The Formulation of The Meaning Darurah and Its Legality as a Method For Determining Islamic Law: Perspectives of the Four Madhabs

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ABSTRACT

Every Muslim can experience difficult and emergency conditions in various places. This condition impacts the application of Islamic law, which allows it to be inconsistent with the rules in general. The jurists agree that an emergency can be one of the bases and arguments for implementing Islamic law. However, the jurists also have different views regarding the terminological limitations of this condition. This research specifically describes the terminology of darurah according to the fuqaha of the four madhabs and the arguments for its legal basis in Islamic law. This type of research is qualitative library research that focuses on the views of the jurists regarding the terminology of darurah and the arguments for its legal basis in Islamic law in various literature by the jurists. This study found that the terminology of darurah from the perspective of classical jurists is comprehensive, not limited to the urgent need for food, but includes other forced and emergency conditions. That can also be seen in the different readings of the jurists on the problems of the branches of fiqh, when in an emergency which has the same goal, namely to protect al-akulliyat al-khamsah such as protecting the soul (nafs) and others. The argument for applying Islamic law is based on the sources of Islamic law, namely the Qur'an, hadith, ijma', and 'aqli, namely as a form of maslahah mursalah as the principles of usul and fiqh.

Keywords: Darurah, Islamic Law, Four Madhabs.

ABSTRAK

INTRODUCTION

Every Muslim can experience difficult situations and emergency conditions in various places. These situations and conditions impact the application of Islamic law, which may not be by the general provisions of Islamic law principles. In these difficult situations and emergencies, some Muslims apply darurah as the basis for implementing Islamic law. That was done because of living a life outside the bounds of the norm. Some also take it easy from Islamic law. Some also left their obligations due to the emergency and conditions. That is because they need to understand the concept of darurah and also still doubt the legality of darurah as the basis for implementing Islamic law. The issue of darurah has become a special concern for classical jurists. That can be seen from the various darurah terminologies in various Islamic legal literature. In their various works, the jurists have different views regarding the terminology of darurah and its basic legal arguments. In particular, this study describes the terminology of blood from the various views of the fudaha of the four madhabs of figh and the arguments for its legal basis.

Specific research related to the conception of blood includes; Iin Solikhin in a study entitled "the concept of darurah in Islamic law". This research explicitly only examines the terminology of darurah from the perspective of the Maliki school of thought. This research found that darurah is a coercive situation that results in being allowed to do forbidden things.¹ Aris conducted similar research under "effectiveness of figh darurah in solving contemporary legal problems". Explicitly, this research only cites the terminology from the perspective of Jalaludin Al-Suyuti. In his conclusion, Aris argued that figh darurah is one of the arguments or sources of establishing Islamic law. Including darurah in the list of sources of legal determination means summarizing all events from various situations and circumstances. Fikih darurah influences existing

legal provisions and has effectiveness in law enforcement to cover complex issues related to human existence and its interests. Another related research is Agus Nur Hakim’s research entitled "the concept of emergency in Islamic constitutional law". Explicitly, this research does not conceptually describe darurah terminology but only cites some of the views of the jurists. This research resulted in the finding that an emergency is a condition that comes, both individually and institutionally, making it possible to do prohibited things and carry out obligations according to the limits of their ability and authority in a state institution.

Theoretically and conceptually, these studies are different from the research studies. These studies do not describe the terminology of darurah from the perspective of the four schools of thought but only cite one of the views of the fuqaha. In addition, these studies also need to elaborate on the arguments for the legal basis of darurah so that a comprehensive understanding of terminology and legality is obtained as an argument for applying Islamic law. The limited research and research that describes the terminology of darurah from the perspective of the four madhabs and the arguments for its legal basis, as well as the urgency of explaining the concept of darurah as a proposition in the application of Islamic law, is one of the focus points that distinguish this research from other studies.

METHOD

In particular, this research is library research that focuses on the views of the jurists regarding the terminology of darurah and the arguments for its legal basis in Islamic law in various literature by the jurists. This study uses a comparative approach to Madhab. This approach compares the darurah terminology among the four madhab fuqaha to obtain broad conclusions related to darurah terminology. This research also outlines the various views of the jurists regarding the basis and basis of the legality of darurah as an argument in applying Islamic law. This research is expected to provide discourse and strengthen the concept of darurah as an argument and basis for the application of Islamic law, especially for every Muslim who faces difficult situations and

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conditions of *darurah* in various places, so that there is no doubt that *darurah* is one of the bases for applying Islamic law in situations emergency.

**DARURAH TERMINOLOGY IN ISLAMIC LAW**

Etymologically, the term *darurah* is *isim masdar* (noun) from the word *al-istitbar* الاضطرار, which means *al-ihtiyaj ila al-sayi* الاحتياج إلى الشيء. Ibn Manzur interprets the word to mean the need for something.\(^4\) Al-Zubaydi interprets this word with a very urgent need.\(^5\) In contrast to Al-Jurjani stated that the term *darurah* comes from the word *الضرر* which means *النازل بما لا مدفع له* namely danger or difficulty that cannot be avoided.\(^6\) Ibn Manzur interpreted this word with *الضيق* which means difficulties, and *سوء الحال* which means bad conditions.\(^7\) Meanwhile, Ibn Faris argues that the term *darurah* comes from the word *الضر* which means *خلاف النفع و ضد النفع* which is the opposite of benefits.\(^8\) In contrast to Al-Fayruz Abadi who stated that *darurah* has a meaning commensurate with *hajah*; *الحاجة* which means need.\(^9\) This meaning as mentioned by Shauqi Daif that the word *darurah* has several meanings which include; *الحاجة* namely needs, unavoidable pressures, and *المشقة* namely difficulties.\(^10\)

The various etymological definitions of *darurah* have the same meaning as in several verses of the Qur’an. In Q.S. al-Baqarah, verse 173\(^11\) mentioned; "فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَ لاَ عَادٍ فَلاَ إِثْمَ عَلَيْهِ" But whoever is forced to (eat it), not because he wants it and does not (also) exceed the limit, then there is no sin for him ".\(^12\) This verse provides an explanation that in a condition of the *اضطرار* (emergency or forced) due to hunger, a

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\(^11\) al-Qur’an, 2:173.

person is allowed to consume carrion and other prohibited things. Based on this verse, the pronunciation of الاضطرار shows the meaning of a person's difficulties, namely a very urgent need for food.

Another mention of darurah is also mentioned in Q.S. Jusuf verse 88 which reads; "they say, O Al-Aziz, we and our families have been afflicted with tribulation." In addition, in Q.S. Al-Anbiya's verse 83 also mentioned; "And (remember the story of) Job, when he prayed to his Lord, "(O my Lord), indeed, I have been afflicted with a disease, whereas You are the Most Merciful of all the merciful." The two verses in Q.S. Yusuf verse 88 and Q.S. Al-Anbiya' verse 83 explain that the word الضر shows the meaning of a very difficult condition. The pronunciation also has the same meaning as the pronunciation of الاضطرار as in Q.S. al-Baqarah verse 173 mentioned above. Thus, the etymological meaning of darurah can be concluded to show the meaning of الاضطرار إلى الشيء which means need or difficulty for something.

Table 1
Formulation of the meaning of darurah according to etymology

<table>
<thead>
<tr>
<th>No</th>
<th>Origin of the word</th>
<th>Meaningful Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>الاضطرار</td>
<td>الاحتياج إلى الشيء</td>
</tr>
<tr>
<td>2</td>
<td>الضرر بما لا مدفع له</td>
<td>النازل بما لا مدفع له</td>
</tr>
<tr>
<td>3</td>
<td>ضر النفع</td>
<td>ضد النفع</td>
</tr>
<tr>
<td></td>
<td>حلاج النفع</td>
<td>الحاجة</td>
</tr>
<tr>
<td></td>
<td>السيدة لا مدفوع لها</td>
<td>المشقة</td>
</tr>
</tbody>
</table>

14 al-Qur’an, 12:88.
16 al-Qur’an, 21:83.
Meanwhile, the term darurah in fiqh literature also has various definitions. The various definitions are still general and also have similarities with etymological meanings. Several definitions of darurah have been put forward by the Hanafiyyah fuqaha. Al-Jasas, for example in Ahkam al-Quran, when talking about the مخمصة (severe hunger conditions) defines darurah as خوف الضرر على نفسه أو على بعض أعضائه بترك الأكل, namely "a person's fear of danger that threatens his life or some of his limbs if he does not consume something needed".18 This definition is in line with Al-Sarkhasi's view. In al-Mabsut it is stated that darurah is خوف التلف على النفس أو عضو من أعضائه "worry about loss of life or one of the body's members". In his view, Al-Sarkhasi stated that protecting life and limb from harm is the same obligation.19 Based on these definitions, it can be concluded that the condition of darurah in the view of the Hanafiyyah fuqaha refers to the meaning of "worry over the loss of life or limb if one does not consume what is needed".

Like the Hanafiyyah jurists, some Malikiyyah jurists also provide definitions of darurah. Al-Dasuqi in Hasiyah al-Dasuqi argues that darurah is الخوف على النفس من الهلاك علما أو طنا "concerns about loss of life based on beliefs or presumptions".20 This definition limits the meaning of darurah only to the condition that one will lose one's life, whether based on belief or presumption. Al-Dasuqi's definition differs from the broader formulation by the Hanafiyyah jurists, which covers conditions that will cause loss of life and limb.

With the same meaning, the Shafi'iyyah fuqaha also provide various definitions of darurah. Al-Ghazali in al-Wasit fi al-Madhhab stated that; الضرورة أن يغلب على ظنه الهلاك إن لم يأكل "darurah is a condition in which one will definitely lose one's life if one does not eat something that is forbidden".21 Meanwhile, Al-Zarkashi in al-Manthur fi al-Qawa'id argues that; الضرورة بلوغه حدا إن لم يتناول الممنوع هلك أو قارب "darurah is the arrival of a person in a state where if he does not carry out the prohibition, surely he will perish or harm". These conditions include food and clothing emergencies. These

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conditions can be the basis for someone being allowed to consume and use something that is prohibited. In addition, Al-Suyuti in al-Ashbah wa al-Nazair also stated that: "darurah is a condition of a person at a limit where if he does not consume something that is prohibited then he will perish or be in danger". Based on some of these definitions, it can be concluded that the meaning of darurah in the view of the Shafi'iyyah fuqaha refers to "the arrival of a person at the limit of certain conditions that he will perish or be in danger if he does not use or consume something that is prohibited". The formulation of the definition of the Shafi'iyyah fuqaha can be considered broader because it includes darurah in food and others.

The definition of darurah was also put forward by the Hanbaliyah jurists. With various editorials, the formulation of the Hanbaliyah jurists in substance also has the same meaning as the definitions of the previous jurists. It is like the definition of Ibn Qudami in al-Mughni which states that; "durah is the fear that you will perish if you don't consume something". Meanwhile Al-Hajawi in Al-Iqna' states that a person in a forced situation, whether living or traveling, is afraid of perishing due to hunger or fear if he does not eat will not have the energy to be separated from the group and will endanger himself. It is obligatory for him to consume something that is forbidden to preserve his life. The definition of the Hanbaliyah jurists is basically in line with the formulations of the previous jurists. This definition is still limited and only includes blood in food.

The various definitions put forward by classical jurists have editorial differences. However, they share the same views on substance. The similarity of views can be seen from the formulation of the definitions. The formulation of the definition shows the urgent need to consume foods that are prohibited because of fear of losing one's life. In addition, the formulation of the definition of the fuqaha also has a limited meaning.

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The formulation of the definition is limited to one aspect only. In another sense, the definition of the classical jurists negates various other considerations that can be categorized as darurah. As a principle and basis for the application of Islamic law, it requires the abolition of the original law relating to orders or prohibitions, as well as the need to safeguard 'al-kulliyat al-khamsah', namely the five interests that must be protected, including; religion (din), soul (nafs), reason ('aql), wealth (mal), and offspring (nasl) and others.

### Table 2
The formulation of the meaning of darurah in the terminology of the four schools of thought

<table>
<thead>
<tr>
<th>Definition of Madhhab</th>
<th>Definition</th>
<th>Coverage</th>
<th>Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hanafiyah</td>
<td>Fear of loss of life or limb if not consuming what is needed</td>
<td>Food</td>
<td>Includes protection of life and limb</td>
</tr>
<tr>
<td>Malikiyyah</td>
<td>Fear of loss of life is both based on belief and presumption</td>
<td>Food and more</td>
<td>Limited to life protection only</td>
</tr>
<tr>
<td>Shafi’iyyah</td>
<td>When a person reaches the limit, it is certain that he will perish or be in danger if he does not use or consume something that is prohibited</td>
<td>Food and more</td>
<td>Includes protection of life and limb</td>
</tr>
<tr>
<td>Hanbaliyah</td>
<td>Worry will perish if you don't consume something</td>
<td>Food</td>
<td>Limited to life protection only</td>
</tr>
</tbody>
</table>

The definition of darurah by classical jurists is seen in only one aspect. These definitions are limited to the aspect of food and are partial. That is what has encouraged contemporary jurists and taken it as a consideration to redefine the definition and meaning of darurah more comprehensively. Contemporary jurists are redefining the meaning of darurah with a different approach and extrapolating the definitions of classical jurists. This redefinition was also carried out to explain the contradictions that appear in the views of these jurists.

Several contemporary jurists have redefined the meaning of darurah. Abu Zahrah, for example, defines darurah as "concern about survival if you don't consume
something that is prohibited or worry about losing all your assets". The darurah condition is the condition of a person who has no choice for him to carry out a case by the provisions of the basic law. However, this condition requires a person to carry out a case that conflicts with the original law. In another sense, darurah is "the arrival of a person to the condition of 'al-maslahah al-daruriyyah', a condition that cannot be avoided except by doing things that are prohibited, by not violating the rights of others".

With a different explanation, Ahmad Zarqa' is of the view that the حجة ضرورة is pressure that exceeds the need. In al-Madkhal al-Fiqhi al-'Am, Ahmad Zarqa' defines darurah as "a condition that results in danger, if it is violated as is the case in a state of compulsion and fear of perishing from hunger". Ahmad Zarqa' gives examples such as the condition of a person under coercion or threats, a condition of hunger which is feared will bring destruction or destruction. These conditions can be the basis for a person obliged to carry out a case contrary to the law of origin.

**EMERGENCY LIMITS AND STANDARDS**

Referring to the explanation of the definition of darurah from these experts, it can be understood that in order to determine a condition that can be categorized as darurah, it is necessary to establish boundaries for darurah or its conditions. These limitations are standards and measurements so that darurah laws can be implemented and also become grounds for violating general fiqh principles in determining what is unlawful and determining what is obligatory because of darurah. Thus, not everyone who claims the existence of blood can be accepted or justified. The limitations in question are for clarification and to limit the terminology of darurah. These limitations include the following:

a. The emergency condition must already exist, not be waiting for it. In other words, fear of destruction or danger to 'al-kulliyat al-khamsah', namely; religion

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(din), soul (nafs), reason (‘aql), property (mal), lineage (nasl) really exist in reality. That can be known based on existing experiences.  

b. People forced into a state of emergency do not have other alternative options and are forced to violate the general principles of fiqh. In another sense, there is no other justified way to avoid harm other than violating and contradicting the general principles of fiqh.

c. The implementation of darurah must not violate basic syara' principles, such as violating the rights of others, or bringing about greater harm.

d. Leave the determination of emergency conditions and urgent needs in general science, such as medicine and economics, to experts in these fields, such as specialist doctors and economists.

e. Measuring blood levels based on the level of need. In another sense, the implementation of darurah is within the limits of minimum requirements without providing concessions and additions or being excessive. People who are in a state of darurah limit themselves to things that are justified in doing so to avoid harm. Creating freedom that exceeds the limits of urgent needs is not permissible.

BASIC FOOTHOLD OF DARURAH AND ITS LEGALITY BASIS

The jurists agree that the condition of darurah in Islamic legal literature is a proposition which can be used as a basis for the application of Islamic law. This view is based on the principle of "darurah", as a general theory that has broad reach, is the basis for the flexibility of various syara' laws, both related to belief systems (aqeedah),

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29 Ibid., 69.
30 Ibid., 70.
31 Muhammad Abul Fatah al-Bayanuni, Fiqh al-Durarah; Ma'alimuhu wa Dawabituhu (Kuwait: Dar al-Iqra', 2011), 158.
32 Ibid., 160.
rite systems (worship), government and muamalah. The argument for darurah as a proposition is based on sources of Islamic law, namely the Qur'an, hadith, ijma'. The darurah blasphemy is also based on 'aqli, namely as a form of maslahah mursalah which originates from maqasid al-shari'ah. Apart from that, the dharurah blasphemy is also based on the principles of ushul and fiqh.

In general, the hujjahan darurah as a basis for enforcing Islamic law rests on the main source of the Qur'anic texts which include;

First; word of Allah SWT in Q.S. al-Baqarah verse 173 which reads:

إِنَّمَا حَرَّمَ عَلَى الَّذِينَ آمَنُوا الْمِيتَةَ وَالِدَمَ وَلحم الخَيْرَاتِ وَمَا أَهْلَهُ يَعْبُرُونَ الَّذِينَ كَفَرُوا اضْطُرُّوا غَيْرَ بَغْرَةٍ وَلا عَدْلَ عَلَٰٓهِ فِى أَنْفُسِهِمْ عَلَىٰ اللَّهِ غَفُورٌ رَحِيمٌ

Indeed, Allah has only forbidden you carrion, blood, pork and animals that (when slaughtered) are called (names) other than Allah. But whoever is forced to (eat it), not because he wants it and does not (also) exceed the limit, then there is no sin for him. Indeed Allah is Forgiving, Most Merciful. (Q.S. al-Baqarah: 173).

The verse explains that in a forced situation, because he is hungry, does not have anything to eat, is forced, and is afraid of getting the danger from that coercion, then there is no sin for him to eat something forbidden. That is because in an emergency, Allah relieves someone, and there is no sin for him. The explanation of the verse shows that the law of something prohibited in an emergency condition becomes lawful. This view is expressed by experts such as Al-Jasas in Ahkam al-Quran, Al-Mawardi in al-Nakt wa al-Uyun, Ibn `Atiyah in al-Muharriru al-Wajizu fi Tafsiri al-Kitab al-Aziz, and Al-Qurtubi in al-Jami’u li Ahkami al-Quran. In addition, Wahbah Zuhaily in Tafsir al-Wajiz also states that Q.S. al-Baqarah verse 173 is the argument for a rule

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37 al-Qur’an, 2:173.
38 Mushaf al-Azhar al-Qur’an dan Terjemah, Juz 1, 26.
39 Abu Bakr Ahmad al-Razi al-Jasasj, Ahkam al-Quran, Jilid 1, 156.
that is "الضرورات تبيح المحظورات" which means emergency conditions allow forbidden things. Based on the explanation of the verses and rules, it can be understood that everything that is forbidden while humans need it becomes halal.

Second; word of Allah SWT in Q.S. al-Maidah verse 3 which reads;

It is forbidden for you (to eat) carrion, blood, pork, (meat of animals) slaughtered in the name of other than Allah, those that are suffocated, those that are beaten, those that fall, those that are gored, and are eaten by wild animals, except those that you could slaughter, and (it is forbidden for you) who were slaughtered for idols. And (it is also forbidden) to draw fate with arrows, (to draw fate with arrows) is wickedness. On this day the disbelievers have given up on (beating) your religion, so do not be afraid of them and fear Me. On this day I have perfected your religion for you, and I have completed my favor on you, and I have pleased Islam to be your religion. So whoever is forced through hunger without knowingly commits a sin, verily Allah is Forgiving, Most Merciful. (Q.S. al-Maidah: 3).

The statement in Q.S. al-Maidah verse 3 explains various kinds of foods that are forbidden to eat, such as; carrion, blood, and the same punishment, in the form of five types of dead animals mentioned in verse, as well as animals slaughtered not in the name of Allah SWT. However, in an emergency due to hunger, forcing someone to eat without exceeding the limit and intending to act immorally, Allah will forgive that person, and it is not considered a sin. Responding to this, the jurists believe that the forgiveness of sins in this verse makes the law of something unlawful lawful when needed. This view, as stated by Al-Razi in al-Tafsir al-Kabir the forgivness of sins in this verse makes the law of something unlawful lawful when needed. This view, as stated by Al-Razi in al-Tafsir al-Kabir that is lawful when needed. This view, as stated by Al-Razi in al-Tafsir al-Kabir (Beirut: Dar al-Kutub al-'Ilmiyyah, 1990), 111.

Third; word of Allah SWT in Q.S. al-An'am ayat 145 which reads;

43 al-Qur'an, 5:3.
47 al-Qur'an, 6:145.
Say, "No revelation was revealed to me in revelation, something that is unlawful for people who want to eat it, except if the food is carrion, or flowing blood or pork – because in fact all that is dirty – or animals slaughtered in the name of other than Allah. Whoever is in a forced situation, while he does not want it and does not (also) exceed the limit, then indeed your Lord is Forgiving, Most Merciful (Q.S. al-An’am: 145)." 49

Fourth; word of Allah SWT in Q.S.al’An’am ayat 11950 which reads;

Why do you not want to eat (lawful animals) that are called by the name of Allah when slaughtering them, when in fact Allah has explained to you what He has made unlawful for you, except what you are forced to eat. And indeed most (of people) really want to mislead (others) with their passions without knowledge. Truly your Lord, He is the One who knows best those who transgress. (Q.S.al-An’am: 119). 51

Fifth; word of Allah SWT in Q.S. al-Nahl ayat 11552 which reads;

Verily, Allah has only forbidden you (to eat) carrion, blood, pork and what is slaughtered by mentioning names other than Allah; but whoever is forced to eat it without wronging or transgressing, then surely Allah is Forgiving, Most Merciful. (Q.S. al-Nahl: 115). 53

As mentioned in Q.S al-Baqarah verse 173 and Q.S. al-Maidah verse 3, which explains that an emergency condition can be the basis for the lawfulness of something prohibited, two verses in Q.S. al-‘An’am verse 145 and verse 119 and Q.S. al-Nahl verse 115 also provides the same explanation. These verses explain that something unlawful becomes lawful in an emergency.

In addition to the Al-Qur’anic texts, the argumentation of darurah as an argument in applying Islamic law is also based on several hadiths. These hadiths are both general and specific, which explains darurah. One of these hadiths comes from Abi Waqid al-Laithiyyi, which reads;

49 Mushaf al-Azhar al-Qur’an dan Terjemah, Juz 8, 147.
50 al-Qur’an, 6:119.
51 Mushaf al-Azhar al-Qur’an dan Terjemah, Juz 8, 143.
52 al-Qur’an, 16:115.
Sourced from Abi Waqidin al-Laithiyyi, he said, "I asked the Messenger of Allah, "Rasulullah, we are in an area that is being hit by a famine. Is it lawful for us to eat carrion? He replied, "If indeed you don't find food that you can eat in the morning and evening and don't even get vegetables that you can pull, then feel free to eat the carcasses. (HR Ahmad)."

Another hadith sourced from Jabir Ibn Samrah;
عن جابر بن سمحان، قال: "لا يجوز أن نأكل الحرق والخناجر، فإنهم قد قتلوا، أو أطعمة لا نستطيع أن نأكلها، فسمت بهم فرفعهما، وسمت بهم الله."

From Jabir Ibn Samrah, that a family living in a house in al-Harrah was in a state of lack of food, Jabir said, Then their camels died, or someone else's camels died, so the Apostle gave them relief to consume them. (H.R. Ahmad).

The two hadiths show that if someone is forced to (need) food, it is permissible for him to eat carrion. This explanation is stated in Q.S. al-Baqarah verse 173, Q.S. al-Maidah verse 3, Q.S. al-'Anam verse 145, and Q.S. al-Nahl verse 115, mentioned above. Apart from that, the darurah blasphemy is also based on a hadith that specifically uses the word ضرر. Among these hadiths comes from Amru Ibn Yahya Al-Mazani, who reads;
عن عمر بن الخطاب، قال: "لا ضرر ولا ضرار.

From Amru Ibn Yahya Al-Mazani, that the Messenger of Allah said "there should be no danger and there should be no harm either. (H.R. al-Hakim).

All the texts of the Qoran and the hadith mentioned above, as well as other texts that are similar to it, declare the aborting of sins for someone who is in a forced emergency, as well as emphasizing the removal of elements of difficulty and narrowness from the lives of Muslims and preventing the emergence of anything that is harmful others. All of these general and specific texts form the basis of darurah as an argument for applying Islamic law.

Ijma 'ulama is also the basis of darurah's probation as an argument for applying Islamic law. Based on the Qoran and hadith texts, which have explained that the condition of darurah has legal implications of exceptions (contrary to the rules in general), the scholars agree through Ijma' that darurah can be used as an argument in

55 Muhammad Ibn 'Ali Muhammad al-Shaukani, Nail al-Autarmin Asrari Munstaqa al-Akhbar, 204.
the enactment of Islamic law. That is as stated by Al-Shatibi in al-Muwafaqat that "the scholars agree that there are no difficulties and difficulties in implementing taklif al-shari'ah, even though in reality there are differences, these difficulties, and difficulties must be eliminated.\(^{57}\)

Darurah blasphemy is also based on 'aqli, namely as a form of maslahah mursalah, namely giving syara' law to a case where there is no legal explanation in nas or ijma' on the basis of maintaining benefit.\(^{58}\) The benefit of mankind is the main goal of the existence of Islamic law (Tashri' al-Ahkam). Realizing maslahah, namely maintaining Shari' intentions by preventing all mafsada for humans.\(^{59}\) Al-Ghazali gave an explanation that maintaining Shari's intentions towards humans includes maintaining 'al-kulliyat al-khamsah' namely; religion (din), soul (nafs), mind ('aql), wealth (mal), and lineage (nasl). All cases that aim to protect the five cases are benefits, and all cases that can cause the loss of these five cases are mafsada, as well as preventing mafsada from coming is mafsada.\(^{60}\)

The jurists like Imam Al-Shatibi have provided provisions regarding the use of maslahah mursalah as a proposition. Several other jurists such as 'Abd Al-Wahab Khallaf\(^ {61}\) and Abu Zarah.\(^ {62}\) These provisions include; a) Maslahah mursalah should not conflict with maqasid al-shari'ah, kulli arguments, the spirit of Islamic teachings, and juz' arguments which are qat'i wurud and its dalalah. b) The benefit must be convincing, meaning there must be rational and minute discussion and research so that

\(^{57}\) Abu Ishaq Ibrahim Ibn Musa al-Shatibi, Al-Muwafaqat fi Usul al-Shari'ah, Jilid II, (Saudi Arabia: Dar Ibn Affan, 1997), 123.


\(^{60}\) Abu Hamid al-Ghazali, Al-Mustasfa Min 'Ilm al-'Usul (Kairo: Muassasah Al-Halbi, 2002), 286.

\(^{61}\) Abdul Wahhab Khallaf, 'Ilm Usul al-Fiqh, 86.

\(^{62}\) Muhammad Abu Zahrah, Usul al-Fiqh, 280.
the benefit can be known and provides benefits or rejects harm. c) The benefit is general. d) Its implementation does not cause unreasonable difficulties.

Besides that, Imam Al-Syatibi also stated: "that in fact the argument for eliminating difficulties for every community can reach a definite position (qat'i)". Enforcement of law based on these principles can be used as evidence. Based on the positive and negative considerations, the rules of darurah are definite rules (qat'iyyah fi al-din). Therefore, applying Islamic law based on these principles is an istinbat based on the text, not the other way around and without evidence. This view is as stated by Abdul Wahab Sulaiman.

The jurists have established several fiqh principles related to the condition of darurah. These rules have important meaning and explain of darurah. These principles are also the arguments for the prophecy of darurah which are referred to from the formulation of the rules of origin and fiqh, including:

a. المشقة تجلب التيسير
   Difficulty brings ease.

b. إذا ضاق الأمر اتسع
   When difficulties arise, the law becomes spacious.

c. الضرر يزال
   Segala mudarat harus dihilangkan.

d. الضرورة تتيح المحظورات
   Emergency conditions permit forbidden things.

e. الضرورة تُقدر بقدرها
   Emergency situations are measured based on the level of minimum needs.

f. إذا تعارض مفسدان رعيتي أعظمهما ضررًا بارتكاب أخفهما
   If there are two conflicting mafsada (damage), then one must leave the mafsada with the greatest danger and choose the mafsada with the least danger.

63 Djazuli, Ilmu Fiqh; Penggalian Perkembangan dan Penerapan Hukum Islam (Jakarta: Kencana 2005), 87.
64 Abu Ishaq Ibrahim ibn Musa al-Shatibi, al-Muwafaqat fi Usul al-Shari'ah, 254.
67 Ahmad Ibn Muhammad al-Zarqa, Sharh al-Qawa'id al-Fiqhiyyah, 111.
68 Ibid., 125.
69 Ibid., 131.
70 Ibid., 133.
71 Ibid., 147.
Preventing mafsadat (damage) must take precedence over bringing benefit.\(^{72}\)

Losses must be denied within the limits of possibility.\(^{73}\)

Overall, the rules regarding darurah provide an understanding that a mulatto in his life if he faces difficulties that allow him to apply Islamic law differently than usual, then these difficulties can be a cause of relief and convenience for him based on his ability to carry it out both in the aspects of worship, muamalah, as well as customs.\(^{74}\)

The darurah rule implies that danger must be eliminated for oneself or others. That is by the provisions of Islamic law in general because sharia brings benefits both in this world and the hereafter.\(^{75}\)

Based on these principles, the jurists also believe that difficulties (mashaqqah), which can be the cause of relief and convenience in various legal provisions, are out of the ordinary. As for ordinary difficulties in general, they cannot be a factor in ease.

Based on this, the jurists classify kein's difficulties into two types: First, Mashaqqah al-Mu'tadah, which is a natural difficulty in which humans can find a way out without getting a loss, so they have not entered into compulsion. In this case, 'Izzu al-Din Ibn 'Abd al-Salam believes that difficulties of this kind do not invalidate worship and obedience and do not relieve them because if it is given relief, it means that it will reduce the benefit of the sharia itself. Ibn Qayyim expressed a different view that if the difficulty is related to fatigue, the benefit of the world and the hereafter can follow the degree of fatigue.\(^{77}\)

Second, Mashaqqah Ghair al-Mu'tadah, namely difficulties that are not in the habit, where humans cannot bear the difficulties because if he does, it will undoubtedly damage them and make their life burdensome. These difficulties can be measured by the criteria of common sense, shari'a, and the interests it achieves. This difficulty brings dispensation (rukhsah).\(^{78}\)

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\(^{72}\) Ahmad Ibn Muhammad al-Zarqa, *Sharh al-Qawa'id al-Fiqhiyyah*, 151.

\(^{73}\) Ibid., 153.


\(^{78}\) Ibid., 199-200.
The level of difficulty in worship differs based on differences in time, place, and type of worship as well as differences in the conditions of the mulatto. In this case, the jurists divide this mashaqqah into three parts: (1) Mashaqqah al-‘Azhimah al-Adidah (very serious difficulties), such as fear of loss of soul and or damage to limbs. Loss of soul and limbs makes us unable to carry out worship perfectly. This kind of masyaqqah brings relief. (2) Mashaqqah al-Mutawasitah (medium difficulty, not too heavy nor too light). Masyaqqah like this must be considered; if it is closer to mashaqqah, which is very heavy, then there is ease. If it is closer to light mashaqqah, then there is no ease. That is what the author means by that mashaqqah is an individual. (3) Mashaqqah al-Khafifah (mild difficulties), such as feeling hungry when fasting, tired when doing tawaf and sai, dizzy when bowing and prostrating, and so on. Mashaqqah like this can be handled easily, namely by being patient in carrying out worship. The reason is that the benefit of the world and the hereafter reflected in the worship is more important than this light mashaqqah.

CONCLUSION

Explicitly, the formulation of the meaning of darurah in the terminology of the classical jurists is limited to food. However, the limitation of the formulation of meaning is not due to the shortcomings and limitations of the jurists in determining the meaning and explaining the nature of darurah. However, this is more due to the context of the darurah. It is well known that some jurists explain the meaning of darurah kein by discussing food (الأطعمة) when discussing the conditions of being forced to eat unclean food, such as the permissibility of eating carrion. Apart from that, some classical jurists also include darurah kein discussion of coercion (الإكراه). This forced condition becomes necessary for him to protect his life or limbs. From this explanation and explanation, it can be concluded that the definition of darurah from the perspective of classical jurists is also comprehensive, not limited to the meaning of an urgent need for food, but includes conditions of necessity and other emergencies. That can also be seen in the different readings of the jurists on the problems of the branches of fiqh when in emergency conditions which as a whole have the same goal, namely to protect al-

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kulliyat al-khamsah such as protecting the soul (nafs) and others, which if lost will eliminate living systems. The jurists agree that the condition of darurah in Islamic legal literature is an argument that can be used as a basis for applying Islamic law. The argument for darurah as a proposition is based on sources of Islamic law, namely the Qur'an, hadith, ijma', and 'aqil, namely as a form of maslahah mursalah, as well as the principles of usul and fiqh.

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