CHAPTER III

RESEARCH METHODOLOGY

A. Ushul Fiqh and Maqasid al-Sharia Approach

1. Ushul Fiqh

   a. Definition of Ushul Fiqh

The word *ushul*, from the language comes from the Arabic language, the plural of the word is *ashal* which means something that is used by something else. In terminology, the word *ushul* has five meanings (Shidiq, 2011), as follows:

1) *Ashal* means comprehensive rules.

2) *Ashal* means the stronger (*rajih*).

3) *Ashal* means the law of *ashal* (*istishab*).

4) *Ashal* means *maqis alaihi* (used as a measure).

5) *Ashal* means proposition.

As quoted by Imam Subki in the book of *Jam'u al-Jawami'*, Imam Shafi'i defines fiqh is the science which discusses law of *syara'* related to the *amali* (deeds) obtained through the detail arguments (Shidiq, 2011).

Ushul fiqh is a science that examines the theorem of fiqh in the form of rules to know how to use it, knowing the conditions of people who use it (*mujtahid*) with the aim of issuing the law of *amali* (deeds) of the arguments in detail and clear (Shidiq, 2011).

b. Object of Ushul Fiqh Study

The object of *ushul fiqh* is about the propositions which are still general from the general rule of law. From the object of *ushul fiqh* will be discussed about the various propositions and terms, level and its purpose. Then the expert of the ushul will discuss the Quran, sunnah, *ijma*, *qiyas* and its purpose, the proposition *'am* and which limit it, *amr* and things that indicate *amr*, also explain *dalalah* law in terms of *qath'i* and *zhan*, who is entitled accept *taklif*, also explain about things that hinder the enforcement of the law as foolish, mistaken and forget (Shidiq, 2011).
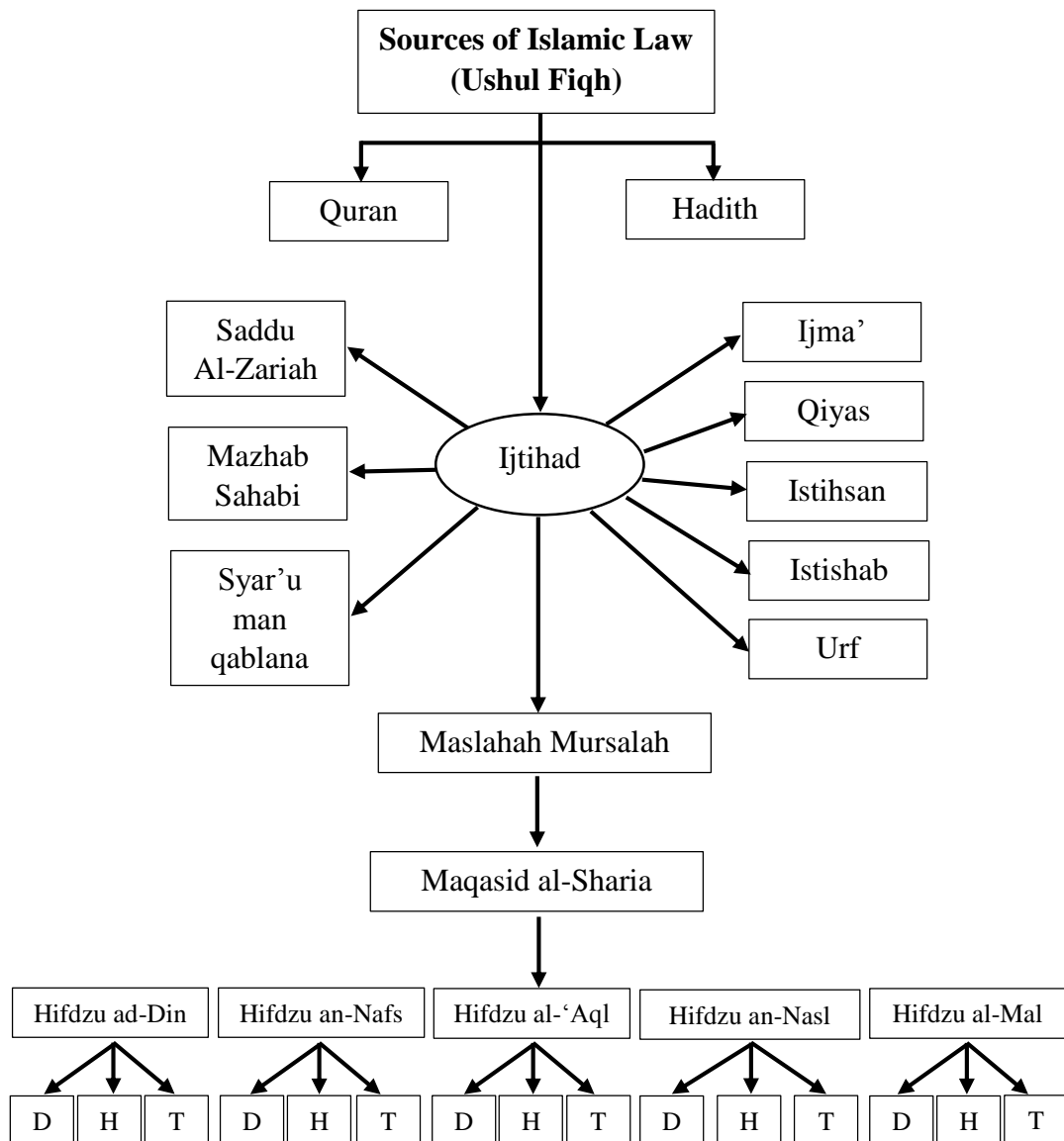
Source: Shidiq, 2011, edited by author.

FIGURE 3.1.
Sources of Islamic Law (Ushul Fiqh)

According to Khallaf in Shidiq (2011), the Quran is the revelation from Allah to the Prophet Muhammad through the Arcangel Gabriel with Arabic language with the correct meaning for the Prophet, as life guidance, considered worship when read it and its starting from the surah al-Fatihah and ended by surah

an-Nas and authenticity guaranteed. According to Abu Zahra in Shidiq (2011), the Hadith is what comes from the Prophet in the form of words, deeds and confession of the Prophet of an event can be said sunna.

According to Abu Zahra in Shidiq (2011), ijtihad is the deployment of all the abilities of a jurist fiqh (*mujtahid*) in establishing (*istinbat*) laws relating to the deeds in detail (one at a time). A mujtahid must know the meaning of the *ahkam* verses contained in the Quran and Hadith in language as well as syara' terms and master the Arabic language about nahwu, saraf, *maani*, bayan and its *uslub*. Knowing the science of ushul fiqh, because ushul fiqh is a pillar of ijtihad in the form of the proposition in detail that shows the law through certain ways such as *amr*, nahi, am and khas. Istinbat is required to know these ways and they exist in the science of ushul fiqh. Knowing the maqasid al-Sharia in the determination of the law, because the understanding of nas and its application in the event depend on maqasid al-Sharia. The appointment of a *lafaz* to its meaning contains several possibilities. Knowledge of maqasid gives information to choose which is appropriate for gives *fatwa*. The most important from the knowledge of maqasid is the principle of law in the Quran and Hadith can be developed as with *qiyas*, *istihsan* and *maslahah mursalah* (Zuhaili, 1986).

There are several methods that can be taken by a *mujtahid* to perform *ijtihad*, as follows:

1) According to Khallaf in Shidiq (2011), *ijma* is the agreement of all imams of mujtahid at a time after the death of the Prophet of the law of syara' concerning a case.

2) According to Abu Zahra in Shidiq (2011), *qiyas* is to connect a case that has no legal entity with another case that there is legal law because there is same *illat* or the cause.

3) According to Khallaf in Shidiq (2011), *istihsan* is the transfer of a mujtahid from qiyas jali (clear) to qiyas khafi (vague) or from the law of kulli (common) to the law of exception due to the justification of the argument.

4) According to Azhar Basyir in Shidiq (2011), *istishab* is to enforce existing legal provisions until there is a provision of the proposition that changed it.

5) According to Abu Zahra in Shidiq (2011), *urf* is something that has become the customs of human in his association and has been steady and inherent in their affairs.

6) According to Azhar Basyir in Shidiq (2011), *mashlahah mursalah* is to establish a law that has absolutely no *nash* with consideration for the benefit of human life that aims to the principle of benefit and avoid harm.

7) According to Imam al-Syaukani as quoted by Fathurrahman Djamil (1995), *saddu al-zariah* is something outwardly legally permissible, but it will lead to prohibited things. Thus, this method is preventive or prevention efforts. It

means everything that the origin law is mubah, but will bring to the haram action then the law becomes haram (Shidiq, 2011).

8) According to Zuhaili in Shidiq (2011), *mazhab sahabi* is a collection of ijtihad and fatwa produced by the *sahabah* of the Prophet.

9) According to Zuhaili in Shidiq (2011), *syar'u man qablana* is God's laws prescribed to the previous people through their Prophets such as Prophet Abraham, Prophet Moses, Prophet David and Prophet Isa. *Syar'u man qablana* can also be said as the Sharia of people before us. In essence all Sharia *samawiyah* including the Sharia of the ummah before us it has in common that is revealed by God based on Quran 42:13.

c. The Purpose of Ushul Fiqh

According to Khallaf in Shidiq (2011), studying *ushul fiqh* has the aim of being able to apply the rules to the proposition in order to obtain Sharia law and to understand the Sharia and legal content. Qawaid fiqhiyyah according to etymology (language) means the foundations of science or understanding. The definition of qawaid fiqhiyyah according to the term in Islamic law according to al-Taftazany (d. 791 H), qawaid fiqhiyyah is universal law (kully) which can be applied to all juz'i (its parts) in order to identify the laws of juz'i (part) of it. The definition expressed by al-Taftzany is similar with other scholars, such as al-Jurjany (d. 816 H) and al Kafawy al Hanafi (d. 1094 H). As according to some other scholars, defines *qawaid fiqhiyyah* as something that is universal (*kulliyat*) and those who interpret it as

something that is majority (*aghlabiyyah* or *aktsariyyah*). The majority of scholars see that qawaid fiqhiyyah is rules that accommodate the actions of mukallaf. Qawaid fiqhiyyah is rules that are directly related to the actions of the mukallaf, means that the scope of qawaid fiqhiyyah is the act of mukallaf. It can be understood also that qawaid fiqhiyyah is the basic rules of mukallaf's deeds that can accommodate the laws of syara' (Rohayana, 2008).
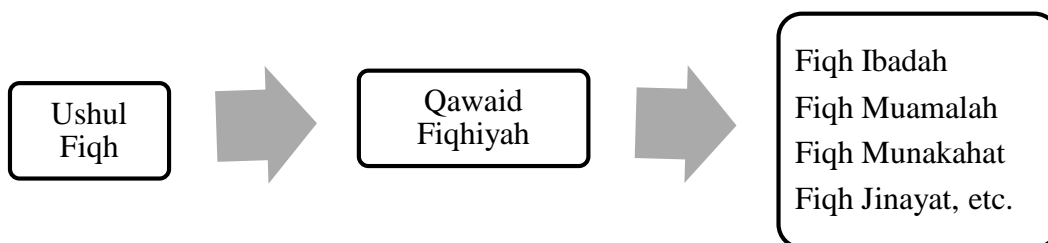
Source: Shidiq, 2011, edited by author.

FIGURE 3.2.
Result of Ushul Fiqh

2. Maqasid al-Sharia Approach

The Quran and Hadith as sources of Islamic laws in exposing its legal messages using variety of ways, sometimes with a firm and sometimes not assertive, there is through the meaning of language and there is also to promote the purpose of the law (*maqasid ahkam*). And in one condition there is also a contradiction between one proposition and other propositions that require completion. Ushul fiqh presents various ways with various aspects to capture the legal messages displayed by the Quran and Hadith (Shidiq, 2011).

According to Shidiq (2011), a scholar of *ushul fiqh* concludes that the nash of the Quran and the Hadith in addition to indicating the law through the voice of his discussion also through maqasid al-Sharia (objective of Islamic law). Khallaf in Shidiq (2011) emphasized the importance of knowing the general purpose of Sharia law or maqasid al-Sharia because it can serve as a tool for understanding nash and its application to events that are not legal. Etymology, maqasid al-Sharia means the purpose of Sharia law. The Islamic Sharia brought by Prophet Muhammad SAW is a blessing for humankind based on Quran 21:107.

According to Imam Syatibi in Shidiq (2011), the *maslahah* which will be realized by Islamic law from the five cases have three levels need consisting of the needs of *daruriyat*, *hajiyat* and *tahsiniyat*. Islamic law aims to maintain and preserve human needs in all levels of *daruriyat*, *hajiyat* and *tahsiniyat*.

By maintaining a group of *daruriyat* means protecting the essential (basic) needs for human life. These essential needs include faith, life, intellectual, posterity and wealth. If not protecting the five basic things in the level of daruriyat there will be destruction of human life both in this world and the hereafter. The needs of this *daruriyat* has the highest level and most important than the other two, namely *hajiyat* and *tahsiniyat* (Shidiq, 2011).

Group of *hajiyat* does not belong to essence of life but included as a need that can prevent people from the hardships of life. If this second level requirement is not fulfilled, it will not lead to a destruction of human life but will bring difficulties and narrowness. This group of hajiyat is closely related to *rukhsah* (lightening) problem in fiqh (Shidiq, 2011).

Group of *tahsiniyat* is a necessity that supports the improvement of one's dignity in society in the limit of fairness and propriety. If this third level requirement is not fulfilled, it does not cause the destruction of human life as it does not fulfill the needs of *daruriyat* and will not make human life difficult as it does not fulfill the needs of *hajjiyat*, but human life is considered unfit according to the measure of human reason and nature. Cases related to the needs of *tahsiniyat* is associated with good morals and customs (Shidiq, 2011).

According to Khallaf in Shidiq (2011), if three levels of needs above each *daruriyat*, *hajiyat* and *tahsiniyat* have been fulfilled perfectly means have been realized *maslahah* to human being which is the purpose of Sharia law.

The general purpose of Sharia law is to realize the benefit of human life by bringing *maslahah* and avoiding *mudharat*. *Maslahah* becomes the goal of Islamic law is the ultimate benefit oriented to the protection of five cases ie faith, life, intellectual, posterity and wealth. Through these five things human can run a glorious life (Shidiq, 2011).

B. Research Object

Object in this research is BAZNAS Daerah Istimewa Yogyakarta that help improve prosperity and economy of society. BAZNAS Daerah Istimewa Yogyakarta is a semi-government institution that has the task of managing and distributing zakat as amilin of zakat. This study was conducting to examine the suitability of the implementation of zakat distribution programs implemented in BAZNAS Daerah Istimewa Yogyakarta whether it is in accordance with the maqasid al-Sharia approach. The type of research that is used in this study is field research. In addition to field data, the author uses some secondary data that aims to strengthen the foundation of the case.

C. Data Type and Sources

In this research, it has two kinds of data those are primary data and secondary data. Primary data is data obtained directly by the researcher, while secondary data is data obtained from the literature or journals related to research problems, where the data is collected by other parties.

In this research, the primary data source is the interviews with key informants (KI), they are practitioners, academicians, muzzaki and mustahiq in Daerah Istimewa Yogyakarta, while secondary data from literatures related to zakat and maqasid al-Sharia, books, journals, papers and Central Bureau of Statistics (BPS).

Key Informants (KI's)

In this study, the researcher used purposive sampling technique which defined as selecting unit of analysis based on purposes associations according to the research questions (Tashakkori and Teddlie, 2003). In this point, the researcher explains concerning key informants and the process of selection for the key informants for this study. The key informants are the people who accessible and have in-depth knowledge concerning the topic of the study (Neuman, 2003).

D. Technique of Sampling

In a research, sampling is important, because the sample should be able to present the overall research object. In this research, the sample consists of several key informants (KI), ie practitioners, academicians, muzzaki and mustahiq in Daerah Istimewa Yogyakarta. The sampling technique is using non-probability sampling technique (sampling technique determined by the criteria researcher), especially with purposive sampling or judgmental sampling. Sampling by purposive is the way of sampling done, choosing a subject based on specific criteria specified by the researcher. Then the researcher conducted interviews with key informants (KI) to find out the views about zakat with practitioners, academicians, muzzaki and mustahiq. Inclusion criteria for choosing key informants (KI) by the researcher, as follows:

1. The staff of BAZNAS Daerah Istimewa Yogyakarta

    a. Minimum work in BAZNAS one year

    b. Muslim

    c. Pray five times

    d. Ramadan fasting

    e. Implementing zakat

    f. Can read the Quran

    g. Have a good character

    h. Understand the institution and work programs in BAZNAS Daerah Istimewa Yogyakarta.

2. The lecturers who understand Fiqh Zakat

    a. Muslim

    b. Pray five times

    c. Ramadan fasting

    d. Implementing zakat

    e. Can read the Quran

    f. Have a good character

    g. Have an understanding of Fiqh Zakat.

3. Muzzaki

    a. Muslim

    b. Pray five times

    c. Ramadan fasting

    d. Implementing zakat

    e. Can read the Quran

    f. Have a good character

    g. Have an understanding of the obligation to pay zakat for capable Muslims.

4. Mustahiq

    a. Muslim

    b. Pray five times

    c. Ramadan fasting

    d. Receiving the distribution of zakat

    e. Can read the Quran

    f. Have a good character

    g. Have a good understanding of the use of zakat.

E. Data Collecting Method

Data collection techniques used in this research are:

1. Literature study, by reviewing relevant literature and other sources such as articles, documents or by accessing the internet used in this research to obtain the relevant theoretical basis.

2. Documentation, by collecting archives, data records from BAZNAS Daerah Istimewa Yogyakarta.

3. Field research, by collecting primary data which obtained by researcher directly in the field → Field observations in BAZNAS Daerah Istimewa Yogyakarta by presenting the data along with proof of report. The data collection techniques in the field by conducting interviews with staffs of BAZNAS Daerah Istimewa Yogyakarta as practitioners, as well as academicians, muzzaki and mustahiq.

4. Data collection steps, as follows:

   4.1. Search the key informants (KI) appropriate to the criteria.

   4.2. Contact the key informants (KI) to schedule the interview.

   4.3. Conducting interviews.

   4.4. Transcribed interview results.

   4.5. Analyze and summarize data.

A. Operational Definition of Research Variables

Evaluation is part of the management system which is planning, organization, implementation, monitoring and evaluation. Without evaluation, it will not be known how the condition of the evaluation object is in the design, implementation and result. The term evaluation has become a vocabulary in Indonesia, but it is an English word absorption which is evaluation means assessment or appraisal (Echols and Shadily 2000:220).

Tague-Sutcliffe (1996:1-3) defines evaluation as a systematic process of determining the extent to instructional objectives are achieved by pupils. Evaluation is not just a spontaneous and incidental assessment of an activity, but an activity to assess something in a planned, systematic and purposeful direction based on clear goals.

Definition of evaluation according to Charles O. Jones in Aprilia (2009), evaluation is an activity which can contribute greatly to the understanding and improvement of policy development and implementation. This understanding explains that evaluation activities can determine whether the implementation of a program is in accordance with the main objectives, which furthermore evaluation activities can be a benchmark whether a policy or activity can be said worthy continued, need to be repaired or stopped its activities.

According to Ernest R. Alexander in Aminudin (2007), evaluation methods can be classified into 5, namely:

1. *Before and after comparisons*, this method examines a research object by comparing the conditions before and after conditions.

2. *Actual versus planned performance comparisons*, this method examines a research object by comparing the existing conditions (actual) with existing planning provisions (planned).

3. *Experimental (controlled) model*, this method examines a research object by conducting a controlled experiment to determine the conditions in a research.

4. *Quasi experimental models*, this method examines a research object by conducting an experiment without controlling the conditions in a research.

5. *Cost oriented models*, this method examines a research object based on the cost assessment of a plan.

In this case, the researcher was evaluate the performance of zakat distribution programs by taking into account the work programs that have been done by BAZNAS Daerah Istimewa Yogyakarta to assess the level of effectiveness. To evaluate, the author was use the method of evaluation of *"actual versus planned performance comparisons"* by looking at the programs of zakat distribution which has been happening with the provisions that have been there, especially the provisions recommended in Islam. Researcher presents 10 questions to practitioners, muzzaki and mustahiq consists of:

1. Profile of BAZNAS Daerah Istimewa Yogyakarta (only BAZNAS DIY).

2. Mechanism of zakat distribution.

3. The time of distribution to mustahiq.

4. Recipient of zakat distribution.

5. How to select asnaf members who are more eligible to receive zakat distribution.

6. Officer who collect and distribute zakat.

7. How to manage the zakat funds received.

8. Suggestions for the development of zakat in accordance with the maqasid al-Sharia approach.

9. Obstacles in zakat distribution.

10. Zakat distribution in form of consumptive and productive.

Researcher presents the questions of zakat and maqasid al-Sharia to academicians consists of:

1. The relationship of zakat and maqasid al-Sharia.

2. Zakat distribution programs can be adapted to the maqasid al-Sharia approach.

3. Suggestion of further development of zakat in accordance with the maqasid al-Sharia approach.

4. Good examples of zakat distribution programs that related to maqasid al-Sharia in the form of dharuriyyat, hajiyyat and tahsiniyyat for asnaf.

B. Data Analysis

This research uses the data analysis and summarizes the data, so it is expected to be able to reveal the facts that occurred in the programs of zakat distribution by BAZNAS Daerah Istimewa Yogyakarta in Daerah Istimewa Yogyakarta.

In analyzing the data, the researcher will describe the facts that occurred in the field, then will compare with the rules that should be done in terms of the theory side, especially the Islamic law that regulates the distribution of zakat by BAZNAS Daerah Istimewa Yogyakarta using a maqasid al-Sharia approach in Daerah Istimewa Yogyakarta.