

Dialectic of Hanafiah and Istiqomah Islamic Legal Thought of Muhammad Syahrur

Mia Fitriah El karimah

English Education, Universitas Indraprasta PGRI Jakarta
Jl. Nangka No. 58 C (TB. Simatupang), Kel. Tanjung Barat, Kec. Jagakarsa, Jakarta Selatan 12530.

Corresponding author

El.karimah@gmail.com

Abstract: Some Islamic thinkers argue that there is an imbalance between Islamic legal thought and solutions to modern problems. With the assumption that because of the lack of relevance to scientific tools in solving contemporary problems, the formulation of Islamic legal in the books of fiqh is experiencing a crisis of relevance, especially when it comes to contemporary themes. One of the great thinkers in the contemporary era is Muhammad Syahrur, a Syrian liberal Islamic figure. This contemporary figures tend to break away from madzhabi thinking models and use modern scientific tools, his methodologies is dismantling from etymology to morphology and redefining several important terms that have implications for new conclusions or new laws in Islamic legal. As a result, he is very contrary to the thinking of the majority of scholars. As it is known, the construction of contemporary Islamic legal in Syahrur's perspektif is never separated from his grand theory, called as the theory of limits. He asserts that the theory of limits is an approach within ijtihad (in response to the stagnation of the study of Islamic legal thought, as well as a critique of the literal and rational groups that always dwell on the revelation and reason to provide modernity to its people). The analytical framework of Syahrur's limit theory arises because of the meeting of the two main characters, namely istiqamah and hanifiyyah, the constant form (Istiqamah) and the flexible form (hanifiyyah), these two properties are very contradictory but complementary. These two characteristics then gave birth to the limit theory. With this limit theory, Islamic law will have a dynamic movement in the midst of turmoil and the development of modern reality. This reseach used library research models, and focus on analytical descriptions from his *book by qualitative* model. Before raising the concepts of Syahrur's Islamic Legal thought, tracking his methodology, approach, and technique used is an unavoidable necessity, and how does Syahrur view the existence of two main characteristics as the privilege of Islam and their relationship to Syahrur's plausibility structure in Islamic Legal.

Keywords: Muhammad Syahrur, limit theory, istiqamah and hanifiyyah dialectics, analytical descriptions, qualitative model.

Introduction

Many scholars have written about thoughts Muhammad Syahrur, but who specifically pays attention to the contribution of hudd theory in the interpretation of the Qur'an is relatively rare. Generally, the scholars of Syahrur tend to thematic issues, such as polygamy, adultery, theft in Syahrur's perspective. In this case, the writer tries to bring out the advantages and disadvantages of Muhammad Syahrur's thoughts. Muhammad syahrur was one of a few contemporary muslim scholars, he had become one of the most influential scholars of moderate Islam, offering programmatic and rational alternatives for its reform

Syahrur's works give a strong impression that the scientific paradigm of Islamic science is needed to be reviewed. Muslims no longer need to use the old paradigm, because the old paradigm has undergone many anomalies so as not being able to give exact answers to the political, social, cultural and intellectual problems facing contemporary Islam. The effort to build a new paradigm and system of Islamic knowledge is the central theme of Syahrur's work (Syahrur, 1994: 34-35). Islam must be understood by using the most up-to-date knowledge system (Syahrur, 1994: 205). Syahrur's works are impossible to meet with the works of his critics because of the different *manhaj* contemporary *fiqh* (Muhammad Syahrur, 1994: 33,

35) which has the most revolutionary and innovative concept of reform when compared to other thinkers in this group according to Eikelman-Piscatori, as quoted by Bisri Effendi, Syahrur's books in general try to launch a critique of the intolerant old law. From there it can be seen that what Syahrur wants is to reinterpret the law according to the development and interaction between generations, as well as breaking the stagnation of Islamic law.

a Syrian scholar who had no religious basis from the educational background or the occupation. However, he was very interested in conducting studies and research on Islamic religion, especially in the works he produced. In addition, the classical scientific tradition that is used today is filled with doctrine as the truth, which unexpectedly descends from the sky and is transformed into absolute truth, even though all of that is merely tentative and tends to be reversed (Syahrur, 1991: 29).

The Syahrur intellectual works include; al-Kitabwa al-Qur'an; Qira'ah Mu'ashirah (1990). Al-Islam wa al-Iman, Manzumat al-Qiyam (1995) which has been translated into Indonesian namely "Islam-Faith; Basic Principles ". Then Dirasah Islamiyah fi al-Dawlahwa al-Mujtama '(1996) which means "Contemporary Islamic Studies of the State and Society". Masyru 'al-Amal al-Islam (1999), NahwUsul al-Jadidah li Fiqh al-Islam (2000), in Indonesia means "Metodologi Fiqih Islam Kontemporer". Everything was translated by al-Haliy at-Tiba'ahwa an-Nasyrwa at-Tauzi 'in Damascus. In 2008 Syahrur republished a book called TajfifManabi 'alTarhib, Al-Qashish al-Qur'ani (2010), Al-Sunnah al-RasuliyahwaSunnah alNabawiyah (2012), Al-Din wa al-Sulthah (2014), and Ummu al-Kitab wa Tafsiliha (2015) (Jalil, 2016: 6). Besides writing books, Syahrur wrote scientific articles in several media.

Some countries even banned the circulation of his books. However, Western academics give full appreciation because Syahrur has managed to continue the unfinished work of Fazlur Rahman, called double movement. According to Eikelman-Piscatori, as quoted by Bisri Effendi, Syahrur's books in general try to launch a critique of the policy conventional religion as well as the certainty

of intolerant religious radicals. From there it can be seen that what Syahrur wanted was to interpret repeat the verses according to the development and interaction between generations. Also, he had tried to reconstruct the concept of understanding of Islamic law to be compatible with current era. He offers a theory that compromise texts and contexts. This is called *nadzariyyah al-hudud* or the theory of limit.

The theory of limits that he carries is one of the approaches in ijtiḥad which usually examines the legal verses in the Qur'an which refer to the understanding of the limits of Allah's provisions that must not be violated, in the area within which the area of ijtiḥad is dynamic, flexible and elastic. This limit theory can be described as; God's commands expressed in the Qur'an and Sunnah that regulate or provide lower and upper limits for all human actions. The lower limit represents the minimum legal provisions in a particular case, while the upper limit represents the maximum.

Material and Method

The method used is descriptive analytical which relies on library research. This study aims to look at Islamic law from the perspective of Muhammad Syahrur. Before raising the concepts of Syahrur's Islamic law, related to the methodological approach, the technique used is an unavoidable necessity. This research includes qualitative research. The primary data sources used are books by Muhammad Syahrur and books that respond to his thoughts, because the main data taken from the works of Syahrur on contemporary Islamic jurisprudence. The data classified by the theme and then analyzed and mapped it into a table to make clear.

Results and Discussion

Muhammad Syahrur: Profile and Academic Career

Muhammad Syahrur Deyb was born in Damascus, Syria, in March 11, 1938. Undertook his primary and secondary education at educational

institutions of 'Abd al-Rahman al-Kawakibi, Damascus, and graduated in 1957, Mubarak, Ahmad Zaki (2007) Then got a government scholarship for the study of civil engineering (*handasah madâniyah*) in Moscow, Uni Soviet Union, in March 1957. Successfully earned a Diploma in civil engineering in 1964. Then the following year worked as a lecturer at the Faculty of Engineering, Damascus University. Subsequently, he was sent by the University to Ireland –Ireland National University – for Masters and His doctorate in the specialization of Soil Mechanics and Foundations, thus obtaining his Master of Science degree in 1969 and doctorate degree in 1972. Until now, Dr. Ir. Muhammad Syahrur is still teaching at the University's Faculty of Civil Engineering Damascus in the field of Land Mechanics and Geology.

In 1982-1983, Dr. Ir. Muhammad Syahrur sent back by the university to become an expert on al-Saud Consult, Saudi Arabia. He too, along with some of his comrades in the faculty opened the Dar al-Istisaat al Handasiyah Technical Consulting Bureau in Damascus. Syahrur mastered English and Russian, in addition to his own mother tongue, Arabic. Beside that, he is also pursuing a field that interests him, namely philosophy of humanism and the deepening of the meaning of the Arabic language. Syahrur's attention to the study of Islamic sciences actually started when he was in Dublin Ireland in 1970-1980 when he was taking a master's program and doctor. In addition, the role of his friend, doctor, Ja'far Dakk al-Bab, is also very large. Thanks to his meeting with Ja'far on In 1958 and 1964, Syahrur was able to learn a lot about linguistics.

His first published book was *al-Kitab wa al-Qur'ân: Qirâ'ah Mu'âshirah* in 1990. The book is the result of the deposition of thought about 20 years. In the first phase, namely 1970-1980, Syahrur felt that Islamic studies that have been carried out so far are lacking came to fruition, and no new theory was obtained, and still trapped in the "cage" of Islamic literature classical which tends to view "Islam" as an ideology (*al aqidah*), both in the form of Kalam thought (Islamic Theology) as well as interpretation. As an implication, the thoughts of

Tafsir will stagnate and not move at all. (Toni Pransiska, 2016)

Background of Muhammad Syahrur's thought

To understand someone's thinking, one cannot ignore the dynamic of the person's life, because the human mind does not emerge from a vacuum. Therefore, understanding someone's thinking cannot be separated from the context and the plausibility structure owned by that person (Havis Aravik et al., 2018).

Muhammad Syahrûr also offers two models of interpretation of the Qur'an. First, the *ijtihad* method with a boundary theory approach (*nazhariyyah al-hudûd*). This method is used to read the verses of *muhkamât* (law verses). With this theory, the sacredness of the text can be maintained, but its interpretation can be flexible and dynamic along with the times. Second, the hermeneutic *takwil* method through a linguistic-scientific approach which is applied to interpret *mutasyâbihât* verses that contain information or scientific cues. With this method, the verses of the Qur'an that were previously still a rational theoretical truth or in the form of an objective reality outside of human consciousness will become a scientific theory that is truly in accordance with reason and empirical reality. This *takwil* method wants to prove the truth of the theoretical information of the Qur'an (Syahrur's special term This is because, for For example, the theory that emerged in the nineteenth century worked to problems arose during that time, and not for problems that occurred in twentieth century or so. The basic problem that triggered Syahrur to study Islam can be divided into two interrelated dimensions, namely reality contemporary muslim society and traditional realities Islamic teachings (*turast*). Syahrur sees that the muslim community is still polarized into two factions. The first are those who hold literals strictly traditional meaning. The second is those who pay attention to secularism and modernity and reject all traditional Islamic resources, including Al-Qur'an.

In other words, a constructs of thought that emerge have a significant relationship with social reality as a response and dialectic of thought with various phenomena that develop in society.

Syahrur in constructing their thoughts, especially those related to with Islamic issues, can not be separated from this theory. The ideas emerges after consciously observing developments in the tradition of contemporary Islamic sciences. According to him, thoughts contemporary Islam has the following problems: the first, there are methodological instructions in scientific discussions thematic towards the interpretation of the holy verses of the Qur'an which revealed to the prophet Muhammad SAW. The second, the absence of a valid Islamic epistemology. The third, the absence of utilization and interaction of the philosophy of the humanities (*alfalsafah al-insaniyah*). The fourth, existing fiqh products (*al-fuqaha' al-khamsah*) is no longer relevant to the demands of modernity (Toni Pransiska, 2016: 187).

Based on the fact that scientific truth is tentative, Syahrur then tried to elaborate on the weaknesses the Islamic world. So that his thoughts emerged which are considered by many people as a controversial thoughts.

Methodological of Syahrur Thought

There are two core methods used by Syahrur in perform legal proceedings. The methods in question are: First, linguistic and semantic analysis. Second, the application of science modern exact sciences which are then applied in theoretical form limit (*nazhariyyah hudd*). With regard to the first method, there are three basic assumptions that used by Syahrur in his interpretation. namely: First, Syahrur apply al-Jurjani's principle of anti-synonymity (*gayr tarāduf*) in the poetic expression of the Qur'anic text. Syahrur believe that not a single word can be replaced with the word others without changing the meaning or reducing the power of expression of the linguistic form of the verse. With this assumption, he tried find differences in nuances of meaning between terms that so far considered synonymous, such as *inzāl/tanzīl*, *furqān/qur'ān*, *ulūhiyah/rubūbiyah*, and others.

Second, Syahrur rejected the opinion about atomization (*ta'diyah*), even he interpreted each verse of the Qur'an based on the assumption that each verse is owned by a single unit within a larger unit in the al-Kitāb. This method is called the

intratextuality method. in the sense of combining or comparing all verses who have the same topic of discussion. Sahiron Syamsuddin (2002: 137) Based on assumptions With this thematic variety, Syahrur defines the verses based on metaphysical status, whether it is eternal, eternal, absolute and has a truth that is temporal, relative and has subjective conditions.

Third, Syahrur established another principle belonging to al-Jurjani in terms of poetry analysis, namely what is called composition (*al-nazm*). According to al-Jurjani, there is not the slightest element and even the seemingly insignificant ones that can be ignored in poetic composition, for ignoring it would lead to fatal error to understand and understand the structure of its meaning or the level of meaning that is present in the composition.

As for the second method, Syahrur adopted it from the exact sciences – especially mathematics and physics- which is his scientific specialty, which later applied in the form of the theory of limits. Theory This started from the concept of *istiḳāmah* and *hanifiyyah* in the Bible. *Hanifiyah* is a deviation from the straight path, while *istiḳāmah* is the opposite of *hanifiyah* which means follow the straight path. Syahrur concluded that both This trait is an integral part of the treatise which has symbiotic relationship. *Hanifiyah* is the nature of nature that exists also exists in humans. If *hanifiyah* is found in the nature of nature, This boundary theory is used as an answer to the concept of *istiḳāmah*. This theory is obtained through a study of the above basic properties by basing on mathematical analysis Isaac Newton.

Syahrur Theory “ hudud / limit ”

The theory of limits is a scientific theory in mathematics which Syahrur incorporated into the interpretation of the Qur'an. Theory this is not familiar in the world of Islamic law. The term “*hudd*” has been put forward by scholars “*hudūd*”, word is the plural form of the word *hadd* which means limits. It means limit (barrier) that limits something and is the culmination of something. If said *hadd al-ardl*, means land boundary. *Hadd* can also mean prohibition or prevention. From this, it was understandable that a threat of punishment for something that is

forbidden is also called *hadd*, because the threat is expected can prevent people from committing crimes. In addition, *hadd* also means measure (*al-taqdîr*), because the size of this punishment has been measured and determined by al-Shari'. *Hadd* is sometimes also used to refer to disobedience itself, as the word of God.

تِلْكَ حُدُودُ اللَّهِ فَلَا تَقْرُبُوهَا

These are the limits set by Allah, so do not go near them (QS. Al-Baqarah:187) (Abdul Mustaqim, 2017)

While in fiqh theory Conventionally, the term hudd is then interpreted as a threat of punishment that has been determined levels and forms by the Qur'an and hadith against the perpetrators crimes related to community rights and punishments understood as something rigid, and negotiable. The scholars then identified several actions that could be threatened with hudd punishment, among others as follows: (Abdul Mustaqim, 2017)

1. Adultery, if the perpetrator is *ghayr muhshan* (virgin), then he is threatened with a hundred lashes (Q.S. al-Nûr [24]: 2).

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُم بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلَيْشَهِدَ عَذَابُهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ الرَّانِي لَا يَنْكِحُ إِلَّا زَانِيَةً أَوْ مُشْرِكَةً وَالزَّانِيَةُ لَا يَنْكِحُهَا إِلَّا زَانٍ أَوْ مُشْرِكٌ وَحُرْمٌ ذَلِكَ عَلَى الْمُؤْمِنِينَ

2. Meanwhile, if the adulterer is *muhshan/muhshanâh*, the perpetrator will be punished *hadd* stoning (stoned) to death. This was practiced by the Prophet SAW
3. Accusing a good woman of adultery. If the accuser cannot present required witnesses, he is threatened with *hadd* law (Q.S. al-Nûr [24]: 4).

وَالَّذِينَ يَزْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلَحُوا فَإِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ

4. Theft. The perpetrator is threatened with a cut off his hand as in al-Qur'an (Q.S. al-Ma'idah [5]: 38).

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا مِّنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ فَمَنْ تَابَ مِنْ بَعْدِ ظُلْمِهِ وَأَصْلَحَ فَإِنَّ اللَّهَ يَتُوبُ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ

5. Drinking *khamr* or liquor, the *palaku* is threatened with punishment lashes (whips) forty times, as described in the hadith narrated Muslim Imam.

عَنْ أَنَسٍ أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ شَرِبَ الْخَمْرَ فَجُلِدَ بِجَرِيدَتَيْنِ نَحْوَ أَرْبَعِينَ

6. Security disturbances or robbers (*al-Hirabah* and *Qutthâ` al-Tharîq*). The culprit will be punished by *Hadd* (Q.S. al-Maidah [5]: 33)

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ إِلَّا الَّذِينَ تَابُوا مِنْ قَبْلِ أَنْ تَقْرُوا عَلَيْهِمْ فَأَعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَّحِيمٌ

7. Intentional homicide. The perpetrators are threatened with *hadd* punishment, namely: *diquishâsh* (Q.S. al-Baqarah [2]:178).

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ أَلْحُرُّ بِالْحَرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأَنْثَى بِالْأُنْثَى فَمَنْ عُوفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعُ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنْ اعْتَدَى بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ

From the verses that speak of the punishment of the crime it was clear that each of the perpetrators of the crime would be threatened with *hadd* punishment, where the form and amount have been specified in the verse or hadith. Thus, conventional hudud theory focuses on the text of the texts, not reality or context. That's why the author says that *Ijtihad* in conventional hudd theory is textual-scripturalist and fixed.

in conventional hudûd theory, the punishment of the hudûd is a threat imposed on the perpetrators of the crime concerned with the public interest. In other words, hudûd punishment is a common right (Public law), no one can abort it, if it is the perpetrator has met the requirements for *hadd* punishment. 15 For example, a thief who is caught has met a certain *nisab* standard, he still had to have his hand cut off, even though the stolen party had forgiven him. So, the case is filed or not by the stolen party, the thief must remain punished, because it is not a complaint offense. However, although theoretically the hudd punishment is rigid, sometimes the execution of

the law really depends on the situation and conditions. For example, Umar bin Khattab did not punish the cut off of his hand a thief, because he was a poor man and when that was happening bad season.

Umar's actions turned out to be an inspiration to contemporary interpreters, such as Syahrûr. Syahrûr then tried reconstruct the hudûd theory with a new perspective, where qath' al-yad (punishment of cutting hands) is only seen as the maximum limit (*al-hadd ala'lâ*). This means that every thief does not have to be punished by cutting off his hand. In certain conditions a thief can be pardoned, as a limit punishment minimum (*hadd al-adnâ*). This means that a judge can perform ijtihad, is the thief? will be imprisoned or maybe in ta'zir with a certain punishment, which is important still in the hadd al-a'lâ and hadd al-adnâ areas. Hudûd theory version Syahrûr can be seen in the following discussion.

The Dialectic Of Hanafiah And Istiqomah

According to Syahrur, there are two forms of dialectics. First is a general dialect that applies to the cosmos beyond humans awareness. This dialectic is objective and is the secret of everything development, evolution, and changes that occur in the universe. Second is dialectic which can be applied to human context. there is the inherent duality between two opposites and immaterial things, in both of which can be fused in the human brain and mind. This duality is based on the resistance of two of the two directions. Dialectics between the two opposite things will end in a decision in every opposition. This is because one of them is together, others are subdued. This type of dialectic won't end with a decision but controlled by the emotions and feelings of a person who tends to irrational. This is the dialectic of the human soul. For example, the battle between love and hate or viceq versa is finally won by one of feel (Havis Aravik, Choiriyah & Saprida, 2018).

In the study of linguistic studies which can be used as a handle in researching the study of the vocabulary of the Qur'an is the study of western linguistics. Western linguistics as has been understood has entered a new phase in the 20th century initiated by Ferdinand de Saussure and

later known as the founder of linguistics modern. There are five focus studies that initiated by de Saussure which includes; old time and madlul, form and content, language and parole, synchronic-diachronic and syntagmatic-paradigmatic (Mia Fitriah Elkarimah, 2016).

This Saussurian linguistic presence have a significant impact on development of the study of the Qur'an. This matter can be seen with the courage muslim intellectuals use de Saussure's concept in researching content content of the Koran. One of Among them are muslim thinkers progressive, Muhammad Syahrur who which has used the approach this linguistic model. Through this approach syahrur can elaborating one word with other words with approach syntagmatic-paradigmatic in structure or context of the sentence. Wrong One of the findings relates to new principles in Islamic studies referenced from scripture texts (Syaifullah, 2021).

The concept of istiqlamah and hanîfiyyah taken According to Syahrûr, *istiqlamah* is taken from the derivation of q-w-m which is linguistically among other things means that *al-intishâb aw al-'azm* (straight, strong, upright or solid) is understood from several verses, including Q.S. al-Fâtihah [1]: 6, al-An'âm [6]: 153, 161 dan al-Shaffât [37]: 118. While the concept of hanîfiyyah comes from h-n-f which language means al-mail wa al-inhirâf (leaning and "deviating").

This is taken from several verses, including Q.S. al-An'âm [6] 79 and 161, al-Rûm [30]: 30, al-Bayyinah [98]: 5, al-Hajj [22]: 31, al-Nisâ' [4]: 125, Yûnus [10] 105, al-Nahl [16]: 120 and 23, Ali Imrân [3]: 67 and 95

By taking inventory of these verses and this is a form of application of the tartîl method, Syahrûr then came to the conclusion that hanifiyah is a "deviation" or "deviation" from something straight (linear). While *istiqlamah*, something straight follows a linear path. These two traits is a unit that cannot be separated from each other, even unite into the strength of the Islamic religion, as confirmed in the verse (Q.S. al-An'âm [6]: 161).

قُلْ إِنِّي هَدَيْتُنِي رَبِّي إِلَى صِرَاطٍ مُسْتَقِيمٍ هَ دِينًا قِيَمًا مِّلَّةَ إِبْرَاهِيمَ حَنِيفًا وَمَا كَانَ مِنَ الْمُشْرِكِينَ

In the verse above the word "hanîf" by Syahrûr is not interpreted as "straight" as in the translation of the Ministry of Religion Team, but means with taghayyur, dynamic or elastic motion. Two characters (*istiqamah* and *hanîfiyyah*) which are different, but united in the teachings of Islam, according to Syahrûr will raises various alternatives in tasyrî' (law or legislation) in human behavior (*al-sulûk al-insânî*) and will become the basis for the establishment of Islam at all times and places. The assumption is that Islam is religion of nature which has a hanf nature, meaning that there is harmony with nature human and natural laws. It is based on Q.S. al-Rum [30]: 30.

Where is the aspect that constitutes *istiqamah*? According to Syahrur, none other is *hudûdullâh* itself, so that dynamic motion (hanifiyyah aspect) represented by the cycle of time and place it is in hududullah. The relationship between *istiqamah* and *hanfiyyah* has significance for development of Islamic law. Because in that way, Islamic law can adapted in accordance with the development of changes in time and place. No, In this case, humans move in the *hanîfiyyah* space, but remain in the *hanfiyyah* space *istiqamah* boundaries. If it is drawn in the context of Islamic law, then hanifiyyah means dynamic motion following the development of space and time, based on the laws that have been determined in the Qur'an, namely hududullah.

The theory is built on assumption that the message of Islam brought by Muhammad SAW is a religion that global ('*âlamîyah*) and dynamic, so that it will remain relevant in every age and place (*shâlih li kulli zamân wa makân*). The advantages of Islamic treatise is that it contains two aspects of movement. First, movement constant (*istiqamah*) and dynamic movements (*hanîfiyyah*). These two things causes Islamic teachings to be flexible. However, the nature of flexibility (*al-murûnah*) is within the frame of *hudûdullâh* (the limits of Allah).

According to Syahrur, Islamic law is huddiyyah, which still allows room for ijihad in it and not haddiyah where there is no ijihad space in it. The limitations and shortcomings of the previous scholars want to be added by Syahrur in order to develop interpretive thinking in the contemporary era, through the offer of hudud

theory. Hudûd theory is one of the original contributions of the 20-year survey (1970-1990) when writing the book *al-Kitâb wa al-Qur'ân*; Qira'ah Mu'âshirah. This theory is one of the logical consequences of distinguishing the terms *al-Kitâb* and *al-Qur'ân*, or *Kitâb al-Risâlah* and *Kitâb al-Nubuwwah*. The ijihad method is used to understand risâlah (*muhkamât* or legal verses), while the ta'wmethod is to understand *mutasyâbihât* verses (Mia Fitriah, 2014).

His analysis is useful for illustrating how the two concepts of *al-hanîfiyya* and *al-istiqama* are simultaneously interrelated through Isaac Newton's function notation. The function is symbolized by formula $Y=f(X)$ means each function, at least, has two axes and one starting point; abscissa (X) represents time or historical context, coordinate (Y) represents God's law, and the starting point (0) symbolizes the beginning of Muhammad's mission. Based on the above-mentioned mathematical analysis, Syahrur draws six types of limits in the *sharî'ahududiyya* as follows:

1. The lower limit standing alone (*halat al-hadd al-adna*)

In this position, a legal decision may be made above the limit minimum that has been determined in the Koran or is at the minimum limit specified, but must not exceed the minimum limit. As An example is the verses that talk about *mahârim* (women) who cannot be married), as stated in Q.S. al-Nisâ"[4]: 22-33.

وَلَا تَنْكِحُوا مَا نَكَحَ آبَاؤُكُمْ مِنَ النِّسَاءِ إِلَّا مَا قَدْ سَلَفَ ۚ إِنَّهُ كَانَ فَاحِشَةً وَمَقْتًا وَسَاءَ سَبِيلًا ۚ حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأُخْتِ وَأُمَّهَاتُكُمُ اللَّاتِي أَرْضَعْنَكُمْ وَأَخَوَاتُكُمُ مِنَ الرَّضَاعَةِ وَأُمَّهَاتُ نِسَابِكُمْ وَرَبَابُكُمْ ۚ اللَّاتِي فِي حُجُورِكُمْ مِنْ نِسَابِكُمُ اللَّاتِي دَخَلْتُمْ بِهِنَّ فَإِنْ لَمْ تَكُونُوا دَخَلْتُمْ بِهِنَّ فَلَا جُنَاحَ عَلَيْكُمْ ۚ وَخَلَائِلُ أَبْنَائِكُمُ الَّذِينَ مِنْ أَصْلَابِكُمْ وَأَنْ تَجْمَعُوا بَيْنَ الْأُخْتَيْنِ إِلَّا مَا قَدْ سَلَفَ ۚ

In this verse, it is explained that some women are prohibited from married. That is the minimum limit for women who cannot be married. However thus, it could be a woman who is forbidden to marry more than mentioned in the verse. For example, marrying a cousin. That matter may be prohibited when it turns out that a study finds that

marriage with such a close relative could result in a defective offspring mental or physical disability

2. The upper limit standing alone (*halat al-hadd al-a'la*)

It only has a maximum limit, so the legal stipulation may not exceed the maximum limit, but may be

below it or stay on the line or maximum limit that has been determined by Allah swt. For example are the verses that explain punishment *qishâsh* (punishment commensurate) in Q.S. al-Baqarah [2]: 178

يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ ۚ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ ۚ وَالْأَنْثَىٰ بِالْأُنْثَىٰ ۚ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ ۚ وَأَدَاءٌ إِلَيْهِ بِإِحْسَانٍ ۚ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ ۚ مِّمَّنْ اعْتَدَىٰ بِغَدَاةٍ فَلَهُ عَذَابٌ أَلِيمٌ

3. The lower and upper limits joining together

In this case, the determination of the sentence is carried out between the two limits the. In some hudd verses there are those that have a maximum limit at the same time the minimum limit, so that legal stipulations can be made between the two limits. The verses that fall into this category are about division of inheritance in Q.S. al-Nisa [3]: 11-14

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثِيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُن لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ مِّن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ لِأَبَائِكُمْ وَلِأُمَّاتِكُمْ لَا تَدْرُونَ أَيُّهُم أَقْرَبُ لَكُمْ نَفْعًا ۚ فَرِيضَةٌ مِّنَ اللَّهِ ۚ إِنَ اللَّهُ كَانَ عَلِيمًا حَكِيمًا ﴿١٢﴾ وَلَكُمْ نِصْفُ مَا تَرَكَ أَزْوَاجُكُم إِن لَّمْ يَكُن لَّهُنَّ وَلَدٌ ۚ فَإِن كَانَ لِهِنَّ وَلَدٌ لَّهُنَّ الرُّبُعُ مِمَّا تَرَكَنَّ مِّن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ وَلَهُنَّ الرُّبُعُ مِمَّا تَرَكَنَّ إِن لَّمْ يَكُن لَّكُم وَلَدٌ ۚ فَإِن كَانَ لَكُم وَلَدٌ فَلَهُنَّ الثُّمُنُ مِمَّا تَرَكَتُم مِّن بَعْدِ وَصِيَّةٍ تُوصُونَ بِهَا أَوْ دَيْنٍ ۚ وَإِن كَانَ رَجُلٌ يُورِثُ كَلَّةً أَوْ امْرَأَةً وَلَهُ أَخٌ أَوْ أُخْتُ فَلِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ ۚ فَإِن كَانُوا أَكْثَرَ مِن ذَلِكَ فَهُمْ شُرَكَاءُ فِي الثُّلُثِ ۚ مِّن بَعْدِ وَصِيَّةٍ يُوصِي بِهَا أَوْ دَيْنٍ ۚ غَيْرَ مُضَارٍّ ۚ وَصِيَّةٌ مِّنَ اللَّهِ ۚ وَاللَّهُ عَلِيمٌ خَلِيمٌ ۚ تِلْكَ حُدُودُ اللَّهِ ۚ وَمَن يُطِعِ اللَّهَ وَرَسُولَهُ يُدْخِلْهُ جَنَّاتٍ تَجْرِي مِنْ تَحْتِهَا الْأَنْهَارُ خَالِدِينَ فِيهَا ۚ وَذَلِكَ الْفَوْزُ الْعَظِيمُ ۚ وَمَن يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا ۚ وَلَهُ عَذَابٌ مُّهِينٌ ۚ

4. Cases in which the upper and lower limits have the same meeting point

In this condition, the hudd verse does not have a minimum or minimum limit maximum, so that there is no alternative result from the application of the punishment other than mentioned in the verse. In other words, the law does not change even when times change. An example is punishment for perpetrators adultery specified in the Q.S. an-Nûr [24]: 2, that male adulterers bachelors (*muhshan*) and virgin women (*muhshanah*) are lashed a hundred times, as Allah says:

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةً جَلْدَةً ۚ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ وَلَيَْشْهَدَ عَذَابُهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ

According to Syahrûr, in the case of adultery there is no other choice for us except must apply the punishment of caning as stated in the verse the. Because in the verse it is emphasized, *walâ ta'khudzukum bihimâ ra'fatun fi dnillah*. That is, in applying the punishment for adultery, a person may not feel sorry for the adulterer.

5. Where there is an upper limit that may not be touched

The position of this maximum limit tends to approach without any contact at all, except at infinity. If applied in the verse hudd, then an example is the phenomenon of the relationship between men and women. The relationship starts from an ordinary relationship, without involving a relationship physical, then gradually increases in physical intercourse, until approaching the *mustaqîm* line, namely the limit of adultery. This *mustaqîm* line has no minimum and maximum limits and only marked with a point on a straight line. The straight line is set by Allah as sexual relations between men and women outside of marriage with adultery. That is why the Koran uses the editorial *walâ taqrabû al-zinâ* and *walâ taqrab al-fawâhisys*. This gives a hint that his approach If this continues, it will plunge into the prohibition of Allah SWT.

6. A positive upper limit that cannot be exceeded and a negative lower limit

The application of this position can be seen in the matter of usury as a limit positive maximum that should not be violated and zakat as the minimum

limit negatives that can be exceeded. That is, usury which is doubled (*adl`âfan mudlâ`afan*) is not allowed, while people want to do zakat above 2.5% as the minimum allowed. It then becomes sadaqah, which has two limits, a maximum limit on the positive region and a minimum limit on negative area. The position automatically has a center boundary, right on the between the two which is symbolized by the zero point on the second cross axis. That is usury without interest (*qardl al-hasan*). Under certain conditions, very maybe the bank gives interest-free credit to those who are entitled receive alms. It is a form of application of the minimum limit (ie: zero percent interest) in the case of bank interest, as a form of offer Islamic bank. Such is the description of the hudd theory offered by Syahrûr, especially with regard to the problem of *al-hudûd fî al-ahkâm* (Abdul Mustaqim, 2017).

As it is known, the construction of contemporary Islamic legal in Syahrur's perspektif is never separated from his grand theory (theory of limits). This theory is not familiar in the world of fiqh, because generally science uses common knowledge tools such as history, asbab nuzul science, munasabah, nasikh-manasukh, hadith science, manthiq, balaghoh, nahwu, shoroof, fiqh across madzahabs etc. Without this device, one will find it difficult to understand the science of ushul fiqh well. Meanwhile, modern science tools, such as modern science and linguistics, have clearly not been included (Abdul Mustaqim, 2017: 5).

Also, Syahrur sees that the choice of the previous scholars is not worth defending anymore. This is because, orthodox scholars' thinking, with a textual approach to Islamic law, are likely to be irrelevant. Meanwhile, modernist scholars, with a contextual approach to Islamic law, tend to dissolve together with the relativity of socio-cultural dynamics.

In this case, Syahrur offers a dialectical formulation epistemology that he traced from the scriptures. Using inductive reasoning on the verses of the Qur'an, Syahrur found that his ideas reality in general has a dualistic nature. and it can display characteristics as a dynamic and launched process. This is because dialectical interaction there must be

the presence of two different things thing (position). According to Syahrur, there are two forms of dialectics. First is a general dialect that applies to the cosmos beyond humans awareness. This dialectic is objective and is the secret of everything development, evolution, and changes that occur in the universe (Asriyati, 2015). The two-character dialectic can be applied to the human context. There is the inherent duality between two opposites and immaterial things, in both of which can be fused in the human brain and mind. This duality is based on the resistance of two of the two directions. Dialectics between the two opposite things will end in a decision in every opposition. This is because one of them is together, others are subdued. This type of dialectic won't end with a decision but controlled by the emotions and feelings of a person who tends to irrational. This is the dialectic of the human soul. For example, the battle between love and hate or vice versa is finally won by one of feeling.

Conclusions

Contemporary muslim thinker mostly from Islamic dicipline, but not for Muhammad Syahrur (here in after referred as: Syahrur) who interested in islamic issue without Islamic background, the linguistic approach was used by Syahrur in digging up the secrets of His message. From this reasearch, there are two basic formulations problems, firstly how Syahrur analyze these two words by using syntagmatic - paradigmatic analysis and what advantages and disadvantages which offered Syahrur in this analysis.

As it is known, the construction of contemporary Islamic legal in Syahrur's perspektif is never separated from his grand theory (theory of limits). This theory is not familiar in the world of fiqh, because generally science uses common knowledge tools such as history, asbab nuzul science, munasabah, nasikh-manasukh, hadith science, manthiq, balaghoh, nahwu, shoroof, fiqh across madzahabs etc. Without this device, one will find it difficult to understand the science of ushul fiqh well. Meanwhile, modern science tools, such

as modern science and linguistics, have clearly not been included (Abdul Mustaqim, 2017: 5).

Also, Syahrur sees that the choice of the previous scholars is not worth defending anymore. This is because, orthodox scholars' thinking, with a textual approach to Islamic law, are likely to be irrelevant. Meanwhile, modernist scholars, with a contextual approach to Islamic law, tend to dissolve together with the relativity of socio-cultural dynamics. The analysis of results show that the hudud theory or limit theory as a tool for criticism of the established methodology of Islamic law (*ushul fiqh*) is a good thing. However, to rely on the hudud theory or limit theory as the main method in extracting Islamic law as a substitute for the *ushul fiqh* method that mujtahids have used in extracting Islamic law, the hudud theory or limit theory is still not well established.

References

- Asriyati. 2015. Penataan Dan Pandangan Hukum Islam Muhammad Syahrur, Mazahib, Vol. Xiv, No. 1 Juni
- Abdul Mustaqim. 2017. Teori Hudûd Muhammad Syahrur Dan Kontribusinya Dalam Penafsiran Alquran, Al Quds: Jurnal Studi Alquran Dan Hadis Vol. 1, No. 1: Sekolah Tinggi Agama Islam Negeri (Stain) Curup – Bengkulu P-Issn 2580-3174, E-Issn 2580-3190
- El-Karimah, Mia Fitriah. 2016. SintagmatikParadigmatik Syahrur Dalam Teks Al-Qur'an. Lingua Vol. 11
- _____. 2014. Teori Limit Dalam Metode Hukum Islam Muhammad Syahrur, Masalah, Vol. 5, No. 1 Mei
- Mubarak, Ahmad Zaki. 2007. Pendekatan Strukturalisme Linguistic Dalam Tafsir Al Qur'an Ala M. Syahrur. Yogyakarta: Elsaq Press
- Havis Aravik, Choiriyah & Saprida. 2018. Critical Study On The Legal Thinking Of Muhammad Syahrur, Ahkam - Volume 18, Number 1, 2018
- Syaifullah. 2021. Term Khalifah Dalam Al-Qur'an: Analisis Sintagmatik-Paradigmatik Ferdinann De Sausurre. Jurnal Ulunnuha P-ISSN : 2086-3721 E-ISSN: 2865-6050 Vol. 10 No.1 / Juni
- Syahrur, Muhammad. 2000. .Al-Kitâb Wa Al-Qur'an; Qiraah Mu'ashirah, Cet. Vi, Beirut: Syarikah Al-Mathbuat Li At-Tawzi Wa An-Nasyr,
- _____. 2004. .Dirasah Islamiyah Mu'ashirah Nahwah Ushul Jadidah Li Al-Fiqh Alislami (Diterjemahkan Oleh Sohiron Syamsudin Yang Berjudul Metodologi Fiqih Islam Kontemporer. Jakarta: El-Saq Press
- _____. 2004. Metodologi Fiqih Islam Kontemporer, (Diterjemahkan Oleh Sahiron Syamsuddin Dan Burhanuddin Dari Nahwa Ushul Jadidah Li Al-Fiqh Alislami), Cet. Ii, Yogyakarta: Elsaq Press, 2004.
- Pransiska, Toni. 2016. Rekonstruksi Konsep Poligami Ala Muhammad Syahrur: Sebuah Tafsir Kontemporer, Hikmah, Vol. Xii, No. 2