

# 'AM AND KHAŞ LINGUISTIC METHOD: CONCEPT AND IMPLEMENTATION IN ISLAMIC LAW DETERMINATION

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## Abstrak

Al-Quran merupakan pedoman hidup bagi umat Islam, maka dari itu al-Quran menjadi penting untuk mempelajarinya karena merupakan sumber hukum Islam (*maşadir al-ahkām*) dalam menyelesaikan sebuah permasalahan. Metode untuk dapat mengeluarkan sebuah hukum dari al-Quran disebut *ijtihad*. Salah tugas seorang *mujtahid* harus memahami teks (*nash*), baik memahami makna sebuah lafaz, wilayah, objek dan bagaimana cara penunjukkan lafaz atas maknanya jenis dan derajat dilalahnya. Pakar Ushul Fiqh membagi ke dalam dua bagian, yaitu penunjukkan (*dilalah*) teks atas sebuah makna dan penunjukkan (*dilalah*) teks atas hukum syara' secara langsung. Penunjukkan (*dilalah*) teks atas sebuah makna meliputi pembahasan '*am* dan *khas*. Oleh karena itu, artikel ini akan menjelaskan tentang bagaimana cara menggunakan *istinbat* hukum serta kaidah bahasa dalam ilmu *ushul fiqh*, salah satu tentang '*am* dan *khas* dan implementasi dalam menentukan hukum Islam. Penjelasan meliputi kaidah bahasa *lughawiyah*, '*am* dan *khas* serta hukum menggunakan dalil '*am*. Artikel ini akan menganalisis serta mengupas bagaimana sesungguhnya ilmu *ushul fiqh* digunakan serta dalil tentang hukum *istinbat* itu sendiri, kaidah bahasa serta hal lainnya untuk mengetahui bagaimana dalil itu dipakai berdasarkan kaidah yang benar.

**Kata Kunci:** '*Am dan Khas*; Kaidah Bahasa; Penentuan hukum Islam

## INTRODUCTION

Quran is the holy book of Muslims, are a source and life guide for all Muslims in this world. The timeless nature and perfect guideline from Allah through Prophet Muhammad complemented the previous book, Kalamullah, making the Quran have an excellent language. All of that we can only know by believing and following a religion called Islam. This perfect religion came directly from Allah and was revealed to Prophet Muhammad as *rahmah al-amin*. The holy book, religion and things related to Allah are excellent. As a believer, we must believe everything that is taught by Prophet Muhammad to us so that we will survive the world and the hereafter.

Quran does not explain in detail how the life of worship. The Quran describes how to survive the world and the hereafter. As ordinary human beings, it is difficult for us to interpret how the content of the Quran is direct; therefore, Prophet Muhammad always explains in detail what is right and wrong. A Muslim should emulate the nature of Prophet Muhammad so that we know what Allah Almighty wants. Moreover, to understand the proper interpretation of the Quran and Hadiths, it is necessary to learn more about Islam. Because of that, the learner learns Arabic rules that are good and correct so that we can use a law that follows the correct interpretation. Understanding of the laws of texts both from the Quran and al-Hadith is only a proper understanding if we pay attention to the connotations of *uslub* in Arabic and how they are presented, and what they refer to, both in the form of *mufrad* (single sentence) and *murakkab* (arrangement).

Islamic scholars of Islamic jurisprudence pay serious attention to research on the Arabic *uslub*, its structure, its *mufrad* words, and all conclusions from the research. The thing set by linguists is rules and conditions (*dhabit*), by looking up to the legal understanding of the Syariah texts with a correct interpretation, following what is understood by the Arabs, the texts come with the language and also become a means to clarify texts that contain vagueness, eliminate the apparent contradictions between the texts, and to pronounce something that shows its *ta'wil* conditions, and others related to legal retrieval from various texts (Maulidizen, 2017: 13)

The rules and norms are linguistic (*lughawiyah*) taken from Arabic *uslub* research and used to understand various material sources of any law specified in Arabic, such as the Syariah texts all arranged in

Arabic consists of various words from Arabic using *uslub*. Understanding the meaning and direction of a text must take the path of the Arabs in understanding the composition of the language, *mufradāt* and *uslub*.

The rules and *dhābiṭ* that the Muslim scholars have established *ushul fiqh* concerning the appointment (*dalālah*) of lafadz on meaning, *ṣūghāt* (form) which shows the general understanding, and what is appointed by lafadz which is *'am*, absolute and *musytarak*, etc. These rules are used to obtain law by considering more about the aspects of Islamic law. According to the description, the discussion of this paper includes; introduction of *al-Qawā'id al-Lughāwīyyah*, The scope of *al-Qawā'id al-Lughāwīyyah* and Technical usage and usage characteristics. This discussion is intended for about *al-Qawā'id al-Lughāwīyyah*, the content of *al-Qawā'id al-Lughāwīyyah* and technical usage and legal aspects obtained

## RESEARCH METHOD

This research is library research with a descriptive approach. That is to describe or explain *al-Qawā'id al-fiqhīyyah*; *'am* and *khaṣ* concept and implementation in Islamic law determinations. Data collection methods in this study use documentation, then analyzed using content analysis (content analysis), namely by analyzing descriptive literary data or scientific research of the message of a premise.

## DISCUSSION

### FRAMEWORK OF LUGHAWIYAH

#### 1. Definition

According to *al mu'jam al wajiḥ*, it is stated that rules of practice are rules or something comprehensive in its scope (Kawakip, tt:2). The rules referred to in this paper are the rules of language that must be considered in understanding the Quran. Whereas according to the rules of jurisprudence science, everything is used by the scholars of *ushul fiqh* sourced from the Quran, ḥadīth and Arabic literature to understand the contents of the Quran itself. There are three ways to find out the exact meaning of pronunciation or *uslub*; based on the understanding of many people who have *mutawātir*. This understanding has been passed down for generations. The purpose is well known and has become their habit in day-to-day conversations, confident people and the minds and reason.

The three aspects above are the basis of knowing the meaning of pronunciation to avoid misinterpretation. All of that was formulated by Imam Shafi'i to prevent misunderstanding. Even so, if we look at the purpose of organized faith, it has multiple interpretations, broad and narrow meanings and other interpretations according to the school that is taken (Yasin, t.t: 209). Quran is sometimes difficult to understand by ordinary people like us. Especially those who don't understand religion, Arabic literature and so on. The language rules are very much needed in understanding a language according to the provisions of Allah and do not deviate from the true meaning. The rules of *the lughāwiyah* language itself are intended for people not to misinterpret the true meaning of the Quran. Even so, Allah Almighty made the Quran in Arabic term to make human easy to understand as His word in Surah Yusuf [12:2]: Indeed, we have sent it down as an Arabic Quran that you might understand (Sahih international, 2004: 215).

The verse above explains why the Quran speaks Arabic because the Arabic language is straightforward to understand and easy to understand. Arabic itself is divided into two types of words, namely the meaning of men and women. Many explain why the rules of Arabic are used in the Quranic language. Arabic is used not only to whistle people but to facilitate the people because Arabic is the most easily understood language in the whole world. We need to learn Arabic to understand what the Quran means and interpret it to not take the wrong time in worship. Because actually, worship without knowledge is the same as soybeans that carry books without reading them. So, the rules of Arabic (*lughāwiyah*) are a set of rules for learning the meaning of interpretation in the Quran or Hadith so that there is no misinterpretation by really knowing the laws of the fundamental language with easy-to-understand language and predetermined rules by experts.

## **2. Rules on Arabic Language (*Lughawiyah*)**

Etymologically, *qā'idah lughāwiyah* comes from; (1) *al-qawā'id/ qā'idāt* is the congregation of *lafaz al-qā'idah* which means the foundation of buildings, rules, laws, (2) Second *al-lughāwiyah* is *nisbat* from *lafaz lughatun* that it means language. Different ratio serves to compare words *qā'idah* to the word *lughāt* that aims to distinguish it from other *qā'idah* as *qawā'id ushuliyah* and *qawā'id al-fiqhiyyah* so that the meaning of *qawā'id lughāwiyah* means language basics.

What is meant is *qā'idah lughāwīyyah* is *qā'idah* which the Muslim scholars said were related to the purpose and objectives of Arabic expressions commonly used by the Arabs themselves, whether contained in literary terms as poetry, prose and so forth. Thus, the texts of the Quran and the Hadith is Arabic. To understand the laws in the second nash, it is ideally, and correctly the Muslim scholars 'feel the need to pay attention and do research about *uslub* (language style) Arabic and examine the method of appointment lafaz, nash who uses Arabic in a sense. *Ushul* scholars hard work making many methods used to understand texts and explore the laws *taklīfī* from other *nash*. In making *qā'idah*, the Muslim scholars 'are guided by two things; (1) *Madhlāt al-lughāwīyyah* is the definition of linguistic connotations and *al-fahmu al-'Arabī* based on Al-Quran and Ḥadīth, (2) The source (method) used by the Prophet Muhammad to explain the laws.

Regarding additional information from Ḥadīth, *lafaz nash* becomes clear and enters into the scope of the law of Syariah, which has legal certainty. The guidelines used on these two things, then the *ushul fiqh* scholars describe the Interpretation method of *fiqh*, which used to explore the law of *taklīfī* contained in the Quran and Ḥadīth. Scholars made rules that can be used to find out the ways of legal *istinbāt* and can compromise the texts in terms of birth appear contradictory. *Ta'wīl-nash*, which by delivery is not in line with the provisions of specific religious laws and avoid mistakes in legal terms and with that rule, will also be able to capture the objectives of Sharia from *nash* which is seen as the primary source

Arabic rules (*Lughāwīyyah*) are the rules used to obtain law by considering the aspects of the *maqāṣid shari'ah* (Sofian, t.t: 2). The science of *ushul fiqh* in diligence always pays attention to the rules of the *kullīyyah*, which have no value in the principles of international law. However, the names and terms are different. The rules all revolve around maintaining the soul of Islam in establishing laws and realizing the laws of justice, truth, equality, benefit by keeping emergencies. Because of the importance of the rule and its enormous benefits in influencing and guiding furu law 'if we need a proposition and restoring the wisdom of the jurists from all existing guidance or schools of thought by paying attention to the rules themselves, then they arrange various the book that is a treasure that is valuable to us.

### 3. Scope

As mentioned earlier, in the science of *usul fiqh*, the critical discussion usually involves two aspects when an attempt to find the law of something is made. These two aspects are the legal *istinbat* and the *ijtihad* method used. These two aspects are essential means for the jurists in determining the laws must be decided. On the other hand, there are usually significant differences in thinking between one expert and another. In the context of the approach, Ali Hasaballah, as quoted by al-Syawkānī, explained that there are two approaches in *istinbat*, namely approaches through linguistic rules and approaches through the introduction of meanings or meanings of Sharia (*maqāṣid al-sharīah*) (Hasballah, 1970: 324).

Language rules are used because they relate to the sharia texts, while the approach through *maqāṣid al-sharīah* is used because it concerns the will of the Sharia which can be known through the study of *maqāṣid al-sharīah*. Or it may be referred to as the first approach with *al-qawā'id al-lughāwīyyah* by approaching the source of Islamic law from the linguistic side and second as the method of meaning or *al-qawā'id al-ma'nawīyyah* by approaching the basis of Islamic law in terms of the meaning and purpose contained in behind the text. The approach of this language by al-Jabiri is alluded to in the *Bayānī* method even though the text is the most ordinary thing but does not mean that Burhani reasoning is omitted. Therefore, the two *istinbath* approaches above are included in this Bayani method.

In a second way, the meaning approach is usually traversed in several stages where the stage determines the law and the meaning of the existing lafaz. *First*, insist on the primary purpose of the text being revealed. At this stage, *istinbat* is based on the importance of realizing the five universal principles (*maqāṣid al-khamsah*), namely protecting religion (*hifẓ al-dīn*), soul (*hifẓ al-nafs*), mind (*hifẓ al-'aql*), descent (*hifẓ al-nasab*), and assets (*hifẓ al-māl*) (Nurizal, 2014: 7). *Second*, insist on the text. *Ilah* is a condition attached to the text as a basis for establishing a law. This method then gives birth to *qiyās* and *istiḥsān*. *Third*, adhering to the secondary objectives of the text as a means of supporting the achievement of the main goals. Slightly different from *istinbat*, which averages the legitimacy of the arguments in or outside the text (*istidlāl*). This stage gave birth to theories such as the *maṣālib*

*mursalab*, *'urf*, and *sadd al-dzari'ah*. In contrast, the fourth one adheres to the silence of Shariah which is usually used to solve problems that are not fixed in the text and cannot use *qiyās*. This stage gave birth to a theory like *istiṣāb*.

The scope of the Arabic language (*luḡhāwiyah*) refers to the four facets as follows; (1) to nash lafadz in terms of clarity and strength in his understanding of the intended meaning, (2) In terms of expressions and connotations, do you use the *ṣarīḥ* (clear expression), or use signals that contain implicit meanings; and whether to use the *manṭuq* or the deceased, (3) In terms of the coverage of the lafadz and the objectives thereof, in the form of general and unique, and *muqayyad* or *muṭlaq*, and terms of the form of the sequence (*ṣiḡhāt taklīf*).

These the rules of *luḡhāwiyah* itself aim to learn the rules of language about the *istinbāt* of the law itself so that there is no misinterpretation and others in understanding a pronunciation that is in the Quran and Ḥadīth with several existing Arabic language and literary methods. In other words, the believers should master the rules of Arabic so that they are not easily lied to by others. Especially now, so many people claim to be knowledgeable believers to deceive others by using Arabic but by tricking others. Some even pray to make infidels but use the Arabic language. The exact detail of this linguistic science is how we understand the language in the Quran and Sunnah. Many of the people use language as covert preaching or not accurate charges

## **FRAMEWORK OF 'AM**

### **1. Definition of 'Am**

'*Am* is a word that spends or covers everything that is appropriate for him without restrictions (Al-Qaththan, t.t: 272-283). The scholars differed on the general meaning, whether in the language he had *ṣiḡhāt* (a form of pronunciation) specifically to show it or not. Some scholars argue that in certain languages there are certain sigat which are essentially made to show the general meaning and are used in a manner in addition. To support this opinion; (a) Nassiyah Postulate: "And Noah called to his Lord and said, "My Lord, indeed my son is of my family; and indeed, Your promise is true; and You are the most just of judges!" He said, "O Noah, indeed he is not of your family; indeed, he is [one whose] work was other than righteous, so ask Me not for that about which you have

no knowledge. Indeed, I advise you, lest you be among the ignorant Hud 11: 45-46). The aspect that was made into the argument of this verse is that Noah faced Allah with the request because he held on to his word: "We actually saved you and your family" Allah justifies what Noah says. Therefore, the Quran answers with statements that show that the child is not included in the family; (b) Ijma'iyah Postulate. The [unmarried] woman or [unmarried] man found guilty of sexual intercourse<sup>904</sup> – lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion [i.e., law] of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment) Al-Nur 24: 2); (c) Ma'nawiyah Postulate. It is that the general meaning can be understood from the use of a particular lafaz which shows that if the lafaz is not made for general meaning it would be difficult for the mind to understand it. For example, the lafaz of terms, *istijhām* and *mauṣūl*. And they did not appraise Allah with true appraisal when they said, "Allah did not reveal to a human being anything." Say, "Who revealed the Scripture that Moses brought as light and guidance to the people? You [Jews] make it into pages, disclosing [some of] it and concealing much. And you were taught that which you knew not – neither you nor your fathers." Say, "Allah [revealed it]." Then leave them in their [empty] discourse, amusing themselves. al-An'am 6: 91.

## 2. The example of 'Am

وَلَمَّا أَن جَاءَتْ رُسُلُنَا لُوطًا سِيءَ بِهِمْ وَضَاقَ بِهِمْ ذَرْعًا وَقَالُوا لَا تَحْفَ وَلَا تُحْزِنْ إِنَّا مُنْجُونَ وَأَهْلَكَ إِلَّا أُمَّرَأَتَكَ كَانَتْ مِنَ الْغَابِرِينَ

33. And when Our messengers came to Lot, he was distressed for them and felt for them great discomfort. They said, "Fear not, nor grieve. Indeed, we will save you and your family, except your wife; she is to be of those who remain behind (al-Ankabut 29: 33). Based on the generality of the word "family" in the word of Allah above, then the prophet Noah asked Allah's promise when the flood had struck by asking Allah to save his son, including his family, that we can see in Hud 11: 45-46 that has been presented above.

## 3. Forms of Lafadz 'Am

Lafadz 'am has certain forms of sigah, including:

a) Lafadz "every" and "all"

كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ وَإِنَّمَا تُوَفَّوْنَ أُجُورَكُمْ يَوْمَ الْقِيَامَةِ فَمَن زُحِرَ عَنِ النَّارِ وَأُدْخِلَ الْجَنَّةَ فَقَدْ فَازَ وَمَا الْحَيَاةُ الدُّنْيَا إِلَّا مَتَاعُ الْعُرُورِ

Every soul will taste death, and you will only be given your [full] compensation on the Day of Resurrection. So he who is drawn away from the Fire and admitted to Paradise has attained [his desire]. And what is the life of this world except the enjoyment of delusion (Al-Imran 3:185). Lafadz "*kullu*" above, covers all units that are not limited in number.

b) Plural words accompanied by alif and lamm at first.

﴿وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُبْرِئَ الرِّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وُلْدُهُ بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَلَدِهِ وَعَلَى الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُم بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ﴾

“Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period]. Upon the father is the mothers' provision and their clothing according to what is acceptable. No person is charged with more than his capacity. No mother should be harmed through her child, and no father through his child. And upon the [father's] heir is [a duty] like that [of the father]. And if they both desire weaning through mutual consent from both of them and consultation, there is no blame upon either of them. And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable. And fear Allah and know that Allah is Seeing of what you do. (Al-Baqarah 2: 233). Mothers may breastfeed their children two complete years for whoever wishes to complete the nursing [period].” The word *al-walidat* in the verse is general in nature which includes every named or called mother.

c) A single noun to be translated by *alif lam*

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ  
مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِّن رَّبِّهِ فَآنتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ  
وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

“ Those who consume interest cannot stand [on the Day of Resurrection] except as one stands who is being beaten by Satan into insanity. That is because they say, "Trade is [just] like interest." But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to [dealing in interest or usury] - those are the companions of the Fire; they will abide eternally therein (Al-Baqarah 2: 275). “But Allah has permitted trade and has forbidden interest.”

d) Lafadz *asma' al-mamsbūl*

Such as *ma*, *alladzina*, *alladzi* and so on, one example is the Word of Allah in the Quran:

إِنَّ الَّذِينَ يَأْكُلُونَ أَمْوَالَ الْيَتَامَىٰ ظُلْمًا إِنَّمَا يَأْكُلُونَ فِي بُطُونِهِمْ نَارًا ۖ وَسَيَصْلَوْنَ سَعِيرًا

“Indeed, those who devour the property of orphans unjustly are only consuming into their bellies fire. And they will be burned in a Blaze (Al-Nisa 4: 10)

e) Lafadz *asma' al-syarat* (require isim, noun to require), such as the word *ma*, *man* and so on.

وَمَا كَانَ لِمُؤْمِنٍ أَنْ يَقْتُلَ مُؤْمِنًا إِلَّا خَطَاً ۚ وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً ۖ فَتَحْرِيرُ رَقَبَةٍ ۖ مُؤْمِنَةً ۖ وَوَدِيَّةٌ  
مُّسَلَّمَةٌ إِلَىٰ أَهْلِهِ ۖ إِلَّا أَنْ يَصَّدَّقُوا ۖ فَإِنْ كَانَ مِنْ قَوْمٍ عَدُوٍّ لَّكُمْ وَهُوَ مُؤْمِنٌ ۖ فَتَحْرِيرُ رَقَبَةٍ ۖ مُؤْمِنَةً ۖ وَإِنْ  
كَانَ مِنْ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ ۖ فَوَدِيَّةٌ ۖ مُسَلَّمَةٌ إِلَىٰ أَهْلِهِ ۖ وَتَحْرِيرُ رَقَبَةٍ ۖ مُؤْمِنَةً ۖ ۖ فَمَنْ لَّمْ يَجِدْ فَصِيَامٌ  
شَهْرَيْنِ مُتَتَابِعَيْنِ تَوْبَةً ۖ مِّنَ اللَّهِ وَكَانَ اللَّهُ عَلِيمًا حَكِيمًا ۙ

“And never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity. But if the deceased was from a people at war with you and he was a believer - then [only] the freeing of a believing slave;

and if he was from a people with whom you have a treaty - then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever Knowing and Wise (Al-Nisa 4: 92)

- f) *Isim nakirah* in the sentence sentence *nafi* (negative), like the word "*laa junaaba*" in the Word of Allah in the Quran.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا جَاءَكُمْ الْمُؤْمِنَاتُ مُهَاجِرَاتٍ ۖ فَامْتَحِنُوهُنَّ ۗ إِنَّ عَلَّم بِإِيمَنِهِنَّ ۗ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ ۖ فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ لَا هُنَّ حِلٌّ لَّهُمْ وَلَا هُمْ يَحِلُّونَ لَهُنَّ ۗ وَءَاتُوهُنَّ مَّا أَنفَقُوا وَلَا جُنَاحَ عَلَيْكُمْ أَنْ تَنكِحُوهُنَّ إِذَا ءَاتَيْتُمُوهُنَّ أَجُورَهُنَّ وَلَا تُمْسِكُوا بِعِصَمِ الْكُوفِرِ ۚ وَسْ ۖ لَوْ مَّا أَنفَقْتُمْ وَلَيْسَ لَكُمْ مَّا أَنفَقُوا ۗ ذَلِكُمْ حُكْمُ اللَّهِ يَحْكُمُ بَيْنَكُمْ ۗ وَاللَّهُ عَلِيمٌ حَكِيمٌ ۚ

“O you who have believed, when the believing women come to you as emigrants, examine them. Allah is most knowing as to their faith. And if you know them to be believers, then do not return them to the disbelievers; they are not lawful [wives] for them, nor are they lawful [husbands] for them. But give the disbelievers what they have spent. And there is no blame upon you if you marry them when you have given them their due compensation. And hold not to marriage bonds with disbelieving women, but ask for what you have spent and let them ask for what they have spent. That is the judgement of Allah; He judges between you. And Allah is Knowing and Wise (Al-Mumtahanah 60:10).

#### 4. Various uses of Lafaz ‘Am

- a) ‘Am which remains in its generality

وَوُضِعَ الْكِتَابُ فَتَرَى الْمُجْرِمِينَ مُشْفِقِينَ ۖ مِمَّا فِيهِ وَيَقُولُونَ يُبَيِّنُ لَنَا مَالِ هَذَا الْكِتَابِ لَا يُعَادِرُ صَغِيرَةً ۙ وَلَا كَبِيرَةً ۙ إِلَّا أَحْصَاهَا وَوَجَدُوا مَا عَمِلُوا حَاضِرًا ۗ وَلَا يَظْلِمُ رَبُّكَ أَحَدًا ۗ

“And the record [of deeds] will be placed [open], and you will see the criminals fearful of that within it, and they will say, "Oh, woe to us! What is this book that leaves nothing small or great except that it has enumerated it?" And they will find what they did present [before them]. And your Lord does injustice to no one (Al-Kahfi 18: 49). The word "*abadan*" is not general in nature without the possibility of specialization.

b) 'Am but what it is really meant is its speciality

فَنَادَتْهُ الْمَلَائِكَةُ وَهُوَ قَائِمٌ يُصَلِّي فِي الْمِحْرَابِ أَنَّ اللَّهَ يُبَشِّرُكَ بِيَحْيَى مُصَدِّقًا بِكَلِمَةٍ مِنَ اللَّهِ وَسَيِّدًا  
وَخَصُورًا وَنَبِيًّا مِّنَ الصَّالِحِينَ

“So the angels called him while he was standing in prayer in the chamber, "Indeed, Allah gives you good tidings of John, confirming a word from Allah and [who will be] honorable, abstaining [from women], and a prophet from among the righteous." (Al-Imran 3: 39). Lafadz ‘Angels’ in the verse above are common but what is meant is specifically, namely Angel Jibril.

c) 'Am that gets specialization

فِيهِ آيَاتٌ بَيِّنَاتٌ مَّقَامُ إِبْرَاهِيمَ وَمَنْ دَخَلَهُ كَانَ آمِنًا وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ  
سَبِيلًا وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ

“In it are clear signs [such as] the standing place of Abraham. And whoever enters it shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves - then indeed, Allah is free from need of the worlds (Al-Imran 3: 97). In it are clear signs [such as] the standing place of Abraham. And whoever enters it shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves - then indeed, Allah is free from need of the worlds.

## 5. The Law Implication Using *Dalil 'Am*

The opinion of most *ushul fiqh* scholars argues that 'Am shows *zanniyah* because contained in the lafaz 'Am most of which are intended are only a few or a portion the unit. *Zanniyah* itself, according to Muhammad Hashim Kamali, *zanni al-dalalah* in etymology (language) means unclear and not explicit (speculative). The best interpretation is the interpretation found throughout the Quran and looking for explanatory explanations needed in other parts in the same or even different contexts. *Hadith* is another source that complements the Quran and interprets it. The interpretation in a hadith then becomes an integral part of the Quran, and both bring binding authority. Then the

next source was the *ṣahābah* who qualified to interpret the Quran because of their closeness from the Prophet to *nāṣ*, the circumstances surrounding him and the teachings of the Prophet Muhammad (Firdaus, t.t: 35).

Whereas according to Abdul Wahhab Khallaf, the *ẓanni nāṣ* shows the meaning which allows it to be either subordinated or turned away from its original purpose (lughawi) to another sense (Khallaf, 1996: 67). In other sources, this is based on the rules agreed upon by scholars, that is:

ما من عام إلا خصص

"There is no one from the general lafaz, unless it is terminated (limited)"

العمل بالعام قبل البحث عن المخصص لا يجوز

"Do something based on theorem/lafaz 'Am before being investigated, there is Necessary to make sure the existence of takhsis, is not allowed. (Yasin t.t: 68).

The Ummah is not allowed to do something by *al-'Am* argument in establishing the law. Therefore, the urgency of the mujtahids to first examine the existence of takhsis or not, is high. If it is known that there is no *takhsis*, then the proposition of 'Am can be implemented, in accordance with the opinion of Al-Ghazali. The Ḥanafī group argues that in 'Am it shows its perfection, as long as there is no proposition to its *takhsis*:

#### a. **Takhsis and Mukhaṣṣis**

*Takhsis* is removing part of the units entered in the *lafadz 'Am* and *lafadz 'Am* that only applies to units still there. Which is not excluded from the provisions of the *lafadz* or the argument 'am (Fathoni, 2016: 45). When talking about *lafadz 'Am* and typical *lafadz*, it cannot be separated from *takhsis*. According to the *ushul fiqh* scholars, *takhsis* is an explanation of some of the *lafaz 'am*, not all. In other words, explain some of the units covered by the *lafadz 'am* with a proposition.

Ulama does not always make the *ḥadīth aḥād* able to *takhsis lafadz 'am* Quran even though looking at *lafadz 'am* Al-Quran is *ẓanni*. He sometimes adhered to the *lafadz 'am* Al-Quran and left the *ḥadīth aḥād*, but sometimes *takhsis lafadz 'am* Al-Quran with *ḥadīth aḥād*. *Mukhaṣṣis* is a proposition that is the basis to be applied

expenditure/limitation of the unit. With this statement, it can be concluded that the 'am argument still applies to divisions that still exist after being released by a particular indicated by the chassis. In the case of the chassis *shar'ī*; then between lafadz, which is termed with the *takhsīṣ* must be equal, such as the Quran with Quran or Quran with *Ḥadīth Mutawātir*. Likewise, the *Ḥadīth al-Ṣaḥīḥah* with *Ḥadīth al-Ṣaḥīḥah*. This opinion is more appropriate. However, the majority of scholars allow them to terminate the Quran with *Ḥadīth* even though the status of *Ḥadīth* is *Aḥād*, but the Hanafī clerics argued that only *Ḥadīth Mutawātir* or famous hadiths were allowed to end the Quran

## b. Various Kinds of *Mukhaṣṣis*

*Takhsīṣ*/terminate the *lafaz* 'am to some units. The unit can happens in one of four types (Yasin, t.t: 68): The words or sentences cannot stand alone, but must be related to other words in one perfect sentence. For example:

- (1) *Istiṣnā' mutṭaṣil*, are the exceptions of something similar, between *mustaṣnā'* with *mustaṣnā' minhu*. As in the sentence: "All citizens are present at the meeting today, except Mr. Ahmad". Between Mustasna, namely Pak Ahmad and the need for minhu, namely citizens are one type and one business. Allah said:

مَنْ كَفَرَ بِاللَّهِ مِنْ بَعْدِ إِيمَانِهِ إِلَّا مَنْ أُكْرِهَ وَقَلْبُهُ مُطْمَئِنٌّ بِالْإِيمَانِ وَلَكِنْ مَنْ شَرَحَ بِالْكُفْرِ صَدْرًا فَعَلَيْهِمْ  
غَضَبٌ مِّنَ اللَّهِ وَهُمْ عَذَابٌ عَظِيمٌ

*"Whoever disbelieves in Allah after his belief... except for one who is forced [to renounce his religion] while his heart is secure in faith. But those who [willingly] open their breasts to disbelief, upon them is wrath from Allah, and for them is a great punishment (Al-Nahl 16: 106)*

- (2) *Badal ba'ad min al-kull*, which means that not all are subject to orders, but what is desired is only partially carried out. Example in the sentence: "Collecting assignments is mandatory for anyone who has completed it". Allah said

فِيهِ آيَاتٌ بَيِّنَاتٌ مِّمَّا يُرْهِمُهُمْ وَمَنْ دَخَلَهُ كَانَ آمِنًا ۗ وَلِلَّهِ عَلَى النَّاسِ حِجُّ الْبَيْتِ مَنِ اسْتَطَاعَ إِلَيْهِ  
سَبِيلًا ۗ وَمَنْ كَفَرَ فَإِنَّ اللَّهَ غَنِيٌّ عَنِ الْعَالَمِينَ

“In it are clear signs [such as] the standing place of Abraham. And whoever enters it shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves - then indeed, Allah is free from need of the worlds (Al-Imran 3: 97)

“In it are clear signs [such as] the standing place of Abraham. And whoever enters it shall be safe. And [due] to Allah from the people is a pilgrimage to the House - for whoever is able to find thereto a way. But whoever disbelieves - then indeed, Allah is free from need of the worlds.” (Sahih international, 2004: 56). The thing that becomes badal (substitute) is "for whoever is able to find thereto a way" is the one who is kull (the whole human being) is whoever is human, also people who are *mukallaf*.

### (3) Adjectives word

Especifically that defines certain legal implications;

وَمَنْ لَّمْ يَسْتَنْطِعْ مِنْكُمْ طَوْلًا أَنْ يَنْكِحَ الْمُحْصَنَاتِ الْمُؤْمِنَاتِ فَمِنْ مَّا مَلَكَتْ أَيْمَانُكُمْ مِّنْ فَتْيٰتِكُمُ الْمُؤْمِنَاتِ  
وَاللَّهُ أَعْلَمُ بِإِيمَانِكُمْ بَعْضُكُم مِّنْ بَعْضٍ ۖ فَإِن كٰنِكُمْ هٰنَآءَ أٰهْلِيهِنَّ وَءَاثُوهُنَّ أَجُوْرُهُنَّ بِأَلْمَعْرُوْفِ مُحْصَنٰتٍ  
غَيْرِ مُسْفٰحٰتٍ ۖ وَلَا مُتَّخِذٰتِ أَعْدَانٍ ۖ فَإِذَا أَحْصٰتْ فٰنَآءَ أَتٰبِنَ بِفِحْشَةٍ ۖ فَعَلَيْهِنَّ نِصْفُ مَا عَلَى  
الْمُحْصَنٰتِ مِنَ الْعَدَابِ ۚ ذٰلِكَ لِمَنْ حٰشٰى الْعَنَتَ مِنْكُمْ وَأَن تَصْبِرُوْا خَيْرٌ لَّكُمْ ۖ وَاللَّهُ غَفُوْرٌ رَّحِيْمٌ ۙ

“And whoever among you cannot [find] the means to marry free, believing women, then [he may marry] from those whom your right hands possess of believing slave girls. And Allah is most knowing about your faith. You [believers] are of one another. So marry them with the permission of their people and give them their due compensation according to what is acceptable. [They should be] chaste, neither [of] those who commit unlawful intercourse randomly nor those who take [secret] lovers. But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free [unmarried] women. This [allowance] is for him among you who fears sin, but to be patient is better for you. And Allah is Forgiving and Merciful 9An Nisa 4: 25). Lafadz *fatayat* is an ‘*am* which can include those who believe or not. Given the adjective al-mukminat (the believer), the servant of the danger of not believing is not included in that definition.

(4) Words that contain the Terms

وَالْمُطَلَّعَاتُ يَرْتَبِصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ ۖ وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا ۚ وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ وَاللَّهُ عَزِيزٌ حَكِيمٌ

“Divorced women remain in waiting for three periods, and it is not lawful for them to conceal what Allah has created in their wombs if they believe in Allah and the Last Day. And their husbands have more right to take them back in this [period] if they want reconciliation. And due to the wives is similar to what is expected of them, according to what is reasonable. But the men have a degree over them [in responsibility and authority]. And Allah is Exalted in Might and Wise” (Al-Baqarah 2: 228). The good will for peace / peace from both parties (husband and wife) is not only one-sided, it is a condition to get the husband back together with his wife so that they can consult with each other and fulfill their obligations as husband and wife. If the conditions do not exist, returning to marriage is not allowed.

(5) *Ghāyah* or ultimate

Something which requires the law to remain in the cases mentioned earlier; while what is referred to afterwards there is no law. Lafaz *ghayah* has two forms: lafaz *hatta* حتى which means "so"; or lafaz *ila* / إلى means "until". Allah said

مَنْ اهْتَدَىٰ فَإِنَّمَا يَهْتَدِي لِنَفْسِهِ ۚ وَمَنْ ضَلَّٰ فَإِنَّمَا يَضِلُّ عَلَيْهَا ۚ وَلَا تَزِرُ وَازِرَةٌ وِزْرَ أُخْرَىٰ ۗ وَمَا كُنَّا مُعَذِّبِينَ حَتَّىٰ نَبْعَثَ رَسُولًا ۗ

“Whoever is guided is only guided for [the benefit of] his soul. And whoever errs only errs against it. And no bearer of burdens will bear the burden of another. And never would We punish until We sent a messenger” (Al-Isra 17:15).

(6) Sentences that can stand alone and continue with other sentences.  
Allah said

شَهْرَ رَمَضَانَ الَّذِي أُنزِلَ فِيهِ الْقُرْآنُ هُدًى لِّلنَّاسِ وَبَيِّنَاتٍ مِّنَ الْهُدَىٰ وَالْفُرْقَانِ فَمَن شَهِدَ مِنْكُمُ الشَّهْرَ فَلْيَصُمْهُ ۖ وَمَن كَانَ مَرِيضًا أَوْ عَلَىٰ سَفَرٍ فَعِدَّةٌ مِّنْ أَيَّامٍ أُخَرَ يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ وَلِتُكْمِلُوا الْعِدَّةَ وَلِتُكَبِّرُوا اللَّهَ عَلَىٰ مَا هَدَاكُمْ وَلَعَلَّكُمْ تَشْكُرُونَ

“The month of Ramadhan [is that] in which was revealed the Qur'an, a guidance for the people and clear proofs of guidance and criterion. So whoever sights [the new moon of] the month, let him fast it; and whoever is ill or on a journey - then an equal number of other days. Allah intends for you ease and does not intend for you hardship and [wants] for you to complete the period and to glorify Allah for that [to] which He has guided you; and perhaps you will be grateful” (Al-Baqarah 2:185).

The words: فَمَن شَهِدَ مِنْكُمُ الشَّهْرَ فَلْيَصُمْهُ shows to the obligatory fasting of Ramadan for everyone who experiences / gets the month of Ramadan, but then there are other sentences that stand alone and continue with the sentence:

ومن كان مريضا أو على سفر

This sentence is a declaration of the generality of every person who experiences the month of Ramadan, the sick person and the traveler, both of whom are allowed not to fast in the month of Ramadan, but he changes (*qadā*) in other months afterwards.

#### (7) Sentences that can stand alone and separate from the sentence.

Allah said on Quran Surah

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً ۖ وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا ۚ وَأُولَٰئِكَ هُمُ الْفَاسِقُونَ

“And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient” (Al-Nūr 24:4).

The word *al-muḥṣanāt* (good woman) in this verse is al-Am including the wife of someone who accuses herself and the wife of another person or woman who is not married. According to Ahmad Yasin, this similar case has happened to in prophet Muhammad where Hilāl bin ‘Umayyah complained to the Prophet accusingly his wife committed adultery. The Prophet said:

البينة أوجد على ظهرك

"Give valid proof or *had* it on your back?" Then he asked: "O Messenger of Allah if someone among us sees his wife at bring a man, do we have to go first to look for witnesses?" The Prophet still asked:

البينة أوجد على ظهرك

"The evidence, or limit your appearance"

(8) *Mukhaṣṣiṣ* that is not in the form of words or pronunciation

'*Aql* (mind), that is logical and tested reason. Allah said on Quran Surah

قُلْ مَنْ رَبُّ السَّمَوَاتِ وَالْأَرْضِ قُلِ اللَّهُ قُلْ أَفَاتَّخَذْتُمْ مِنْ دُونِهِ أَوْلِيَاءَ لَا يَمْلِكُونَ لِأَنْفُسِهِمْ نَفْعًا وَلَا ضَرًّا قُلْ هَلْ يَسْتَوِي الْأَعْمَى وَالْبَصِيرُ أَمْ هَلْ تَسْتَوِي الظُّلُمَاتُ وَالنُّورُ أَمْ جَعَلُوا لِلَّهِ شُرَكَاءَ خَلَقُوا كَخَلْقِهِ فَتَشَبَّهُهُ الْخَلْقُ عَلَيْهِمْ قُلِ اللَّهُ خَلَقَ كُلَّ شَيْءٍ ۖ وَهُوَ الْوَّحْدُ الْقَهْرُ

"Say, "Who is Lord of the heavens and earth?" Say, "Allah." Say, "Have you then taken besides Him allies not possessing [even] for themselves any benefit or any harm?" Say, "Is the blind equivalent to the seeing? Or is darkness equivalent to light? Or have they attributed to Allah partners who created like His creation so that the creation [of each] seemed similar to them?" Say, "Allah is the Creator of all things, and He is the One, the Prevailing" (Ar Ra'd 13:16). In the meaning of this verse reason cannot accept that Allah is not the Creator of Nature, the Lord of all things, Allah is perfect.

*Al-Hisr* (feeling), Just like Allah said that how hud-hud birds depicts the greatness of Queen Balqis in Yemen to Prophet Sulayman. In the Quran

إِنِّي وَجَدْتُ امْرَأَةً تَمْلِكُهُمْ وَأُوتِيَتْ مِنْ كُلِّ شَيْءٍ ۖ وَهِيَ عَرْشٌ عَظِيمٌ

"Indeed, I found [there] a woman ruling them, and she has been given of all things, and she has a great throne" (Al-Naml 27:23). People who have healthy mind can feel that the power, luxury and wealth of Queen Bilqis; however, she did not have any power compared to what was in the hands of Prophet Sulayman. The existence of feeling itself is not necessarily based on relativity and impropriety. Precisely with the existence of feeling, makes

complementary sense to know the meaning of the propositions/dalil that are more structured.

*Al-'Urf*, defined as habit. Like the words of the Prophet:

لا قطع إلا في ربع دينار

"Not subject to the law of cutting hands except (the result of the theft is up to) a quarter of a dinar".  
(HR.Abu Dawud)

The application and standard of exchange rates of dinar currency are for countries that do not use dinar as a means of legal payment submitted to the urf or local state fiscal customs. Things considered reasonable in an area do not rule out the possibility of being unnatural and even not feasible in other areas and vice versa. Therefore, the scholars differed in setting takhshih with custom or habit. According to the scholars of Hanafiyyah, it is permissible, whereas according to the number of scholars, it is unpermissible. The Hanafiyyah Ulama reasoned that it was customary to be able to takhshîsh al-nash because the Prophet Muhammad delivered the sermon is, of course, in the language (lughat) which they can understand following prevailing habits. Otherwise, undoubtedly the custom does not have legal influence and cannot inspire it. For example, from one hadith of Prophet:

أبما إنا بدينغ فقد طهر

Any skin that is tanned is sacred (H.R. Muslim)

The tanned skin above does not cover the dog's skin because they are on generally never tan and use it. In connection with the rejection of scholars in *takhshîsh al-nāsh* with customs or habit, Muhammad Abduh argue that after the third century, mufassir in interpreting the Quran many use their terms find in the life of the customs of the people. For example, *Lafaz* (wali) whose meaning is in the Quran is a helper later by them interpreted with a group of people which is given *karamah* or supernatural powers by Allah. And can predict something that hasn't happened. That interpretation thus, according to 'Abduh, not at know of the companions of the Prophet Muhammad (Hakim, t.t: 7).

## FRAMEWORK OF *KHAŞ*

### 1. Definition of *Khaş*

The definition of *khaş* is the opposite of understanding '*am* (general). Therefore, if we have understood the meaning of lafadz '*am* indirect, we can also understand the concept of *khaş* lafadz. The problem is not all authors describe *khaş* lafadz in their books about the definition of lafadz *khaşāh* definitively. A lot of literature said that the definition of *khaş* is only limited to the opposite of '*am*. This criticism was This conveyed by al-Amidi before adding the definition he set out (Hakim, t.t: 5). Al-Amidi defined *Khaş* as "An improper pronunciation to use together by a large amount." Another definition arranged by al-Khudahari Beik is "*Lafadz* whose object is the *dilalah* which means one by one/specific. According to the last definition, *khaş* lafadz it is determined to show one unit individually such as a man, named "Prophet Muhammad" or one group "nit like men in general, or some units which are unlimited in number such as "folk" or other lafaz in Unlimited form, but does not show all units.

### 2. Provisions of *Khaş*

- a) If *khaş* lafadz is born in the form of a legal text, it shows the meaning which is *khaş* in qath'i al-dilalah (clear and convincing instructions which is essentially determined for that. The law that applies to what is intended by lafaz it is *qath'i*.

لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَكِنْ يُؤَاخِذُكُمْ بِمَا عَقَدْتُمُ الْأَيْمَانَ فَكَفَرْتُمْ. إِطْعَامَ عَشْرَةِ مَسْكِينٍ مِنْ أَوْسَطِ مَا تُطْعَمُونَ أَهْلِيكُمْ أَوْ كِسْوَتُهُمْ أَوْ تَحْرِيرَ رَقَبَةٍ. فَمَنْ لَمْ يَجِدْ فَصِيَامَ ثَلَاثَةِ أَيَّامٍ. ذَلِكَ كَفْرَةُ أَيْمَانِكُمْ إِذَا حَلَفْتُمْ. وَاحْفَظُوا أَيْمَانَكُمْ كَذَلِكَ يُبَيِّنُ اللَّهُ لَكُمْ ءَايَاتِهِ لَعَلَّكُمْ تَشْكُرُونَ

"Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths. So its expiation is the feeding of ten needy people from the average of that which you feed your [own] families or clothing them or the freeing of a slave. But whoever cannot find [or afford it] - then a fast of three days [is required]. That is the expiation for oaths when you have sworn. But guard your oaths.

Thus does Allah make clear to you His verses that you may be grateful (Al-Maidah 5: 89).

- b) If there is a proposition that requires another understanding from the *kebaş* lafaz to other meanings, then the meaning of *kebas* can be transferred to what is desired by the argument. For example, on one of Prophet Muhammad hadith as follows:

فى اربعين شاة شاة

“For every forty goats is one goat for zakat”

According to Hanafi scholars in goat alms the hadith is prescribed to the more general who covers goats and price value (Sofian, t.t: 5).

- c) If in a legal case found both the law of ‘*am* and, the law of *kebaş*, then *kebaş* lafaz limits the enforcement of the law of ‘*am*. That is, the *kebaş* lafaz explain that what is meant in ‘*am* lafaz just the *afraad* only, which is not mentioned in *kebaş* lafaz.

- d) If there is a contradiction between the *kebaş* lafaz with the lafaz ‘*am* there are differences of opinion:

According to the Hanafī scholars, if only the two propositions coincided with its time, then the proposition of *kebaş*, *takhsīs*, ‘*am* lafaz, because of availability requirements for *takhsīs*. If both are not at the same time at here there are two possibilities: (1) if the ‘*am* lafaz comes later, (2) if *kebaş* lafaz comes later, then *kebaş* lafaz said ‘*am* lafaz in the *afraad* part. According to Majority of Scholars, there is no contradiction between theorems lafaz ‘*am* because both when it comes at the same time the *kebaş* gives explanation of what ‘*am*, because the general one is in the form of birth which I still possible to receive an explanation besides to be practiced according to its generality until it is known that there is a proposition *kebaş*. *Kebaş* lafaz is what explains lafaz ‘*am*.

## **IMPLEMENTATION OF AL ‘AM AND KHĀŞ IN CONTEMPORARY PROBLEMS**

- a) Fatwa Dewan Syari'ah Nasional-MUI No: 05/DSN-MUI/IV/2000 about Salam Trading

This fatwa was born due to 1) that the sale and purchase of goods by way of ordering and payment of prices in advance with certain conditions, referred to as greetings, has now involved the banking sector; 2) that in order for this method to be carried out in accordance with Islamic teachings, the DSN considers the need to establish a fatwa on greetings to be used as a guideline by shari'ah financial institutions. This fatwa decides related cases: *Payment terms*; the payment instrument must know the number and shape, both in the form money, goods, or benefits, payment must be made when the contract is agreed and payment may not be in the form of debt relief. *Goods terms*: the characteristics must be clear and can be recognized as debt, the specifications must be explained, submission is done later, the time and place of delivery of goods must be determined based on agreement, the buyer may not sell the item before receiving it, and you may not exchange items, except with similar item.

Provisions regarding Parallel Salam. It is permissible to do parallel greetings with conditions, the second contract separate from, and not related to the first contract. Delivery of Goods Before or When; the seller must deliver the goods in time with agreed quality and quantity and if the seller delivers the goods with more quality high, sellers may not ask for additional prices, if the seller delivers the goods with more quality low, and the buyer is willing to accept it, then he may not demanding a discount (discount). The seller can deliver the items faster than the time agreed with the quality and quantity of goods accordingly by agreement, and he may not demand additional price.

If all or part of the item is not available at the time submission, or lower quality and the buyer is not willing accept it, then it has two choices: a. cancel the contract and ask for the money back; b. wait until the item is available; cancellation of contract: Basically, cancellation of greetings can be done, as long as it is not harms both parties. Disputes: If there is a dispute between the two parties, then the problem was resolved through the Syari'ah Arbitration Agency after no agreement was reached through deliberation.

In consideration of the fatwa quoted by the hadith which allows buying and selling with Salam method.

عن ابن عباس أن النبي صلى الله عليه وسلم قال: من أسلف في شئ ففني كيل معلوم ووزن معلوم إلى أجل معلوم (رواه البخاري)

"Whoever does the salaf (Salam), should he do with clear doses and clear scales, for a known period of time" (Narrated by Bukhari). Indeed, this hadith is one of the khash hadith. Because there are other hadiths general nature which prohibits buying and selling when the goods are not available already.

عن حكيم بن حزام أن النبي صلى الله عليه وسلم قال: لا تبع ما ليس عندك عن عمرو بن شعيب عن أبيه عن جده قال: أن النبي صلى الله عليه وسلم قال: لا يجل سلف وبيع ولا شرطان في بيع ولا ربح لا يضمن ولا يبيع ماليس عندك ( رواه الخمسة وصححو الترمذي وابن خزيمة والحاكم

From Hakim ibn Hazam that the Prophet said: "Do not follow what is not." From Amr ibn Shu'aib from Abiu from his grandfather that he said: The Prophet said: He said: It is not permissible to sell, sell or sell two conditions You have nothing (H.R Tirmidzi).

Both the Hadith of Ḥākīm bin Hizam and 'Amr bin Syu'aib uses a form of prohibition in the context of nakirah. There are contradictions between the hadith of Hakim bin Hizam and 'Amr bin syu'aib forbids buying and selling that hasn't there are things with the hadith of Ibn Hizam allow sale and purchase which has no goods with a number of conditions. Ḥanafī solved this case with istihsan method. He shifts *كلي* universal provisions *عدي* to the provisions particular *جزعي*. However, it seems the DSN use the compromise method for resolve this contradiction. The method of compromise used is the method of *takhsīs al-'Am*. The hadiths 'Am are drawn on the provisions of the hadith of khâsh so that the hadith of the ability to buy and sell greetings is implementative.

b) Fatwa MUI No. 2/2010 about water recycle

The fatwa came because of four considerations which are: technological developments allow recycling of water which originally came from waste mixed with dirt, unclean objects, and other components that change absoluteness water. The use of recycled water in society increases along with a rapid increase in water demand and a decrease in the quality of water sources due to an increase in population, the pace of urbanization and industrial

development, and during there is no standard for halal use of recycled water so that questions arise about the law of utilization it is therefore deemed necessary to stipulate a fatwa on the use of recycled water for guidance.

The fatwa decided about general provisions and legal provisions. General provisions, is that first what is meant by recycled water is processed water (technological engineering) from water that has been used (*musta'mal*), exposed to unclean (*mutanajjis*) or who have changing one of its properties, namely taste, color, and smell (*mutagayyir*) so that it can reused. Secondly, two kullah water is water whose volume reaches at least 270 liters.

Legal provisions the law is as follows; (a) Recycled water is sacred purifying (*ṭahbir mutaṭahbir*), as long as it is processed in accordance with fiqh provisions; Jurisprudence provisions as intended in the provisions of law number 1 is in one of three ways following: *Tariqat al-Naḥb*: that is by means of drain unclean water or that has changed its nature so that what remains is water that is safe from unclean and which does not change one character. *Thariqah al-Mukatsarab*: that is by adding holy water again purify (*ṭahbir muthahbir*) on unclean water (*mutanajjis*) or change (*mutagbayyir*) until it reaches volume at least two kullah; and the elements that cause water changed to lost, and *Taghyir Tariqah*: that is by means of change unclean or water has changed its nature use tools that are can restore original traits the water becomes holy again purifying (*ṭahbir muthahbir*), with conditions: (a) The volume of water is more than two *kullab*; (b) The tools used must be holy; and (c) Water recycling can be used for ablution, bathing, purifying and unclean *istinja'*, and *halal* taken, used for cooking and for other purposes, as long as it is not harmful health.

In considering the fatwa, two contradictory hadiths are used then resolve with *ṭariqah al-jam'u* (compromise method). Method the compromise used is the method of *takhsīṣ al-'am* between the 'am hadit and other specific hadith.

عن أبي أمامة رضي الله عنه أن النبي صلى الله عليه وسلم قال: إن الماء طهور لا ينجسه شيء إلا ما غلب  
على رحيه وطعمه ولونه (رواه إبي ماجه)

It was narrated that Abu Umaamah (may Allaah be pleased with him) said that the Prophet And he said: The water is pure, and nothing is left for him except what has been overcome on his mercy, taste and color (HR. Ibn Maajah)

عن عمر رضي الله عنه قال سئل النبي صلى الله عليه وسلم عن الماء وما ينوبه من الدواب والسباع إذا كان الماء قلتين لم يحمل الخبث (رواه الحاكم)

It was narrated that 'Umar (may Allaah be pleased with him) said: The Prophet And he narrated that water and what comes from the animals and the seba ' If the water is two, it does not carry the slag. (HR. al-Hakim)

## CONCLUSION

Quran is the holy book of Muslims which is believed to be accurate and used as guidance in life. Quran contains the most incredible miracle because the more the Quran is opposed, the more it shows its truth. All aspects of life are covered in the Qur'an, although not in detail. Therefore, the language used in the Al-Quran is often a general language that requires further interpretation. In a more specific discussion, one method of interpretation is to understand linguistic rules. Explained in the previous debate, which discusses the rules *'am* and *kbāṣ*. The particular debate above will produce an explanation as follows: When there is an *'Am* pronunciation, and there is no argument that specifies it, then the statement must be interpreted to its generality and enforce the law for all units in which the meaning is covered. When there is a *kbāṣ*, the purpose can determine a direction in a certain way, as long as there is no regional argument and requires another meaning. When there is an *'Am*, and no argument specifies it must be interpreted generality and enforce the law for all units is covered. The statement is general, and some discussions *takhlīṣ* it, then the *lafadz* should be construed as the division of meaning that has been devoted out of the scope of the general purpose. Thus, the brief description of the article is still far from perfect. In short, it cannot separate the rules of Arabic and Islam. Because by Arabic Language, Allah has and will continue to preserve the Quran from its authenticity.

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