

An Empirical Approach in Culinary *Fiqh* of Coastal Communities: Critical Study of 'Aysh al-Baḥr'

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Abstract

The lives of fishermen are said to have a profound influence on the lives of coastal towns. Their attitude toward marine resources affects their theological perspective as well. This fact is supported by Kiai Anwar's book 'Aysh al-Baḥr', which discusses the legal position of consuming numerous aquatic animals. This article seeks to trace the book 'Aysh al-Baḥr's' understanding of culinary *fiqh*. As an analytical tool, this paper employs a normative approach and the notion of Islamic epistemology pioneered by al-Jābirī and Mulyadhi. This article demonstrates how the epistemology of culinary *fiqh* in 'Aysh al-Baḥr' employs an empirical approach to determining the legal status of ingesting animals by viewing and direct observing them. Kiai Anwar's background as a fisherman gives him an edge in developing normative and empirical reasons for marine animal laws. This conclusion demonstrates that coastal cultures have an extensive understanding of aquatic animal environments. This article suggests utilizing empirical approaches to derive rules that necessitate direct observation.

Keywords: culinary *fiqh*; coastal communities; 'Aysh al-Baḥr'; Kiai Anwar Batang

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Kehidupan masyarakat pesisir disinyalir kuat terpengaruh oleh kehidupan nelayan. Termasuk orientasi mereka terhadap sumber daya laut juga mempengaruhi pemahaman keagamaannya. Kenyataan tersebut didukung oleh keberadaan kitab karya Kiai Anwar berjudul 'Aysh al-Baḥr' yang memuat status hukum mengkonsumsi berbagai hewan air. Artikel ini bertujuan untuk memetakan pemahaman fikih kuliner dalam kitab 'Aysh al-Baḥr'. Artikel ini menggunakan pendekatan normatif dan teori epistemologi Islam yang digagas oleh al-Jābirī dan Mulyadhi sebagai alat analisisnya. Artikel ini menunjukkan bahwa epistemologi fikih kuliner dalam 'Aysh al-Baḥr' menggunakan pendekatan empiris dengan melakukan observasi dan pengamatan langsung terhadap hewan-hewan untuk mengetahui status hukum mengkonsumsinya. Profesi Kiai Anwar sebagai nelayan menjadi kelebihan dalam menetapkan hukum hewan laut dengan argumentasi normatif dan empiris. Simpulan tersebut menunjukkan bahwa pengetahuan masyarakat pesisir terhadap ekosistem hewan-hewan air sangat mendalam. Artikel ini memberikan tawaran dan rekomendasi penggunaan metode empiris dalam penetapan hukum yang membutuhkan observasi secara langsung.

Kata Kunci: fikih kuliner; masyarakat pesisir; 'Aysh al-Baḥr'; Kiai Anwar Batang

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Introduction

Sharia regulates all aspects of human life related to worship and *mu'āmalah* affairs. Therefore, it is unsurprising that the discussion of *fiqh* as one of the products of Sharia covers various aspects of human life, from the most private to the most general aspects. According to Yūsuf al-Qarḍāwī, in this context, multiple types of *fiqh* have developed according to the object of discussions.¹ Such as the *fiqh al-'ibādah*, which specifically discusses the relationship between humans and God, *fiqh al-siyāsah* which specifically discusses politics and constitutional law; and *al-aḥwāl*, *al-shakhṣiyyah*, which specifically discusses family laws and other types of *fiqh*. This explanation shows that the field of *fiqh* appears to be more dominant than other fields of Islamic scholarship because it directly impacts the religious practice of the Muslim community, especially in Indonesia.² According to M. A. Kern, *fiqh* studies developed rapidly in Indonesia from the end of the 19th century to the beginning of the 20th century.³ As explained by Damanhuri, Van den Berg also emphasized what Kern conveyed after mapping around 900 books circulating in the pesantren environment.⁴ Martin Van Bruinessen also strengthens Berg's findings after classifying pesantren books in the fields of *fiqh* and *uṣūl al-fiqh*, linguistics, *'aqīdah*, *tafsīr*, *ḥadīth* and *muṣṭalaḥ ḥadīth*, sufism, *akhlāq*, and *tārīkh*.

One type of *fiqh* that is still being discussed and studied is culinary *fiqh*. This *fiqh* discusses the legal status of consuming various animals explicitly. 'Abd al-Karīm al-Lāḥim explains that this culinary *fiqh* is one of the essential aspects for Muslims because it is related to their primary need; food.⁵ In his

¹ Yūsuf al-Qarḍāwī, *al-Ijtihād fī al-Sharī'ah al-Islāmiyyah ma'a Nazārāt Tahliyyah* (Kuwait: Dār al-Qalm, 1996), 64.

² Aharon Layish, "Islamic Law in the Modern World: Nationalization, Islamization, Reinstatement," *Islamic Law and Society* 21, no. 3 (2014): 276–307, <http://www.jstor.org/stable/43304512>.

³ R.A. Kern, "Pasantren," in *Shorter Encyclopedia of Islam Leiden*, ed. oleh J.H Gibb and Kramers (Leiden: EJ Brill, 1953), 462.

⁴ Damanhuri, "Kitab Kuning: Warisan Keilmuan Ulama dan Kontekstualisasi Hukum Islam Nusantara," *Jurnal 'Anil Islam* 10, no. 2 (2017): 234–61.

⁵ Martin Van Bruinessen, *Inventarisasi Karya Ulama di Lembaga Pendidikan Keagamaan, Studi di Provinsi Sulawesi Selatan, Jawa Timur, Jawa Tengah, Jawa Barat, Sumatera Selatan, dan Nangroe Aceh Darussalam*. (Jakarta: Puslitbang Lektur Keagamaan, Badan Litbang dan Diklat, Kementerian Agama, 2010), 2; Martin Van Bruinessen, "Kitab Kuning: Books in Arabic Script Used in the Pesantren Milieu:

capacity as a living being, a human does not escape from various requirements to carry out his life. One of the educational theories explains that the actual actions taken by humans are to fulfill their needs, both physical and psychological needs.⁶ One of the primary physical needs is food consumed by humans every day. Therefore, the *fiqh* of food is essential today because they are directly related to everyday life. Since the classical era, many *fiqh* books have discussed the laws of various animals from a cross-school perspective. However, these books only briefly discuss these animals because the discussion does not only focus on these issues but also discusses other types of *fiqh*. For example, the book *al-Ḥāwī al-Kabīr* written by Abū Ḥasan al-Mawardī (d. 450 H), *Nihāyah al-Maṭlāb* written by Abū Muḥammad al-Juwaynī (d. 478 H), *Baḥr al-Madhhāb* written by Aḥmad ibn Muḥammad al-Ruyānī (d. 502 H), *Bidāyah al-Mujtahid* written by Ibn Rushd (d. 595 H), *al-Majmū' Sharḥ al-Muhadhdhab* written by Abū Zakariyā Ibn Sharf al-Nawāwī (d. 676 H), and the main *fiqh* books of various other schools of thought. The book of *fiqh* that specifically discusses the law regarding the consumption of animals is *Ḥayāh al-Ḥayawān al-Kubrā* written by Ibn Mūsā al-Dumīrī (d. 808 H). A much earlier book discussing similar matters is the *al-Ḥayawān* written by al-Jāhiz (d. 255 H). These two books are the earliest to discuss the law regarding animals for consumption.

The earliest *fiqh* book in Indonesia that discusses the law of animals was written in the 19th century. According to Snouck Hurgronje in his notes, the book of culinary *fiqh* in Indonesia originated from the debates of the Meccan and Indonesian scholars regarding the laws of animals in Indonesia, which are commonly consumed by the public. These animals include eels, crabs, and turtles.⁷ Most Middle-Eastern scholars issue a fatwa on the prohibition of consuming these animals. The fatwa affects the negative image of the Indonesian settlers there who consume these animals. This debate is the reason for the emergence of *fiqh* books that discuss the legal status of animals in Indonesia.

Comments on a New Collection in the KITLV Library," *Bijdragen tot de Taal-, land- en Volkenkunde* 146, no. 2/3 (1990): 226–69, <http://www.jstor.org/stable/27864122>.

⁶ M. Ngalim Purwanto, *Psikologi Pendidikan* (Bandung: Remaja Rosdakarya, 1990), 45.

⁷ Snouck Hurgronje, *Mekka in the Latter Part of the 19th Century* (Leiden: E.J. Brill, 1931), 47.

The above debate is a factor that Indonesian scholars need to write a book that specifically discusses the legal status of various animals in Indonesia. One of the scholars who wrote a book on the law of animals was Shaykh Muḥammad Mukhtār al-Bughrī al-Batawī al-Jāwī, known as Kiai Mukhtar Bogor. He wrote a book, which discusses the law of consuming eels. Kiai Mukhtar wrote this book to guide the Indonesian Muslim community who consume eels.⁸ There is also a book entitled *Tahqīq al-Ḥayawān* written by Kiai Aḥmad ibn Ashmūnī. This book contains a discussion of the law of consuming various animals.⁹

Kiai Anwar-Batang's book *'Aysh al-Baḥr* was also released for the requirements of the Indonesian Muslim community. This book is intriguing because it discusses animals from the sea and rivers. Books devoted to this topic are uncommon in the history of Indonesian study and the Islamic world. This book, according to Yunus Mustofa, has spread during the knowledge transmission process in numerous pesantren, particularly on the northern shore of Central Java, beginning in Pemalang, Pekalongan, Batang, Kendal, Kudus, and ending in Rembang.¹⁰ Thus, this book has a broad influence on coastal communities in shaping the paradigm of culinary *fiqh*, particularly related to the law of marine or river animals.

The history of the development of culinary *fiqh* in Indonesia needs to be studied more deeply from a legal perspective. This article will discuss the arguments and approaches of Kiai Anwar Batang in deciding the laws of several marine and river animals, which have been the subject of debate among classical and contemporary scholars. Thus, this article will map the understanding of the culinary *fiqh* of coastal communities as contained in the book of *'Aysh al-Baḥr* by Kiai Anwar, Batang, Central Java, Indonesia.

This article is a literature review with a normative approach. The primary source of this research is a book entitled *'Aysh al-Baḥr* was written by Kiai Anwar Batang. The theory used as the basis of analysis in this research is the

⁸ S Sunarwoto, "Sheikh Mukhtar 'Atarid on Belut: A Study on al-Sawa'iq al-Muharramah," *International Journal of Pesantren Studies* 6, no. 1 (2012): 31–45, https://www.academia.edu/5610280/sheikh_mukhtar_atarid_on_belut

⁹ Ahmad Ginanjar Sya'ban, "Tahqiqul Hayawan: Fikih Fauna dan Farmakologi Karya KH. A. Yasin Asymuni Kediri (1989)," *alif.id*, May 29, 2018, <https://alif.id/read/ahmad-ginanjar/tahqiqul-hayawan-fikih-fauna-dan-farmakologi-karya-kh-a-yasin-asymuni-kediri-1989-b209537p/>.

¹⁰ Mahmud Yunus Mustofa, "Transmisi Pendidikan Fiqih Nusantara pada Masyarakat Pesisir (Telaah Kitab Aisyul Bahri Karya Kiai Anwar Batang)" (Universitas Wahid Hasyim, 2019), 210.

Islamic epistemology theory initiated by Muḥammad 'Ābid al-Jābirī and Mulyadhi Kartanegara. This theory explains that there are four approaches in Islamic epistemology, namely normative (*bayānī*), rational (*burhānī*), intuitive (*'irfānī*), and empirical (*tajrībī*). These four approaches will be the basis for mapping the legal arguments in the book of *'Aysh al-Baḥr*. The method used in this research is descriptive analysis.

Epistemology of Islamic Law: *Bayānī*, *Burhānī*, *'Irfānī* and *Tajrībī*

One of the discussions in the study of Islamic law is the epistemology of Islamic law. This study discusses academic accountability for establishing Islamic law, known as *istinbāṭ al-ḥukm*, which includes normative and logical arguments or reasons, methodologies for establishing laws, approaches, and theories used for the analysis.

Al-Jābirī explained that since the classical era, the epistemology of Islamic law had been practiced with three main approaches, namely normative (*bayānī*), rational (*burhānī*), and intuitive (*'irfānī*).¹¹ The normative approach (*bayānī*) is an Islamic epistemology approach based on religious texts. This approach uses two ways to establish the law.¹² The first way is to adhere to the editorial text of the Qur'an, sunnah, and *ijmā'* by using Arabic grammar, such as *naḥw* and *ṣarf*, as analytical tools. The second way is by using the *qiyās* method.¹³ This approach became widely practiced by jurists in the classical and medieval eras.

In comparison, the rational approach (*burhānī*) is an Islamic epistemology that relies on reason's power, using logical arguments. In contrast to the two approaches above, an *'irfānī* approach is an approach in the epistemology of Islamic law originating from intuitive experience with the *kashf* method, namely the revelation of the secrets of reality from God. This epistemology is

¹¹ Muḥammad 'Ābid al-Jābirī, *Bunyah al-'Aql al-'Arābī* (Bairūt: Markaz Dirāsāt al-Wahdah al-'Arabiyyah, 2009), 24; Ibrahim M. Abu-Rabi', "Toward a Critical Arab Reason: The Contributions of the Moroccan Philosopher Muḥammad 'Ābid al-Jābirī," *Islamic Studies* 42, no. 1 (2013): 63–95, <http://www.jstor.org/stable/20837251>.

¹² Hayat Amamou, "The Nature of Early Islamic Sources and the Debate Over their Historical Significance," *AlMuntaqa* 1, no. 2 (2018): 68–79, <https://doi.org/10.31430/almuntaqa.1.2.0068>.

¹³ Zainul Mun'im, "The Epistemology of MUI's Fatwas on COVID-19: Bayani and Burhani Eclecticism," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022): 1, <https://doi.org/10.29240/jhi.v7i1.3216>.

considered higher than common knowledge obtained through human efforts with the senses and reason for some groups.¹⁴

In addition to the three approaches described by al-Jābirī, Mulyadhi Kartanegara added an epistemology called the empirical approach (*tajribī*), commonly used in problems requiring field research (*istiqrā'*) in the process of establishing the law.¹⁵ For example, in the issue of the minimum period for women's menstruation issue, the al-Shāfi'i school jurists use an empirical approach by surveying and interviewing hundreds of women. In the al-Shāfi'i school, this approach is known as *istiḍlāl al-mushāhadah* (legal establishment by direct observation) or *al-tajribah al-hissiyyah* (a sensory experience), which al-Shāfi'i often uses in establishing law.¹⁶ Thus, four approaches have been used in the classical era, but the empirical approach is limited to legal issues whose objects of study are practical.

According to Mulyadi Kartanegara, the empirical approach is known as *al-tajribī* because this approach uses experimentation, observation, and logical reasoning in concluding a legal conclusion. This approach obtains knowledge through a sensory-reality approach (*al-idrāk al-wāqī*).¹⁷ Therefore, this approach is used as a scientific approach in researching empirical fields. This approach is needed in matters of worship and muamalah, especially concerning objects that require direct observation, such as the legal status of haraam or the *ḥalāl* status of animals for consumption. Whether an animal can live simultaneously in two realms (water and land) requires empirical evidence from direct observation and observation. Without these observations, it is impossible to know about the life of these animals.

The explanation above shows that Mulyadhi Kartanegara divides the epistemology of Islamic law into four parts, namely normative (*bayānī*), rational (*burhānī*), intuitive (*'irfānī*), empirical (*tajribī*). For Mulyadhi Kartanegara, the approach needed in the contemporary era is an empirical approach or *tajribī*, especially in complex recent problems such as medicine,

¹⁴ Asmawi Asmawi, "Epistemologi Hukum Islam: Perspektif Historis, Sosiologis dalam Pengembangan Dalil," *Tribakti: Jurnal Pemikiran Keislaman* 32, no. 1 (2021): 57-76, <https://doi.org/10.33367/tribakti.v32i1.1393>.

¹⁵ Mulyadhi Kartanegara, *Reaktualisasi Tradisi Ilmiah Islam* (Jakarta: Baitul Ihsan, 2006), 175.

¹⁶ Wahbah al-Zuhaylī, *al-Fiqh al-Islāmī wa Adillatuh* (Damshiq: Dār al-Fikr, 1985), 82.

¹⁷ Kartanegara, *Reaktualisasi Tradisi Ilmiah Islam*, 183-184.

moon determination, and other issues.¹⁸ What is described above shows that the approach rarely applied in classical times was the empirical approach (*tajribī*). It is because legal topics in the classical era were less complex than in the contemporary period.

There are several characteristics of assessment and research used in the empirical approach. The first characteristic is field research with direct observation. With field research, this approach can be applied.¹⁹ The second characteristic is descriptive research. This descriptive method is intended to describe the legal object being studied systematically, factually, and accurately regarding the facts found.²⁰ These two characteristics are the main characteristics that must exist in an empirical approach.

This theory of epistemology of Islamic law initiated by al-Jābirī and Mulyadhi Kartanegara will be the basis of analysis in studying the epistemology of the book of *'Aysh al-Baḥr*, which discusses the legal status of animals for consumption. The arguments and legal basis in the book *'Aysh al-Baḥr*, by Kiai Anwar Batang will be studied and researched through this epistemological theory.

Social Background of *'Aysh al-Baḥr*

'Aysh al-Baḥr has the full title *'Aysh al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsy illā fī al-Baḥr wa alladhī Ya'īsy fī al-Barr wa al-Baḥr*. On the cover is an explanation that this book discusses the law of consuming aquatic animals that can only live in water (marine/river) and amphibians that can live on land and water. This book was written by Kiai Muhammad Anwar and published around 1918 AD.²¹

Kiai Muhammad Anwar's biography has yet to be written entirely and comprehensively, but some information describes his life journey. Kiai Dimiyati Rois, as explained by Kurdi Fadal, said that Kiai Anwar came from the coast of Batang Regency, Central Java. He lived during the time of Kiai Nawawi Banten

¹⁸ Kartanegara, 187.

¹⁹ Kartanegara, 188.

²⁰ Kartanegara, 189.

²¹ Muḥammad Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsu illā fī al-Baḥr wa alladhī Ya'īsu fī al-Barr wa al-Baḥr* (Batang, 1920), 35.

and Kiai Kholil Bangkalan.²² Kiai Dimiyati said that Kiai Anwar met with well-known scholars in Alas Roban, Grinsing, Batang, Central Java. These scholars were Kiai Nawawi Banten (d. 1897 AD), Kiai Salih Darat (d. 1903 AD), Kiai Khalil Bangkalan (d. 1925 AD), and Kiai Abdul Karim Kaliwungu Kendal (d. 1938 AD).²³ Other information can be read on the book's cover, which explains that the book's publication has been approved by two great scholars, namely Kiai Khalil Bangkalan (d. 1925 AD) and Kiai Muhammad Faqih Maskumambang (d. 1937 AD).²⁴

The book of *'Aysh al-Baḥr* was written in Batang, one of the districts located on the northern coast of Central Java. This book publishes in a culture where most people work as fishermen and sailors. Central Agency on Statistics (Badan Pusat Statistik [BPS]) of Batang Regency shows that the most dominant agriculture in Batang Regency is fisheries. Moreover, Nikolaus Loy explained that since the pre-independence era, the marine sector has significantly contributed to economic growth in Batang Regency.²⁵ It shows that the livelihoods of the people of Batang Regency are dominated by the marine sector, which includes fisheries. This fact is not surprising because fisheries and marine affairs are strategic potentials for Batang Regency, which has a coastline of 38.75 km and is also supported by inland fisheries, including ponds and public waters.²⁶ Therefore, it is not surprising that the publication of *'Aysh al-Baḥr* is Kiai Anwar's effort to respond to the needs of coastal communities familiar with foods made from marine animals.

²² Kurdi Fadal, "Aisy al-Baḥr: Karya Intelektual Ulama Pesisir Jawa Awal Abad XX M Seputar Hewan Laut," *Jurnal Lektur Keagamaan* 18, no. 2 (2020): 303–32. <https://doi.org/10.31291/jlkv18i2.792>.

²³ Fadal.

²⁴ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsu illā fī al-Baḥr wa alladhī Ya'īsu fī al-Barr wa al-Baḥr*, 1.

²⁵ BPS Kabupaten Batang, *Kabupaten Batang Dalam Angka 2020* (Batang: BPS Kabupaten Batang, 2020), 245; Andi Trimulyono dan Ari Wibawa Budi Santoso, "Pemberdayaan Masyarakat Pesisir di Kabupaten Batang Jawa Tengah melalui Pengembangan Industri Galangan Kapal Tradisional," *Kapal: Jurnal Ilmu Pengetahuan dan Teknologi Kelautan* 11, no. 1 (2014): 33–39. <https://doi.org/10.14710/kpl.v11i1.6375>.

²⁶ Nikolaus Loy, *Melancong ke Laut: Tata Kelola Pariwisata Maritim Indonesia* (Jakarta: PT. Gramedia, 2019), 222; Sholikah Sholikah, Fatah Syukur, dan Mahfud Junaedi, "Islamic Higher Education Branding in the Coastal Area Perspective of Hermawan Kartajaya's PDB Triangle Theory," *Edukasia: Jurnal Penelitian Pendidikan Islam* 16, no. 1 (2021): 79–96. <http://dx.doi.org/10.21043/edukasia.v16i1.8229>.

This is also stated in the introduction to *'Aysh al-Baḥr*. Kiai Anwar stated the following after worshipping Allah and reading *ṣalawat* to the Prophet Muhammad:

ألفته بذلا للنصيحة لله و لرسول الله و لعامة المسلمين ورجاء في الدخول تحت قوله
صلى الله عليه وسلم كل معروف صدقة والبدال على الخير كفاعله والله يحب إعانة
الملهفان.

" I wrote *'Aisy al-Baḥr* in the expectation that Allah and Rasulullah would bless me. I wrote it as a piece of advice to all Muslims. I desire to be included in the Prophet's words, "Every good deed (*ma'rūf*) is charity." People who demonstrate charity are like those who do it, and Allah likes those who assist those in distress/confusion."²⁷

The term "confusion" refers to society's uncertainty about the legality of consuming marine and river animals such as *kepiting* (brackish crab), eel, catfish, and other species. The misconception stems from a *fatwā* issued by some academics that forbids these creatures since they are classified as amphibians. In conclusion, Yunus Mustofa shows that the book of *'Aysh al-Baḥr* has consequences for comprehending the *fiqh* of the coastal communities of Central Java.²⁸ According to Hurgronje, in the early nineteenth century AD, there was a disagreement between Javanese and Middle Eastern experts concerning the legal validity of consuming creatures like eel, *kepiting*, and *bulus* (softshell turtle).²⁹ This argument about the legality of eating these creatures needs to be resolved. It is one of the motivations behind Kiai Anwar's book *'Aysh al-Baḥr*.

In one of their articles, Luth and Mun'im concluded that the scholars on the coast possessed a style of *ijtihād* that stressed the nautical perspective.³⁰ As Hassan explains in his article, different patterns of legal attitudes of coastal

²⁷ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsu illā fī al-Baḥr wa alladhī Ya'īsu fī al-Barr wa al-Baḥr*, 2.

²⁸ Mustofa, "Transmisi Pendidikan Fiqih Nusantara pada Masyarakat Pesisir (Telaah Kitab Aisyul Bahri Karya Kiai Anwar Batang)", 210.

²⁹ Hurgronje, *Mekka in the Latter Part of the 19th Century*, 47.

³⁰ Thohir Luth et al., "Coastal Ulama Ijtihād and Destructive Fishing Prevention in Indonesia," *Ahkam: Jurnal Ilmu Syariah* 22, no. 2 (2022), <https://doi.org/10.15408/ajis.v22i2.28077>; Zainul Mun'im, "Etika Lingkungan Biosentris dalam Al-Quran: Analisis Tafsir Pelestarian Lingkungan Hidup Karya Kementerian Agama," *Suhuf* 15, no. 1 (2022): 197–221, <https://doi.org/10.22548/shf.v15i1.720>.

communities can also be observed outside of Indonesia, such as in the Mediterranean region.³¹ The preceding explanation is consistent with Jalāl al-Dīn al-Suyūṭī's thesis, which states that the emergence of a new argument is one of the circumstances that can change the law.³² Wael B. Hallaq and Khalid Mas'ud reach the same conclusion. According to him, several rules in Islamic history have altered as a result of more precise data.³³ Based on this premise, the book of *'Aysh al-Baḥr* was created to alter fatwas issued by some scholars that forbade the consumption of marine and river animals regularly ingested by Muslims, such as crabs and other marine animals.

This demonstrates that *'Aysh al-Baḥr*'s work was written in the social realities of coastal towns whose occupations are fishermen. The goal is to provide legal advice on animals widely consumed by Central Java's coastal populations.

The Rules of Culinary Fiqh: A Comparison of Schools

Food is the most significant material as a basic need for the human body. These foods are vegetables and animals from the land (*al-barr*) and the sea (*al-baḥr*). Sharia, on the other hand, sets a limit between *ḥalāl* and *ḥarām* food, or right and inappropriate food, under the instruction of the Qur'an and ḥadīth. As an analytical theory in analyzing the book of *'Aysh al-Baḥr*, this topic discusses the regulations about *ḥalāl* and *ḥarām* animals for consumption.

Animals are generally divided into five categories in terms of their life. The first are terrestrial animals that can only live on land. The second are terrestrial animals that can live on land forever and in water for a while. The third are

³¹ Hassan S. Khalilieh, "Human Jettison, Contribution for Lives, and Life Salvage in Byzantine and Early Islamic Maritime Laws in the Mediterranean," *Byzantion* 75, no. 2 (2015): 225–35, <http://www.jstor.org/stable/44172998>.

³² Jalāl al-Dīn al-Suyūṭī, *Ikhtilāf al-Madhāhib* (Kairo: Dār al-ʿIlmiyyah, 2006); Donald L. Horowitz, "The Qur'an and the Common Law: Islamic Law Reform and the Theory of Legal Change," *The American Journal of Comparative Law* 42, no. 3 (2014): 543–80, <https://doi.org/10.2307/840701>.

³³ Zainul Mun'im, "Peran Kaidah Fikih dalam Aktualisasi Hukum Islam: Studi Fatwa Yusuf Al-Qaradawi tentang Fiqh Al-Aqalliyat," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021): 151–72, <https://doi.org/10.24090/mnh.v15i1.4546>; Muhammad Khalid Masud, "Teaching of Islamic Law and Shari'ah: A Critical Evaluation of the Present and Prospects for the Future," *Islamic Studies* 44, no. 2 (2015): 165–89, <http://www.jstor.org/stable/20838960>; David S. Powers, "Wael B. Hallaq on the Origins of Islamic Law: A Review Essay," *Islamic Law and Society* 17, no. 1 (2020): 126–57, <http://www.jstor.org/stable/25704003>.

aquatic animals, such as fish, that can only live in water. The fourth is aquatic animals that can live in the water forever and on land for a while. The fifth is amphibian animals that can live in water and on land forever.³⁴ Each category of animals has different laws according to the rules and methodologies in each school.

According to all academics of various schools, the legislation on ingesting animals in the first and second categories is *ḥalāl*. They are allowed to consume terrestrial animals even though they can dive for a brief period in the water, as long as these animals do not include restricted animals such as wild, clawed, fanged, and nasty animals.³⁵ Thus, the legislation of diving animals such as camels, buffalo, horses, and birds is permitted for consumption despite the fact that no proof in the Qur'an or ḥadīth supports it. This viewpoint is founded on the following Islamic legal maxims:

الأصل في الأشياء الإباحة حتى يدل الدليل على تحريمه

"The original (basic) law for everything is permitted, unless there is an indication that shows the forbidden state of it."³⁶

Aquatic creatures are those that can only exist in water. This category has sparked discussion among Islamic scholars. Most Ḥanafī scholars claim that Muslims are not permitted to consume any aquatic or marine animals other than fish. This viewpoint is supported by the following ḥadīth from the Prophet:

هو الطهور ماؤه والحل ميتته

"Its water is a means of purification, and its dead meat is permissible."³⁷

³⁴ Muḥammad Mukhtār, *al-Shawāiq al-Muḥriqah li al-Awhām al-Kadhībah fī Bayān Ḥāl al-Balūt* (Kediri: al-Ma'had al-Islāmy Lirboyo, 2006), 14.

³⁵ Muḥammad bin Rusḥd al-Qurṭubī, *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid* (Bairūt: Dār al-Ma'rifah, 1982), vol. I: 259.

³⁶ Tāj al-Dīn al-Subkī, *al-Ashbāh wa al-Nazā'ir* (Beirut: Dār al-Kutūb al-Ilmiyyah, 1991), vol. I: 167; Mohammad Hashim Kamali, "Legal Maxims and Other Genres of Literature in Islamic Jurisprudence," *Arab Law Quarterly* 20, no. 1 (2016): 77–101, <http://www.jstor.org/stable/27650538>; Khadiga Musa, "Legal Maxims as a Genre of Islamic Law: Origins, Development and Significance of Al-Qawā'id al-Fiqhiyya," *Islamic Law and Society* 21, no. 4 (2014): 325–65, <http://www.jstor.org/stable/43304518>.

According to Ḥanafiyah scholars, what is meant by "dead meat" in the ḥadīth above is specifically for fish.³⁸ This opinion differs from the Mālikiyyah and al-Shāfi'yyah scholars, who argue that all types of animals living in the sea and rivers are permissible for consumption without exception.³⁹ This opinion is based on the generality of the Prophet's ḥadīth above. The law of the fourth category is the same as that of the third category. Thus, the law of consuming aquatic animals that can live on land in a temporal time is the same as that of consuming aquatic animals that cannot live on land. For most scholars, this fourth category is animals that only exist in the sea or river.

The fifth category is amphibians which can live on land and water forever. Most Ḥanafiyah, Mālikiyah, and al-Shāfi'yyah scholars forbid consuming amphibian animals that can live on land and water. This opinion of most scholars differs from Ḥanābilah scholars, who argue that the law of consuming these animals is permissible except for frogs, snakes, and crocodiles.⁴⁰

The difference of opinion above shows no consensus among scholars regarding the legal status of animals in Islamic law. The reason is that there is no clear explanation of the Qur'an and ḥadīth (*qaṭ'ī*) regarding this matter. Another reason is the assumption of the scholars who differ in categorizing an animal, whether it includes the first, second, or other categories. This factor can be found in the next chapter.

'Aysh al-Baḥr: The Book of Culinary Fiqh with Empirical Approach

The book *'Aysh al-Baḥr* is a response (*fatwā*) of classical academics to the laws of many species of marine animals. The legal premise established in this work differs from the legal basis established by other experts. Kiai Anwar demonstrates in this book that there are some species whose environments are misinterpreted by most experts. It has an impact on the legality of consuming these animals. This truth can be found in numerous legal explanations for animals, as follows:

³⁷ Abū al-Ḥasan al-Māwardī, *al-Ḥāwī al-Kabīr fī Fiqh Madhhab al-Imām al-Shāfi'ī* (Bairūt: Dār al-Kutub al-'Ilmiyyah, 1994), vol. IV: 149.

³⁸ Māwardī, 142.

³⁹ Muḥyi al-Dīn bin Sharf al-Nawāwī, *Kitāb al-Majmū' Sharh al-Muhadhdhab* (Jiddah: Maktabah al-Irsyād, 2007), vol. IX: 19.

⁴⁰ Zuhailī, *al-Fiqh al-Islāmī wa Adillatuh*, vol.3, 507.

Al-Kepitingu

Kiai Anwar uses the word redaction *al-kepitingu* to explain the law of *kepiting* (brackish crab) in the book *'Aysh al-Baḥr*.⁴¹ He explained that *kepiting* are animals that only live in the sea. The shape of these animals is similar to *rajungan* (sea crab). *Kepiting* have six legs, two claws, and some nails but no claws. These animals can swim with the tools on their hind legs. According to Kiai Anwar, these animals are called *kepiting* because they are tied up after being caught so as not to pinch the catcher. One of the defensive behavior of *kepiting* is to squeeze spontaneously and vigorously.⁴²

According to Kiai Anwar, *kepiting* can be found in just about any body of water, including salt and fresh water. Many places make a sufficient *kepiting* habitat, including the sea, rivers, and lakes. *Kepiting* catch food by pinching and pulling it into the mouth. *Kepiting* do not go ashore unless they circle for a short time. This Kiai Anwar's explanation shows that *kepiting* only live in water. According to him, *kepiting* can not survive on land for long. Kiai Anwar argues as follows:

فَعَيْشُهُ خَارِجُهُ عَيْشٌ مَذْبُوحٌ أَوْ عَيْشٌ حَيٌّ لَا يَدُومُ فَلِذَلِكَ لَا أَشْكُ فِي حَلِهِ لَمَّا ذَكَرَ فِي
التَّحْفَةِ مِنْ أَنَّ الْحَيَّوَانَ الْبَحْرِيَّ مَا يَعِيشُ فِيهِ بِأَنْ يَكُونَ عَيْشُهُ خَارِجُهُ عَيْشٌ مَذْبُوحٌ أَوْ
عَيْشٌ حَيٌّ لَا يَدُومُ.

"It can survive on land in temporal time. As explained in "*Tuḥfah*," the law of aquatic animals that can survive on land only for a short time is lawful for consumption."⁴³

According to Kiai Anwar, *kepiting* can only survive on land briefly. So with his research, Kiai Anwar categorizes *kepiting* as animals that only live in water. Therefore, the law on consuming these animals is permissible. Kiai Anwar's opinion is different from the opinion of most scholars. Imam Nawawi explained that the al-Shāfi'yyah scholars such as al-Ghazzālī and al-Juwaynī categorized *kepiting* as *al-ḥayawān al-barmā'i*. These animals can live both on

⁴¹ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'tsu illā fī al-Baḥr wa alladhī Ya'tsu fī al-Barr wa al-Baḥr*, 2.

⁴² Anwār.

⁴³ Anwār.

land and water.⁴⁴ Therefore, the law for eating them is forbidden. Al-Dumīrī also explained the prohibition of eating *kepiting* because these animals can survive on land like shellfish.⁴⁵

While the Ḥanafī scholars, as described by Ibn 'Ābidīn, argue about banning *kepiting* because consuming disgusting marine animals other than fish is *ḥarām*. There is an opinion that is different from the opinion of most scholars, namely the opinion of 'Abd al-Bār. He argues that consuming all marine animals, including *kepiting* and others, is lawful.⁴⁶

This explanation shows that all scholars, including Anwar, argue that amphibian animals living on land and water are *ḥarām* for consumption. The difference between Anwar and the majority of *fiqh* scholars lies in the issue of whether *kepiting* can survive in two realms. Kiai Anwar argues that *kepiting* only live in water, while most scholars argue that *kepiting* can live both on land and water, as described above.⁴⁷

The opinion of most scholars about the prohibition of *kepiting* is based on banning animals called *sarathān* in the Middle East (crab-like animals with smaller sizes). According to Kiai Anwar, this is a mistake in the opinion of most scholars. For Kiai Anwar, *kepiting* is different from *sarathān* because *kepiting* have six legs, while *sarathān* has eight legs. *Sarathān* can survive on land indefinitely, while *kepiting* cannot survive on land. Kiai Anwar's opinion is based on direct observation of the animal habitat. He explains as follows:⁴⁸

وقد شهدته مرارا بأنه من حيوان الماء الذي يستفر فيه ومرعاه فيه

"I have seen it many times. *Kepiting* are animals that live in water. *Kepiting* find their food also in water."

⁴⁴ Nawāwī, *Kitāb al-Majmū' Syarḥ al-Muhadzdzab*, vol.9, 36.

⁴⁵ Muḥammad bin Mūsa al-Dumīrī, *Ḥayāh al-Ḥayawān al-Kubrā* (Bairūt: Dār al-Kutub al-ʿIlmiyyah, 1992), 78.

⁴⁶ Muḥammad Amīn ibn 'Ābidīn, *Radd al-Mukhtār 'alā al-Dār al-Mukhtār* (Riyāḍ: Dār 'Ālam al-Kutub, 2003), 307; H.E. Chehabi, "How Caviar Turned Out to Be Halal," *Gastronomica* 7, no. 2 (2007): 17-23, <https://doi.org/10.1525/gfc.2007.7.2.17>.

⁴⁷ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'isu illā fī al-Baḥr wa alladhī Ya'isu fī al-Barr wa al-Baḥr*, 3.

⁴⁸ Anwār, 4.

As a fisherman, Kiai Anwar understands the habitat of marine animals, including *kepiting*. He indirectly rejects the opinion of scholars who say that *kepiting* are forbidden. According to him, this opinion is based on presumptions that are not following the facts.⁴⁹ It shows that in deciding the legal status of animals, Kiai anwar is always based on empirical observations.

Al-Bulūs

Kiai Anwar uses the word redaction *al-bulūs* in explaining the law on consuming *bulus* (softshell turtle). According to Kiai Anwar, *bulus* is similar to a turtle, but there is a difference in their back. The *bulus'* back is lower than the turtle's back.⁵⁰ Although *bulus* is identical to turtle, this animal only live in water and occasionally go to land for a short time, while turtles can survive in two realms; water and land. Therefore, *bulus* is *ḥalāl* for consumption.⁵¹ Kiai Anwar's opinion is based on the information in the *Tuḥfah*, which explains that the law of consuming marine and river animals that can live on land in a temporal period is permissible.

Kiai Anwar's opinion is a response to the perception of some coastal communities in Central Java who think that the law of consuming *bulus* is *ḥarām*. This community assumption is based on the opinion of some scholars. There are two opinions regarding the legal status of consuming *bulus*. Most Mālikiyah and Ḥanābilah scholars believe that the law of consuming *bulus* is *ḥalāl*.⁵² The basis of this opinion is the same as Kiai Anwar's opinion, which is based on the observation that *bulus* is water animal and do not live on land. Therefore, this animal is usually used as a dish by coastal communities.⁵³ While the majority of al-Shāfi'yyah scholars believe that the law of consuming *bulus* is *ḥarām* because they are categorized as turtles that live in two realms.⁵⁴ As

⁴⁹ Anwār.

⁵⁰ Anwār.

⁵¹ Anwār, 5.

⁵² Bār, *al-Kāfi fi Fiqh Ahl al-Madīnah al-Mālikī*, vol. 11, 68.

⁵³ Ida Bagus Arka, "Tradisi Hidangan Olahan Asal Bulus dan Analisis Nilai Gizinya," *Jurnal Veteriner* 1, no. 1 (2020): 24–31, <https://ojs.unud.ac.id/index.php/jvet/article/download/22895/15022/>.

⁵⁴ 'Abd Rahman al-Jazāirī, *Kitāb al-Fiqh 'alā al-Madhāhib al-Arba'ah* (Bairūt: Dār al-Kutub al-'Ilmiyyah, 2003), vol. II: 27.

explained by Kiai Anwar above, this second opinion is believed by most coastal communities in Central Java. Kiai Anwar opposes this opinion because it is not based on factual and empirical observations. This argument can be found in the explanation of Anwar himself as follows:

قول من ذكر انتشار القول بتحريمه إلى أماكن بعيدة ولم يذكر دليلا عليه فصار العوام في تحريمه مقلدين للقائل بتحريمه ولكن تحريمه مجرد القول فقط.

"Public perception of the prohibition of consuming bulūs is based on the opinion of some scholars who categorize it as a type of turtle. This opinion spread in the community without evidence and observations."⁵⁵

Kiai Anwar's opinions and arguments about *kepiting* and *bulus* show that he is still based on the legal principles of al-Shāfi'i school in establishing laws regarding marine animals. He adheres to Islamic legal maxims of the al-Shāfi'iyyah, which explains that the law of every animal living in water is permissible, whether fresh or salty.⁵⁶ The fundamental difference from Anwar's argument is the use of an empirical approach by directly examining and observing the animals that are the object of his fatwa. According to Kiai Anwar, deciding the animal law should not be based on assumptions and *taqlīd* but on empirical observations.⁵⁷ It can be found in Kiai Anwar's detailed explanation about *kepiting* and *bulus* above.

As described above, the empirical (*tajrībī*) approach to establishing Islamic law is not new. Classical scholars have used it to establish rules in various fields. In *fiqh*, there is the term *istiqlāl al-mushāhadah* (legal establishment by direct observation) or *al-tajrībah al-hissiyyah* (a sensory experience), which is one of the approach steps used by al-Shāfi'i in establishing law,⁵⁸ but this approach is challenging to establish rules on marine animals because most scholars come from the Middle-Eastern region. This area is not inhabited by marine and river animals such as *kepiting*, *bulus*, and others. This fact is

⁵⁵ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsu illā fī al-Baḥr wa alladhī Ya'īsu fī al-Barr wa al-Baḥr*, 8.

⁵⁶ Muhammad bin Idrīs al-Shāfi'i, *al-Umm*. (Kairo: Dār al-Wafā, 2001), vol. III: 631.

⁵⁷ Anwār, *'Aish al-Baḥr fī Bayān al-Ḥayawān alladhī lā Ya'īsu illā fī al-Baḥr wa alladhī Ya'īsu fī al-Barr wa al-Baḥr*, 9.

⁵⁸ al-Zuhaylī, *Ushūl al-Fiqh al-Islāmī* (Damshiq: Dār al-Fikr, 1986), vol. II: 1074.

different from the environment of Kiai Anwar. As a fisherman, his proximity to the marine world greatly helps him decide the law regarding marine or river animals based on his observed facts in the field. Thus, in general, the book of *'Aysh al-Baḥr* provides an available description of the understanding of the culinary *fiqh* of coastal communities, especially related to marine or water animals, which is based on an empirical approach in establishing law.

Conclusion

The book of *'Aysh al-Baḥr*, written by Kiai Anwar, provides an overview of the culinary *fiqh* of coastal communities, primarily related to the law of marine and river animals. This book uses the legal rules of Syafi'i school in establishing laws related to sea and river animals. The majority of scholars also use these rules. The difference between Kiai Anwar and most scholars lies in the approach used to establish the law. Kiai Anwar as a scholar who lives and grows in the coastal environment, has an empirical understanding of the habitat of marine and river animals. It is different from the majority of scholars who live in non-coastal environments. Their knowledge of the habitats of marine and river animals is only based on assumptions. Therefore, the opinion of scholars who prohibit consuming animals because they live in two realms is opposed by Kiai Anwar with a detailed and empirical explanation. So far, research on Islamic law has mostly described the laws of aquatic and marine animals from the perspective of most scholars who live in non-coastal areas. There is very little, if not none, research that examines the views of coastal scholars on marine and fisheries *fiqh*.

This article recommends using an empirical approach in determining Islamic law, especially in matters that require prior observation. Establishing laws regarding diverse animals with all their ecosystems and habitats cannot only be decided by considering assumptions and conjectures. The law must be determined by empirical research to contain facts. In culinary *fiqh*, a scholar must conduct an in-depth study by observing certain animals. It is important because some animals with similar anatomy do not necessarily have the same ecosystem.[a]

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