



STUDY OF ISLAMIC LEGAL PHILOSOPHY AS A PHILOSOPHICAL APPROACH TO ISLAMIC LAW

KAJIAN FILSAFAT HUKUM ISLAM SEBAGAI PENDEKATAN FILSAFAT HUKUM ISLAM

Sri Ayu Andari Putri Alwaris^{1*}, Achmad Musyahid², Rahmatiah³,

¹Postgraduate Program of Alauddin State Islamic University Makassar, Email: sriayuandariputri1@gmail.com

² Postgraduate Program of Alauddin State Islamic University Makassar, Email : achmad.musyahid@uin-alauddin.ac.id

³ Postgraduate Program of Alauddin State Islamic University Makassar, Email : rahmatiah@uin-alauddin.ac.id

*email Koresponden: sriayuandariputri1@gmail.com

DOI: <https://doi.org/10.62567/micjo.v2i2.530>

Article info:

Submitted: 18/01/25

Accepted: 21/04/25

Published: 30/04/2

Abstract

Philosophy can be interpreted as love or a tendency towards wisdom. The philosophy of Islamic law is a philosophical study of the nature of Islamic law, the source of the origin of Islamic law and the principles of its application as well as the function and benefits of Islamic law for the lives of the people who implement it. The urgency of the philosophy of Islamic law is to make philosophy an approach in exploring the nature, sources and objectives of Islamic law. Positioning the philosophy of Islamic law as one of the important fields of study in understanding the sources of Islamic law which come from revelation and the results of ijtihad of scholars. The philosophy of Islamic law has an important role in the development of Ijtihad.

Keywords: Philosophy, Law, Islam

Abstrak

Filsafat dapat diartikan sebagai cinta atau kecenderungan terhadap kebijaksanaan. Filsafat hukum Islam merupakan kajian filosofis tentang hakikat hukum Islam, sumber asal usul hukum Islam dan asas penerapannya serta fungsi dan manfaat hukum Islam bagi kehidupan masyarakat yang melaksanakannya. Urgensi filsafat hukum Islam adalah menjadikan filsafat sebagai suatu pendekatan dalam menggali hakikat, sumber dan tujuan hukum Islam. Memposisikan filsafat hukum Islam sebagai salah satu bidang kajian penting dalam memahami sumber-sumber hukum Islam yang bersumber dari wahyu dan hasil ijtihad para ulama. Filsafat hukum Islam mempunyai peranan penting dalam perkembangan ijtihad.

Kata Kunci: Filsafat, Hukum, Islam



1. INTRODUCTION

Islamic law is believed by Muslims to be law that originates from the revelation of Allah SWT. This belief is based on the belief that the source of law in Islam is the Qur'an and Sunnah. However, it must be acknowledged that the Qur'an and Sunnah are limited, both in events and the time of establishing the law, while events are increasingly numerous and varied. the problem. In facing this problem, interpretation and efforts to discover Islamic law and Islamic legal experts are highly demanded. Understanding and interpreting the sources of Islamic law requires systematic and logical reasoning.

We often understand and find that the meaning of Islamic philosophy itself has its own characteristics and concludes various unique problems so that it always provides a significant contribution to human thought. Islamic legal philosophy emerged to answer questions that were not covered by legal science and had critical and constructive tasks on its part. The critical task in Islamic legal philosophy is to question the established paradigms in Islamic law, while the constructive task of Islamic legal philosophy is to unite the branches of Islamic law in the unity of the Islamic legal system so that it appears that the branches of Islamic law are inseparable from each other. Therefore, in essence, questions in the study of Islamic legal philosophy must obey Islamic law.

Islamic law is guided by a theological legal view. This means that Islamic law was created because of cause and effect. Islamic law is a manifestation of the nature of rahman and rahim (Most Gracious and Most Merciful) the existence of sharia on earth to uphold justice with social regulations that provide justice to all people. In the study of Islamic religious philosophy about the approach, when someone does a religious deed will not feel dry and bored, the more able to recognize the philosophical meaning of a religious teaching, the more the attitude of appreciation and spiritual power that a person has because the true definition of philosophy seeks to explain the essence of an object behind the phenomenon.

2. RESEARCH METHOD

This type of research uses the sharia legal approach method. This approach is defined as an approach that leads to the question of whether or not something can be used according to Islamic law .

The data used in compiling this research is using references from journals, books and other articles related to the topic discussed

3. RESULTS AND DISCUSSION

1. Understanding the Philosophy of Islamic Law

The field of Islamic legal philosophy is relatively new, at least in its specific discussion and writing. Philosophy pursues knowledge by doubting every knowledge and believing in doubt about everything through the questions it answers itself. While Islamic law begins with belief in the truth of Allah SWT.

a. Definition of Philosophy



Philosophy etymologically comes from the Greek Philosophia. Philos means liking, love or inclination towards something. While shopia means wisdom. Thus, in simple terms, philosophy can be interpreted as love or a tendency towards wisdom. Pythagoras was the Greek philosopher who first used the word philosophy. He called himself philosophos, lover of knowledge, lover of wisdom. He used this word as a reaction to people who called themselves experts in knowledge. According to him, humans will not be able to achieve complete knowledge even if they spend their entire lives for it. Therefore, he said the appropriate title for humans is lovers of knowledge (philosophers), and not experts in science.

Thinking philosophically has its own characteristics, namely:

- Radical
Radical means thinking to the roots, thinking to the essence or substance of what is being thought about.
- Universal
Universal is thinking about things and processes that are general in nature. How or the path taken by a philosopher to achieve the goal of his thinking can vary, but what is aimed at is the generality obtained from the specific things that exist in reality.
- Conceptual
Conceptual is the result of generalization and abstraction from experiences about things and individual processes. Philosophizing does not think about a particular person or a particular person but rather thinks about people in general. Philosophical thinking is not concerned with thinking about free actions carried out by certain, specific, concrete people as studied by a psychologist, but rather with thinking about what is freedom? With this conceptual characteristic, philosophical thinking goes beyond the limits of everyday experience.
- Coherent
Coherent means in accordance with the rules of logical thinking.
- Consistent
Consistent means not containing contradictions. Both coherent and consistent can be interpreted as sequential.
- Systematic
Systematic for a philosopher or expert in philosophy, in presenting an answer to a problem he uses opinions as a form of the process of thinking called philosophizing. The opinions that are philosophical descriptions must be interconnected regularly and contain a certain intention or purpose.
- Comprehensive
Comprehensive means covering everything, there is nothing outside of it.
- Free
Free from social, historical, cultural or religious prejudices. Freedom of thought is not unlimited or arbitrary, as one pleases, anarchy, but free thinking but bound and



disciplined. Viewed from this aspect, philosophy is said to develop the mind with awareness, solely according to the rules of the mind itself.

- Responsible

A person who philosophizes is a person who thinks while being responsible. The first responsibility is to one's own conscience. Here we see the relationship between freedom of thought in philosophy and the ethics that underlies it.

According to the philosopher Plato (427-347 BC), philosophy is knowledge about everything that exists. The term philosophy was first introduced by Pythagoras as a reaction to the intellectuals of his time who called themselves "knowledge experts". In addition, the Heroklatos philosopher had used the word philosophy to explain that only God knows wisdom and is the owner of wisdom, humans must be satisfied with their duties in the world as seekers and creators of wisdom.

The definition of philosophy in terms of terminology has various meanings. Philosophers define it according to the background of their philosophical thinking, such as Socrates: philosophy is a reflective self-examination or contemplation of the principles of a just and happy life .

Apart from that, in Arabic the word hikmah is known which is almost the same as the meaning of wisdom, the word hikmah or hakiem in Arabic is used in the sense of philosophy and failure . Wisdom as mentioned in the Qur'an makes a person who has wisdom a noble and dignified person. Wisdom is also understood as a deep understanding of religion. Wisdom is firm and true words that can differentiate between what is right and what is false. Wisdom in preaching as desired by Allah in QS. An-Nahl/16: 125.

God willing, God willing, God willing, God willing, God willing, God willing.

بِإِذْنِ رَبِّكَ هُوَ أَعْلَمُ بِمَنْ ضَلَّ عَنْ سَبِيلِهِ وَهُوَ أَعْلَمُ بِالْمُهْتَدِينَ God willing

Translation:

125. Call (people) to the path of your Lord with wisdom and good teaching and argue with them in a better way. Indeed, your Lord is He who knows best who has gone astray from His path and He (also) knows best who has been guided.

Wisdom is knowledge about the nature of something and knowing the essence of what is contained in that thing, regarding its meaning and benefits. Knowledge of this essence becomes a driving force or motive for carrying out good and correct actions. The essence of philosophy is to think deeply about something, knowing what , how, why, and the values of that thing. The essence of wisdom is understanding revelation in depth with what is within humans so that it encourages people who know it to do good deeds and act in accordance with their knowledge.

b. Understanding the Philosophy of Islamic Law

The philosophy of Islamic law is a philosophical study of the nature of Islamic law, the source of the origin of Islamic law and the principles of its application as well as the function and benefits of Islamic law for the lives of the people who implement it. The



philosophy of Islamic law is a philosophy applied to Islamic law, it is a special philosophy and its object is specific, namely Islamic law, so the Philosophy of Islamic Law is a philosophy that analyzes Islamic law methodically and systematically so as to obtain fundamental information, or analyzes law scientifically with philosophy as its tool. According to Azhar Basyir, the Philosophy of Islamic Law is scientific, systematic, accountable and radical thinking about Islamic law. In other words, the Philosophy of Islamic law is knowledge about the nature, secrets, and goals of Islam, both concerning its material and the process of its determination, or a philosophy used to radiate, strengthen, and maintain Islamic law, so that it is in accordance with the intent and purpose of Allah SWT in establishing it on earth, namely for the welfare of all mankind.

The philosophy of Islamic law is a scientific and systematic thought that can be accounted for and is profound about Islamic law or in other words the philosophy of Islamic law is the secret knowledge and essence itself. Al-Farabi argues that philosophy is the science (knowledge) of the natural world and its true essence. In fact, Islamic legal philosophy includes two main things, namely tasyri' philosophy and the essence and secrets of Islamic law, which is hereinafter referred to as sharia philosophy. Philosophy that analyzes Islamic law methodically and systematically so as to obtain fundamental information or analyze Islamic law scientifically with philosophy as its tool.

Thus, in essence, Islamic legal philosophy is critical of problems. The answers are not free from further criticism so that it can be said to be the art of criticism, in the sense of never being satisfied in searching but being willing to reopen the search in accordance with the nature of philosophy.

Thus, in essence, Islamic legal philosophy is critical of problems. The answers are not free from further criticism so that it can be said to be the art of criticism, in the sense of never being satisfied in searching but being willing to reopen the search. In accordance with the nature of Islamic legal philosophy which tries to handle fundamental questions conceptually and comprehensively. In this connection it can be concluded that Islamic legal philosophers are required to think about Islamic law. First, the interests of the community who want safety and welfare to hold or continue a law enforcement program. We must live in a way that encourages the emergence of laws that protect life, so that life becomes stable. Second, changes in the community's own benchmarks can cause pressure on organizations to change their policies or strategies, or to give up on their goals.

2. The Urgency of Islamic Legal Philosophy

The purpose of Islamic law is to create peace in this world and happiness in the hereafter. The aim of Islamic law is a manifestation of the rahman and womb (Most Gracious and Most Merciful) nature of Allah SWT towards all His creatures. Rahmatan lil-alamin is this sharia or Islamic law. With the existence of sharia, peace can be established on earth with the



regulation of society that provides justice to all people. Among the urgency of Islamic legal philosophy are:

- a) Making philosophy an approach to exploring the nature, sources and objectives of Islamic law;
- b) Can differentiate the study of the principles of Islamic jurisprudence from the philosophy of Islamic law;
- c) Positioning the philosophy of Islamic law as one of the important fields of study in understanding the sources of Islamic law which originate from revelation and the results of ijtihad of scholars;
- d) Finding legal tools as part of an analytical approach to various matters that require legal answers so that the implementation of Islamic law is the answer to situations and conditions that are constantly changing dynamically;

3. Objects of Study of Islamic Legal Philosophy

The objects of study of Islamic legal philosophy are:

- 1) Regarding the maker of Islamic law (al-hakim), namely Allah SWT, who has made the prophets and messengers, especially the last prophet Muhammad SAW, who received His message in the form of a source of Islamic teachings contained in the holy book of the Qur'an, and the existence of the Messenger of Allah SAW whose existence is possible (mumkinah al-Maujudah).
- 2) Regarding the sources of Islamic legal teachings, relating to the written Kalamullah or Koraniyah and the unwritten ones in the form of all His creative works or Kauniyah verses .
- 3) About the person who is the subject or object of divine speech, namely the Mukallaf, who is ordered or prohibited or has the freedom to choose.
- 4) About the purpose of Islamic Law as the basis for the deeds of mukallaf and the rewards in the form of rewards from the bearer of the command.
- 5) Concerning the methods used by ulama in issuing postulates from the sources of Islamic legal teachings, namely the Al-Qur'an and Hadith as well as the opinions of friends which are used as references in practice.

4. The Role of Islamic Legal Philosophy in the Development of Ijtihad

Society is constantly changing. Changes can be changes in social, cultural, socio-economic order. According to linguistic experts, language will experience changes every ninety years, changes in language directly or indirectly mean changes in society.

Recently in the Islamic world, there has been much discussion about the renewal of Islamic law, whether in the form of reactualization, reformulation, actualization and the like. These steps are an effort by scholars to anticipate various problems that arise in society, so that ijtihad is needed that is in accordance with the current situation. Therefore Ibn Qayyim said:



"changes in fatwas are due to changes in time, place, circumstances, and customs". The meaning of the statement above is that the condition of a society will affect the fatwa issued by the mufti. However, this does not mean that the law will simply change without considering the norms contained in the main sources of Islamic law, the Qur'an and hadith.

History records that *ijtihad* has been carried out from time to time. In the early days of Islam, *ijtihad* was carried out well and creatively. In the following period, a series of famous *mujtahids* emerged. This situation lasted until the golden age of Muslims. *jtihad* in the present is more necessary than in the past, because various problems arise that require us to solve them. There are several problems that arise now that coincidentally are similar or even the same as problems that have been discussed by previous *fiqh* experts. In cases like this, the current *mujtahid* is obliged to study and review the problems that have been determined by law, then adjust them to our current conditions and needs. That is perhaps what is meant by the adage: "Maintaining the old which is good and taking the new which is better." As for completely new problems, the *mujtahid* must resolve them by understanding the problem in question well and then discussing it carefully while still referring to the Qur'an and the hadith.

4. CONCLUSION

Philosophy can be interpreted as love or a tendency towards wisdom. The philosophy of Islamic law is a philosophical study of the nature of Islamic law, the source of the origin of Islamic law and the principles of its application as well as the function and benefits of Islamic law for the lives of the people who implement it. The philosophy of Islamic law is a philosophy applied to Islamic law, it is a special philosophy and its object is specific, namely Islamic law, so the Philosophy of Islamic Law is a philosophy that analyzes Islamic law methodically and systematically so as to obtain fundamental information, or analyzes law scientifically with philosophy as its tool

5. REFERENCES

- Akhmad, Shodikin, 'Philosophy of Islamic Law and its Function in the Development of *Ijtihad*', MK: Journal of Islamic Law Studies, 1.2 (2016)
- Alaidin, Koto, *Philosophy of Islamic Law* (Jakarta: PT RajaGrafindo Persada, 2012)
- Anita, Derta Nur, Sarbini Sarbini, and M. Bahtiar Ubaidillah, 'Philosophy of Islamic Law and Wisdom', As-Syar'i: Journal of Family Guidance & Counseling, 6.2 (2024)
- Arfa, Faisar Ananda, *Philosophy of Islamic Law* (Medan: Citapustaka Media Perintis, 2007)
- , *Philosophy of Islamic Law* (Medan: Citapustaka Media Perintis, 2007)
- Djami, Fathurrahman, *Philosophy of Islamic Law* (Jakarta: Logos Wacana Ilmu, 1997)
- Fateh, Mohammad, 'Reconstruction of Hasbu Ash-Shiddieqy's Islamic Legal Philosophy Thought (Methodological Study)', Journal of Islamic Law, 11.1 (2020)
- Firdaus, Muhammad Irkham, Selvia Namira Ahmad Ahmad, and Yashinta Aulia Santoso Putro, 'Study of the Philosophy of Islamic Law (Tafsir and *Ijtihad* as a Methodological Tool for Exploring Islamic Law)', Al-Thiqah, 5.2 (2022)
- Praja, Juhaya S., *Philosophy of Islamic Law* (Bandung: UNISBA Publishing Center, 1995)
- Rizal, Mustansyir, and Misnal Munir, *Philosophy of Science* (Yogyakarta: Pustaka Ilmu, 2006)



Saebani, Beni Ahmad, Philosophy of Islamic Law (Bandung: Pustaka Setia, 2007)