

THE APPLICATION OF THE LEGAL MAXIM *AL-HUKMU YADURU MA'A 'ILLATIHI* IN THE PANDEMIC ERA AND SHARIA-BASED PUBLIC POLICY

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Abstract : This study examines the role of the usul al-fiqh maxim al-hukmu yaduru ma'a 'illatihi wujudan wa 'adaman (a legal ruling revolves with its effective cause in both its existence and nonexistence) as a foundation for the flexibility of Islamic law in responding to contemporary social dynamics. Employing a qualitative library research method, the study analyzes the application of this maxim in both classical cases (such as the prohibition of khamr and the obligation of zakat) and contemporary contexts (including the suspension of Friday prayers and the formulation of Sharia-based policies during the COVID-19 pandemic). The findings indicate that this maxim effectively sustains the relevance of Islamic law by ensuring its conformity with the Maqasid al-Shari'ah, particularly in safeguarding life (hifz al-nafs) and promoting the public interest (al-maslalah al-'ammah). These findings underscore the urgency of applying rational Sharia legal maxims as a foundational basis for the development of positive law oriented toward Islamic values.

Abstrak : Penelitian ini membahas peran kaidah ushul fikih, "al-hukmu yaduru ma'a 'illatihi wujudan wa 'adaman" (hukum berputar bersama 'illat-nya dalam hal keberadaan dan ketiadaannya), sebagai landasan fleksibilitas hukum Islam dalam merespons dinamika sosial kontemporer. Dengan metode kualitatif studi kepustakaan (*library research*), penelitian ini menganalisis penerapan kaidah tersebut dalam kasus klasik (seperti keharaman khamr dan

kewajiban zakat) dan kontemporer (seperti penangguhan salat Jumat serta kebijakan syariat selama pandemi COVID-19). Hasil kajian menunjukkan bahwa kaidah ini secara efektif mempertahankan relevansi hukum Islam dengan memastikan kesesuaianya terhadap *Maqasid al-Syari'ah*, khususnya dalam menjaga jiwa (*hifz al-nafs*) dan kemaslahatan umum (*al-maslahah al- 'ammah*). Temuan ini menggarisbawahi urgensi penerapan kaidah-kaidah rasional syariah sebagai dasar dalam formulasi hukum positif yang berorientasi pada nilai-nilai Islam.

INTRODUCTION

The development of Islamic law cannot be separated from continuously evolving social dynamics. In responding to the demands of changing times, Muslim societies require a legal system that is not only grounded in textual sources but also capable of addressing contextual challenges. Within this framework, the *usul al-fiqh* maxim *al-hukmu yaduru ma 'a 'illatihi wujudan wa 'adaman* (a legal ruling revolves around its effective cause, existing when the cause exists and ceasing when it ceases) plays a crucial role as a rational foundation for shaping an adaptive and solution-oriented Islamic legal system.

Contemporary phenomena such as the rapid digitalization of the economy, transformations in the nature of work, and emergency conditions like the COVID-19 pandemic have demonstrated the necessity for Islamic law to respond to change without undermining the authority of the *nass*. For instance, decisions to restrict congregational worship during the pandemic, suspend pilgrimage travel, and modify *mu'amalat* contracts in digital transactions have all been determined by *'illat* oriented toward the protection of life (*hifz al-nafs*) and social stability (*al-maslahah al- 'ammah*). World Health Organization data from 2022 indicate that more than four million places of worship worldwide adopted adjusted worship protocols for public health reasons, including in Muslim-majority countries that explicitly referenced the *Maqasid al-Shari'ah* in formulating religious legal policies.(Soraya, 2022)

At the same time, the application of this maxim continues to face serious challenges, particularly in the formulation of formal law in Muslim countries. Islamic law often experiences stagnation when *nass* are applied literally without due consideration of evolving social *'illat*. Legal debates concerning Islamic fintech, productive zakat, and the postponement of fasting obligations for individuals engaged in physically demanding labor, for example, have not been

fully examined through a framework of legal causality. This situation reflects a gap between theory and practice, as well as a weak integration between *usul al-fiqh* theory and the realities of contemporary positive law.

Accordingly, this study is designed to address the following question: How is the maxim *al-hukmu yaduru ma 'a 'illatihī* applied within the framework of contemporary Islamic law, particularly in responding to social change and Sharia-based public policy? This question is significant because Islamic law that neglects contextual considerations risks losing its capacity to respond effectively to the needs of modern society.

The study aims to analyze both the concept and application of the maxim *al-hukmu yaduru ma 'a 'illatihī* in the formation of contemporary Islamic law. In addition, it seeks to identify methodological challenges in determining *'illat* and to offer practical recommendations for the development of a responsive, *maqasid*-oriented Islamic legal system. The significance of this research lies in its contribution to strengthening the epistemological foundations of Islamic law and promoting legal reconstruction that is relevant to societal needs and state policies grounded in Sharia values.

RESEARCH METHODS

This study employs a qualitative library-based research method, using content analysis of primary sources in *usul al-fiqh*, including the works of al-Ghazali, al-Amidi, and Ibn Qayyim, as well as contemporary sources addressing *maqasid al-shari'ah* and religious policy during the pandemic. The analysis focuses on elucidating the meaning of the legal maxim, the conditions for establishing *'illah*, and its relevance in both classical and modern legal cases.

The primary analytical instruments of this research are textual examination and legal reasoning (*istinbat*), conducted by identifying causal relationships between legal rulings and their underlying *'illah* across various applications. The effectiveness of the study is assessed by the extent to which the maxim can explain legal change or adjustment in response to social contexts, and by its contribution to the development of a responsive and context-sensitive Islamic legal framework.

DISCUSSION/RESULTS AND DISCUSSION

The Meaning of the Legal Maxim "الحكم يدور مع عنته وجوداً وعديماً"

The legal maxim *al-hukmu yaduru ma'a illatihī wujudan wa 'adaman* constitutes one of the fundamental principles in the discipline of *usul al-fiqh*, serving as a logical foundation for understanding the relationship between legal rulings and their underlying causes ('illah). Literally, the maxim means that “a legal ruling revolves around its 'illah, whether it exists or does not exist.” Substantively, it affirms that the existence or absence of a shari'ah ruling depends entirely on the presence or absence of the 'illah that provides its rational and normative justification (Al-Subki, n.d.). When the 'illah is present, the ruling applies; when the 'illah is absent, the ruling necessarily ceases to apply.

1. 'Illah

The term 'illah refers to the cause or reason that forms the basis for the enactment of a shari'ah ruling by the Lawgiver. It occupies a central position in the construction of Islamic law, as it functions as the link between normative texts and empirical reality. Etymologically, 'illah derives from the Arabic term meaning “illness” or “that which affects,” but in Islamic legal terminology it carries a more specific meaning: a particular attribute or characteristic that is evident, measurable, and logically relevant, and that motivates or underlies the legislation of a specific legal ruling.

Scholars of *usul al-fiqh* such as al-Amidi, al-Ghazali, and al-Sha'ibi (al-Namlah, 1999) agree that 'illah is not an ordinary cause in the sense understood in pure causal science, but rather a cause established normatively through revelation or through the *ijtihad* of qualified jurists. A commonly cited definition in *usul al-fiqh* literature describes 'illah as *al-wasf al-zahir al-mundabit al-ba'ith 'ala tashri' al-hukm*—that is, “a manifest attribute, consistently measurable, which prompts the enactment of a legal ruling.” This criterion indicates that an 'illah must be intelligible to reason and objectively acceptable as a legal justification, rather than vague or speculative in nature.(Hermanto, 2018b)

Within this framework, 'illah plays a dual role: on the one hand, it serves as a means of understanding the wisdom and objectives underlying shari'ah rulings (*maqasid al-shari'ah*), and on the other, it provides the technical basis for legal

analogy (*qiyas*). Accordingly, as long as the relevant attribute—that is, the *'illah*—remains present in a given case, the corresponding legal ruling remains applicable. Conversely, when the *'illah* cannot be identified or has ceased to exist due to changes in context, the ruling no longer applies. This principle captures the essence of the maxim *al-hukmu yaduru ma 'a 'illatih wujudan wa 'adaman*, namely that the existence of a legal ruling invariably follows the existence or absence of its *'illah*. (Hermanto, 2021)

This maxim not only explains the rational basis underlying legal rulings, but also provides a foundation for the development of Islamic law within an evolving society. Through the concept of *'illah*, Islamic law is not static or rigidly bound to the literal form of texts; rather, it allows for flexibility through a substance- and purpose-oriented approach. For this reason, a sound understanding of *'illah* is essential in any process of legal derivation (*istinbat*), particularly in social contexts characterized by rapid and complex change.(Iyubenu, 2020)

2. Forms of *'Illah*

'Illah may be classified into several principal forms:

a. Explicit *'Illah* (*'Illah Mansusah*)

This refers to a cause that is explicitly stated in the Qur'an or the Prophetic traditions. In such cases, the identification of the legal cause does not require *ijtihad*, as the textual evidence is definitive and direct.

b. Inferred *'Illah* (*'Illah Mustanba'ah*)

This type of *'illah* is not expressly mentioned in the scriptural texts but is derived through *ijtihad* and rational analysis. Its determination involves consideration of the underlying wisdom of the ruling and the objectives of the Shari'ah.

3. Conditions of *'Illah*

According to the majority of *usul* scholars (Hermanto, 2018a), a valid *'illah* must fulfill the following conditions:

a. Manifest (*zahir*)

The attribute designated as *'illah* must be clearly identifiable and not ambiguous. Such clarity is necessary to ensure its consistent application across various derivative legal cases. Through this

clarity, the *mujtahid* can ascertain the presence or absence of the ‘illah in each legal subject.

b. Stable and Consistent (*mundabit*)

An attribute can only serve as a valid ‘illah if it is stable and consistent. A fluctuating attribute would generate uncertainty in legal determinations, thereby undermining the validity of the ‘illah. Accordingly, its existence must be ascertainable under all relevant circumstances.

c. Appropriate and Maslahah-Oriented (*munasib*)

There must be congruence between the attribute identified as ‘illah and the objective of the legal ruling. The ‘illah should contribute to the realization of benefit or the prevention of harm in accordance with the principles of *maqasid al-shari‘ah*. An attribute unrelated to *maslahah* is not suitable as a legal cause.

d. Generally Applicable (*mu‘ttarid*)

A valid ‘illah must be general in nature and applicable to cases beyond the original one. If an attribute applies only to a single case or individual, it cannot serve as the basis for legal analogy (*qiyas*). Broad applicability thus serves as an indicator of the ‘illah’s validity.

e. Legally Effective (*mu‘aththir*)

The attribute must genuinely function as the cause that gives rise to the legal ruling, rather than merely serving as a sign or incidental indicator. The ‘illah constitutes an integral element of the legal structure itself, acting as the normative motivation behind the enactment of the ruling.

4. Origin of the Maxim

The maxim *al-hukmu yaduru ma‘a ‘illatihi wujudan wa ‘adaman* emerged from the process of *istinbaṭ* undertaken by scholars of *usul al-fiqh* in their engagement with scriptural texts that demonstrate a close relationship between the existence of an ‘illah and the applicability of a legal ruling. Although the maxim is not explicitly stated in the Qur‘an or the Prophetic traditions, its substance can be inferred from texts of a causal (*ta‘lili*) nature, such as the Prophetic statement: “Every intoxicant is *khamr*, and every *khamr* is unlawful”. This narration illustrates that the prohibition is grounded in the intoxicating property as the

‘illah, rather than in the name or physical form of the substance itself. (Musilhi, 2018)

From a classificatory perspective, this principle belongs to the category of *usuliyah* maxims rather than *fiqhiyah* maxims. It is also regarded as a subsidiary (*far‘iyyah*) maxim, as it derives from a more general foundational principle in *usul al-fiqh*, namely that shari‘ah rulings are formulated on the basis of rationally identifiable and measurable causes. Nevertheless, the maxim plays a vital role in the processes of *ijtihad* and *qiyyas*, as it serves as a primary معيار for affirming or suspending legal rulings based on the presence or absence of their underlying causes.

Sources of the Legal Maxim

The maxim *al-hukmu yaduru ma‘a ‘illatihī wujudan wa ‘adaman* is firmly grounded in the sources of Islamic law, even though it is not articulated verbatim in the Qur‘an or the Prophetic traditions. Rather, it is the product of *istinbaṭ* by scholars of *usul al-fiqh*, who, based on a wide range of textual evidence, concluded that the applicability of a shar‘i ruling is fundamentally contingent upon the presence or absence of its underlying cause (‘illah). In other words, a legal ruling does not stand independently in absolute terms, but operates in direct correlation with its ‘illah. (Syallabi, 1981)

One of the primary sources frequently cited in this regard is the statement of the Prophet Muhammad (peace be upon him):

كُلُّ مُشَكِّرٍ حَمْرٌ وَكُلُّ حَمْرٍ حَرَامٌ (روه مسلم)

“Every intoxicant is *khamr*, and every *khamr* is unlawful.” (Narrated by Muslim)

This hadith clearly indicates that the prohibition is not based on the name of a substance, but on its inherent property or effect—namely, intoxication. Accordingly, the legal basis lies in the presence of this attribute as the ‘illah, rather than in the substance’s designation. This illustrates the fundamental principle that the existence or absence of a legal ruling is intrinsically linked to the existence or absence of its cause (‘illah). (Al-Naysaburi, n.d.)

Another relevant textual foundation is the statement of God in Qur'an 5:91(Kementerian Agama, 2014):

إِنَّمَا يُرِيدُ الشَّيْطَنُ أَنْ يُوقِعَ بِيْنَكُمُ الْعَدَاوَةَ وَالْبُغْضَاءَ فِي الْخَمْرِ وَالْمَأْسِرِ وَيَهْدِكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهُنَّ أَنَّمَاءٌ مُّنْتَهُونَ

"Indeed, Satan only seeks to sow enmity and hatred among you through intoxicants and gambling, and to turn you away from the remembrance of God and from prayer. Will you not then desist?"

This verse emphasizes that the prohibition of *khamr* and *maysir* is grounded in their harmful consequences, namely the generation of hostility and hatred and their obstruction of remembrance of God and the performance of prayer. In this sense, the '*illah* (legal rationale) is explained substantively within the text itself, rather than being tied merely to the name of an object or the external form of an act.

Beyond these scriptural texts, classical scholars such as al-Ghazali in *al-Mustasfa*, al-Amidi in *al-Ihkam*, and Ibn Qayyim al-Jawziyyah in *I'lam al-Muwaqqi'in* consistently affirm that shari'ah rulings are never detached from underlying wisdom (*hikmah*) and '*illah*'. They further treat the linkage between legal rulings and their causes as a foundational principle in the methodology of *qiyas* and other forms of *ijtihad*. (Musadad, 2023)

Application of the Maxim *al-hukmu yaduru ma'a 'illatihi wujudan wa 'adaman*

The maxim *al-hukmu yaduru ma'a 'illatihi wujudan wa 'adaman* is a foundational principle in *usul al-fiqh* that affirms the applicability of a shar'i ruling is highly contingent upon the presence or absence of its '*illah* (legal cause). In essence, a legal ruling is established when its '*illah* exists, and it lapses or ceases to apply when that '*illah* is no longer present. This maxim serves as a crucial instrument in the process of *ijtihad*, as it provides a rational and flexible framework for legal determination across the domains of ritual worship ('*ibadat*), civil transactions (*mu'amalat*), and criminal law (*jinayat*).

1. Application to the Issue of *Khamr*

One of the most well-known classical illustrations of this maxim is the prohibition of *khamr*. In Islamic law, *khamr* is prohibited not because of its name

or physical form, but due to its intoxicating property. As stated by the Prophet Muhammad (peace be upon him): “Every intoxicant is *khamr*, and every *khamr* is unlawful.” This hadith clearly establishes that the ‘*illah* underlying the prohibition is *iskar* (intoxication). (Al-Naysaburi, n.d.)

Accordingly, as long as the intoxicating quality is present, any substance or beverage remains unlawful, even if it is given a different name or takes a different form. Conversely, when the intoxicating property is absent, the prohibition does not apply. This example clearly demonstrates that a legal ruling operates in accordance with the presence or absence of its ‘*illah*, as articulated by this maxim.

2. Application to the Obligation of *Zakat*

With respect to the obligation of *zakat*, Islamic law stipulates specific conditions that constitute its primary ‘*illah*, namely full ownership of wealth and the attainment of the *nisab* for a complete lunar year (*hawl*). This obligation is not attached indiscriminately to one’s status as a wealthy individual, but rather to objective criteria established by the Shari‘ah.

When these ‘*illah*-based conditions are not met, the obligation of *zakat* does not arise. Conversely, once wealth reaches the *nisab* and is held for a full year, the obligation becomes binding. This illustrates that the legal duty of *zakat* is entirely dependent upon the presence of its ‘*illah*, thereby conforming to the maxim that legal rulings follow their underlying causes. (SA, 2019)

3. Application in the Context of the COVID-19 Pandemic

This maxim is also highly relevant in contemporary contexts, such as during the COVID-19 pandemic. One notable application was the temporary suspension of congregational prayers, including Friday prayer (*salat al-jumu‘ah*) and communal prayers in mosques. (Rian & Arsyad, 2021) During periods of high viral transmission, governments and religious authorities in various countries decided to temporarily halt congregational worship in public spaces in order to safeguard human life (Hermanto, 2018b).

Such decisions were grounded in the presence of a concrete ‘*illah*, namely the real and demonstrable risk of disease transmission that posed a threat to human life. Within the framework of *maqasid al-shari‘ah*, the protection of life (*hifz al-nafs*) constitutes a paramount objective that must take precedence.

Accordingly, as long as the ‘illah in the form of a significant risk of contagion persists, the obligation of congregational and Friday prayers may be temporarily suspended. Once that ‘illah ceases to exist, the legal ruling reverts to its original state.(Rian & Arsyad, 2021)

CONCLUSIONS

The maxim *al-hukmu yaduru ma‘a ‘illatihi wujudan wa ‘adaman* is a rational and practically applicable principle of *usul al-fiqh* within the Islamic legal system. It affirms that the applicability of a legal ruling depends on the presence or absence of the underlying ‘illah (legal cause), thereby constituting a fundamental basis for the flexibility of Islamic law in responding to continuously evolving social dynamics.

The application of this maxim—both in classical cases such as the prohibition of *khamr* and the obligation of *zakat*, and in contemporary contexts such as the temporary suspension of Friday prayer, restrictions on the pilgrimage (*hajj*), and emergency policies during the COVID-19 pandemic—demonstrates the adaptive capacity of Islamic law, provided that legal determinations are grounded in a careful and proportionate analysis of the relevant ‘illah.(Rian & Arsyad, 2021)

Accordingly, this maxim substantively reinforces the implementation of *maqasid al-shari‘ah*, particularly the protection of life (*hifz al-nafs*) and the realization of the public interest (*maslahah ‘ammah*). As such, it remains highly relevant as a primary reference in the formulation of Islamic legal norms that are responsive to social realities and public policy considerations.

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