

USING *ZAKĀH* FOR THE ESTABLISHMENT OF ISLAMIC CENTERS AND *MAQĀSID AL-SYARĪ'AH*'S RELATIVITIES

PENGUNAAN ZAKAT UNTUK MEMBANGUN PUSAT ISLAM DAN RELATIVITAS *MAQĀSID AL-SYARĪ'AH*

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Abstract: One of the people who have the right to receive the *zakāh* mentioned in the eight *asnāf* is *fi sabilillah* (people who are in a *jihād*). *Jihād* and all the means relating to it are the initial meaning agreed upon by most of *ulama*. The term *fi sabilillah* has been understood further in the context of the construction of places of worship and Islamic centers. This meaning expansion the term *fi sabilillah* certainly needs to be seen in relation to *maqāsid al-syarī'ah*, especially in relation to *'illat* as one of the main instruments of *maqāsid al-syarī'ah*. The discussion by using *'illat* concluded that the development of the meaning of *fi sabilillah* to other than *jihād* is permissible as long as it is intended to help individuals who struggle for the sake of the establishment of religion by financing their activities. Furthermore, this meaning is more in line with *maqāsid al-syarī'ah*.

Keyword: *zakāh*, *Maqāsid al-Syarī'ah*, *fi Sabilillah*, *'Illat*

Abstrak: Salah satu mustahiq zakat yang termasuk dalam *asnāf* delapan adalah *fi sabilillah*. Berjihad dan seluruh sarana untuk itu merupakan makna awal yang disepakati oleh seluruh *ulama*. Dalam perkembangannya term *fi sabilillah* lebih diluaskan maknanya kepada pembangunan tempat ibadah dan pusat-pusat kegiatan Islam. Perluasan makna ini tentu saja perlu dilihat dalam hubungannya dengan *maqāsid al-syarī'ah*, khususnya berkenaan dengan salah satu instrumen utama *maqāsid al-syarī'ah*, yaitu *'illat*. Pembahasan dengan menggunakan *'illat* menyimpulkan bahwa pengembangan makna *fi sabilillah* kepada selain *jihād* dibolehkan selama diperuntukkan membantu individu-individu yang berjuang demi tegaknya agama dengan cara membiayai aktifitas mereka, dan makna inilah yang lebih sesuai dengan *maqāsid al-syarī'ah*.

Kata Kunci: Zakat, *Maqāsid al-Syarī'ah*, *fi Sabilillah*, *'Illat*

Introduction

Zakâh is an obligatory religious institution for people with more economic ability. The obligation of *zakâh* is often paired by Allah the Exalted with the obligation of prayer, which means they both occupy the same position in the quality of their obligations. In the hadith of the Prophet peace be upon him it is mentioned that Islam acknowledges Allah the Exalted as a Lord and Prophet Muhammad as a Messenger, obliges its followers to pray five times a day, performs Ramadan fasting, pays *zakâh*, and performs hajj (pilgrimage) for those who are capable.¹ The Prophet's statement is summarized by scholars as a pillar of Islam. A person who claims to be a Muslim is obliged to perform the five pillars of Islam when he has reached the age of *baligh* (adult). For *zakâh* and pilgrimage, the two obligations are only applicable to those who are capable economically, and to perform the hajj more requirements are added, they are physical fitness, travel safety, and destination (*istiṭâ'ah*).

Regarding *zakâh*, there are some things that are subjects to *zakâh* obligation, such as *zakâh* for crops, *zakâh* for gold and silver, *zakâh* for trade, *zakâh* for cattle, *zakâh* for found properties, and *zakâh* for mining goods.² In this contemporary era the potential of *zakâh* is further developed with *zakâh* for profession. The collected *zakâh* funds are also regulated its distribution by Allah the Exalted. In Surah al-Taubah [9]: 60, Allah the Exalted mentions those who are entitled to receive *zakâh*. There

are eight groups in the verse, the destitute, the poor, the *zakâh* committee, the *muallaf* (new converts), the slaves, the debtors, the people who fight for Allah, and those who are on a journey. The eight people who have the right to receive the *zakâh* are better known by people as the eight *aṣṇâf*. These are the only groups that Allah has mentioned clearly as the *mustahiq* of *zakâh*, and no other forms are explicitly stated by Allah and the Prophet regarding this *mustahiq* of *zakâh* matter.

One of the *aṣṇâf* discussed by scholars, both classical and contemporary Muslim scholars, is a group of *fi ṣabîlillâh*. The initial meaning of *fi ṣabîlillâh* is the people who fight in the way of Allah and all the activities that support the war. This meaning is agreed upon by all Muslim scholars.³ Therefore, some *Hanafiyyah* scholars argue that *zakâh* is only intended for individual's interests in the war, not to build a mosque and so on.⁴ In its development the meaning of *fi ṣabîlillâh* is not only understood as people being in the war for Allah, but also to all activities and means that support the spread of Islam such as the establishment of mosques, the development of Islamic centres, the development of schools, and so on. Among the classical Muslim scholars who argue as such are al-Qaffâl and al-Baidâwî,

1 Muslim ibn al-Hajjâj Abû al-Ḥasan al-Qusayrî al-Naisabûrî, *Musnad al-Ṣaḥîḥ al-Mukhtaṣar bi Naql al-'adl Ilâ Rasûlillâh SAW*, Vol. 1 (Beirut: Dâr Ihyâ' al-Turâs al-'Arabi, [tth]), 36.

2 Muhammad Hasan, "Pengamalan dan Pengelolaan Zakat Berbasis Kearifan Lokal (Studi di Masyarakat Kampung Sanggau)," *Al-'Adalah*, Vol. 12, No. 4 (2015), 892.

3 Atep Hendang Waluya, "Analisis Makna Fi Sabilillah Dalam QS al-Taubah [9]: 60 Dan Implementasinya Dalam Perekonomian (Studi Literatur Makna Fi Sabilillah Menurut Para Mufassir dan Fukaha Klasik dan Kontemporer)," *Rausyan Fikr*, Vol. 13, No. 1, (2017), 1410-1412; Eka Sakti Habibullah, "Implementasi Pengelolaan Zakat Pada Ashnaf Fi Sabilillah (Studi Ijtihad Ulama Klasik dan Kontemporer)," *Al-Maslahah Jurnal Hukum dan Pranata Sosial*, Vol. 3, No. 5 (2015), 166-169.

4 Abdul Rozak, "Pemaknaan Fisabilillah Untuk Petugas Keamanan (Satpam) Sebagai Mustahik Zakat di Perumahan Taman Pondok Sidoarjo," *Maliyah*, Vol. 6, No. 2 (2016), 1362.

while the contemporary scholars who have the same thoughts are Muhammad Rasyîd Ridâ, Aḥmad Muṣṭafâ al-Marâghî, Sayyid Sâbiq⁵, and Yûsuf al-Qarâḍâwî. According to them the understanding of the meaning of *fi sabîlillâh* is not limited to war, but with all the benefits of Muslims in all its forms.⁶

The development of the meaning of *fi sabîlillâh* as one of the people who have the right to receive the *zakâh* needs to be done given the different present conditions from the previous reality of the Prophet's time. However, as an *ijtihâd*, interpreting *fi sabîlillâh* differently from what the Prophet peace be upon him practiced, of course, should be based on rational arguments. This is because all laws set by Allah and His Messenger have the purpose of producing goodness. The effort to produce such a benefit is by analysing its suitability with *maqâṣid al-syarî'ah*. Therefore, Muslim scholars attempt to make the concept of *maqâṣid al-syarî'ah* which is started by al-Juwainî to al-Syâtibî, and is subsequently developed further until this contemporary era by Ibn 'Âsyûr, Yûsuf al-Qarâḍâwî, Jasser Auda, and others. They all do the efforts to ensure that an outcome of an *ijtihâd* is in accordance with the purpose of sharia that is the benefit (*al-maṣlahah*). The true benefit (*al-maṣlahah*) according to Al-Ghazâlî is when the result of an *ijtihâd* is in accordance with the wishes of Allah the Exalted or the purpose of shar-

ia.⁷ The difference in meaning of *fi sabîlillâh* offered by some scholars with the previous meaning of course raises a question, is the result of their *ijtihâd* in accordance with *maqâṣid al-syarî'ah*? This paper will try to answer the question by studying the findings of 'illat of law concerning the eight *aṣnâf* in particular the 'illat of *fi sabîlillâh*, because 'illat is constituted the main discussion in finding *maqâṣid al-syarî'ah*. By analyzing the findings of this 'illat the suitability of the meaning of *fi sabîlillâh* with *maqâṣid al-syarî'ah* will be identified.

Overview of *Zakâh* and *Fî Sabîlillâh*

Etymologically زكاة is a *maṣdar* (a verbal noun) of زكا that means growing and developing. It can also mean blessing, holiness and goodness.⁸ With this understanding *zakâh* is something that grows, develops, and purifies oneself, blessings, and something of goodness. Meanwhile, according to the terminology Yûsuf al-Qarâḍâwî, *zakâh* is particular parts of property required by Allah the Exalted to be given to those who have the right to receive it.⁹ Sayyid Sâbiq defines that *zakâh* as a name of a certain part of Allah's property from humans to be given to the poor.¹⁰

From the two terminology of *zakâh* that have been mentioned above, there is a dif-

5 Atep Hendang Waluya, "Analisis Makna Fi Sabilillah Dalam QS al-Taubah [9]: 60 Dan Implementasinya Dalam Perekonomian (Studi Literatur Makna Fi Sabilillah Menurut Para Mufassir dan Fukaha Klasik dan Kontemporer)."

6 Sukiati, "Pengalihan Zakat Fisabilillah Untuk Kepentingan Umum Menurut Yusuf al-Qaradhawi (Sebuah Penelitian Hukum Filosofis)", *Fitrah*, Vol. 2, No. 1, (2015), 369-371.

7 Akbar Sarif dan Ridzwan Ahmad, "Konsep Maslahat dan Mafsadah Menurut Imam al-Ghazali", *Tsaqafah Jurnal Peradaban Islam*, Vol. 13, No. 2, (2017), 357-358.

8 Majma' al-Lughah al-'Arabiyah, *Mu'jam al-Wajîz* (Mesir: Wizârah Tarbiyah wa Ta'lik, 1993), 290.

9 Yûsuf al-Qarâḍâwî, *Fiqh al-Zakâh Dirâṣah Muqâranah li Ahkâmihâ wa Falsafatihâ fi Daw' al-Qur'ân wa al-Sunnah*, Vol. 2 (Beirut: Mu'assasah al-Risâlah, 1973), 37.

10 Sayyid Sâbiq, *Fiqh al-Sunnah*, Vol. (Beirut: Dâl al-Fikr, 1983), 276.

ference. The first definition does not seem to mention who should issue the *zakâh* (*zakâh* subjects), but *zakâh* recipients (objects) are already covered entirely (as in the Qur'an [9]: 60). While the definition of Sayyid Sâbiq (d. 2000 M) mentions the subjects of *zakâh* (in this case are humans), but he restricts the recipients of *zakâh* to the *fâqir* (destitute) only. Therefore, for the perfection of the definition, the two definitions need to be combined so it can be read that *zakâh* is a name for the property that is determined by Allah the Exalted to be issued by believers who have the ability and is given to the people who are entitled to it.

In the Qur'an and Hadith there are two words that show the meaning of *zakâh*, namely *al-zakâh* and *al-ṣadaqah*. The word *al-zakâh* in the Qur'an in the form of *makrifah* is mentioned 30 times. 28 times of which are associated with the word prayer (*ṣalâh*),¹¹ they are in al-Baqarah [2]:43, 83 and 110, al-Nisâ' [4]: 77, al-Hajj [22]: 78, al-Nûr [24]: 56, al-Mujâdah [58]: 13 and al-Muzammil [73]: 20. *Zakâh* that uses the word *al-ṣadaqah* in accordance with its context is found in three verses, they are in al-Taubah [9]: 58, 60 and 104. Thus, the term *al-ṣadaqah* sometimes means obligatory charity (*zakâh*) and sometimes it can mean ordinary assistance. However, the use of the word *al-ṣadaqah* in the verses above indicates the meaning of *zakâh*. This is because when Allah revealed *zakâh* with the pronunciation of *al-ṣadaqah*, it denotes the function of *zakâh* itself, both for subjects and the objects of *zakâh*.

Similarly, in the hadith there are also two words mentioned above (*al-zakâh* dan *al-*

ṣadaqah) which reveal the order of *zakâh*, among others:

عَنِ ابْنِ عَبَّاسٍ ، أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بَعَثَ مِعَاذَ بْنَ جَبَلٍ إِلَى الْيَمَنِ فَقَالَ : «إِنَّكَ تَأْتِي قَوْمًا إِبْهَلَ كِتَابٍ فَأَدِيعُهُمْ إِلَى شَهَادَةِ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنِّي رَسُولُ اللَّهِ ، فَإِنْ هُمْ إِطَاعُوا لَكَ فَأَعْلِمُهُمْ أَنَّ اللَّهَ افْتَرَضَ عَلَيْهِمْ خُمْسَ صِلَوَاتٍ فِي كُلِّ يَوْمٍ وَلَيْلَةٍ ، فَإِنْ هُمْ إِطَاعُوا لَكَ ، فَأَعْلِمُهُمْ أَنَّ اللَّهَ قَدْ افْتَرَضَ عَلَيْهِمْ صَدَقَةً فِي أَمْوَالِهِمْ تَوُخَذُ مِنْ أَغْنِيَائِهِمْ وَتُرَدُّ فِي فُقَرَائِهِمْ ... (رواه الترمذی)¹²

It was narrated from Ibn 'Abbas that the Prophet sent Mu'adh ibn Jabal to Yemen and said: "You are going to some people from among the people of the Book. Call them to bear witness that there is none worthy of worship except Allah and that I am the Messenger of Allah. If they obey you in that, then teach them that Allah has enjoined upon them five prayers every day and night. If they obey you in that, then teach them that Allah has enjoined upon them Sadaqah (Zakah) from their wealth, to be taken from their rich and given to their poor." (HR al-Tirmidzi)

Clearly, the word *al-ṣadaqah* with the meaning of *zakâh* is found in the saying Prophet Muhammad peace be upon him. The *al-zakâh*, on the other hand, is frequently used by the Prophet when explaining about the *zakât al-fiṭr*.¹³

As for those who are entitled to receive the *zakâh* are mentioned by Allah the Exalted in Surah al-Taubah (9): 60, which reads:

إِنَّمَا الصَّدَقَتُ لِلْفُقَرَاءِ وَ الْمَسْكِينِ وَ الْعَمِلِينَ عَلَيْهَا وَ

12 Muhammad ibn 'Isâ ibn Saurah ibn Mûsa ibn al-Dahâk al-Tirmizî, *Sunan al-Tirmizî*, Vol. 1 (Mesir: Mustafâ al-Bâbî al-Halabî, 1975), 12.

13 Hadiths about this are found in amongst others; Muhammad ibn Ismâ'il Abu 'Abdillâh al-Bukhârî al-Ja'fî, *al-Jâmi' al-Musnad al-Ṣahîh al-Mukhtaṣar min Umûr Rasûlillâh SAW wa Sunanuh wa Ayyâmuh*, Vol. 2 (Dâr al-Tawwâf al-Najâh, [tth]), 27; Muslim, *Ṣahîh Muslim*, Vol. 2, 677.

11 Siti Zalikha, "Pendistribusian Zakat Produktif Dalam Perspektif Islam," *Jurnal Ilmiah Islam Futura*, Vol. 15, No. 2 (2016), 307.

الْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغُرَمَيْنِ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ

Zakah expenditures are only for the poor and for the needy and for those employed to collect [zakah] and for bringing hearts together [for Islam] and for freeing captives [or slaves] and for those in debt and for the cause of Allah and for the [stranded] traveler - an obligation [imposed] by Allah . And Allah is Knowing and Wise.

Based on the above verse, there are eight groups entitled to receive the *zakâh*, namely the *faqîr* (destitute), the poor, the *âmil* (the *zakâh* committee), the *muallaf* (non-Muslims who convert to Islam), the person who wants to liberate himself from slavery, the person who owes but cannot repay, the person fighting in the way of Allah, and travellers who run out of capital.

Judging from the textual provisions of this verse, *zakâh* is given to an individual. On the other hand, the wisdom of *zakâh* being required according to Ahmad Atabik is intended to help and prosper the person who receives it.¹⁴

In connection with the term *fi sabilillâh*, the scholars of the Hanafi, Maliki, Syafi'i, and Hanbali school agree that the meaning is those who fight in the way of Allah. It deals with all the needs of the fighters in defending and elevating the religion of Islam, such as salaries, the purchase of their weapons, and others that are generally associated with warfare.

¹⁵ Indeed one of the contradictory meanings is to fund people performing Hajj, because in

one of the hadiths the Prophet said that the pilgrimage is a *jihad*.¹⁶ But Ibn Qudâmah firmly rejects it. According to him the pilgrimage only applies to one's personal interests, while *fi sabilillâh* is to safeguard common interests.¹⁷ This means that Ibn Qudâmah sticks with his opinion on the meaning of *jihâd fi sabilillah*.

Fakhr al-Dîn al-Râzî (d. 606 H), has a slightly different idea. According to him, the meaning of *fi sabilillâh* is not limited to war, but it can be expanded to the whole path of goodness. For example, he argues that *zakâh* may be used for covering the body of the dead with a white sheet, erecting a building, and prospering mosques. Al-Baidâwî, a Hanafi scholar, adds that the money can also be used for building bridges and factories.¹⁸ According to the author of this article, the developments meant by the above scholars are not intended to build mosques and Islamic Centers, but buildings that are related to the needs of war.

As for the contemporary scholars, among others Rasyîd Riḍâ, believes that *jihâd* is one meaning of the word *fi sabilillâh*. *Fî sabilillâh* is generally intended for general benefits, such as giving additional financial assistance to teachers who teach because of their shared interests and the funding of *da'wah*. In addition, it is also permissible to build a military hospital. The same notion is also uttered by Maḥmûd Syaltût, Şâdiq Ḥasan Khan, dan Yû-

16 Bukhari, *al-Jâmi' al-Musnad al-Ṣaḥih al-Mukhtaṣar min Umûr Rasûlillâh SAW wa Sunanuh wa Ayyâmuh*..., Vol. 2, 133.

17 Siti Tatmainul Qulub & Ahmad Munif, "The Meaning of Fi Sabilillah as a Mustahik Zakat according to Contemporary Ulama"..., 617.

18 Atep Hendang Waluya, "Analisis Makna Fi Sabilillah Dalam QS al-Taubah [9]: 60 Dan Implementasinya Dalam Perekonomian (Studi Literatur Makna Fi Sabilillah Menurut Para Mufassir dan Fukaha Klasik dan Kontemporer"..., 1410.

14 Ahmad Atabik, "Peranan Zakat Dalam Pengentasan Kemiskinan", *Ziswaf*, Vol. 2, No. 2, (2015), 344-345.

15 Siti Tatmainul Qulub & Ahmad Munif, "The Meaning of Fi Sabilillah as a Mustahik Zakat according to Contemporary Ulama," *Jurnal Bimas Islam*, Vol. 8, No. 4, (2015), 614-617.

suf al-Qarâḍâwî.¹⁹

In his *ijtihād* al-Qarâḍâwî argues that *mustahiq* is not only associated with a person, but can also be given for the construction of a mosque²⁰ or the establishment of Islamic centers.²¹ The first fatwa was issued based on the question asked by a rich man in the Gulf state. His abundant wealth made him eager to donate his fortune to other Islamic countries to build mosques through *zakâh*.²² The fatwa about the permission to pay *zakâh* for the establishment of Islamic Centers is based on the question of an Islamic project development manager located in the United States. The project manager often receives assistance in the form of *zakâh* whose donors wish to provide Islamic activities for Islamic students there, but they mind using the *zakâh* money to build the facilities.²³ For both of these questions al-Qarâḍâwî concluded that *zakâh* funds can be used to build both.

According to al-Qarâḍâwî, one of the people who have the right to receive the *zakâh*, *fi sabilillah*, should not be interpreted as war (*jihād*), but it also includes activities that can lift Islam. In his statement he argues that he reinforces what was agreed by the Majority of Ulama to expand the meaning of *jihād* including the armed struggle, a *jihād* in thoughts,

jihād in education and preaching, *jihād* in religion (in general), and so on. It aims at maintaining the existence of Islam and protecting Islam from the attacks of enemies who want to deprive Islam of its roots, whether it comes from non-Muslim groups or secular groups from Muslims themselves.²⁴ Therefore, the distribution of *zakâh* to build mosques and Islamic Centers will realize religious preservation by the extension of the meaning of *jihād* as mentioned earlier. Even channelling *zakâh* for such conditions is more important than distributing it to others.²⁵ Moreover, according to al-Qarâḍâwî, *zakâh* is not a basic worship (*mahḍah*), but it has another dimension, namely *mu'amalat*.²⁶ Somewhat different from this, Abdi Wijaya argued that specifically for basic worship, the command of God and His Apostle is prerogative (divine dimension), in which humans must not manipulate it.²⁷

The fatwa delivered by the contemporary scholars is not absolute, but is limited to certain places and conditions in which Muslims are poor so they are unable to build mosques except from *zakâh* donated from rich areas. As for the average rich areas, they are not permitted to build mosques with *zakâh*.²⁸ This indicates that, al-Qarâḍâwî does not agree when *zakâh* is used to make certain buildings. Nev-

19 Siti Tatmainul Qulub & Ahmad Munif, "The Meaning of Fi Sabilillah as a Mustahik Zakat according to Contemporary Ulama"..., 619-622.

20 Yûsuf al-Qarâḍâwî, *Min Hadyi al-Islâm Fatâwa Mu'âṣirah*, cet. 3, Vol. 2 (Manṣûrah: Dâr al-Wafâ' al-Ṭabâ'ah wa al-Nasyr wa al-Tawzî', 1994), 227-228.

21 Yûsuf al-Qarâḍâwî, *Min Hadyi al-Islâm Fatâwa Mu'âṣirah*..., 233-234.

22 Yûsuf al-Qarâḍâwî, *Min Hadyi al-Islâm Fatâwa Mu'âṣirah* ..., 227.

23 Yûsuf al-Qarâḍâwî, *Min Hadyi al-Islâm Fatâwa Mu'âṣirah* ..., 232-233.

24 Yûsuf al-Qarâḍâwî, *Min Hadyi al-Islâm Fatâwa Mu'âṣirah*..., 228; also see Yûsuf al-Qarâḍâwî, *Fi Fiqh al-Aqalliyyât al-Muslimah* (Kairo: Dâr al-Syurûq, 2001), 82.

25 al-Qarâḍâwî, *Min Hadyi*..., 228.

26 Jamal Abdul Aziz, "Dekonstruksi Paradigmatik Pengembangan Zakat: Analisis Kritis Pemikiran Yusuf al-Qaradawi," *Ijtihad Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 17, No. 2 (2017), 193-194.

27 Abdi Wijaya, "Dimensi Ilahi dan Dimensi Insani Dalam Maqashid al-Syari'ah", *Al-Risalah*, Vol. 15, No. 2 (2015), 216-217.

28 Abdi Wijaya, "Dimensi Ilahi dan Dimensi Insani Dalam Maqashid al-Syari'ah".

ertheless, there seems to be a development in meaning of the word *fî sabîlillâh* for aspects other than warfare in the way of Allah (*jihâd*) with all the equipment necessary for it.

Similarly, in terms of establishing Islamic Centers and the establishment of other Islamic foundations *zakâh* money cannot also be used for such purposes. The development in meaning of the word *fî sabîlillâh*, as being mentioned earlier, and with the same reason al-Qarâḍâwî allows for building such facilities with *zakâh*. It is also mentioned in the book *Fiqh al-Zakâh* that distributing *zakâh* in this form for exercising *jihâd* in the fields of culture, education and publicity is more important at this point provided that with sincerity and truth. It is very important, for example, to set up a center for spreading the message of Islam to non-Muslims on all continents and to establish an Islamic Center to educate young Muslims to prepare to defend Islam from its enemies.²⁹

Based on the fatwa the author assumes that al-Qarâḍâwî agrees that the people who have the right to receive the *zakâh* are Muslims who need things for survival and well-being. It means *zakâh* is intended to raise the standard of living and reduce the economic gap between the poor and the rich. This is in accordance with the words of Allah in Surah al-Hasyr [59]: 7, namely “so that it will not be a perpetual distribution among the rich from among you”.

Although in principle there is no difference in interpreting the provisions of Surah al-Taubah [9]: 60 above, regarding the word *fî sabîlillâh*, al-Qarâḍâwî appears not to focus on the interests of Muslim individuals anymore, but to other Islamic supporters. *Zakâh*

recipients are no longer intended for economic prosperity (in this case in order to preserve the souls) but are directed towards the maintenance of religion in the form of religious facilities and centers for Islamic activities. Such thoughts are of course in accordance with the concept of *maqâṣid al-syarî‘ah* that is understood by al-Qarâḍâwî and other scholars who have the same understanding as his. Moreover, al-Qarâḍâwî is also a contemporary scholar who is very conscientious with the study of *maqâṣid al-syarî‘ah*. This is evidenced by his statement that he is very convinced if his previous works and fatwas have a connection with *maqâṣid al-syarî‘ah*,³⁰ not to mention a special book on *fiqh maqâṣid* that he wrote. Yet, it does not mean that what he means by *maqâṣid al-syarî‘ah* is the same as *maqâṣid al-syarî‘ah* meant by the others.

***Maqâṣid al-Syarî‘ah* and Its Relationship with ‘Illat**

It is true that the concept of *maqâṣid al-syarî‘ah* was popularized by a Maliki scholar who lived in the 8th century H, namely Abû Ishâq al-Syâṭibî (d.790 H), but beforehand *maqâṣid al-syarî‘ah* had been conversed when *uṣûlî* scholars discussed about the theory of *maṣlaḥah* (benefits), for example as proposed by al-Juwainî Imâm al-Ḥaramain (d.478 H) and also Al-Ghazâlî (d.505 H). Their discussion of *maṣlaḥah* is basically in order to explain the goals of Allah in setting laws. Not only that, the talk of *maṣlaḥah* was also followed by Fakhr al-Dîn al-Râzî (d.606 H), al-Âmidî (d.631 H), ‘Izz al-Dîn ibn ‘Abd al-Salâm (d.660 H), al-Qarâfî (d. 684 H), Najm al-Dîn al-Ṭûfî (d.716 H), ibn Taimiyah (d.728

29 Yûsuf al-Qarâḍâwî, *Fiqh al-Zakâh*..., 668 .

30 Yûsuf al-Qarâḍâwî, *Dirâṣah fî Fiqh Maqâṣid al-syarî‘ah Bain al-Maqâṣid al-Kullîyyah wa al-Nuṣûs al-Juz‘iyyah*, (Kairo: Dâr al-Syurûq, 2008), 13.

H), ibn al-Qayyim al-Jauziyyah (d.751 H), al-Zarkasyî (d.794 H), and al-Syâtibî (d.790 H).³¹ According a famous opinion, it is in the hands of al-Syâtibî that is the science of *maqâşid al-syarî'ah* found its clear and systematic shape.³² Scholarly studies afterwards were focused more on the models of *maqâşid al-syarî'ah* application in the process of enacting the law besides finding additional possibilities to improve the concept. Regardless of the development of thoughts after al-Syâtibî, it is undeniable that al-Syâtibî is the first person to have laid a strong foundation in the study and further develop the science of *maqâşid al-syarî'ah*.

In accordance with the idea of the majority of scholars on the existence of *maqâşid al-syarî'ah*, thus the determination of Islamic law has to be inspired by full understanding that every determination of Islamic law should consider possible *maşlahah* that it may bear. The *maşlahah* not only refers to the interests of *mukallaf*, but more importantly, is how a decree is assured to satisfy the wishes of Allah (*qaşd al-syâri*). This is undoubtedly a tough job, but with a sincere heart and a true intention a *mujtahid* will be able to find what is desired by sharia.

Al-Syâtibî did not give a definitive understanding about *maqâşid al-syarî'ah*. According to Ṭâhir ibn 'Âsyûr (d.1973 AD), as quoted by al-Khâlîfî, *maqâşid al-syarî'ah* is *al-ma'ânî wa al-ḥikam* (meanings and wisdoms) desired by sharia (Allah the Exalted and His Messen-

ger) in every general legal setting.³³ Whereas, 'Alâl al-Fâsî (d. 1973 AD), as quoted by Busyro, defined it as an *al-ghâyah* (the final destination) and *al-asrâr* (secrets desired by sharia on every law set forth by Him). As for al-Khâlîfî, he defined *maqâşid al-syarî'ah* as *alma'ânî* (meanings) and *al-ḥikam* (wisdoms) desired by sharia in every law setting to realize benefits for humanity in the world and the hereafter. A definition that covers the whole sense of *maqâşid al-syarî'ah* was written by Wahbah al-Zuhaylî. He argued that *maqâşid al-syarî'ah* is meanings and purposes which can be understood/recorded on every law and to magnify the law itself, or can also be defined as an ultimate goal from the Islamic law and secrets set by sharia on every law He has set.³⁴

Based on the above definitions, it can be concluded that *maqâşid al-syarî'ah* is secrets and ultimate goals to be realized by sharia in every law He has set,³⁵ and by knowing it, according to Busyro, it would be useful for *mujtahids* as well as for those who do not reach the degree of *mujtahids*. For *mujtahids*, knowledge on *maqâşid al-syarî'ah* will assist them in establishing laws correctly and as an important science to understand the texts of the Qur'an and the Prophet's Hadith. As for others, it is hoped that they can understand the secrets of law-setting in Islam, thereby motivating them in implementing the law it-

31 'Abd al-Rahmân Yûsuf 'Abdullah al-Qaradâwî, *Nazariyah Maqâşid al-syarî'ah Bain Syaikh al-Islâm ibn Taimiyah wa Jumhûr al-Uşuliyyîn Dirâsah Muqâranah Min al-Qur`ân al-Khamis ila al-Qurun al-sâmin al-Hijrî* (Kairo: Universitas Kairo, 2000), 42.

32 Abdul Hameed Badmas Yusuf, "A Study of Evolution of Maqashid As-Syari'ah As Legal Theory", *Madania*, Vol. 19, No. 1 (2015), 3-5.

33 Riyâd Mansûr al-Khâlîfî, *al-Maqâşid al-syarî'ah wa Atsaruhâ fî Fiqh al-Mu'âmalât al-Milkiyyah* (Kuweit: Maktabah al-Istisyârât al-Syar'iyyah, 2004), 8.

34 Busyro, "Bom Bunuh Diri Diri Dalam Fatwa Kontemporer Yusuf al-Qaradhawi dan Relevansinya Dengan *Maqâşid al-Syarî'ah*", *Ijtihad Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 16, No. 1 (2016), 89.

35 Busyro, "Bom Bunuh Diri Diri Dalam Fatwa Kontemporer Yusuf al-Qaradhawi dan Relevansinya Dengan *Maqâşid al-Syarî'ah*".

self.³⁶ In addition, knowledge on *maqâsid al-syarî'ah* will give *mujtahids* the ability to apply (*taṭbîq*) the existing provisions in the Qur'an and the Sunnah and to apply the opinions of scholars in *fiqh* books in relation to the conditions being faced.³⁷

The study of '*illat* in *maqâsid al-syarî'ah* is a very decisive aspect, both the procedure of its invention and its application in developing Islamic law. Al-Âmidî stated that the legalization of law through the discovery of '*illat* that becomes its background is in the sense of realizing benefits in the world and the hereafter.³⁸ That is, a scholar has to be serious in finding law '*illat*, because it is not only related to the goodness of the world, but also for the benefit of the hereafter. The '*illats* found in terms of *mahdah* worship is usually only to strengthen the motivation of a person to worship. But '*illats* found in the problems of *mu'amalah* will have a huge impact on the development and renewal of the Islamic law.

'*Illat* is defined by scholars as a reason for the existence of a law (*manâṭ al-ḥukm*),³⁹ motivating a law that has been decided (*al-bâ'its*),⁴⁰ or the nature that affects the birth of a law (*al-mu'atsir*),⁴¹ and the nature that tells the existence of a law (*al-mu'arrif*). The

four substantive definitions have the same meaning. The *jumhur* (unanimous agreement among Muslim scholars) believe that every law set by Allah and His Messenger has a logical and rational reason, especially in the field of *mu'amalah*.

Many examples can be put forward, such as '*illat* restrictions for judges to decide a law in a state of anger,⁴² the '*illat* is that there is a *troublesome mood* that can lead to unfair verdict for litigants. The *troublesome mood* can be developed to other conditions, such as being drowsy, hungry, sick, having problems at home and so on. In developing an Islamic law, the above '*illat* is also rationally applied to other similar aspects, so the prohibition to decide a law is also applied to judges when sleepy, hungry, sick, having problems at home, and all the same aspects as the previously mentioned conditions. This is what the scholars of *uṣûl al-fiqh* is called '*illat muta'addiyah* (having a range).⁴³

On the other hand, the existence of '*illat* in a legal provision only applies to that particular law and cannot be extended to any other case,⁴⁴ and this is in general found in the terms of worship. Take the command of *ṣalâh* for example, in which Allah says in Surah Tâhâ [20]: 14, "*so worship Me and establish prayer for My remembrance*". In this verse it is mentioned clearly that the '*illat* of *ṣalâh* being obligatory is to remember Allah. Remembering Allah of course can be done in many other ways, such as mentioning His name, both verbally and in the heart, and can also be done by attending Islamic assemblies.

36 Busyro, "Bom Bunuh Diri Diri Dalam Fatwa Kontemporer Yusuf al-Qaradhawi dan Relevansinya Dengan *Maqâsid al-Syarî'ah*"..., 90.

37 Hj. A. Sukmawati Assaad, "Kehujjahan Maqashid Al-Syari'ah", *Al-Ahkam*, Vol. 5, No. 2 (2015), 188.

38 Dwi Aprilianto, "Fleksibilitas Hukum Islam Berdasarkan Illat dan Maslahah", *Akademika*, Vol. 9, No. 1 (2015), 42.

39 Abû Hâmid Al-Ghazâlî, *al-Mustasfa Min 'Ilm al-Uṣul*, Vol. 2, (Beirut: Dâr al-Fikr, [t.th]), 230.

40 Saif al-Dîn al-Âmidî, *al-Iḥkâm fî Uṣul al-Aḥkâm*, Vol. 3, (Beirut: Dâr al-Fikr, 1981), 285

41 Abû Hâmid Al-Ghazâlî, *al-Mustasfa Min 'Ilm al-Uṣul*..., 399.

42 Qâḍi al-Baidâwî, *Syarh al-Baidâwî wa Syarh al-Asnawî*, Vol. 5, ([T.Tp], [t.th]), 37.

43 Al-Bukhârî, *al-Jâmi' al-Musnad*, Vol. 9, 65; Muslim, *Ṣaḥih*, Vol. 3, 1342.

44 Amir Syarifuddin, *Ushul Fiqh I* (Jakarta: Lo - os, 1997), 176.

If the above ‘*illat* can be developed or extended, then *ṣalâh* is not an only way to remember Allah. One can remember Allah by mentioning his name or regularly coming to Islamic assemblies. However, scholars agree that the above ‘*illat* only applies to *ṣalâh* and cannot be extended to other activities. Such an ‘*illat* is known among scholars of *uṣûl al-fiqh* is as ‘*illat qaṣîrah*.⁴⁵

To find the ‘*illat*, the scholars of *uṣûl al-fiqh* give certain conditions. There are at least five conditions for making a trait interpreted from a Quranic text. First, the nature must be clear (*ẓâhir*), meaning that it can be understood by human senses. For example, the nature found in the allowing of shortening the prayer during a journey (*qasr*) which is mentioned clearly by Allah the Exalted, that is for travellers. Second, the nature must be certain and measurable (*munḍabîṭ*), and in this way travellers can be ascertained as a trait that allows one to perform *qasr*. Third, the nature is in accordance with the objectives of Allah in deciding a law, namely to give benefits to humans (*munâsib*), and in conditions of traveling (travellers), it will produce benefits when dispensation is given to shorten their *ṣalâh*. Fourth, the nature is not only found in a *naṣṣ* but also in *furû’* (cases which are not in a *naṣṣ*).⁴⁶ Fifth, that nature cannot be against a *naṣṣ*,⁴⁷ the point is that the nature found cannot eliminate the provisions contained in the *naṣṣ*.

For the last term it can be exemplified by Allah’s prohibition of consuming *khamar* (alcoholic drinks). The reason (‘*illat*) agreed by

scholars is the presence of *iskâr* (substance that causes one to be drunk) in *khamar*. With knowledge possessed by someone, the substance can be removed, for example by putting something in *khamar* so that it no longer has the potential to make people consuming it drunk (lost of mind). Of course this raises a question, is *khamar* still forbidden despite such changed condition? Of course this is not approved by any scholars, because one of the functions of ‘*illat* is to be developed in new cases which are not mentioned by *naṣṣ*, not to dispose the *naṣṣ* itself.

To find an ‘*illat*, as the conditions above, the ulama of *uṣûl al-fiqh* put forward the theory of *masâlik al-‘illah* (the method of finding ‘*illats*). This method is divided into two parts, namely finding ‘*illat* through *manṣûṣah* or *naqliyyah* (as written in a *naṣṣ*) and finding ‘*illat* through *mustanbatah/gair naqliyyah* (which is not mentioned in a *naṣṣ*).⁴⁸ The finding of ‘*illat manṣûṣah* is by basing on the instructions of the letters which are written clearly in a *naṣṣ*, and the letters usually begin with the letter *lam* ل as found in Surah Thaha [20]: 14, لَنُكَرِي (to/due to remember Me), or *lam* and *kay* as in لَكِيْلَا (in order to not) in Surah al-Hasyr [59]: 7, الدَّافِعَةُ لِأَجْلِ (because, for) as in the hadith of the Prophet,⁴⁹ or مِنْ أَجْلِ (resulted from) in Surah al-Maidah [5]: 32. The ‘*illat* shown by these letters is an ‘*illat* which is *ṣarih* in a *naṣṣ*.

As for in other forms, a *naṣṣ* does not use such letters, but is indicated by the sentence structure that contains instructions of ‘*illat*. For example, in Surah al-Jumu‘ah [62]: 9 it is stated that the prohibition against buying and selling when there is a call to carry out

45 Wahbah al-Zuhaylî, *Uṣûl al-Fiqh al-Islâmî*, Vol. 1, (Beirut: Dâr al-Fikr al-Mu‘aṣir, 1986), 657.

46 Zakiy al-Dîn Sya’bân, *Uṣûl al-Fiqh al-Islâmî* (Kairo: Dâr al-Ta’lîf, 1964), 141-143.

47 Nasrun Haroen, *Ushul Fiqh* (Jakarta: Logos, 1996), 83-84.

48 Abû Hâmid Al-Ghazâlî, *al-Mustaṣfa Min ‘Ilm al-Uṣul...*, 288-306.

49 Muslim, *Musnad al-Ṣaḥih*, Vol. 3, 1561.

a Friday prayer service. In the verse it is not stated clearly (*ṣāriḥ*) the cause of prohibition on buying and selling, but from the sentence structure it is found that the Friday prayer is actually the '*illat*'. The finding of an '*illat*' like this according to the majority of ulama is still categorized as *manṣūṣah*, but *gair al-ṣāriḥ* (not clearly stated), whereas Al-Ghazâlî named it with the method of *al-îmâ'*, which is a reason required in a *naṣṣ*.⁵⁰

The next theory in finding an '*illat*' is to look at *ijmâ'* (agreement of scholars or the companions of the Prophet peace be upon him. For example, *ijma'* of the companions of the Prophet peace be upon him about a reason for giving a grandmother the right to inherit the inheritance. In the Qur'an there is no word grandmother (*jaddah*) as *aṣḥâb al-furûd* (recipients of inheritance), and this case never happened at the time of the Prophet. Therefore, the companions of the Prophet peace be upon him did *ijtihâd* and agreed that grandmothers are in the position of mothers when the latter have been gone. Another example is the reason for the companions of the Prophet peace be upon him to compile the Qur'an to maintain its existence. The reasons contained in this *ijmâ'* become a guidance in determining cases that appear later.

If the Qur'an does not mention specific reasons about the causes of command and banning, then the search of '*illat*' is done by scholars by exerting all its intellectual abilities so that a *naṣṣ* can be developed to answer new cases which have no law status yet. '*Illat*' found with such a model is called '*illat mustanbaṭah*'. For example, a hadith of the Prophet which requires a *kafârah* to an Arab Bedouin who reported to the Prophet that he

had done a sexual intercourse during the day of the month Ramadan with his wife. The Prophet set a *kafârah* penalty for him by liberating a slave, or fasting for two consecutive months, or feeding 60 poor people.⁵¹ It is unclear about the true cause of the punishment, but the sentence provides a clue that a sexual intercourse during the day of the month Ramadan with his wife (*waṭa'*) that he had done is the '*illat*' according to the majority of ulama, Malikiyah and Hanafiyah scholars, on the other hand, did not consider *waṭa'* as '*illat*', because according to them, the '*illat*' is due to disrespect for Ramadan. Such a difference also demonstrates that '*illat mustanbaṭah*' has high potential to cause different opinions among scholars.

One way to find '*illat mustanbaṭah*' is through *al-sibr wa al-taqṣîm* method, which is by collecting a number of characteristics found in a legal basis and then choosing which one is suitable to be considered an '*illat*'. Al-Ghazâlî argued that this technique is the most appropriate one (*ṣaḥîḥ*) to define '*illat*'.⁵² According to Nurlailatul Musyafaah, the *al-sibr wa al-taqṣîm* is a theory that is agreed by the whole *uṣûl al-fiqh* scholars.⁵³ The theory is also different from the '*illat*' search model in the *al-manâṭ* theory. Fahrudin Ali Sabri stated that the *manâṭ* theory, the possibility is that an '*illat*' is available in a *naṣṣ*, whereas in the *al-sibr wa al-taqṣîm*, such a possibility is not available.⁵⁴ For example, an exchange (barter) of six kinds of similar things in the

51 Al-Bukhârî, *al-Jâmi' al-Musnad*, Vol. 3, 160.

52 Abû Hâmid Al-Ghazâlî, *al-Mustaṣfa Min 'Ilm al-Uṣul...*, 295.

53 Nurlailatul Musyafaah, "Ta'lîl al-Ahkâm Dari Masa Rasulullah Hingga Masa Ulama Ushûl", *Al-Jinâyah: Jurnal Hukum Pidana Islam*, Vol. 2, No. 2 (2016), 233.

54 Fahrudin Ali Sabri, "Penetapan 'Illat Al-Hukm Melalui Al-Manâṭ Dalam Qiyâs", *al-Ihkam*, Vol. 10, No. 1 (2015), 30-31.

50 Al Abû Hâmid Al-Ghazâlî, *al-Mustaṣfa Min 'Ilm al-Uṣul...*, 289.

same way would cause *faḍl* usury or *ribâ faḍl*, as in the hadith of Rasulullah peace be upon him: “Gold is to be paid for by gold, silver by silver, wheat by wheat, barley by barley, dates by dates, and salt by salt, like for like and equal for equal, payment being made hand to hand. If these classes differ, then sell as you wish if payment is made hand to hand. (Narrated by Imâm Muslim).⁵⁵

The things mentioned in the hadith are not the same items, because wheat which is one of the six types of the items can sometimes be main food and regular food. If the ‘*illat* is considered in the main then it is less accurate (in the view of Ḥanafiyah) because usury can also occur in salts that are not main food. It is also unsuitable because usury can also occur in gold and silver which are not food. In wheat there are three characteristics; its weight can be measured, it is a main food, and it is a kind of plant. In gold and silver there is only the first characteristic. It is based on this problem that *mujtahid* seek to find one characteristic that is the same as the all items. Finally, after examining carefully one characteristic, which is possessed by the all six items, is obtained that is the first characteristic, that all the six items can be measured, either with scales and dosages. Such a characteristic can be used as an ‘*illat* to establish the law of illicit exchanges of similar goods if the scale, the size and the dosage are not the same.

The discovery of law ‘*illat* like this is not meant only to explain what is mentioned by a *naṣṣ*, but rather it is meant that it can be stretched to other types of objects that are not explicitly mentioned in a *naṣṣ*. Thus, every object that is scalable and weighed cannot be exchanged when the quantity of the exchange is different, such as the exchange between rice

with rice, onions with onions, sugar with sugar, and so on. It is the method of the discovery of ‘*illat mustanbaṭah* with the *al-sibr wa al-taqṣīm* theory that will be applied in finding the eighth ‘*illat* of

the people who have the right to receive the *zakâh* (*mustahiq*).

The Establishment of Islamic Centers in the Study of ‘*Illat of Maqâṣid*

Those who have the right to receive the *zakâh* are limited by Allah to eight groups only. This limitation is obtained by the word **إِنَّمَا** (only) found in the beginning of Surah al-Tauba [9]: 60. Thus, *zakâh* is only given to the destitute, the poor, the *zakâh* committees, new converts, slaves, debtors, *fî sabîlillâh*, and travellers. There are no other groups are entitled to receive the *zakâh* except the aforementioned ones, either in the Qur’an or the traditions of the Prophet peace be upon him. This demonstrates that only eight groups are called *mustahiq*, or other groups may be included as an extension of the meaning of the eight *aṣnâf* by looking at the study of law ‘*illat*.

As mentioned earlier, some scholars, in particular the contemporary scholars, argue that the extension of the meaning of *fî sabîlillâh* is not only related to *jihâd* and all the necessities of *jihâd*, but to interpret it by safeguarding religious interests other than that, as for the construction of Islamic Centers, and other public facilities. Such stance of course also has its own reasons and with different studies. In accordance with the theme of writing, this study will focus on the analysis of ‘*illat* by looking at the relation of the study with *mâqâshid al-syarî‘ah*.

Allah the Exalted does not mention clearly the reason for the entitlement to the eight *aṣnâf* to receive the *zakâh*. The interest to search for

55 Muslim, *Musnad al-Ṣaḥih...*, Vol. 3, 1210.

the '*illat*' is certainly related to the development of Islamic law and to answer other unspecified groups. Taking for example in research there is a question as to whether security guards may receive the *zakâh*,⁵⁶ whether teachers are entitled to *zakâh*,⁵⁷ whether orphans are entitled to *zakâh*⁵⁸ and so on. These questions of course have to be answered by Islamic jurists by performing *ijtihâd*. One way to do this is to examine law '*illats*' contained in the verse and to search for the possibility of being exposed to the the aspects being questioned.

Owing to the absence of the mention of law '*illat*' in Surah al-Taubah [9]: 60, then the search for an '*illat*' here includes '*illat mustanbaṭah*'. Therefore, even if the '*illat*' is there, of course it is found by *al-sibr wa al-taqsîm* research. In the terminology of *uṣûl al-fiqh*, *al-sibr* means testing a suitable characteristic to be an '*illat*', while *al-taqsîm* limits the nature of the characteristics chosen to be the '*illat*'.⁵⁹ In other words *al-sibr wa al-taqsîm* compiles a number of characteristics contained in a legal requirement and then chooses which of them is appropriate to be an '*illat*'. Al-Ghazâlî said that this way is the most appropriate way (*shahîh*)

to define a law '*illat*'.⁶⁰

Regarding the '*illat*' of the eight people who have the right to receive the *zakâh* contained in Surah al-Taubah [9]: 60, it is seen that the verse is a complete unity, which is the same as the hadith of the Prophet mentioning different objects and prohibiting exchanging similar objects if the quantity is not the same as it can cause *faḍl* usury. From the previous discussion it is found an '*illat mustanbaṭah*' of the hadith that the similarity of the objects lies in the state of the objects can be weighed or scaled. When the method is applied to the search of the '*illat*' of the eight people who have the right to receive the *zakâh* mentioned in the Qur'an, there are at least three alternatives that may trigger the provision. First, they are people who need funds to escape from attachment to others. Second, they are people who need funds to fight for religion. Thirdly, they are people who need funds for their living expenses. With these three characteristics one of them, which is more general and can be applied to all the criteria mentioned in a *naṣṣ*, is chosen.

For the first characteristic, it seems that only two *aṣnâf* who fulfil it, the people who are indebted and the slaves, because they need funds to release themselves from attachment to others, while the others do not fulfil that characteristic. As for the second characteristic, it seems that only *fî sabîlillâh* can fulfil it, while the others do not. The third characteristic, according to the author, possibly belongs to the all *aṣnâf*. This is because in a whole *naṣṣ* condition there is no possible underlying reason. The purpose of finding such a reason is to extend the scope of the *naṣṣ* to other forms that are not mentioned by the *naṣṣ*.

56 See Abdul Rozak, "Pemaknaan Fisabilillah Untuk Petugas Keamanan (Satpam) Sebagai Mustahik Zakat di Perumahan Taman Pondok Jati Sidoarjo", *Maliyah*, Vol. 6, No. 2 (2016), 1356-1373.

57 See Aan Zainul Anwar, "Zakat dan Kesejahteraan Guru Agama di Pondok Pesantren dan Madrasah Diniyah", *Jurnal Dinamika Ekonomi & Bisnis*, Vol. 9, No. 2 (2012), 53-60.

58 See Ilham Dani Siregar, "Anak Yatim Sebagai Mustahik Zakat di Kecamatan Sipirok Kabupaten Tapanuli Selatan", *At-Tafahum: Journal of Islamic Law*, Vol. 1, No. 2 (2017), 1-11.

59 'Abd al-Ḥakim 'Abd al-Raḥmân As'ad al-Sa'dî, *Mabâhiṣ al-'Illah fî al-Qiyâs 'Inda al-Uṣûliyyîn*, cet. 3 (Beirut: Dâr al-Basâ'ir al-Islâmiyah, 1987), 444.

60 Abû Ḥâmid al-Ghazâlî, *al-Mustaṣfâ Min 'Ilm al-Uṣûl*, Vol. 1..., 295.

Therefore, the characteristic chosen as an *'illat* from the mention of the eight *ashnaf* in the above verse is the one which applies to all the *aṣṇâf*, namely those who need funds for their daily needs.

According to the author, the reasons for the determination of the last characteristic (people who need funds for living expenses) as an *'illat* can be explained as follows:

First; the destitute, it is a person who has no property at all and does not even have a job, so he cannot afford his daily needs. It is the meaning agreed upon in the Syâfi'î dan Hanbali's school,⁶¹ even being destitute is a worse condition than being poor.⁶² Meanwhile, according to al-Ṭabarî, as quoted by Atabik, the destitute are the ones who need help for their lives but they do not want to ask for help as a means to protect their dignities.⁶³ The *zakâh* fund channelled to them will greatly help overcome their difficulties, especially for their needs for food (eating and drinking).

Second, the poor, that is, people with little wealth, but the wealth is not enough to meet their daily needs, especially needs for food. Dede Rodin argued, as quoted by Ali Yafie, that the poor do not have any property at all, even if they do have it but only a little. In addition, they also have jobs, but the jobs and their possessions are not enough to meet their basic needs.⁶⁴ The point is that the poor are

people who need help to meet the needs of their lives.

The *zakâh* committee (*âmil al-zakâh*); are the people who work to take care of *zakâh* property. In theory, this group works full-time and does not have an opportunity to look for other jobs. Therefore, logically the cost of their lives is borne by *zakâh*. It is certain that with the *zakâh* funds they fulfil their daily needs, especially their basic needs. According to Syahril Jamil, as quoted from Hasbi Ash Shiddieqy, a committee may be from the rich. The funds they receive from *zakâh* are their wages which are used to meet their needs, even though being rich, they still desire their wages.⁶⁵ It means that a committee still needs funds for his life, especially if his condition is poor. stop

Fourth; *muallaf*, which is generally understood as new converts or people who are persuaded to convert to Islam. According to the custom, when a person converts and embraces Islam, he will be set aside, expelled, and treated badly by his family. As a consequence, he has no place in his life. This is always the case in the time of the Messenger of Allah (PBUH), where people who embraced Islam would be expelled by their families from their homes without being able to take their properties. Despite the many classifications of *muallaf* according to scholars, the reality is that a *muallaf* is an individual who needs the help of Muslims to continue his life.

Fifth; slaves, are people who are usually legally owned by someone due to losing a war or being possessed through a trade. No one in this world is willing to be enslaved by anyone,

61 Abdul Karim, "Dimensi Sosial dan Spritual Ibadah Zakat, *Ziswaf Jurnal Zakat dan Wakaf*, Vol. 2, No. 1 (2015), 8.

62 Dede Rodin, "Rekonstruksi Konsep Fakir dan Miskin Sebagai Mustahik Zakat", *Ijtihad Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 15, No. 1 (2015), 140.

63 Ahmad Atabik, "Peranan Zakat Dalam Pengentasan Kemiskinan"..., 351.

64 Dede Rodin, "Rekonstruksi Konsep Fakir dan Miskin Sebagai Mustahik Zakat"..., 154.

65 Syahril Jamil, "Prioritas Mustahik Zakat Menurut Teungku Muhammad Hasbi Ash Shiddieqy", *Istinbath*, Vol. 14, No. 16 (2015), 151.

but to be free from slavery, a slave sometimes has to pay ransom to his master, as the ransom given by Abû Bakar (d. 13 H) to liberate Bilâl ibn Rabah (d. 20 H). With that ransom slaves can live a free life like any other human being, and can strive to possess wealth and fulfil the needs of life. Therefore, they desperately need help to liberate themselves from slavery.

Sixth; the debtors; are people who need help to pay off their debts. A person usually owes some money for productive purposes in order to meet his or her basic needs, or he willfully owes the money for primary consumptive needs. When he is constrained to pay off his debt, *zakâh* fund is essentially able to help him meet the needs of his life.

Seventh; *fi sabîlillâh*, are those who fight in the way of Allah. According to M. Sarbini, in its development, when warfare in the name of religion (*jihâd*) no longer exists, the meaning of the word *fi sabîlillâh* is expanded to those who fight in the path of Allah in the forms of *da'wah* (missionary), thoughts, education, and so on.⁶⁶ Rashid Riḍâ, one of the contemporary scholars, said that *fi sabîlillâh* with the meaning of *jihâd* is still a fundamental meaning and all the facilities needed in the *jihâd*. Nowadays, that meaning can be developed by sending people to preach and finance their needs, and also to finance teachers who teach some knowledge, although for this aspect Rashid Riḍâ requires the teachers are not from the rich class.⁶⁷ Furthermore, the Indonesian Ulama Council in its fatwa stated that

the term *fi sabîlillâh* can also be interpreted by giving scholarships to students.⁶⁸

Regardless of the different opinions among scholars in developing the meaning of *fi sabîlillâh*, one thing that needs to be emphasized here is that whatever the forms and ways of struggle, the goal of *zakâh* is still for individuals who fight for the religion of Allah and to fund the activities needed to elevate the religion of Allah (*li i'lâ kalimatillâh*). Such a commitment is intended in order that the struggle of those who develop Islam is not halted just because their basic needs are not fulfilled. Therefore, facilitating people who make great efforts for the religion of Islam in the various aspects mentioned above is to ensure that they continue their struggle without being disturbed by the insistence of their life needs. Thus, the target of *zakâh* for this group is still related to fulfilling one's needs.

Eighth; *Ibn Sâbil*, are people who are on a journey with an interest that is not immoral, but are constrained due to insufficient costs. The costs referred to here of course include all kinds of needs on the trip, especially basic needs. Thus, when the '*illat* is the urgent need for funds for meeting life's necessities, thus distributing *zakâh* that is not for the benefits of human's life (*hiḍḍ al-naḥs*) seems to be incompatible with the reason of *al-syâri*'. That is, the discussion about *zakâh* is a discussion about overcoming economic difficulties of society because the aim of *zakâh* is economic welfare of individuals in society. Therefore, when *zakâh* is used to build mosques or Islamic Centers, it seems that it is not in accordance with the objectives of *al-syâri*' in determining the law of *zakâh*. In addition, the finding of

66 M. Sarbini, "Tafsir Fi Sabilillah dan Implikasinya Bagi Cakupan Fi Sabilillah Sebagai Mustahik Zakat", *Al Maslahah*, Vol. 6, No. 1 (2018), 17-20.

67 Siti Tatmainul Qulub dan Ahmad Munif, "Pemaknaan Fi Sabilillah Sebagai Mustahik Zakat Menurut Ulama Kontemporer", *Jurnal Bimas Islam*, Vol. 8, No. 4 (2015), 618-619.

68 Siti Tatmainul Qulub dan Ahmad Munif, "Pemaknaan Fi Sabilillah Sebagai Mustahik Zakat Menurut Ulama Kontemporer"..., 623.

a law *'illat* like this is not only intended to explain what is mentioned by a *naṣṣ*, but further intended to be stretched to other forms of conditions which are not explicitly mentioned in a *naṣṣ* (*'illat muta'addiyah*).

Muh. Nashirudin, as what he understood from ibn Qayyim al-Jauziyah, said that the *'illatization* process of a law must be correlated with the benefits to be obtained. An *'illat* cannot stand alone to declare the existence and absence of a law, but it must identify the realization of benefits and the avoidance of humans from *mafsadah*.⁶⁹ The benefits referred to in the *maqâṣid al-syarî'ah* must be returned to the *maṣlahah* agreed upon by the majority of scholars, namely the *maṣlahah* that is in accordance with the wishes of Allah (*qasd al-Syâri'*). At least that is what was described by Al-Ghazâlî and al-Syaṭibî and was followed by the majority of scholars afterwards. Basing a law solely by looking at *maṣlahah* (wisdom), according to Jasser Auda, is a secondary goal, while basing a law by adhering to an *'illat* is a fundamental benefit of a law determined by al-Shari' and believed by mujtahid.⁷⁰

Regarding the meaning of the word *fî sabîlillâh*, the mufassir generally interpret it as people who need help to fight against the enemies of Allah. Although there are other meanings, their development is not agreed upon to make buildings that are not directly related to *jihâd*.⁷¹ From this description the author con-

cludes that the distribution of *zakâh* is aimed to fulfil individual needs, for the purpose of living life in this world or to defend this religion from the attacks of the enemies of Islam through various activities in order to elevate the religion of Allah, whether it is to cover the costs of war, costs *da'wah*, the costs of Islamic education, and so on, which is aimed at individuals who are active in those fields. It appears that this is the purpose of *al-Syâri'* to establish legal provisions for people who are entitled to receive the *zakâh*, not to erect a building. Thus, without reducing the meaning of the quite diverse thoughts of scholars, this study of *'illat* by the method of *al-sibr wa al-taqsîm* concludes that *zakâh* is only intended to fulfil individuals' needs in the eight *aṣnâf*, not to build mosques or Islamic centers. According to the author, this is the *maṣlahah* that Allah wants when establishing the law which is in accordance with *maqâṣid al-syarî'ah*. To build mosques and Islamic Centers, on the other hand, there are rules that are more certain, namely through *waqf*, *infaq*, and other general charity institutions.

Conclusion

The study of *maqâṣid al-syarî'ah* aims to produce *maṣlahah* in every stipulated law. One of the main tools in studying *maqâṣid al-syarî'ah* is *'illat*, which is the reason behind the stipulation of a law. In the matter of the people who have the right to receive the *zakâh*, Allah the Exalted does not mention *'illat* explicitly, thus giving rise to differences in the interpretation of scholars in conducting studies on the development of the people who have the

69 Muh. Nashirudin, "Ta'lîl al-Ahkâm dan Pembaruan Ushul Fikih", *Ahkam*, Vol. 15, No. 1 (2015), 25.

70 Muh. Nashirudin, "Ta'lîl al-Ahkâm dan Pembaruan Ushul Fikih"..., 24.

71 Read the full version in Abu 'Abdillâh Muḥammad ibn Ahmad ibn Abi Bakr al-Qurṭubî, *al-Jâmi' al-Ahkâm al-Qur'ân*, cet.2, Vol. 8 (Kairo: Dâr al-Kutub al-Mishriyah, 1964), 185; Muḥammad ibn Jarîr al-Ṭabariy, *Jâmi' al-Bayân*

fî Tafsîr al-Qur'ân, cet.1, Vol. 14, (Mesir: Muassasah al-Risâlah, 2000), 319; Abu al-Fida' Ibn Kasîr al-Qurasyî, *Tafsîr al-Qur'ân al-'Azîm*, cet. 2, Vol. 6, ([ttp]; Dâr al-Thaibah li al-Nasyr wa al-Tawzî', 1999), 591.

right to receive the *zakâh*. The study of *'illat* demonstrates a reason for giving the *zakâh* as a means to fulfil the needs of individuals in accordance with their different conditions. Furthermore, the purpose of the *zakâh* is to prosper the people who have the right to receive the *zakâh* economically, and herein lies the *maṣlahah* to be manifested in the *maqâṣid al-syarî'ah*. The development of *fî sabîlillâh* meaning in the construction of places of worship and Islamic Centers is not in accordance with the acquired *illat*, namely to fulfil the interests of the people who have the right to receive the *zakâh*. But developing its meaning to finance a person's *da'wah* struggle, hire teachers, or provide educational scholarships, is a more suitable meaning with *maqâṣid al-syarî'ah*.

References

Journals

- Anwar, Aan Zainul. "Zakat dan Kesejahteraan Guru Agama di Pondok Pesantren dan Madrasah Diniyah." *Jurnal Dinamika Ekonomi & Bisnis*, Vol. 9, No. 2, 2012.
- Aprilianto, Dwi. "Fleksibilitas Hukum Islam Berdasarkan Illat dan Masalah." *Akademika*, Vol. 9, No. 1, 2015.
- Assaad, Hj. A. Sukmawati. "Kehujjahan Maqashid Al-Syari'ah." *Al-Ahkam*, Vol. 5, No. 2, 2015.
- Atabik, Ahmad. "Peranan Zakat Dalam Pengentasan Kemiskinan." *Ziswaf*, Vol. 2, No. 2, 2015.
- Aziz, Jamal Abdul. "Dekonstruksi Paradigmatik Pengembangan Zakat: Analisis Kritis Pemikiran Yusuf al-Qaradawi." *Ijtihâd Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 17, No. 2, 2017.
- Busyro. "Bom Bunuh Diri Diri Dalam Fatwa Kontemporer Yusuf al-Qaradhwani dan Relevansinya Dengan Maqâṣid al-Syari'ah." *Ijtihâd Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 16, No. 1, 2016.
- Habibullah, Eka Sakti. "Implementasi Pengelolaan Zakat Pada Ashnaf Fi Sabilillah (Studi Ijtihâd Ulama Klasik dan Kontemporer)." *Al-Maslahah*, Vol. 3, No. 5, 2015.
- Hasan, Muhammad. "Pengamalan dan Pengelolaan Zakat Berbasis Kearifan Lokal (Studi di Masyarakat Kampung Sanggau)." *Al-Adalah*, Vol. 12, No. 4, 2015.
- Jamil, Syahril. "Prioritas Mustahik Zakat Menurut Teungku Muhammad Hasbi Ash Shiddieqy." *Istinbath*, Vol. 14, No. 16, 2015.
- Karim, Abdul, "Dimensi Sosial dan Spritual Ibadah Zakat," *Ziswaf Jurnal Zakat dan Wakaf*, Vol. 2, No. 1, 2015.
- Musyafaah, Nurlailatul. "Ta'îl al-Ahkâm Dari Masa Rasulullah Hingga Masa Ulama Ushûl." *Al-Jinâyah: Jurnal Hukum Pidana Islam*, Vol. 2, No. 2, 2016.
- Nashirudin, Muh. "Ta'îl al-Ahkâm dan Pembaruan Ushul Fikih," *Ahkam* 15, No. 1, 2015.
- Qulub, Siti Tatmainul & Ahmad Munif. "The Meaning of Fi Sabilillah as a Mustahik Zakat according to Contemporary Ulama." *Jurnal Bimas Islam*, Vol. 8, No. 4, 2015.
- Rodin, Dede. "Rekonstruksi Konsep Fakir dan Miskin Sebagai Mustahik Zakat." *Ijtihâd Jurnal Wacana Hukum Islam dan Kemanusiaan*, Vol. 15, No. 1, 2015.
- Rozak, Abdul. "Pemaknaan Fisabilillah Untuk Petugas Keamanan (Satpam) Sebagai Mustahik Zakat di Perumahan Taman Pondok Sidoarjo." *Maliyah*, Vol. 6, No. 2, 2016.

- Sabri, Fahrudin Ali. "Penetapan 'Illat al-Hukm Melalui Al-Manâth Dalam Qiyâs." *al-Ihkam*, Vol. 10, No. 1, 2015.
- Sarbini, M. "Tafsir Fi Sabilillah dan Implikasinya Bagi Cakupan Fi Sabilillah Sebagai Mustahik Zakat." *Al Maslahah*, Vol. 6, No. 1, 2018.
- Sarif, Akbar dan Ridzwan Ahmad. "Konsep Maslahat dan Mafsadah Menurut Imam al-Ghazali." *Tsaqafah Jurnal Peradaban Islam*, Vol. 13, No. 2, 2017.
- Siregar, Ilham Dani. "Anak Yatim Sebagai Mustahik Zakat di Kecamatan Sipirok Kabupaten Tapanuli Selatan." *At-Ta'fahum: Journal of Islamic Law*, Vol. 1, No. 2, 2017.
- Sukiati. "Pengalihan Zakat Fisabilillah Untuk Kepentingan Umum Menurut Yusuf al-Qaradhawi (Sebuah Penelitian Hukum Filosofis)." *Fitrah*, Vol. 2, No. 1, 2015.
- Waluya, Atep Hendang. "Analisis Makna Fi Sabilillah Dalam QS al-Taubah [9]: 60 Dan Implementasinya Dalam Perekonomian (Studi Literatur Makna Fi Sabilillah Menurut Para Mufassir dan Fukaha Klasik dan Kontemporer)." *Rausyan Fikr*, Vol. 13, No. 1, 2017.
- Wijaya, Abdi. "Dimensi Ilahi dan Dimensi Insani Dalam Maqashid al-Syari'ah." *Al-Risalah*, Vol. 15, No. 2, 2015.
- Yusuf, Abdul Hameed Badmas. "A Study of Evolution of Maqashid As-Syari'ah As Legal Theory." *Madania*, Vol. 19, No. 1, 2015.
- Zalikha, Siti. "Pendistribusian Zakat Produktif Dalam Perspektif Islam." *Jurnal Ilmiah Islam Futura*, Vol. 15, No. 2, 2016.
- Books**
- Al-Âmidî, Saif al-Dîn. *al-Ihkâm fî Uşul al-Ahkâm*. Vol. 3. Beirut: Dâr al-Fikr, 1981.
- Al-Baidâwî, Qâdî. *Syarh al-Baidâwî wa Syarh al-Asnawî*. Vol. 5, ([T.Tp], [t.th]).
- Al-Bukhârî al-Ja'fî, Muhammad ibn Ismâ'il Abu 'Abdillâh. *al-Jâmi' al-Musnad al-Şahîh al-Mukhtaşar min Umûr Rasûlillâh SAW wa Sunanuh wa Ayyâmuh*. Vol. 2. Dâr al-Tawwâf al-Najâh, [tth].
- Al-Ghazâlî, Abû Hâmid. *al-Mustaşfâ Min 'Ilm al-Uşûl*. Vol. 1 & 2. Beirut: Dâr al-Fikr, [t.th].
- Al-Khâlîfî, Riyâḍ Mansûr. *al-Maqâşid al-syarî'ah wa Atsaruhâ fî Fiqh al-Mu'âmalât al-Milkiyyah*. Kuwait: Maktabah al-Istisyârât al-Syar'iyyah, 2004.
- Al-Naisabûrî, Muslim ibn al-Ḥajjâj Abû al-Ḥasan al-Qusyairî. *Musnad al-Şahîh al-Mukhtaşar bi Naql al-'adl Ilâ Rasûlillâh SAW*. Vol. 1. Beirut: Dâr Ihyâ' al-Turâs al-'Arabi, [tth].
- Al-Qarâḍâwî, 'Abd al-Rahmân Yûsuf 'Abdullah. *Naẓariyah Maqâşid al-Syarî'ah Bain Syaikh al-Islâm ibn Taimiyah wa Jumhûr al-Uşuliyyîn Dirâsah Muqâranah Min al-Qur'ân al-Khamis ila al-Qurun al-şâmin al-Hijrî*. Kairo: Universitas Kairo, 2000.
- Al-Qarâḍâwî, Yûsuf. *Dirâsah fî Fiqh Maqâşid al-syarî'ah Bain al-Maqâşid al-Kulliyyah wa al-Nuşûs al-Juz'iyyah*. Kairo: Dâr al-Syurûq, 2008.
- Al-Qarâḍâwî, Yûsuf. *Fî Fiqh al-Aqalliyyât al-Muslimah*. Kairo: Dâr al-Syurûq, 2001.
- Al-Qarâḍâwî, Yûsuf. *Fiqh al-Zakâh Dirâsah Muqâranah li Ahkâmihâ wa Falsafatihâ fî Daw' al-Qur'ân wa al-Sunnah*. Vol. 2. Beirut: Mu'assasah al-Risâlah, 1973.
- Al-Qarâḍâwî, Yûsuf. *Min Hadyi al-Islâm Fatâwa Mu'âşirah*. Cet. 3. Vol. 2. Manşûrah: Dâr al-Wafâ' al-Ṭabâ'ah wa al-Nasyr wa al-Tawzî', 1994.
- Al-Qurasyî, Abu al-Fida' ibn Kasir. *Tafsîr al-Qur'ân al-'Azîm*. Cet. 2. Vol. 6. [ttp]; Dâr al-Thaibah li al-Nasyr wa al-Tawzî', 1999.

- Al-Qurtûbi, Abu ‘Abdillâh Muhammad ibn Ahmad ibn Abi Bakr. *al-Jâmi‘ al-Ahkâm al-Qur’ân*. Cet.2. Vol. 8. Kairo: Dâr al-Kutub al-Mishriyah, 1964.
- Al-Sa’dî, ‘Abd al-Ḥakim ‘Abd al-Raḥmân As‘ad. *Mabâhiṣ al-‘Illah fî al-Qiyâs ‘Inda al-Uṣûliyyîn*. Cet. 3. Beirut: Dâr al-Basâ’ir al-Islâmiyah, 1987.
- Al-Ṭabari, Muhammad ibn Jarîr. *Jâmi‘ al-Bayân fî Tafsîr al-Qur’ân*. Cet.1. Vol. 14. Mesir: Muassasah al-Risâlah, 2000.
- Al-Tirmizî, Muhammad ibn ‘Isâ ibn Saurah ibn Mûsa ibn al-Ḍahâk. *Sunan al-Tirmizî*. Vol. 1. Mesir: Mustafâ al-Bâbî al-Halabî, 1975.
- Al-Zuhaylî, Wahbah. *Uṣûl al-Fiqh al-Islâmî*. Vol. 1. Beirut: Dâr al-Fikr al-Mu’aṣir, 1986.
- Haroen, Nasrun. *Ushul Fiqh*. Jakarta: Logos, 1996.
- Majma’ al-Lughah al-‘Arabiyah. *Mu’jam al-Wajîz*. Mesir: Wizârah Tarbiyah wa Ta’lik, 1993.
- Sâbiq, Sayyid, *Fiqh al-Sunnah*. Vol. 1. Beirut: Dâl al-Fikr, 1983.
- Sya’bân, Zakîy al-Dîn, *Uṣûl al-Fiqh al-Islâmî*. Kairo: Dâr al-Ta’lîf, 1964.
- Syarifuddin, Amir, *Ushul Fiqh I*. Jakarta: Logos, 1997.

