AL-RISALAH AND THE IDEA OF PHILOSOPHICAL UNION LAW

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Abstract: Since the beginning, Muslim jurists have agreed that the essence of law is God's law. They are free from conflict at such a fundamental level as in the experience of the Western world that there have never been any calls to reach agreements based on issues as complicated as those above. It is true that Islam is not free from conflicts between various tendencies, schools and schools. Rational tendencies (ahl al-'aql) dealing with textual tendencies (ahl al-hadith) for about a century. Many schools of law emerged, which then narrowed down into four dominant Sunni schools, namely the Hanafi, Maliki, Shafi'I And Hanbali. They, under the main agreement on the source of common law, still have room to express their differences without the risk of being seen as violating their mutual agreement as Muslims. Even within the internal sect, there are no legal differences of opinion regarding the same case without the risk of being considered out of agreement as followers of the same sect. This research will examine the juristic positions taken by the bookal-Risalah,both at the theological and methodological levels. These positions will be treated as an offer of thought for the development of a single legal philosophy that complements all the results of thought by legal philosophers in answering questions about the nature of law. Proposition of fundamental premises from a juristic positional-RisalahThis was submitted for research becauseal-Risalahas deliveredal-Shafi'I the author to be recognized as one of the Fathers Equilibriumin Islam, where he is seen as successful in creating epistemological balance in Islamic legal thought. This research will therefore be carried out from the perspective of the three main classical legal theories, namely legal positivism, the natural law school and the historical school to reveal whether these juristic positions offered are complementary to the typical juristic positions of each of the legal schools above.

Keywords: *al-Risalah, legal philosophy, al-Shafi'i*

INTRODUCTION

In Western legal philosophical thought, the idea of unifying legal philosophy appears in termsintegrative jurisprudence. This term is relatively new1and refers to legal philosophy which combines the basic thoughts of three classical schools: legal positivism, theory). Natural law, and the flow of history. This idea is based on the belief that each school has limited itself to a single dimension of law, and that it is possible and important to bring several dimensions of law together into a common focus

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Legal positivists treat law as a particular type of political instrument, namely a building of regulations established by the government, which has its own independent character that is separate and different from morality and history. In contrast, essentially the flow of natural law treats law as the creation of moral rules and principles taken from reason and consciousness. Furthermore, the historical school treats law as the embodiment of the historical development of the ethos – of traditional social representation and behavior – of society. Thus, the flow of legal positivism analyzes the legal rules that exist in existing policies at a certain time that are separate from the principles of right and wrong, separate from history and social awareness of existing government policies. Only after the law is established, according to them, can people ask what the law should be, or how the law should appear in reality.3 Meanwhile, supporters of the natural law school believe that people do not know what the law is unless they think about what it should be, with the belief that legal norms must be thought about and applied in the light of moral goals that exist in the real world. Therefore, the natural law school theorizes that government actions or orders that conflict with fundamental principles or justice cannot be said to be law at all. Meanwhile, supporters of the historical school stated the limitations of the power and authority of reason and consciousness. They argue that law - as something that is political and what it should be - is found in the character of the nation, their culture, the ideals and traditions of the people or society to which the law belongs.This section also explains the rationale for the application of specific approaches, methods, procedures or **techniques** used to identify, select, and analyze information applied to understand the research problem/project, thereby, allowing the readers to critically evaluate your project's/study's overall validity and reliability. If it is true that each school "cults" its own stance without wanting to see other truths, then the specificity of each can be concluded that legal positivism only believes in law that originates from government, the natural law school only relies on reason and consciousness, while the historical school only relies on the culture and history of society. These three competing approaches can only be combined by providing a broader definition of law than that usually provided by each school. Nearly all positivists define positive law (which is the only law they recognize) as official law, or – in the case of American legal realists – as official behavior rationalized or characterized in law. Most supporters of natural law also define positive law as regulations of positive law, but they test these positive legal regulations with moral principles or standards that they consider to be part of the law. Meanwhile, supporters of the historical school define law also in terms of moral rules and principles. In contrast to positivists, followers of the historical school tend to be more concerned customary lawrather than artificial laws, and in contrast to followers of the natural law school, followers of the historical school are comfortable being more concerned with specific moral principles appropriate to the character and traditions of a particular people or society than with universal

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moral principles. That is a glimpse of the Western experience regarding the preoccupation with discovering the essence of law. An experience of this intensity has never occurred in Islam. Since the beginning, Muslim jurists have agreed that the essence of law is God's law. They are free from conflict at such a fundamental level as in the experience of the Western world that there have never been any calls to reach agreements based on issues as complicated as those above. It is true that Islam is not free from conflicts between various tendencies, schools and sects. Rational tendencies (ahl al-'aql) dealing with textual tendencies (ahl al-h}adi>th) for approximately a century. Many schools of law emerged, which then narrowed down into four dominant Sunni schools, namely the Hanafi, Maliki, Sha>fi'i> and H}anbali> schools. They, under the main agreement on the source of common law, still have room to express their differences without the risk of being seen as violating their mutual agreement as Muslims. Even within the internal sect, there are no legal differences of opinion regarding the same case without the risk of being considered out of agreement as followers of the same sect.

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One of the experiences in Islam that concerns the matter of reconciliation is Imam Shafi'i's experience in dialogue with various trends in Islamic legal thought that grew and existed in his time. The results of this dialogue are outlined in his work calledal-Risalah.Among the monumental works of al-Imam al-Shafi'i in the field usul al-fiqhis Al-Risalah. One history, al-Shafi'I was present when Islamic jurists were divided into two main tendencies, namelyahl alhadith Andahl al-ra'y.Apart from providing a place for the application of al-Sunnah as a source of legal inspiration, as shown by the traditionalist group (ahl alh}adi<th), al-Sha>fi'ij< also does not negate what the rationalist group is committed to (ahl al-ra'y)in the application of analogies.

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Slowly but surely al-Shafi'i's ability to apply his thoughts has provided peace between the two groups. Not only among the Shafi'i madhab, but also all legal madhabs in Islam

DISCUSSION

1. Absolute Truth (Absolute Truth)

Linguistically, this theory comes from the wordabsolutelywhich means apart from or free from. Meanwhile, the Latin versionabsolutushas the meaning of complete or perfect. The definition in question means that if there is something that is considered absolute then achieving perfection does not require anything else.
In terms of terminologyabsolutelyhas many meanings, depending on the conditions in which it is used, including the following:

1. Free from restrictions, limitations, error, change and variability;
2. In metaphysicsabsolutelyused to reflect a perfection such as universal, totality, objective reality, singular, independence, unconditioned, that which is unoriginated, unchanging, pure, uncaused, undoubted, positive;
3. Absolutedoes not depend on others for its existence, on the contrary, that is, others depend on it. And in the end everything can be returned toabsolutely.
As explained above,absolutelyis a paradigm that focuses on the existence of something that is considered absolute perfection, without any conditions and must be accepted. The existence of absolutism is sometimes to justify what should be justified, and blame what should be blamed. However, as we know, absolutism does not only have one meaning. It has many meanings that must be adapted to its use in relation to space, time, atmosphere and other meanings.

According to Zuly Qodir,absolutelyunderstood as a substantial thing that makes humans weak, because they are unable to understand its existence. Where he has to carry out an understanding that he considers cannot be changed. So whether people are happy or not, whether they are calm or not, they still have to carry it out. In fact, such an absolute view makes humans weak in understanding their existence. So, it is necessary to eliminate the notion of absolutism, so that humans can feel calm, namely through Sufistic studies. Which will be able to answer the most basic things in humans themselves.[8]

This is different from Nurcholish Madjid's viewabsolutelyis the specificity and absoluteness of Islam itself, not limited to Islam alone. BecauseabsolutelyThis causes Muslims to not recognize other things outside of Islam. So to realize that unity will be nil, there will be no results. So, through pluralism, we will be able to realize that we do not live for ourselves, mutual respect and respect for differences

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will produce a calm and peaceful life for all of us. We, Islam itself, do not only talk about the relationship between humans and God, but the relationship between humans and other humans must also be fostered.

Meanwhile, according to Hegel, reality as a thought about absolute truth contains the totality of conceptual truth that opens up in all areas of human experience and knowledge from logic to physics and political history to art, religion and philosophy. Hegel's full name was George Wilhem Friedrich Hegel (1770-1831 AD) was born in Germany on 27 August 1770 AD and died on 14 November 1831 AD.10Hegel had a very broad influence on writers from various circles, including his admirers such as FH Bradley, Sartre, Hans Kung, Bruno Bauer, Max Stirner, Karl Marx. But there were quite a few who opposed it, including Kierkegaard, Schopenhauer, Nietzsche, Heidegger, Schelling.11Philosophically, Hegel made enormous scientific contributions that could even be said to exceed Kant. He has enriched a new philosophical dimension for efforts to develop philosophical science, namely its history. Until now, the ideas about the philosophy of history of all recent philosophers can be said to be oriented towards it.

The book that made him best known was his first book, namely "The Phenomenology of Spirit". This book contains a long journey that takes us from the most basic to the most complex conceptions of the human unconscious. The aim of this book is to attain absolute truth.

Central to Hegel's philosophy is the concept of Geist (spirit), a term inspired by his religion. This term is somewhat difficult to understand, spirit in Hegel's view is a real, concrete, objective force, manifested in various forms as the world of spirit, which is placed in special objects. In self-awareness, the spirit is the essence of humans and also the essence of human teachings. This part of metaphysics begins with a discussion of ratios. Bertens explained that Hegel placed great importance on ratios. Of course because he is an idealist. What he meant was not only the ratio of individual humans, but especially the ratio of absolute subjects because Hegel also accepted the idealistic principle that reality as a whole must be equated with a subject. Hegel's postulate which later became famous reads; "Everything that is real is rational and everything that is rational is real." This means that the breadth of reason is the same as the breadth of reality, reality is entirely a thought process (idea, according to Hegel's terms) that thinks about itself. Or in Hegel's other words, all reality is a spirit that will gradually become aware of itself. By prioritizing reason, Hegel deliberately acted against the intellectual tendencies at that time which were suspicious of reason while prioritizing feelings.

Reality is rational and rational is reality. Reality is a broad structure of rational concepts. Like Plato, rationality, concepts and ideas are real things. Hegel fills his

vision of the absolute with a rich variety and concrete details about the absolute soul, about God opening up to our limited thinking in every area of human knowledge. It states what the human soul needs to understand. The definition of human experience and the totality of truth will be found in art, history, religion, politics.

Ratio is the existence of objects that are truly understood in more depth. Hegel stated that the rational concept of reality is not another object of existence. It is the same object but understood in greater depth. Absolute idealism acknowledge existence in order to discover rationality, the truth of the concept that is its essence. For Plato eternal ideas exist separately, independently in their own intelligible field in continuous change. However, the separation of eternal forms from the real world creates its own difficulties for the philosophy written by Plato. For Hegel, on the other hand, rational concepts have no separation, independent existence is different from worldly things. Concrete remains their intuition. Hegel therefore avoided Plato's problem but created one for him.15

Reality can be known through rational structure. Hegel could see the strong rejection of Hume and Kant's knowledge, that reality cannot be known. For Hegel, whatever is rational, everything has a structure that can be understood or has a core that can be digested by human thought, namely with its conceptual strength and flexibility. Every aspect of the human journey can be known by the rational structure that is observed. Absolute thinking is a totality united in rational truth, even a combination of diversity into one coherent whole. Absolute according to Hegel is a unity in religion. For Hegel, the task of metaphysics is to unite the various components of reality, their boundaries and relationships in a unified totality

CONCLUSION

itself will be focused on doctrineal-ijma 'with high authority. Al-Ijma 'In the concept that was later accepted by Muslims, it was an agreement that could not be violated or denied. If the ulama have agreed on a law, then this agreement is binding on all Muslims for all time. In theal-Risalah Such a tendency has been conveyed, namely the importance of Muslims uniting in the congregation and not separating themselves from the congregation. The teachings of al-Sha>fi'i> aboutal-ijma'or the consensus of the ulama continues to develop in his writings. Draftal-ijma' starting from the agreement of a small number of legal experts in a certain place as per Imam Malik's method, which then expanded widely to cover the entire Islamic community.

At the end of the bookal-Risalathere is a discussion about differences of opinion, explain that there are two types of differences of opinion, the first is a difference of opinion which must be a difference of opinion about what has certainty orh}ujjahwhich is firmly established in the holy book and sunnah. The second is the differences that are allowed because there is room for doing tawwil or making analogies. Al-Shafi'i gives examples, both fromal-Kita>band al-Sunnah.29

Imam al-Shafi'i has thus confirmed thatabsolute truthor absolute truth exists and he has stated the source with certainty and has detailed the most important points which are also certainties originating from those sources. This is another confirmation that truth is divine truth and all humans must follow it.

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