has no legal consequence correlation with the Hajj congregation who perform *wuquf* in Arafah. Similarly, the pilgrims of Hajj perform *wuquf* in Arafah is not because someone performs Arafah fasting. Arafah fasting remains valid even if the Hajj pilgrims do not perform *wuquf* in Arafah. *Wuquf* in Arafah remains valid even if the people outside Mecca do not perform Arafah fasting

Conclusion

This study concludes that the determination of *masalikul 'illat* of sharia law of Arafah fasting has a significant effect on the determination and implementation of the law of Arafah fasting in around the world (especially areas that are far from Mecca). If the legal 'illat determined is *wuquf* in Arafah, the area far from Mecca even if it is night can perform the *Shari'ah* of sunnah fasting of Arafah. Meanwhile, if the legal 'illat determined is the 9th of Zulhijjah, the *Shari'ah* of Arafah fasting applies according to the region's determination of time/date.

References

- Abu 'Abdullah ibn Isma'il al-Bukhari. *Shahih Al-Bukhari*. 1st ed. Kairo: Dar Ibn al-Hisyam, 2004.
- Abu al-Husein. *Shahih Muslim*. Kairo: Dar al-Kutub, 1918.
- Abu Zahrah, Muhammad. *Ushul Al-Fiqh*. 6th ed. Jakarta: Pustaka Firdaus, 6 by. Saefullah Ma'shum, 2000.
- Al-Asqalani, Ibnu Hajar. *Fathul Bārī, Terj. Amiruddin*,. Jakarta: Pustaka Azzam, 2011.
- Al-Syatibi. *Al-Muwafaqaat Fi Ushul Al-Ahkam, Jilid I*. Dar al-Fikr, n.d.
- Azhari, Susiknan. *Ensiklopedi Hisab Rukyah*. Yogyakarta: Pustaka Pelajar, 2008.
- Harun, Tgk. H. M. Yusuf. *Pengantar Ilmu Falak*. Banda Aceh: Yayasan Pena, 2008.
- Khallaf, Abdul Wahab. *Ilmu Ushul Al-Fiqh*. Jakarta: Al-Majlis al-A"la al-Indonesi li al-Da"wat al- Islamiyyat, 1972.
- Khazin, Muhyiddin. *Ilmu Falak Dalam Teori Dan Praktik*. Jakarta: Bina Pustaka, 2004.
- Muchlis Bahar. "METODE PENEMUAN ALASAN RASIONAL DALAM HUKUM ISLAM (MASALIK AL-' ILLAT)." *FITRAH 1* (2015): 177-188.
- Pangiuk, Ambok, and Jalalludin. "BAGI HASIL (STUDI TENTANG IMPLIKASI KONSEP MAQASID AL-SYARIAH AL-SYATIBY)." *Indonesian Journal of Islamic Economics and Business 1* (n.d.): 133-144.
- Rahman, Asjmun A. *Metode Penetapan Hukum Islam*. 2nd ed. Jakarta: PT. Bulan Bintang, 2004.
- Rizal Bin Jami'an. "IJTIHAD JAMA ' I NAHDATUL ULAMA (NU) DAN IJTIHAD QIYASI MUHAMMADIYAH TENTANG BUNGA BANK." *Jurnal Hukum Respublica 16* (2016): 20-35.

“Ensiklopedi Hukum Islam.” *Ensiklopedi Hukum Islam*. PT. Ichtiar Baru Van Hoeve, 1996.

Kamus Besar Bahasa Indonesia Departemen Pendidikan Nasional. 3rd ed. Jakarta: Balai Pustaka, 2007.