

Relevance of Ijtihād Ibn Taimiyyah to Contemporary Jurisprudence

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Abstract: The *ijtihād* Ibn Taimiyyah update was built in two models of *ijtihād*; *istidlāl* and *istinbāt*. Relevance strengthening of the *naqly istinbāt* evidence and the approach of rationality independence (*istidlāl*) is urgently needed. Although in reality, Ibn Taimiyyah was more likely to wear the *istinbāt* model than *istidlāl*. Ibn Taimiyyah said the foundation of the *ijtihād* method comprehensively, the *naqly* and *'aqlly* evidence applied simultaneously in every determination of Islamic law. Upon consideration of every sharia law, there must be a good content of shari'a purposes, then ibn Taimiyyah's most popular view is that valid *sharīah* evidence must correlate with the correct rational evidence. Ibn Taymiyah's legal method uses: (1) the Qur'an, (2) sunnah, (3) *ijmā'*, (4) *qiyās*, (5) *istishāb*, and (6) *maṣlahah al-mursalah*. There is a strong relevance between the renewal of *ijtihād* Ibn Taimiyyah and the development of Islamic law, especially in the field of contemporary jurisprudence with the approach of *maṣlahah*. Such as the ability to exchange and sell waqf property, the ability to appoint leaders from non-Muslims, the ability to buy and sell goods embedded in the ground, and the ability to buy and sell goods on credit.

Keywords: Relevance, Ijtihād Ibn Taymiyyah and Contemporary Jurisprudence

Abstrak: Pembaruan *ijtihād* Ibn Taimiyyah dibangun dalam dua model *ijtihād*; *istidlāl* dan *istinbāt*. Penguatan relevansi pembuktian *naqly istinbāt* dan pendekatan independensi rasionalitas (*istidlāl*) sangat dibutuhkan. Meski pada kenyataannya, Ibnu Taimiyyah lebih cenderung memakai model *istinbāt* daripada *istidlāl*. Ibnu Taimiyyah mengatakan landasan metode *ijtihād* secara

komprehensif, dalil naqly dan 'aqli diterapkan secara simultan dalam setiap penetapan hukum Islam. Berdasarkan pertimbangan setiap hukum syariah, harus ada isi yang baik dari tujuan syariah, maka pandangan paling populer ibn Taimiyyah adalah bahwa bukti syariah yang valid harus berkorelasi dengan bukti rasional yang benar. Metode hukum Ibnu Taimiyah menggunakan: (1) Al-Qur'an, (2) sunnah, (3) *ijmā'*, (4) *qiyās*, (5) *istiṣhāb*, dan (6) *maṣlaḥah al-mursalah*. Terdapat relevansi yang kuat antara pembaruan *ijtihād* Ibnu Taimiyyah dengan perkembangan hukum Islam, khususnya dalam bidang fikih kontemporer dengan pendekatan *maṣlaḥah*. Seperti kemampuan menukar dan menjual harta wakaf, kemampuan mengangkat pemimpin dari non muslim, kemampuan jual beli barang yang disematkan di tanah, dan kemampuan jual beli barang secara kredit.

Kata Kunci: Relevansi, *Ijtihād* Ibnu Taimiyah dan Fiqih Kontemporer

Introduction

Islam is the perfect religion that governs all sides of life. Islam does not distinguish between the worldly and the *ukhrawi*. The sharp division of human activity between the two is not very important and will only give rise to tensions of an agony nature.¹

Islam in the span of history once contributed to the course of world history (from the 7th to the 14th centuries), and then sank in the last six centuries. Here the desire to restore the role of the Islamic world in world civilization becomes important to be observed. The response to that is at least by doing *tajdīd al-fahm* (renewal of understanding).

For supporters of *tajdīd*, there is something wrong with the understanding of Muslims towards the basic teachings of Islam. Early Muslims, particularly the last six

¹ Syed Nawab Haider Naqvi, *Menggagas Ilmu Ekonomi Islam*, trans. M. Saiful Anam and M. Ufuqul Mubin (Yogyakarta: Pustaka Pelajar, 2003), 30.

centuries, were too fixated on rigid fiqh rules and polarized by classical scholastic *kalam* thought.²

Two factors that make the issue of Islamic renewal become actual as well as controversial throughout Islamic thought. First, the universality character of Islam, which response to all forms of the new understanding of the reality of change. Second, the absolute character of Islam, which implies the view that Islam is a superior and abstention value system. From this, there is an assumption that ijtihād becomes an exclusive task and demands strict requirements, and can only be done by qualified people. The dynamics of *ijtihād* have given birth to a false perception, namely the hoarding *ijtihād*. In its development, this hoarding can also be seen as a continuation of the dark period in Islamic thought.

Basically, like Iqbal's statement, "*ijtihād* is a principle of movement in Islam."³ With this sentence, Iqbal seems to want to remind that without creative and constant ijtihād, Muslims will be hit by the freeze of thinking, *taklīd*, and rejection of everything new. In this context, the updated model of ijtihād Ibn Taymiyyah, as the cleric dubbed the initiator of *tajdīd*, is important to study.

Ibn Taimiyah al-Harani was a Muslim intellectual who had sought to uncover the veil of darkness that enveloped the Muslims of his time. One of his thought orientations is his desire to always try to renew the atmosphere, and also to criticize and reveal the

² Mr. Arkoun, *al-Islām: al-akhlāq wa al-Siyāsah*, Terj. Hasyim Saleh (Beirut: Markaz al- Immo' al-Qawma, 1990), 172.

³ Zainal Abidin, " Corak Pemikiran Dan Metode Ijtihād Ibn Taymiyyah", *Millah* ed, عدد khusus ٢ (٢٠١٠): (ديسمبر، ٢٠), <https://doi.org/10.20885/millah.ed.khus.art, 2>.

weaknesses that exist in the fiqh sects that have developed and then try to renew them.⁴

The criticism that is put forward is not due to a desire to find an opponent, especially because it has a polished talent or arguing, but rather because of his desire to improve and rebuild the authority of Islamic law which he thinks has deviated from its main sources, namely the Qur'an and al-Ḥadīth. The construction of criticism and renewal was based on his reading of the historical reality of the existence of Islamic law authority and then associated with the results of his reading of the social conditions -juridical Muslims in his time, so that he gave rise to an assumption that the first generation Muslims were magnificent and triumphant and respected because the Qur'an and al-Ḥadīth are still held firmly, without infiltration of local traditions or understandings and cultures that contributed to the formation of Islamic law.⁵

In the condition of the cheese and thinking that by the *fanaticism* of the sect, Ibn Taimiyah present -- as a hero -- to proclaim the central issue so that Muslims return to the *khiṭṭah* al-Qur'an and al-Ḥadīth and model the companions and scholars of *salaf al-ṣāliḥ*.⁶

Ibn Taimiyah wanted an attempt to purify religion. The thing that comes first is that Muslims have to throw away the nature of fanaticism and cheese. Muslims should not be shackled by ancient understandings in a blind tally. He voiced the spirit of *ijtihād* and opened its doors widely. This is what made the scholars of the fanaticism of the sect in his time opposed the all-out movement ibn Taimiyah in

⁴ Ibn Taimiyyah, *Kitāb Al-Īmān* (Beirut: Dār al-Kutub al-'Ilmiyyah, n.d.), 30.

⁵ Abd. Rahman, *Syari'ah in Islamic Law* ((Kuala Lumpur; Tp,1992), n.d.), 46.

⁶ Harun Nasution, *Indonesian Islamic Encyclopedia*, DT , 348.

the program of law reform that he proclaimed to purify religion.

The renewal program designed by Ibn Taimiyah is a sacred call from the social conditions surrounding it. This raises a very basic question, namely how the efforts and forms of legal reform he made –which we discussed in this scientific article as an interesting object of study to discuss

Discussion

Method Istidlāl

The most significant point in the study of ijtihād Ibn Taimiyyah was the obligation to establish the Istidlāl method independently and seek synchronization with the *ijtihād* method of the mujtahid imams of the sect. especially the use of the basics of strong and correct *naqly* evidence. Ibn Taimiyyah was a cleric who lived during the domination of the tradition of blind *taklīd* in the imam of the sect, without a strict selection of the evidence sources. It lives in a time of deadlock of logic and *ijtihād*, so the thing that must be done is the return to the pure basic sources of *Istidlāl* on the sources of *naqly*, al-Qur'an and al-Sunnah.

In the book of *al-Fatāwā al-Kubrā*, Ibn Taimiyyah affirms the religious framework as follows:⁷

أَلْفَقُهُ فِي الدِّينِ مَعْرِفَةُ الْأَحْكَامِ الشَّرْعِيَّةِ بِأَدِلَّتِهَا السَّمْعِيَّةِ، فَمَنْ لَمْ
يَعْرِفْ ذَلِكَ لَمْ يَكُنْ مُتَّفَقًا فِي الدِّينِ

Jurisprudence in the rules of religion is an understanding of the laws of shari'a based on the evidence

⁷ Ibn Taimiyyah, *al-Fatāwā al-Kubrā*, M2 (Cairo: Dār al-Sa'ab 1976), (DT), 458.

of. One who does not know the sources of his evidence, then he can not understand the content of religion.

In the affirmation of the truth of Islamiyah, Ibn Taimiyyah reminded with his statement;⁸

وَالصَّوَابُ أَنَّ حُصُولَ الْإِعْتِقَادِ بِالنَّظَرِ فِي هَذِهِ الْأَدِلَّةِ يَخْتَلِفُ
بِاخْتِلَافِ الْعُقُولِ مِنْ ذِكَاةٍ وَصَفَاءٍ وَزَكَاةٍ وَعَدَمِ مَوَانِعَ. وَالْعِلْمُ
الْحَاصِلُ عَقَبِهَا مُرْتَبِّ عَلَى شَيْئَيْنِ. عَلَى مَا فِيهَا مِنْ أَدِلَّةٍ، وَعَلَى مَا
فِي النَّظَرِ مِنَ الْإِسْتِدْلَالِ، وَهَذِهِ الْقُوَّةُ الْمُسْتَدِلَّةُ تَخْتَلِفُ كَمَا
تَخْتَلِفُ قُوَى الْأَبْدَانِ، فَرُبَّ دَلِيلٍ إِذَا نَظَرَ فِيهِ ذُو الْعَقْلِ الثَّاقِبِ
أَفَادَهُ الْيَقِينَ

The right thing in the Islamic creed, if taken from different pieces of evidence due to consideration of rationality, intelligence, cleanliness, and clarity of mind, then surely awakened understanding of two things, the truth of Islamiyah remains in terms of the truth of the evidence *naqly* absolutely, and the truth obtained from the process of finding evidence through the approach of the power of rationality. In the domain of *istidlal*'s process of righteousness, it will always change, as will the change in physical strength. However, in the domain of strengthening the truth of *the naş* evidence can only be understood by those who have a clean mind and strong beliefs.

According to Ibn Taimiyyah to understand the framework of sharia law should be prepared based on strengthening the truth of *the* evidence that is correlated with the process of understanding the scholars to the

⁸ Ibid 2:306.

sources of the evidence specifically the evidence of the Qur'an.

Ibn 'Abd al-Hādī stated where Ibn Taimiyyah gathered the views of salaf scholars on the explanation of law with the approach of valid *sanad* sources can be collected up to three volumes, Ibn Taimiyyah stated that each verse can give birth to 100 types of interpretation.⁹

Ibn Taymiyyah's mastery of the sources of hadis Proven earnestly in Researching and selecting the validity of a ḥadīth that is used as a source of evidence. The abasic bag is often Ibn Taimiyyah rejected as IAIN the view of scholars who do not make ḥadīth as a source of evidence with consideration of their validity.¹⁰

Based on his *ijtihād* method, Ibn Taimiyyah tried to bring together the methods of ḥadīth scholars and jurisprudence scholars. From among the scholars of ḥadīth Ibn Taimiyyah took the determination of strong and valid sources of ḥadīth, while from among the scholars of jurisprudence Ibn Taimiyyah use the relevance of the use of fiqh rules with the approach of the validity of the source of ḥadīth. Ibn Taimiyyah asserted that it has become common knowledge if ḥadīth scholars have values of perfection with various indicators of methods and competencies that are not found in other scholars. While other scholars, such as jurists should have different ways and methods of *Istinbāt* different laws such as rational approach, *al-qiyyās*, theories of kalam science, *Istidlāl*, discussion and debate process, *mukāshafah* method, deepening of taste (*dhawq*), and so forth. Ḥadīth scholars

⁹ Ibn al-Hādī, *al-'Uqūd al-Durriyah* ((Beirut: Dār al-Fikr,t.th), DT), 26.

¹⁰ Ibid *al-'Uqūd al-Durriyah*.

have gone through the above processes, even more broadly in their mastery.¹¹

Some scholars who use the method of ḥadīth approach and rationality are Imam Shafi'i, Imam Ahmad bin Hanbal, Imam Ishāq, Abī 'Abīdah, Abī Thaur, Muhammad Ibn Nasoral-Mawarzi, Imam Dawud ibn Ali. Menurut Ibn Taimiyyah are all fiqh scholars who are also members of ḥadīth.¹²

The scientific quality of Ibn Taimiyyah Science ḥadīth is not only in the field of acceptance of ḥadīth as a source of evidence, but he also holds the title of ḥadīth expert scholar because of his ability to memorize *Matan* and *sanad* ḥadīth comprehensively born and inwardly. In his opinion, the category of scholars of ḥadīth experts not only hear, write and narrate every ḥadīth, but they are always intensively looking for the source of strong ḥadīth narrators, memorization, and knowledge of the *rawi* mentally born. Bahkan including also must be scholars who memorize and master the content of the Qur'an.¹³

Ibn Taymiyyah's ḥadīth thinking is widely known through his writings based on the fiqh approach of ḥadīth. Many scholars praise his thoughts on certain issues. Ibn Taimiyyah sometimes used methods that are not the same as the majority of ḥadīth scholars, such as the recipients on *ḥadīth mursal* with certain conditions, and sometimes use ḥadīth *dā'if* as a method of thinking *fuqaha* in understanding the content of the meaning of *naş*. Ibn Taimiyyah always used the rules of *uşūliyyah* and the *fiqhiyyah* rules relevant to *the naş* evidence.

¹¹ Ibn Taimiyyah, *al-Fatāwā al-Kubrā*, 2:9–10.

¹² Ibn Taimiyah, *Majmū' Fatāawā*, M 20 (Cairo: D'r al-Sa'from 1976), DT), 233.

¹³ Ibid 2:90.

In the context of ḥadīth studies, Ibn Taimiyyah's thinking can be found several approaches. *First*, Ibn Taimiyyah wore *Istidlāl* with ḥadīth through the clarity of Degrees matan and his ḥadīth *sanad*, even describing each of distillates. *Second*, using the legal content contained in the ḥadīth evidences absolutely. *Third*, the use of ḥadīth evidence complete with the approach of tracing *takhrīj ḥadīth*, and fourth, sometimes using ḥadīth *dā'if*.¹⁴

Ibn Taimiyyah is a scholar who is very good at various ḥadīths as is known in each of his writings. Here are some characteristics of Ibn Taimiyyah's ḥadīth thoughts:

1. There is a difference in the mastery of ḥadīth in the early days of his life that still binds to some imams of the sect, especially imam Ahmad ibn Hanbal. While at the time of reaching the peak of scientific popularity, has conducted independent academic ijtihād proven the strengthening of the sources of evidence, especially the field of ḥadīth science in every legal opinion.
2. Ibn Taimiyyah studied more consistently the perfect strengthening of the assessment of every choice of ḥadīth *Matan* and its *sanad's* in the issue of religion, the problem of fiqh Difference scholars through the approach of explanation of the validity of ḥadīth that he carved such as the issue of marriage *tahlīl*, divorce, and engineering fiqh law. So Ibn Taimiyyah never wasted the views of other scholars related to the ḥadīth that was narrated.
3. Ibn Taimiyyah clings to memorizing the content of *Matan* and ḥadīths that are used as sources of fiqh law evidence

¹⁴ Ibid 4:27.

4. Sometimes using ḥadīth *ḍā'if* according to other scholars who have not established themselves as ḥadīth *ḍā'if*, considering there is no serious resistance with the source of the evidence of the Qur'an, or even strengthened by the study of the method of *al-qiyās* and *Istinbāt* law that can be accounted for.
5. There is an alignment of the method of understanding ḥadīth with imam Ahmad ibn Hanbal in the process of determining ḥadīth *ḍā'if*.¹⁵

Istinbāt Method Framework

Efforts to approach rationality and methods of using the argument of *naqly* is Ibn Taimiyyah's method in drafting the framework of *Istinbāt*.

Ibn Taimiyyah has its pattern compared to medieval jurisprudence scholars. The author found that some of the basic determining frameworks of an Ibn Taimiyyah law were more likely to use the term *Istinbāt* than *Istidlāl* or others. There are several reasons for the urgency of using *Istinbāt*, among others.

The freedom of Ibn Taimiyyah's method of thinking is not stuck with the methods of certain sects and opinions of scholars. Ibn Taimiyyah had the independence of the rational method and the *Istinbāt* method

1. Ibn Taimiyyah believed that the human mind is a gift of Allah SWT, so the use of reason as proof of shariah should be based on the application of the correct sharia policy.
2. The depth of knowledge and prudence of Ibn Taimiyyah in the application of sharia sciences are described in a comprehensive scientific frame of various aspects.

¹⁵ Ibid

According to Ibn Taimiyyah *Istinbāt* the evidence of syar'i is not easy, but something that requires seriousness, prudence in the use of pieces of evidence both rational and *naqly*. Therefore it takes a field of scientific expertise in the process of *Istinbāt*.

This basis shows evidence that Ibn Taimiyyah was a worthy cleric who built a fiqh madrasa using the *Istinbāt* method independently.

Ibn Taimiyyah argues that the discovery of a belief in the use of proof is determined by the diversification of the rationality of a cleric from the aspects of intelligence, clarity, and cleanliness of reason. the results of *ijtihād* ulama are always composed of the framework of strengthening the evidence *naqly Istinbāt* and the approach of rationality independence (*Istidlāl*). Both have different levels of strength as the human body. Sometimes the proof is found with the strength of a strong mind that gives birth to a belief, sometimes the power of reason is not supported by the evidence so that it requires an additional basis to give birth to the truth of the belief. A science obtained from two reasons, *the first* external reason is the existence of evidence *naqly*, *the second* internal reason is the knowledge of the assessment of each evidence until it gives birth to a correct understanding.¹⁶

To reinforce the logic of the truth of his opinion, Ibn Taimiyyah stated the importance of strengthening the evidence of *naqly Istinbāt* and the self-reliance approach of rationality (*Istidlāl*).

According to him, efforts to determine the power of basic truth rationality, only owned by certain scholars. Knowledge of the law and meanings containing sharia law is the knowledge of noble scholars, some are commonly known by many scholars, some are special.

¹⁶ Ibn Taimiyyah, *al-Fatāwā al-Kubrā*, 3:306.

Therefore, the use of *al-qiyās* by the majority of scholars is returned to the differences in the use of more specific *naṣ* (*legal resources*) evidence indicating the content of the law.¹⁷

Here are the things that a mujtahid needs in determining the method of *Istinbāṭ* law;

1. Level of rational intelligence
2. Depth of science associated with the *Istinbāṭ* method
3. Willingness and concentration of the ability to discuss the rules of causality arising from acceptance and rejection of the law
4. Cleanliness and clarity of conscience in the process of finding evidence.
5. There are no barrier elements of belief in the *process of Istinbāṭ* and *Istidlāl*.
6. Mastery of the sources of shariah evidence.¹⁸

Ibn Taimiyyah explained that there is a mistake in the process of determining the law due to the lack of comprehensive knowledge in the field of law, especially in the aspect of correlation between the main evidence (*aṣl*) and the branch evidence (*far'*) that must be filled in complete about '*illat* law and the evidence '*illat*. This is the basis of the wrong use of *al-qiyās*. It was on this basis that Ibn Taimiyyah rejected the theory and belief in the evidence of the *naṣ* (*legal resources*) that always led to opposition to *al-qiyās*.¹⁹

According to him, the authentic *naṣ* (*legal resources*) will not cause disagreements and disagreements, it will not be possible to contradict the opposite of the authentic

¹⁷ Ibn Taimiyyah, *Risālah al-Qiyās* (Beirut: Dār al-Kutub al-Ilmiyyah, t.th.), DT), 286.

¹⁸ Ibid

¹⁹ Ibn Taimiyyah. *Majmū' Fatāwā*. 18, 19.

naqly with the true rational resources, thus the opposite of *al-qiyās* resources²⁰

For example, the above is a matter of terms in an agreement. Some Scholars mentions between *mubah* and *man'u*, between *ta'līl* and *man'u*. Mereka equalizes the overall requirements in the fulfillment of an agreement must meet the requirements *walā'* (ability Contract), because *'illat* sometimes Opposite with the application of the contract. Because all contracts must meet the application of sharia. Until there is a change in the contract that affects the fulfillment of sharia that is influenced by different types of worship. This is in accordance with the rules:

إِنَّ الْعُقُودَ مَشْرُوعَةً عَلَى وَجْهِ، فَاشْتَرَا طَ مَا يُحَالِفُ مُقْتَضَاهَا تَغْيِيرَ
لِلشُّرُوعِ

"As real as his Contract implemented on a certain type, while the condition of something that gives birth to differences depending on the change in sharia. "

Ibn Taimiyyah stated that ownership is beneficial to distribute various functions, as *ijmā'* allows some types of buying and selling, such as Imam Ahmad allows the type of buying and selling except for some types of benefits, in this case, there are two types of approach patterns, firstly whether there is a condition of eliminating the absolute function of an agreement, or secondly a condition becomes the absolute function of the contract.

Ibn Taimiyyah asserted with evidence the evidence of the Qur'an and al-Sunnah on the ability of the existence of conditions in an agreement, among the many legal bases that are a contract and condition is a type of custom-

²⁰ Ibn Taimiyyah, *al-Fatāwā al-Kubrā*, 2:517.

based deeds. As the basic there is no form of sharia, this is based on the word of Allah SWT.:

قَدْ فَصَّلَ لَكُمْ مَا حَرَّحَ عَلَيْكُمْ

"Indeed Allah has explained to you the things that are forbidden to all of you", the verse has a general meaning in the provisions and types of actions. An act when it is not forbidden in a *naṣ* (legal resources) then surely the provisions and types of deeds are permissible by shari'a. Because there is no specific explanation related to the provisions of the contract and the terms of action, so any action on rational considerations that there is no prohibition in detail in the *naṣ* (legal resources) is permissible.²¹

As an example in the contract *shuf'ah* which is suspected as an agreement to determine the existence of losses there is a value of share revenue distribution. Menurut Ibn Taimiyyah, akad *shuf'ah* determined based on the evidences of *naṣ* and *ijma'*.^{gt}. Kethics of one of the business owners or joint shares, asking for a share of profit to his trading partner, then the person is obliged to give the profit even though there will be a difference in the value of profit.

The seriousness of the Method of *Istinbāt* Ibn Taimiyyah there are two kinds, first *Istinbāt* from the evidence of *Naṣ* (legal resources), either at the beginning of the study of a problem or the model of determination and strengthening of understanding, Second, *Istinbāt* strengthening method *with* various other evidence that has strong validity. For example, the first model is the *Istinbāt* method for the ability to maintain an agreement and fulfill the agreement. According to him, while the

²¹ Ibn Taimiyyah, *al-Qawā'id al-Fiqhiyyah* ((Beirut: Dār al-Fikr, t.th), DT), 192, 200.

type of fulfillment and maintenance of the agreement is considered as a shari'a order, then the validity of an agreement from the fulfillment of the conditions, because the main purpose of an agreement is the fulfillment of an agreement as a condition of being bound.²²

A framework of the *Istidlāl Naqly* and '*Aqlī* Methods

Ibn Taimiyyah laid the foundation of the *ijtihād* method comprehensively, the evidence of *naqly* and '*aqlī* applied simultaneously in every determination of Islamic law. No law is not known as the source of the evidence, either from the evidence *naqly* or '*aqlī*, as well as based on consideration of every sharia law there must be a good content of shari'a purposes. Ibn Taimiyyah asserted that any valid shari'a evidence must correlate with the correct rational evidence. Here are the basics of consideration;

1. The obligation of the scholars of *ijtihād* to find the strength of the evidence of the Qur'an and al-Sunnah which has relevance to every problem;
2. Using rational evidence that is not contrary to the rules of fiqh proposal;
3. Perform a perfect induction method against each branch's evidence and the subject matter of jurisprudence.

First Rule

Sharia legal resources should be used as a policy of *Istinbāt* the setting of a ruling. While the legal resources are not authentic, then they cannot be worn By *Istinbāt* As the statement of Allah SWT:²³

²² Ibid 197.

²³ al-Qur'an, 9:109.

أَفَمَنْ أَسَّسَ بُنْيَانَهُ عَلَى تَقْوَىٰ مِنَ اللَّهِ وَرِضْوَانٍ خَيْرٌ أَمْ مَنْ أَسَّسَ
بُنْيَانَهُ عَلَىٰ شَفَا جُرْفٍ هَارٍ فَأَنْهَارَ بِهِ فِي نَارِ جَهَنَّمَ ۚ وَاللَّهُ لَا يَهْدِي
الْقَوْمَ الظَّالِمِينَ

"Is he who built his mosque on piety towards Allah and His good pleasure better, or he who built his building on the brink of a crumbling bank, and it fell with him into hell? And Allah does not guide the wrongdoers."

Based on the verse above, Ibn Taimiyyah asserts how urgent the seriousness of seeking the evidence of *naṣ* (legal resources), because doing *Istidlāl* with the evidence of *naṣ* can be established a proof with a textual and contextual approach.²⁴

Second Rule

Doing the process of *Istidlāl* with rational ability must be adjusted to the validity of the *naqli* evidence and the rules of jurisprudence. Ibn Taimiyyah explained that *Istinbāṭ* through the process of searching for rational evidence, not only requires a level of intelligence of reason in understanding some of the *naṣ* (legal resources) and jurisprudence alone, but rather on bringing together the relevance of the validity of the evidence of the *with* the correct rationality through consideration of the value of the benefit of the people globally.

Many verses command the benefit of human intellect in understanding the legal resources of the words, such as the saying of God:²⁵

قَدْ أَنْزَلْنَا إِلَيْكُمْ كِتَابًا فِيهِ ذِكْرُكُمْ أَفَلَا تَعْقِلُونَ

²⁴ Ibn Taimiyyah, *Majmu' Fatāwā*, 1:493.

²⁵ al-Qur'an, 2: 10.

"Indeed, We have revealed to you a book in it there are reasons for your glory. So, what do you not understand."

أَتَأْمُرُونَ النَّاسَ بِالْبِرِّ وَتَنْسَوْنَ أَنْفُسَكُمْ وَأَنْتُمْ تَتْلُونَ الْكِتَابَ
أَفَلَا تَعْقِلُونَ

"Why did you ask someone else (working) the prosperity, whereas you forget yourself (obligation)mu yourself, when you recited the Book (The Taurat)? So you don't think."²⁶

قَدْ بَيَّنَّا لَكُمُ الْآيَاتِ إِنْ كُنْتُمْ تَعْقِلُونَ

"We have explained to you the verses (We), if you understand."

The use of the evidence *'aqlī* according to Ibn Taimiyyah must follow the following rules;

First, the use of rational evidence should put forward the importance of correlation with hanif religious knowledge.

Second, the use of rational evidence must be based on sincerity in the practice of Islamic sharia.

While doing *Istidlāl* freely based on the independence of rational truth, it should make reason the basis of the main truth as the philosophers applied. One example in this case, namely the problem of buying and selling. if using the method of *al-ta'līl* on a free rational basis, without using the truth of the evidence of *the* as the method of *Istinbāt*, consequently implicating on two things; first, the elimination of the use of the evidence of *the*; second, the determination of the law of selling non-existent goods becomes valid and permissible.

Ibn Taimiyyah asserted that there was never any evidence of the Qur'an and Ḥadīth, nor did friends ever allow the sale and purchase of goods that did not exist, either from *the lafziyyah* or meaningless evidences. This is

²⁶ al-Qur'an, 2: 44.

based on the ḥadīth of the Prophet (s) who said: "It has forbidden the Prophet (s) to buy and sell because ours."²⁷

According to Ibn Taimiyyah, the opinion that allows the sale and purchase of goods that do not exist only applies to some types of goods based on several ḥadīths, such as

نَهَى رَسُولُ اللَّهِ عَنْ بَيْعِ الثَّمَرِ حَتَّى يَبْدُوَ صَلَاحُهُ

"The Messenger forbids buying and selling fruit before ripening " and other²⁸ ḥadīths of the Prophet such as

نَهَى رَسُولُ اللَّهِ عَنْ بَيْعِ الْحَبِّ حَتَّى يَشْتَدَّ

Rasulullah prohibits selling grain unless it turns yellow.²⁹

Based on the two ḥadīths, can be distinguished between ripe fruit with no fruit at all, so there are scholars who allow the sale and purchase of fruit that has been shaped, but not yet mature with the condition picking fruit, there are also other scholars who do not allow it, unless there is clarity of the fruit is ripe.³⁰

In other contexts, Ibn Taimiyyah strictly also prohibits the use of *Tahlīl* (marriage intending to *ruju'* on wives who are rejected three) with an approach for reasons of benefit, regardless of the rules that have been established by Shariah. So it seems that it is permissible for the law that has been made haraam by sharia.

²⁷ Ḥadīth narrated by Muslims in the book *al-Buyū'* number 1513 of Abi Huraira ra

²⁸ Ḥadīth narrated by Bukhāri in the book *al-Buyū'* Chapter *Buy and sell fruit before it matures*, number 2194. from 'Abillah ibn 'Umar.

²⁹ Ḥadīth narrated by Abi Dawūd in the book *al-Buyū'* number 3371 of Anas ibn Malik's best friend

³⁰ Ibn Taimiyyah, *Risālah al-Qiyās*, 264.

Therefore, a believer must obey the law of Allah and His Messenger in matters that are clearly visible the value of his benefit or not. For the goodness of the world can only be obtained by obeying God and His Messenger.³¹

Third Rule

The method of using perfect induction by rejecting the branch things (*juz'ī*) of things of a general nature (*kullī*) in the matter of jurisprudence. According to him, a Muslim must know the evidence of *uṣūl* which is universal (*kullī*) to understand fairly when it happens to things of a special nature (*juz'ī*)³² Ibn Taimiyyah obliges everyone to know the general lafad Quranic and His Messenger so that it can be used in the process of Istidlal by considering the level of understanding of the companions to the relevant shari'a purposes.³³

Ibn Taimiyyah said that anyone who rejects *qiyās* by not knowing the method of the process of Istidlal the scholars with the consideration of strong and weak evidence, then they have argued with something narrow rationally in the affairs of his religion.³⁴

Implications of ijtihād Ibn Taimiyyah in the field of fiqh Muamalah kntemporor

Changing or Selling His Legal Waqf Property May

The legal basis for waqf is the ḥadīth narrated by Bukhārī-Muslim from Ibn 'Umar, whose essence is as

³¹ Ibn Taimiyyah *al-Fatāwā al-Kubrā*, 2:200.

³² Ibn Taimiyyah *Majmū' Fatāwā*, 19:203.

³³ Ibid 19:85.

³⁴ Ibn Taimiyyah *al-Fatāwā al-Kubrā*, 3:430.

follows:³⁵

حَدَّثَنَا قُتَيْبَةُ بْنُ سَعِيدٍ حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ الْأَنْصَارِيُّ حَدَّثَنَا ابْنُ عَوْنٍ قَالَ أَنْبَأَنِي نَافِعٌ عَنْ ابْنِ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا أَنَّ عُمَرَ بْنَ الْخَطَّابِ أَصَابَ أَرْضًا بِحَيْرَ فَأَتَى النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَسْتَأْمِرُهُ فِيهَا فَقَالَ يَا رَسُولَ اللَّهِ إِنِّي أَصَبْتُ أَرْضًا بِحَيْرَ لَمْ أَصِبْ مَالًا قَطُّ أَنْفَسَ عِنْدِي مِنْهُ فَمَا تَأْمُرُ بِهِ قَالَ إِنْ شِئْتَ حَبَسْتَ أَصْلَهَا وَتَصَدَّقْتَ بِهَا قَالَ فَتَصَدَّقْ بِهَا عُمْرُ أَنَّهُ لَا يَبَاعُ وَلَا يُوهَبُ وَلَا يُورَثُ وَتَصَدَّقْ بِهَا فِي الْفُقَرَاءِ وَفِي الْقُرْبَى وَفِي الرِّقَابِ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ وَالضَّيْفِ لَا جُنَاحَ عَلَى مَنْ وَلِيَهَا أَنْ يَأْكُلَ مِنْهَا بِالْمَعْرُوفِ وَيُطْعِمَ غَيْرَ مُتَمَوِّلٍ قَالَ فَحَدَّثْتُ بِهِ ابْنَ سِيرِينَ فَقَالَ غَيْرَ مُتَأَثِّلٍ مَالًا

The prophet came to us to call him in it. You want to lock up its origin and believe in it, he said, so Omar believed in her that he is not sold or donated or inherited and believes in it in the poor, in the kin, in the necks, and for the sake of God and the son of the way, and the guest, there is no wing on her guardian to eat from her by virtue and feed unfunded, so he said, "Son of Serine, he said, "I don't have any money."

"Harold us Qutaibah bin Sa'id has told us Muhammad bin 'Abdullah Al Anshariy has told us Ibn 'Aun said Nafi' reported to me from Ibn 'Umar radliallahu 'anhuma that 'Umar ibn Al Khattab radliallahu 'anhu got a

³⁵ Dikutip dalam Ibn Hajar al-'Asqalâni, *Bulūgh al-Maram*, Terj. Ahmad b. Sa'ad b. Nabhan, (Surabaya: tp., tth.), 191.

share of the land in Khaibar then he met the Prophet sallallahu 'alaihi wasallam to ask ibn Taimiyyah's opinion about the land by saying: "O Messenger of Allah, I acquired land in Khaibar where I never got any more valuables than that. So what did you command about the land?" Ibn Taimiyyah said, "If you will, you will keep the trees and you will be able to fight with them." Ibn 'Umar (may Allaah be pleased with him) said: 'Umar gave him no sale, nor was he bequeathed, but he offered it to faqirs, relatives, to free slaves, *ibn sabil* and to entertain guests. It is not a sin for him who takes care of it to eat of it righteously, and to feed others, not to hoard it. *raawi* said; "Then I recounted this hadeeth to Ibn Sirin and he said: "Ghoiru muta'atstsal maalan means not to take the property of orphans to combine it with his property.

However, considering that waqf property may be reduced or depleted of its benefits, either because of inadequate management or because of damaged age, then Ibn Taimiyyah allowed exchanging or selling the waqf property if it is seen as more *maṣlahah*.

Regarding waqf in the form of mosques, in addition to hanbalî scholars, the scholars agreed on the inability to sell the mosque and use the results for any reason until the mosque was damaged though. However, hanbalî scholars, including Ibn Taimiyyah, considered that the mosque could be sold if it was needed, as for reasons that could no longer be used because it was too narrow so it was not able to accommodate Collection when to expand it was no longer possible.³⁶

Furthermore, Ibn Taimiyyah and generally hanbali scholars who allowed to change or sell mosques in case of emergency, allowed, even suggested, if it was seen as

³⁶ Muhammad Javād Mughniyyah, *al-Aḥwāl al-Shakhsiyyah 'alā al-Madhāhib al-Khamsah* (Beirut: Dār al-'Ilm li al-Malayin, 1964, DT), 329.

better and more *maslahat*. According to Ibn Taimiyyah, the exchange of waqf property is done for two reasons: *first*, because it is necessary (*hajah*), such as to make a horse for soldiers who are fighting in the way of Allah, then the horse is needed again after the war is over; *secondly*, because of greater benefits, such as selling the mosque and its less useful land, then buying other land and on it built a new mosque that is wider and strategic. This was done by 'Umar ibn al-Khattab when moving kufah mosque from the old place to the new place. Similarly, against masjid Nabawī, 'Umar and Uthmān never repaired and expanded it on land that is not the former building of the original mosque.

The ruling may dissent the Caliphate in the Islamic World

Among ibn Taimiyyah's fiqh flexibility in Jurisprudence is his *ijtihad* which allows the Islamic world to have two or more heads of state with several countries. According to him, Muslims are not required to have only one country with a head of state.³⁷

Similar to the general opinion of Muslims, Ibn Taimiyyah is alone in leading many, including the country's leader and head of rule, is one of the other most important obligations ordered by the religion. Allah, according to Ibn Taimiyyah, obligates Muslims to uphold the *amar ma'ruf nahī munkar*. The task of asking humans to do good and prevent them from defaulting, will not be perfect and executed without any power and rule.³⁸

The essence of Ibn Taimiyyah's electoral doctrine is

³⁷ Ibn Taimiyyah, *Minhāj Al-Sunnah al-Nabawiyyah Fī Naqd Kalām al-Shī'ah Wa al-Qadariyyah* (Beirut: Dār al-Kutub al-'Ilmiyyah, t.th, n.d.), 223.

³⁸ Ibn Taimiyyah, *Al-Siyāsah al-Shar'iyyah Fī Islāh al-Rā'ī Wa al-Ra'iyyah* (Beirut: Dār al-Āfāq al-Jadīdah, 1983, n.d.), 158.

the realization of Islamic sharia correctly and well, while the state is only a tool to enforce sharia. Thus, it is easy to understand if it gives the possibility for the pluralism of countries and governments in the Islamic world as it is known today.

Problems of buying and selling goods embedded in the ground

قَالَ أَنْ بَيْعَ ذَلِكَ جَائِزٌ. كَمَا يَقُولُهُ مَنْ يَقُولُهُ مِنْ أَصْحَابِ مَالِكٍ
وَعِيره، وَهُوَ قَوْلٌ فِي مَذْهَبِ أَحْمَدَ وَعِيره، وَهَذَا الْقَوْلُ هُوَ الصَّوَابُ
لَوْجُوهٍ: أَنَّ هَذَا لَيْسَ مِنَ الْغَرَرِ، أَنَّ الْعِلْمَ فِي جَمِيعِ الْمَبِيعِ يُشْتَرَطُ
فِي كُلِّ شَيْءٍ بِحَسْبِهِ، فَمَا ظَهَرَ بَعْضُهُ وَخَفِيَ بَعْضُهُ، وَكَانَ فِي إِظْهَارِ
بَاطِنِهِ مَشَقَّةٌ وَحَرَجٌ، اِكْتَفَى بِظَاهِرِهِ: أَنَّهُ مَا أُحْتِيجُ إِلَى بَيْعِهِ فَإِنَّهُ
يُوسَعُ فِيهِ مَا لَا يُوسَعُ فِي غَيْرِهِ

He said that the world's most As a person, he is And the people
of The United States, the United States, The United States, the
United States, The And the world's most.³⁹

Ibn Taimiyyah asserted that it is permissible to sell things that are not clear because they are embedded in the earth, such as onions, radish and peanuts.

قَالَ وَكَثِيرٌ مِنَ الْعُلَمَاءِ مِنْ أَصْحَابِ مَالِكٍ وَأَحْمَدَ وَعِيرهمَا، قَالُوا:
إِنَّهُ يَجُوزُ بَيْعُهَا مُطْلَقًا عَلَى الْوَجْهِ الْمُعْتَادِ، وَهَذَا هُوَ الصَّوَابُ، فَإِنَّ
بَيْعَهَا لَا يُمَكِّنُ فِي الْعَادَةِ إِلَّا عَلَى هَذَا الْوَجْهِ

Ibn Taimiyyah stated the ability to buy and sell types of fruits embedded in the soil such as watermelons,

³⁹ Ibn Taimiyyah *Majmū' Fatāwā*, 29:498.

cucumbers, and so on provided there is clarity of fruit. This view is contrary to the views of three mujtahid imams as Abu Hanifah, imam Shafii and imam Ahmad. They argue with the following basics;⁴⁰

Buying and selling in the type of plant above are considered to contain a trick because it is not clear (*gharar*), sharia certainly prohibits the type of buying and selling *gharar*. And if they turn away, then know that Allah is All-Forgiving, All-Wise.

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ حَدَّثَنَا عَبْدُ اللَّهِ بْنُ إِدْرِيسَ
وَيَحْيَى بْنُ سَعِيدٍ وَأَبُو أُسَامَةَ عَنْ عُبَيْدِ اللَّهِ وَحَدَّثَنِي زُهَيْرُ بْنُ
حَرْبٍ وَاللَّفْظُ لَهُ حَدَّثَنَا يَحْيَى بْنُ سَعِيدٍ عَنْ عُبَيْدِ اللَّهِ حَدَّثَنِي أَبُو
الزِّنَادِ عَنْ الْأَعْرَجِ عَنْ أَبِي هُرَيْرَةَ قَالَ نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ
عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْخِصَاةِ وَعَنْ بَيْعِ الْغَرَرِ

"Abu Bakr ibn Abi Shaybah has told us Abdullah bin Idris and Yahya bin Sa'id and Abu Usamah from Ubaidillah. And narrated from another line, has told me Zuhair bin Harb while lafazh from him, has told us Yahya bin Sa'id from 'Ubaidillah has told me Abu Az Zinad of Al A'raj from Abu Hurayrah he said; The Messenger of Allaah (peace and blessings of Allaah be upon him) forbade buying and selling by means of *haṣāh* (i.e. buying and selling by throwing pebbles) and other means containing elements of deception.⁴¹

⁴⁰ Ibid 29:484.

⁴¹ Ibn Taimiyyah, *Majūū al-Fatāwā*, Juz 29, 488.

قَالَ فَنَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْغَرَرِ يُرْجَعُ فِي ذَلِكَ إِلَى أَهْلِ الْخَبَرَةِ بِذَلِكَ. وَأَهْلُ الْخَبَرَةِ يَقُولُونَ: إِنَّهُمْ يَعْلَمُونَ ذَلِكَ فِي حَالِ كَوْنِهِ فِي الْأَرْضِ، بِحَيْثُ يُخْرَجُ عَنْ كَوْنِهِ غَرَرًا، وَيَسْتَدِلُّونَ عَلَى ذَلِكَ بِمَا يَفْعَلُونَهُ مِنْهُ

Based on the reason for the ban on buying and selling *gharar*, Ibn Taimiyyah gave the basic answer to the consideration that the sale and purchase of embedded fruits does not include the type of buying and selling *garar* but buying and selling based on the experience of the community tradition. Ibn Taimiyyah gave the reason for the certainty of ripeness of the fruit in the soil as evidenced by the clarity of the shape and type of leaves. As the description of the animal through the physical condition of the animal, as well as the condition of the field soil through physical evidence of the soil. All of these things can be measured and assessed by experts according to their experience.

While the reason for the prohibition of buying and selling *gharar* is to eat property falsely so that human property does not contain the damage.⁴²

The author concluded that Ibn Taimiyyah had a basic method of consideration on the argument of the problems of the two types of buying and selling above on the basis as follows:

1. Strengthening the ease of human life affairs by upholding the universal benefit of human as the enforcement of the main vision of the Prophet Muhammad's shari'a, namely the hanif Religion of Islam.

⁴² Ibn Taimiyyah *Qāidah al-'aqd*, 233.

2. The search for the relevance of legal disputes with the legal ability to buy and sell fruit has been clearly visible maturity, as well as by using the method of akad *ijārah*.

Problem of ability to buy and sell on credit

For example in this field is the sale and purchase of credit (*al-'inah*). Ibn Taimiyyah argued that if a person intends to earn large sums of money/dirhams by crediting goods, this is a type of usury that is undoubtedly forbidden according to Ibn Taimiyyah. Although efforts are made *helah* in any form remains included in the category of usury. The reasons ibn Taimiyyah stated were:

1. Qur'an verse al-Baqarah verse 278 which explains the prohibition of usury transactions.
2. *Ḥadīth* narrated from 'Aisha when Ibn Taimiyyah was asked by um Walad Zaid bin Arqam about a transaction he made that bought a servant from zaid and sold it to Aṭa' He bought it from zaid for seven hundred dirhams and sold it to Atha' for eight dirhams. Aisha explained how bad the trading system made by um Walad Zaid bin Arkam, then read verse 275 surah al-Baqarah.⁴³

The opinion of the scholars is the opinion of Abu Hanifah, Malik, Ahmad, also *athār* companions such as 'Aisha, Ibn Abbas, Anas bin Malik, who stated the prohibition of buying and selling credit that they termed "*al-'inah*".

However, Ibn Taimiyyah still considered by linking the intentions of the Traders who did the credit. Ibn Taimiyyah said that if the merchant intends to do usury that is forbidden by God to get a lot of profit, then this is forbidden. In fact, if a trader thinks that because perscales

⁴³ Ibid., Volume 15 juz 27, 243.

some things related to the risk of buying and selling, then he is entitled to what he intended.⁴⁴

The considerations presented by Ibn Taimiyyah Ibn Taimiyyah are connected with the *'urf* of a growing society. Ibn Taimiyyah said "sometimes the laws of God are given restrictions based on *shara*" such as prayer, zakat, fasting and Hajj, sometimes with *lughah* the *shari'ah* such as lafaz sun, moon, land, and ocean, sometimes with *'urf* that applies in society. Thus in some form of agreement according to Ibn Taimiyyah is very related t with *'urf* that develops in society.

Conclusion

The *ijtihād* Ibn Taimiyyah update was built in two models of *ijtihād*; *Istidlāl* and *Istinbāt*. Relevansi reinforcement of the evidence *naqly* *Istinbāt* and the approach of self-reliance rationality (*Istidlāl*) is urgently needed. Although in reality, Ibn Taimiyyah was more likely to wear the *Istinbāt* model than *istidlāl*. Ibn Taimiyyah laid the foundation of the *ijtihād* method comprehensively, the evidence of *naqly* and *'aqly* applied simultaneously in every determination of Islamic law. Upon based on consideration of every sharia law there must be a good content of shari'a purposes, then ibn Taimiyyah's most popular view is that valid shar'i evidence must correlate with the correct rational evidence.

Methode *istinbâth* ibn Taymiyah's law uses: (1) The Qur'an, (2) Sunnah, (3) *ijmā'*, (4) *qiyās*, (5) *istiḥāb*, and (6) *maṣlaḥah al-mursalah*. There is a strong relevance between the renewal of *ijtihād* Ibn Taimiyyah and the development of Islamic law, especially in the field of contemporary jurisprudence with the approach of *maṣlaḥah*. Such as the ability to exchange and sell waqf

⁴⁴ *Ibid.*, Chapter 15 juz 27, 245

property, the ability to appoint leaders from non-Muslims, the ability to buy and sell goods embedded in the land, and the ability to buy and sell goods on credit.

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