Identifying ‘Illat through Munasabah in Islamic Law: A Perspective of Imam Al-Ghazali
Khairuddin Hasballah
Universitas Islam Negeri Ar-Raniry, Banda Aceh
Andi Darna
Institut Agama Islam Negeri Bone, South Sulawesi
Waradan Said
Institut Agama Islam Negeri Bone, South Sulawesi
Hajarul Akbar
Universitas Islam Negeri Ar-Raniry, Banda Aceh
Ihdi Karim Makenara
Universitas Islam Negeri Ar-Raniry, Banda Aceh
Faisal Fauzan
Universitas Islam Negeri Ar-Raniry, Banda Aceh
Email: khairuddin@ar-raniry.ac.id

Abstract: This study discusses the way in determining ‘illat through the munasabah method proposed by Imam al-Ghazali in the perspective of Islamic law. The study focuses on two main problems: the identification of ‘illat through munasabah and the legal formulation to utilize hikmat to obtain ‘illat according to al-Ghazali. This normative legal research used a legal history approach as an analytical tool to examine the Islamic scholars’ thoughts on concepts, theories and ways of doing istinbath. The study concluded that according to al-Ghazali there are three kinds of munasabah in determining ‘illat, consisting of munasib mu’atstasir, munasab mula’im, and munasib gharib. In munasib mu’atstasir, there is no issue found in seeking ‘illat because the ‘illat is understood directly from the nash or ijma’. Therefore, munasabah is no longer needed in the determining ‘illat. Here, the munasabah method focuses on munasib mula’im and munasib gharib in identifying ‘illat. Munasib mula’im seeks for the genus ‘illat, an ‘illat drawn from every event that has been predetermined by the nash, by examining the same hikmah in each of the events. Such hikmah is then used as the genus ‘illat which will later be applied as qiyas for other events that have been legally stipulated by the nash. On the other hand, munasib gharib seeks for the species ‘illat, an ‘illat obtained from an event that has been predetermined by the nash, with no comparison found in other events. ‘Illat determined from munasib gharib is also hikmah, having no concrete nature. In the perspective of legal history, this method of seeking...
‘illat is inseparable from kalam and philosophy as was the development of the Islamic sciences at the time. As such, this had also affected al-Ghazali’s mastery in Islamic law as well as in other Islamic disciplines.

Keywords: ‘Illat, Munasabah, Ushul Fiqh


Kata Kunci: ‘Illat Hukum, Munasabah dan Ushul Fikih.

Introduction

The use of ‘illat (legal reason) in determining a law is an important aspect in the development of Islamic law. Islamic law has its methodology known as ushul fiqh (principles of Islamic jurisprudence), compiled systematically by Muhammad Idris al-Shafi‘i (767-820 AD) who succeeded in combining the reasoning patterns of hadith scholars and ra‘yu (logical
reasoning) experts.  

Al-Sarakhawi states that the majority of ulamas (Islamic scholars) are of the view that seeking ‘illat or legal reasons in any legal text is valid and permissible. However, Ibn Hazm al-Andalusi (994-1064 AD) disagrees with this opinion as he believes that a command must be carried out with the principle of unquestioned obedience. Nevertheless, exploring law or ijtihad through the search for ‘illat leads the Islamic law to be more advanced in terms of methodology so that the law can help answer new problems that arise in society.

Ijtihad (legal reasoning) which will lead to fiqh (Islamic jurisprudence) is applied in legal search to answer problems that arise in society. In principle, there are two arguments used as the basis (source of law) of fiqh, the Qur’an and hadith. Other legal arguments known in the books of ushul fiqh, including ijma’ (legal consensus of scholar), qiyas (analogy), istihsan (juristic discretion) mashlahah mursalah, istishah (continuity), ‘urf (tradition), mazhab shahabi, and sadduzzz’i, are not arguments in the sense of being a source of law, but rather the forms of istinbath (patterns of legal reasoning).

The ushuliyyun ulamas (ushul fiqh scholars) distinguish the patterns of reasoning or ijtihad or istinbath into three kinds. According to al-Dawalibi, the ijtihad method is divided into three: (1) al-ijtihad al-bayani, (2) al-ijtihad al-qiyyasi, and (3) al-ijtihad al-istishlahi. However, Al Yasa ‘Abubakar uses the term istinbath to replace the term ijtihad for convenience purposes and also divides the ijtihad method into three types. In addition, Al Yasa’ also comments on the categorization proposed by al-Dawalibi to which he argues that it may cause a dual category of istihsan since istihsan can be categorized into al-ijtihad al-qiyyasi and al-ijtihad al-istishlahi. To avoid this duality, Al Yasa’ uses the term “al-ta’lili” for al-ijtihad al-qiyyasi, thus covering all forms of istihsan.


4Istihsan is leaving qiyas jali (real) to practice qiyas khafi (vague), or leaving the law of kulli (general) to practice isticsna’i law (exceptions) because there are arguments that logically justify it. Ushul scholars divide istihsan into two types, namely: (1) Istihsan qiyas (qiyas khafi), namely tarjih- qiyas that are not real (vague or khafi) on real qiyas (jali), based on the proposition. For example, the law of waqf, there is no text that concretely explains the law, making it difficult to implement it. In terms of relinquishing ownership rights, waqf is the same as buying and selling (qiyas jali), but the recipient of the waqf may not take any legal action against waqf objects other than what the waqif has pledged. So the waqf law can only be used for its benefits, it cannot be fully owned by the waqf recipient, even though there has been a release of ownership rights by the waqif. Viewed from this side, the law of waqf is the same as leasing

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The three categories of *ijtihad*, which he calls *istinbath*, include (1) *istinbath al-bayani*, (2) *istinbath al-ta’lili*, and (3) *istinbath al-istishlahi*.

Syamsul Anwar also comments on the category of the *ijtihad* method introduced by al-Dawalibi. He argues that the *ijtihad al-qiyasi* and *al-istishlahi* methods can be blended into one category, called the causation method, and further adds another method, namely the synchronization method. In his view, the *ijtihad* method can also be divided into three types: *al-bayani* (linguistic interpretation), *al-ta’lili* (causation method), and *al-tawfiqi* (alignment or synchronization). Syamsul Anwar interprets the term “*istinbath*” as “the method of discovering Islamic law”, “*al-bayani*” as “the linguistic interpretation method”, and “*al-ta’lili*” as “the causation method”. However, he does not use the *istishlahi* method as it is already included in the category of “the causation method”; yet, he develops another category, called the alignment method (*al-tawfiqi*).

One of the three methods of *ijtihad* or *istinbath*, which is the focus of this study is the *al-ta’lili* (causation) method. This *al-ta’lili* method is a pattern of legal reasoning that views the reasons for determining the law (legis ratio) of a legal determination. To determine or identify the attributes of what becomes the ‘*illat*’ of a law, the *ushuliyyun* generally define three methods called *masalik ‘illah* (a method of determining ‘*illat*’), as follows: (1) through the texts of *nash* (Qur’an and hadith), (2) through *ijma’*, and (3) through *ijtihad*. *(qiyas khafi)*. In this case the scholars are of the opinion that the law of *waqf* is more appropriate if it is equated to buying, not to buying and selling. Equating the law of *waqf* to leasing means switching from *qiyas jali* (selling and buying) to *qiyas khafi* (leasing). (2) *Istihsan darurah*, excluding *juziyah* law from *kulliyah* law with a proposition. For example, the principle of shari’a law prohibits the sale and purchase of an item that does not yet have the goods at the time the contract occurs, this is called the law of *kulli*. But in reality, someone will have difficulty if this *kulli* law is applied, because someone needs something that is not necessarily available at the time of the sale and purchase, so he must order in advance by paying in advance, and the goods will be sent later, this is called selling, buying, *salam*, or order in advance to make the goods according to their wishes by paying in advance and the goods will be delivered after they are made, this is called buying and selling *istishna’* (indent). The two forms of buying and selling, namely greetings and *istishna’* are allowed according to *istihsan*, because there are disadvantages, so that the law of *rukhsah* (convenience) is given. Abd al-Wahab Khallaf, ‘*Ilm Ushul al-Fiqh*, t.p.: Dar al-Qalam, 1978, p. 97-98, dan Mukhtar Yahya dan Fatchurrahman, *Dasar-Dasar Pembinaan Hukum Fiqh Islami*, Bandung: Al-Ma’arif, 1986, p. 100-103.


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According to Al-Ghazali, the identification of ‘illat through ijtihad is completed in two ways: al-sabr wa al-taqṣīm and munasabah (conformity). The identification of ‘illat through al-sabr wa al-taqṣīm is carried out in the forms of classification and elimination of several possible attributes that can be used as ‘illat. Afterward, one attribute that is considered highly in line with a law is determined as its ‘illat. Further, the identification of ‘illat in munasabah is done by looking for the suitability between a law and its ‘illat, in which the suitability is seen from the aspect of benefit.

The ulema argue that ‘illat can be recognized through the main texts (nash), ijma’ (consensus of Islamic scholars), and al-sabr wa al-taqṣīm, all of which is known as masalik al-illah. ‘Illat of a law is sometimes clearly stated in the texts (nash) or explicit rational reasons (al-‘illat al-manṣūṣah). However, there is also ‘illat which is not stated clearly in the nash, but rather with signs that indicate there is a rational reason.⁹

In light with the above discussions, the main focus of this study is to examine the way to identify ‘illat through munasabah and the formulation of a law to categorize hikmah (wisdom) as ‘illat of a law from the perspective of al-Ghazali. To answer the research question, it is necessary to examine the opinions of al-Ghazali and other ushuliyyun scholars mentioned in the books of ushul fiqh. By doing so, the study aims to provide a detailed description or explanation of Al-Ghazali’s thoughts about the munasabah method as a way of seeking ‘illat.

This normative legal research, which refers to texts and literature, used a legal history approach, namely investigation and identification of the stages of legal developments at certain periods.¹⁰ The legal history approach in examining the thoughts of fiqh scholars is crucial to be carried out to explain the concepts, theories, or istinbath ahkam,¹¹ and at the same time to pay attention to the genealogy of thoughts, intellectual traditions, and social conditions that developed at that time.

Al-Ghazali’s Contribution to the Development of Islamic Law

Abu Hamid Muhammad ibn Muhammad al-Thusi al-Ghazali, or generally known simply as al-Ghazali, was born in Tabaran, part of the city of Tus of the Khurasan region, which is currently part of the Mashhad region of Iraq. He was born in 450 H/1058 AD and died in the same city in 505 H/1111

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⁹Muchlis Bahar, Metode Penemuan Alasan Rasional dalam Hukum Islam (Masalik al-‘illat), Jurnal Fitrah 1, No. 1 (2015): 177-188.


AD. Al-Ghazali was a disciple of Imam ar-Razkhani al-Thusi. He also became a student of Abu Nasr al-Ismail in Jurjan with whom he learned fiqh. Afterward, he visited Nishapur to study under Imam al-Haramain al-Juwaini (1028-1085 AD), an ulama who taught at the Nizamiyyah Madrasa, to deepen the knowledge of fiqh and kalam (Islamic theology). After al-Juwaini died, al-Ghazali took over his position to teach at the Nizamiyyah Madrasa. Al-Juwaini was one of the most influential figures in al-Ghazali’s life so that a-Ghazali followed the Shafi’i school of thought in terms of fiqh whilst in terms of aqidah (creed) he followed Imam Ash’ari (873-936 AD).

Al-Ghazali had written many books on fiqh and ushul fiqh, unlike on the kalam and tasawuf (Sufism). Some of his books are al-Basit, al-Wasit, al-Mankhul, Syifa al-Ghalil, Tahsin, Tahzib al-Ushul, and al-Mustashfa. However, al-Mustashfa is the most popular and widely used book because this book describes al-Ghazali’s complete and original thoughts.

It is undeniable that al-Ghazali is a scholar possessing universal and general mastery of knowledge as he studied almost all Islamic disciplines such as tafsir (interpretation), fiqh, ushul fiqh, kalam, and tasawuf. Therefore, one can find his monumental works in the said disciplines which are still used as references to this day. This position later earned him the title of hujjatul Islam, and his teacher al-Juwaini even depicted him as “a plenteous ocean to be drowned”.

Al-Ghazali is widely known to propose maslahat (benefit) as a hujjah (proof) in the method of extracting Islamic law. In his point of view, there are three types of maslahat: the first is maslahat dharuriyah (necessity or primary) that are needed by humans as the objectives of Islamic law, including religion, soul, mind, lineage, and property; the second is maslahat hajiyah (secondary) that are human needs not considered urgent necessities (dharuriyah), but can provide convenience for people, such as rukhsah (leniency or concession) for sick people who are exempted from fasting; and the third is maslahat tasiniyyat (tertiary) which is any human need not at the hajiyah level and only a factor of perfection and beauty. The maslahat in establishing the law must be in line with the sharah while those that are not in line must be rejected. Al-Ghazali perceived that if the maslahah has no evidence, it is essentially non-

14 Muhyar Fannani, Ilmu Ushul Fiqh, p. 42-43.

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existent. In addition, *maslahat al-daruriyah* and *hajiyah* are set as *daruriyah*, but they cannot be used as *hujjah* unless there is evidence that specifically supports them, and in this position the law can be determined through *qiyas*, instead of *maslahah*.\(^{17}\)

Although Imam al-Ghazali was not the first figure who initiated the concept of *maslahat* in Islamic law, he gave highly significant contribution in improving this concept. The concept of *maqashid ash-shar‘iyyah* (objectives of Islamic law) and *adh-dharurat al-khamsah* (basic needs) that he proposed has even become one of the essential references in Islamic law. This concept later continues to be referred to and developed by *ulemas* in almost every generation to this day.\(^{18}\) Likewise, al-Ghazali’s method in identifying ‘*illat* of a law through *munasabah* is also of highly importance. Exploring ‘*illat* in the study of Islamic law is quite important because it will ease mujtahids (people qualified to exercise *ijtihad*) to carry out *istikab ath-hukam* from legal sources.

Therefore, one of the contributions of al-Ghazali’s thoughts in Islamic law through his writings is his ideas of applying logic (*mantiq*) in the *ushul fiqh* as he believed logic to be the correct way of thinking. Previously, *ushul fiqh* as a discipline merely discusses *fiqh*, *kalam*, and grammar.\(^{19}\) In this context, al-Ghazali became a qualified and independent expert in Islamic law because he further developed the knowledge obtained from his teachers.

To this end, it is not surprising that Azyumardi Azra and Alwi Shihab also emphasized that the typology of Islam adopted by al-Ghazali could enter and be embraced by the majority of Indonesian people and even in Southeast Asia, and is still influential to this day. In addition to *Ihya Ulumuddin* (in Sufism), Al-Ghazali’s works in Islamic law widely used in Indonesia are known as “*kitab kuning*” (literally means yellow books), or classic books, such as *Bidayah al-Hidayah*, the book which later influenced Abdul Samad al-Palimbani to compose the book called *Sayr al-Salikin*.\(^{20}\) *Sayr al-Salikin* is a book written in Malay that is highly influenced by the Shafi‘i school. Al-Ghazali thus deserves to be called a generalist scholar because he had mastered all disciplines of Islamic sciences. He had bequeathed the methodology in understanding Islamic knowledge, not only in Sufism, *kalam*, and *fiqh*, but also in *ushul fiqh* or the methodology of Islamic law.

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\(^{19}\) Muhyar Fannani, *Ilmu Ushul Fiqih…*, p. 41-42.


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A Theoretical Study of ‘Illat in Islamic Law

‘Abd al-Wahab Khalil defines ‘illat as a trait of the basis for establishing law, and with which the law on furu’ (branches) can be obtained. However, the definition of ‘illat by ‘Abd al-Wahab Khalil seems to be very restricted in the context of ‘illat qiyas only. ‘Illat is not only in the form of ‘illat al-qiṣaṣi (analogy), but also in the forms of ‘illat al-taṣyri’i (permanence) and ‘illat al-istiḥsāni (discretion). In the same vein, Alyasa Abubakar, borrowing the term from Syalabi, distinguishes ‘illat into three categories, namely ‘illat al-taṣyri’i, ‘illat al-qiṣaṣi, and ‘illat al-istiḥsāni. ‘Illat al-taṣyri’i is the ‘illat that has been determined by the nāṣrah itself and is used to decide whether the law understood from the text must be permanent or can be changed. When someone can provide a more appropriate definition of the concerned ‘illat al-taṣyri’i, then the existing law will be altered. This ‘illat al-taṣyri’i serves to find out the reason for the sharia (lawmakers) to establish a law without questioning whether or not there is qiyas. However, when the particular ‘illat is applied to other problems (furū’), its function changes to be ‘illat al-qiṣaṣi.

‘Illat al-qiṣaṣi is the ‘illat applied to the furu’ problems which has no zahīr (apparent) rules in the nāṣrah. In this qiyas process, the similarity of ‘illat of the two events being compared is used as the legal point. Of these two events, one has a predetermined law by the nāṣrah while the other has no zahīr legal determination within the nāṣrah.

Further, ‘illat al-istiḥsāni is the exception ‘illat. In other words, this ‘illat occurs because both ‘illat al-taṣyri’i and ‘illat al-qiṣaṣi cannot be applied due to special considerations. For example, the leftover water of wild birds is considered pure. In qiyas, however, the water is not pure since it is equated with the leftover water of wild animals such as tigers. Both situations are considered to have a similar ‘illat, which is the meat of wild animals is forbidden to consume. Yet, this context is an exception because even though it is not permitted to consume the meat of wild birds, the saliva that comes out of their mouths will not mix with the water they drink. The birds drink with a beak, a type of pure bone, whereas other wild animals drink with their mouth, a kind of flesh, thus causing their saliva easily mixes with the water they drink.

The conditions of ‘illat can be divided into three main points, as follows:

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22Al Yasa’ Abubakar, Ahli Waris Sepertalian Darah..., p. 8.

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1. **Zahir** (positive, not abstract), which can be seen with the five senses, as one of the purposes of ‘illat is to recognize the law that will be applied to furu’.

2. **Munasib** (relevant), which is in accordance with the wisdom of the law. This means that ‘illat is relevant to its legal wisdom, which is presenting benefit and avoiding harm.

3. **Mundhabith** (measurable), which means that ‘illat must have certainty and real quality that makes it possible to enforce the law on furu’. From the descriptions above, it can be concluded that ‘illat is used as the basis or the legal reason for determining the law. Attributes that can be used as ‘illat consist of three requirements, zahir, munasib and mundhabith.

This study is in line with the above points regarding the use of ‘illat in legal determination in the Islamic law perspective. There are studies conducted on ‘illat, but they only focused on masalik al-‘illat or how to determine ‘illat. There are also some studies on al-Ghazali concerning maslahat al-mursalah. Among these studies, Milenia et al. (2020) examines the analysis of hikmah and ‘illat in the formation of Islamic law. In this present study, the focus is also on the discussion of ‘illat in relation to the process of discovering it and its difference to hikmah and sabab. Nashirudin (2015) asserts that the use of ‘illat in seeking the law is fundamental, as mentioned in usul fiqh, in the Islamic law reform. Usul fiqh as a methodology of Islamic law can be reformed through ta’lil ahkam, which is utilizing hikmah and maslahat as the determinants of the existence and absence of law on an issue.

Sabri (2015) states that ‘illat is one method of determining Islamic law known as al-qiayasi, which has four pillars as follows: al-ashal, al-far’u, al-ashal law, and al-illat. Yet, this method leads to the question of how to find ‘illat itself. Bahar (2015) explains that ‘illat is a way of understanding the text in-depth and comprehensively to find rational reasons that underlie legal provisions in Islamic law terminology.

Halimang (2014) discusses the importance of the ‘illat approach in fiqh reasoning as the substance of ijtihad. It is even mandatory to do analogy or qiyas if obtaining a law depends on an explicit ‘illat based on concrete nash,


31 Muchlis Bahar, Metode Penemuan..., p. 177-188.

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or in other cases, no concrete texts.\(^{32}\) Romli (2014) says that ‘illat plays a crucial role in Islamic law because with ‘illat legal position of a problem can be determined. ‘Illat has also become an urgent medium because it cannot be separated from legal change and legal development. Concerning legal development, \(ijtihad\) is used to determine the basis of a legal provision, and then its application is extended to other problems that arise in society.\(^{33}\)

The above studies concerning ‘illat have shown that the discussion of ‘illat in establishing the law is an important issue. It is strong evidence to show that ‘illat has its own position in the development of Islamic law. In the future, the process of \(istinbath\) \(al-hukum\) will be largely determined by how a mujtahid is able to determine the law through the ‘illat method.

**‘Illat as a Method of Determining Islamic Law**

\(Ushul fiqh\) \(ulemas\) have formulated three forms of Islamic law discovery methods, as stated by Al Yasa 'Abubakar, which comprise the \(istinbath\) \(al-bayani\), \(istinbath\) \(al-ta’lili\) and \(istinbath\) \(al-isti’shlahi\) methods. \(Istinbath\) \(al-bayani\), also known as the \(istinbath\) \(lughawi\) method (linguistic interpretation method), is a method of establishing law by interpreting Islamic legal texts, namely the texts of the Qur’an and \(hadith\). This method is applied when dealing with cases of predetermined legal texts (\(nash\) evidence), and yet, the legal texts are still vague or unclear. Investigation of various legal statements in this method produces a taxonomy that classifies legal statements in legal texts (\(nash\)) in four aspects, including: (1) In terms of the level of clarity of the \(nash\) texts (\(wadhih\) and \(mubham\)), the texts are classified into two (a) clear texts, covering four levels, namely \(zahir\), \(nash\), \(mufassar\), and \(muhkam\), and (b) unclear texts, consisting of four levels, namely \(khafi\), \(mushkil\), \(mujmal\) (general), and \(mutasyabih\) (specific); (2) In terms of the meaning (\(al-dalalah\)) shown, there are four forms of this aspect, namely direct appointment (\(dalalah\) \(al-’ibarah\)), implicit appointment (\(dalalah\) \(al-isyarah\)), analog appointment (\(dalalah\) \(al-dalalah\) or also called \(dalalah\) \(al-nash\)), and insertion designation (\(dalalah\) \(al-iqtidla’\)); (3) In terms of the breadth and narrowness of the meaning, there are several forms of \(lafazh\), such as ‘\(am\) (general, universal), \(kash\) (special, particular), \(mushtarak\) (ambiguity, double meaning), \(hakiki\) (true meaning), \(majazi\) (metaphorical statement), and so forth; and (4) In terms of the form of \(taklif\) (imposition) formula, two categories are found, namely \(amar\) (command) and \(nahyu\) (prohibition). In addition, this method also examines the relationship between words and words or between sentences and sentences, such as the provisions on which \(nash\) texts need to be explained and

which are not necessary, and which texts explain or to be explained (takhshish, taqyid, and tabyn), as well as the ways of interpreting an arrangement or series of sentences.\(^{34}\)

The istinbath al-ta’lili method (causation method) is a method of legal reasoning which examines the attributes behind a textual provision (al-Qur’an and hadith). In this method, the investigation is directed to find the reasons for determining the law or logical ratio (‘illat) of a legal statement, either in the form of ‘illat al-tasyri’, ‘illat al-qiyasi, or ‘illat al-istihsani. In this case, ushuliyyun ulemas argue that all legal provisions must have an ‘illat because it is not appropriate for the sharia (lawmakers) to make a regulation without any purpose.\(^{35}\) Therefore, knowing the purpose of the sharia of a law is the key to determining the upcoming rule. In other words, the ‘illat found can be used as a legal point for other cases for which there is no nash or to determine whether the law understood from the nash must be maintained or changed to another law (in the case of ‘illah al-tasyri’i).

The istinbath al-istishlahi method is a pattern of legal reasoning that seeks to explore the “general principles” contained in the verses of the Qur’an or hadith. These general principles are in the form of benefit values which are then used as “general concepts” to resolve various cases which arise without any supporting nash to explain the law. This method works by relating Qur’anic verses and hadith to be compromised with each other, resulting in a conclusion. This conclusion becomes a “general principle”, later formulated as a “general concept” and then it is deduced to the cases to be resolved (to establish the law).\(^{36}\)

In addition to the aforementioned three forms of legal reasoning patterns (istinbath method), Syamsul Anwar introduces another method that has not been proposed by the ushuliyyun, namely the al-tawfiqi method (alignment, synchronization).\(^{37}\) This method seeks to harmonize various legal arguments that physically appear (zahir) to contradict each other. This method is essentially a way of resolving legal arguments that are considered contradictory, a term called ta’arud al-adillah in ushul fiqh. This alignment method has three stages: (1) al-jam’u wa al-tawfiq (compromising), which is to collect contradicting verses or hadith, and then compromise them by determining a specific meaning of the general nash (takhshish) and limiting of the meaning of the absolute nash (taqyid), among others; (2) nasakh (abolition), which refers to abolishing the law from the first nash text and then adhering to the law with the nash text that comes afterward. Here, a fuqaha examines the history of the

\(^{34}\) Al Yasa’ Abubakar, Ahli Waris Sepertalian Darah..., p. 7-8, and Syamsul Anwar, Teori Konformitas..., p. 275.

\(^{35}\) Al Yasa’ Abubakar, Ahli Waris Sepertalian Darah..., p. 8.

\(^{36}\) Al Yasa’ Abubakar, Ahli Waris Sepertalian Darah..., p. 9-10.

\(^{37}\) Syamsul Anwar, Teori Konformitas..., p. 275-276.
revelation of *nash* (asbab al-nuzul of a verse of the Qur’an or asbab al-wurud of the *hadith*) that appeared to be *ta’arud* to determine that the one revealed later as a *nasikh* (eraser) against those revealed beforehand; and (3) *tarjih*, which refers to comparing the arguments that seem contradictory to find out which one is stronger than the others, and the stronger argument becomes the reference.

**Munasabah Method in Identifying ‘Ilmat from the Perspective of al-Ghazali**

The *munasabah* (conformity) method is a method developed by al-Ghazali to find ‘*illat*. The *ushuliyun* have previously determined three ways to identify the attributes that constitute the ‘*illat* of law: (1) through the statement of the *nash* texts of the Qur’an and *hadith*, (2) through *ijma*’, and (3) through *ijtihad.*

The discovery of ‘*illat* through *nash* is when the Qur’an and *hadith* have shown a trait as an attribute or legal reason, then that trait becomes the ‘*illat*.

In at-Taubah verse 60, it reads:

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\text{اِنَّمَا الصَّدَقٰتُ لِلْفُقَرَاۤءِ وَالْمَسٰكِيْنِ وَالْعَامِلِيْنَ عَلَيْهَا وَالْمُؤَلَّفَةُ فَلْوُهُمُ وَفِى الرَّقَابِ وَالْغَارِمِيْنَ وَفِيْ سَبِيْلِ اللّٰهِ وَابْنِ السَّبِيْلِِۗ فَرِيْضَةً مِ نَ اللّٰهِِۗوَاللّٰهُ عَلِيْمٌ حَكِيْمٌ}
\]

Translation: “The alms are only for the poor and the needy, and for those employed in connection therewith, and for those whose hearts are to be reconciled, and for the freeing of slaves, and for those in debt, and for the cause of Allah, and for the wayfarer – an ordinance from Allah. And Allah is All-Knowing, Wise”

The letter *jar* (lam) in the sentence "للْفُقَرَاٰء" provides *ta’lil* (‘illat) of anyone who belongs to asnaf of zakat (people who are entitled to receive zakat).

At-Taubah verse 60 states that there are eight categories of a person entitled to receive zakat, namely the indigent, the poor, *amil* zakat, converts, slaves who are promised to be freed with a ransom, debtors who are unable to pay, *fi sabilillah*, and people who run out of supplies on travel. The eight asnaf of zakat is a legal ‘illat that a person may receive zakat, as is determined by the *nash*.

The determination of ‘illat through *ijma*’ is when the mujtahids at one time agree that certain characteristics are used as the reason for the sharia law of an event, then the characteristics are ‘illat received from the event based on agreement (*ijma*’), e.g., *ulemas*’ agreement on the guardianship of a father over his son’s property who is still underage. In this context, what becomes the ‘illat (legal reason) is the need for guardianship of the management of the

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property of a minor as the owner’s property is not yet an adult, and so he is unable to manage his property.\footnote{41}

According to Al-Ghazali, there are two ways to identify ‘illat through ijtihad: the first is al-sabru wa al-taqsim, which refers to conducting research by testing all the attributes that are assumed to be possible ‘illat, so that one attribute most likely to be ‘illat is selected;\footnote{42} and the second is munasabah, which seeks the conformity among attributes used as ‘illat.\footnote{43} Munasabah is the one called the conformity method by Syamsul Anwar.\footnote{44}

The munasabah method developed by al-Ghazali is a method for finding the conformity between the law and its ‘illat. The attributes that are in accordance with the law are used as ‘illat. Al-Ghazali in his book Syifa’ al-Ghalil fi Bayan al-Syabah wa al-Mukhil wa Masalik al-Ta’lil, as quoted by Syamsul Anwar, explains that the meaning of conformity is that the ‘illat referred to, from the point of view of the benefit, indeed requires the establishment of the law concerned.\footnote{45} This description is also emphasized in his book al-Mustashfa that munasib (conformity) means a method of seeking benefit.\footnote{46}

Al-Ghazali distinguishes munasib into three types: (1) munasib mu’atstsir (effective), (2) munasib mula’im (harmonious), and (3) munasib gharib (odd).\footnote{47} Munasib mu’atstsir refers to the ‘illat that becomes the legal point and is discovered from the sharia rules (nash texts) or ijma’. \footnote{48} Some examples include the representatives of minors (al-sighar) and the prohibition of consuming alcohol due to being intoxicant. In these two examples, the ‘illat is based on the nash and ijma’. From the munasib point of view, the ‘illat of being the representative of minors is due to the child being incapable of taking care of all his interests. Likewise, the ‘illat of the prohibition of alcohol is to maintain a healthy mind as alcohol is an intoxicant, and thus one will not cause harm to oneself and can help maintain public order. In the case of munasib mu’atstsir, the attributes used as ‘illat have been confirmed by nash or ijma’. Therefore, according to al-Ghazali, there is no need to carry out munasabah since the purpose of munasabah is to find out ‘illat, while in this case the ‘illat is already known.\footnote{49}

\footnote{41}Mukhtar Yahya and Fatchurrahman, Dasar-Dasar Pembinaan..., p. 96.
\footnote{42}Al-Ghazali, al-Mustashfa..., p. 295-296.
\footnote{43}Al-Ghazali, al-Mustashfa..., p. 296-306.
\footnote{44}Syamsul Anwar, Teori Konformitas..., p. 277.
\footnote{45}Syamsul Anwar, Teori Konformitas..., p. 278.
\footnote{46}Al-Ghazali, al-Mustashfa..., p. 297.
\footnote{47}Al-Ghazali, al-Mustashfa..., p. 297.
\footnote{49}Al-Ghazali, al-Mustashfa..., p. 297.
On the other hand, in terms of *munasib mula‘im*, the ‘*illat* which becomes a legal point is discovered not from *nash* or *ijma‘*, but from two aspects. The first aspect is its conformity with the law, meaning that the attributes that are used as ‘*illat* according to logic require the establishment of the law for the realization of benefit. The second aspect is it is in accordance with the provisions of the sharia elsewhere. For example, the ‘*illat* of prohibiting alcohol even if only a small amount is because it will eventually be a large quantity. Therefore, other intoxicating drinks are also *haram* (prohibited), even in small quantities, by making *qiyas* to *khamr* (alcoholic drinks).\(^{50}\) This is in line with sharia actions in other circumstances, such as the prohibition of approaching adultery, e.g., a man and a woman who are not *mahram* (persons with whom marriage is prohibited) being alone as it can lead to something bigger, i.e., adultery. Another example put forward by al-Ghazali is that women in the state of menstruation are not required to perform *qadha* (make-up) *shalat*, and the ‘*illat* for this situation is the difficulty of replacing so many prayers.\(^{51}\) Similarly, this conforms with the other sharia actions, such as it is permissible to do *qashr* (shorten) and *jama‘* (combine) prayers for travelers to avoid difficulties.

The third type, *munasib gharib*, is *munasib* in which there is no effectiveness and harmony with the act of establishing law, or there is no comparable example elsewhere.\(^{52}\) For instance, al-Ghazali argues that murderers do not inherit. Here, the *hadith* which becomes the legal basis for the revocation of inheritance of murderers does not explain what the ‘*illat* is.\(^{53}\) However, Syamsul Anwar describes that legal experts concluded the ‘*illat* based on the *munasab*, which indicates that the ‘*illat* is to allow the murderer to get the opposite intention. A murderer conducts killing, against the law, with the intention to inherit quickly, and thus, as a sanction he is treated with the opposite of his intent, that is by revoking his inheritance rights. This ‘*illat* is odd because there is no example in the genus of comparable acts of the sharia legislators anywhere else.\(^{54}\) According to al-Ghazali, however, *munasib gharib* can be used as the basis for legal causation as in the example above. *Qiyas* of this case can be correlated to a divorce case committed by a husband against his wife who is dying with the intention that the wife will not inherit. In

\(^{50}\)Al-Ghazali, *al-Mustashfa...*, p. 298.


\(^{52}\)Al-Ghazali, *al-Mustashfa...*, p. 298.

\(^{53}\)According to the author, the murderer (*القاتل*) is an ‘*illat* (*illat al-tasyri‘i‘)*, so what is not known is not the ‘*illat*, but the wisdom, i.e., what is the wisdom of revoking inheritance rights for murderers?

\(^{54}\)Syamsul Anwar, *Teori Konformitas...*, p. 284.
this case, the husband is sanctioned by being treated the opposite, that is his wife is still given an inheritance.\(^{55}\)

The conclusion that can be drawn from the munasib method developed by al-Ghazali is that he used hikmah as the genus 'illat\(^{56}\) in establishing law. This can be seen in the determination of 'illat through munasib mula‘im. Likewise in munasib gharib, al-Ghazali also used hikmah as 'illat in the form of species 'illat\(^{57}\) since there is no previous example elsewhere. This means that al-Ghazali tried to see in the two munasib what attributes containing benefits and eliminating difficulties can be used as 'illat because the main purpose of the shariah law is in the context of presenting benefit and eliminating harm. However, it is still questionable whether hikmah can be used as 'illat of law.

The majority of ushuliyun ulema perceive hikmah as something that brings benefit or improvement and/or rejects harm. For example, the qasr prayer is prescribed to avoid difficulties (masyaqqah) for travellers. On the other hand, other ushuliyun argue that hikmah is a relevant matter (munasabah). For example, sharia prescribes qasr in travelling, in which the hikmah of it is difficulty (masyaqqah).\(^{58}\) This second opinion makes masyaqqah itself a hikmah, in contrast to jumhur that makes hikmah something that can attract benefit and eliminate harm (difficulties), or in other words, something that can reject the masyaqqah. The argument by the jumhur is in accordance with what Wahbah al-Zuhaili describes: hikmah can bring upon mashlahat and avoid mafsadah. For example, trade is permissible because it contains benefits for both parties in the contract, adultery is forbidden and hadd (fixed punishment) is imposed on the perpetrators to maintain legal offspring, and alcohol is forbidden to consume to maintain a healthy mind.\(^{59}\)

Responding to the position of hikmah as 'illat, Muhammad Abu Zahrah, an ushuliyun, divides 'illat into two, 'illat with zahir, mundhabit, and munasib attributes, and 'illat of a munasib attribute, but not yet mundhabit, both of which are the hikmah of the legislation of the nash.\(^{60}\) Further, Wahbah al-Zuhaili, quoting the book “Raudlah al-Nazhir wa Syaraha li Ibni Badrani and al-Madkhal ila Madzhab Ahmad”, argues that 'illat includes two aspects, hikmah and zahir, mundhabit, and munasib attributes. For example, he states

\(^{55}\)Al-Ghazali, al-Mustashfa..., p. 298.

\(^{56}\)Genus 'illat is the term used by Syamsul Anwar for 'illat which is generalized after conformity of the two cases which have been determined by the texts. Syamsul Anwar, Teori Konformitas..., p. 280-281.

\(^{57}\)Species 'illat is also a term used by Syamsul Anwar for 'illat from a case that has not been confirmed with another case. Syamsul Anwar, Teori Konformitas..., p. 280-281.


\(^{60}\)Muhammad Abu Zahrah, Ushul al-Fiqh, p. 238.
that the obligatory ‘illat of whipping for adulterers is to maintain offspring, or to prevent adultery itself. From this example, what becomes the ‘illat in the perspective of hikmah is to preserve the offspring, whereas the ‘illat in terms of zahir, mundhabit, and munasib is the adultery itself.

From the argument of Wahbah al-Zuhaili, it can be understood that a law stipulated must be based on hikmah in the form of gaining benefit or avoiding harm, and at the same time be based on the attributes of zahir, mundhabit, and munasib. In his view, hikmah and attributes are called ‘illat. To add, ‘Abd al-Wahab Khallaf explains that if all laws contain certain and real hikmah, then the hikmah is the ‘illat of law. Such hikmah is what motivates the formation of law.

However, jumhur ushuliyyun agree that what can be used as ‘illat is a real and definite trait, such as killing as the ‘illat for qishash (retaliation) and stealing as the ‘illat of cutting off hands. Hikmah, however, cannot be used as ‘illat because it has an abstract concept, e.g., it is permissible to exempt from fasting and to perform qasr prayer for travelers in order to avoid difficulties. Here, having a difficulty is not the ‘illat to exempt from fasting and to carry out qasr prayer. As hardships vary from one person to another, it is difficult to ascertain that all people who travel will experience such a hardship.

The debate among the ulema in enacting hikmah as ‘illat can be divided into three groups: those who absolutely reject, those who absolutely agree, and those who conditionally agree. The ulema who refuse argue that it is not permissible to determine ‘illat by using hikmah, whether it is tangible or hidden, clear or unclear. They point out that hikmah does not have the zahir, mundhabit, and munasib nature as a whole, making it difficult to serve as a standard measure for the basis of law.

The ulema who accept hikmah as ‘illat, such as Imam al-Ghazali, Baidlawi, and al-Razi, argue that it is permissible to decide ‘illat with hikmah, and those who think that it is not permissible to do so is due to their lack understanding of ‘illat. They reason that what is not allowed is to discover ‘illat with characteristics that do not meet the requirements of ‘illat. If something fulfills the requirements of ‘illat, this means that it has presented benefit and avoided harm. Thus, it is possible to use ‘illat with such characteristics. This suggests that every attribute used as ‘illat must contain hikmah by way of presenting benefit and eliminating harm. To this end, they argue that hikmah can be used as ‘illat. For example, safar (travelling) is

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64Al-Sha’adi, Mabahis al-‘Illah, p. 106-107.
65Al-Sha’adi, Mabahis al-‘Illah, p. 107.
66Al-Sha’adi, Mabahis al-‘Illah, p. 112-113.

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the ‘illat to permit someone to do qasr prayers because it contains difficulty (masyaqqah), and not because of the safar itself. Therefore, in principle, strong assumptions about the determination of benefit or harm are an adequate measure to be used as ‘illat. However, if it turns out that the outcome of the assumption of the existing main law (ashal) is determined based on a certain benefit, and the benefit is found in furu’, then there is no doubt that the law of furu’ is the same as that of ashal. Practising legal action based on the result of assumptions (zhan) is obligatory. 67

Further, the ulamas who agree conditionally believe that it is allowed to have ‘illat with hikmah if the hikmah is clear and manifest itself. On the contrary, when the hikmah is difficult to ascertain or hidden, then it is not permissible to do so. The proponents of this argument include Ibn al-Hajib and al-Shafi al-Hindi and most of the Hanabilah. They reason that the nature referred to here is the real and obvious characteristics. Such characteristics are also a way to achieve the hikmah intended by sharia, and as it occupies the place of hikmah, having ‘illat with wisdom is thus permissible. 68

From the different opinions discussed above, it can be concluded that jumhur ushuliyyun explicitly refuse to utilize hikmah as ‘illat because hikmah has no real and dhabit traits even though it is munasib. Their idea is in contrast to al-Ghazali’s opinion who completely accepts hikmah as ‘illat. He argues that an attribute used as ‘illat must also contain the hikmah in terms of providing benefit or avoiding harm. In other words, the said attribute used as ‘illat must be the one that contains hikmah. If an attribute cannot be ascertained to contain such hikmah, then the attribute cannot be determined as ‘illat.

Therefore, it can be deduced that the munasabah method developed by al-Ghazali can be accepted as a method of obtaining ‘illat if the existence of hikmah can become ‘illat. However, those who reject hikmah as ‘illat will not accept this method as a way to determine ‘illat.

Legal Implications for the Acceptance of Munasabah as a Method of Determining ‘Illat

As previously stated, munasabah is a way to discover ‘illat based on hikmah, and the attribute used as ‘illat has no zahir, mundhabit, and munasib characteristics. The majority of ushuliyyun ulamas, however, state that hikmah is something that propose benefit and eliminate harm, and therefore, hikmah is abstract, not concrete. As such, jumhur ushuliyyun do not accept hikmah as ‘illat because it cannot be measured with certainty.

68 Al-Sha’adi, Mabahis al-‘Illah..., p. 113-114.
Presuming that *hikmah* is used as ‘illat, one will face difficulty when he tries to apply the same ‘illat in other cases. This may occur because *hikmah* from one case to another will differ according to the benefit arising from each of the cases. Such situations contradict the concept that an ‘illat must be applicable in all cases because it is a genus (general). In addition, the ‘illat determined based on *hikmah* will be more subjective because it is evaluated based on a personal assessment of a case considered to have a benefit under certain conditions. Yet, there is a possibility that the benefit will not appear in other situations, or other people may even think it has no benefit altogether. In this case, it is difficult for someone to measure objectively that one condition must contain a benefit that can be accepted by everyone. Therefore, if *hikmah* is used as ‘illat, then it is very likely that there will be very distinct differences among the fiqaha in establishing law against a case. The differences may occur due to their different views in assessing a case, whether it contains a benefit or not. One might think that there is a benefit in a case while another may argue that there is no benefit in that case at all. Therefore, it is difficult to determine whose opinion is accurate because the benefit is not concrete, which can be assessed by a certain measurement.

The above statements suggest that the identification of ‘illat through munasabah will generate uncertainty in law. In other words, the value of legal certainty is highly dependent on certain subjectivity in perceiving something; whether or not it contains a benefit. Therefore, *hikmah* that may bring upon benefit or prevent harm cannot be used as an ‘illat because it is abstract and cannot be measured concretely.

*Ushuliyyun ulemas* distinguish between sabab, ‘illat and *hikmah* in establishing a sharia law. *Sabab* (cause) and ‘illat have a similar role as a trait or attribute that is used as the basis for establishing law and a determinant of the presence or absence of law. *Hikmah* is a condition that can present certain benefit or avoid harm to humans.  

In determining the sharia law, *ushuliyyun ulemas* state that *sabab* and ‘illat have the same purpose as the basis for law determination (legal standard). The difference between *sabab* and ‘illat lies on the attribute used as the basis for determining the law. If the attribute can be accepted logically, then it is called ‘illat and *sabab*. Yet, if the said attribute cannot be logicalized, then it is called *sabab*. For example, *safar* is a characteristic used as the basis for determining the permissibility of performing jama’ and qasr prayers. *Safar* is one condition that can be logically explained because it is something that can be sensed (*zahir*), measured (*mundabith*), and relevant (*munasib*) with the *hikmah* of the law. Thus, *safar* is the ‘illat and *sabab* for the rukhsah of

70 Mukhatar Yahya and Fatchurrahman, *Dasar-Dasar Pembinaan...*, p. 86.
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DOI: 10.22373/sjhk.v5i2.10914

having jama’ and qasr prayers. On the other hand, the slipping (inclination) of the sun to the West as a sign of the time for dhuhr prayer is a condition that cannot be logically related to the obligation of dhuhr prayer, and this condition is called sabab, not ‘illat.

Nevertheless, hikmah is different from sabab and ‘illat. Sabab and ‘illat are definite and concrete attributes and they can properly be used as the basis for determining sharia law. In contrast, hikmah is an abstract matter of presenting benefit or eliminating harm. Its existence cannot be ascertained, however, in an action. Therefore, hikmah should not be used as the basis for determining sharia law. For example, safar becomes the basis for determining the permissibility of doing jama’ (combining) and qasar (shortening) prayers as it is assumed to cause difficulties along the journey. Assumptions that there is harm cannot be ascertained to occur since some travelers may experience troubles on their trip whilst others may not face the same troubles. Thus, the standard rule used as the basis for determining the permissibility of performing jama’ and qasar prayers does not lie on the hikmah of eliminating any harm in the journey, but rather the safar itself because safar is a definite and concrete condition. To this end, the hikmah of allowing jama’ and qasar prayers due to harm involved is subjective by nature and it may not necessarily happen to everyone. Therefore, the hikmah related to presenting benefit or avoiding harm should not be used as the basis for determining sharia law.

Conclusion

Munasabah is a method of determining ‘illat introduced by al-Ghazali which is categorized into three, munasib mu’atstsir, munasab mula’im, and munasib gharib. ‘Ilat in munasib mu’atstsir is certain as the ‘illat is known directly from the nash or ijma’, and therefore munasabah in determining ‘illat is no longer needed here. Munasabah only concerns with munasib mula’im and munasib gharib in determining ‘illat. Munasib mula’im seeks for the genus ‘illat, an ‘illat drawn from every event that has been predetermined by the nash by examining the same hikmah in each of the events. Such hikmah is then used as the genus ‘illat which will later be applied as qiyas for other events that have been legally stipulated by the nash. On the other hand, munasib gharib seeks for the species ‘illat, an ‘illat obtained from an event that has been predetermined by the nash, with no comparison found in other events. ‘Ilat determined from munasib gharib is also hikmah, having no concrete nature. In the perspective of legal history, this method of discovering ‘illat is inseparable from kalam and philosophy as was the development of the


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Islamic sciences at the time. As such, this had also affected al-Ghazali’s mastery in Islamic law as well as in other Islamic disciplines.

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