

CONTEMPORARY AD-DAKHIL IN AHKAM MATTERS

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Abstract

The phenomenon of Al-dakhil in the determination of Islamic law (ahkam) is a crucial issue that threatens the purity and objectivity of sharia, especially amidst the strong flow of external influences in the contemporary era. Al-dakhil refers to the entry of external elements such as local culture, political pressure, economic interests, and the dominance of digital media into the legal istinbat process without a valid basis in sharia. This study is motivated by concerns about the emergence of Islamic legal products that are more influenced by public opinion, power, or popular narratives than authoritative ushuliyah methodology. Using a qualitative approach through the method of library study and descriptive-analytical analysis, this study examines classical and contemporary literature in the field of ushul fiqh to identify the types of al-dakhil and

their impact on the authenticity of Islamic law. The results of the study show that al-dakhil can appear in the form of cultural interventions that are contrary to sharia, adjustments to law for political interests, to fatwas born from social media pressure without going through a valid istinbat process. This condition not only has the potential to damage the integrity of Islamic law. Therefore, it is important to apply a systematic ushuliyah approach, by integrating the principles of maqāṣid al-syarī'ah and maslahah in filtering external influences. In conclusion, filtering al-dakhil is an essential scientific and methodological step to keep Islamic law authentic, valid, and able to answer the needs of the times in a relevant manner.

Keywords: *Al-Dakhil; Islamic Law (Ahkam); External Influence; legal istinbat*

Introduction

In the khazanah of ushul fiqh, the purity of the source of law is a fundamental aspect in maintaining the integrity of Islamic law. The determination of shar'i law requires not only accuracy in interpreting the arguments, but also vigilance against the entry of foreign elements that can obscure the meaning and purpose of the law itself. The term al-dakhil is used to refer to various forms of external influence in the form of contemporary thought, local cultural values, political pressure, or economic interests that have no basis in valid texts or contradict scientifically recognized istinbat rules. The entry of al-dakhil into legal construction often goes unnoticed, especially when it is wrapped in a narrative of modernization, tolerance, or contextual relevance that seems

in line with the spirit of the times.¹ In the contemporary era, this challenge has become even more real and complex. The development of information technology has opened up space for the massive dissemination of religious information, but at the same time it has also opened a gap for the infiltration of unverified understanding and tends to be speculative. Socio-political dynamics such as the pressure of public opinion, the alignment of religious institutions to power, and the economic agenda packaged under the sharia label have also become fertile ground for al-dakhil to influence Islamic legal decisions. This condition requires scholars, academics, and fatwa institutions to have epistemological and methodological sensitivity in distinguishing between legitimate and deviant influences. A complete understanding of the existence of al-dakhil is not only important to maintain the authenticity of the law, but also part of the scientific responsibility in maintaining the purity of sharia amid the challenges of an ever-changing era.

In the Islamic scientific tradition, especially in ushul fiqh, emphasis on the purity of the source of law is a non-negotiable principle. Ushul fiqh functions as a methodological framework that keeps the process of determining shar'i law within the limits of valid and authoritative arguments. But in reality, this process is inseparable from the potential infiltration of outside elements that do not have a scientific basis or shar'i legitimacy. This phenomenon is known as al-dakhil, which is any form of external influence that enters the area of

¹ Andri Nirwana dkk, "Kajian Kritik pada Bentuk dan Pengaruh Positif al-Dakhil", *Al-Quds: Jurnal Studi Alquran dan Hadis*, vol. 5, no. 2 (2021): 718–722.

Islamic law without justification from the Qur'an, *hadith*, *ijma'*, or valid *qiyas*. *Al-dakhil* can be in the form of modern ideologies, local customs, economic interests, political pressure, and even public opinion that develops on social media. The introduction of these elements is often disguised as a form of adaptation to the context of the times, even though the substance is contrary to the basic values of *Shari'ah*. In the modern era, this challenge is even stronger because information openness, cultural globalization, and the digitalization of public space accelerate the spread of opinions that are not always based on correct scientific understanding. As a result, the process of *istinbat* law is no longer sterile from ideological intervention or momentary interests, which can ultimately weaken the position of the authority of the *ulama* and damage the authenticity of Islamic law. In this context, it is important for Islamic law scholars to develop intellectual sensitivity and methodological rigor in order to sort out what is part of social dynamics that can be accepted within the framework of *maqāṣid al-syar'i'ah*, and what is actually *al-dakhil* that must be rejected. Vigilance against *al-dakhil* is not a form of resistance to change, but rather an effort to maintain the purity of *shar'i* law so that it remains functional, relevant and valid throughout the ages. Although a number of studies have discussed the concept of *al-dakhil* in the fields of *tafsir* and *hadith*, studies that specifically highlight its existence in the process of determining law (*ahkam*) are still very limited. In fact, in the context of modern religious life, challenges to the purity of Islamic law are no less serious. Various external factors such as political pressure from the authorities, the normalization of popular culture that often contradicts

the values of sharia, economic interests that infiltrate through the halal industry or the commercial sharia sector, to the power of public opinion formed by social media, have great potential to influence the direction and content of fatwas issued. This condition shows that al-dakhil in the context of Islamic law is not a mere theoretical threat, but a real reality that must be addressed methodologically. M. Amin Abdullah in some of his works underlines the importance of a multidisciplinary approach so that Islamic law remains adaptive to social change, without losing its normative footing as a valid and applicable value system in society.²

This paper comes to fill the void of studies related to the role and impact of al-dakhil in the process of determining Islamic law (ahkam), especially in the contemporary era which is full of external influences. The main focus of this paper is to unravel and analyze various forms of external intervention, whether cultural, political, economic, or technological in nature, which often infiltrate into the consideration of legal istinbat. This research not only aims to identify the types of al-dakhil, but also to explain how these influences are manifested in the process of fatwa production and the practice of religious legislation today. On the other hand, this article will examine validation approaches that can be used to filter out these external elements, so that the resulting Islamic law remains relevant and contextual without losing its authenticity, which is based on the basic principles of shariat.

² M. Amin Abdullah, "Epistemologi Keilmuan Kalam dan Fikih dalam Merespon Perubahan di Era Negara-Bangsa dan Globalisasi", *Media Syariah*, vol. 14, no. 2 (2012): 124–140.

With a more applicable and systematic approach, this paper is expected to make a real contribution to the development of the science of ushul fiqh in the midst of the changing realities of the times. More than that, this article is also intended to present methodological guidance for scholars, fatwa institutions, and academics in addressing various forms of contemporary al-dakhil. The expected contribution is not only in the realm of theory, but also the practice of Islamic law in order to remain authentic, contextual, and able to answer the needs of society in a sustainable manner.

Methods

This research applies a qualitative approach with a literature study method, namely by collecting, reviewing, and analyzing data from various written sources related to the research topic. This approach was chosen because it is in accordance with the nature of the study which focuses on conceptual analysis, legal thinking, and normative approaches in ushul fiqh. Primary data in this research includes classical literature in the field of ushul fiqh that explains the basic theory of determining Islamic law as well as the principles of istinbat used by scholars in assessing the validity of a proposition or external influence. Meanwhile, secondary data in the form of academic journals, dissertations, theses, and contemporary scientific articles are also used to strengthen the analysis of the dynamics of external influences in the current context. The focus of the research is not limited by a particular location, but rather seeks to observe and understand the phenomenon of al-dakhil in a broader scope, covering various social and cultural

contexts in the global Muslim community. The analysis is carried out thematically and critically, by examining how external elements in the form of culture, politics, economics and technology can influence the determination of law, and how the ushul fiqh method is used to filter and validate these influences. With this approach, it is hoped that the research will be able to present a more comprehensive picture of how the mechanism of istinbat works in facing the challenges of the times..

Data analysis in this research uses a descriptive-analytical approach, by systematically presenting the main concepts related to al-dakhil and examining the relationship between external influences and the process of determining Islamic law (ahkam). The aim is not only to explain terms or theories, but also to identify how external interventions of a cultural, political, economic and technological nature enter and influence the process of legal istinbat. Within this framework, the researcher seeks to unravel the extent to which these external elements are able to shape, shift, or even obscure the established foundations of sharia. The main emphasis is on how principles in ushul fiqh such as qiyas, istihsan, istishab, and maqāṣid al-sharī'ah are used as filters to validate whether these external influences are within the limits of what Islamic law can tolerate or should be rejected as contrary to the text and maqāṣid. The analysis also includes an evaluation of the authority of the ulama and fatwa institutions in the face of external pressures, and how their independence is tested in a changing socio-political context.. With this approach, the research not only offers a theoretical understanding, but also provides a critical evaluative framework for contemporary practices in the determination of Islamic law.

Descriptive-analytical is the right approach because it allows a clear, thorough and measurable mapping of the phenomenon of al-dakhil in the modern Islamic legal landscape without giving up a strong methodological footing.

Discussion

A. Definition of Al-Dakhil in Language and Terms

Linguistically, the term al-dakhil (الدخيل) is derived from Arabic meaning something that enters or infiltrates. In the context of Islamic scholarship, al-dakhil refers to foreign elements that enter into Islamic texts or teachings without a valid basis, such as false narrations or unfounded interpretations. This concept is important in tafsir and hadith studies because the presence of al-dakhil can obscure an authentic understanding of Islamic teachings.

B. Definition of Ahkam in Ushul Jurisprudence

In ushul fiqh, ahkam (الأحكام) is the plural of hukm (حكم), which means decree or decision. Ahkam refers to the shar'i rulings prescribed by Allah and His Messenger, pertaining to the actions of mukallaf (people who have met the conditions to be subject to the law). These rulings are classified into two: taklifi rulings (such as wajib, sunnah, mubah, makruh, and haram) and wad'i rulings (such as cause, condition, and mani'). A correct understanding of the ahkam is very important in

the process of istinbat law, so that the resulting law is in accordance with the principles of sharia.³

C. The Relationship Between Contemporary Al-Dakhil and Ahkam

The definition of contemporary refers to something that happens or is relevant in the present or the present. In the context of thought, culture, or science, “contemporary” means relating to an ongoing age or period of time. Typically, the term is used to describe things that are in line with recent developments and trends, often in relation to social changes, technology, or views that have emerged in the modern era.

The presence of al-dakhil in the process of determining ahkam is a serious challenge in maintaining the authenticity of Islamic law. Al-dakhil refers to any form of external influence that does not derive from valid shar'i proofs, but subtly or overtly influences the process of legal istinbat. This element can take the form of social, political, economic pressures, popular culture, and biased interpretations of religious texts by public opinion or mass media discourse. When such influences enter without control, the legal outcomes that emerge have the potential to deviate from the basic values of sharia and lose their footing in the proven principles of ushul fiqh. Laws that are supposed to function as normative and solutive guides for Muslims can actually become instruments of compromise for certain interests that do not have shar'i legitimacy. Therefore, the role of scholars and mujtahids becomes very

³ Ramli, *Ushul Fiqh*, cet 1 (Yogyakarta: Nuta Media: 2021), 19-21.

important in ensuring that every process of *istinbat* is free from elements of *al-dakhil*. They must have strong methodological abilities and high scientific integrity to select, weigh and verify every legal consideration used. This screening process not only relies on the text, but also requires an understanding of the social context critically, so as to distinguish which external influences can still be digested within the framework of *maqāṣid al-syarī'ah*, as well as determine which ones need to be rejected because they are contrary to the spirit and purpose of Islamic law. Thus, protecting the process of *istinbat* from the intervention of *al-dakhil* is not just a technical scientific task, but also a form of moral responsibility to maintain the authority, purity and sustainability of Islamic law amid the complexity of the times.

D. Types of Al-Dakhil in Ahkam Cases

1. Influence of Local Culture and Tradition

In the context of Islamic law-making, local culture and traditions often influence the interpretation of laws that should be derived from *shar'i* arguments. When customs that have no basis in *sharia* are integrated into Islamic law, this can obscure the authenticity of the law. For example, local practices that contradict Islamic principles but are retained because they are considered part of the culture can become a form of *al-dakhil* that disrupts the purity of Islamic law. Therefore, it is important for scholars to distinguish

between cultural values that are in line with Shari'ah and those that are not, in order to maintain the integrity of Islamic law.⁴

2. Political Intervention and Power

Political power has great potential to influence the determination of Islamic law, especially when the law is used as a means of legitimizing government policies. When legal decisions are influenced by political interests or pressure from those in power, this can lead to deviations from the principles of shari'ah. For example, adjusting the law to meet a particular political agenda without considering shar'i arguments can result in distortions in Islamic law. Therefore, the independence of fatwa institutions and scholars in determining laws must be safeguarded to avoid political influences that are incompatible with Islamic values.⁵

3. Economic and Media Dominance

In the modern era, the economic sector and the media have a significant role in shaping public opinion, which in turn can influence the establishment of Islamic law. When pressure from economic actors or the media leads to changes in the law that are not based on shar'i evidence, this becomes a form of al-dakhil that undermines the integrity of Islamic law. For example, the promotion of products or services that are contrary to Islamic principles but supported by the media can influence public perception and even

⁴ Deni Yuhendrico dan Faizin, "Perubahan Sosial Dan Hukum Islam", *Istishab: Journal of Islamic Law*, vol. 2, no.1 (2021), 6-7.

⁵ Hamsah Hasan dkk, "Pengaruh Sosial Politik Terhadap Pembentukan Hukum Islam", *Kuriositas: Media Komunikasi Sosial dan Keagamaan*, vol. 14, no. 2 (2021): 122-136.

legal decisions. For this reason, it is important for scholars and fatwa institutions to be critical of the influence of the economy and the media in the law-making process.⁶

4. Effect of Digitization

The development of digitalization has changed the way people access and understand information, including in the context of Islamic law. While technology can be used to disseminate religious knowledge, there is a risk of spreading inaccurate information or misinterpretation of laws through digital platforms. When unverified information spreads widely, it can affect people's understanding and even legal decisions taken by individuals or groups. Therefore, it is important for scholars and fatwa institutions to utilize technology wisely and ensure that information disseminated through digital media complies with the principles of Shariah.⁷

E. Contemporary Manifestations of Al-Dakhil in the Determination of the Law

In the contemporary context, a number of fatwas issued by religious institutions show the influence of external factors that are not fully derived from shar'i arguments. For example, the fatwa on the use of social media issued by the Indonesian Ulema Council (MUI) in 2017. This fatwa emerged in response to the rampant spread of hate speech,

⁶ Ratu Sheba Sofie Ahimsa dkk, "Prinsip dan Kaidah Hukum Islam sebagai Landasan Pengembangan Asuransi Syari'ah", *Az Zarka'*, vol. 5, no. 1 (2013): 4-5.

⁷ Desi Asmarita, "Questioning the Validity of Hadith in the Digital Era", *Living Hadis*, vol. 6, No. 1 (2021): 2-3.

slander, and false information on social media, which is considered to be troubling to the community and has the potential to cause social conflict. In the fatwa, MUI emphasized that spreading content containing hoaxes, ghibah, namimah, and hate speech is haram for every Muslim. While the intention is to maintain social harmony, this fatwa also reflects how social pressures and the development of information technology can influence the process of determining Islamic law. This shows that in some cases, consideration of social conditions and societal dynamics are factors that influence legal decisions, even if they are not always based on strong shar'i evidence.⁸

Advances in information technology and social media have had a major impact on the process of ijtihad and fatwa determination. Clerics and religious leaders now not only interact with religious texts, but also have to consider public opinion formed in the digital space. The phenomenon of “viral scholars” who prioritize quick and populist responses over in-depth analysis has led to hasty and scientifically untested fatwas. For example, issues around gender relations, religious tolerance, and the celebration of religious holidays are often decided based on “netizen voices” instead of in-depth analysis based on the arguments and rules of ushul fiqh. This is a real form of modern al-dakhil that no longer comes from power or culture, but from digital dynamics and widespread social pressure. In this case, it is important for scholars to maintain scientific integrity and not be influenced by the

⁸ Komisi Fatwa Majelis Ulama Indonesia, Fatwa Nomor 24 Tahun 2017 Tentang Hukum dan Pedoman Bermuamalah Melalui Media Sosial, 3-12.

pressure of public opinion that can obscure the meaning and purpose of Islamic law.

In many Muslim countries, the state plays an important role in managing fatwa institutions and shaping Islamic legal policy. Institutions such as the Indonesian Ulema Council (MUI) not only perform religious functions, but are also strategic partners of the state in maintaining social harmony and political stability. In this context, state pressure can be an external factor that influences the outcome of *ijtihad*. For example, fatwas on social security and government programs are often tailored to the needs of national policy, rather than solely on pure *fiqh* grounds. Although the state has an interest in harmonizing sharia and public policy, the potential for disproportionate intervention can make fatwas a tool for policy legitimization, rather than an independent scholarly product. This is where it is important to maintain the boundary between scientific authority and state power so that Islamic law remains objective, scientific, and does not lose its authenticity.

F. Efforts to Filter and Validate Al-Dakhil in Istinbat Hukum

Filtering and validating *al-dakhil* in the process of Islamic law *istinbat* is an important step to maintain the purity and accuracy of Islamic law. The term *al-dakhil* refers to foreign elements that infiltrate Islamic legal thought and have the potential to unlawfully influence the process of *istinbat*. In this context, the *ushuliyah* approach serves as the main methodological foundation for identifying and eliminating external influences that can interfere with the understanding and proper

application of legal propositions. Basic ushuliyah principles, such as conformity with the nash (Qur'an and Sunnah), ijma', and qiyas (legal analogy), as well as the separation between laws that are fixed (tsawabit) and laws that are subject to change in context (mutaghayyirat), become the main guidelines in distinguishing valid propositions from deviant elements..

In practice, scholars are required not only to understand the text literally (zhahir), but also to be able to read the social context and conditions of the people today. Therefore, a method that combines textual analysis with a contextual approach is needed so that law making is not trapped in a narrow or biased understanding.⁹ The maqasid al-syari'ah approach and the concept of maslahah are important complements in the process of validating al-dakhil. These two approaches open up space for Islamic law to remain contextual and adaptive to the times and the needs of the people, as long as it does not conflict with the basic principles of shari'a.

Evaluation of the arguments that form the basis of ijihad today must reflect the five main objectives of sharia including: preserving religion (din), preserving the soul (nafs), preserving reason (aql), preserving offspring (nasl), and preserving property (mal). This approach invites scholars to not only stick to a literal understanding of the text, but also to consider the value of benefit in every legal determination.¹⁰

⁹ Safriadi, "Maqasid Al-Syari'ah sebagai Metode Ijtihad Kontemporer", *Al-Qadha: Jurnal Hukum Islam Dan Perundang-undangan*, vol. 4, no. 2: (2017), 14.

¹⁰ Mohammad Rusfi, "Maqasid Al-Syari'ah dalam Perspektif Al-Syatibi", *Asas: Jurnal Hukum Ekonomi Syariah*, vol. 10, no. 2 (2018), 9.

To realize a valid and contextualized istinbat process, scholars and fatwa institutions are advised to apply the ushuliyah approach systematically by combining hermeneutic analysis and text evaluation. It is also important to establish an internal review mechanism that involves dialogue between ushul and fiqh experts to strengthen the quality of ijtiḥad produced. This approach serves to distinguish valid arguments from those influenced by particular interests or errors in interpretation. Fatwa institutions also need to open space for discussion between madhhabs, convey istinbat methodology transparently, and educate the public about the importance of understanding the rational basis of each fatwa.

This education aims to build awareness that fatwas are not just to be followed, but also understood logically. In addition, the establishment of a code of ethics for muftis is very important to maintain an attitude of prudence (ihtiyat) and avoid making hasty decisions ('ajalah), especially in sensitive or controversial issues. An internal review mechanism that involves critical discussion between ushul and fiqh scholars so that the ijtiḥad produced is in accordance with methodological standards and in accordance with the objectives of shari'ah.¹¹

The validation process of al-dakhil is not a form of rejection of the dynamics of the times, but a scientific and shar'I effort to ensure that Islamic law remains authentic, contextual, and responsive to the needs of the people. The integration of the ushuliyah approach, maqasid al-

¹¹ Syamsul Falah dan Arif Al Wasim, "Relasi Maqasid dengan Dalil-dalil Fiqih", *Syariati, Jurnal Studi Al-Qur'an dan Hukum*, vol. 8, no. 2 (2022), 97.

syari'ah values and cross-field scientific collaboration is a strategic foundation for maintaining the strength and relevance of Islamic law to answer and face today's challenges.

G. Quranic Verses Regarding Ad-dakhil in Contemporary Legal Matters

يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنْفَاعٌ لِلنَّاسِ
وَإِثْمُهُمَا أَكْبَرُ مِنْ نَفْعِهِمَا وَيَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ الْعَفْوَ كَذَلِكَ
يُبَيِّنُ اللَّهُ لَكُمُ الْآيَاتِ لَعَلَّكُمْ تَتَفَكَّرُونَ

Translation: They asked you about alcohol and gambling. Say: “There is great sin in both of them and some benefit to people. (However, their sins outweigh their benefits.” They also ask you about what they spend. Say, “What is spent is the excess (of what is needed).” Thus Allah explains His verses to you that you may think.” (Al-Baqarah: 219)

1. Deviations that arise

Some secular-liberal discourses twist this verse to justify moderate alcohol consumption (if it's just fine). The phrase “there is benefit to man” is emphasized, while the context of grave sin is ignored. This happens in some contemporary discourses that relativize the law based on the context of modernity.¹²

In drug-related issues, the effects on the mind are often not as immediate as those of alcohol. Whereas alcohol instantly causes

¹² Ahmad Habiburrahman Al Aziz, *Dialektika Tahapan Pengharaman Khamar Dalam Al-Qur'an: Telaah Dalam Kitab Tafsir At-Thabari*, (*Skripsi*: Jurusan Ilmu Qur'an Dan Tafsir Fakultas Ushuluddin Dan Studi Agama Universitas Islam Negeri Mataram: Mei 2022), 46-47.

drunkenness and loss of consciousness, drugs may work more slowly or covertly for example by gradually altering mood, perception, or dependence before damaging the mind completely.¹³

Rebuttal

Ibn Katsir emphasized that in Islamic law, the protection of the mind, soul and religion takes precedence over temporary worldly benefits. Drugs and gambling, although they may provide economic benefits or momentary entertainment, in fact bring great damage to morals, reason, and order. sosial. Karena itu, larangan tersebut It does not merely limit activities, but aims to maintain the main pillars of human life and society.¹⁴

Drugs can be categorized as a form of alcohol in modern times. Although there is no Qur'anic or Hadith text that explicitly mentions drugs, scholars have agreed to forbid them as a legal decree. The dangers and adverse effects caused by drugs are not only detrimental to individuals, but also to society and the state as a whole. Most of the existing evidence on the prohibition focuses on intoxicants, which by their very nature damage the mind of the individual. However, drug abuse not only damages the mind, but

¹³ Redaksi Kemenkes, “5 Bahaya Narkoba bagi Kesehatan Mental yang Perlu Anda Ketahui” *Kemenkes*, 13 Januari 2025, diakses pada tanggal 27 April 2027 <https://ayosehat.kemkes.go.id/bahaya-narkoba-bagi-kesehatan-mental>

¹⁴ Abdullah bin Muhammad Abdurrahman Bin Ishaq Al-Sheikh, *Lubaabut Tafsir Min Ibni Katsir* {Tafsir Ibnu Katsir} Terjemahan: Abdul Ghoffar E. M, (Bogor: Pustaka Imam asy-Syafi'i: 2004), 421-426.

also violates the basic principles of maqāṣid al-syar'ah which include the welfare of the individual, society, and the state.¹⁵

Ushuliyah Analysis

In ushul fiqh, the prohibition of alcohol and gambling is based on the principle of sadd al-dzari'ah (closing the path to harm). Interpretations that justify them on the basis of apparent benefits are considered contrary to the maqāṣid of sharia and contain elements of al-dakhil (harm).¹⁶

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءُ بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ عَزِيزٌ حَكِيمٌ

Translation: The man or woman who steals, cut off the hands of both of them as a recompense for what they have done and as a punishment from Allah. Allah is the Mighty, the Wise. (Al-Maidah: 38)

2. Deviations that arise

In contemporary interpretations influenced by Western human rights or legal secularism, this verse is sometimes reinterpreted symbolically and even considered irrelevant in the modern era. This is classified as al-dakhil because it is not in

¹⁵ Redaksi IAIN Kudus, "Narkoba Dalam Pandangan Tafsir Maqashidi (Sima Aulan Nisaâ™ Dwi Zakiyah Allayni)", *IAIN Kudus*, 21 September 2021, diakses pada tanggal 27 April 2025 [https://iqt.iainkudus.ac.id/berita-58013-NARKOBA-DALAM-PANDANGAN-TAFSIR-MAQASHIDI-\(Sima-Aulan-Nisa%C3%A2%E2%82%AC%E2%84%A2-Dwi-Zakiyah-Allayni\).html#](https://iqt.iainkudus.ac.id/berita-58013-NARKOBA-DALAM-PANDANGAN-TAFSIR-MAQASHIDI-(Sima-Aulan-Nisa%C3%A2%E2%82%AC%E2%84%A2-Dwi-Zakiyah-Allayni).html#)

¹⁶ Imam Fawaid, "Konsep Sadd al-Dzari'ah dalam Perspektif Ibnu al-Qayyim al-Jauziyah", *Lisan al-Hal: Jurnal Pengembangan Pemikiran dan Kebudayaan*, vol. 13, no. 2 (2019), 366.

accordance with the method of tafsir bil-ma'tsur and scholarly consensus.¹⁷

Rebuttal

Hand cutting is a hudud punishment that is carried out under strict terms and conditions, such as the value of the nisab and there is no element of compulsion. This is in line with the principle of justice (iqāmat al-'adl) in sharia. In Tafsir Al-Azhar, Buya Hamka explains that QS Al-Mā'idah verse 38 stipulates the punishment of cutting hands for men and women who steal, as a form of real retribution for their crimes and as a warning to society. According to Buya Hamka, this punishment is not merely a form of physical violence, but a firm step to maintain security and public order. He emphasized that the implementation of the punishment must meet strict requirements in sharia, such as ensuring that the value of the stolen goods reaches a certain minimum limit and the act is committed intentionally, without any element of coercion or emergency needs. Buya Hamka also emphasized the importance of justice and caution so that punishment is truly a means of education, not merely revenge.¹⁸

Ushuliyah Analysis

Hudud in Shariah aims to protect property (hifz al-māl) and create security. However, its implementation takes into account

¹⁷ Isna Septiasari, dkk, "Kritik Hermeneutika dalam Menafsirkan Al-Qur'an Ditinjau dari Konsep Ad-Dakhil fi At-Tafsir", *Jurnal: Al Muhafidz: Jurnal Ilmu Al-Qur'an dan Tafsir*, vol. 1, no. 2 (2021), 171.

¹⁸ Hamka, *Tafsir Al-Azhar*, (Singapura: Pustaka Nasional Pte Ltd Singapura: 1982), 1730-1733.

maqāṣid, 'urf, and social conditions. Completely abolishing it without any ushuliyah basis is a form of deviation..¹⁹

وَقُلْ لِّلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ أَبْنَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوِ التَّبِيعِينَ غَيْرِ أُولَى الْأَرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِي لَمْ يَظْهَرُوا عَلَىٰ عَوْرَتِ النِّسَاءِ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ

Say to the believing women that they should guard their eyes and keep their private parts, and should not show their adornments, except what is normally seen. And let them draw their veils over their chests. Nor should they reveal their adornment except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, (fellow Muslim) women, their slave slaves, (old) male servants who have no desire (for women), or children who do not yet understand the female form. Nor should they move their feet so as to make known the adornment which they conceal. Repent ye all to Allah, O ye who believe, that ye may prosper. (An-Nur: 31)

3. Deviations that arise

Sinta Nuriyah expressed the controversial view that wearing the jilbab is not an obligation for Muslim women. She interpreted a

¹⁹ M. Amin Abdullah, "Pendekatan Sosio-Kultural dan Maqāṣid al-Syarī'ah dalam Pembentukan Hukum Islam", *Jurnal Kordinat*, vol. 16, no. 1, 2017.

Qur'anic verse differently, suggesting that the command to cover the 'awrah does not mean one must wear a headscarf. This statement has been widely criticized as deviating from the general understanding of Islamic law.²⁰

Rebuttal

M. Quraish Shihab in his tafsir emphasizes that believing women are commanded to keep the aurat by covering the whole body, except for the parts that are usually visible such as the face and palms. Covering the 'awrah in the presence of non-mahram men is a real form of obedience to Allah, not just a personal choice. The interpretation of this verse shows that covering the 'awrah is obligatory, as part of the morals of a Muslim woman's faith, and should not be reduced to a personal right based on the will of the times or culture.²¹

Ushuliyah Analysis

According to the rules of ushul fiqh, a clear and unequivocal command in a text is understood as an obligation as long as there is no other evidence to the contrary. QS. An-Nur verse 31 contains a direct command without exceptions, so the law of covering the 'awrah is obligatory. Changing the obligation to optional without a shar'i basis is a form of istinbath deviation. The basic principle in

²⁰ Siti Komariah, "Berjilbab Bukan Suatu Kewajiban, Benarkah?" *voa islam*, 29 Januari 2020, diakses pada tanggal 27 April 2024 <https://www.voa-islam.com/read/muslimah/2020/01/27/69448/berjilbab-bukan-suatu-kewajiban-benarkah/>

²¹ M. Quraish Shihab, *Tafsir Al-Misbah: Pesan, Kesan dan Keserasian Al-Quran*, (Jakarta: Lentera Hati: 2002), 325.

ushul, namely “the origin of the command is obligatory”, reinforces that the law of hijab is not subject to changes in social norms or subjective interpretations.²²

Conclusion

The existence of al-dakhil in the determination of Islamic law (ahkam) is a serious challenge that can disrupt the purity and authority of sharia. Al-dakhil includes various forms of external influences such as local culture, political pressure, economic interests, and public opinion on social media, which enter into the process of istinbat without the basis of valid shar'i arguments. In practice, these influences are often packaged in the narrative of contextualization and relevance of the times, even though they can actually obscure the basic principles of Islamic law. Phenomena such as populist fatwas, power intervention, and the tendency of “viral scholars” show that Islamic law is very vulnerable to the infiltration of outside influences if not methodologically filtered.

In dealing with this reality, it is important to prioritize a strong and systematic ushuliyah approach. Principles such as qiyas, ijma', istihsan, and maqāsid al-syarī'ah should be the main guidelines in filtering out external influences. It is not enough for a text to be literal;

²² Anisa Rizki Febriani, “Surat An Nur Ayat 31, Jelaskan Aurat yang Wajib Ditutup Wanita” *detik hikmah*, Maret 2023, diakses pada tanggal 27 April 2024 <https://www.detik.com/hikmah/khazanah/d-6619052/surat-an-nur-ayat-31-jelaskan-aurat-yang-wajib-ditutup-wanita>

it must be accompanied by the ability to read the social context and consider the interests of the people. With this approach, Islamic law can still answer the challenges of the times in a relevant manner without losing its authenticity as a teaching that comes from revelation and is supported by scientific methodology.

Therefore, serious efforts are needed from scholars, academics and fatwa institutions to build a critical and collaborative validation mechanism. Collective studies across schools of thought, the application of *ijtihad* codes of ethics, and public education on the basis of law-making need to be strengthened so that people do not just follow fatwas blindly, but also understand their *shar'i* logic. Thus, filtering against *al-dakhil* is not a form of rejection of the times, but rather an effort to keep Islamic law authoritative, valid, and relevant in the dynamics of modern life..

Acknowledgement

The author expresses his deep appreciation to all those who have supported the preparation of this article. Special thanks go to the supervisors and other parties who have provided valuable input and relevant references during the research process. The author also appreciates the editor of Syhadah Journal for the opportunity and trust given to publish this work. As a suggestion, the author encourages the study of *al-dakhil* in *ahkam* cases to continue to be developed with a more comprehensive approach, including involving multidisciplinary perspectives such as social, political, and digital media. This is important so that Islamic law not only remains normatively authentic,

but also able to answer the challenges of the times with a contextual and relevant approach. Hopefully this article can be a useful initial contribution to the development of critical and solutive Islamic scholarship in the future.

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