

TA'ARUDH AL-ADILLAH : PROBLEM SOLVING METHODS OF ISLAMIC LAW

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Abstrak: Dalam perkembangan ilmu fiqh yang sangat pesat, tentunya memiliki korelasi dengan pemahaman dalil yang bersumber dalam Al-Qur'an dan Hadist. Misalnya terdapat suatu dalil hukum yang ketika dihadapkan pada permasalahan tertentu akan menemukan solusinya, namun tidak sedikit pula hukum yang berasal dari Al-Qur'an dalam konteks yang sama tetapi menimbulkan perbedaan argumentasi dalam memahaminya. Pertentangan disini adalah ta'arudh dalil yang saling bertentangan. Maka dalam proses penelitian ini menggunakan pendekatan kualitatif dengan mengedepankan aspek yuridis normatif, agar tidak terjadi simpang perspektif. Dalam tulisan ini mengkaji tentang proses penyelesaian problematika hukum Islam secara spesifik, mengingat dalam perkembangan hukum Islam selalu dinamis sesuai dengan keadaan zaman. Selain itu dalam memahami hukum tentunya harus benar dan sesuai ketentuan hukum pada dalil, serta dalil lainnya yang memiliki pro dan kontra yang saling berkesinggungan, kemudian dalam proses penyelesaian hukum Islam pada tulisan ini berfokus pada penyelesaian problematika hukum Islam.

Kata Kunci : *Ta'arudh Al-Adillah, Metode, Penyelesaian Hukum Islam.*

Abstract: The rapid development of the science of fiqh certainly has a correlation with the understanding of the propositions sourced in the Qur'an and Hadith. For instance, there is a legal proposition that when faced with certain problems will find a solution, but not a few laws that come from the Qur'an in the same context cause different arguments in understanding them. The contradiction here is ta'arudh arguments that contradict each other. So in the process of this research using a qualitative approach by prioritizing normative juridical aspects, there is no perspective misalignment. This paper examines the process of solving the problems of Islamic law specifically, considering the development of Islamic law is always dynamic by the conditions of the times. In addition, in understanding the law, of course, it must be correct and by the legal provisions of the arguments, as well as other arguments that have intersecting pros and cons, then in the process of settling Islamic law in this paper, it focuses on solving the problems of Islamic law.

Keywords : *Ta'arudh Al-Adillah, Methods, Islamic law solution.*

A. Introduction

The basis that is used as a guideline by fiqh experts, especially in matters of Islamic law, uses the rules of sharia *al-adillah al-syar'iyah* or just *al-ahkam*. *Al-adillah al-syar'iyah* is a way to understand sharia law, in each of its arguments there is the appointment of *qath'i* or *dzhanni* laws, which include the *qath'i* arguments are the Al-Quran and mutawatir hadiths, and *zhanni* arguments such as the ahad hadith. Islam as a religion that has rules covering various aspects, of course, has the basics of determining the law which is commonly known as *masadhir al-ahkam al-syar'iyah*

(sources of sharia law). Nothing is neglected in this religion. Included in legal issues where Islamic law has the characteristics of *syumuliyah* or *kamaliyah*.¹

Usul Fiqh is a methodology used by mujtahid priests in taking and establishing sharia law based on Nash (Al-Qur'an or As-Sunnah) aimed at bringing benefit. This is what underlies a faqih must be able to explain how to take the law from the *syara'* arguments which are then summarized in a methodological rule, whether the rules are *lafzhiyah* such as *dilalah* (appointment) a lafadz to a certain meaning, how to compromise lafadz that is born contradictory or different. the context; or it could be meaningful, such as taking and generalizing a *illat* from the texts and the most appropriate way to determine it.²

The reality in the legal *istinbath* process is not easy, because it is often found that several arguments are contradictory to one another (*Ta'arud al-adillah*/contradiction). According to Abu Zahrah, the contradictions/contradictions of the propositions that occur are inseparable from three possibilities: (1) a contradiction in terms of its outward appearance, (2) difficulties in compromising two propositions that appear to be contradictory, (3) an erroneous assumption of one proposition which is not actually a proposition. Therefore, according to him, the conflict does not lie in the texts or the *maudlul* (laws contained in the texts) but lies in the mind (ability of understanding) of a mujtahid.³

Al-Qur'an and Hadith as sources of Islamic law in explaining its legal message use various ways, sometimes firmly and sometimes not firmly, some can be understood through the meaning of the language and some through its legal purpose. In one condition there is also a contradiction or contradiction between one proposition and another or called *Ta'arudh al-adillah* which requires a solution. Usul fiqh presents various ways with various aspects to capture the legal messages displayed by the Qur'an and sunnah, as well as solutions that can be done if there is a contradiction between several equal arguments or between other propositions.

Based on the above article, the author will discuss the *Ta'arud al-Adillah* method of solving the problems of Islamic law with the focus of the discussion, namely the settlement of *Ta'arud Al-Adillah* and the *Ta'arud Al-Adillah* method of solving the problems of Islamic law.

B. Metode

In order to produce useful writing, it is certainly not easy and requires great effort, so in this case the author uses the method in writing this is library research. Research based on theoretical philosophical studies in a scientific discipline in order to build theoretical concepts and obtain value from the object of study.⁴ In addition, this study uses a qualitative approach by providing analysis and description of research results and conducting a study with various sources of literature, books and scientific journals that can support writing. The use of the library method as a basis for conducting an in-depth analysis of the severe views of education experts and historians who have relevance to the concept of *Ta'arud Al-Adillah*.⁵

¹ Khoiril Fathoni, "Metode Penyelesaian Ta'arudh Al-Adillah Dalam Metodologi Hukum Islam," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 2, no. 1 (2020): 45–64, <https://doi.org/10.37680/almanhaj.v2i1.309>.

² Al-ta Wa Al-tarjih Wa Al-jam, M Saeful Amri, and Stai Al-hikmah Brebes, "Kontradiksi , Preferensi Dan Rekonsiliasi" 04, no. 2 (2022): 141–57.

³ Al-jam, Amri, and Brebes.

⁴ Muhadjir N, *Metodologi Penelitian Kualitatif (7th Ed)* (Rake Sarasin, 1996).

⁵ Balya Ziaulhaq Achmadin, "URGENSI HISTORICAL THINKING SKILLS BAGI PESERTA DIDIK DALAM PEMBELAJARAN SEJARAH KEBUDAYAAN ISLAM," *Muta'allim: Jurnal Pendidikan Agama Islam* 1, no. 2 (2022): 96–114, <https://doi.org/10.18860/mjpai.v1i2.1125>.

The writing in this study uses a descriptive qualitative approach, which is based on a research in post-positivism philosophy to examine the object of research with natural conditions. Researchers here play an important role as the main instrument and the results of the research obtained lead to generalization or development. In addition, the descriptive approach aims to reflect on a variable without any comparison or linking the existing variables.⁶

C. Data Findings and Discussion

1. The Concept of Ta'arudh Al-Adillah

In the language of *Ta'arudh al-adillah* is a contradiction, it can be interpreted as incompatibility, incompatibility with one another. Thus, etymologically, it means that one of the two propositions requires a law that is different from the law required by another argument. According to terminology, ta'arudh has several meanings. Asy-Syaukani in his monumental work *Eryad al-Fuhul* explains that it means that one of two propositions points to the law of a particular event. Imam As-Syathibi defines ta'arudh with, Two arguments that are opposite each other and contain contradictions.⁷

Privileges and virtues in Islam lies in the harmony of the Shari'a. This can be seen from the absence of conflict between verses in the Qur'an and between the traditions of the Prophet Muhammad, because the form of conflict in the Shari'a is a form of weakness, and it cannot be attributed to Allah SWT.⁸ This paradigm is based on the verses in the Qur'an and the traditions of the Prophet Muhammad SAW, as stated in the Qur'an Surah An-Nisa' verse 82 :

أَفَلَا يَتَذَكَّرُونَ الْفُرَاانَ ۗ وَلَوْ كَانَ مِنْ عِنْدِ غَيْرِ اللَّهِ لَوَجَدُوا فِيهِ اخْتِلَافًا كَثِيرًا ۝ ٨٢ (النساء/4: 82)

Terjemah : "Tidakkah mereka menadaburi Al-Qur'an? Seandainya (Al-Qur'an) itu tidak datang dari sisi Allah, tentulah mereka menemukan banyak pertentangan di dalamnya." (An-Nisa'/4:82).⁹

Likewise, the hadith of the Prophet Muhammad SAW which is classified as a revelation of Allah SWT, this is in accordance with what is stated in the Qur'an Surah An-Najm verses 3-4 :

وَمَا يَنْطِقُ عَنِ الْهَوَىٰ ۗ ۝ ٣ إِنْ هُوَ إِلَّا وَحْيٌ يُوحَىٰ ۖ ۝ ٤ (النجم/53: 3-4)

Terjemah : "3. dan tidak pula berucap (tentang Al-Qur'an dan penjelasannya) berdasarkan hawa nafsu(-nya). 4. Ia (Al-Qur'an itu) tidak lain, kecuali wahyu yang disampaikan (kepadanya)" (An-Najm/ 53:3-4).¹⁰

Imam As-Syaitibi gives his argument regarding *Ta'arudh al-adillah*, namely, *At-ta'arudh* can be considered from the context of the argument it self or it can be considered from the context of the understanding of the mujtahid. If it is seen from the context of the argument itself, then it cannot happen. Meanwhile, when viewed from the context of the mujtahid's understanding and view of the proposition, then the contradiction is true and the scholars agree with it, even though in fact the mujtahids consider a proposition to be contradictory if the arguments cannot be combined (*jam'un*), so they must take a decision. one of the provisions with a certain method. From the opinion of as-Syathibi above, it can be seen that the *Atta'arudh* discussed by ushul fiqh experts is actually a naql argument which at first glance looks contradictory and has two meanings

⁶ Prof. Dr. Sugiyono, *Metode Penelitian Pendidikan (Pendekatan Kuantitatif, Kualitatif Dan R&D)*, Cetakan 23 (Bandung: Penerbit Alfabeta, 2015).

⁷ Ahmad Atabik, "Kontraktiksi Antar Dalail Dan Cara Menyelesaikannya," *Jurnal Yudisia* 6, no. 2 (2015): 258.

⁸ Amin Arwani, "Istinbat Al-Ahkam Bi Al-Jam' Baina an-Nusus Al-Muta'aridhoh," *Jurnal Profetika* 16, no. 2 (2015): 194-204.

⁹ Kementerian Agama Republik Indonesia, *Al-Qur'an Dan Terjemahannya. Surah An-Nisa'/4:82*, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

¹⁰ Al-Qur'an Dan Terjemahannya. *An-Najm/53:3-4*

(determination and disclaimer), but in essence, these arguments are converging to one determination, between determination or disclaimer. Meanwhile, the emergence of two laws or provisions in one discussion occurred due to differences in the understanding and analysis of the mujtahids on the related arguments. It is in this context that *ta'arudh al-Adillah* is recognized for its existence.

2. Causes of Ta'arudh Al-Adillah

It is in accordance with his understanding that the main cause is the opposition or Contradiction that occurs in two postulates or between several postulates only outwardly. The fuqaha view or understanding of postulates that are considered to be in contradiction, is a view that is influenced by several reasons including:

- a. The existence of texts or arguments is a *dzhanni al-dalalah* argument. The arguments of the Shari'a are sometimes the appointment of the law as *qathbi al-dalalah* and there are times when it is *zhanni al-Dalalah*. One example of the argument that *dzhanni al-dalalah* is like the word of Allah SWT in the Qur'an surah Al-Baqarah (2): 228:

وَالْمُطَلَّقَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ ۗ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِيهِ أَرْحَامَهُنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۗ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا ۗ وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ ۗ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ وَاللَّهُ عَزِيزٌ حَكِيمٌ ﴿٢٢٨﴾ (البقرة: 2/228)

Terjemah : "Para istri yang diceraiakan (wajib) menahan diri mereka (menunggu) tiga kali quru' (suci atau haid). Tidak boleh bagi mereka menyembunyikan apa yang diciptakan Allah dalam rahim mereka, jika mereka beriman kepada Allah dan hari Akhir. Suami-suami mereka lebih berhak untuk kembali kepada mereka dalam (masa) itu, jika mereka menghendaki perbaikan. Mereka (para perempuan) mempunyai hak seimbang dengan kewajibannya menurut cara yang patut. Akan tetapi, para suami mempunyai kelebihan atas mereka. Allah Mahaperkasa lagi Mahabijaksana." (Al-Baqarah/2:228).¹¹

- b. The Prophet Muhammad SAW was given the right by Allah SWT to determine the law of a problem in one event, and set another law on the nature of the problem in another event. Something that is narrated by some narrators about one law, and some others have narrated a different law, then it is considered a contradiction.¹²
- c. Sometimes the ta'arudh is due to the existence of one of two different hadiths, being a nasakh (eraser) for the other evidence, but it is not known by scholars, it can be considered ta'arudh even though it is not.
- d. The Prophet Muhammad SAW has mentioned two methods of dealing with some problems and the Shari'a law, and it is permissible to take one of the two methods. Some narrators also take one of these methods, and other narrators use other methods. For those who are not aware of the existence of these two methods, it is understood that the two narrations are contradictory when they are not. So practicing every argument is permissible.
- e. The existence of passages in the Qur'an and sunnah of a general nature, which sometimes requires to remain general and others are special. This gives rise to outward differences, not differences of an essential nature, and is sometimes considered *ta'arudh*.

Then there are those who argue that the reason for *ta'arudh* is: first, *ta'arudh* occurs because of differences in reading; second, the absence of historical knowledge of the coming of a postulate; third, there are several combinations of meanings of a recitation; fourth, the occurrence of news on several different things and problems. Differences in the reading of a postulate can cause differences in meaning. The postulate that is not known to the history of its coming can be understood to be in contradiction with other postulates, whereas between the two there are those that only apply in the past and cannot be applied to present events. Then ta'arudh can occur

¹¹ Al-Qur'an Dan Terjemahannya. *Al-Baqarah/2:228*

¹² Al-Hafnawi, *Al-Ta'arudh Wa Al-Tarjih 'inda Al-Ushuliyin Wa Asarubuma Fi Al-Fiqh Al-Islami*.

because of differences in fuqaha's understanding of a postulate. The postulate understood by Fuqaha contains an express meaning, gives rise to different meanings and is sometimes considered to be a contradiction. The difference in meaning occurred due to the limited knowledge and understanding of the fuqaha to the postulates of sharia.

3. Islamic Law

Islamic law is a series of the words "*law*" and "*Islam*". Both of these words come from Arabic, but when combined into "Islamic law", the word is not known in Arabic terminology. We cannot find the word in the Qur'an, hadith or other Arabic literature. The word Islamic law is institutionalized, used commonly in Indonesia. This word began to emerge when Indonesia appeared three intersecting laws (*trikotomi hukum*), namely Islamic law, customary law and western law. The mention of "*Islamic law*" itself aims to separate the law that comes from the teachings of Islam, the law that comes from the customs of the Indonesian nation, and the western law brought by the Dutch colonials.¹³

Definitively Islamic law is: "*a set of rules based on the revelation of Allah and the Sunnah of the Prophet concerning the behavior of the mukallaf human which is recognized and believed to be binding on all Muslims*". In addition, there are also opinions that take the notion of law as law that originates from and becomes part of the Islamic religion.¹⁴ Even so, the mention of the scope and object of Islamic law itself still seems unclear in society, which is very likely due to errors in interpreting sharia and fiqh.¹⁵ There are four categories in the well-known treasury of Islamic legal thought, including:

- a. Fiqh, namely the building of Islamic knowledge which includes worship and mu'amalah as a whole.
- b. Fatwa, namely products of legal thought issued by individuals or collectively on legal questions from community members on certain issues. Fatwa has no binding power on the person requesting the fatwa. Individual fatwas in modern times – especially in Indonesia – are rare items, but fatwas carried out by institutions are still felt to exist, for example the MUI fatwa which almost always follows every contemporary issue.
- c. Putusan Pengadilan (court decisions), namely products of legal thought issued by judicial institutions, whose decisions are binding on litigants.
- d. Perundang-undangan (*taqnin*), which is a political product in applying a law by the legislative council proposed by the executive. Usually, this legislation has limitations, including the scope of the material contained is very specific, only covering certain legal fields. Hierarchically, the legislation in Indonesia is the Constitution 45, TAP MPR, Laws, Government Regulations in Lieu of Laws, Government Regulations, Ministerial Regulations, Regional Regulations (PERDA).¹⁶

Discussion

1. Method of Solving Ta'arudh Al-Adillah

Ta'arudh al-adillah is a problem that must be solved. The two arguments or several arguments that are considered contradictory by fiqh experts must be resolved with the right method based on the methodology of ushul fiqh studies. According to some scholars from several sources found, namely :

¹³ Yayan Sopyan, "Tarikh Tasryi' Sejarah Pembentukan Hukum Islam," *Journal of Chemical Information and Modeling* 53, no. 9 (2013): 1689–99.

¹⁴ Miftahul Huda, *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia*, Cet 1 (Jakarta: Raja Grafindo Press, 2002).

¹⁵ Miftahul Huda, *Filsafat Hukum Islam* (Yogyakarta: Sukses Grafia Yogyakarta, 2006).

¹⁶ Ahmad Rofiq, *Hukum Islam Di Indonesia* (Jakarta: Raja Grafindo Persada, 1995).

a) Ulama' Hanafiyah

In this case, Hanafiyah scholars say that ta'arudh can occur between syara' texts or ta'arudh between arguments other than texts. Ta'arudh that occurs on arguments other than texts, such as *ta'arudh* between two *qiyas*, then it is obligatory for a mujtahid to mentarjih the two *qiyas* by prioritizing one of them. If there is a conflict between two texts, the Ulama' Hanafi are of the opinion that the methods used in solving them systematically are as follows:¹⁷

1. Nasakh

Nasakh means to cancel something, move and change. The term means an order that points to the appointment of a permanent law, an earlier order on the basis of historical determination. Nasakh is a problem related to history, therefore fuqaha must know some laws related to history. Nasakh is related to the time of prophethood and the time of revelation, therefore Nasakh cannot occur except in divine revelation. From this method, a mujtahid must trace the history of the two texts, and when it is known which one came first and which one came later, then the text that came later was ruled by the earlier one.¹⁸

For example, the contradiction that occurs in the two verses of 'iddah in QS. Al-Baqarah (2): 234 with QS. Al-Thalaq (65): 4. Friends of Ibn Mas'ud, in relation to the problem of the two verses of 'iddah, it is explained that the second verse (Surat al-Thalaq (65): 4) which came later wrote down the law contained in the verse first (Surat al-Baqarah (2): 234). Explaining Ibn Mas'ud's opinion in this matter, Dedi Supriyadi describes it as follows: "*QS. Al-Baqarah (2) ayat 234 mencakup perempuan yang ditinggal mati oleh suaminya dalam keadaan hamil maupun tidak, sedangkan QS. Ath-Thalaq (65) ayat 4 hanya mengenai perempuan yang ditinggal mati oleh suaminya dalam keadaan hamil. Menurut Ibnu Mas'ud, QS. Al-Baqarah (2) ayat 234 turun lebih dahulu dan QS. Ath-Thalaq (65) ayat 4 turun kemudian. Oleh karena itu, Ibnu mas'ud berpendapat bahwa ayat terdahulumansukh oleh ayat yang turun kemudian, yang lebih tepat adalah QS. Ath-Thalaq (65) ayat 4 membatasi (takehsis) keumuman makna QS. Al-Baqarah (2) ayat 234*"¹⁹

2. Tarjih

Tarjih is to strengthen one of the arguments of the two contradictory arguments based on several qorinah that support the stipulation. If two contradictory arguments are difficult for a mujtahid to trace their history, then the mujtahid must refine one of the arguments whenever possible. *Pen-tarjih-an* can use several tarjih methods. For example, strengthening muhkam texts from *mufassir* texts, strengthening arguments containing haram laws from arguments containing permissible laws, and in terms of 'is, *dhabit*, faqih and so on, a perawi hadith.

Considering the number of narrators, in the hadith that forbids usury fadhhl there are many narrators, in Sahih Bukhari and Muslim alone the hadith prohibiting usury fadh is narrated by Ubadah bin as-Shamit, Abu Sa'id al-Khudri, Umar bin Khatab, Abu Hurairah, Usman bin 'Affan, Abu Bakrah, Ma'mar bin Abdillah, Fudholah bin 'Ubaid. While the hadith that legalizes usury al-fadh is only narrated by a few friends, namely; Usamah bin Zaid. So history takes precedence.

Consider the content of the narration whether it is a prohibition, command, or permit. In the hadith of Osama bin Zaid, it shows the possibility of usury fadhhl. While the Hadith of Abu Sa'id and Abu Hurairah indicate the prohibition of usury fadhhl in one type of usury goods. If

¹⁷ Wahbah Al-Zuhaili, *Ushul Al-Fiqh Al-Islami*, Juz 1 (Damsyiq: Dar al-Fiqh, 2005).

¹⁸ Fakhr al-Din Muhammad bin Umar bin al-Husain Al-Razi, *Al-Mahshul Fi 'Ilmi Al Ushul Al-Fiqh*, Juz V, 279AD.

¹⁹ Dedi Supriyadi, *Sejarah Hukum Islam, Dari Kawasan Jazirah Arab Sampai Indonesia* (Bandung: Pustaka Setia, 2007).

there is a conflict between prohibition and permission, then the form of prohibition is put forward.

3. Al-Jam'u Wa Al-Taufiq

This method can use two ways, namely by distinguishing the context of each hadith and using general and specific theories. Compromising conflicting arguments after collecting both, this is based on the rule “mengamalkan kedua dalil lebih baik daripada meninggalkan atau mengabaikan dalil yang lain”.²⁰ For example in the Qur'an Surah Al-Maidah verse 3 :

حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ وَلَحْمُ الْخِنْزِيرِ وَمَا أَهَلَ لِغَيْرِ اللَّهِ بِهِ وَالْمُنْخَنِقَةُ وَالْمَوْقُوذَةُ وَالْمُتَرَيِّبَةُ وَالنَّطِيحَةُ وَمَا أَكَلَ السَّبُعُ إِلَّا مَا ذَكَّيْتُمْ وَمَا ذُبِحَ عَلَى النُّصُبِ وَأَنْ تَسْتَقْسِمُوا بِالْأَزْلَامِ ذَلِكُمْ فِسْقٌ الْيَوْمَ بِي يَسِّ الَّذِينَ كَفَرُوا مِنْ دِينِكُمْ فَلَا تَحْشَوْهُمْ وَاخْشَوْنِ الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ الْإِسْلَامَ دِينًا فَمَنِ اضْطُرَّ فِي مَخْمَصَةٍ غَيْرِ مُتَجَانِفٍ لِإِثْمٍ فَإِنَّ اللَّهَ غَفُورٌ رَحِيمٌ (3) (المائدة/5:3)

Terjemah : “Diharamkan bagimu (memakan) bangkai, darah, daging babi, dan (daging hewan) yang disembelih bukan atas (nama) Allah, yang tercekik, yang dipukul, yang jatuh, yang ditanduk, dan yang diterkam binatang buas, kecuali yang (sempat) kamu sembelih.) (Diharamkan pula) apa yang disembelih untuk berhala. (Demikian pula) mengundi nasib dengan azlam (anak panah), (karena) itu suatu perbuatan fasik. Pada hari ini) orang-orang kafir telah putus asa untuk (mengalahkan) agamamu. Oleh sebab itu, janganlah kamu takut kepada mereka, tetapi takutlah kepada-Ku. Pada hari ini telah Aku sempurnakan agamamu untukmu, telah Aku cukupkan nikmat-Ku bagimu, dan telah Aku ridai Islam sebagai agamamu. Maka, siapa yang terpaksa karena lapar, bukan karena ingin berbuat dosa, sesungguhnya Allah Maha Pengampun lagi Maha Penyayang.

Hewan yang tercekik, dipukul, jatuh, ditanduk, dan diterkam binatang buas hukumnya halal apabila sempat disembelih sebelum mati. Al-Azlam artinya ‘anak panah yang tidak memakai bulu’. Orang Arab Jahiliyah menggunakannya untuk mengundi apakah melakukan sesuatu atau tidak. Mereka mengambil tiga buah anak panah: yang pertama ditulis “lakukanlah”, yang kedua ditulis “jangan lakukan”, dan yang ketiga dibiarkan kosong. Ketiganya lalu diletakkan dalam sebuah tempat dan disimpan di dalam Ka'bah. Apabila hendak melakukan sesuatu, mereka meminta juru kunci Ka'bah untuk mengambil sebuah anak panah. Mereka akan menaati apa pun yang tertulis pada anak panah yang terambil. Akan tetapi, jika yang terambil adalah anak panah yang kosong, mereka akan mengulang undian. Maksud kata hari ini adalah pada waktu haji wada'.”(Al-Ma'idah/ 5:3).²¹

The verse does not explain the type of blood and does not distinguish between frozen blood and blood that is still flowing, then it is found in another letter, precisely in the Qur'an, Surah Al-An'am verse 145.:

قُلْ لَا آجِدُ فِي مَا أُوْحِيَ إِلَيَّ مُحَرَّمًا عَلَى طَاعِمٍ يَطْعَمُهُ إِلَّا أَنْ يَكُونَ مَيْتَةً أَوْ دَمًا مَسْفُوحًا أَوْ لَحْمَ خِنْزِيرٍ فَإِنَّهُ رِجْسٌ أَوْ فِسْقًا أِهْلًا لِغَيْرِ اللَّهِ بِهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَإِنَّ رَبَّكَ غَفُورٌ رَحِيمٌ (145) (الانعام/6:145)

Terjemah : “Katakanlah, “Tidak kudapati di dalam apa yang divahyukan kepadaku sesuatu yang diharamkan memakannya bagi yang ingin memakannya, kecuali (daging) hewan yang mati (bangkai), darah yang mengalir, daging babi karena ia najis, atau yang disembelih secara fasik, (yaitu) dengan menyebut (nama) selain Allah. Akan tetapi, siapa pun yang terpaksa bukan karena menginginkannya dan tidak melebihi (batas darurat), maka sesungguhnya Tuhanmu Maha Pengampun lagi Maha Penyayang.” (Al-An'am/6:145).²²

²⁰ Rahmat Syafe'i, *Ilmu Ushul Fiqh* (Bandung: Pustaka Setia, 1998).

²¹ Kementerian Agama Republik Indonesia, Al-Qur'an Dan Terjemahannya. Surah *Al-Ma'idah/5:3*, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

²² Al-Qur'an Dan Terjemahannya. Surah *Al-An'am/6:145*.

From the two verses above, it can be seen that the compromise of the two is that the blood that is forbidden is flowing blood.

4. Tasaqut Al-Dalilain

Tasaqut al-dalilain is the last step of a mujtahid which means aborting the two contradictory arguments and looking for a lower one. This is taken if you cannot use the three methods above.

b) Ulama' Syafi'iyah

According to Syafi'iyah, if there is a conflict between two qiyas, what a mujtahid does is tarjih one of the qiyas. Then if there is a conflict or ta'arudh between two texts in the view of a mujtahid according to the Shafi'iyah, Malikiyah, Hanabilah, and Zhahiriyah schools, then it is obligatory for the mujtahid to conduct discussion and ijihad in accordance with the following provisions. structured stages:

1. Al-Jam'u wa al-Taufiq

Al-Jam'u linguistically means compiling separate and collecting, while in terms it means gathering two contradictory propositions, interpreting two different things, and adjusting between them. As for *al-taufiq*, it means to adjust or match, According to the Shafi'iyah school, the first way to resolve two conflicting propositions is to compromise the two propositions. When it is possible to compromise, then both of them should be practiced and it is not permissible to charge one of the two. Their argument is that applying two contradictory propositions is more important than disfunctioning one of the propositions as a whole. For example, in the case of the verse on *'iddah*, the methods used to compromise the two propositions are threefold: (1) Dividing the two conflicting laws. (2) Choose one law. (3) Taking more specific arguments, for example regarding the period of *'iddah* of pregnant women. According to Hanafiyah, using the *nasakh* method.

2. Tarjih

If he cannot use the *al-jam'u wa al-taufiq* method, a mujtahid moves on to the next stage, namely tarjih, which is to strengthen one of the arguments. *Tarjih* is done if the compromise of the two propositions cannot be done. A mujtahid may strengthen one of the arguments with something that can support it, and practice a stronger proposition.

3. Nasakh

According to Al-Ghazali, *nasakh* literally means lifting and removing. The term means the command (order) of Allah swt. which shows the lifting of the law that has been established through the khithab, if the previous argument is not raised, the period of the argument remains valid, in addition to the law that comes later. 18 *Nasakh* can be carried out if by means of tarjih the two propositions cannot be practiced, then the third method is taken by canceling one of the laws contained in the two propositions, on the condition that the arguments that came earlier and those that came later must be known.

4. Tatsaqut al-Dalilain

Tatsaquth linguistically means to throw, and in terms, it means to throw or drop two contradictory propositions. That is, if there are two contradictory propositions, which cannot be compromised, cannot be authenticated, and cannot be interpreted, then the practice of both propositions is dropped. These two arguments are not implemented. The last step taken if a mujtahid finds it difficult to resolve the conflict between the arguments is *Tatsaqut al-dalilain*. That is to leave the arguments that contradict and switch to the arguments of a lower degree. This method is carried out if the third method cannot be taken. A mujtahid may abandon both

propositions and perform *ijtihad* with a proposition that is of lower quality than the two contradictory propositions.²³

From the descriptions of ulama' Hanafiyah and ulama' Syafi'iyah, it can be concluded that in resolving contradictory propositions, texts can be carried out first if the history of the existence of the two propositions is known. This text can only apply to the Qur'an or sunnah. Settlement by means of *tarjih* can be done if one of the two arguments is known to be stronger than the other. The settlement by means of *al-jam'u* can be done if the two propositions do not deny each other their meaning. The proposition that is resolved by *tasaquth* can be reached if the two propositions cannot accept the three previous settlement methods. This *tasaquth* can occur in every argument, whether it is the argument of the Qur'an, sunnah, or *qiyas*. According to Wahbah al-Zuhaili, the differences of jurists in resolving contradictory propositions have been collected in two schools of thought. Both schools are absolute mujtahids, namely the Shafi'iyah school and the Hanafi school. Both schools include pioneers in the preparation and development of *fiqh* proposals. Therefore, there are two settlement methods determined by the fuqaha, namely the Hanafiyah method and the Shafi'iyah method.

2. Method of Solving Ta'arudh Al-Adillah Problem of Islamic Law

1. Completion of The Ta'arudh al-Adillah Bab Ibadah

Al-Qur'an is a guideline for Muslims which contains many laws globally. In general, there are three laws contained in the Qur'an, namely: *i'tiqadiyah* laws, moral laws, and *amaliah* laws. The law of *amaliah* is divided into two, namely: the law of worship and the law of *muamalah*. The law of worship is one of the contents of the Qur'an which is very important in human life. The law of worship is a law relating to the commands of prayer, fasting, *zakat*, *hajj* and so on. This law was created to regulate the servant's relationship with his Lord. The content of the law of worship is sometimes understood to be contradictory. The following are some of the legal verses that are considered contradictory.²⁴ For example in Surah Al-Muzammil verse 20 with Surah Al-A'raf verse 204:

﴿ إِنَّ رَبَّكَ يَعْلَمُ أَنَّكَ تَقُومُ أَدْنَىٰ مِنْ ثُلُثِي اللَّيْلِ وَنِصْفَهُ ۖ وَثُلُثَهُ ۖ وَطَآءِى ۖ فَهَٰذَا مِنَ الذِّكْرِ مَعَكَ ۗ وَاللَّهُ يُقَدِّرُ اللَّيْلَ وَالنَّهَارَ ۗ عَلِمَ أَنْ لَنْ تُحْصُوهُ فَتَابَ عَلَيْكُمْ فَاقْرَءُوا مَا تَيَسَّرَ مِنَ الْقُرْآنِ ۗ عَلِمَ أَنْ سَيَكُونُ مِنْكُمْ مَرْضَىٰ ۙ وَأَخْرُوجُونَ يَضْرِبُونَ فِي الْأَرْضِ يَبْتَغُونَ مِنْ فَضْلِ اللَّهِ ۗ وَآخَرُونَ يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ ۗ فَاقْرَءُوا مَا تَيَسَّرَ مِنْهُ ۗ وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَاقْرَأُوا لِلَّهِ قَرْضًا حَسَنًا ۗ وَمَا تُقَدِّمُوا لِأَنْفُسِكُمْ مِنْ خَيْرٍ تَجِدُوهُ عِنْدَ اللَّهِ ۗ هُوَ خَيْرٌ وَأَعْظَمُ أَجْرًا ۗ وَاسْتَغْفِرُوا لِلَّهِ ۗ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ ۝ ٢٠ (المزمل/73: 20)

Terjemah : “*Sesungguhnya Tuhanmu mengetahui bahwa engkau (Nabi Muhammad) berdiri (salat) kurang dari dua pertiga malam, atau seperdua malam atau sepertiganya dan (demikian pula) segolongan dari orang-orang yang bersamamu. Allah menetapkan ukuran malam dan siang. Allah mengetahui bahwa kamu tidak dapat menghitungnya (secara terperinci waktu-waktu tersebut sehingga menyulitkanmu dalam melaksanakan salat malam). Maka, Dia kembali (memberi keringanan) kepadamu. Oleh karena itu, bacalah (ayat) Al-Qur'an yang mudah (bagimu). Dia mengetahui bahwa akan ada di antara kamu orang-orang yang sakit, dan yang lain berjalan di bumi mencari sebagian karunia Allah serta yang lain berperang di jalan Allah, maka bacalah apa yang mudah (bagimu) darinya (Al-Qur'an). Tegakkanlah salat, tunaikanlah zakat, dan berikanlah pinjaman kepada Allah pinjaman yang baik. Kebaikan apa saja yang kamu perbuat untuk dirimu niscaya kamu memperoleh (balasan)-nya di sisi Allah sebagai balasan yang paling baik dan yang*

²³ Putri Eka Ramadhani, “Ta'arudh Al -Adillah: Metode Memahami Dalil Dalam Penyelesaian Persoalan Hukum,” *Mahadi Indonesia Journal of Law* 1, no. 2 (2022): 313–31.

²⁴ Abd al-Wahhab Khallaf, *Ushul Al-Fiqh* (Kairo: Maktabah al-Da'wah al-Islamiyah Syabab al-Azhar, 2002).

paling besar pahalanya. Mohonlah ampunan kepada Allah. Sesungguhnya Allah Maha Pengampun lagi Maha Penyayang.” (Al-Muzzammil/73:20).²⁵

وَإِذَا قُرِئَ الْقُرْآنُ فَاسْتَمِعُوا لَهُ وَأَنْصِتُوا لَعَلَّكُمْ تُرْحَمُونَ ۚ (الاعراف/7: 204)

Terjemah : “Jika dibacakan Al-Qur'an, dengarkanlah (dengan saksama) dan diamlah agar kamu dirahmati.” (Al-A'raf/7:204).²⁶

In Surah Al-Muzzammil / 73:20 it means ordering or obliging to read the verses of the Qur'an. The verse is understood to be in contradiction with the word of God in Al-A'raf/7:204, which means it is obligatory to listen and pay attention when the Qur'an is read while silent, both in prayer and outside prayer. The verse negates or does not oblige to read the Qur'an if someone else reads the Qur'an, while the first verse requires reading the Qur'an. Outwardly these two verses contradict and cannot be interpreted, so both of them are abandoned from their practice and then refer to the sunnah which allows not reading the Qur'an if in congregational prayers the priest has read the Qur'an, because the reading of the priest is also the reading of the congregation. . It is understood that the congregation may read al-Fatihah while the imam is reading the verses of the Qur'an.²⁷

Surah Al-Muzzammil/73:20 indicates that it is obligatory to read the Qur'an in prayer. This meaning is the agreement of the commentators based on the pre-arranged arguments. As for the meaning of the second verse, denying this obligation. It means that it is not obligatory to read the Qur'an, because the silent condition does not allow reading the Qur'an. The existence of a narration that orders reading the Qur'an in prayer in general and denying it, indicates a contradiction that must be resolved by referring to the hadith of the Prophet Muhammad : “Dari Jabir berkata, bersabda Rasulullah saw. barang siapa terdapat padanya imam, maka bacaan imam itu juga menjadi bacaannya”. (HR. Ibnu Majah).²⁸

The two contradictory propositions are resolved by tasaquth al-dalilain, because both are abandoned and then apply another proposition, namely the hadith. The hadith is understood that people who become makmum in prayer, the reading of the imam also becomes his reading. That is, if the priest has read several verses of the Qur'an, then the congregation no longer needs to read the Qur'an. The Makmum is only ordered to listen or listen to the imam's reading. This is also not considered a contradiction with the hadith that requires reading Surah Al-Fatihah in prayer, because reading al-Fatihah in prayer is one of the pillars of prayer.

2. Completion of Ta'arudh al-Adillah Bab Ahwal al-Syakhsiyah (Hukum Keluarga)

Al-Ahwal Al-Syakhsiyah is a term for the whole law relating to family matters and Islamic courts such as marriage law, inheritance, wills and religious courts. Initially, the discussion of these laws was found in separate fiqh chapters. It was only later in the second half of the 19th century that laws categorized as family law were collected in a special study, Al-Ahwal Al-Shakhsiyah. In the Qur'an, there are several contradictory verses regarding Al-Ahwal Al-Shakhsiyah, including the contradiction between surah al-Baqarah (2): 234 and surah al-Thalaq (65): 4:

²⁵ Kementerian Agama Republik Indonesia, Al-Qur'an Dan Terjemahannya. Surah *Al-Muzzammil/73:20*, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

²⁶ Al-Qur'an Dan Terjemahannya. Surah *Al-A'raf/7:204*

²⁷ Muhammad Ibrahim Muhammad Al-Hafnawi, *Al-Ta'arudh Wa Al-Tarjih 'inda AlUshuliyin Wa Asarubuma Fi Al-Fiqh Al-Islami*, Cet II (Kairo: Dar al-Wafa' li al-Thaba'ah., 1987).

²⁸ Al-Imam 'Alaa al-Din 'Abd al-Aziz bin Ahmad Al-Bukhari, *Kasyfu Al Asrar 'an Ushul Fakhri Al-Islam Al-Baqdawi*, Cet I (Beirut: Dar al-Kutub al-'Ilmiyah, 1997).

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا ۖ فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ ۗ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ ۚ (البقرة/2:234)

Terjemah : "Orang-orang yang mati di antara kamu dan meninggalkan istri-istri bendaklab mereka (istri-istri) menunggu dirinya (beridab) empat bulan sepuluh hari. Kemudian, apabila telah sampai (akhir) idab mereka, tidak ada dosa bagimu (wali) mengenai apa yang mereka lakukan terhadap diri mereka menurut cara yang patut. Allah Maha Mengetahui apa yang kamu kerjakan. *Setelah masa idab selesai, perempuan boleh berhias, bepergian, atau menerima pinangan." (Al-Baqarah/2:234).²⁹

This verse describes divorce resulting from death. If a wife is abandoned by her husband, she must undergo a waiting period (*iddah*) of four months and ten days. This *iddah* period is intended so that the wife does not immediately forget her husband and show joy or accept someone else's proposal. When the period of *iddah* has ended, then it is not a sin if the wife wants to do to herself according to what is proper. That is, the wife can dress up as appropriate, or can remarry.³⁰

وَالَّذِينَ يَمُوتُونَ مِنْ بَيْنِ الْمَيِّتِينَ مِنْ نِسَائِهِمْ لَمْ يَحْضُنَّ وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ ۚ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا ۚ (الطلاق/65:4)

Terjemah : "Perempuan-perempuan yang tidak mungkin haid lagi (menopause) di antara istri-istrimu jika kamu ragu-ragu (tentang masa idabnya) maka idabnya adalah tiga bulan. Begitu (pula) perempuan-perempuan yang tidak haid (belum dewasa). Adapun perempuan-perempuan yang hamil, waktu idab mereka adalah sampai mereka melahirkan kandungannya. Siapa yang bertakwa kepada Allah, niscaya Dia menjadikan kemudahan baginya dalam urusannya." (At-Talaq/65:4).³¹

The verse talks about *iddah* in terms of the length of the waiting period, each according to conditions. The previous verse talks about women who are divorced and are still menstruating, and there is still an opportunity to refer to him. This verse emphasizes that women who have entered a certain age who have broken off from menstruation (menopause), then the *iddah* is three months. As for women who are pregnant, whether divorced or dead, whether Muslim or non-Muslim, whether their ex-husbands are Muslim or not, the time limit for her *iddah* is until she gives birth to her womb.

Many scholars decided to use the *tarjih* method, because both of them have a relationship, namely about *iddah* and there is wisdom, namely to keep the seeds from mixing in the wife's womb. A wife who is abandoned by her husband or divorced dies, then her *iddah* is four months and ten days. If a wife is left by her husband to die while pregnant, then her *iddah* is until she gives birth to her womb.

Muhammad Abu Zahrah explained that there is no absolute contradiction between the two propositions. If it is considered a contradiction, then the solution can be reached by the *al-taufiq* method. Settlement through compromise is done by *takhshish*. The first verse has a general meaning, that every wife whose husband dies her *iddah* is four months and ten days. The second verse means that the wife whose husband leaves her is pregnant, then her *iddah* is until she gives birth. So, the *iddah* of four months and ten days is general, and the *iddah* until delivery of the womb is special, that is, only for pregnant women.³²

According to Wahbah al-Zuhaili, the two propositions are contradictory and can be resolved by means of *nasakh*. The first verse contains a general meaning, that the *iddah* of a

²⁹ Kementerian Agama Republik Indonesia, Al-Qur'an Dan Terjemahannya. Surah Al-Baqarah/2:234, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

³⁰ Muhammad Quraish Shihab, *Tafsir Al-Mishbah*, Cet I (Jakarta: Lentera Hati, 2002), Hal 612-615.

³¹ Kementerian Agama Republik Indonesia, Al-Qur'an Dan Terjemahannya. Surah At-Talaq/65:4, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

³² Ramadhani, "Ta'arudh Al -Adillah: Metode Memahami Dalil Dalam Penyelesaian Persoalan Hukum."

wife whose husband leaves her is four months and ten days whether the wife is pregnant or not. The second verse requires that the iddah of a pregnant wife is to give birth to her womb, whether the wife is left behind by her husband or because of divorce. The second verse came down later than the first verse, so the second verse becomes the nasikh for the first verse. This is the opinion of the majority of scholars. If there are contradictory propositions of 'am and Khash, then there are three things in the solution, namely:

- a. If it is known that the *khash* came later from the time when it was practiced 'am, or the practice of Khash was ta'khir-kan as needed, then according to the majority of scholars, the *khash* can be used according to the contradiction between the two. This has been clarified by scholars such as , al-Syaukani, al-Qadhi 'Abd al-Wahhab from the Hanabilah followers and others. Ulama' differ on this matter. According to the number of scholars from the Shafi'i, Maliki, Hanabilah and their followers, hadith experts, Syi'ah, Zahiriyah and others, resolving the contradiction between 'am and *khash* with *al-jam'u*, because 'am is formed by the presence of Khash. The compromise was made because the Khash had some connection with the meaning of 'am. According to the Hanafiyah jumhur, al-Qadhi Abu Bakr al-Baqillani, Imam Haramain, Imam Ahmad, Abu Bakr al-Razi, that 'am cannot be controlled by the *khash* if there is no evidence that shows a connection with 'am.
- b. The existence of knowledge about the typical comes first on 'am and 'am comes later than typical. If 'am comes later than the time of its practice, then all schools agree that 'am menasakh *khash*, because there should be no explanation to come later than its application when needed, except for the permissibility of a non-binding charge.

Regarding this there are three opinions about 'am coming later than the command of *khash*. First, the opinion of the jumhur fuqaha, mutakallimin, experts propose that the existence of 'am is due to the presence of khas. Both can be compromised because the content of 'am overrides the *khash* and the content of the *khash* will complete the meaning of 'am. Second, according to Abu Hanifah and most of his companions, al-Qadhi 'Abd al-Jabbar al-Mu'tazili, Imam al-Juwaini, al-Baqillani, that 'am who came later without qarinah, could take the previous khash. Third, the opinion of some mu'tazilah, that the contradiction between 'am and *khash* is resolved by means of tawaqquf.

Based on these three opinions, the opinion of the jumhur fuqaha and the proposing experts can be applied to the contradictions about iddah. A woman who is abandoned by her husband due to death must undergo iddah for four months and ten days. If the woman is pregnant, her iddah is until she gives birth. This shows that the first proposition contains the meaning of 'am, then the second argument means khas. Both of them can be compromised, because the meaning of Khash completes the content of 'am. The resolution of the contradiction is based on the *qarinah* between 'am and *khash*. According to jumhur, the existence of 'am is due to the presence of the khas, and the *khash* becomes pentakhshish 'am which excludes other meanings.

3. Completion of Ta'arudh al-Adillah Bab Jinayah

The law of jinayah is the law relating to the criminal acts of each mukallaf and its sanctions. The purpose of this law is to protect human life, property, honor and rights. Jinayah law is defined as criminal law which is part of public law. Among the contradictory Qur'anic verses in the matter of jinayah, among others, between Surah at-Taubah (9): 36 with Surah at-Taubah (9): 29:

إِنَّ عِدَّةَ الشُّهُورِ عِنْدَ اللَّهِ اثْنَا عَشَرَ شَهْرًا فِي كِتَابِ اللَّهِ يَوْمَ خَلَقَ السَّمَوَاتِ وَالْأَرْضَ مِنْهَا أَرْبَعَةٌ حُرْمٌ ۗ لَكُمْ فِيهَا الدِّينُ الْقَوِيمُ ۗ فَلَا تَغْلِبُوا فِيهِنَّ أَنْفُسَكُمْ وَقَاتِلُوا الْمُشْرِكِينَ كَافَّةً كَمَا يُقَاتِلُونَكُمْ كَافَّةً ۗ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ ۙ (التوبة/9: 36)

Terjemah : “*Sesungguhnya bilangan bulan di sisi Allah ialah dua belas bulan,* (sebagaimana) ketetapan Allah (di Laub Mahfuz) pada waktu Dia menciptakan langit dan bumi, di antaranya ada empat bulan haram. Itulah (ketetapan) agama yang lurus, maka janganlah kamu menzalimi dirimu padanya (empat bulan itu), dan perangilah orang-orang musyrik semuanya sebagaimana mereka pun memerangi kamu semuanya. Ketahuilah bahwa sesungguhnya Allah bersama orang-orang yang bertakwa. *Allah Swt. menetapkan periode orbit bumi mengitari matahari selama setahun yang setara dengan dua belas bulan, yaitu dua belas kali ketampakan bulan sabit akibat bulan mengitari bumi. Keteraturan periode waktu inilah yang menjadi patokan untuk perhitungan waktu.*” (At-Taubah/9:36)³³

This verse speaks of the badness of the polytheists regarding their assumption of the number of months in a year, which they sometimes add and reverse. In this verse Allah swt. explains that there is a limit that cannot be increased or decreased. That limit is the number of months in the sight of Allah swt. determined and calculated. The number of months in a year is twelve, four of which are haram months, namely: zulqaidah, zulhijjah, muharam and rajab. The four months include the great month, which is forbidden to do things that are not good, commit sinful acts such as adding or subtracting the number of months. In the forbidden month it is not permissible to mistreat oneself and others, because it is a month that is commanded to increase worship. If there are polytheists who want to do hostilities and war, then fight them all, whenever that role has to be done.

قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ ۙ (التوبة/9: 29)

Terjemah : “*Perangilah orang-orang yang tidak beriman kepada Allah dan hari akhir, tidak mengharamkan (menjauhi) apa yang telah diharamkan (oleh) Allah dan Rasul-Nya, dan tidak mengikuti agama yang hak (Islam), yaitu orang-orang yang telah diberikan Kitab (Yahudi dan Nasrani) hingga mereka membayar jizyah*) dengan patuh dan mereka tunduk.*) Jizyah adalah imbalan atau balasan atas rasa aman dan fasilitas yang diperoleh penganut agama Yahudi, Nasrani, dan lainnya yang hidup di negara Islam) Ayat ini dan ayat-ayat yang senada berlaku dalam situasi perang agama, bukan dalam situasi damai.*” (At-Taubah/9:29)³⁴

This verse talks about the people of the book, but the people of the book in question are not the group of people of the book that are often termed in the Qur'an who are substantially considered polytheists as well. The content of this verse is to command to fight the people of the book. This war order is addressed to the people of the book who do not pay the *jizyah*. *Jizyah* which is withdrawn from the people of the book is essentially a tax that is needed in return for the convenience and costs of providing state facilities to the community.

The contradictions that occur in the two verses include the contradiction between *takhshish* and *majaz*. If there is a contradiction between *takhshish* and *majaz*, then *takhshish* takes precedence. There are four reasons for this. First, what remains of 'am is *takhshish* which has a certain practice, while *majaz* is not certain in its practice, because there are many contents for which there is no *qarinah* and one of them must be determined. According to al-Syaukani, if there is no *qarinah* that shows *takhshish*, then the pronunciation has a general meaning and is realized. In relation to national law, in a legal perspective, there is a legal argumentation method

³³ Kementerian Agama Republik Indonesia, Al-Qur'an Dan Terjemahannya. Surah At-Taubah/9:36, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia, Edisi Peny, 2019.

³⁴ Al-Qur'an Dan Terjemahannya. At-Taubah/9:29.

used if a regulated norm is still unclear, has multiple interpretations, and is unclear, so legal arguments are needed to find answers to a legal event in order to provide legal certainty to the legal problems.

D. Conclusion

Understanding the existence of contradictions between one proposition and another can be known by knowing the external meaning of the two propositions. Contradictions that occur in two propositions or between several propositions are only outwardly. The fuqaha's understanding of the arguments that are considered contradictory is a view that is influenced by several reasons, including: the existence of the text or the proposition is a *dzhanni al-dalalah* argument, so that there are differences in understanding in it; the law of a matter that has been determined by the Prophet Muhammad. on one occasion, then stipulates another law on the same matter in another event; sometimes the two arguments are different and have been narrated, but are not known by the scholars, so that they think there is a contradiction; Likewise, the 'am argument contained in the Khash argument on the same issue is also considered a contradiction. So, the contradiction can be seen from the external meaning of the two propositions and is also influenced by the scholars' understanding of the two propositions. The connection with national law is known as the legal argumentation method used when a regulated norm is still vague, has multiple interpretations, and is not clear enough to answer existing conflicts.

E. Bibliography

- Achmadin, Balya Ziaulhaq. "URGENSI HISTORICAL THINKING SKILLS BAGI PESERTA DIDIK DALAM PEMBELAJARAN SEJARAH KEBUDAYAAN ISLAM." *Muta'allim: Jurnal Pendidikan Agama Islam* 1, no. 2 (2022): 96–114. <https://doi.org/10.18860/mjpai.v1i2.1125>.
- Al-Bukhari, Al-Imam 'Alaa al-Din 'Abd al-Aziz bin Ahmad. *Kasyfu Al Asrar 'an Ushul Fakhri Al-Islam Al-Bazdani*. Cet I. Beirut: Dar al-Kutub al-'Ilmiyah, 1997.
- Al-Hafnawi, Muhammad Ibrahim Muhammad. *Al-Ta'arudh Wa Al-Tarjih 'inda Al-Ushuliyyin Wa Asarubuma Fi Al-Fiqh Al-Islami*. Cet. II. Kairo: Dar al-Wafa' li al-Thaba'ah., 1987.
- . *Al-Ta'arudh Wa Al-Tarjih 'inda Al-Ushuliyyin Wa Asarubuma Fi Al-Fiqh Al-Islami*. Cet II. Kairo: Dar al-Wafa' li al-Thaba'ah., 1987.
- Al-jam, Al-ta Wa Al-tarjih Wa, M Saeful Amri, and Stai Al-hikmah Brebes. "Kontradiksi , Preferensi Dan Rekonsiliasi" 04, no. 2 (2022): 141–57.
- Al-Razi, Fakhru al-Din Muhammad bin Umar bin al-Husain. *Al-Mahshul Fi 'Ilmi Al Ushul Al-Fiqh*. Juz V., 279AD.
- Al-Zuhaili, Wahbah. *Ushul Al-Fiqh Al-Islami*. Juz 1. Damsyiq: Dar al-Fiqh, 2005.
- Arwani, Amin. "Istinbat Al-Ahkam Bi Al-Jam' Baina an-Nusus Al-Muta'aridhoh." *Jurnal Profetika* 16, no. 2 (2015): 194–204.

- Atabik, Ahmad. "Kontradiksi Antar Dalail Dan Cara Menyelesaikannya." *Jurnal Yudisia* 6, no. 2 (2015): 258.
- Fathoni, Khoirul. "Metode Penyelesaian Ta'arudh Al-Adillah Dalam Metodologi Hukum Islam." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 2, no. 1 (2020): 45–64. <https://doi.org/10.37680/almanhaj.v2i1.309>.
- Huda, Miftahul. *Filsafat Hukum Islam*. Yogyakarta: Sukses Grafia Yogyakarta, 2006.
- . *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia*. Cet 1. Jakarta: Raja Grafindo Press, 2002.
- Kementerian Agama Republik Indonesia. *Al-Qur'an Dan Terjemahannya. Surah Ali 'Imran/3:190-191, Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang Dan Diklat Kementerian Agama Republik Indonesia*. Edisi Peny., 2019.
- Khallaf, Abd al-Wahhab. *Ushul Al-Fiqh*. Kairo: Maktabah al-Da'wah al-Islamiyah Syabab al-Azhar, 2002.
- N, Muhadjir. *Metodologi Penelitian Kualitatif (7th Ed)*. Rake Sarasin, 1996.
- Ramadhani, Putri Eka. "Ta'arudh Al -Adillah: Metode Memahami Dalil Dalam Penyelesaian Persoalan Hukum." *Mabadi Indonesia Journal of Law* 1, no. 2 (2022): 313–31.
- Rofiq, Ahmad. *Hukum Islam Di Indonesia*. Jakarta: Raja Grafindo Persada, 1995.
- Shihab, Muhammad Quraish. *Tafsir Al-Mishbah*. Cet I. Jakarta: Lentera Hati, 2002.
- Sopyan, Yayan. "Tarikh Tasyri' Sejarah Pembentukan Hukum Islam." *Journal of Chemical Information and Modeling* 53, no. 9 (2013): 1689–99.
- Sugiyono, Prof. Dr. *Metode Penelitian Pendidikan (Pendekatan Kuantitati, Kualitatif Dan R&D)*. Cetakan 23. Bandung: Penerbit Alfabeta, 2015.
- Supriyadi, Dedi. *Sejarah Hukum Islam, Dari Kawasan Jazirah Arab Sampai Indonesia*. Bandung: Pustaka Setia, 2007.
- Syafe'i, Rahmat. *Ilmu Ushul Fiqh*. Bandung: Pustaka Setia, 1998.