



Concept And Theory Of Legal Subjects In Islamic Law

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Info Articles	Abstract
Article History Received : 2024-08-15 Revised: 2024-08-18 Published: 2024-09-30 Keywords: <i>Mukallaf, Islamic law, legal subjects, taklif,</i>	<p>This study explores the concept and theory of legal subjects (mukallaf) in Islamic law, focusing on individuals deemed responsible for carrying out legal obligations (taklif). A mukallaf is defined as a person who is mature, rational, and free from hindrances such as coercion or ignorance, ensuring they understand and accept the responsibilities and rights imposed upon them by Islamic law. The dynamic nature of the mukallaf, shaped by time and place, highlights the importance of aligning legal rulings with the conditions of legal subjects. The research employs a juridical-normative approach, analyzing primary sources of Islamic law, such as the Qur'an, Hadith, and classical legal texts. This method focuses on examining the normative aspects of legal subjects and their evolving role within the framework of Islamic jurisprudence. Secondary data from scholarly works on Islamic law are also utilized to deepen the analysis of the mukallaf's criteria and responsibilities. The findings reveal that the legal obligations imposed on mukallaf must take into account their rational capacity, which influences their ability to fulfill taklif. Changes in societal context necessitate the continuous adaptation of legal rulings to ensure fairness and relevance. The study underscores that reason (aql) plays a central role in determining legal accountability, with the presence or absence of reason dictating the nature of the obligations imposed. In conclusion, the concept of mukallaf reflects a balanced relationship between law and its subjects, where the application of Islamic law must remain responsive to the evolving conditions of individuals while adhering to the principles of Sharia.</p>

I. INTRODUCTION

A harmonious, peaceful, and peaceful life is a life hope for all humans. Then, currently Islamic law has been present and continues to develop as a solution to life for the whole world (rahmatan lil álamín). The creation of a harmonious human life is one of the goals of the revelation of sharia. Sharia, namely the path or way, is a rule for life set by Allah SWT. to regulate all human life in the form of demands, choices, or provisions (Sakhawi, 2021).

لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمَنْهَاجًا

For every people among you, We give rules and a clear path. (Qs. Al-Maidah: 48).

Provisions from Allah SWT. which is referred to as Khitob for all mankind produces a taklifi law including obligatory, sunnah, permissible, makruh, haram, and wad'iy law including causes, conditions, maani' (Yahya, 2022).

Talking about sharia that is addressed to all mankind certainly cannot be separated from the factors that realize sharia law. So it is necessary to know that these factors consist of the Judge (Lawmaker) which is Allah SWT., then there is the

Mahkum bih/Mahkum fih (the result of Allah's Khitob) which is the object of law or the form of the law itself, and then there is the Mahkum alaih (subject of law) which is the perpetrator of the law. So this time we will discuss one of the factors that can realize the purpose of sharia, namely the Mahkum alaih or subject of law.

So the scholars of ushul fiqh have agreed that the legal actor in the science of ushul fiqh is called mahkum 'alaih. That is, someone who is able to accept the burden of law, his actions are subject to Khitob by Allah SWT. or also called mukallaf (Bahrudin, 2022, p. 117).

Theoretically, mahkum 'alaih is a person as an individual, not including institutions. A legal subject/actor who we are familiar with as mukallaf (mahkum 'alaih) has an important role in the implementation of a law or rule. A law and a mukallaf must always stand side by side to achieve a goal of sharia. This means that the law that is born must be in accordance with the circumstances of the mukallaf. It cannot be denied that there are changes in time and place. legal

subjects have also experienced many developments.

II. RESEARCH METHODS

This research uses a normative juridical approach, which is a research method that focuses on the study of legal norms written in legal texts, both in the Qur'an, Hadith, Ijma', and Qiyas. This approach focuses on analyzing the concepts and theories of legal subjects in the perspective of Islamic Law based on existing rules.

III. RESULTS AND DISCUSSION

A. Understanding Legal Subjects in Islam

In the books of fiqh or ushul fiqh, the term legal subject uses the terms mahkum 'alaih or mukallaf. Etymologically, mukallaf may Allah be pleased with you (tasydid lam) ism maf'ul from fi'il Kahl (kallafa) (tasydid lam) or كلفة (kalfah) means مشقة (masyaqqoh) which is heavy or difficult (Bahrudin, 2022, p. 341). Meaning according to the language mukallaf is a person who is burdened with a responsibility or law. While in terminology mukallaf is a person who is mature, rational, until the Islamic preaching, there is no barrier for him such as coercion or negligence so that he understands the responsibility imposed on him (Puteh & Arfa, 2022). There are many definitions of taklif or responsibility put forward by scholars to support the understanding of readers and researchers regarding the subject of law in the Islamic religion or mukallaf, including:

- Imam al-Mawardi in the book Adabudduniya wa ad-Din, taklif is an order to obey and a prohibition from sin. Imam al-Mawardi added that taklif is always related to Rughbah (Desire) and Rohbah (fear). Because taklif which is driven by obedience begins with desire or desire and increases because of fear (Bahrudin, 2022, p. 342).
- Imam al-Haramain stated that taklif is everything that is imposed on someone who is capable (Bahrudin, 2022, p. 342).
- Sheikh Muhammad al-Nawawi al-Bantani, taklif is a responsibility that is directed at the bearer of the law, namely the mukallaf, without burdening him.

According to some of the definitions above, it can be interpreted that a mukallaf is a perpetrator of taklif, namely the law that Allah has determined through His word which is often referred to as Khitob. Mukallaf is also a person who is considered capable of acting legally, both in relation to the commands of Allah SWT. and the prohibitions of Allah SWT. All legal actions carried out by mukallaf will be held accountable, both in

this world and in the hereafter. So the law that has been determined by Allah SWT. must be in accordance with the conditions of the perpetrator of the law or mukallaf. In this case, it is necessary to know what are the requirements for a mukallaf so that it can be said to be able to bear and realize a law.

B. Conditions For Mukallaf

The basis of themukallaf is to refer to the word of Allah SWT. in surah al-Baqoroh verse 286;

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا

Allah does not burden a person beyond his capacity. (Qs. Al-Baqoroh: 286).

From the verse above, which is the origin of taklif, it produces several views of ulama regarding the definition of taklif and mukallaf itself as previously stated and also several views on the conditions that must be fulfilled by amukallaf. quoted from the book Ushul Fiqh al-Islamiy by Doctor Wahbah al-Zuhaili regarding several requirements for amukallaf.

1. Amukallaf is able to understand a taklif proposition (Mafaid, 2020).

This is stated because a taklif is a khitob, and a khitob for an unreasonable person is impossible. Because reason is a tool to understand a taklif argument.

From these conditions several notes emerge;

- The purpose of understanding a taklif proposition is to be able to understand the meaning of the proposition perfectly, so that there is no record of making a taklif call based solely on a sense of trust and a sense of taqlid. So the lesson of an infidel, whether zimmiy or harbiy, is also the aim of the argument for taklif. Because they are able to understand the taklif arguments that Allah conveys. As stated by the Jumhur al-Fuqoha school of thought, every infidel is also someone who is subject to taklif (Washil & Azzam, 2023).
- An insane person (al-majnun) and a child who is not yet mumayyiz are not the target of taklif because of their inability to understand the arguments of taklif. However, small children who are mumayyiz cannot be said to be able to understand the propositions of taklif perfectly, such as understanding the nature of Allah SWT (Washil & Azzam, 2023).
- A ghofil person such as someone who forgets, is drunk or sleeps is not the target of the burden of taklif until he is conscious. Similarly, someone who is insane or majnun, scholars agree that he is not subject to the

burden of taklif. Because of their condition when they lose consciousness, they cannot understand the evidence of taklif (Atmaja, n.d.).

رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ: عَنِ الْمَجْنُونِ حَتَّى يَفِي قًا، وَعَنِ النَّائِمِ حَتَّى يَسْتَيْقِظَ، وَعَنِ الصَّبِيِّ حَتَّى يَحْتَلِمَ

"The pen has been lifted from three groups: from the crazy person until he wakes up, from the sleeping person until he wakes up, and from the child until he reaches maturity."

2. Amukallaf must be an expert in taklif.

The Expertthe meaning is Qudroh or power. Ahliyah can also be interpreted as eligibility, namely the power to understand and carry out a taklif argument and is worthy to be charged and carry out an action in accordance with that determined by the sharia (Abdul Jafar, n.d.). Ahliyah itself is produced from 2 main components, namely reason and understanding. Having reason is the main ability to produce an understanding. So Islamic jurisprudence scholars mention 2 general divisions in ahliyah, namely Ahliyah al-Wujub and Ahliyatul al-Ada' (Hani, 2022).

• The Experts of the Wujub(legal competence)

It is a legal capacity where a person is deemed to be able to receive the rights to which he is entitled, but is not yet able to be burdened with all obligations. Ushul fiqh scholars categorize Ahliyah al-wujub into 2 parts, namely Ahliyah al-wujub al-naqisoh and Ahliyah al-wujub al-kamilah (Prayitno, 2020).

The Experts on the Absolution of the Naqisohnamely legal capacity where a person is considered to be able to receive the rights that are his rights, but is not yet able to be burdened with an obligation. Like a fetus in the womb of a mother. The fetus is determined to be ahliyah al-wujub al-naqisoh, namely he can only receive what is his right such as inheritance, will and others, but not with his obligations such as the right to buy and sell and grants that require an obligation of ijab and qabul. So these 2 examples cannot be determined for him. As for things that have obligations to be fulfilled such as buying and selling and grants can be fulfilled on the condition that the fetus can be born alive (Bahruddin, 2022, p. 122).

The people of our creation are the ones who ...that is legal capacity where a person is considered able to receive rights and fulfill obligations. Usul fiqh scholars group in this category a child who has been born into the world until puberty and is rational. For example, children

who have not reached puberty, such as children under the age of 7, are generally categorized into this ahliyah. Because he has received his rights and must fulfill his obligations. However, it should be noted that the obligations to be fulfilled require the role of a guardian to be his representative for his obligations due to his weakness in attitude and thinking. So when there is a khitob in which there is an obligation to pay out part of the assets such as zakat, a guardian has a role to help in fulfilling his obligations. Therefore, a child who has not reached puberty has not been sentenced to enter ahliyah al-ada'(Bahruddin, 2022, p. 122).

• The Experts of Al-Ada'(ability to act)

Isa person's appropriateness to be considered valid for all his words and actions, both positive and negative. So if he enters into an agreement or agreement, his actions will be deemed valid based on the existence of the law and can produce legal consequences. Then, if he performs acts of worship such as prayer, fasting, Hajj or other obligatory acts, then these acts are considered valid and he must fulfill his obligation to abort his dependents (Sulfanwandi, 2021).

The majority of scholars of ushul fiqh agree that the time for ahliyah al-ada' to come is when a person reaches the age of taklif which is marked by 'aqil (reason) and baligh (adulthood). So when the mind is perfect, the expert on al-ada' is perfect. Then when the intellect decreases, the expertise in al-ada' also decreases. And when the mind is gone, the expert on al-ada' is gone. In the same way as Ahliyah al-wujub, ushul fiqh scholars also classify Ahliyah al-ada' into 2 types, namely Ahliyah al-ada' al naqisoh and Ahliyah al-ada' al-kamilah (Humaidi, 2021).

The expert on the existence of ..., this Ahliyah covers the criteria for a person from the mumayyiz period to the puberty period. At this time, rights and obligations have been established for him that must be fulfilled. Ahliyah al-ada' al-naqisoh is specifically assigned to those who have stupidity or stupidity that has not yet led to loss of reason. It's just that they have a lack of intelligence. Like not being able to differentiate between right and wrong (Sulfanwandi, 2021).

Due to the reduction of reason, ahliyah al-ada' becomes less perfect. However, it should be noted that ahliyah al-ada' al-naqisoh only applies to material transactions such as sales transactions, receiving gifted assets, allocating wills or waqf, and so on.

DR Wahbah al- Zuhaili in the book ushul fiqh al-islamiy distinguishes between worship and activities which are the rights between fellow

servants and the rights between a servant towards his Lord. So ahliyah al- ada' al- naqisoh only applies to rituals involving rights and obligations between fellow servants. These transactions are recorded because they allow for benefits and losses between one party and another. Therefore, a child who has just reached puberty and a person who has a lack of reason are considered less capable of handling such matters and need a guardian to represent them (Sulfanwandi, 2021).

The Experts on the Oneness of God, will be realized when a person's reasoning is perfect, which is marked by his maturity in fulfilling his rights towards Allah SWT. and his maturity and intelligence in fulfilling his rights towards other humans, such as the material transactions mentioned above.

C. Factors Affecting Ahliyah (Legal Competence)

There are several factors that can hinder the ahliyah mentioned above, this is called al-'Awarid al- Ahliyah. Omar plural of English which means habits that hinder. In terms of al-'awarid al- Ahliyah, it is something that can hinder humans so that their expertship or power is reduced or even lost. Al-'awarid al- ahliyah is divided into Samawiyah and Muktasabah (Tegal, n.d.).

Al-'Awarid al- Ahliyah al- Samawiyah, also called external obstacles, namely obstacles that arise from outside the human self and cannot be avoided. Such as;

1. Crazy (Al Jazeera), is the loss of reason that prevents humans from carrying out all their obligations. Both towards the rights of Allah and the rights of fellow servants. Imam Syafi'i said: "All obligations of worship have been dropped for a person who is crazy or has lost his mind, even when his mind has returned in the middle of the month of Ramadan, he is not obliged to replace the fasts he missed before." (Sulfanwandi, 2021)
2. Stupid (عته), namely someone whose mind is unstable so that he sometimes speaks and behaves like a normal person and sometimes like someone who has lost his mind.
3. Forget (Al-Nasaen)), namely the condition of a person who cannot present something he knows when he needs it.
God willing, God willing: God: God وَمَا اسْتَغْرَهُوا عَلَيْهِ "Indeed, Allah forgives my people when they accidentally, forget and are forced."
4. Sleep, (Noon) namely the negligence experienced by a person occurs naturally beyond the limits of will. A person who

experiences negligence like this makes him hindered by khitob taklif. The Messenger of Allah SAW. Said:

مَنْ نَامَ عَلَى صَلَاةٍ أَوْ نَسِيَهَا فَلْيُصَلِّهَا إِذَا ذَكَرَهَا

"Whoever falls asleep or forgets the time for prayer, then pray when he remembers."

5. Faint (The Prophet), which is a temporary loss of strength and consciousness that is usually triggered by brain or liver disease. It is clear that this incident makes a person hindered from khitob taklif. Even the impact of fainting on taklif is greater than sleep. Imam al-Syafi'i stated; "When someone faints during prayer time, then there is no need to make up for it. It is different with sleep, that sleep occurs based on human choice. However, fainting occurs suddenly without any choice."

In the book ushul fiqh al-islamiy by DR Wahbah al-Zuhaili there are 11 types of al-'Awarid al- Ahliyah al- Samawiyah. Others include slavery, illness, menstruation, childbirth and death. Al-'Awarid al- Ahliyah al- Muktasabah, also called internal obstacles are obstacles that arise from within humans (Sulfanwandi, 2021). These obstacles arise from the will and desire of humans who have the choice to dissolve in it. Such as;

1. Drunk (Al Saker), that is loss of reason caused by alcohol or similar substances so that the flow of speech is irregular and even to the point of not being aware of what is being done. So in this case, drunkenness is categorized into 2 parts, namely: permissible drunkenness such as drunkenness because of force, drunkenness because of drugs and others. This kind of thing, the majority of scholars judge it like someone who faints, the evidence of taklif will not reach him until he is conscious. Then there is drunkenness which is considered haram, such as drunkenness caused by all haram drinks. So this state of drunkenness in no way hinders his khitob, in fact he is guilty of not being able to fulfill his obligations and qodo' is required of him (Damanhuri, 2023).
2. Safah (God bless you) (wasteful or careless), in the term of the expert of Islamic jurisprudence, safah is wasteful in wealth. Spending his wealth beyond the limits of reason to the point of destroying himself and harming others. So in this case a person who is safah is categorized as a person who does not have ahliyah al-ada' or the ability to act in managing his wealth. Then when his safah disease is gone, he is given the right to manage the wealth he owns.

3. Safar (travelling), namely deliberately traveling to a place, which if riding a camel or walking would take three days or more. In this case, expert knowledge is not lost and there is no obstacle for him to implement a law. However, the Shari'a stipulates this as a reason for easing several things, such as being allowed to break the fast while fasting, and being allowed to pray multiple times and to make qoshor. Imam Malik and Imam Syafi'i added that the condition for a journey like this is that it is a permissible journey, not a journey involving sin.
4. Ikroh (coercion), forcing someone to do or say something that he himself does not want. Because every human behavior is always based on a desire to do when it is good, and an unwillingness when it is bad. So when he is forced to do something that is not his desire, an obstacle occurs to him against ahliyah. then it is well-known among Islamic scholars that ikroh requires Ilja', namely trying to ask for help. When the ikrah reaches this limit, the scholars agree that a taklif demand does not reach and falls on him. This is called Ikroh al-Malji' al-Kamil.
5. Khatha' (unintentional mistake), is a word or action that arises from someone due to unintentional or careless when doing it. For example, if someone shoots a bird, but is shot by a human. In this case the punishment is divided into 2; the first sees the punishment in terms of the rights of Allah SWT. then the element of unintentional can be used as a reason for the fall of ahliyah. then secondly, seen from the perspective of rights towards fellow human beings, the element of unintentional acts cannot be used as a reason for the fall of ahliyah (Damanhuri, 2023).

D. Taklif Towards Infidels

Furthermore, Islam is a condition for being subject to legal demands. In other words, whether the infidel with his infidelity is punished to carry out the burden of law or not. In this case there are differences of opinion among scholars. This difference of opinion occurs due to the consequences of legal retribution in the afterlife.

That the infidel When he dies as an unbeliever, there is no doubt that he will be repaid for his unbelief. But the question is, will they get a reward because they never prayed, fasted, zakat, hajj, etc.? In this case there are 3 opinions of scholars:

1. Imam Malik, most of the Syafi'iyah Ulama and some Mu'tazilah are of the opinion that

the sharia requirement, namely Islam, is not used as a benchmark for taklif. They are of the opinion that infidels are also part of the purpose of khitob taklif. This means that infidels will be punished for their actions in abandoning worship such as prayer, zakat, fasting and others. The arguments they put forward are; The verses of the Koran that command public worship also reach unbelievers. Unbelievers are not prevented from entering the reach of Allah's demands. If the infidels were not subjected to taklif with furu' things, there would be no threat to the infidels regarding the consequences of what they have done (Sulfanwandi, 2021). As stated in the letter al-Muddatsir verses 42-43.

مَا سَأَلَكُمْ فِي سَقَرٍ قَالُوا لَمْ نَكُ مِنَ الْمُصَلِّينَ

"What put you into Saqar (hell)? They answered: "We were not among those who prayed."

2. The majority The Hanafiyyah cleric, Abu Ishak al-Asfahani, is of the opinion that Islam is a valid condition for taklif. They argue that taklif does not fall on unbelievers. As for their argument; Their infidel status alone prevents the validity of every worship that is ordered. Such as prayer, zakat, fasting, hajj, and others. If the infidels were given a legal burden, they would certainly be obliged to make up for what they had left behind when they were infidels (Damanhuri, 2023).
3. a group of scholars who argue that infidels are subject to taklif to abandon prohibitions but are not subject to taklif to carry out orders. Their argument is because to carry out an ordered act, intention is needed, but not to abandon prohibitions.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The subject of law in Islam is known as mahkum alaih. Or often known as mukallaf. Mukallaf is a person who is mature, rational, and until he preaches Islam, there are no obstacles for him such as coercion or negligence so that he understands the responsibilities imposed on him and makes him the authority to accept the rights and obligations of the taklif that have been determined. The concept and method of legal subjects in Islamic law is a law and a subject or legal actor. must always stand side by side to achieve a goal of sharia. This means that the law that is born must be in accordance with the conditions of the mukallaf. It cannot be denied that

there are changes in time and place. The subject of law has also experienced many developments. Just as reason is the main benchmark for influencing a legal stance taken by amukallaf. The perfection and imperfection of reason, the presence and absence of reason determine what kind of taklif will be imposed on themukallaf.

B. Suggestion

From the above conclusions, there are several suggestions that can be developed in the context of Islamic law studies regarding the subject of law (mukallaf). First, this study must continue to pay attention to changes in time and place in the application of the law. As time progresses, aspects such as maturity and a person's rational ability may undergo a broader interpretation, especially in the face of modern challenges. Therefore, the concept of mukallaf needs to be updated contextually to suit the needs of contemporary society without abandoning the basic principles of sharia. Secondly, there needs to be a deeper understanding of the role of reason in determining the obligations (taklif) for mukallaf. A sound mind is the main requirement for a person to accept taklif, so the study of the capacity of the mind in various modern situations and contexts is very important. This includes considering the situation of individuals who may be under psychological or social conditions that impair the functioning of their intellect.

Finally, the synergy between the law and the subject of the law must remain the cornerstone. Every rule must take into account the conditions of the mukallaf and the changes they experience, in order to create justice in accordance with the objectives of sharia (maqasid al-shariah).

REFERENCE LISTAN

- Abdul Jafar, W. (n.d.). *BUKU AJAR USHUL FIQH 1 Adilatul Ahkam Muj'tama'(Dalil-Dalil Hukum Islam Yang Disepakati)*. CV Feniks Muda Sejahtera.
- Atmaja, F. K. (n.d.). *Uzur Jadzab Abu Abbas Zarruq*.
- Bahrudin, M. (2022). *TINJAUAN Urf TERHADAP TRADISI SIRAM JAMAS RUWAT PADA CALON PENGANTIN DALAM PERKAWINAN ADAT DI DESA JETIS KECAMATAN JETIS KABUPATEN PONOROGO*. IAIN PONOROGO.
- Damanhuri, D. (2023). The Existence and Form of Tafsir al-Munir by Wahbah al-Zuhaili. *Jurnal Ilmiah Al-Mu'ashirah: Media Kajian Al-Qur'an Dan Al-Hadits Multi Perspektif*, 20(1), 230–238.
- Hani, U. (2022). *Buku Ajar Fiqih Muamalah*. Universitas Islam Kalimantan MAB.
- Humaidi, M. (2021). *PENGANTAR ILMU USHUL FIQH: Periodisasi, Sumber, dan Metode Istinbath Hukum*. Penerbit NEM.
- Mafaid, A. M. (2020). Kecakapan Menerima Hak Dan Melakukan Perbuatan Hukum Dalam Tinjauan Ushul Fiqh. *El-Ahli: Jurnal Hukum Keluarga Islam*, 1(1), 88–102.
- Prayitno, D. N. S. (2020). Keabsahan Surat Pernyataan Hibah Untuk Salah Satu Ahli Waris Tanpa Persetujuan Ahli Waris Lainnya. *Indonesian Notary*, 2(4), 35.
- Puteh, Z., & Arfa, F. A. (2022). Non-Muslim Sebagai Subjek Hukum Islam dalam Konsep Mukallaf. *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum*, 11(1), 78–93.
- Sakhowi, S. H. (2021). Studi Komparasi Antara Madzhab Syâfi' i Dan Madzhab Hanbali Tentang Hukum Syarat Yang Diajukan Dalam Akad Nikah. *Al-Inṣāf*, 1(1), 46–68.
- Sulfanwandi, S. (2021). The Thought of Wahbah Al-Zuhayli in Al-Munir Fi Al-Aqidah Wa Al-Syari'ah Al-Manhaj [Pemikiran Tafsir al-Munir fi al-Aqidah wa al-Syari'ah al-Manhaj karya Dr. Wahbah al-Zuhayli]. *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum*, 10(1), 65–84.
- Tegal, S. K. B. K. (n.d.). *Analisis terhadap praktek poliandri di Desa Sigedong Kecamatan Bumijawa Kabupaten Tegal*.
- Washil, N. F. M., & Azzam, A. A. M. (2023). *Qawaid Fiqhiyyah*. Amzah.
- Yahya, H. I. (2022). *Politik Islam Dan Islam Politik (Pergolakan Hukum, Politik, Dan Islam Radikal)*. Penerbit Lawwana.