

Bid'ah in Concept of Maslahah Mursalah and Istihsan According to Imam asy-Syathibi

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Abstract: *The problem of fiqh that is always developing demands the realization of the argument that is the background of the legal basis for the act of fiqh. Istihsan and mashlahah mursalah are legal grounds accepted by the jurists, although there are some who reject their use. Asy-syathibi actually provides a unique interpretation by relating it to the term bid'ah which is the benchmark for the limits of the development of Islamic law so that it is always in accordance with the direction of the Shari'a.. The purpose of this paper is to explore the opinion of the Al-Imam asy-Syathibi regarding heresy as well as his opinion on the reasons some people base their bid'ah deeds with mashlahah mursalah and istihsan. So that the Al-Imam asy-Syathibi refused to use mashlahah mursalah and istihsan as the basis for heretical deeds.*

Abstrak: Masalah fiqh yang selalu berkembang menuntut terwujudnya dalil yang melatarbelakangi landasan hukum perbuatan fiqh. Istihsan dan mashlahah mursalah merupakan dasar hukum yang diterima oleh para fuqaha, meskipun ada sebagian yang menolak penggunaannya. Asy-syathibi justru memberikan tafsir yang unik dengan mengaitkannya dengan istilah bid'ah yang menjadi tolak ukur batasan pengembangan hukum Islam agar selalu sesuai dengan arahan syariat. tulisan ini adalah untuk menggali pendapat Al-Imam asy-Syathibi tentang bid'ah serta pendapatnya tentang alasan sebagian orang mendasarkan perbuatan bid'ahnya dengan mashlahah mursalah dan istihsan. Sehingga Al-Imam asy-Syathibi menolak menggunakan mashlahah mursalah dan istihsan sebagai dasar perbuatan sesat.

Keywords : *Abu Ishaq asy-Syathibi, Bid'ah, Mashlahah Mursalah, Istihsan.*

INTRODUCTION

The Qur'an is that the source of the Muslim's teaching, which is revealed as guidelines for the hereafter for mankind. Therefore, it's certain that the content of the Qur'an covers all aspects of human life. It's just that the knowledge contained within the Qur'an is usually global. Furthermore, the role of the Prophet Muhammad (peace be upon him) as a messenger of Allah explained the common things.

One of the functions of sunnah is that the explanation of the Qur'an. Both the words, deeds and taqir of the Prophet Muhammad are the second source after the Qur'an. But it must be recognized with the event of the days and spread of Islam throughout not all the dissolution of generality are often resolved with the Qur'an and sunnah. the issues that arise demanding the existence of law to unravel the case make shahabah gather (ijma') to

determine the law (ijtihad). (Habibullah, 2017)

This condition didn't long because the authorization of Islam was wider and therefore the companions radiated to varied regions, wanting them to try and do their own legal istinbath. This results in the event of legal methods. within the next period, various legal istinbath methods like *qiyas*, *istihsan*, *mashlahah mursalah*, *urf*, *istishab*, and so on.

Although the development of the method of legal determination provides a solution to the problem that occurred, there are still differences between scholars in responding to the method. *Al-Imam* as-Shafi'i rejected the use of *istihsan* as one of the methods of ijtihad (Nabilah et al., 2021). On the other hand, *Al-Imam* Abu Hanifah uses *istihsan* in one of his ijtihad methods (Habibullah, 2017). Likewise with *Al-Imam* Malik who triggered *mashlahah mursalah* as one of his methods of ijtihad (Rosyadi, 2013). They have their own views in their own ijtihad methods.

The differences of scholars above provide room for mujathids to explore new laws that often refract to *bid'ah*. Among the examples is the existence of the term *bid'ah hasanah* because it is almost similar to *mashlahah mursalah* and *istihsan*. The likeness in question is the existence of something new but good for religion. *Al-Imam* asy-Syathibi considers that calling *bid'ah hasanah* with *mashlahah mursalah* and *istihsan* is wrong. Because according to him there is no such thing as *bid'ah hasanah*.

Based on the background above, the author wants to examine (1) What is the opinion of *Al-Imam* asy-Syathibi about *bid'ah*. (2) How the *Al-Imam* asy-Syathibi explains the difference between *bid'ah* with *mashlahah mursalah* and *istihsan*.

RESEARCH METHODS

Solving the issues above, the author uses library research with the Qualitative approach. So in this case, what the author does is to collect books that are related to this research, then record and process them based on literature data that are related to the subject matter discussed.

This study uses primary and secondary data sources. Primary data is direct research data on subjects as a source of information studied. The sources of the data in this study are *al-I'tishâm*, *fatâwa al-Syâthibiy*, *al-Muwafaqât* by Abu Ishaq Ibrahim bin Musa bin Muhammad al-Lakhmi asy-Syathibi al Gharnathi and also the book of *Al-Imam* al-'Izzuddîn bin Abdîs Salâm *Qawâ'id al-Ahkâm fi Mashâlih al-Anâm*. Secondary data is data that supports or as additional data to primary data. As secondary data in this study are books related to *bid'ah*, in addition to textbooks secondary materials can be writings about fiqh such as journals, articles, scientific works such as thesis, thesis, dissertation, and contemporary writings related to *bid'ah*. The usefulness of secondary legal material is to give researchers some sort of "clue" in which direction the researcher is stepping as inspiration for the author.

RESULT AND DISCUSSION

Overview of *Bid'ah*

The meaning word of (بدع) is the creation of something new that there was no previous excuse, (As-Syathibi, 1988) *bid'ah* according to *lughat* (etymology) comes from the word بدع - اعيد بديع - (Munawwir, 1997) meaning holding something new without any previous examples. This meaning is as the word of Allah says in the Qur'an that reads:

بَدِيعُ السَّمَاوَاتِ وَالْأَرْضِ

"God is the creator of heaven and earth." Al-Baqarah: 117). (Sitanggal et al., 1992)

God created the heavens and the earth with a form and form that no example predates it (Sabki et al., 2012). And also in accordance with the word of Allah in Surah al-Ahqaaf verse 9 which reads:

قُلْ مَا كُنْتُ بِدْعًا مِنَ الرُّسُلِ

"Say,"I open the first of the Apostles." (QS. Al-Ahqaaf: 9)(Shihab, 2002)

Concerning the above verse *Al-Imam* ibn al-Kathir in his commentary explains: "What I bring is the same as the previous Prophets. Then why do you deny and stay away from my apostolic? Allah has sent the Prophets before me to all mankind" (Ash-Shabuni, 2011). Sheikh Ali al-Shabuniy further explained that under lafaz *al-bida'* and *al-badi'* means things that have not existed before or something new. (Al-Shabuniy, 1981)

So when it is said *ابتدع فلان بدعة* (the *fulan* has done *bid'ah*), it means that the *fulan* has begun to hold or make a way that has never been preceded by others or no one has ever preceded him (As-Syathibi, 1988).

Ibtida' (making something new) there are two kinds: First, *Ibtida'* in matters of habit (worldly problems) such as recent discoveries (modern). This is fine because the law of origin in custom) is *mubah*. Second, *Ibtida'* is in matters of religion, and this is illegal. Because the law of origin in the field of religion is *tauqif* (limited to revelation). (Fachrudin & et.al, 2012)

The word *bid'ah* is also used to say something that is considered good and beautiful and nothing equals, such as the

Arabic word *بديع* (this is a beautiful thing or affair). (As-Syathibi, 1988)

Among the uses of the word *bid'ah* in this sense is the word of a man who came to meet the Prophet "*Innii ubdi'a bii fahmilnii*." (I am exhausted, please give me provisions) so the Prophet said, "I have none." A man said, "O Messenger of Allah, I will show him to those who can help him." The Prophet said, "Whoever shows good, he will be regarded as the reward of those who do it." (Al-Basithi, 1932)

Ibn Manzhur said in *lisanul 'Arab*:

بَدَعَ الشَّيْءَ يَبْدَعُهُ بَدْعًا وَابْتَدَعَهُ أَنْشَأَهُ وَبَدَأَهُ

"To have made something heretical (past), to make it (present) and *bad'an* (*masdar*) means to hold and begin" (Manzhur, 1955)

Bid'ah according to terminology by explanation of the scholars is:

Al-Fairuz Abadiy in *Qamusul Muhith*, *bid'ah* is:

الحدث في الدين بعد الإكمال أو ما استحدث بعد

النبي صلى الله عليه و سلم من الأهواء والأعمال

"Something new in religion after perfection or something that was held after the death of the Prophet (peace be upon him) from some desire of lust and some deeds" (Abadii, 2008)

Asy-Shammani in *al-Ibda' fii Madharil Ibtida'*, *bid'ah* is:

ما أحدث على خلاف الحق المتلقى عن رسول الله

صلى الله عليه و سلم من علم أو عمل أو حال

بنوع شبهة أو استحسان وجعل دينا قويا وصرطا

مستقيما

"Something that has been made up by violating the *haq* (truth) received from the Prophet (peace be upon him), either from knowledge or deeds or circumstances with a kind of *syubhat* (vague information) or because of something that is considered good and makes a religion that is a good and a straight path."

The *bid'ah* delivered by 'Izzudin bin Abdussalam is:

فعل ما لم يعهد في عصر رسول الله صلى الله عليه وسلم

It means: doing things that have not been done even in the time of the Prophet Shallallahu 'alaihi wa sallam. (Aziz bin Abdi Salam, 2000)

Al-Imam al-Syatibi, a jurist of the Maliki school, said that the *bid'ah* is a *tariqah* (way or method) that was created to resemble sharia in religion to be lived as worship to Allah (Dahlan, 1997: 217). More clearly *Bid'ah* according to al-Syatibi quoted from the book of al-'Itisham is

فالبدعة إذن عبارة عن (طريقة في الدين مخترعة تتضايي الشرعية يقصد بالسلوك عليها المبالغة في التعبد لل سبحة)

Bid'ah is a term about ordinances in religion that are deliberately made and resemble sharia, with the aim of expressing it in the form of behavior (deeds) that rely on it excessively, especially in worshipping Allah. (Sabki et al., 2012)

As for determining the boundaries of *bid'ah* scholars differ opinions. Based on the above definition, the notion of *bid'ah* can be classified into the aspect of language and aspects of sharia (Araby, 2017). In the language aspect the word *bid'ah* is used to name all new things, while in Shari'ah the word *bid'ah* is only used to describe new ways or methods that have no basis in the Qur'an and the Sunnah of the Prophet. (Sabki et al., 2012)

Groups that hold on the aspect of language divide *bid'ah* over two forms, namely *bid'ah hasanah* or *bid'ah mahmudah* and *bid'ah sayyi'ah* or *bid'ah mazmumah*. *Bid'ah hasanah* is *bid'ah* following the purpose of Syara', even though it is not

done by the Prophet (peace be upon him). *Bid'ah sayyi'ah* is a *bid'ah* that is not following the purpose of Syara' (Sabki et al., 2012). Even Izzuddin stated on another occasion the division of *Bid'ah* there are five kinds (Nazaruddin, 2017), equated with five laws concluded by fiqh scholars for *taklif, wajib, haram, sunnah (mandub), makruh* and *ibahah*.

The group that holds on to the second understanding *bid'ah* (which refers more to the aspect of sharia), explained that the *bid'ah* is formed divided over, namely *bid'ah al-'adiyah* (*bid'ah* in daily habits) and *bid'ah at-ta'abudiyah* (*bid'ah* in worship). *Bid'ah adiyah* is a worldly habit that has been handed over by the prophet (peace be upon him) to his people to be implemented or abandoned.

In this group what is declared as *bid'ah* is *bid'ah* in matters concerning worship. As for the *bid'ah al-wajibah* and *bid'ah al-mandubah* put forward by the *bid'ah* group the aspect of language is *al-mashlahah al-mursalah* (maslahat) and also *istihsan*. Therefore collecting the Qur'an, spreading knowledge that supports the understanding of the Qur'an excluding *bid'ah*, is one form of *al-mashlahah al-mursalah*. *Bid'ah* is limited to the things that worship (Dahlan, 1997).

Difference between *Bid'ah* With *Mashlahah Mursalah* and *Istihsan* According to Asy-Syathibi

1. Biography of Al-Imam asy-Syathibi

Al-Imam asy-Syathibi was an 8th-century Muslim intellectual H./14 A.D. from Andalusia, precisely in a region of the Iberian peninsula that is now part of Spain and Portugal (Mubarok, 2008). More related to his personal data is detailed as follows:

The name of Al-Imam asy-Syathibi agreed upon by historians is Ibrahim Ibn

Musa ibn *Muhammad*. The chew that was used on him was Abu Ishaq, none of the historians knew anything the names of his children and their numbers. The *nasab* mentioned by historians is al-Lakhmi. The *nasab* was presented to Lakhmu ibn 'Adi. ('Ali, 1998).

Historians refer to al-Gahrnathi and asy-Syathibi. The word al-Gharnathi refers to the kingdom of "Garnathah" which lived during the time of asy-Syathibi RA. While asy-Syathibi then the "Syatibah" in the dictionary refers to the name of the region. The city in eastern Andalusia is east of Cordoba. ('Ali, 1998)

According to his name, historians suspect that he came from the descendants of the Arab tribal family, Lakhm, who lived in Syatibah (Xativa or Jativa), a city south of Valencia known as a paper producer in Medieval Spain. (Mubarok, 2008)

The year of his birth are unknown, as his family background (Abdullah, 1996). As far as can be traced, Muhammad Abu al-Ajfan has established the year of his death of 720 Hijri based on the date of his first teacher died, Sheikh Abu Ja'far Ahmad ibn Ziyat (w. 728 H) and it is a year that is close to the birth of *Al-Imam* as-Syathibi about 720 H. ('Ali, 1998)

Al-Imam asy-Syathibi grew up in the region of Granada at the end of the Islamic kingdoms (Abdurrahman, 1998:45) and his intellectual history was established in the city that became the capital of the Kingdom of Banu Nasr. His youth coincided with the reign of Sultan Muhammad V al-Ghani Billah which was a golden age for Granada. (Andriyaldi, 2013)

Al-Imam asy-Syathibi was in a time of important changes. Granada in the 14th century experienced various changes and developments in political, social,

economic and legal matters that would later affect the mindset and *ijtihad* asy-Syathibi (Andriyaldi, 2013). Perhaps it was the above that made the priest of Ash-Syathibi remain in Granada and did not travel out of Andalus until God had been entrusted.

Asy-Syathibi's intellectual career is widely known through the statements of the students and the recognition of current scholars. One of his disciples, Ibn 'Ali Al-Mujari (d. 801 H.), stated that asy-Shaathibi is asy-*Shaykh* al-*Al-Imam*, al-'*Allamah* (very knowledgeable) who is famous and special. Ibn Marzuq (d. 805 H.) states that asy-Syathibi is asy-*Shaykh* al-Ustaz, jurist, *al-Imam*, researcher, 'allahamah and pious. (Al-Ajfan, 1985)

As one of the scholars, who are entitled *waratsah al-anbiya'*, asy-Syathibi has become a reference of the community and the ruler in solving various religious problems. This predicate led him to a passion for interacting with society and encouraged him to deepen his knowledge through. The logical consequence of expertise is that he works as a mufti, *al-Imam* (khatib), teacher, and prolific writer. (Al-Ajfan, 1985)

As a mufti, asy-Syathibi gave many religious fatwas. Is this career as mufti appointed by the ruler or just the recognition of society? This question is important, because in the Islamic legal system in Andalus found fatwa institutions, whose muftis are appointed by the ruler and they consist of fuqaha. There is no information about his appointment as mufti by the ruler, so it is strongly suspected that his career as a mufti is only a recognition from the public only, not appointed by the ruler. (Duski, 2006)

As a teacher, asy-Syathibi taught to develop his knowledge through students,

among others: Abu Yahya ibn Muhammad ibn 'Asim, an 'alim, Khatib, writer, heir of asy-Syathibi thought. Then Abu Bakr al-Qadhi, brother of Abu Yahya Muhammad al-Bayani, a Granada faqih. Then Abu Ja'far Ahmad, who in addition to being a student is also a discussion partner. Abu Abdillah Ibn Marzuq suggested that asy-Syathibi often discussed the book of al-Muwafaqat with his disciple. In the presence of these disciples, asy-Syathibi taught books including *Alfiyah ibn Malik*, *Kitab Sibawaih*, *Mukhtasar ibn al-Hajib*, *al-Muwatta' Al-Imam Malik*, and of course his works. (Duski, 2006: 39)

During the asy-Syathibi period, Granada was hit several times by internal political conflicts. A succession of power often proceeds through bloody struggles. But there is no data to indicate asy-Syathibi's alignment with either of the warring parties for power. The political world does not seem to attract the interest of asy-Syathibi. Instead, he devoted all his attention and intellectual interest to solving two major problems that spread among Granada society at that time: *taklid* and *bid'ah*. (Mubarok, 2008)

According to asy-Syathibi, the biggest cause of spreading *taklid* and blind fanaticism among the inhabitants of Granada was their tendency to limit attention only to secondary problems (*furu'*) without trying to trace the fundamental principles (proposals) of Islamic teachings. This was one of the driving factors of al-Syathibi to write his great work, *al-Muwafaqat*. (Al-'Abidi, 1992)

Asy-Syathibi did not silent watching *bid'ah* spread widely. He wrote *Kitab al-I'tisam*, a work that contains to return to the pure teachings of Islam and abandon all *bid'ah*. Not only that, but asy-Syathibi also strongly opposed the

scholars who silenced, or even supported, *heretical* practices. In his efforts to make social and religious improvements, asy-Syathibi was not unaware of the severe risks he faced. It was marked by his expression that perishing following the Sunnah is salvation and no one will give an accident but by the decree of Allah. (Mubarok, 2008)

Translators have agreed on the year of his death, some specifying his death on the month, some specifying the date of that month, and some mentioning the day of his death, and his presentation as follows: His disciple Abdullah al-Majari said he died in Sha'ban in 790 H. The same thing was also said by Ahmad Bab al-Tanbakti, al-Maraghi in his book *Fathul Mubayyin fi Thabaqat al-Ushuliyyin*, ibn al-Qadhi in *Luqatul Faraid* and Ahmad in the book of *al-Wafiyat* who stated, he died on Tuesday in Sha'ban in 790 H. ('Ali, 1998)

2. Opinion of Al-Imam asy-Syathibi on Bid'ah

Bid'ah has been discussed by scholars both in classical and contemporary times, regarding its nature and influence in a practice. *Al-Imam* asy-Syathibi in *al-I'tisam* defines *bid'ah* is:

فالبدعة إذن عبارة عن طريقة في الدين مخترعة تضاهي الشرعية يقصد بالسلوك عليها المبالغة في التعبد لله سبحانه

"Then if so, *bid'ah* is the *thariqat* (way) that is made up in religion, which matches (resembles) the law of *shari'ah*, which is meant by doing it, is an exaggeration in devoting oneself (worship) to Allah the Most Holy" (As-Syathibi, 1988)

And:

البدعة طريقة في الدين مخترعة تضاهي الشرعية يقصد

بالسلوك عليها ما يقصد بالطريقة الشرعية

"And *bid'ah* is a way that is made up in religion, which resembles the law of *shari'ah*, which is meant by doing it is what is meant by the way (way) of doing the law of *shari'ah*" (As-Syathibi, 1988)

According to asy-Syathibi the first definition of *bid'ah* does not include customary affairs (worldly) into the meaning of *bid'ah*, but only especially on the issue of worship only. While the second definition puts customary affairs into the scope of *bid'ah* (As-Syathibi, 1988). So *bid'ah* surrounds the affairs of worship and custom.

The explanation of the definition can be read as quoted by asy-Syathibi, namely: the meaning of the word *طريقة* according to him, that understanding is something that has been set to be lived, which the *heretic* rests the new thing on religion. For if the new way is in worldly trouble, it does not belong to the category of *bid'ah*, such as making factories, establishing the state, even though it has not been known before.

Furthermore, the meaning of the word "rivaling (resembling) *shari'ah*" in that sense means that it resembles the ordinances that exist in *Shari'ah* even though the act does not include *shari'ah*, even contrary to *shari'ah*. Among others (As-Syathibi, 1988):

a. Determining certain restrictions of charity that previously there were no special restrictions by the *Shari'ah*, for dexample, if there is a person vowing to fast by standing alone and not sitting or specializing to sunbathe alone without shelter, with the intention of the specialization is in the framework of worship. Also included with

choosing food and clothes without any reason.

- b. Practice certain ordinances and conditions of worship that there are no special provisions before, such as *dhikr* with the condition of one voice at the same time and celebrating the birthday of the Prophet (peace be upon him).
- c. Stick to certain worship and at certain times, which have no decrees in the *Shari'ah*, such as sticking to the fast of the middle of *Sha'ban* and reviving the night and other similar practices.

So certain ways that do not match or resemble the provisions of *Shari'ah*, are not a matter of *bid'ah* but only customs (Qadir & Saqqaf, 2003). With the above limitations, it can be understood that the *al-Imam* of asy-Syathibi concluded that custom does not include *bid'ah*.

While the word "which is meant by doing it, is to doubt devoting (worship) to Allah" in the above definition according to asy-Syathibi is the essence of *bid'ah*. That is the purpose and purpose of the *bid'ah* that causes the act to be forbidden. Whereas in fact it is not so, even contrary to *sharia* when viewed in several aspects, among others (As-Syathibi, 1988):

1. provide certain restrictions, such as people who are *nazdar* to fast while standing and not sitting, sunbathing and not sheltering, or specializing in breaking social relations for worship, and limiting the eating of food and wearing certain clothes for no reason.
2. Familiarize certain ordinances and certain worship requirements, such as *dhikr* with the condition of one voice at the same time and make the birthday of the Prophet (peace be upon him) a celebrated day.
3. Stick to certain worship and a certain time, which has no decree in the *Shari'ah*,

such as sticking to the fast of Sha'ban and reviving the night.

While the second definition, according to asy-Syathibi the difference of definition on the purpose of its purpose is made. In this definition in the last section, it is mentioned: "what is meant by doing it is what is meant by the way (way) of doing the law of Shari'ah." This is the true meaning of *bid'ah* because this is the main purpose of something (Sabki et al., 2012). It means that Shari'ah (Islam) comes none other than for the benefit of human beings both in the world and in the world so that they obtain the perfection of life. This is what the one who does *bid'ah* wants. That the affairs of the world and the hereafter with the *bid'ah* deeds that he did became perfect. Although there are two heretical definitions, *Al-Imam* asy-Syathibi in practice is inclined to the first *bid'ah* definition.

According to *al-Imam* asy-Syathibi that *bid'ah* can be related to customs or worship. If it is related to custom then what the *heretic* wants so that all world affairs are in perfect good, if it is related to worship then what the heretic wants is to perform the worship as perfectly as possible to obtain the highest position in the hereafter, and practice the verse of the *Qur'an* that reads:

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِي (٥٦)

And I did not create the jinn and men except that they might serve Me. (QS. Al-Zariyat: 56)

Correlation of *bid'ah* with *Mashlahah mursalah* and *Istihsan* According to asy-Syathibi

The important point of discussion on *bid'ah* according to *al-Imam* asy-Syathibi is his discussion of opinions that connect some of the terms *ushul fiqh* as the basis for being called *bid'ah* or not a

matter. According to him some people who lack his understanding of *ushul fiqh* experience confusion in understanding *maslahah mursalah*, *istihsan*, and *bid'ah*. Most of them would assume that part of *mashlahah mursalah* is *heretical*. They rested his assumptions on friends and *tabi'in* and made it an argument to justify *bid'ah* in worship. (As-Syathibi, 1988)

Based on their assumptions, *mashlahah mursalah* is a form of legal adjustment of a case with no basis for certain propositions. So it does not have a particular *syar'i* backrest, nor is it an acceptable form of *qiyas*. (As-Syathibi, 1988)

Based on this they assume that *mashlahah mursalah* is a form of *bid'ah* that is considered good, because it is returned to religious matters that have a certain *maslahat*. As for the basis of their thought related to the ability of *bid'ah* is if *mashlahah mursalah* accepted, means good *bid'ah* must be accepted, because the source of the taking of both is the same. Conversely, if good *bid'ah* is unacceptable, then *mashlahah mursalah* is also unacceptable. Similarly, *istihsan*, because *istihsan* is also a way of establishing the law without the basis of the proposition (As-Syathibi, 1988).

On this issue, in the book of *al-Itisham* *Al-Imam* asy-Syathibi explained at length that *bid'ah* is different from *mashlahah mursalah*. Asy-Syathibi concludes:

a. *Bid'ah* is the opposite of *mashlahah mursalah*, because it is the object of *maslahah mursalah* is a thing that can be understood the meaning of its purpose in detail by reason while the object of *bid'ah* is worship which is essentially incomprehensible meaning in detail. (As-Syathibi, 1988)

b. *Mashlahah mursalah* is intended to keep affairs that are basic and only as an intermediary or intended to relieve *taklif* (burden). so as opposed to *bid'ah* which is calculated to add burden (in *taklif*), so that it is contrary to the principle of *mashlahah mursalah*. (As-Syathibi, 1988)

Before making this thought, asy-Syathibi provided several illustrations of the practice of *mashlahah mursalah*, for example, the policy carried out by Umar bin al-Khathab about being able to kill a group of people for killing one person (which is forbidden to kill).

According to him, the basis of this acquisition is *mashlahah mursalah*, because there is no clear nash that indicates such a provision. The good side of this rule is so as not to undermine the provisions of the *qisas* law. Asking others for help so that they are not alone in killing gives way for someone to kill others when it is known that there is no law of *qisas* in the matter. If anyone says it is *bid'ah* in the Shari'ah, then according to asy-Syathibi the reason they were killed is that they participated in the murder. The condition conveyed by asy-Syathibi is a benefit that encourages killing others. So this is not *bid'ah* or a new thing in Shari'ah, because it has the purpose of maintaining the purpose of establishing shari'ah *qisas*, namely in terms of protecting the blood of haram. (As-Syathibi, 1988)

Another example is the codification of the Qur'an. At that time the companions of the Prophet agreed to collect the mushaf of the Qur'an, even though there were no nash that showed the command to collect. But the companions saw it as a benefit, which was clearly following the rules of the Shari'ah. Because this kind of action is classified as trying to guard against the Shari'ah, so the

command to keep the Qur'an is something that has been understood. And also as an effort to prevent disputes in the matter of the source of shari'ah, namely the Qur'an. (As-Syathibi, 1988)

Asy-Syathibi made a formulation of the concept of *mashlahah mursalah*, which he made the basis of a foothold for in reviewing the matter of *bid'ah*, namely as follows:

1. *Mashlahah mursalah* must be under the purpose of Shari'ah. Thus *mashlahah mursalah* which is set always pay attention to the rules or propositions of shari'ah. (As-Syathibi, 1988)
2. asy-Syathibi states that the scholars remind that this *mashlahah mursalah* is not used in things that cannot be reached by the meaning of the mind because this *mashlahah mursalah* its scope on things that can be understood by reason. This is so as not to allow reasoning to enter into the problem of worship and other things of Shari'ah which is a matter of worship, such as ablution, prayer, fasting, hajj, and so on. (As-Syathibi, 1988)
3. *Mashlahah mursalah* is applied to keep things that are basic (very important) and aim to eliminate severe problems that usually arise in religious matters. And it is included in the rule: "something whose absence makes it imperfect an obligation, so it is punished by duty." So *mashlahah mursalah* includes intermediaries (*wasail*), not the purpose (*maqasid*). And its enactment is to reduce heavy problems (reduce burdens), not to increase the burden. (As-Syathibi, 1988)

The above explanation states that it is impossible with the permissible *mashlahah mursalah* asy-Syathibi allows *bid'ah* and adds to matters of a sunnah nature. Because *bid'ah* is the object of worship, and also because *bid'ah* also adds

to the burden, which is contrary to the principle of *mashlahah mursalah* that lightens the burden. In conclusion, there is no connection between the heretic and *maslahah mursalah* (As-Syathibi, 1988).

While related to the relevance of *bid'ah* and *istihsan* according to asy-Syathibi, it appears when there are people who do *bid'ah* by basing *bid'ah* on the expression: "this is *bid'ah mustahsanah*" (*bid'ah* which is viewed well based on *istihsan*). It means that he based the deed on *istihsan*, which according to him *istihsan* is something that is considered good by Mujtahid with his reason and also his opinion. So that opinions like this will give rise to *mustahsin* (people who judge well), even though this *mustahsin* deed makes the perpetrator put forward reason rather than sharia. (As-Syathibi, 1988)

The definition of *istihsan* as above also resulted in the ability of reason to reject a sharia proposition. And it is can be assumption of a layman with the law of syar'i on a case can be used because of his skills in other scientific fields. (As-Syathibi, 1988)

The proposition used as the basis of the act is the word of God (As-Syathibi, 1988):

واتبعوا احسن ما نزل اليكم من ربكم من قبل ان ياتيكم العذاب بغت وأنتم لاتشعرون (الزمر: ٥٥)

"And follow the best that has been sent down to you from your Lord before the punishment comes to you suddenly, while you do not realize it."

And the word of God:

.....فبشر عبادنا الذين يستمعون القول فيتبعون

احسنه.... (الزمر: ١٧-١٨)

"So please pleased you, my servants. Who listens to words and follows what is best among them.

And also, a hadith:

فما رأى المسلمون حسنا فهو عند الله حسن (رواه احمد)

"What is seen as good by the Muslims is good, and good according to Allah."

Al-Imam asy-Syathibi said according to those who are meant by the above proposition is what they see with their minds. If it is considered good syar'i (their opinion) there is no right for them (for their reason) to declare it good, because the concept of sharia itself is free from the good judgment they express with their reason (As-Syathibi, 1988). So it is clear that the arguments they use do not strengthen the arguments they have expressed above. *Istihsan* like this is what the *al-Imam* of Shafi'i denies with his famous agreement, "Who ever *istihsan* means he has made a new Shari'ah." (As-Syathibi, 1988)

From the *ushul fiqh* side, itself is *al-Imam* malik and *al-Imam* Abu Hanifah declared *istihsan* as the source of the law. They define *the istihsan* differently from that conveyed by the first *istihsan* definition above. The definition of *bid'ah* according to *al-Imam* Malik and Abu Hanifah proposed by asy-Syathibi is to practice the strongest proposition between the two propositions. Every general proposition that applies continuously and if analogous and suitable, then according to *Al-Imam* Malik and Abu Hanifah it can be devoted to any proposition, both in *zahir lafaz* and its meaning. *Al-Imam* Malik mngistihsanakan *takhshis* with *mashlalah*, while *al-Imam* abu hanifah *istahsishkan* with *istihsan*. If what is meant by *istihsan* with the definition conveyed by Maliki and Hanafi above, then *istihsan* is considered as a proposition. and like this is also not denied by the *Al-Imam* Shafi'i so it is clear that there is no reason for *mubtadi'* (one

who makes *bid'ah* by underlying it with *istihsan*. (As-Syathibi, 1988)

Following the presentation above *Al-Imam* asy-Syathibi tried to classify that the meaning of the words *mashlahah mursalah* and *istihsan* used by people who base their opinions with two sources of Islamic law is very wrong. Because according to asy-Syathibi *mashlahah mursalah* and *istihsan* is intended not as its meaning in language, namely *mashlahah mursalah* which is interpreted by deeds that contain health and *istihsan* with acts that contain goodness. But it must be returned the meaning of the word *mashlahah mursalah* in accordance with what was desired by *Al-Imam* Malik. The meaning of the word *mashlahah mursalah* according to *Al-Imam* Malik is a *mashlahah* that has no cancellation from *nash* and is also not clearly mentioned by *nash* but this *mursalah maslahat* should not contradict *nash* as the main source (Herawati, 2014). So it can be seen, actually making *mashlahah mursalah* as a source legalizing *bid'ah* is very wrong.

Likewise, the meaning of the word *Istihsan* must also be returned to the meaning of the word carried by *Al-Imam* Abu Hanifah, which the opinion of *Al-Imam* Abu Hanifah on the issue of *bid'ah* can be found from the opinion of one of the Hanafiyah scholars, *Al-Imam* al-Sarakhsi. He defines *istihsan* in terms of abandoning *qiyas* and practicing stronger than that, because there is a proposition that wants it, following human welfare. (Winarno, 2019)

So according to the author, when a person does *ijtihad* to establish a law, it is required that the *mujtahid* understand the methods he uses, so as not to be mistaken in resulting in *ijtihad*. A *mujtahid* needs to understand the terms in *ushul fiqh* following the *Al-Imam* who uses the term

for *jihad*. Of course, when *mujtahid* uses the rule of *mashlahah mursalah* then returned to the definition delivered by *Al-Imam* Malik. Likewise, with *istihsan*, the meaning is also returned to *Al-Imam* Abu Hanifah. So to justify good *bid'ah (hasanah)* with good reason *mashlahah mursalah* and *istihsan* both have no reason with *bid'ah hasanah* is very wrong. The rebuttal submitted by *Al-Imam* asy-Syathibi to those who make *mashlahah mursalah* and *istihsan* as legalization of *bid'ah* acts is very appropriate in order to maintain the purity of *shari'ah* from hands that disrupt Islamic *shari'ah*.

CONCLUSION

Based on the above explanation, it can be concluded that *al-Imam* asy-Syathibi understands *bid'ah* according to the meaning of *sharia*, not from the aspect of language, so according to asy-Syathibi *bid'ah*, it is only on the aspect of worship. It can be understood from his definition of *bid'ah*: *Bid'ah* is a term about ordinances in religion that are deliberately made and resemble *sharia*, to express it in the form of behavior (deeds) that rely on it excessively, especially in worshiping Allah.

This definition explains that if new action occurs outside the scope of worship then it is not called *bid'ah*. Thus, the construction of the factories that exist today, the collection of the Qur'an, and the development of the state are not in the category of *bid'ah*.

Al-Imam asy-Syathibi said that the reasons put forward by the scholars who made *mashlahah mursalah* and *istihsan* as the basis for the acquisition of *bid'ah* are very inappropriate. This is because *mashlahah mursalah* itself is a method that arises from the demands of the

proposition, but is not explained explicitly by the number of propositions that lead to it. So it is wrong to say that it is *bid'ah* (which has no basis in reason).

As for if anyone tries to connect the *bid'ah* that he made with the reason of *mashlahah mursalah* and *istihsan*, then *Al-Imam* asy-Syathibi argued because *mashlahah mursalah* is the object is not sharia but something that can still be reached by reason, while worship cannot always be reached by reason, so it does not make sense as the scope of *mashlahah mursalah*. The next rebuttal conveyed by *Al-Imam* asy-Syathibi related to the reason *mashlahah mursalah* and *istihsan* used by *muabjadi* is *Al-Imam* asy-Syathibi returning the meaning of *istihsan* to the definition brought by *Al-Imam* Malik and *Al-Imam* Abu Hanifah. With such defenisi *masalahah mursalah* and *istihsan*, *mashlahah mursalah* and *istihsan* included to the proposition used as a source of law. Automatically *masalahah mursalah* and *istihsan* cannot be used as a basis for the acquisition of *heretical deeds hasanah*.

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