

## **Sa'i Worship Using Escalators (Application of *the Ilhaq Masail bi Nadhairiha Method*)**

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### **ABSTRACT**

This research discusses the method of finding law through *ilhaq masail bi nadhairiha* in the practice of sa'i worship using escalators. Of course, facilities in the form of escalators built by local authorities will have an impact on the worship not being fully carried out by each individual in its entirety, this raises legal questions about whether it is valid or not. To find legal answers, many methods are used, one of which is familiar among Islamic intellectuals is the *Ilhaq Masail Bi Nadhairiha* method, where this method is the first step in actualizing the book of *Thurats* to be able to be adaptive in answering contemporary problems. The research method used is a qualitative method with a descriptive analysis approach, with this approach we want to find a comprehensive problem analysis for the existence of a legal fatwa that is a solution with balanced library materials. The results of the research show that there is a mistake in the law on escalators without walking, some are of the opinion that it is not permissible, some are of the opinion that it is permissible in urgent conditions (*dharurat*) and some say it is absolutely permissible. Furthermore, the local authorities' actions in building escalators are justified provided that they still provide free space for jogging as is the basic requirement for sa'i worship.

Keywords: *Sa'i, Eskalator, Ilhaq Masail*

### **INTRODUCTION**

Sa'i or jogging between Mount Shafa and Hill Marwa is one of the obligations during the Hajj pilgrimage. Jogging is often a burden for those who are physically weak, especially as the number of congregants often overflows, making the sa'i prayer very tiring and risky of physical accidents. Authority holders are required to adopt solution policies that can provide immediate benefits and resolve existing problems (Abdal, 2021, p. 133). As a solution to make this worship easier, the Saudi Arabian government built an escalator between Shafa Hill and Marwa Hill. The attitude taken by the Saudi Arabian government is in line with the wishes of the Indonesian government regulations contained in Law no. 17 of 1999 concerning the Implementation of the Hajj (Nuri, n.d., p. 153). On the other hand, the Saudi Arabian government's actions gave rise to discourse among the jurists, the discourse was

regarding whether the Saudi Arabian government's actions were justified in view of sharia' and the legal status of sa'i worship using escalators. With these viewpoints, sa'i worship becomes an urgent matter to be discussed in order to have legal certainty as a solution to carrying out sa'i worship correctly. As a contemporary case, the resolution can be done using the *ilhaq al-masail bi nadhairiha* method.

The *ilhaq al-masail bi nadhairiha* method is part of the *manhaji* method which is currently popular, even media framing in the realm of Islamic legal studies is a little more fanciful with this method. This method is a way of resolving religious problems which are discussed and studied in depth in *bahtsul masail* by following the way of thinking and rules of legal determination that have been prepared by the imams of the *mahzab*. The name of this method appeared in the decision of the *Bahtsul Masail National Conference of NU Ulama* in 1992 in Bandar Lampung, while its implementation had already been carried out by various *ulama* groups, especially *NU ulama* circles. Basically, this *manhaji* method is still on the axis of *maqasid al-syariyyah* with three types of variants as formulated by *al-Syatibi*, these three types are *dharuriyah* (religion, soul, descent, property and reason), *hajiyyah*, and *tahsiniyah* (*al-Syatibi*, 2015, p. 17).

The realm of the greatest role of reason in realizing the *manhaji* method is in *hajiyyah* and *tahsiniyah*, both of which are presumptive entry points for *fuqaha* in the context of developing and expanding variants of *hajiyyah* and *tahsiniyah* within the scope of *dharuriyah*. The *fuqaha* who base every legal study on *maqasid al-syariyyah* tend to strive for religious problems to be discussed and resolved by developing the theory of *masalik al-illat*. Meanwhile, the *fuqaha* which base each law study on the text of the *Yellow Book* regarding similar laws tend to strive for religious problems to be discussed and resolved by contextualizing the *Yellow Book* and the application of *fiqhiyyah* rules or known as *fiqh qauli* in the first stage and *ilhaq al-masail bi nadhairiha* in the next stage (*Mahfudh* , 2011, p. 20).

This concept positions that *ilhaq al-masail bi nadhairiha* is part of *manhaji*, where the conception of *ilhaq* is the resolution of new legal problems using *al-qawa'id al-fiqhiyyah* formulated by school imams or their students. It can even be concluded that *ilhaq al-masail bi nadhairiha* is not just an effort to synthesize one *furu'iyah* issue with another *furu'iyah* issue, but what is more important is a synthesis between *furu'iyah* issues and *al-qawa'id al-fiqhiyyah* (*Aminuddin* , 2013, p. 307).

Because the use of escalators is a contemporary problem, the laws and regulations can be known by means of *ilhaq al-masail bi nadhairiha*. Using this method will be the answer that the discovery and resolution of new problems in the religious realm does not require *ijtihad* which is based on the main postulates as carried out by *mujtahids*. It is hoped that this research will be able to provide a

dynamic legal perspective on sa'i worship without losing the sacred value of the propositions of the Qur'an and hadith. It is also hoped that this research can be used as a reference for solving other problems using the Ilhaq method. This research aims to find out more about the law of sa'i worship when using an escalator. Apart from that, we also want to see the value of flexibility offered by ulama through the ilhaq method as a reference for contemporary legal settlements.

## **RESEARCH METHODS**

This research uses a qualitative research method that is descriptive analysis, namely research that describes and presents research results objectively on the beliefs, perceptions, thoughts of individual or group people to then be analyzed in a structured and measurable manner (Kaelan, 2012, p. 5).

Research data was obtained through reviewing documents in the form of the book of thurats and various journals that have discussed similar topics even from different points of view. The characteristics of qualitative research lie in the object that is the focus of the research. The emphasis is on the scientific aspect of quality because it involves understanding, concepts, values and characteristics inherent in other research objects. Descriptive analysis means that this research is described in words according to the thoughts of each party used as a reference. When descriptive is associated with analysis, it is not just research that only goes to the extent of simply describing or describing the condition of an object or event without any intention of drawing generally applicable conclusions (Bakry, 1995, p. 3). However, it is more directed towards concluding through a reasoning process on each thought quoted to be discussed and studied in each problem.

## **RESULTS AND DISCUSSION**

### **1. Consideration of Benefits for Leaders**

The discussion about whether or not to use escalators during sa'i worship is closely related to the government's considerations in creating escalators. Leaders in the Islamic order have an urgent role in religious matters so that understanding of Islam and constitutional law is in line with each other. Therefore, religious bureaucracy is largely determined by the leader, determining the beginning and end of Ramadan, appointing zakat amil, and appointing mosque imams are forms of small tasks but are still under the leader. Policies and regulations related to society are of course based on benefits, in this case al-Sayuti said that;

(ومنها) ما ذكره الماوردي أنه لا يجوز لأحد من ولاة الأمور أن ينصب إماماً للصلاة فاسقاً وإن صححنا الصلاة خلفه لأنها مكروهة وولى الأمر مأموراً بمراعاة المصلحة ولا مصلحة في حمل الناس على فعل المكروه

(al-Sayuti, 2015, p. 38)

This means: part of the application of the rules is the problem that has been

discussed by al-Mawardi, namely that it is not permissible for a leader to appoint an impious prayer leader even if it is deemed valid for the congregation to pray behind him. The reason is that makruh follow wicked imams while leaders are required to maintain maslahah and there is no benefit in inviting people to do makruh deeds.

The context above concerns appointing priests who do not meet the criteria so that it impacts the makruh law for other people to follow them. At first glance, it is not that urgent, but religion still provides a benchmark for leaders to avoid conflicts that will arise from small problems. The context above also provides an understanding that maslahah is not only limited to social-human aspects but also touches on religious aspects where it bridges society to carry out makruh actions, including things that do not contain elements of maslahah. The emphasis on the maslahah aspect within the scope of a leader's decision is motivated by various factors, sometimes urgency or need, in this case Al-Sayuti added.

قال العلائي مدار هذه القاعدة على القاعدة المشهورة في أصول الفقه إن المصالح المعتبرة إما في محل الضرورات أو في محل الحاجات أو في محل التتمات وإما مستغنى عنها بالكلية إما لعدم اعتبارها أو لقيام غيرها مقامها

(al-Sayuti, 2015, p. 225)

Meaning: al-'Ala'i is of the opinion that the scope of this rule in general in the order of ushul fiqh rules is in maslahah mu'tabarah, whether in the position of dharurah, urgent need, complement or even not needed in general because it is not in the iktibar or disposition other aspects.

Factors that cause maslahah to be prioritized include hajiah (urgent need). Al-Sayuti and other scholars also agree that maslahah played by leaders is also legal if the foundation is urgent need. With this it can be seen that in the context of the Saudi Arabian government making an escalator between Shafa and Marwah hills is an urgent need. The reality of the need can be seen in terms of the ratio of the number of pilgrims to sa'i places of worship, which is quite urgent, not to mention seeing that most of the Hajj or Umrah pilgrims are already elderly on average. Especially if you look at the obligation to protect Hajj pilgrims which is carried out collaboratively between the Saudi Arabian government and the Indonesian government in protecting and providing comfort facilities while the pilgrims are in Saudi Arabia (Islahuddin & Nandavita, 2021, p. 105). These considerations are why the Saudi Arabian government's policy is very appropriate based on the concept of maslahah.

Basically, interpretation of maslahah needs to be done by the right person and not motivated by personal or group interests. This does not mean that maslahah does not enter the realm of politics, but it is better to do politics for the benefit, therefore the authority of maslahah is given to leaders who, through their authority,

will be able to create comprehensive *maslahah* for their people (Rifani, 2021, p. 14). To be more targeted in using the power of *maslahah*, some *ulama* require leaders to have *mujtahid* status, if not, it is better to use *ulama* as advisors in making policies. This second step takes the form of a preventive effort so that legal *fatwa* decisions do not deviate and at the same time as a solution in the absence of a leader with *mujtahid* capacity.

## 2. Ulama's views regarding Sa'i on the escalator

The round trip between *Shafa* and *Marwah* must be done completely 7 (seven) times to obtain the validity of the *sai*, as explained in the *Nihayah al-Muhtaj*:

فإن الواجب استيعاب المسافة التي بين الصفا والمروة كل مرة (al-Ramli, 2015, p. 291)

Meaning: The obligation in *sai* is to travel the distance between *shafa* and *marwah* on every count.

*Sai* is one of the worship rituals in the *Hajj* which has a long history and sacred value. In its implementation, many people do not just fulfill their obligations but rather absorb the wisdom and sacrifice of service that occurs when the *Sai* worship is carried out. Regarding the *sa'i* worship which is not carried out as recommended, it is explained in detail by *Ibnu Hajar al-Haitami* in the book *Tuhfah al-Muhtaj*, here is an excerpt;

ويستحب أن يكون ماشيا وحافيا إن أمن تنجس رجليه وسهل عليه و متطهرا ومسطورا - إلى أن قال - ولا يكره الركوب إتفاقا على ما في المجموع لكن روى الترمذى عن الشافعى كراهته إلا لعذر ويؤيده أن جمعا مجتهدين قائلون بامتناعه لغير عذر إلا أن يجاب بأنهم خالفوا ما صح أنه صلى الله عليه وسلم ركب فيه إهـ

(al-Haitami, 2015, p. 101)

Meaning: circumcised *sai* while walking and barefoot if it is easy for him and avoids uncleanness, circumcised also while being pure and covered. In the book *al-Majmu'*, it is agreed that it is not *makruh* to drive, but *al-Turmuzi* narrated from *Imam Syafi'i* that the status is *makruh* except for motorbikes. This history is reinforced by the opinion of a group of *mujtahids* who said that it is not permissible to drive if it is not for motorbikes. The *ijtihad* of this group of *ulama* can be answered that this history of *turmuzi* violates the actions of the prophet *Muhammad* who rode while performing *sa'i*.

The basic concept of the *Sai* worship is carried out by jogging between the hills of *Shafa* and *Marwah* 7 (seven) times and without using footwear. Then there is the problem of worrying about being stepped on by unclean things, thereby causing the value of the *sunnah* of going barefoot to be lost. Likewise, the problem of some people is that their age makes them unable to do *sai* as normal, this also

causes a shift in sai management from walking to riding. This elasticity indicates religious teachings that are very elegant and dynamic, while the controversy that occurs regarding the law of riding sai certainly also has its own basis.

Shafiiyah scholars allow sai to use vehicles, but if they don't have a license, then they won't get priority in taking the journey. This is because walking reflects humility in worship, as explained by Imam an-Nawawi in al-Majmu':

الافضل أن لا يركب في سعيه الا لعذر كما سبق في الطواف لانه أشبه بالتواضع, (al-Nawawi, 2015,

p. 77)

Meaning: It is more important not to climb something when performing sai unless you are old, just like in tawaf, not to climb something in order to be more tawadhu'.

The explanation of the ability to drive during sa'i worship is considered by the ulama to be an alternative, not a basic concept, meaning that every worship certainly has a ritual value whose urgency is uncomfortable and not in accordance with one's desires. The more contrary it is to lust, the more value the worship has, that is where the meaning of self-servity to Allah SWT will be seen. Fiqh glasses usually offer solutions if a worship service cannot be carried out completely in accordance with the basic concept, while Sufism glasses emphasize emotional and psychological aspects so that worship can still be carried out according to the concept even if it feels difficult. Istinbath is used here through the lens of fiqh, not Sufism, thus giving birth to an easier alternative.

Imam Al-Nawawi also explained the disagreement regarding the Sai worship performed by driving and the arguments for it in the book al-Majmu', here is the quote;

ذكرنا أن مذهبنا أنه لو سعى راكباً جاز، ولا يقال مكروه، لكنه خلاف الأولى ولا دم عليه، وبه قال أنس بن مالك وعطاء ومجاهد .....، وقال أبو ثور لا يجزئه ويلزمه الإعادة وقال مجاهد لا يركب إلا لضرورة وقال أبو حنيفة إن كان بمكة أعاده ولا دم، وإن رجع إلى وطنه بلا إعادة لزمه دم. دليلنا الحديث الصحيح السابق أن النبي صلى الله عليه وسلم " سعى راكباً " (al-Nawawi, 2015, إه

p. 77)

This means: performing Sa'i while driving is permitted in the Shafi'i Imam school of thought, it is also not categorized as makhruh but it is wrong for the hall and does not require dams, this is the opinion of Anas ibn Malik, 'Atha and Mujahid. According to Abu Tsur, it is not legal to do the sai using a vehicle and you have to repeat it. Mujahid said that it is not permissible to drive except in a state of dharurah. Abu Hanifah said that if people who complete the Sa'i while driving are still in Mecca, they are obliged to repeat it and not

be subject to dams. If they have returned to their respective places and not repeated it, they are subject to dams. The argument that allows sai to be driven is the act of the prophet who performed sai by ride.

Furthermore, Imam Abu Hanifah is of the opinion that walking while carrying out the sai prayer is an obligation, so that if someone performs the sai without walking then they will be charged because they are abandoning the obligation. This is as explained by Imam Ibnu Nujaim in *al-Bahru al-Raiq Kanzu al-Daqaiq*;

وقد قدمنا أن المشي فيه واجب حتى لو سعى راكباً من غير عذر لزمه دم (Ibrahim, 2015, p. 358)

Meaning: It has been conveyed that walking in sai is an obligation so that if you do it by driving (or using facilities) without an excuse, you are obliged to pay dam.

The difference of opinion between these two schools of thought is of course based on the method of instinct and proportional propositions in solving problems. This is clearly seen from Imam Abu Hanifah giving a larger portion to the use of qiyas and minimizing the role of hadith in determining the propositions, while Imam Syafi'i simplified the portion of qiyas and also prioritized role of hadith. This difference in method can also be seen from the legal determination regarding the issue of sai, where the hadith used by the Shafi'i community is not accepted by the Hanafi community as Imam al-Syairazi in *al-Muhadzdzab* explains thus:

وإن سعى راكباً جاز لما روى جابر قال: طاف النبي صلى الله عليه وسلم في طواف حجة الوداع

على راحلته بالبيت وبين الصفا والمروة ليراه الناس ويسألوه (al-Syairazi, 2005, p. 410)

Meaning: Sai while driving is permissible because there is a hadith narrated by Jabir that the Prophet performed tawaf on the hajj wida' and sai between shafa and marwah by riding his vehicle so that people could see and ask him questions.

These two opinions from different schools of thought can basically be implemented provided that someone who wants to ride in the Sai prayer service is allowed to refer to the opinion of Imam Shafi'i. And if he considers sai to be invalid while driving, it means he must believe in his worship referring to the Hanbali school of thought. This permission does not mean changing schools of thought, but indicates the legal validity of both which are based on different istinbath methods and have legality.

The explanation regarding the ability of sa'i to drive refers to a strong proposition which is the bud for the growth of the elasticity of the law of jogging in the sa'i worship. Moreover, the statement of the hadith indicates a commitment to give a fatwa to anyone who questions the Prophet's actions, this condition would be very far from considering this hadith to be included in the category of dhaif. Indirectly, this hadith also supports the validity of the opinion of the Shafi'iyyah

community which allows sa'i to use escalators.

## **CONCLUSION**

The problem of sa'i with escalators that has been discussed regarding the provisions on whether or not to build escalators is answered using the ilhaq method through rules, while the provisions on whether or not sa'i and escalators are legal are answered using the ilhaq method which looks for old problems that already have legal provisions. The legal formulation related to sai using escalators can be concluded that the Saudi Arabian government's actions are justified provided that it still provides free space that can be used for jogging as per the basic provisions based on the rules of "tasharuf al-imam manuthun 'ala al-maslahah'. Meanwhile, according to Abu Tsaur and Imam Abu Hanifah, there is a mistake in carrying out sa'i via an escalator without walking. Imam Mujahid is allowed if there are urgent matters (dharurat). Meanwhile, according to the Shafi'iyah, it is absolutely permissible, but if there is no excuse, this violates virtue (khilaf al-Aula).



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