

APPLICATION IMPACT OF IMAM AL-SHÂFI'I'S QIYAS ON THE DEVELOPMENT OF ISLAMIC LEGAL THOUGHT

Muhammad Roy Purwanto^{1*}, Hamidullah Marazi², Ahmad Arun Nafid³

^{1,3} Universitas Islam Indonesia (UII), Yogyakarta, Indonesia

Jl. Kaliurang Km. 14.5 Sleman, Yogyakarta 55584 Indonesia

² Central University of Kashmir, India

Green Campus, Duderhama, Ganderbal, Jammu & Kashmir-19120

E-mail: ¹muhammadroy@uii.ac.id, ²hamidullahmaraz3@gmail.com, ³arun_nafid@uii.ac.id

Abstract: In the realm of methodology of Islamic jurisprudence (*ushul al-fiqh*), *qiyas*, a method of deriving Islamic law, holds a prominent position. It entails analogizing a legal ruling from a situation devoid of explicit textual guidance (*nash*) to a situation with established textual guidance, based on the shared underlying cause (*illat*). This is a descriptive research with a philosophical approach. The type of research used is library research with primary data referring to the original source, namely the book of logic by Aristotle. While secondary data is taken from works containing Aristotelian logic. This study found that Imam al-Shâfi'i stands as the pioneer in formulating *qiyas* as a method of *ijtihad* (legal reasoning). His rigorous formulation of *qiyas* drew theoretical underpinnings from Aristotelian logic. The incorporation of Aristotelian logic into *qiyas* imbued the method with a strict and contrapositive nature, adhering to the principles of syllogistic logic. In syllogistic reasoning, the conclusion invariably follows from the major premise, which in *qiyas* is derived from the sacred text (the Quran). To overcome this intellectual stagnation, a *burhani* methodology, as championed by Ibn Rushd, Ibn Khaldun, Ibn Hazm, and al-Shâtibi, emerged. This methodology successfully established a liberal rational epistemology grounded in the spirit of *burhani* logic and contextualized Quranic interpretation.

Keywords: *qiyas*; legal derivation; *ijtihad*; syllogism; logic

Abstrak: Dalam ranah metodologi yurisprudensi Islam (*ushul fiqh*), *qiyas*, sebuah metode untuk memperoleh hukum Islam, memegang posisi yang menonjol. Metode ini melibatkan analogisasi putusan hukum dari situasi yang tidak memiliki petunjuk tekstual yang jelas (*nash*) ke situasi dengan petunjuk tekstual yang mapan, berdasarkan penyebab dasar yang sama (*illat*). Penelitian ini merupakan penelitian deskriptif dengan pendekatan filosofis. Jenis penelitian yang digunakan adalah penelitian kepustakaan dengan data primer mengacu pada sumber asli yaitu kitab logika karya Aristoteles. Sedangkan data sekunder diambil dari karya-karya yang mengandung logika Aristotelian. Studi ini menemukan bahwa Imam al-Shâfi'i berdiri sebagai pelopor dalam merumuskan *qiyas* sebagai metode *ijtihad* (penalaran hukum). Perumusannya yang ketat tentang *qiyas* mengambil dasar-dasar teoritis dari logika Aristoteles. Penggabungan logika Aristoteles ke dalam *qiyas* mengilhami metode tersebut dengan sifat yang ketat dan kontrapositif, yang mematuhi prinsip-prinsip logika silogistik. Dalam penalaran silogistik, kesimpulan selalu mengikuti premis utama, yang dalam *qiyas* berasal dari teks suci (Alquran). Untuk mengatasi stagnasi intelektual ini, muncullah sebuah metodologi *burhani*, sebagaimana yang dipelopori oleh Ibnu Rushd, Ibnu Khaldun, Ibnu Hazm, dan al-Shatibi. Metodologi ini berhasil membangun epistemologi rasional liberal yang berlandaskan pada semangat logika *burhani* dan penafsiran Alquran yang kontekstual.

Kata kunci: *qiyas*; derivasi hukum; *ijtihad*; silogisme; logika

Introduction

Ushul al-fiqh, the methodology of Islamic jurisprudence, holds paramount importance in formulating responsive and adaptable Islamic law for contemporary issues.¹ It encompasses

a comprehensive collection of methodologies, foundations, approaches, and theories employed in comprehending Islamic teachings.² This pivotal

of Islamic legal thought, read, for example Imran Ahsan Khan Nyazee, *Theories of Islamic Law*, (Pakistan: Islamic Research Institute and International Institute of Islamic Thought, 1945), p. 1.

² John Burton, *The Sources of Islamic Law: Islamic Theories of*

¹ Regarding the urgency of *ushul fiqh* in the discourse

role has earned it a central position in Islamic studies,³ often referred to as “the queen of Islamic sciences”.⁴

Substantially and theoretically, *ushul al-fiqh* has existed since the inception of *fiqh* (Islamic jurisprudence),⁵ as *fiqh*'s emergence is⁶ inconceivable without the underlying sources and methodologies it employs.⁷ This implies that the⁸ rudimentary form of *ushul al-fiqh* predated the era of the madhhab imams (founders of the major Islamic legal schools).⁹ However, the development of *ushul al-fiqh*¹⁰ as a coherent and systematic discipline¹¹ is primarily attributed to the madhhab imams, particularly al-Shâfi'i and his seminar work, *al-Risâlah*.¹² Al-Shâfi'i, as the pioneer of *ushul al-fiqh*, formulated and systematized various Islamic legal theories, including syllogistic reasoning (*qiyas*),

clarification (*bayan*), abrogation (*naskh*), juristic preference (*istihsân*), presumption of continuity (*istishhab*), and principles of interpretation and deduction.¹³

Qiyas, meaning “to compare” in Arabic, is a cornerstone of Islamic jurisprudence. It involves applying a legal ruling from a situation with clear textual guidance (*nash*) to a situation lacking such guidance, based on a shared underlying cause (*illat*). Scholars define *qiyas* as equating legal rulings or analogically comparing issues due to this shared *illat*. Essentially, *qiyas* bridges the gap between established legal rulings and new situations by identifying a common cause, ultimately leading to similar legal outcomes. As Abu Zahrah emphasizes, *qiyas* hinges on establishing an analogical connection between issues based on their shared characteristics, resulting in convergent legal rulings when such a connection is found.¹⁴

Qiyas, the analogical reasoning method codified by al-Shâfi'i, underwent a significant transformation in both meaning and function.¹⁵ Prior to al-Shâfi'i's standardization in his seminar work *al-Risâlah*,¹⁶ *qiyas* represented a liberal approach to legal determination (reasoning). Unbound by stringent conditions, it allowed for liberal, speculative, and dynamic thinking in addressing legal issues. This form of legal reasoning (*qiyas*) was also commonly referred to as *ra'y* (personal opinion).¹⁷ *Qiyas* emerged in its

Abrogation, (Edinburgh: Edinburgh University Press, 1990), p. 15.

³ Abdur Rahim, *The Principles of Islamic Jurisprudence: According to The Hanafi, Maliki, Shafi'i, and Hambali Schools*, (New Delhi: Kitab Bhavan, 1994).

⁴ Akh Minhaji, *Reorientasi Kajian Usul Fiqh*, (AL-Jâmi'ah 63, 1999), p. 15.

⁵ Regarding the founding of *ushul al-fiqh*, there exists a divergence of opinions. One perspective maintains that *ushul al-fiqh* existed and developed prior to al-Shafi'i. Therefore, he is considered merely one among numerous scholars who contributed to its evolution, not its originator. For further elaboration, please consult the following sources Mushthafâ Ibrâhîm Al-Zalâmi, *Dalâlat Al-Nushûsh Wa Thuruq Istîbât Al-Ahkâm Fî Daw' Ushûl Al-Fiqh Al-Islâmi*, (Baghdad: Mathba'ah Asad, 1973), p. 4.

⁶ George Makdisi, “The Juridical Theology of Sufi: Origins and Significance of Ushul Al-Fiqh,” *Studia Islamica* 59 (1984), pp. 6–7.

⁷ Farhat J. Ziadeh, *Ushul Al-Fiqh*” in *The Oxford Encyclopedia of the Modern Islamic World*, Ed. John L. Esposito (Oxford: Oxford University Press, 1995), pp. 131–132.

⁸ Anwar A. Dadri, *Islamic Jurisprudence in The Modern World*, (Lahore: Muhammad Ashraf, 1973).

⁹ An opposing viewpoint asserts that al-Shafi'i is the founder of *ushul al-fiqh*. This stance stems from the fact that while *ushul al-fiqh* existed beforehand, it was only during al-Shafi'i's era that it emerged as a systematic and coherent discipline fulfilling the criteria of a formal science. For further elaboration, please consult the following sources: Muhammad Abû Zahrah, *Ushûl Al-Fiqh*, (Kairo: Dâr al-Fikr al-'Arabi, 1987), p. 13.

¹⁰ Badrân Abû al-'Aynayn Badrân, *Ushûl Al-Fiqh Al-Islâmi*, (Alexandria: Mu'asasah Shabâb al-Jâmi'ah, 1982), p. 14.

¹¹ Muhammad Hasyim Kamali, *Principle of Islamic Jurisprudence: The Islamic Texts Society*, (Cambridge: 5 Green Street, 1991), p. 5.

¹² Fârûq 'Abd Al-Mu'thi, *Al-Imâm Al-Syâfi'i: Muhammad Bin Idrîs Bin Al-'Abbâs Al-Quraysyi Al-Muthallibi Al-Syâfi'i Al-Makki*, ed. Dâr al-Kutub Al-'Ilmiyyah (Beirut, 1992), p. 107. For the purpose of this text, the latter perspective is adopted.

¹³ Ahmad Hasan, *The Principles of Islamic Jurisprudence: The Command of The Syari'ah and Juridical Norm*, (New Delhi: Adam Publisher & Distributor, 1994), pp. 13–14.

¹⁴ Muhammad Abu Zahrah, *Ushul Fiqih*, cet. XI, (Jakarta: Pustaka Firdaus, 2018), pp. 336–337.

¹⁵ Ahmad Hasan, *The Early Development of Islamic Jurisprudence*, (New Delhi: Adam Publisher & Distributor, 1994), p. 137.

¹⁶ Ahmad Hasan, *Analogical Reasoning in Islamic Jurisprudence: A Study of The Juridical Principle of Qiyas*, (Islamabad: Islamic Research Institute, 1986), p. 5.

¹⁷ Ibn Qayyim further elaborates that *qiyas* in its early form (*ra'y*) represented a decision reached by a mujtahid (a qualified scholar of Islamic law) after careful deliberation, reflection, and earnest pursuit of truth in cases where textual guidance was ambiguous or conflicting. In other words, *ra'y* signified a decision that was believed to be in accordance with divine revelation had it continued to descend, or with the Prophet's judgment had he still been among us Ibn Qayyim Al-Jawziyyah, *I'lâm Al-Muwâqî'in 'an Rabb Al-'Alâmîn*, (New Delhi: Asyraf al-Mathâbi, 1313), p. 23.

embryonic form during the Prophet Muhammad's lifetime and matured under the leadership of Abu Hanifah, a prominent advocate of the *Ahl al-Ra'y* school of thought. The application of *qiyas* in this manner led to a dynamic, liberal, and adaptable Islamic law that could accommodate changing times. This flexibility stemmed from the recognition that Islamic law should not be rigidly confined to the literal text (*haqîqat al-lafzh*) of the Quran and Sunna, which, by nature, encompass a limited range of issues.

During the era of al-Shâfi'i and subsequent scholars of *ushul al-fiqh* (principles of Islamic jurisprudence), *qiyas* evolved into a highly structured, standardized, and rigid form of legal reasoning. This departure from its earlier liberal and dynamic nature marked a shift towards a legal system that adhered strictly to the textual guidance of the Quran, Sunna, and *ijma* (consensus of scholars).¹⁸

The transformation of *qiyas* from a liberal reasoning method to a structured discipline is attributed to al-Shâfi'i's establishment of a hierarchical framework for Islamic legal sources. This framework, comprising the Quran, Sunna, *ijma'* (consensus of scholars), and *qiyas*, introduced a clear order of precedence and interdependency among these sources. According to al-Shâfi'i's hierarchy, the validity of the Sunna is conditional upon its alignment with and non-contradiction of the Quran. *Ijma'* is considered valid only if it adheres to both the Quran and the Sunna. Similarly, *qiyas* is deemed valid only when it does not conflict with any of the three preceding sources (the Quran, the Sunna, and *ijma*).

Method

The method used in this research is descriptive with a philosophical approach. Meanwhile, this type of research is library research with reference to the original source (primary data), namely logic books by Aristotle, such as *Topic* (*Organon* teil V), *Prior and Posterior* and *qiyas* books such as *al-Risâlah* by al-Syâfi'i, *Ushûl al-*

Fiqh by Abû Bakr al-Jashshâsh, *al-Mu'tamad fi Ushûl al-Fiqh* by Abû al-Husein al-Bashri, *Irsyâd al-Fuhûl* by al-Syawkânî, *al-Mustashfâ* by al-Ghazâlî, and *Ushûl al-Fiqh al-Islâmi* by Wahbah al-Zuhayli. Meanwhile, secondary data was taken from works containing Aristotelian logic, such as *Manthiq Aristhu* by 'Abd al-Rahmân Badawi, *Ihshâ' al-Ulûm* by al-Farabi, *A Primer of Formal Logic* by John C. Cooley, *A History of Philosophy* by Frederick Copleston. Meanwhile, secondary sources regarding *qiyas* are *Analogical Reasoning in Islamic Jurisprudence* by Ahmad Hasan, *Dirâsât hawl al-Ijmâ' wa al-Qiyâs* by Muhammad Sya'bân, and the like.

Terminology and Validity of Qiyas

Qiyas, meaning "to measure" or "to compare" in Arabic, holds three distinct meanings among Islamic jurists (*fuqaha*).¹⁹ First, it signifies measurement or evaluation (*taqdîr*) by comparing something to a known standard.²⁰ For instance, one might say, "I measured (*qistu*) the clothing with a meter."²¹ Second, *qiyas* denotes equality (*musâwah*), as in the statement, "A is not equal to (*la yuqâsu*) B." The third meaning of *qiyas* encompasses both the concepts of measurement and equality, referring to the process of establishing similarity between two things after comparing them. This can be illustrated by the example of comparing one sandal to another sandal to determine if they are the same size".²²

The precise terminological definition of *qiyas* has been a subject of debate among Islamic scholars. The majority of jurists (*jumhur ulama*) view *qiyas* as a method of legal derivation that

¹⁹ The word "qiyas" itself is the masdar (verbal noun) form of the root q-y-s, meaning to measure. However, some scholars argue that the root of "qiyas" is q-w-s. Both derivations are equally valid, as both roots carry the same meaning in Arabic and are used interchangeably. For instance, Arabs would say "qis al-rumh" or "qas al-rumh," both meaning "measure the spear." Al-Zamakhshari, *Asas Al-Balâghah*, (Kairo: Dâr al-Kutub al-Mishriyyah, 1923).

²⁰ Hans Wehr, *A Dictionary of Modern Written Arabic*, (London and Beirut: Macdonald & Evans LTD and Brairie Du Liban, n.d.), p. 804.

²¹ Adib Bisri & Munawwir A. Fatah, *Kamus Al-Bisyri: Indonesia-Arab Dan Arab-Indonesia*, (Surabaya: Pustaka Progressif, 1999), p. 621.

²² Ahmad Hasan, *Analogical Reasoning...*, pp. 95-96.

¹⁸ Ahmad Hasan, *The Early Development of Islamic Jurisprudence...*, p. 137.

must adhere to religious texts (the Quran and Sunna). In contrast, al-Amidī and Ibn Hājib consider *qiyas* to be an independent source of law, distinct from religious texts.²³

The application of *qiyas*, a method of legal reasoning rooted in sound intellect and a pure heart, has elicited diverse responses from Islamic scholars. Fundamentally, scholars of *ushul al-fiqh* (principles of Islamic jurisprudence) agree on the permissibility and validity of *qiyas* in worldly matters, as exemplified by its application in medical and dietary rulings. Additionally, they concur on the validity of *qiyas* employed by the Prophet Muhammad during his lifetime. However, their opinions diverge regarding the utilization of *qiyas* in matters of Islamic law (*al-umûr al-syar'iyah*) where explicit textual guidance is lacking. In this regard, scholars of *ushul al-fiqh* can be broadly categorized into five groups based on their stances on *qiyas* as a method of legal determination:²⁴

- a. The majority of scholars of *ushul al-fiqh* (principles of Islamic jurisprudence) maintain that *qiyas* can be employed as a method or tool for deriving Islamic law.²⁵ They go further²⁶ to assert that the application of *qiyas*²⁷ is obligatory.²⁸
- b. Imam al-Qaffal and Abu al-Husayn al-Basri, both from the Mu'tazilah school of thought, argue that the application of *qiyas* is mandatory, based on both rational (*aqly*) and textual evidence (*naqly*).
- c. Al-Qasani, al-Nahrawabi, and Dawud al-Ashfihani posit that the application of *qiyas* is obligatory only in two specific instances: first, *Qiyas* where the '*illah* (effective cause) is explicitly mentioned in the text, either directly or indirectly.²⁹ Second, when the derived

ruling (*hukm far'*) is more compelling than the original ruling (*hukm ashli*). For example, comparing the ruling of striking one's parents to the ruling of saying "*hus*" (an expression of contempt) to one's parents, as both acts are considered offensive. The second condition for the obligatory application of *qiyas* stipulates that the derived ruling (*hukm far'*) must hold greater precedence over the original ruling (*hukm ashli*). This condition ensures that the *qiyas*-derived ruling aligns with the overall objectives and principles of Islamic law.

- d. The Zahiris, including Imam al-Shawkani, maintain that while *qiyas*³⁰ is permissible from a logical standpoint, there is no explicit textual evidence in the Quran mandating its obligatory application.³¹
- e. Both the Imami Ismaili Shia and the Nazhm school of Mu'tazilah reject *qiyas* as a valid basis for legal derivation and deem its mandatory application as rationally impossible.³²

After presenting the diverse perspectives of scholars of *ushul al-fiqh* (principles of Islamic jurisprudence) regarding the validity of *qiyas*, Wahbah al-Zuhaili concludes that these varied opinions can be categorized into two main groups: the first group comprises the majority of scholars of *ushul al-fiqh* who recognize *qiyas* as a valid source of Islamic law. They include the Hanafi, Maliki, Shâfi'i, and Hanbali schools of jurisprudence. The second group encompasses scholars from various schools of thought who reject *qiyas* as a legitimate basis for legal derivation. They include the Imami Ismaili Shia, the Nazhm school of Mu'tazilah, the Zahiris, and some Mu'tazilah scholars from Iraq.³³

إنما نهيتكم عن لحوم الأضاحي فوق ثلاثة أيام. ليوسع موسعكم على فقيركم

The '*illah* of prohibiting the storage of sacrificial meat for more than three days is to encourage the wealthy to distribute and donate the sacrificial meat to the poor and needy, rather than hoarding it. This '*illah* is clearly mentioned by the Prophet seeNu'mân bin Tsâbit Abî Hanîfah, *Musnad Imâm Abî Hanîfah*, (Beirut: Dâr al-Fikr al-Arabi, n.d.), p. 194.

³⁰ Muhammad bin Ali Al-Syawkânî, *Irsyâd Al-Fuhûl*, (Beirut: Dâr Ibn Hazm, n.d.), p. 174.

³¹ Ali bin Ahmad al-Qurthubi Al-Zhâhiri, *Al-Nubadz Fi Ushûl Al-Fiqh Al-Zhâhiri*, (Beirut: Dâr Ibn Hazm, 1993), pp. 98-100..

³² Muhammad Abu Zahrah, *Ushûl Al-Fiqh Al-Ja'fari*, (Mesir: Dâr al-Fikr al-'Arabi, n.d.), p. 190.

³³ Wahbah Al-Zuhayli, *Ushûl Fiqh*, Juz. 1, 610; *Nasrun*

²³ Ahmad Hasan, *Analogical Reasoning...*, pp. 95-96.

²⁴ Wahbah Al-Zuhayli, *Ushûl Fiqh*, Juz 1 ed., n.d, pp. 607-609.

²⁵ Tâj al-Dîn 'Abd al-Wahhâb Al-Subki,, *Jam' Al-Jawâmi'*, Jilid. 3, (Beirut: Dâr al-Fik, 1974), p. 177.

²⁶ Abû Hâmid Al-Ghazâlî, *Al-Mustashfâ*, Jilid. 2, (Beirut: Muassasah al-Risâlah, 1978), p. 56.

²⁷ Ibn Qayyim Al-Jawziyyah, *I'âm Al-Muwâqî'in*, Jilid. 1 (Beirut: Muassasah al-Risâlah, 1978).

²⁸ Ibn Qudâmah, *Rawdhat Al-Nadzîr Wa Junnah Al-Munâdzîr*, Jilid. 2, (Beirut: Muassasah al-Risâlah, 1978), p. 234.

²⁹ An example of *qiyas* where the '*illah* is mentioned is the hadith of the Prophet:

Imam al-Shâfi'i's Rational Juristic Reasoning

In his treatise *al-Risâlah*, al-Shâfi'i begins by presenting the reality of society in his time, which he identifies as two types: The first is idol-worshipping society that initially had no scripture, such as the Arabs. Then Allah sent down to them the final revelation, the Quran, through Muhammad, which became the guide and foundation for all aspects of their lives. The Quran encompasses everything, and there is nothing that befalls the Muslim community that is not mentioned in this book. The second is society that had a scripture but then altered it, such as the Jews and Christians.³⁴

According to al-Shâfi'i, divine revelation encompasses all matters, and therefore, it must be taken as the primary reference point in all aspects of human life, both in this world and the hereafter. Furthermore, al-Shâfi'i maintains that the methods of legal derivation employed must also be derived from and grounded in this revelation.³⁵ Since the language of revelation is Arabic, the approach used to understand revelation must also employ Arabic, particularly the Arabic chosen to express divine revelation, namely Quraysh Arabic.³⁶

In the absence of a normative textual basis in the Quran to address a particular issue, al-Shâfi'i proposes the Hadith as the second source of Islamic law. However, the Hadith does not occupy the same position as the Quran; it serves only to clarify what is implied in the Quran, to elaborate on general principles, and to provide rulings on matters not explicitly addressed in the Quran. Subsequently, al-Shâfi'i offers two additional sources beyond the aforementioned material sources: *ijma'* (consensus) and *qiyas* (analogy) as principal sources. These principal sources are employed when the two material sources offer no normative guidance on the issue at hand. It is at this juncture, according to al-Shâfi'i, that

reason is permitted to engage, either through *ijma'* or personal *ijtihad* in the form of analogy or *qiyas*.

Al-Shâfi'i's rational framework clearly establishes the Quran as the primary foundation, tasked with addressing fundamental religious issues that are beyond the realm of reason. Reason, on the other hand, is solely responsible for handling technical interpretation matters related to general concepts that require further elucidation. Reason, employing the method of analogy (*qiyas*), serves only to extract and clarify legal rulings that are already implicitly present in the Quran, enabling their comprehension by all. This underscores the Quranic nature of al-Shâfi'i's rational thought, meaning that his methodological statements are invariably grounded in and aligned with the Quran, stemming from the assumption that all issues are encompassed within the Quran.³⁷

The logical consequence of this understanding of the relationship between revelation and reason is reflected in al-Shâfi'i's thought structure, which places the Quran at the center and aspires to bring all aspects of life under the sovereignty and will of God.³⁸ The Quran is understood as the divine legislative authority in terms of its wording and meaning, and therefore, the language they understood is undoubtedly inseparable from the understanding of the existence of transcendental meaning in language. Meaning existed before language, and language is merely an instrument for wrapping and conveying God's ideas. Reading and interpreting to uncover the meaning contained in the Quran is essentially only aimed at uncovering the meaning intended by God.³⁹

Haroen, *Ushul Fiqh*, n.d., p. 6.

³⁴ Muhammad bin Idrîs Al-Syâfi'i, *Al-Risâlah Li Al-Imâm Al-Muthallibi Muhammad Bin Idrîs Al-Syâfi'i*, Tahqîq Ahmad Muhammad Syâkir (Beirut: Dar al-Fikr, nd, n.d.), pp. 8-10.

³⁵ Wael B. Hallaq, *Sejarah Teori Hukum Islam* (Jakarta: Rajawali Press, 2000), p. 33.

³⁶ Wael B. Hallaq, *Sejarah Teori Hukum ...*, p. 33.

³⁷ The term "Qur'anic rationality" applied to al-Shâfi'i's thought has been echoed by other scholars, including Imam Nakha'i, Head of Education and Teaching Division at Al-Ma'had Al-'Ali Sukarejo Situbondo. See Imam Nakha'i, "Posisi Akal Lebih Tinggi dari Wahyu" in *www Islamlab*. Com 26 Juli 2004. Similarly, Nashr Abu Zaid attributes al-Shâfi'i's consistent recourse to the Qur'an for resolving all issues and establishing methodologies to the assumption that the Qur'an provides answers to all problems. This, according to Abu Zaid, stems from al-Shâfi'i's Qurayshi descent and his belief that the Qur'an employs the Qurayshi dialect of Arabic. See Nashr Hâmid Abû Zayd, , *Al-Imâm Al-Syâfi'i Wa Ta'sîs Al-Idiyulujjiyyah Al-Wasathiyyah*, kairo. (Sina Li al-nasyr, 1992).

³⁸ pent. Ahsin Mohammad Fazlur Rahman, *Islam* (Bandung: Pustaka Hidayah, 2000), p. 91.

³⁹ Ahsin Wijaya, "Membaca Nalar Ushul Fiqh Al-Syâfi'i",

Evolution of Qiyas as a Legal Methodology

Qiyas,⁴⁰ as one of the methods of establishing law, can be historically mapped into two groups: The first type of *qiyas* refers to before the time of al-Shâfi'i, which refers to the non-standardized form of *qiyas* formulation;⁴¹ it was still in its free form as a liberal reasoning in determining a law (reasoning). This form of *qiyas* was not bound by strict conditions that limited it from liberal, speculative, and dynamic thinking in determining an issue. *Qiyas* as legal reasoning is also commonly referred to as reasoning (*ra'y*).⁴² It was in effect from the time of the Prophet Muhammad as its embryo and matured in the time of Abû Hanîfah as the commander of the *ahl al-ra'y* school. The second type of *qiyas* refers to the time of al-Shâfi'i and after, which has been codified and formulated in a standardized manner in al-Risâlah. This model of *qiyas* has strict, standardized, and rigid conditions, so that it is no longer free and actual legal reasoning, but rather "subjected" to the shadow of religious texts, namely the Quran, Sunna, and *Ijma'*.⁴³ This model of *qiyas* began in the time of al-Shâfi'i, which was first formulated in al-Risâlah and has been followed by *ushul fiqh* scholars to this day.

1. Formulation of Qiyas before al-Shâfi'i

The primary source of Islamic law in the early stages of Islamic development was the Quran, which was subsequently elaborated and interpreted by the Sunna. In the subsequent phase, following the Prophet's demise and the proliferation of legal issues, there arose a need for reasoning and reinterpretation of these religious texts, known as *ijtihad*. In the early period, *ra'y* (opinion) served as the primary tool of *ijtihad*, preceding the development of more systematic principles of *qiyas* (analogy) and *istihsan* (juristic preference). *Ra'y* represented a method for making

judicious and discerning decisions guided by the spirit of Islamic wisdom and justice.⁴⁴

The utilization of *ra'y*, or personal reasoning, to resolve issues not explicitly addressed by *nash* (textual sources) was an unavoidable reality during the formative period of Islam. During this era, individuals turned to *ra'y* to seek solutions to novel problems emerging within society. Prior to al-Shâfi'i, the employment of *ra'y* as a tool of *qiyas* (analogical deduction) was relatively rudimentary and applied in its most basic form. The Quran itself exemplifies this approach, often employing the terms *matsal* (parable), *mitsl* (example), and *ka* (like) to establish parallels between different matters, without imposing stringent conditions. This Quranic mode of reasoning ultimately contributed to the development of the *qiyas* concept.⁴⁵

The application of *qiyas* in the form of simple *ra'y* extended to the Sunna (prophetic traditions) as well. The Prophet Muhammad is reported to have employed *qiyas* by analogizing the permissibility of kissing one's wife during Ramadan with the permissibility of rinsing the mouth while fasting. If rinsing the mouth does not invalidate the fast, then kissing one's wife should not invalidate the fast either.⁴⁶

The use of *ra'y*,⁴⁷ or personal reasoning, and *qiyas*,⁴⁸ or analogical deduction, in establishing legal rulings was also⁴⁹ practiced by Umar ibn al-Khattab.⁵⁰

⁴⁴ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 137.

⁴⁵ Ibn Qayyim Al-Jawziyyah, "I'lâm Al-Muwâqî'in," juz 1,, n.d., p. 23.

⁴⁶ According to al-Sarakhsi, the Prophet Muhammad's directive regarding the use of gold and silver weights provides a compelling example of the validity of *qiyas* (analogical deduction) based on the underlying value and rationale of a command. Through this hadith, the Prophet instructed the Muslim community to employ *qiyas* and utilize *ra'y* (personal reasoning) in deriving legal rulings for novel situations Al-Sarakhsi, *Ushûl Al-Sarakhsi*, Juz. 2, (Kairo: Mathba'ah al-Sa'âdah, 1953), p. 130.

⁴⁷ Muhammad Khudhârî Bik, *Târîkh Al-Tasyrî' Al-Islâmî*, (Mesir: Maktabah al-Tijâriyah, 1960), p. 114.

⁴⁸ Meanwhile, according to Abû Zahrah, Umar's *ijtihad* was based largely on general issues, namely maintaining human goodness in this world and the hereafter Muhammad Abû Zahrah, *Târîkh Al-Madzâhib Al-Islâmiyyah*, (Mesir: Dâr al-Fikr al-Arâbi, n.d.), p. 23.

⁴⁹ Al-Jawziyyah, "I'lâm Al-Muwâqî'in"..., p. 91.

⁵⁰ Meanwhile, Muhammad Salâm Madzkûr grouped the

in Makalah Deciphering Al-Shâfi'i's Rationality in Usul Al-Fiqh: A Critical Discourse), Paper Presented at the Book Review Seminar at the Center for Islamic Studies [PSI] Universitas Islam Indonesia," 2004.

⁴⁰ Ahmad Hasan, *The Early Development of Islamic Jurisprudence...*, p. 137.

⁴¹ Ahmad Hasan, *Analogical Reasoning...*, p. 5.

⁴² Al-Jawziyyah, *I'lâm Al-Muwâqî'in*, Jilid. 1..., p. 23.

⁴³ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 137.

In fact, *ra'y* was even employed in matters⁵¹ already addressed by *nash* (textual sources).⁵² The *ijtihād*⁵³ of Umar ibn al-Khattab exemplifies⁵⁴ the significant role of *ra'y* in determining legal rulings.⁵⁵ According to Muhammad Khudhârî Bik, Umar was one of the Companions who extensively employed *ra'y* through *qiyas*. Ali ibn Abi Talib also extensively employed *ijtihād* through the method of *qiyas*, for instance,⁵⁶ by analogizing the punishment for someone who drinks wine with the punishment for someone who makes false accusations of adultery.⁵⁷

The practice of *qiyas*, as a form of general and liberal legal reasoning, gained further traction during the era of the Tabi'in, the generation following the Companions of the Prophet. The Iraqi school of jurisprudence, spearheaded by Abu Hanifah and his two disciples, Abu Yusuf and al-Shâfi'i, issued numerous legal rulings based on *ra'y* authorities, while still adhering to *nash* (textual sources). For instance, Abu Yusuf upheld the validity of the *muzâra'ah* contract (leasing agricultural land) by analogizing it to the permissibility of the *mudharabah* profit-sharing contract. The permissibility of *mudharabah* itself was derived from analogizing it to the permissibility of the *musâqah* contract (leasing fruit orchards), which was explicitly allowed by the Prophet Muhammad. Thus, the validity of *muzâra'ah* was established through a double *qiyas*, or *qiyas* based

on the outcome of another *qiyas*.⁵⁸ This type of reasoning by the Iraqi school exemplifies the liberal and systematic application of *far'* (extending analogy). Furthermore, the phenomenon of double *qiyas* demonstrates that the precedent upon which an original *qiyas* is based is not absolute; rather, *qiyas* can also be a form of general rational argumentation.

The jurists of Medina (*fuqaha Madinah*) also extensively employed *qiyas* in its broader sense, encompassing *ra'y* (personal reasoning). Imam Malik frequently used terms like *maslahah* (public interest), *ka* (like), and *bi manzilah* (similar to) in his compilation, *al-Muwatta'*. One example of *qiyas* employed by the Medinan jurists is the prohibition of performing Hajj on behalf of a living person. This is analogized (*qiyas*) to the prohibition of observing fasts and prayers on behalf of others.⁵⁹ The Medinan scholars also utilized *qiyas* in determining the minimum amount of dower (*mahr*) for a woman, setting it at a quarter of a dinar.⁶⁰ This amount was derived through analogy with the value of stolen goods required for the application of the *hadd* punishment.⁶¹

The concept of *qiyas* (analogical deduction) evolved within the early schools of Islamic jurisprudence, encompassing the notions of equivalence, precedent, reason, and established legal principles. For early jurists (*mujtahid*), even a slight similarity was considered sufficient to employ *qiyas*, and its application was not bound by rigid or complex rules. Moreover, the jurists of Medina and Iraq viewed *qiyas* as essentially akin to *ra'y* (personal reasoning), involving the derivation of new legal rulings through deliberation, logical deduction, and social analysis, all anchored in the spirit of Islamic justice. The primary distinction between the Medinan and Iraqi approaches to *qiyas* lay in the emphasis placed by each school: Medinan jurists prioritized

friend's *ijtihād* method into three parts, namely *istihsan*, *maslahat*, and interpretation of the text Muhammad Salâm Madzkûr, *Al-Madkhal Li Al-Fiqh Al-Islâmî* (Beirut: Dâr al-Fikr, n.d.), 22.

⁵¹ Ahmad Amîn, *Fajr Al-Islâm*, (Kairo: Maktabah al-Nahdlah al-Islâmiyyah, n.d.), p. 238.

⁵² Furthermore, to find out more about Umar's *ijtihād*, see Munawir Sjadzali, *Ijtihad Kemanusiaan*, (Jakarta: Paramadina, 1997), pp. 37-41.

⁵³ Muhammad Atho Mudzhar, *Membaca Gelombang Ijtihad: Antara Tradisi Dan Liberasi* (Yogyakarta: Titihan Ilahi Press, 1998), pp. 45-49.

⁵⁴ Tâhâ Jâbir Al-Alwani, *Source Methodology in Islamic Jurisprudence*, (Herdon, Virginia: International Institute of Islamic Thought, 1994), p. 8.

⁵⁵ Muhammad Daud Ali, *Hukum Islam: Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia*, (Jakarta: Raja Grafindo Persada, 1996), p. 157.

⁵⁶ Muhammad Salâm Madzkûr, *Mabâhis Al-Hukm 'ind Al-Ushûliyyîn*, (Mesir: âr al-Nahdlah al-Arabiyyah, 1972), p. 42.

⁵⁷ Muhammad Ibn 'Ali Al-Syawkânî, *Nayl Al-Authâr, Jilid. 7*, (Beirut: Dâr al-Fikr, 1978), p. 154.

⁵⁸ Ahmad Hasan, *Analogical Reasoning...*, p. 11.

⁵⁹ Muhammad bin Idrîs Al-Syâfi'i, *Kitâb Al-Umm*, ((Kairo: Bulaq, n.d.), p. 141.

⁶⁰ Mâlik bin Anas, *Al-Muwaththa' Juz. 2*, (Kairo: Dâr Ihyâ' al-Kutub al-'Arabiyyah, 1937), p. 860.

⁶¹ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 140.

widely accepted practices, while Iraqi jurists emphasized consistency of reasoning.⁶²

The implementation of *qiyas* in its broader sense (*ra'y*) has significant implications for Islamic law, fostering a dynamic, liberal, and adaptable legal system. This stems from the recognition that Islamic law is not confined solely to the literal interpretation (*haqîqat al-lafzh*) of Quranic verses and Prophetic traditions, which, by their very nature, address a limited range of issues.

2. The Formulation of al-Shâfi'i's Qiyas

The liberal application of *ra'y* (personal reasoning) within early Islamic jurisprudence led to a proliferation of diverse legal interpretations, often resulting in conflicting rulings on the same issue. Ibn Muqaffâ, a contemporary scholar, observed that this divergence of opinions created legal chaos, with actions deemed permissible in one region being prohibited in another.⁶³ In extreme cases, a single legal matter could be considered both lawful and unlawful within the same jurisdiction. This lack of consensus and legal certainty prompted several scholars to advocate for a unified legal system and a more restrained use of *ra'y*. Among these scholars⁶⁴, Muhammad ibn Idris al-Shâfi'i emerged as a prominent figure, developing a structured methodology for *qiyas* (analogical deduction) to address the issue of diverging legal opinions.

Al-Shâfi'i deliberately formulated *qiyas* with strict conditions to curb the arbitrary use of *ra'y* by early schools of jurisprudence. For him, valid and permissible *ijtihād* or legal reasoning (*ra'y*) by a mujtahid was only *qiyas*. Al-Shâfi'i then set forth the conditions for one to perform *qiyas*, namely: mastering the Arabic language and its elements, such as *nahw*, *sharaf*, and *balaghah*; knowing the teachings of the Quran, such as Quranic ethics, *naskh mansukh*, and general or specific terms;

delving into the Sunna, agreed-upon and disputed issues, and mastering sound logic or common sense.⁶⁵ With these conditions, the application of *qiyas* became narrower, as a mujtahid who would apply *qiyas* had to meet quite stringent requirements. Moreover, the *qiyas* method that al-Shâfi'i intended was limited only to revealing the law that was practically present in religious texts (*nushush*), even though its existence was obscure or hidden.⁶⁶ In other words, the *qiyas* formulated by al-Shâfi'i had to be in accordance with and “subordinate” to the Quran.

Prior to al-Shâfi'i, *qiyas* was understood as free reasoning in seeking legal rulings (*ra'y*). However, under al-Shâfi'i's framework, it became narrowly defined as the comparison of two parallel things based on their similarity, technically known as the legal cause (*'illat al-hukm*). Furthermore, this analogical deduction had to be grounded in the texts of the Quran and the Sunna. This implies that *qiyas* was not an independent methodology but rather bound by the dictates of religious texts (*nushûsh al-syar'ah*), namely the Quran and the Sunna.

Building upon this foundation, al-Shâfi'i initiated his *qiyas* theory with an explanation of *nash*. For him, *nash* was “a text that contains only one meaning” or “a text whose interpretation is the text itself.” In this context, there is clearly no role for *ra'y* in its interpretation.⁶⁷ Subsequently, he contrasted *ra'y* with *nash*, asserting that matters explicitly addressed in *nash* should not be subjected to interpretation through *ra'y*. Al-Shâfi'i maintained that no event befalls an individual without a guiding principle regarding that event being present in the texts of the Quran and the Sunna. This implies that reason has no independent role whatsoever in contributing to the determination of a legal ruling.⁶⁸

The collision of opinion (*ra'y*) with text (*nash*) and the subordination of *ra'y* to the hegemony of *nash*, as advocated by al-Shâfi'i, entails a reduction

⁶² Hasan, *The Early Development of Islamic Jurisprudence...*, p. 140.

⁶³ Read Ibn Muqaffâ, *Risâlah Fi Al-Shahâbah*, in *Rasâ'il Al-Bulaghâ'* (Kairo: Mathba'ah al-Ma'ârif, 1954), 126.

⁶⁴ Ibn Muqaffâ was one of the scholars who tried to unite several different opinions. He decreed that only imams or caliphs could use *ra'y*, while others could not. People may submit suggestions to the caliph or imam, but may not express their personal opinions

⁶⁵ Al-Syâfi'i, *Al-Risâlah Li Al-Imâm Al-Muthallibi Muhammad Bin Idris Al-Syâfi'i*, *Tahqîq Ahmad Muhammad Syâkir*, p. 70.

⁶⁶ Nashr Hâmid Abû Zayd, “Al-Imâm Al-Syâfi'i,” n.d., p. 94.

⁶⁷ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 122.

⁶⁸ Nashr Hâmid Abû Zayd, “Al-Imâm Al-Syâfi'i...,” p. 94”

in the meaning of *nash*. This is because *nash*, prior to al-Shâfi'i, and even according to al-Shaibani, the originator of the term *nash*, was interpreted as the textual meaning of the word (*haqîqat al-lafdz*). Consequently, it was possible to deviate from *nash*, as *ijtihād* based on *ra'y* did not necessarily uphold justice, as exemplified in Umar's *ijtihād* that did not adhere to the literal meaning of the Quran.⁶⁹ However, al-Shâfi'i established this principle as a legal norm vis-à-vis *ra'y*, even asserting that *ra'y* must be subordinate to *nash*.

Al-Shâfi'i's Quranic nature is evident in his concept of *qiyas*. Al-Shâfi'i's *ushul al-fiqh* reasoning grounds the Sunna in the Quran. He also strives to base the legitimacy of *ijma'* on the Sunna, so that *ijma'* itself becomes a text.⁷⁰ In constructing the foundations of *qiyas*, al-Shâfi'i does not require *ijma'*, as *ijma'* is already intertwined with the Sunna, hence he bases it directly on the Quran. This means that the *qiyas* developed by al-Shâfi'i is a method that merely reveals the hidden legal indications in the Quran.

When *qiyas* is limited to inferring facts from explicit textual evidence (*dalîl*), the transition from the sign (*dalîl*) to the indicated law (*madlûl*) should be determined by identifying the relationship that links the *dalîl* to the *madlûl*. However, al-Shâfi'i restricts this relationship to factual similarity and resemblance alone, from which the law is derived through the *qiyas* procedure. This relationship of similarity progresses gradually from universal general principles (*al-âm al-sya'i'i*) to specific partial principles (*al-khâsh al-nâdir*), starting from the principle of similarity (*al-mumâtsalah*), resemblance (*al-musyâbahah*) in one legal meaning (*illat*), and multi-faceted layered resemblance (*al-tasyabbuh al-murakkab*).⁷¹

According to al-Shâfi'i, a *mujtahid* who practices *qiyas* (*al-qâis*) can attain the ability to uncover the hidden indications within the Quranic text and the signs that point to new realities. However, they must not exceed the framework of textual signs to create new solutions. For if

an *al-qâis* creates new solutions, they are then employing the principle of *istihsan* (*mustahsin*).⁷²

In support of his theory of *qiyas* being subordinate to *nash*, in addition to contrasting *ra'y* and *nash*, al-Shâfi'i also "propagandized" that in reality, there is an "enmity" in society between the *ahl al-hadith* and the *ahl al-ra'y*, who each seek hegemony in deciding a law. According to al-Shâfi'i, the *ahl al-hadith* only use al-Hadith alone in deriving law without any role of *ra'y* at all, and vice versa, the *ahl al-ra'y* only use *ra'y* alone in deriving law, without any role of al-Hadith at all.⁷³ Based on these two opposing extremes, al-Shâfi'i then tries to find a middle ground, namely with his theory of *qiyas*, that the role of reason is still functional, but not free like the use of *ra'y*, but is directed to be in accordance with religious *nash*, namely al-Qur'an and al-Hadith. This *qiyas* has seemingly made al-Shâfi'i a moderate school of thought, trying to combine two different extremes.

However, according to Ahmad Hasan, the notion that there were two extreme groups of *ahl al-hadith* and *ahl al-ra'y*, who each relied exclusively on al-Hadith or *ra'y* in deriving law, is incorrect. The reason is that the *ahl al-hadith* at that time also used *ra'y*, such as Imam Malik in al-Muwatta'.⁷⁴ Similarly, the people of Iraq, whom al-Shâfi'i labeled as *ahl al-qiyas*, also frequently used al-Hadith in their arguments. This indicates that a sharp distinction between *ahl al-hadith* and

⁷² Al-Shâfi'i's belief that an *al-qâis* has the ability to uncover meaning, not to discover meaning by applying the principles of similarity (*al-mumâtsalah*), resemblance (*al-musyâbahah*) in one legal meaning (*illat*), and multi-faceted layered resemblance (*al-tasyabbuh al-murakkab*), is analogous to the belief of rhetoricians, who transfer the relationship from sensory stimuli to meaning, and in doing so, the value of resemblance increases through their ability to conceive the consciousness to uncover other relationships that exist in all things, without having to be creators. See Nashr Hâmid Abû Zayd, "Al-Imâm Al-Syâfi'i."

⁷³ "In His Various Writings, Al-Shâfi'i Frequently Employs the Terms *Ahl Al-Hadîth*, *Ahl Al-Qiyâs*, and *Ahl Al-Kalâm*. According to Him, *Ahl Al-Hadîth* Are Scholars Who Rely Heavily on Al-Hadith in Their Legal Rulings, Disregarding *Ra'y* (Personal Opinion). *Ahl Al*," n.d.

⁷⁴ "Even during Al-Shâfi'i's Lifetime, There Were Hadith Scholars Such as Al-Zuhri (d. 124 H), Shu'bah (d. 160 H), Sufyân Al-Thauri (d. 161 H), Sufyân Ibn 'Uyaynah (d. 198 H), and Waqî' Ibn Al-Jarrah (d. 197 H). However, They Made No Attempt to Eradicate or O," n.d.

⁶⁹ Ahmad Hasan, *Analogical Reasoning...*, p. 14.

⁷⁰ Al-Syâfi'i, *Al-Risâlah Li Al-Imâm Al-Muthallibi Muhammad Bin Idrîs Al-Syâfi'i*, Tahqîq Ahmad Muhammad Syâkir.

⁷¹ Nashr Hâmid Abû Zayd, "Al-Imâm Al-Syâfi'i."

ahl al-ra'y did not exist in the early period. The conflict only emerged in the post-Shâfi'i era, when madhhab tendencies became deeply entrenched among their followers. It could even be said that the antagonism between *ahl al-hadith* and *ahl al-ra'y* began due to al-Shâfi'i's "propaganda" efforts.

Aristotle's Logic and Imam al-Shâfi'i's Qiyas Reasoning

The hierarchical concept of al-Shâfi'i's legal sources, which places the Quran as the primary source, followed by the Sunna, *ijma'*, and *qiyas*, along with their reciprocal relationship, theoretically finds legitimacy in Aristotelian philosophy.⁷⁵ Furthermore, al-Shâfi'i's concept of *qiyas*, which positions the Quran as the primary law (*ashl*), draws strong legitimacy from Aristotelian logical syllogism.⁷⁶ Thus, the verses in the Quran function as the major premise, while the new case for which a ruling is sought serves as the minor premise.⁷⁷

According to Schacht, the influence of Aristotelian logic on *qiyas* in *ushul al-fiqh* can be seen in the adoption of the concepts of major premise (*a maiore ad minus*), minor premise (*a minore ad minus*), argument of sorites, the concept of genus, species, and *regressus ad infinitum*.⁷⁸ This

influence began during the period of codification of *ushul al-fiqh* and the standardization of *qiyas* as a method of *ijtihad* with specific conditions, namely during the time of al-Shâfi'i. This means that al-Shâfi'i, as the founder of *ushul al-fiqh* and the codifier of the concept of *qiyas*, was indeed heavily influenced by Aristotelian logic from the outset.

Several factors indicate that al-Shâfi'i was influenced by Aristotelian logic: First, Aristotelian logic had entered the Islamic world through theology. Kalam scholars at that time widely adopted Aristotelian logic as a tool to strengthen their arguments in debates with Christians and Jews who had already mastered logic. Al-Shâfi'i was also a theologian who studied theology extensively, so it is not impossible that he absorbed a great deal of Aristotelian logic as well.⁷⁹ Second, al-Shâfi'i was proficient in Greek, the native language of philosophy. Abû Abdullah al-Hâkim, in his book *Manâqib al-Shâfi'i*, explains that al-Shâfi'i was once asked by Hârûn al-Rasyîd about medicine, and he replied: "Indeed, I know what the Romans and Greeks say, such as Aristotle, Mahraris, Jalinus and Asdafalis, in their language".⁸⁰ Third, there are conceptual similarities between al-Shâfi'i's theory of *qiyas* and Aristotle's theory of syllogism.⁸¹ These similarities lie in the use of terms with their genus and differentia, major premise, minor premise, conclusion, and the function of each premise.⁸²

⁷⁵ According to Rahman, the hierarchical nature of legal sources, which places the Qur'an as the primary source and the foundation for subsequent legal sources, is similar to Aristotelian metaphysics, which aims to enable humans to live under God's sovereignty and in accordance with His will. See Fazlur Rahman, *Islam...*, p. 90.

⁷⁶ The dynamic development of *ushul al-fiqh*, which has gone through several stages, from its embryonic stage to the systematic codification of the time of al-Shâfi'i and the post-al-Shâfi'i development period, cannot be separated from several internal and external factors that influenced its birth and development. One of the external factors that is strongly "suspected" of influencing the development of *ushul al-fiqh*, especially the concept of *qiyas*, is Aristotelian logic. According to Taha Jabir al-Alwani, the fundamental principles of *ushul al-fiqh* are closely related to other disciplines, such as Aristotelian Logic (manthiq Aristo), scholastic theology (ilmu kalam), linguistic rules, Qur'anic sciences, Hadith sciences, and specific fiqh issues Al-Alwani, *Source Methodology in Islamic Jurisprudence...*, p. 3.

⁷⁷ See Hasan, *The Principles of Islamic Jurisprudence...*, p. 13.

⁷⁸ Greek-Roman tradition has influenced fiqh (Islamic jurisprudence) and *ushul al-fiqh* (principles of Islamic jurisprudence) in several ways, including the concept of *utilitas ratio* (public interest) finding its equivalent in *istishlah*, the legal maxim "the child belongs to the bed (of the mother)" (شارف لل دول) mirroring the Roman one. The punishment of

cutting off the hand for theft in Islamic law is influenced by the concept of *furtum* (theft) in Roman law. Similarly, the concept of *rahn* (mortgage) in Islamic law is analogous to the concept of *pignus* (pledge) in Roman law. See Joseph Schacht, *Foreign Elements in Ancient Islamic Law*, in *Islamic Law and Legal Theory*, Ed. Ian Edge (New York: New York University Press, 1996), pp. 3-13.

⁷⁹ Given his expertise in Islamic theology (kalam), al-Shâfi'i once stated, "If I desired to compose a voluminous work encompassing theological issues, I would be capable of doing so. However, kalam is not a discipline that falls within my purview or responsibilities." This suggests that al-Shâfi'i was himself a theologian. See Jalâl al-Dîn Al-Suyûthi, *Shawn Al-Manthiq Wa Al-Kalâm 'an Fann Al-Manthiq Wa Al-Kalâm* (Kairo: Dâr al-Kutub, 1948), p. 66.

⁸⁰ Ibn Qayyim Al-Jawziyyah, *Miftâh Dâr Al-Sa'adah* Juz 2 (Kairo: al-Khaniji, n.d.), p. 232.

⁸¹ Mushthafâ Bâsyâ 'Abd Al-Râziq, *Tamhîd Li Târîkh Al-Falsafah Al-Islâmiyyah* (Kairo: Maktabah Lajnah al-Ta'lîf wa al-Tarjamah wa al-Nasyr, 245AD), p. 245.

⁸² Agus Triyanta, "Syllogisma, Kalva-Khomer, Dan Qiyas Adakah Dari Satu Akar: Pelacakan Terhadap Pengaruh Logika

Al-Shâfi'i, in his seminal work *al-Risalah*, does not explicitly cite or discuss Aristotelian logic. However, the very structure and methodology employed in *al-Risalah* reveal the underlying influence of Aristotelian logical principles. Mushtafa Basya identifies the use of dominant terms and systematic classification in addressing legal issues as key elements of Aristotelian logic evident in *al-Risalah*. This approach mirrors the prevalent practices of logicians during that era. Additionally, al-Shâfi'i utilizes the method of discussion (*al-hiwar wa al-jidal*) to elucidate legal concepts, creating a dialogue-like format where opposing viewpoints are presented and debated.⁸³ This method of discourse in *al-Risalah* is enriched with various logical constructs, including inference, genus, and species.⁸⁴

The concept of *qiyas* introduced by al-Shâfi'i represents a novel approach – a procedure for deriving legal rulings based on a set of rigorous conditions grounded in the established sources (*nash*). This standardization distinguishes al-Shâfi'i's *qiyas* from the earlier, more flexible and dynamic understanding of legal reasoning. Notably, while al-Shâfi'i himself did not explicitly outline these specific conditions, later scholars identified four key criteria that must be met for valid *qiyas*: *ashl* (the original case), *far'* (the new case), *hukm al-ashl* (the ruling in the original case), and *illat* (the effective cause).⁸⁵ Interestingly, the structure of *qiyas* exemplified by al-Shâfi'i aligns closely with the premises found in syllogisms of Aristotelian logic.

A syllogism⁸⁶ is a type of deductive argument consisting⁸⁷ of two premises and a conclusion.⁸⁸ As

a general guideline,⁸⁹ Aristotle, in *Prior Analytics* 24b 18, ⁹⁰expressed syllogism as a form of causal⁹¹ implication (if-then);⁹² if A is B, and B is C, then A is C.⁹³ Meanwhile, in *Prior Analytics* Book I, Chs. 4-7,⁹⁴ Aristotle employed inference formulas in constructing syllogisms. Inference in syllogism is typically formulated with “therefore.” For instance, A is B, B is C, therefore, A is C.⁹⁵

A comparative analysis of *qiyas al-Risâlah* and Aristotelian syllogism reveals several key similarities. Both employ a three-part structure consisting of a major premise, a minor premise, and a conclusion. Furthermore, the function of each premise in both *qiyas* and logic remains consistent: to arrive at a logically sound and valid conclusion.

In this treatise, *qiyas al-Shâfi'i* can be structured in the form of a syllogism once the ‘*illah* (effective cause) of the law is identified. The major premise consists of the *ashl* (original case), *hukm al-ashl* (ruling on the original case), and ‘*illah* (effective cause), or just the ‘*illah* itself. The minor premise is the new case to be compared (*far'*).

An analysis of al-Shâfi'i's⁹⁶ scholarly influences reveals that his concept of *qiyas* is rooted in the method of *tashbih*⁹⁷ in the science of *balaghah*.

⁸⁹ Irving M. Copi, *Introduction to Logic*, (London: The Macmillan Company, 1969), p. 153.

⁹⁰ Creslaw Lejewski, “History of Logic,” in *The Encyclopedia of Philosophy*, Ed. Paul Edwards Vol. 3 (New York and London: Macmillan Publishing Co., Inc. & The Free Press, n.d.), p. 516.

⁹¹ S.J. Frederick Copleston, *A History of Philosophy*, (London and New Jersey: Search Press and Paulist Press, 1946), p. 282.

⁹² Elliott Sober, *Core Questions in Philosophy*, (New Jersey: Prentice Hall, 1995), p. 28.

⁹³ Daniel Mc Donald, *Controversy Logic in Writing and Reading*, (Scranton: Chandler Publishing Company, n.d.), 9.

⁹⁴ James Edwin Creighton, *An Introductory Logic*, (New York: The Macmillan Company, 1926), pp. 26-32.

⁹⁵ Evert W. Beth, *Formal Methods: An Introduction to Symbolic Logic and to The Study of Effective Operations in Arithmetic and Logic*, (Holland: D. Reidel Publishing Company, 1962), pp. 5-8.

⁹⁶ *Tasybih* is part of ‘*ilm al-bayân* in *balaghah*, apart from *majâz* and *kinâyah*. *Tasybih* is defined as equating one thing with another because of similar characteristics, for example Muhammad is like the moon (in terms of its brightness). In terms of *balaghah*, Muhammad's lafadz is called *musyabbah*, the moon is called *musyabbah bih*, and brightness is called *wajh al-syabah*, read, for example Hafni Bik, (Et.Al), *Kitâb Qawâ'id Al-Lughah Al-'Arrabiyyah Li Talâmidz Al-Madâris Al-Tsânawiyyah*, (Surabaya: Maktabah al-Hidâyah, n.d.), p. 121.

⁹⁷ Abû Bakr 'Abd al-Qâhir Ibn 'Abd al-Rahmân Al-Jurjânî,

Aristoteles in *Qiyas Imam Al-Syâfi'i*,” *PSH Fakultas Hukum Ull*, (Yogyakarta, 2002), p. 4.

⁸³ “This Method of Arguing Is Also Taught by Aristotle's Logic, Read Aristoteles, Topik (Organon Teil V) (Leipzig: Verlag Von Felix Meina, 1948)” (n.d.).

⁸⁴ Al-Râziq, *Tamhîd Li Târîkh Al-Falsafah Al-Islâmiyyah...*, p. 245.

⁸⁵ Sulaiman Abdullah, *Konsep Al-Qiyas Imam Al-Syâfi'iy Dalam Perspektif Pembaharuan Hukum Islam*,” in *Islamic Studies Dissertation*, (Jakarta: IAIN Syarif Hidayatullah, 1993), p. 158.

⁸⁶ Aristotle, “*Prior and Posterior*,” in *Aristotle's Prior and Posterior Analytics*, Ed. Ross, W.D, (Oxford: The Clarendon Press, 1949), p. 287.

⁸⁷ Walter Kaufmann, “*Posterior Analytics*,” in *Philosophic Classics: Thales to St. Thomas*, (New Jersey: Englewood Cliffs, N.J., n.d.), p. 367.

⁸⁸ John C Cooley, *A Primer of Formal Logic*, (New York: The Macmillan Company, 1949), p. 301.

This method was first introduced by al-Khalil Ibn Ahmad al-Farahidi (d. 170 H) and was subsequently developed by his student Sibawayhi (d. 180 H). Al-Shâfi'i (150-204 H), who lived in the following era, deliberately adopted this method of *tashbih* from the experts of *nahw* and *balaghah* and employed it as a specific technique for deriving and generalizing legal rulings, which he termed *qiyas*.⁹⁸

According to al-Jâbiri, al-Khalil bin Ahmad and Sibawayhi were heavily influenced and inspired by Greek sciences, including Aristotelian logic, in their formulation of Arabic grammar. This is because,⁹⁹ in addition to their mastery of knowledge in the Quran, hadith, *fiqh*, and other fields, al-Khalil bin Ahmad also possessed knowledge of mathematics, logic, music, and astronomy, which were all derived from Greek civilization at the time.¹⁰⁰

While the transfer of Greek civilization had not reached its peak during al-Shâfi'i's time, it is acknowledged that during that era, namely the reign of Hârûn al-Rasyîd, the transfer of Greek philosophy had already taken place. In fact, even during the reign of the preceding caliph, al-Manshûr (753-775 CE), Aristotelian logic had begun to be translated. In short, the Greek philosophical tradition had permeated and influenced the

edifice of Islamic thought, encompassing theology (*kalam*), philosophy, and mysticism (*tasawuf*),¹⁰¹ and even¹⁰² Islamic¹⁰³ law (*fiqh*)¹⁰⁴ and its principles¹⁰⁵ (*ushul al-fiqh*).¹⁰⁶ Muslim thinkers such as Muhammad Yûsuf Mûsâ,¹⁰⁷ Ahmad Nahrawi, and Mushthafâ 'Abd al-Râziq¹⁰⁸ all agreed that there were aspects of Islamic law (*fiqh* and *ushul al-fiqh*) that were inspired by Greco-Roman civilization.¹⁰⁹

Regardless of whether al-Shâfi'i was influenced by Greek philosophy in his legal methodology or not, it is clear that theoretically the two have similarities. It is on this plane that al-Shâfi'i's Quranic hermeneutics finds a strong theoretical foundation in the tradition of pre-Islamic sciences (*ulum al-awa'il*).

Implications of al-Shâfi'i's Quranic Reasoning and Its Solutions

Al-Shâfi'i's Quranic reasoning, along with its epistemological hierarchy, which also draws theoretical foundations from Aristotelian logic, has had a significant impact on the development of Islamic law, particularly the concept of *qiyas*, whether acknowledged or not. Prior to al-Shâfi'i, *qiyas* was still in its rudimentary form, functioning as a free-form liberal reasoning approach to legal

Asrâr Al-Balâghah Fi 'Ilm Al-Bayân, Ed. Muhammad Rasyîd Ridhâ, (Kairo: Mathba'ah al-Tarâqî, 1320), p. 15.

⁹⁸ Evidence that clearly shows that al-Syâfi'i took the concept of *qiyas* from the method of Tasybîh al-Khalil bin Ahmad and Sibawayhi is the naming of the book al-Syâfi'i by al-Syâfi'i which was originally given the name al-Kitâb. The name al-Kitâb is similar to the name of a book written by Sibawayhi on Arabic grammar. More than that, it is reported that al-Syâfi'i lived and associated with nahwu experts, especially al-Khalil bin Ahmad and Sibawayhi for a long time because he studied the grammar of the language. Read Muhammad Âbid Al-Jâbiri, *Post Tradisionalisme Islam*, Pent. Ahmad Baso, (Yogyakarta: LKIS, 2000), p. 88.

⁹⁹ Khalil bin Ahmad did not just master this Greek knowledge normatively and statistically, but developed it into integral and interdisciplinary knowledge. Furthermore, Khalil bin Ahmad is considered to be the first nahwu expert who introduced logical methods, especially regarding 'illat (causa) into nahwu, although it was not as radical as later times. For example, he began to give reasons why in the case of al-nidâ' (calling) there are certain rules regarding the i'râb, especially rafa' and nashab. Even though he only put forward a few Greek theories, namely the concept of 'illat, it was enough to surprise the nahwu experts who were with him at the time. Read Muhammad Âbid Al-Jâbiri, *Takwîn Al-'Aql Al-'Arabi*, (Beirut: Markaz Dirâsah al-Wahdah al-'Arabiyyah, 1989), p. 81.

¹⁰⁰ Abdillah Zamzam A, "Pro-Kontra Pengaruh Filsafat Terhadap Nahwu," *Adabiyyat*, vol.1, no. 2 (2003), p. 20.

¹⁰¹ It was during al-Mansur's time that the first philosophical translation occurred, namely Aristotle's logical works; *Categories*, *Hermeneutica*, and *Analytica* by 'Abd Allah Ibn Muqaffâ (d. 759) and his son Muhammad during the time of Caliph al-Mansur (d. 773). Please read Majid Fakhry, *Sejarah Filsafat Islam*, Terj. Mulyadhi Kartanegara, (Jakarta: Pustaka Jaya, 1986), p. 32.

¹⁰² Al-Râziq, *Tamhîd Li Târîkh Al-Falsafah Al-Islâmiyyah...*, p. 5.

¹⁰³ Fu'âd Al-Ahwânî, *Al-Falsafah Al-Islâmiyyah*, (Kairo: al-Maktabah al-Tsaqâfah, n.d.), p. 113.

¹⁰⁴ Muhammad 'Ali Abû Rayyân, *Qirâ'ât Fi Al-Falsafah*, (Iskandariyah: Multazam al-Thab' wa al-Nasyr, n.d.), p. 50.

¹⁰⁵ Fazlur Rahman, *Islam...*, p. 11.

¹⁰⁶ Schacht, *Foreign Elements in Ancient Islamic Law*, in *Islamic Law and Legal Theory*, Ed. Ian Edge, p. 33.

¹⁰⁷ Yûsuf Mûsâ, *Al-Madkhal Li Dirâsah Al-Fiqh Al-Islâmi*, (Kairo: Maktabah al-Nahdlah, 1954), p. 85.

¹⁰⁸ Al-Râziq, *Tamhîd Li Târîkh Al-Falsafah Al-Islâmiyyah*, p. 245.

¹⁰⁹ by Greek elements, even according to orientalists, such as Goldziher, Von Kremer, Santillana, Carusi, and Scheldon Amos, is not merely an influence, but is a total plagiarism of the Roman-Greek legal tradition. According to them, Islamic law is nothing more than the legal regulations of the Roman-Greek nation dressed in Arabic. This means that all elements of Islamic law are a massive adoption and plagiarism of Roman law (*al-Qânûn al-Rûmâwî*). Shûfî Hasan Abû Thâlib, *Bayn Al-Syarî'ah Al-Islâmiyyah Wa Al-Qânûn Al-Rûmân*, 1st ed. (Kairo: Maktabah al-Nahdlah, n.d.), p. 7.

determination.¹¹⁰ This *qiyas* was not constrained by stringent criteria that would have limited its ability to engage in liberal, speculative, and dynamic problem-solving.¹¹¹ This legal reasoning (*qiyas*) was also commonly referred to as *ra'y*.¹¹² It began to take shape during the Prophet's time and reached maturity during Abu Hanifah's era as the leader of the *ahl al-ra'y* school of thought.

Subsequently, during al-Shâfi'i's era, *qiyas* underwent standardization and codification. The concept of *qiyas* became more complex, adhering to a set of stringent "conditions" and required to conform to or "subordinate" to the hierarchy of the three preceding legal sources: the Quran, the Sunna, and *Ijma'*.¹¹³ Al-Shâfi'i's standardized *qiyas* model, presented in al-Risalah, was ultimately adopted by many subsequent *ushul* scholars. This was due to the fact that, in addition to its systematic *ushul* framework, al-Shâfi'i was also regarded as the founder and father of *ushul fiqh*, and as a result, subsequent scholars often emulated al-Shâfi'i's approach.

The strict application of the syllogistic-deductive method to *qiyas* al-Shâfi'i is admittedly not conducive to progress. This means that while deductive reasoning can lead to scientific advancement, this progress is not rapid or revolutionary. This is because the scientific conclusions drawn from syllogistic reasoning do not generate new original knowledge, but rather simply "follow" the universal principles of the major premise, which naturally do not differ much from the scientific conclusions themselves.¹¹⁴ Moreover, the application of Aristotelian deductive logic was taken to extremes by medieval thinkers, who completely disregarded observation and experience in the real world.¹¹⁵

According to Bacon,¹¹⁶ deductive-syllogistic logic provides no benefit whatsoever, as it adds nothing to humanity's ability to master the world and nature.¹¹⁷ For Bacon, the proper logic for the advancement of knowledge is induction, which involves observing nature without prejudice and establishing facts based on experiments.¹¹⁸ In his view, deductive logic is not sufficient to find truth, as the complexity of nature far exceeds the complexity of arguments.¹¹⁹

In light of the preceding discussion, Aristotelian logic can be viewed as a double-edged sword. On one hand, it embodies the commendable spirit of rationality (*burhâni*).¹²⁰ On the other hand, its rigid logical format prioritizes form over substance.¹²¹

teeth. Thinkers who took Aristotle's logic to the extreme solved it not by observing and counting horse teeth, but instead approached it with logic. Read George J. Mouly, "Perkembangan Ilmu," in Jujun S. Suriasumantri, *Ilmu Dalam Perspektif: Sebuah Kumpulan Karangan Tentang Hakekat Ilmu*, (Jakarta: Yayasan Obor Indonesia, 2001), p. 87.

¹¹⁶ Francis Bacon was born in London, England in 1561 and died in 1626. He was a successor to the tradition of English empiricism. Some of his works include *Essays* (1597), *The Advancement of Learning* (1605), *Cogitata et Visa i*, *Novum Organum* (1620). Read Ali Mudhofir, *Kamus Filsuf Barat* (Jakarta: Pustaka Pelajar, 2002), p. 43.

¹¹⁷ C. and Haryono Imam Verhaak, *Filsafat Ilmu Pengetahuan*, (Jakarta: Gramedia, 1989), p. 137.

¹¹⁸ According to Bacon, there are four obstacles that hinder the proper use of the induction method to obtain scientific knowledge, namely; first, the idols of the tribe, namely the error of view as a result of human nature. Second, the idols of the den, namely personal prejudices. Third, the idols of the market, namely errors in views because they use language. Fourth, the idols of the theater, which is a misconception resulting from the habit of playing theater (customary tradition). Read Mudhofir, *Kamus Filsuf Barat...*, p. 43.

¹¹⁹ For more details about Francis Bacon's opinion about the method of induction, read Francis Bacon, "Novum Organum," in *Masterpieces of World Philodophy*, ed Frank N. Magill, No Title, (New York: Harper Collins Publisher, 1990), p. 216.

¹²⁰ According to al-Jâbiri, the Andalusian thinkers Ibn Rusyd, al-Syâthibi, Ibn Hazm, Ibn Thufayl, Ibn Bâjah, and Ibn Khaldûn inherited the spirit of Islamic rationalism (*burhâni*) from Aristotelian logic. It was also upon this foundation that dynamic, accommodating, and revolutionary concepts of Islamic legal derivation methods emerged, such as *qiyâs jâmi'*, *al-maqâsid al-syar'iyyah*, universalism (*al-kull*), causality, historicity, induction, and deduction (*istiqrâ'*). This demonstrates the immense potential of Aristotelian logic to support the dynamism of Islamic law. Read Muhammad Âbid Al-Jâbiri, *Bunyat Al-'Aql Al-'Arraby: Dirâsah Tahlîliyyah Naqdiyyah Li Al-Nudzûm Al-Ma'Rifah Fî Al-Tsaqâfah Al-'Arrabiyyah*, (Beirut: Markaz Dirâsat al-Wahdah al-'Arabiyyah, 1990), p. 552.

¹²¹ Aristotle's logic is often referred to as formal logic, because it is a science that studies forms of thought

¹¹⁰ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 36.

¹¹¹ Ahmad Hasan, *Analogical Reasoning in Islamic Jurisprudence: A Study of The Juridical Principle of Qiyas*, p. 137.

¹¹² Al-Jawziyyah, *l'lâm Al-Muwâqî'in 'an Rabb Al-'Alâmîn...*, p. 23.

¹¹³ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 5.

¹¹⁴ Muhammad Baqir Al-Shadr, *Falsafatuna: Pandangan Muhammad Baqir Al-Shadr Terhadap Pelbagai Aliran Filsafat Dunia*, Transl. M. Nur Mufid (Bandung: Mizan, 1992), p. 41.

¹¹⁵ For example, the extreme application of Aristotle's logic is in solving the problem of the number of horse

This implies that while Aristotelian logic as a whole exudes a dynamic, rational, and revolutionary (*burhâni*) spirit, its syllogistic aspect falls short in driving significant progress, as it merely reiterates the conclusions of preceding premises.

According to the author, al-Shâfi'i's approach to Aristotelian logic was predominantly partial, focusing on the syllogistic method rather than the underlying rational spirit (*burhâni*) of Aristotelian thought. This emphasis on syllogism while neglecting the *burhâni* spirit resulted in a form of *qiyas* (legal reasoning) that was more inclined to adhere strictly to the sacred texts, thereby limiting the dynamic, adaptable, and liberal potential of logic within al-Shâfi'i's model. This partial adoption of Aristotelian logic was not unique to al-Shâfi'i; it was also prevalent among subsequent Islamic legal scholars, such as al-Ghazâlî. According to al-Jâbirî, these thinkers primarily utilized Aristotelian logic as a tool, specifically the syllogistic method, while disregarding the broader philosophical framework and underlying *burhâni* spirit of Aristotelian thought.¹²² This partial adoption led to a mode of thinking that was less productive and more consumptive, characterized by a tendency to defer to religious texts through the application of the *qiyas* method.¹²³ As a consequence, reason was not granted an independent role in the process of legal determination. Al-Shâfi'i's concept of *qiyas* was primarily aimed at elucidating what was already present in the texts, thereby indirectly restricting the role of the mujtahid (legal scholar) in employing *qiyas* to uncover legal principles beyond those explicitly stated in the Quran and Sunna.¹²⁴

(concepts, decisions, conclusions and proof) regarding their logical structure. The main task of formal logic is to formulate laws and principles. Adherence to these laws and principles is a condition for achieving correct results in the pursuit of knowledge by deduction. The core of this formal logic is the concept of syllogism. Read Lorens Bagus, *Kamus Filsafat*, (Jakarta: Gramedia Pustaka Utama, 2000), p. 533.

¹²² Al-Jâbirî, *Bunyat Al-'Aql Al-'Arraby: Dirâsah Tahlîliyyah Naqdiyyah Li Al-Nudzûm Al-Ma'Rifah Fî Al-Tsaqâfah Al-'Arrabiyyah*, p. 436.

¹²³ Furthermore, according to al-Jâbirî, the process of reasoning in the Islamic world after al-Ghazâlî which only uses Aristotelian logic as a mere instrument is the overlapping of three epistemologies, namely *bayânî*, *'irfânî*, and *burhânî*, which ultimately results in less dynamic reasoning in the Islamic world Ibid.

¹²⁴ Read Nashr Hâmid Abû Zayd, al-Imâm al-Syâfi'i, 94. Meanwhile, in the language of empiricism, the deductive-

The evolution of the *qiyas* concept since the time of al-Shâfi'i necessitates a reformulation of the *qiyas* reasoning model in *ushul fiqh*. This reformulation aims to restore *qiyas* to its original form, namely the discovery of new hukum (Islamic law) based on contemplation, reasoning, and social analysis that emphasizes the spirit of justice and dynamism.¹²⁵ This reformulation, when linked to the concept of logic, can be done in two ways.¹²⁶ One approach involves introducing a new, modern logical framework, as Aristotelian logic is seen as outdated and hindering progress. Alternatively, a critical re-reading of the Aristotelian structure could reveal its inherent dynamism, liberalism, and revolutionary potential. When connected to Quranic reasoning, reformulation can involve granting reason a more prominent role in deriving law, moving beyond a strict adherence to the literal text (*dhahir al-nash*).

A critical examination of the entire logical structure, not just syllogisms, and a greater emphasis on reason are expected to lead to the emergence of the concept of *qiyas* (*awsa'*), which is *qiyas* as a logical, accommodating, responsive, liberal, and rational reasoning process for discovering new Islamic law. According to al-Jâbirî, the way out of the stagnation and confinement of reasoning to the text in the Islamic world is to reconstruct the reasoning model once used by Muslim thinkers in Andalusia, such as Ibn Hazm, Ibn Rusyd, Ibn Khaldûn, Ibn Thufayl, al-Syâthibi,

syllogistic method, including *qiyas*, does not bring new knowledge, because the final conclusion must be the same as the major premise. Al-Shadr, *Falsafatuna: Pandangan Muhammad Baqir Al-Shadr Terhadap Pelbagai Aliran Filsafat Dunia*, Transl. M. Nur Mufid..., p. 41.

¹²⁵ Hasan, *The Early Development of Islamic Jurisprudence...*, p. 146.

¹²⁶ Aristotle's logical approach which is syllogistic deductive in nature was the only effective method for thinking systematically in the Greek and Roman era up to the time of Galileo and the Renaissance. However, in subsequent developments, namely at the beginning of the seventeenth century, Aristotle's traditional logic began to be challenged and criticized because it was felt that it was no longer relevant to developments in the times that demanded scientific progress. Instead, the inductive method or logic pioneered by Francis Bacon began and was refined into inductive-deductive logic, pioneered by Charles Darwin. Read George J. Mouly, "Perkembangan Ilmu," in *Ilmu dalam Perspektif*, ed. Jujun S. Suriasumantri, pp. 87-90; Louis P. Pojman, *Philosophy: The Quest for Truth*, (New York: Wadsworth Publishing Company, 1999), p. 23.

and Ibn Bâjah. He argues that their appreciation of Aristotelian philosophy and logic, combined with their emphasis on reason, is both fascinating and dynamic. They sought to provide a rational foundation for the Quranic tradition (*bayâni*) that had become rigid since the codification era. Based on their critical appreciation of Aristotelian philosophy¹²⁷ and logic, they developed various reasoning methods, such as deduction, induction, universalism, causality, historicity, and the concept of *maqâsid al-syar'ah*.¹²⁸

Conclusion

For al-Shâfi'i, *qiyas*, as one of the sources of Islamic law, served solely to elucidate implicit or ambiguous legal rulings within the Quranic text, not to establish new Islamic law. This paradigm, which also drew theoretical support from Aristotelian logic, particularly syllogistic theory, rendered al-Shâfi'i's *qiyas* less responsive and prone to stagnation. This is because it adhered to the principle of syllogistic logic, where the conclusion invariably follows the major premise. In *qiyas*, the major premise is derived from the literal text of the Quran.

To break free from the stagnation of al-Shâfi'i's *qiyas*, a critical reappraisal of the *qiyas* concept is necessary. This reappraisal can involve a critical examination of Aristotelian logic's tools and a maximization of reason's potential, as exemplified by the works of Ibn Hazm and Ibn Rusyd. This approach can lead to the development of dynamic, liberal, accommodating, and up-to-date legal theories, such as *qiyas jami'* (*awsa'*), the principles of universalism, historicism, and induction.

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¹²⁷ Al-Jâbiri, *Bunyat Al-'Aql Al-'Arraby: Dirâsah Tahliliyyah Naqdiyyah Li Al-Nudzûm Al-Ma'Rifah Fî Al-Tsaqâfah Al-'Arrabiyyah...*, p. 295.

¹²⁸ Al-Jâbiri, *Takwîn Al-'Aql Al-'Arabi...*, p. 552.

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