

ACCEPTANCE OF ASHAB AL-SHAFII ON THE CHANGES OF QAUL QADIM AND QAUL JADID OF IMAM SHAFI'I

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Abstract. The difference of ashab al-shafii thought within context of qaul Qadim has long been in debate among Muslim scholars. This paper, therefore, examines the differences between ashab al-Shafii and Al-Shafii schools, especially in the dynamics of qaul Qadim and Qaul Jadid. The al-Shafii School is a school that has ushul Fiqh and the results of Imam al-Shafii's ijtihad. Still, along the way, many different opinions were found in the School whose sources could be from Imam al-Shafii himself or the ashabs al-Shafii. Seeing the existing phenomena, this paper is here to answer how the form of acceptance of the ashab al-Shafii towards the fiqh opinion of Imam al-Shafii. Literature research method by analyzing the contents of several primary sources of the al-Shafii School and described to answer the central questions in writing. The response to acceptance of ashab al-Shafii is classified into 3 forms; the first form is by strengthening the Fiqh of Qadim over the Fiqh of Jadid, the second by accepting the jurisprudence of Jadid and leaving Qadim and the last with tarjih on the opinion of al-Shafii which is more than one history.

Keywords: Fikih Al-Syafii, Qaul Qadim, Qaul Jadid, Ashab Al-Syafii.

Abstrak. Tulisan ini mencoba untuk mengkaji perbedaan ashab al-Syafii dari mazhab al-Syafii khususnya dalam dinamika qaul Qadim dan qaul jadid. Mazhab al-Syafii merupakan mazhab yang memiliki ushul fiqh dan hasil ijtihad Imam al-Syafii tetapi pada perjalanannya, ditemukan banyak sekali pendapat berbeda dalam mazhab yang sumbernya bias dari Imam al-Syafii sendiri atau para ashab al-Syafii. Melihat fenomena yang ada maka tulisan ini hadir untuk menjawab Bagaimana bentuk penerimaan para ashab al-syafii terhadap pendapat fikih imam al-Syafii. Metode riset kepustakaan dengan menganalisis isi dari beberapa sumber utama mazhab al-Syafii dan dideskripsikan untuk menjawab pokok pertanyaan dalam tulisan. Respon penerimaan ashab al-Syafii diklasifikasi dalam 3 bentuk, yang pertama bentuknya dengan menguatkan fikih Qadim atas fikih jadid, yang kedua dengan menerima fikih jadid dan meninggalkan

Qadim dan yang terakhir dengan tarjih atas pendapat al-Syafii yang lebih dari satu riwayat.

Kata Kunci: Fikih Al-Syafii, Qaul Qadim, Qaul Jadid, Ashab Al-Syafii.

Introduction

Fiqh is something that has a close relationship with Islam and its adherents. This is getting closer when Fiqh is seen as a legal instrument and religious ethics.¹ Seeing Fiqh will not be separated from the figures of this discipline. In the historical record, Imam Shafi'i is one of the central figures in Islamic Jurisprudence, especially in Indonesia, a country with most of its Muslim population following the Shafi'i school.

Imam Shafi'i who has reached the degree of *mujtahid*² and is the founder of the foundation of the science of *Usul Fiqh* with his monumental work "al-Risalah". He is also the founder of the al-Shafii School. To cover all, his works for Islam, especially in Islamic jurisprudence (Fiqh and related disciplines) was a remarkable legacy.

One of Imam Shafi'i monumental works is the book Al-Risalah (the letter). The book was initially made at the request of Abdul Rahman bin Mahdi to compose a book containing the requirements for making arguments with the Qoran, sunna, *ijmak*, *qiyas*, explanations of *nasikh mansukh*, as well as general and special pronunciation levels. So Imam Shafii made it up and sent it to Abdul Rahman bin Mahdi.³ Based on Nahrawi's explanation, the first version of al-Risalah or also called "al-RisalahQadimah" is a book dedicated to Abdul Rahman

¹Miftahuddin Azmi, 2016. "Sejarah Pergumulan Hukum Islam Dan Budaya". *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 13 (1):53-78. <https://doi.org/10.15642/alqanun.2010.13.1.53-78>

²Habibullah Eka Sakti, 2016. "Pandangan Imam Abu Hanifah dan Imam Syafi'i tentang Al-Istishan". *Al-Maslahah Jurnal Hukum dan Pranata Sosial Islam* 4 (07):451-466. <http://dx.doi.org/10.30868/am.v4i07.156>

³Fakhruddin Al-Razi, *Manaqib Al-Imam Al-Syafii*, 1st ed. (Kairo: Maktabah al-Kulliyat al-Azhariyah, 1986), 151.

bin Mahdi, while al-Risalah which is currently circulating is the book of al-Risalah Jadidah which was rewritten while in Egypt.⁴

In addition to al-Risalah, the strong supporters of the Imam al-Shafii school are his Companions, who are also students and proponents of Imam al-Shafii's methodology of thinking. The success of the spread of the Shafi'i school was not his solely great efforts. It was his students who developed the work of the founders of his School. Nahrawi, in his dissertation, even recorded 263 names of scholars of the Shafii School and distributed them. They are all connected in a chain of knowledge to Imam Shafii's knowledge path. The first name is Imam Ahmad bin Hanbal, one of the students of the Qadim of the Shafii School, and closed by Imam Tajuddin al-Subqi, author of the book "Tabaqat al-Shafiiyah al-Kubra" who died in 769 Hijrah.⁵

The al-Shafii School is one of the four major schools of thought that has survived to this day. The birth process of the Shafi'i school was based on the journey of studying al-Shafi'i and his journey from one madrasa of knowledge to another. Al-Shafii took Fiqh from four sources, namely the Fiqh of the city of Medina, the Fiqh of the city of Makkah, the Fiqh of the city of Yemen, and the Fiqh of the city of Iraq.⁶ The Fiqh of the four cities represented the fiqh scholars at the time of al-Shafii living and studying. The accumulated results of the academic journey of al-Shafii from the scholars at the four major madrasas at that time made the character of al-Shafii's Fiqh a character that united the four.

In the al-Shafii School of thought, there are 2 major currents of Fiqh thought originating from the founder himself, both known as "*Qadim fiqh*" and "*jaded fiqh*". The existence of the two Fiqh of Imam al-Shafi'i does not mean that there are two poles of madhhab which are mutually contradictory or the presence of Fiqh of *Jadid* eliminates the Fiqh of *Qadim*.

⁴Ahmad Nahrawi Abdul Salam, *Al-Imam Al-Syafi'i Fi Mazhabaihi Al-Qadim Wa Al-Jadid*, 1st ed. (Kairo: Maktabah al-Syabab, 1977), 222.

⁵Ibid., 703.

⁶Abdul Malik Al-Juwaini, "Muqaddimah," in *Nihayah Al-Matlab Fi Dirayah Al-Mazhab*, ed. Abdul al-Adzim Mahmud Al-Dayib, First (Jeddah: Dar al-Minhaj, 2007), 448; Abdul Salam, *Al-Imam Al-Syafi'i Fi Mazhabaihi Al-Qadim Wa Al-Jadid*.

This article presents points of view in the discussion of Qadim and Jadid Fiqh in the al-Shafii School from the side of the *ashabs* of the al-Shafii School. These points of view is different from the article that examines the sociological factors of *Qadim fiqh* and *Jadid fiqh* with the conclusion that the presence of the two poles of Fiqh is Imam al-Shafii's response to the development of the times in different areas. It shows that even Fiqh changes produce ijthad and give birth to rules -Ijthad rules that pay attention to changing situations, times, and conditions of society.⁷ Even in a more recent article with the title "The Ups and Downs of Al-Shafi'i Thought Study of Qaul Qadim and QaulJadid with Ibn Khaldun's Cycle Theory Approach" which tries to explain there are 3 phases of change in Imam al-Shafii's legal thought, namely *pre-qaul Qadim*, *qaul Qadim*, and *qaul Jadid* based on aspects of the natural environment, culture, science, social, economics, and differences in the use of arguments.⁸

Acceptance of *ashab* al-Shafii becomes very important to discuss because of the assumption that the transformation of fiqh *qadim* to *Jadid* is caused by sociological factors due to changes in situations and places. So the question to be answered in this research is: How is the acceptance of the *ashabs* al-Shafii in every fiqh decision that is produced will only fixed on the two poles of Imam al-Shafii's legal thought, or does it turn out that the *ashabs* have their own perspective?

Research Methodology

The method used in answering research questions using a qualitative method of literature with the main sources of books *ashab* imam al-Shafii and

⁷Lahaji and Effenty Muhammad, "Qaul Qadim Dan Qaul Jadid Imam Syafi'i: Telaah Faktor Sosiologisnya," *Al-Mizan* 11, no. 1 (2015): 119-35, <http://journal.iaingorontalo.ac.id/index.php/am>.

⁸A. Halil Thahir, "Pasang Surut Pemikiran Al-Syafi'i Telaah Pemikiran Qaul Qadim Dan Qaul Jadid Dengan Pendekatan Teori Siklus Ibnu Khaldun," *An-Nuha: Jurnal Kajian Islam, Pendidikan, Budaya Dan Sosial* 8, no. 1 (2021): 47-77, doi:10.36835/annuha.v8i1.398.

Ahmad Nahrawi's dissertation, which has been printed under the title *al-Imam al-Syafii fi Mazhabaih al-Qadim wa al- Jadid*. Verification of the primary source to detect the extent to which the social context is used by Imam al-Shafii and his *ashab* in the legal decisions taken. Therefore, the discussion in this article will begin by revealing and explaining the *ashab* of Imam al-Shafii and the theory of sociology of law which is often cited to describe the change in fiqh *qadim* to fiqh *jadid*, then it will be closed with the arguments of the *ashab* Imam al-Shafii in the process of establishing law in the School of Shafii.

Result and Discussion

Imam al-Syafii and his Ashab

Imam al-Shafii is one of the scholars who was born at the beginning of the development of book writing and the expansion of scientific fields. However, even the science of jurisprudence experienced very high growth. This situation was caused by Imam Abu Hanifah in Iraq and Imam Malik in Medina. Imam al-Shafii's focus on the science of jurisprudence or Fiqih is allegedly due to his meeting with Muslim bin Khalid al-Zinji, a mufti of Mecca, while studying Arabic. The mufti suggested it to Imam Shafi'i.⁹

Imam al-Shafii collected jurisprudence from 4 cities where Fiqh developed in his time. These four cities greatly influenced later al-Shafii's ability to decide the law, namely the City of Mecca, Medina City, Yemen City, and Baghdad City. The scientific development of Imam al-Shafii is specifically fostered based on his teachers, who come from existing fiqh madrasas. Nahrawi's records show that there are about 20 scholars who became Imam al-Shafii's teachers from the four fiqh madrasas, and among them were leaders of the Ahlu Hadith madrasas, namely Imam Malik and the Ahlu Ra'yi Madrasa, namely Muhammad bin Hasan, a student of Imam Abu Hanifah.¹⁰

⁹Al-Juwaini, "Muqaddimah," 99.

¹⁰Abdul Salam, *Al-Imam Al-Syafi'i Fi Mazhabaihi Al-Qadim Wa Al-Jadid*, 654; Al-Juwaini, "Muqaddimah," 106.

In 195 Hijri, Imam al-Shafii returned to Baghdad for the second time. al-Shafii left Baghdad Returned to Mecca in 189 Hijri and settled in Mecca to develop the special *manhaj* of his School.¹¹ The spread of the al-Shafii School began in the Baghdad phase, al-Shafii even got his assembly in a large mosque in which there were already ten other assemblies. In this phase also, the first "al-Risalah" was composed at the request of Abdul Rahman bin Mahdi. Finally, al-Shafii left Baghdad in 197 Hijri and returned to Mecca to visit his family, then returned to Baghdad for the third time, then continued to Egypt.

In addition to al-Shafii, the development of the al-Shafii School was based on its *ashabs* who developed and adhered to the *istidlal* method - which Imam al-Shafii had written, both in its early days in Baghdad. This period is also known as the *Qadim* period or after in Egypt.

The transmission of schools of thought brought by the scholars after al-Shafii himself plays a vital role because it does not only focus on the *Fiqh Qadim* and *Jadid*, *ashab* even on many occasions chooses a jurisprudence decision that is different from what is stipulated in the *Fiqh of Qadim*.

Ashab al-Shafii is interpreted as people who accompany Imam al-Shafii and have *Wajhu* (the results of the *istinbat* of al-Shafii's students) based on the method of *istidlal* al-Shafii that he has formulated.¹² The proof can be seen from the terms that appear when reading fiqh books from the al-Shafii School of thought. About 17 terms commonly used, which rely on Imam al-Shafii and *ashab* al-Shafii, for example: *al-Adzhar*, *al-Masyhur*, *fi al-Qaul*, *al-Wajhu*, *al-Asah*, *al-Sahih*, etc.¹³ The entire use of existing terminology is clear evidence that the role of *ashab* al-shafii is urgent in transmitting schools of thought.

Imam Juwaini mentioned that there are levels of *Ashab* Imam al-Shafii, at the first level, the *Ashabs* are classified into 2, namely the scholars who are the

¹¹Al-Juwaini, "Muqaddimah," 106.

¹²Saqqaf Ali al-Kaf, *Mu'jam Fi Mustalahaat Fiqh Al-Syafi'i*, First (Madinah, 1997), 93.

¹³Muhammad Sami'i Sayyid Abdul Rahman Al-Rastaqi, *Al-Qadim Wa Al-Jadid Min Aqwal Al-Imam Al-Syafii*, First (Libanon: Dar Ibnu Hazm, 2005), 106.

continuation of the *Qadim fiqh* tradition and the scholars who continue their *Jadidfiqh*.¹⁴ The two classifications that existed at the first level then did not occur at the next level due to the *Qadim fiqh* then the generation stopped only at the four main *ashabs*, namely Ahmad bin Hanban, al-Za'farani, Al-Karabisy, and Abu Tsaur. While in Fiqh there are six main *ashabs*, namely al-Buwaiti, al-Rabe' al-Muradi, al-Muzani, Harmalah, Yunus bin Abd al-A'la, Muhammad bin Abdul Hakim and al-Rabe' al-A'la. Jizi is a school developer who adheres to the *ijtihad* method of Imam al-Shafii.

Classifying the *ashab* al-Shafii after the initial generation is a complicated thing to do. The obstacles include several methods used in classifying the levels of the *ashab* al-Shafii introduced in the books of al-*tabaqaat*. The books classify based on the period, as did Imam al-Subki, who classified the *ashab* in the span of 100 years. Some make it every 20 years, 50 years, and other year classifications.¹⁵ An interesting classification is presented by Ibn al-Mulaqqan, with the first classification based on the period and the second based on place.¹⁶

The two types of classification, which are mostly arranged in the Al-*tabaqaat* by Imam al-Nawawi are not enough because they have not discussed the *ashabs* who have *wajhu* (school opinions). Imam al-Nawawi called it *ashabal-wujuh*, compiled in his book "Tahzib al-Asma' wa al-Lugaat". The classification made by Imam al-Nawawi is a filtering step in the al-Shafii School to find out which *ashab* can be relied on by Imam al-Shafii, who is a follower of his School.

The Muhaqqiq of the book *Nihayah al-Matlab* also describes different procedures for explaining *ashab* al-shafii. The method is carried out following al-Nawawi's steps in compiling *ashab al-wujuh* until the third *tabaqaat* with a span of 100 years in each *tabaqaat*. This method then followed by the presence of 2 *tariqah* namely Khurasan and Iraq and the *ashab al-Shafii* in each *tariqah*. This situation occurred in the early 400 Hijrah until the end of the 4th-century

¹⁴Al-Juwaini, "Muqaddimah," 115–16.

¹⁵Ibid., 120.

¹⁶Ibid., 122; Sirajuddin Abi Hafs Ibnu al-Mulaqqan, *Al-Aqdu Al-Mazhab Fi Tabaqaat Hamalat Al-Mazhab*, First (Beirut: Dar al-Kutub al-Ilmiyah, 1997).

Hijriah. Then, at the end of the 4th century, *ashab* al-Shafii emerged, which combined two existing *tariqahs*, including Imam Haramain (478 H), Abu Ishaq al-Syirazi (476 H), and Abu Hamid al-Gazali (505 H).¹⁷

All the methods used to classify the existing *ashabs* are the best explanation of how the development of Imam al-Shafii and his School of thought is not based solely on social change. On the contrary, the classification carried out makes it clear that the scientific tradition of the al-Shafii School, which the Imam himself started, continues to develop in every period that he passes with the *ashabs* who follow the pattern of the al-Shafii School. Interestingly, this dialectic towards the same source of law occurs only in the same School of thought with the pattern of arguments that Imam al-Shafii has compiled for his *ashabs* to follow in later times. But suppose this is seen clearly in every fiqh book of the al-Shafii School. In that case, it actually presents scientific discussions on each branch of fiqh issues so that the discussion on the acceptance of *ashab* al-Shafii on the results of Imam al-Shafii's legal *istinbat* becomes one point of view.

Transformation of Qadim to Jadid, Ushuli, or Sociological?

The transformation of *Qadim fiqh* to Imam al-Shafii fiqh is an interesting dynamic and a fact of reality in the al-Shafii School. However, this change of opinion in several studies published in Indonesia, which is the background of this paper, is always based on sociological reasons.

Imam al-Shafii's transformation in his fiqh opinion resulted from his protest against the practice of fiqh experts that underlie the use of *ra'yu* and *ijma* of companions. This condition then forces him to stop practicing the arguments this way and invite back to the Qoran and Hadith as main sources of law.¹⁸

¹⁷Al-Juwaini, "Muqaddimah," 132.

¹⁸Fachrizal A. Halim, *Legal Authority in Premodern Islam, Legal Authority in Premodern Islam*, First (New York: Taylor and Francis, 2015), 54, doi:10.4324/9781315795980.

The process of changing al-Shafi'i Fiqh was not caused by social changes that occurred due to the movement from Baghdad to Egypt, as Lahaji's opinion stated that Egyptian culture was more advanced and modern because the Romans once ruled Egypt.¹⁹ In the year of al-Shafii's life Baghdad was the center of the Abbasid caliphate and the center of civilization at that time, while Egypt was only led by a governor who was sent from Baghdad. On his third trip to Baghdad.²⁰ In terms of the jurisprudence adopted by the Egyptian population when Imam al-Shafii entered Egypt was Malik's jurisprudence. Al-Shafii criticized Imam Malik's theory of charity *ahlul Medina*, the debates of Imam al-Shafii and a student of the School of Imam Malik recorded in his work *al-Umm*. In addition, al-Shafii criticizes the construction of Malik's legal thinking, which adheres to tradition and mixes it with existing legal sources.²¹

In the statements of al-Shafi'i's fiqh change, the point of view of the argument that then made him change several decisions and in the primary school literature, two factors made the transformation of *Qadim fiqh* to *Jadid fiqh* happen, namely:

1. The finding of a stronger and more capable source of argumentation than the previous argument. As in the case of the law "flowing water if it meets unclean (*najis*)", Qadim's opinion states that flowing water is not unclean unless it changes to part or all of its properties. In contrast, it will not be contaminated like calm water if the volume is two *kullah* (around 200 liters) or more, except for one of the characteristics of the changed water. This change in Fiqh opinion is based on his opinion on the hadith of 2 *kullah* which al-Shafii has validated, while other scholars consider the hadith to be *mudtarib*.²²

¹⁹Lahaji and Muhammad, "Qaul Qadim Dan Qaul Jadid Imam Syafi'i: Telaah Faktor Sosiologisnya."

²⁰Al-Juwaini, "Muqaddimah," 107.

²¹Ahmed El Shamsy, *The Canonization of Islamic Law, The Canonization of Islamic Law*, First (New York: Cambridge University Press, 2013), 64, doi:10.1017/cbo9781139649711.

²²Abdul Salam, *Al-Imam Al-Syafi'i Fi Mazhabaihi Al-Qadim Wa Al-Jadid*, 444-49.

2. The opinion of Qadim still follows the opinion of other schools, such as Malik's School, while the jurisprudence has issued its own statement. For example, in the legal case "the result of tanning animal skins", al-Shafii's Qadim fiqh takes Malik's opinion which stipulates that the result of tanning leather on the outside is clean, while on the inside it is not holy so it cannot be used for prayer and cannot even be traded. Meanwhile, in the *Jadid Fiqh*, al-Shafii stipulates the sanctity of skin that has been tanned inside and out, and can be used for prayer and traded.²³

Al-Shafii's view on social change is still a point that he pays attention to, but glorifying and even being the main reason for a change is not a point of view that he wants to study in depth and even becomes the only reason for the transformation of al-Shafii's fiqh view. As in the case of buying and selling leather that has been tanned, Qadim follows Malik's opinion not to be traded but in the opinion of Jadid that it is permissible because of the economic condition of the Egyptian society, which makes leather one of the supporting industries for its economy.²⁴ In the Fiqh, it can be seen that al-Shafii did not base his changes on a social basis alone. He only considered social facts after seeing that the public benefit did not conflict with the existing texts. As in the case described earlier, Imam al-Shafii has the same opinion as Imam Hanafi on the issue of buying and selling leather that has been tanned.

Ashab al-Shafii's response to the dynamics of Qadim fiqh and Jadid fiqh

The transformation in the al-Shafii School of thought does not only occur in al-Shafii's priests. The al-ShafiiAshabs, who are the successors and developers of the School are also accustomed to making choices of legal options even though they are still in the *istidlal* frame that al-Shafii himself has formulated. In its development, Ashab al-Shafii also gave birth to 2 community axes in interpreting the law according to the provisions of the School of

²³Ibid., 459.

²⁴Ibid., 462.

thought, namely the tariqa Iraqi and *tariqa khurasani*.²⁵ Imam Juwaini illustrated that the development of knowledge in the al-Shafii School was carried out by meeting teachers and students in an assembly to transfer history and diplomas. After the death of Imam al-Shafii the students then spread to Iraq and Khurasan. This situation took place at the beginning of the third century Hijri. The students who lived in the two cities then took students and founded their assemblies and recorded works. At the end of the fourth century, legal opinions emerged from the scholars of the al-Shafii School in Khurasan, which differed on several issues from those determined by the scholars. However, the School of thought from Iraq is still within the frame of the al-Shafii School.²⁶

The illustration described by Imam Juwaini is a picture of the dynamics that occur within the al-Shafii School itself, the dynamics that occur are evidence that the al-Shafii *ashabs* are mujtahids of the School who carry out *ijtihad* steps in the corridors of the al-Shafii School. Based on the descriptions that occur in the books of the al-Shafii School, it can be divided into the forms of *ashab* al-Shafii's response to the dynamics of Imam al-Shafii's opinion as follows:

1. *Ashab who strengthens Qadim's opinion on Jadid's opinion*

The *ashab* al-Shafii who corroborate the opinion of *Qadim* than what has been determined in the *Jadidfiqh* show that the presence of the *Jadid* fiqh in the al-Shafii School does not erase (*nasakh*) the opinion of the *Qadim*. Suppose *Qadim*'s opinion is erased by the presence of an opinion that comes after it. In that case, the form of *Ashab*'s response that strengthens *Qadim*'s opinion is unlikely to get a place in the *Fiqh* of the al-Shafii School. However, it should be emphasized that Imam al-Nawawi stated that for every problem in which there are two opinions from al-Shafii, from the perspective of Imam al-Shafii the opinion of *Jadid* is the most decisive opinion and is put into practice.²⁷

²⁵A. Halim, *Leg. Auth. Premodern Islam*, 53.

²⁶Al-Juwaini, "Muqaddimah," 149.

²⁷Abi Zakaria Muhyiddin Al-Nawawi, "Muqaddimah," in *Kitab Al-Majmu' Syarh Al-Muhadzab Li Al-Syirazi*, First (Jeddah: Maktabah al-Irsyad, n.d.), 108.

The practice of prioritizing Qadim's opinion over *Jadid* was carried out by Ashab al-Shafii about 20 issues as held by Imam Haramain. At the same time, some *Ashahbs* from the last generation stated that there were 14 issues that *Qadim* accepted more.²⁸ However, these numbers are not a matter of the number of problems because most of the *ashabs* on the existing problems do not agree, even more, who continue to strengthen the opinion of Imam al-Shafii.

Among these problems is the problem of removing najis in a lot of water. On this issue, the opinion of the *qadim* states that it is not obligatory to remove it, because the presence of najis is the same as its absence. In *Jadid*'s opinion, it is explained that it is mandatory to remove it and cannot be used for purification unless the distance between the place of purification and the *najis* is equal to the volume of 2 *kullah* water. On this issue, the Ashabs such as Abu Tayib, al-Mawardi, and Ibn Suraij, as well as most of the *Ashabs* confirmed the first opinion.²⁹

In the end, the issue of the *ashabs* who chose an opinion that strengthened the Fiqh of Qadim al-Shafii, despite the small number of cases being debated, was a very hot topic. The proponents argue that a mujtahid who issues a new opinion on a problem does not mean withdrawing the previous opinion, but there are two opinions raised on the existing problem. In comparison, the majority opinion that refuses to state such a situation is a mistake because it will create dualism in an issue that is difficult to put together.³⁰

The first form of *ashab* al-Shafii's response is a legitimate thing to happen in the al-Shafii School, because it needs to be remembered that from the beginning, this School used the provisions of the argument for the legal sources of the Qur'an and Sunnah with the highest priority. Therefore, it makes no sense if Imam al-Shafi'i set the first law based on the primary source, then it was

²⁸Ibid., 109.

²⁹Ibid., 192-93.

³⁰Ibid., 109.

declared abolished because of a new opinion that might be based on a stronger argument. Elimination means acknowledging that the first proposition is not valid, even though both of them could be in terms of the strength of the view their position is *qat'i tsubut* or *dzanni tsubut*, but *qat'i dilalah*.

2. *Ashab who strengthens Jadid's opinion*

This second response is common and certain in the al-Shafii School of thought. The basis is that *Jadid's* Fiqh is a novelty in the development of Imam al-Shafii's opinion, which comes from the findings of stronger legal sources in terms of arguments, examples of cases like this are very commonly found in fiqh books of the al-Shafii School of explanations of his fiqh cases—or obtaining sources that did not exist before, thus triggering the emergence of new opinions. This fact occurs in cases where Imam al-Shafii in *Qadim* fiqh uses the opinion of other Imams of the School of thought from his previous teachers, examples like this are usually obtained from the explanations of *ashab* al-Shafii in *syarah* books such as in *Majmu' syarh al-muhadzzab* written by Imam al-Nawawi.

3. *Ashab Judged the opinion of Imam al-Shafii*

The situation that occurs in this third form of acceptance occurs because of the specificity of the al-Shafii School. It has been explained that the life journey of Imam al-Shafii in giving birth to his work did not only occur in one city or one particular region, al-Shafii has crossed various cities to seek knowledge and confirm his ability to *ijtihad*. His move to Egypt from Baghdad and the writing of new works in Egypt caused the *ashab* al-Shafii in Baghdad not to know the novelty of his *ijtihad*, coupled with transportation difficulties which made the distance more difficult and made it difficult for information to reach the two cities. The fact that happened at that time caused a *fiqh* problem in the al-Shafii School of which the answers were narrated by more than one different opinion. There were even up to five opinions on one fiqh issue from Imam al-Shafii.

Imam al-Nawawi said there were about 17 cases that contained more than two different narrations from Imam al-Shafii. An example of this problem occurs in a legal issue involving fines for people who have damaged their pilgrimage due to having sex, then doing it again for the second time. In this repeated case, the *ashab* al-Shafii narrate up to five forms of legal narration from Imam al-Shafii, the first and the most authentic; the fine is in the form of *budnah* (fattened camel) for the first incident, while the repetition is fined with a goat, the second opinion; equating the type of fine on the first, second, and so on, namely with each *budnah* on each incident, the third opinion; Sufficient one *budnah* for all events either once or repeatedly, the fourth opinion; if in the first intimate relationship the *kaffarah* has been paid before the second incident occurs then in the second intimate relationship the fine is only with the goat, but if the first fine has not been paid then the camel is sufficient for the two acts that have been done, the fifth opinion; if the time of the first and second incidents is very long and is carried out in different places, then the first and second fines must be distinguished, otherwise, one fine is sufficient to pay for the entire act.³¹

In the case as described previously, it has become a general agreement in the al-Shafii School. The first step is to know the background of the narration of all existing opinions, then what is practiced is the most recent opinion of Imam al-Shafii. The second step is to see the view that Imam al-Shafii confirms then that opinion is put into practice. If it is not known based on the previous step, then the final action by the *ashab* is carried out *tarjih* on the existing opinions based on the *ushul* School of al-Shafii.³²

The form of *tarjih* on Imam al-Shafii's opinion in the School of thought has become unlimited because Imam al-Shafii has realized very well that world problems will develop over time, so that Imam al-Shafii has laid down the *ushul* of his School and its rules, as well as a special method for doing so. *Istinbat* and

³¹Ibid., 494.

³²Abdul Salam, *Al-Imam Al-Syafi'i Fi Mazhabaihi Al-Qadim Wa Al-Jadid*, 207.

istidlal to produce a legal decision based on the School of thought. The method developed by Imam al-Shafii, makes *Ashab* al-Shafii ready to develop a school with the method that has been determined by his teacher, a form of opinion born from the results of *istinbatashab* al-Shafii known as *wujuh* (ashab's opinion) to distinguish it from the opinion of Imam al-Shafii. -Shafi'i termed *aqwal* or *qaul*.

Conclusion

The transformation of *Qadim fiqh* and *jadid Fiqh* that occurred in the al-Shafii School led to the dynamics of acceptance by al-Shafiiashabs. This also shows how dynamic Fiqh is, not only as an important aspect of Islam (jurisprudence), but also as a discipline. *Ashab* al-Shafii, who developed and strengthened the existence of the al-Shafii School, was not only devoted to those who studied directly with Imam al-Shafii, but even the terminology developed until the 8th-century Hijrah, although with all different classifications and levels of *tabaqah*. In the *muqaddimah* "Nihayah al-Matlab" it is explained that the era of the *ashabs* developed from the first three centuries to the 4th century, *ashab* al-Shafii in the fourth century was divided into two *tariqahs* known as *tariqah Khurasani* and *tariqah Iraqi*. The two *tariqahs* were united by the *ashab* al-Shafii at the end of the 4th and 5th centuries Hijriah. From the point of view of acceptance and response, *ashab* al-Shafii can be divided into three forms. The first is *ashab* which strengthens the opinion of Qadim al-Shafii, although in the case that there are not too many. The second form is the *ashab* which reinforces the opinion of *Jadid*, this situation is the majority occurring in because the School of thought is the strongest opinion of Imam al-Shafii, the third form is *tarjih* on different opinions up to more than 2 from Imam al-Shafii on the same issue, this situation occurred due to the difficulty of delivering information at that time, so that the *ashab* al-Shafii - Shafi'i especially in Baghdad did not know that his Imam had issued a new opinion.

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