

## Reinterpretation of Legal Sources and Fiqh Products in Shia Ja'fariyah Legal Theory: A Historical Review

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### Abstract

One of the Shia sects that is currently developing in several Islamic countries is the Shia Ja'fariyah sect. In principle, this school is different from scholars in general in terms of understanding the sources of law and some of its fiqh products. This research aims to explain the reinterpretation of Shia Ja'fariyah legal sources and legal products in historical studies. The research method used is a normative juridical approach using library study materials, collecting primary and secondary legal sources, reviewing and analyzing according to the topic discussed in this research. The results of the research show that based on a historical review, there are differences between Shia Ja'fariyah in understanding the meaning of sources of Islamic law such as the Al-Qur'an, Hadith, Ijma' and Akal, as well as their understanding of several fiqh products regarding Khums and Nikah Mut'ah which are not accepted by Sunni ulama. The conclusion of this research shows that this difference is only a form of emphasis and approach regarding principles or understanding of the sources of Islamic law and strengthens his thinking about the permissibility of Muth'ah marriages and the concept of Khums based on history that occurred during the time of the Prophet Muhammad.

**Keywords** : Shia Ja'fariyah, Legal Sources, Legal Products.

### Introduction

In Islam, there are various schools of jurisprudence in formulating law, such as the Syafi'i, Hanbali, Maliki and Hanafi schools. As is well known, these four schools of thought are schools of thought that are widely adhered to by Muslims, especially Sunnis. Even though these four have different legal results, they are also found to be the same between one Sunni group and another Sunni group. In Indonesia itself, the Syafi'i school of thought occupies the top position as a school of thought that is strongly adhered to by many people.

<sup>1</sup>Along with historical developments, various Islamic legal theories have emerged and developed in various Islamic sects. There are two major Islamic sects which to this day have a very significant influence in Islamic society, namely the Shi'ite sect and the Ahlus Sunnah wa al-Jama' sect. Ah. The latter is usually called the Sunni sect.

The seeds for the emergence of these two large sects actually emerged since the death of Muhammad Rasulullah in 634 AD, when Muslims argued over who was worthy to replace the Prophet as leader of the people. Politically, polarization between these two large groups emerged after the reign of Ali ibn Abi Talib, when a group of Ali's supporters opposed Mu'awiyah's presence as ruler of the post-Ali Islamic world. <sup>2</sup>The polarization between these two groups becomes increasingly apparent when it touches theological areas, which then gives rise to the concept of imāmah (which is believed by the Shi'ite group) and the concept of khilāfah (which is put forward by the Sunni group). Both have a theological basis when making truth claims about what they believe.

Research that focuses on the history of Shia Ja'fariyah Islamic legal theory has been carried out by several previous researchers. The first journal was written by Lufaei, <sup>3</sup>Dani Muhtada, <sup>4</sup>Bahrul Hamdi and Ayen Saputra <sup>5</sup>. From the several studies above, research on studies that specifically discuss Reinterpretation of Legal Sources and Fiqh Products in Shia Ja'fariyah Legal Theory has not been written by previous researchers, and at the same time this is a differentiator between the authors and others.

This research aims to explain integrative studies between political policies and their relationship to community (social) life. To achieve this goal the author asks two research questions; First, what is the profile and history of Imam Ja'far's legal theory. Second, how is the reinterpretation or understanding of Shia Ja'fari regarding the sources of Islamic law and its fiqh products?

The method in this research uses literature review (field research) with the main data coming from journals, books and the internet. Data collection was carried out by reading, taking notes, grouping according to the themes discussed, then analyzed using descriptive, inductive and deductive theories.

This research is important to carry out with the argument that the Shia groups developing in the Islamic world today are not all the same in their interpretation of Islam, including the Shia Ja'fariyah sect, one of them. Through

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<sup>1</sup> Ahmad Baihaqi, *Biography of Imam Syafi'i: Untold Story of Imam Syafi'i and his Book* (Jakarta: Shahih Publishers, 1991), p. 97.

<sup>2</sup> MA Shaban, *Islamic History: (New Interpretation) 600-750*, Trans. Machnun Husein (Jakarta: RajaGrafindo Persada, 1993), p. 87.

<sup>3</sup> Lufaei, "Harmonism of Ja'fari and Hanafi Jurisprudence: Historical Studies and Legal Sources of Both," *Al-Afkar, Journal for Islamic Studies* Vol 2, no. No 1 (2019): p. 34.

<sup>4</sup> Dani Muhtada, "Ja'far Al-Šādiq and the Legal Paradigm of the Ja'far School," *Al-Abkam Journal* Vol 25, no. No 1 (2015): p. 54.

<sup>5</sup> Bahrul Hamdi, "Ja'fariyah Legal Theory (Historical Analysis of the Ja'far As-Sadiq School of Jurisprudence and Its Implications for Its Legal Products," *Alburriyah: Journal of Islamic Law* Vol 03, no. No. 2 (2018): p. 34.

reinterpretation, one can achieve a deeper understanding of a subject, thereby opening the door to a broader perspective or investigating previously unthinkable dimensions.

## Discussion

The theory or research method used in this research is using literature review (*field research*) with the main data coming from journals, books and the internet. Data collection was carried out by reading and grouping according to the themes discussed, then analyzed using descriptive, inductive theory and presenting it in writing. The specifications of this research are normative descriptive by describing and analyzing precisely the problems discussed.

## Discussion and Study Results

### a. Profile of Imam Ja'far As-Sadiq and the History of his Islamic Legal Theory.

Imam Ja'far's full name is Abu Abdillah Ibn Muhammad al-Baqir Ibn Ali Zainal Abidin Ibn Husain Ibn Ali Ibn Abi Talib al-Hasyimi al-Alawi al-Madani al-Sadiq. <sup>6</sup>He was born in 80 AH/699 AD. <sup>7</sup>Historians have different opinions regarding Ja'far's birth. Apart from 80 AH, there are also those who say that he was born in 83 AH and there are also those who say that Ja'far was born before these two years. However, the strongest history states that Ja'far Sadiq was born in 80 AH, namely in the same year as the birth of his uncle, Zayd ibn 'Alī Zaynal 'Abidīn.<sup>8</sup>

Apart from being known as an expert in jurisprudence, Imam Ja'far is also known to have mastered the sciences of philosophy, Sufism, chemistry and medicine. Among his students in the natural sciences was Jabir ibn Ḥayyan, an 8th-century alchemist and physician. Apart from that, Imam Ja'far is also considered a great teacher in the Sufi world, both among Shiites and Sunnis. Ja'far is included in the main lineage in the world of tariqah. <sup>9</sup>Because of his expertise in the field of jurisprudence, the Ithna Asy'ariyyah Shiites consider him to be the founder of this group's "school of law". The Shia Ithna Asy'ariyyah school of law itself is often called the Ja'fari school of law. Imam Ja'far's expertise in the field of law is not only recognized among Shiites, but also in the Sunni world. He had many Sunni students. Two high priests in Sunni jurisprudence were his students, namely Abu Hanifah al-Nu'man (d. 150 AH) and Malik ibn Anas (d. 179 AH). The hadiths narrated

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<sup>6</sup> Shihāb al-Dīn Abū al-Faḍl al-Ḥamad ibn 'Alī ibn Ḥajar al-'Asqalanī, *Tabdhīb Al-Tabdhīb*, (Beirut: Darr al-Fikr, 2016), p. 23.

<sup>7</sup> Cyril Glasse, *Encyclopedia of Islam (Abridged)*, Trans. Ghufron A. Mas'adi, Ed. 1 (Jakarta: RajaGrafindo Persada, 1999), p. 189.

<sup>8</sup> Muḥammad Abū Zahrah, *Tārīkh Al-Madhāhib* (Beirut: Darr al-Fikr, 1998), p. 505.

<sup>9</sup> Ahmad Amin, *Fajr Al-Islam* (Beirut: Darr al-Fikr, 1998), p. 165.

by him are also accepted among Sunnis. Even critics of hadith among Sunnis categorize it in degrees of *thiqah*.<sup>10</sup>

Like his ancestor, Abu Bakr al- *Ṣidiq* , Ja ' far earned the title " al - *Ṣhadiq* " because of his honest nature. Apart from that, he is also famous for his sincerity, patience, generosity and courage. <sup>11</sup>Ja ' far al- *Ṣā diq* died in 148 AH/765 AD at the age of 68 years and was buried in Baqi', near the graves of his father and grandfather, as well as the grave of Hasan ibn Ali ibn Abi Talib. <sup>12</sup>Ja'far is a very important figure in the history of Shi'ite development. Previously, Shi'ites tended to be political, positioning themselves as an opposition movement to the Umayyad government. Ja'far changed the orientation of the Shi'ite movement to a religious one.

Ja'fariyah Shia Islamic law is based on the teachings of Imam Ja'far al-Sadiq, who is the sixth imam in the line of succession to the Imamate in the Shia tradition. Imam Ja'far al-Sadiq lived in the eighth century AD and is considered one of the leading scholars in Islamic history. His followers revered him as a source of authority on all matters of law and theology. The teachings of Imam Ja'far al-Sadiq became the foundation for the history of Shia Ja'fariyah Islamic legal theory. He was a very influential scholar and had many students, including prominent scholars such as Abu Hanifah, founder of the Hanafi school of thought in the Sunni tradition. His teachings on law and theology became the basis for the development of the Ja'fariyah school of thought. Imam Ja'far once came to Kufa, Iraq and lived there for some time (around 132 AH/750 AD). It's just that his arrival in Iraq was not for the purpose of agitating his followers, of whom there were many in Kufa, against the government at that time. His arrival in Kufah was to confirm the existence of the *imāmah* which is believed among Shi'ites. Here Imam Ja'far found his doctrinal expression. It was then that his teachings were systematically recorded and recorded by his students. <sup>13</sup>There are two periods of Shia Ja'fariyah development, the first period is the period of legal enactment, which started from the sending of Muhammad as an apostle until his death in 11 AH/632 AD. The second period is the period of legal interpretation, namely from 11 AH/632 AD until Now.

## **b. Reinterpretation of Legal Sources in Shia Ja'fariyah Islamic Legal Theory and its Fiqh Products.**

As is the case in Islamic law in general, the interpretation of legal sources in Shia Ja'fariyah Islamic legal theory also includes the Al-Quran, Hadith,

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<sup>10</sup> al-'Asqalanī, *Tabdhib Al-Tabdhib*, p. 55.

<sup>11</sup> Thomas Patrick Hughes, *Dictionary of Islam* (New Delhi: Cosmo Publications, 1982), p. 224.

<sup>12</sup> Zahrah, *Tarikh Al-Madhabib* , p. 156.

<sup>13</sup> Abdul Azis Dahal, *Encyclopedia of Islamic Law, Volume 3* (Jakarta: Ichtiar Baru van Hoeve, 1996), p. 795.

Ijma', common sense, and Muslim consensus. However, there are some differences in emphasis and approach to these sources.

1. Al-Qur'an

The Koran is considered the main source of law in Shia Ja'fariyah Islam. However, the interpretation and understanding of the verses of the Koran are handled by scholars who have expertise in the science of exegesis. In exploring the laws of the Qur'an, one does not always have to adhere to its outer meaning, but more importantly its inner meaning. To obtain this inner meaning, a follower of the Ja'fari school of thought must have a marja', or place to ask, namely the priests.

On this basis, the Ja'fariyah consider the imams to be al-Qur'ān al-nā ṭ i q, namely Al-Qur'an that can speak, while those in the form of mu ṣ ḥ af are called al-Qur'ā n al- ṣ ā mit or the silent Qur'an . The content contained in the Qur'ā n al- ṣ ā mit is mujmal (global), therefore a follower of the Ja'fari school of thought must adhere to the understanding of the imams. The understanding of the imams will not conflict with the spirit of the Koran, because they are people who have received guidance from Allah and are free from sin (ma' ṣ ū m).

2. Hadith or Sunnah

The second guideline after the Koran in the Ja'fari school of thought is the Hadith or sunnah which is also an important source in Ja'fari Shia Islamic law. However, Ja'fariyah Shiites have a different hadith collection from the Sunni sect. Hadith narrated by Shia Imams are considered the highest authority in matters of Islamic law. Only authentic hadiths are accepted. Sunnah according to this school of thought is speech, action and justification through the silence of the Prophet and the ma' ṣ ū m priests.

This kind of understanding shows the difference with Sunnis who only attribute the Sunnah to the Prophet Muhammad. The Ja'fari school considers the words, actions, and justification through the silence of the imams to also be Sunnah. Therefore, everything that originates from the imams of ma' ṣ ū m has the same legal implications as that which originates from the Prophet Muhammad. Such a position of priest is a theological consequence of the belief that ma' ṣ ū m priests are the heirs of the Prophet in conveying God's message. They never made a mistake in conveying their message, just as the Prophet never made a mistake in conveying his message. The understanding of Sunnah put forward by the Shiite school of thought has a theological basis that they believe in, both in the Koran and the hadith of the Prophet.

3. Ijma'

The third source of law after the Qur'an and Sunnah is Ijma', according to this school of thought Ijma' means unanimous agreement of the ulama on an issue. Despite being the third source of law, the Ja'fari

school of thought does not consider *ijma'* to have independent legal force. *Ijma'* is not a true, independent *ḥujjah*. It is seen as *ḥujjah* as long as the *ijma'* explains a hadith. Thus, *ijma'* is only a manifestation of hadith. Apart from that, the only *ijma'* that can be accepted is the *ijma'* that occurred during the period of the Prophet or the period of the priests. If there is an agreement that occurs among the ulama at the present time, it cannot be considered as *ijma'*.

#### 4. Sense

Reason can be considered as a source of law as long as it does not conflict with what is expressed in the Qur'an and Sunnah. Its position is only as a tool used to discover certain laws that are actually implied in the Koran. Despite accepting reason as a source of law, the Ja'fari school of thought refuses to use *qiyās* and *istiḥsan* as does Abu Hanifah in the Sunni school of thought. They view that *qiyas* and *istihsan* are only based on pure imagination and conjecture which cannot be used as a basis for establishing laws. According to them, the Koran and Sunnah are sufficient to provide all the necessary legal regulations.

Regarding Ja'fari fiqh products, there are several provisions of Ja'fari fiqh which are basically unknown and do not apply in Sunni fiqh. Among them, are the issue of *mut'ah marriage* and the concept of *khums*.

##### 1. Mut'ah Marriage

In this *mut'ah marriage*, a person performs the *aqad* of marriage by specifying the length of time that will be used to carry out the marriage, for example one month, half a year, one year and so on. Sunni schools of jurisprudence strictly prohibit this type of marriage. The ban on *mut'ah marriages* by the Sunni school of thought was categorically rejected by the Ja'fari school of thought. According to them, during the time of the Prophet, the time of Abu Bakr, and the first half of Umar ibn Khattab's reign, this type of marriage was still widely practiced by several friends who were close to the Prophet. Among others, Zubayr ibn 'Awwām performed a *mut'ah marriage* with Asma' bint Abū Bakr al-Shiddiq. From this marriage two children were born: Abdullāh ibn Zubayr (2-73 H/624-692 AD) and 'Urwah ibn Zubayr (d. 92 H/710 AD). The basis of the Koran that they use is QS. al-Nisa' (4): 24 which means: "Then the wives you have interfered with, give them their dowry (perfectly) as an obligation."<sup>14</sup>

##### 2. Khums concept

According to the Ja'fari school of thought, it is an obligation to spend wealth on Muslims, just like *zakat*, which is intended for *ahl al-bayt*. People who do not fulfill it are included in the group that usurps the

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<sup>14</sup> Sayyid Muhammad Husain Fadlullah, *The World of Women in Islam*, Trans. Muhammad Abdul Qadir Alkaf (Jakarta: Lentera, 2000), p. 263.

rights of ahl al-bayt. Khums according to the Ja'fari school of thought was actually implemented during the time of the Prophet, but was later abolished by Abu Bakr. The basis used by the Ja'fari school of thought is QS. al-Anfal (8): 41 which means: "Know that indeed whatever you obtain, one-fifth of it (khums) is for Allah, the Messenger, relatives, orphans, the poor, and ibn sabil."<sup>15</sup>

## Conclusion

Imam Ja'far al- Ṣ ā diq, the sixth imam in Shi'ite theology, is a scientist and expert in jurisprudence whose credibility is recognized, not only in the Shi'ite group, but also in the Sunni group. This credibility is demonstrated by at least several Sunni jurist experts who have studied with him, as well as by categorizing Imam Ja'far with a degree of thiqah in the genealogy of hadith narration. The legal sources used in the Ja'fari school of thought are not much different from the legal sources used in the Sunni school of thought, which revolve around the Koran, Sunnah, Ijma', and Reason. Although there are different understandings of definitions regarding these sources of law. Such differences in determining the source of law are also found in the ushul fiqh discourse of the four schools of Sunni jurisprudence. For example, the existence of qiyas was recognized by Abu Hanifah, but did not find a place in the Hambali school of thought. For this reason, in the products of fiqh thought, only a few principle differences are found, such as in the provisions regarding mut'ah and khums marriages. Meanwhile, in other provisions, there are only small differences which usually occur in fiqh discourse, as also occurs in the Sunni fiqh tradition. The suggestions that the author can give that future researchers can carry out are regarding the Dynamics of Development of Shia Ja'fariyah Islamic Economic Law in the Context of Globalization or the Application of the Principles of Shia Ja'fariyah Islamic Law in the Modern Legal System.

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<sup>15</sup> Muhammad Jawad Mughniyah, *Fiqh Imam Ja'far Sadiq* (Beirut: Darr al-Fikr, 2003), p. 799.

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