

ANALYSIS OF THE DIFFERENCES IN THE CONCEPT OF LEGAL OBJECTS IN ISLAMIC LAW AND JURISPRUDENCE

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ABSTRACT

One of the most important aspects in the treasury of legal science and Islamic law concepts is related to the discourse of legal objects. Legal science and Islamic law place legal objects in a strategic position and in Islamic law legal objects are one of the elements of Islamic law, besides judges (as law makers) and legal subjects (mukallaf). However, there are significant differences in the concept of legal objects in the perspective of legal science and Islamic law. Thus, it is necessary to explain how the concept of legal objects and legal science and Islamic law differ. The type of research used is normative research (legal studies), analyzing the concept of legal objects in legal science and Islamic law. The results of the study show that in the perspective of legal science, private legal objects are objects (zaak) or rights that are useful and can be controlled by legal subjects, while in the realm of public law, legal objects are everything that is useful or valuable for the public interest or the general public, an example of a legal object in the field of public law in the criminal realm is the legal sanctions given to convicts, in constitutional law the object of law is a legal entity in the public sector such as the state to the lowest government. While the object of law in Islamic law is a human legal act or event that is attached to the law.

Keywords: Object of law, legal science, Islamic law

INTRODUCTION

This article will examine the object of law in the perspective of legal science or conventional law and the object of law in the perspective of Islamic law or also called fiqh. The meaning of legal science or conventional law above is a law that originates from human thought absolutely or the opposite of Islamic law which is a legal provision that originates from the Qur'an and as-Sunnah. To be clearer, the meaning of legal science above is a human work that tries to find the truth, about something that has characteristics, systematic, logical, empirical, methodical, general and accumulative.¹

Meanwhile, the meaning of Islamic law is the law contained in the Qur'an and the hadith of the Prophet SAW or the law which is the result of ijtihad of scholars which is concluded

¹ (et al) Hasanuddin AF, *Introduction to Legal Science* (Jakarta: Al Husna Baru, 2004), p.4.

from two main arguments, namely the Qur'an and the hadith by using the rules of ushul fiqh, namely *the lughawiyah*, *ta'liliyah* and *istislahiyah* methods or by using the rules of fiqh.

Furthermore, the author uses the term legal science only to indicate conventional law which is the result of human thought and uses the term Islamic law for law which is based on revelation.

The above theme is very important and interesting to write and study more seriously because so far Islamic law has had difficulty in becoming national law, especially when talking about Islamic criminal law, it is very difficult to be accepted as positive law or national law except in Aceh, even then after a long struggle by the Acehnese people, so that now based on Law Number 44 of 1999 and Law Number 11 of 2006 in Aceh, Islamic law applies in its entirety including Islamic criminal law or jinayah law.

According to M. Din, one of the factors that makes Islamic law not accommodated in national law is because Islamic scholars or Islamic legal experts are only busy using their own language, with a language that can only be understood by Islamic legal experts themselves, so that legal scholars or legal experts other than Islamic law cannot understand properly and completely the various terms and concepts related to Islamic law.

One of the most important aspects in the treasury of Islamic law and also legal science is the object of law. This means that the two poles of the field of science above, both legal science and Islamic law, place the object of law in a strategic position and in Islamic law the object of law is one of the elements of sharia law besides the judge (law maker) and the subject of law (*mukallaf*).

However, there is a significant difference in the concept of legal objects in the perspective of legal science and Islamic law. In the study of legal science, legal objects are something that is useful and can be controlled by legal subjects, namely in the form of rights and objects, while in Islamic law, legal objects are not objects, but acts of mukallaf regulated by Islamic law.

Based on the descriptions above, the author will try to narrate and explore in this article related to legal objects in two scientific concepts, namely legal science and Islamic law.

CONCEPT OF LEGAL OBJECT ACCORDING TO LEGAL SCIENCE

Before discussing the definition of legal objects, first the definition of objects will be explained in terms of language and philosophy of science. In terms of language, there are several meanings of objects, namely cases or people that are the subject of discussion, objects, things and so on that are the target for research and attention.² Philosophically, objects are components of ontology, namely objects that are the target of investigation of that science. Every science must have a specific target as one of the requirements for the study to be called science.³

It seems that although linguistically there are several meanings of the term object, there is a similarity with the meaning in the philosophy of science, namely something that is the target of research.

Then in legal science, legal objects are interpreted as everything that can be the rights of legal subjects or everything that can be the object of a legal relationship. Legal objects can also be called objects.⁴ According to R. Soeroso, legal objects are everything that is useful for legal subjects (humans and legal entities) and which can be the main problem and interest for legal subjects, therefore can be controlled by legal subjects.⁵ A similar understanding was conveyed by Sudarsono who quoted Utrecht's opinion, that what is meant by legal objects is everything that is useful for legal subjects, humans and legal entities and which can be the main (object) of a legal relationship (can also be called: rights), because something can be controlled by legal subjects.⁶

Based on the above understanding, there are several important notes, related to the understanding of legal objects. Talking about legal objects cannot be separated from legal subjects, both have a reciprocal relationship. If the legal subject is interpreted as something that can have rights and obligations or as a supporter of rights and obligations, namely humans and legal entities, then the legal object is everything that is useful or beneficial to humans and legal

² <https://kbbi.kemdikbud.go.id/entri/objek>, Cited January 20, 2025.

³ Amin Abdullah, *The Yogyakarta School, Initiating the Contemporary Usul Fiqh Paradigm* (Yogyakarta: Ar-Ruzz Press, 2002), p. 152.

⁴ Zainal Asikin, *Introduction to Legal Science* (Jakarta: PT RajaGrafindo PERSADA, 2012), p.36.

⁵ R. Soeroso, *Introduction to Legal Science* (Jakarta: Sinar Grafika, 2015), p. 246.

⁶ Sudarsono, *Introduction to Legal Science* (Jakarta: Rineka Cipta, 2007), p.285.

entities because both are legal subjects. So, if there is something that is not beneficial to the legal subject, it is not called a legal object.

There is one more important thing to mention here that also has a connection with the object of law, namely legal events. Legal events are all events or incidents that can cause legal consequences between parties who have a legal relationship.⁷ Then, there are two types of legal events, namely the actions of legal subjects (humans and legal entities as supporters of rights and obligations, persons, individuals) and other events that are not legal subjects.⁸ Back to the discussion of legal objects, in legal language, legal objects can also be called rights or objects that can be controlled and/or owned by legal subjects, for example, A lends a car to B, here the legal object in the legal relationship between A and B is the car, the car becomes the legal object of the rights owned.⁸ So, talking about legal objects is talking about something that is beneficial to legal subjects and that something can also be called a right or object that can be controlled by humans and legal entities (legal subjects).

Furthermore, based on the notes above, there are two terms used in the study of legal science which are legal objects, namely rights and objects that can be controlled and/or owned by legal subjects. So, in order to more easily understand and explore the concept of legal objects in the perspective of legal science, it is important to explain in this article the concept of rights and objects briefly.

Rights are an authority or power granted by law, an interest protected by law, both personal and public. It can also be interpreted as something that is appropriate or worthy of being received, for example the right to life, the right to have beliefs and others.⁹ Meanwhile, according to Apeldoorn, as quoted by Hasanuddin et al., rights are laws that are associated with a certain human being or legal entity (legal subject) and thus become a power, rights arise when the law begins to move. For example, when someone's yard is evicted to widen the road, then that person has the right to compensation that he will receive.¹⁰

⁷ Sudarsono, *Introduction to Legal Science* (Jakarta: Rineka Cipta, 2007), p. 288.

⁸ Sudarsono, p. 289.

⁸ Hasanuddin AF, *Introduction to Legal Science*, pp. 76-77 .

⁹ Zainal Asikinn, *Introduction to Legal Science*, p. 115.

¹⁰ Hasanuddin AF, *Introduction to Legal Science*, p. 77.

¹² Hasanuddin AF, p. 77.

Based on the explanation above, it is known that rights are an authority held by a person or an interest of a person that is protected by law and this interest is of course related to the legal subject, whether a human or a legal entity.

In general, there are two types of rights, namely absolute rights and relative rights. Absolute rights are rights given to someone to do an act, these rights can be defended against anyone and vice versa, anyone must respect these rights.¹² Among those included in absolute rights are public rights such as the state's right to collect taxes from citizens who are already taxpayers, human rights such as the right to life, the right to embrace a religion and civil rights such as the right of parents to control their children, the right of heirs to inherit property left by the deceased. Then what is meant by relative rights is the right that gives authority to someone or several people to demand that others do something or not, usually these rights arise because the agreement made by the legal subjects only applies or is maintained against certain people.¹¹ An example of relative rights is for example in a sale and purchase transaction, the buyer has the right to receive goods, while the seller has the right to receive payment in the form of money from the buyer.

In addition to the rights as described above, the object of law is an object or *property*. Referring to the Civil Code, an object or *property* is every item or every right that can be controlled by ownership rights.¹²

Then, it is also important to add that based on western civil law, objects are divided into several types, namely:

- a. Substitutable objects (for example money) and non-substitutable objects (for example a horse);
- b. Tradable goods (practically all goods can be traded) and non-tradable goods “outside of trade” (e.g. roads and public squares);
- c. Things that can be divided (for example rice) and things that cannot be divided (for example a horse);
- d. Movable objects (e.g. furniture) and immovable objects (e.g. land);
- e. Tangible objects (for example land) and intangible objects (for example all rights);¹³

The description above explains the categorization of objects or *zaak* in western civil law, so based on western civil law there are five categories of objects, including objects that

¹¹ Zainal Asikinn, Introduction to Legal Science, p. 119.

¹² Zainal Asikin, p. 36.

¹³ Hasanuddin AF, Introduction to Legal Science, p. 78.

¹⁶ Hasanuddin AF, p. 78.

can be replaced or not replaced, objects that can be traded or vice versa, objects that can be divided and cannot be divided, movable and immovable objects and one more is tangible and intangible objects.

From the division of objects above, what is considered most important to explain further is the division of movable objects and immovable objects because this division category has very important consequences in law.

Those included in the category of movable objects can be divided into three types, namely:¹⁶

- a. Objects that can move by themselves, for example animals;
- b. Movable objects, for example tables, chairs;
- c. movable objects due to legal provisions, for example usage rights, holdings, promised interest;

Meanwhile, those included in the category of immovable objects are also divided into three divisions, namely:¹⁴

- a. Immovable objects due to their nature, for example land, houses;
- b. Immovable objects due to their purpose, for example pictures, glass, printing equipment placed in a building;
- c. Immovable property due to statutory provisions, for example rights of use, rights of lodging, business rights;

The narrative above provides an important understanding related to the category of objects (*zaak*) both movable and immovable. Movable and immovable objects based on the explanation above include three models, **the first is** objects that move on their own and do not move because of their nature, the author considers this model to be the same because both do not need other parties. **The second is** objects that move because they are moved and do not move because of their purpose, the division of this model, according to the author, can also be equated in terms of assistance from other parties and **the third is** objects that move and do not move because there is already a statutory determination. According to the author, this third model is very easy to understand because it has been stipulated in writing in the legislation.

¹⁴ Hasanuddin AF, p. 79. ¹⁸
(Regita A. Mumek 2017, p. 72)

¹⁹ Regita A. Mumek, p. 72.

In order to be declared as a legal object, there are several requirements that must be met, namely human control, having economic value and therefore can be used as a legal object.¹⁸ For example, if someone clears a forest and cultivates it, then his control over the land is born. This control becomes certain after the trees planted by the forest clearer grow fruit so that the forest that was cleared is no longer "*resnullius*" but already has an owner.¹⁹

Based on the explanation above, it can be understood that in legal science, an object or item does not automatically become an object of law. In order to become an object of law, there are requirements that must be met, namely control by humans and economic value or benefit for legal subjects (humans or legal entities).

According to other sources, there are three conditions for something to be called a legal object, namely:¹⁵

- a. Useful for legal subjects
- b. Can be a problem
- c. Can be mastered

Furthermore, it should be added that the legal object in legal science includes the legal object in public law and the legal object in other than public law. Then according to E. Utrecht as quoted by Sudarsono, the legal object in a legal relationship according to public law, for example according to tax law is the amount of tax money that can be collected from the taxpayer who pays tax. Furthermore, the legal object in a legal relationship according to criminal law is the punishment (criminal) that can be imposed on the offender.¹⁶

The discussion above tries to explore by dividing the object of law based on public law and non-public law. In the study of legal science, it is known that there is a division of law based on its contents into two types of divisions, namely public law and private law (other than public law). So in simple terms, public law can be interpreted as law that regulates the relationship between the state or its equipment and individuals (citizens).¹⁷

Then included in the division of public law are criminal law, state law consisting of constitutional law and state administrative law and another is procedural law consisting of criminal procedural law and civil procedural law. Furthermore, private law (other than public)

¹⁵ BPSDM, "Module 2 Introduction to Law," 2019, https://simantu.pu.go.id/epel/edok/cadfl_Modul_1_Pengantar_Hukum_Kontrak__Reviu_.pdf, p.11.

¹⁶ Sudarsono, Introduction to Legal Science, p. 285.

¹⁷ R.Soeroso, Introduction to Legal Science, p.195.

is the law that regulates the relationship between one person and another and the state as a person.¹⁸Included in private law are civil law, commercial law and dispute law.

In the discussion above, it has been mentioned that the legal object of public law in the criminal law category is the criminal punishment (sanction) imposed on the legal subject (person or legal entity) who violates the law. Furthermore, the legal object of constitutional law is government in the narrow sense, namely the executive institution or organ, government in the broad sense, namely the relationship between one state institution or organ and another state institution or organ, with each other (horizontal relationship) and government in the broadest sense, namely the relationship between the government and the people or the relationship between the central government and the regional government (horizontal relationship).¹⁹And the legal object of state administrative law is the principles of good governance, state financial institutions and civil service administration law.²⁵

The object of civil procedural law is the process of trial in court starting from the technique of making a lawsuit letter, the technique of submitting a lawsuit letter that has been made by the plaintiff or the plaintiffs or their attorneys to the court in accordance with absolute competence and relative competence. How is the process of trial before the court judge, both the plaintiff or the plaintiffs or their attorneys and the defendant/defendants (codefendants) or their attorneys, how the judge examines, decides civil cases and applications until execution (implementation of the court judge's decision which has permanent legal force).²⁰

Based on the explanation above, it is known that in legal science there is a division of public law and private law (non-public), so the legal objects between each category of law are certainly different. According to the author, a special study is needed to be able to clearly understand the legal objects in each category of public law and private law.

Then according to Syahrizal Abbas, legal objects in legal science can be seen in three divisions, namely: *First*, legal objects based on legal acts, legal acts can be divided into legal acts in private law and public law. Legal objects in the form of legal acts in private law in the civil field, for example, are acts of buying and selling carried out between sellers and buyers, while examples of legal objects in the form of legal acts in public law are very numerous, for

¹⁸ R. Soeroso, p. 200.

¹⁹ Hasanuddin AF, Introduction to Legal Science, p. 246.

²⁵ R. Soeroso, Introduction to Legal Science, p.250.

²⁰ R. Soeroso, p. 242.

example in the criminal realm, for example, crimes, crimes are acts that can be punished because they are violations of a statutory regulation. Then an example of a legal object in the form of legal acts in public law in the realm of constitutional law is state policy.

Both legal objects are based on legal subjects. Legal objects based on legal subjects can also be divided based on private law and public law. As is known, there are two legal subjects, namely people and legal entities. People are legal objects based on legal subjects in the private sector. Then legal entities can be divided into two, there are public legal entities and private legal entities. Public legal entities are countries such as provinces, districts/cities, subdistricts to village levels, while private legal entities are organizations that operate outside the political and state fields that are established with the aim of seeking profit or for social purposes. So the state is a legal object based on the legal subject of the public domain, while people as individuals and non-state legal entities are legal objects based on the legal subject of the private domain.

Third, the object of law based on the definition of law. Some define law as a set of regulations that live in society including customary law and some define law as all the rules made by the authority of a country so that it becomes positive law that applies in a country. So the law in the sense that it is made by the authority holder of a country is included as an object of law, meaning all laws and regulations starting from the 1945 Constitution, Laws, Government Regulations, Regional Regulations or Qanuns and all other regulations that involve the state in their creation are objects of law.

It is important to add that according to Syahrizal Abbas related to the definition of a legal object is something that is useful or valuable and can be owned by a legal subject, then this understanding is more suitable for private legal objects. While the definition of a legal object in public law is more appropriately interpreted as something that is useful for the public interest, both material and immaterial public interests, not including the interests of people as individuals and legal objects in the public domain cannot be owned like legal objects in the private domain.

THE CONCEPT OF LEGAL OBJECTS ACCORDING TO ISLAMIC LAW

In the perspective of Islamic law, the object of law is not in the form of objects (*zaak*) as in the perspective of legal science but in the form of human actions regulated in Islamic law.

²¹Related to how the concept of legal objects in Islamic law actually is and what are the terms used in the science of ushul fiqh about legal objects, the author will narrate it below.

It is important to explain that the object of law in the view of Islamic law is one of the pillars of Islamic law besides the judge (lawmaker) and the subject of law (*mahkum 'alaihi*) namely humans or people. So, strictly speaking there are three pillars of Islamic law, namely the judge, the subject of law (*mahkum 'alaihi*/ person) and the object of law (*mahkum fih* /legal act). In addition, discussions about the object of law and other pillars of Islamic law in Islamic law are discussed in the science of ushul fiqh.

There are two terms used by the *ushuliyyun* related to the object of law, namely *mahkum fih* and *mahkum bih* or it can be said that both terms are *muradif pronunciations* which mean legal acts or legal objects. al-Yasa' Abubakar proposed that the two terms above be separated or distinguished, he proposed that the term *al-mahkum bih* be used for the object of legal acts and the term *al-mahkum fih* be used for legal acts (objects of law). ²²The term legal object (*mahkum fih/mahkum bih*) is the actions of mukallaf people who are burdened with a law (legal acts).²³

According to Muhammad Zakaria al-Bardisi quoted by Nasrun Haroen, the object of law is the actions of mukallaf people related to the decree of *sharia* (Allah and His Messenger) which are in the form of demands to do, demands to leave a job, choose a job and which are in the form of conditions, reasons, obstacles, 'azimah, rukhsah, valid and void. ²⁴Then the definition of the object of law according to al Yasa Abubakar is something that is subject to or attached to the law.²⁵

Based on the two definitions above, there are several important things related to the meaning of the object of law in the perspective of Islamic law. According to the description above, the object of law is the actions of mukallaf which are prescribed by Allah and His Messenger or which are sourced from the Qur'an and the hadith of the Prophet SAW or the results of ijtihad of scholars based on the two arguments using the rules of ushul fiqh either

²¹ Hasanuddin AF, Introduction to Legal Science, p.79.

²² al Yasa Abubakar, *Introductory Lecture Notes on Fiqh and Usul Fiqh* (Banda Aceh, 2014).

²³ Mukhtar Yahya and Fatchrur Rahman, *Basics of Islamic Legal Development* (Bandung: Al-Ma'arif, 1993), p.161.

²⁴ Nasrun Haroen, *Usul Fiqh* (Jakarta: Logos Wacana Ilmu, 1997), p.292.

²⁵ al Yasa Abubakar, *Introductory Lecture Notes on Fiqh and Usul Fiqh* (Banda Aceh, 2014), p.38.

³² Mukhtar Yahya and Fatchrur Rahman, *Basics of Islamic Legal Development* pp.162-167.

through the rules/methods of *luqhuwiyah* (linguistic), the rules/methods of *ta'liliyah*, namely methods that are characterized by efforts to extract law based on determining the 'illat contained in a text and the rules or methods of *istislahiyah*, namely efforts to extract law based on the principles of benefit concluded from the Qur'an and Hadith.

Then based on the narrative above, it can also be understood that the object of law which is the act of mukallaf is related to sharia law, when talking about sharia law, there is a division, namely *taklifi law* and *wadh'i law*. *Taklifi law* consists of mandatory, sunnah, haram, makruh and mubah and *wadh'i law* consists of conditions, causes, obstacles, 'azimah, rukhsah, valid and void.

Usul fiqh experts have determined several conditions for an act to be an object of law or conditions of *mahkum bih*, namely:³²

- a. The act is known to the mukallaf perfectly, so that he can perform it in accordance with the requirements. Therefore, the texts of the Qur'an that are still mujmal are not burdened on the mukallaf, except after receiving an explanation from the Messenger of Allah (peace and blessings of Allah be upon him).
- b. It should be known that the burden comes from the one who has the power to give the burden, namely from Allah SWT.
- c. These acts are acts that can be done or can be abandoned by the mukallaf. This means that it is not permissible to give a burden that is impossible to do and it is not permissible to give a burden that someone else is ordered to do and someone else is ordered to abandon.

The explanation above attempts to explain the requirements for legal acts or legal objects. According to the explanation above, there are three requirements for legal acts. *First*, the act must be known to the mukallaf perfectly. *Second*, the act must be a command from Allah SWT or His Messenger. *Third*, the act can be done or abandoned by the mukallaf.

Regarding whether an act as a legal object may be carried out by another person, in this case there are several provisions, *firstly*, the legal object whose implementation concerns the individual subject to taklif such as prayer and fasting, must be carried out by the person subject to taklif and cannot be replaced by another person. *Secondly*, the legal object whose implementation is related to the assets of the taklif actor, such as zakat, then its implementation can be replaced by another person. *Thirdly*, the legal object whose implementation concerns the individual and assets of the taklif actor, such as the obligation of hajj, then its

implementation can be replaced by another person when the taklif actor is unable to carry it out.²⁶

The object of law (*al-mahkum Fih*) is of two types, *firstly* human actions (legal subjects, namely humans and legal entities). The meaning of human actions is everything that humans do, namely actions that they can control; humans are free to choose between doing or not doing these actions such as praying, buying and selling, stealing, performing marriage contracts and others.²⁷ *second* division of legal objects is events (not human actions, natural events that are attached to the law). The meaning of an event is something that is not a human action; which generally happens by itself; cannot be controlled by humans, for example the setting of the sun (the reason for the obligation to pray), death and birth (the reason for inheritance), floods that cause changes in riverbanks (the reason for obtaining or losing ownership of land), all of which are legal events because these events cause the existence of law.²⁸

Based on the explanation above, it is known that the object of law (*al mahkum fih*) is not only human actions but also something that is not a human action which is termed an event or something that cannot be controlled by humans, such as the setting of the sun as a reason for the obligation to perform prayer.

Then human actions as legal objects are certainly actions of legal subjects (*al mahkum 'alaihi*). The legal subject in Islamic law is human and now there have been efforts to develop the meaning of legal subjects in Islamic law not only humans but also legal entities or organizations are also legal subjects as well as provisions in legal science that include legal entities as legal subjects.

There are two forms of acts that are objects of law. *First*, acts that are related to physical bodies, namely doing it itself, such as performing prayers, the perpetrator is not free from the requirement to do anything except doing the act himself. *Second*, acts that are related to material, meaning that the material reaches the intended recipient, not doing it itself, for example zakat, what is required by *the Shari'* in this case is that the zakat goods reach the person entitled to receive them, not delivering the zakat to the person entitled, acts in this form can be done by others.²⁹

²⁶ Amir Syarifuddin, *Usul Fiqh* (Jakarta: Kencana Prenada Media Group, 2008), p. 143.

²⁷ al-Yasa Abubakar, p.38.

²⁸ al Yasa Introductory Lecture Notes on Fiqh and Usul Fiqh (Banda Aceh, 2014), p.38.

²⁹ Amir Syarifuddin, *Usul Fiqh* (Jakarta: Kencana Prenada Media Group, 2008), p. 137.

³⁷ al Yasa Introductory Lecture Notes on Fiqh and Usul Fiqh, p. 39.

The narrative above explains the forms of actions that can be objects of law, namely actions related to the physical body of the mukallaf, such as prayer, and actions related to material things, such as distributing zakat to the mustahik.

Meanwhile, according to al Yasa' Abubakar, the division of human actions as objects of law (*al-mahkum fih*) is *first*, actions in the field of worship. From the perspective of worship, all human actions are legal actions because all these actions have the law of taklifi, at least mubah. *Second*, actions in the field of custom, the meaning of the custom field here is outside the field of worship, namely munakahat, muamalah and jinayat. From the perspective of custom (munakahat, muamalah and jinayat) only some human actions are subject to law (taklifi and wadh'i) because there are actions that are legal actions and some are not legal actions. The presence of witnesses at the marriage ceremony is a legal act in the chapter of munakahat because it is a condition for marriage, while performing the marriage ceremony while sitting or standing is not a legal act in the chapter of munakahat because it is not a condition or pillar.³⁷

The explanation of al Yasa' Abubakar above further clarifies the position of legal acts in human actions, meaning that not all human actions can be called legal acts except in the field of worship, in the field of worship all acts or practices or activities of the mukallaf can be legal acts or legal objects, at least they are permissible. While outside of worship (customs) there are mukallaf acts that are legal acts (legal objects) and there are legal acts that are not legal acts (legal objects), several examples have been mentioned above.

The substance of a legal act is formulated in the form of rukun-rukun, according to jumhur the rukun in worship only contains the action, while the rukun in custom (outside of worship) contains the action plus the perpetrator. In the Shafi'iyah school of thought, the pillars of prayer all contain the act of prayer, while the pillars of buying and selling not only contain the contract but also the parties. Meanwhile, according to Hanafi scholars, harmony in all legal actions (worship and non-worship) only contains actions; The perpetrators do not become rukun, but in the field of muamalah they enter the purpose of the contract as rukun.³⁰

In addition to discussing the pillars of worship and customs as the substance of the legal object or legal act (*al mahkum fih*), it is also important to narrate the parties in the legal act (legal object).

³⁰ al-Yasa Abubakar, p.40.

There are legal acts that are carried out by one party (person) only, for example prayer (worship in general), oath (waqf, ju'alah [unilateral promise], drinking alcohol. There are those that must be carried out by two parties, namely the field of muamalah (for example buying and selling) and some criminal acts (adultery) and some are not equal, one becomes the perpetrator and one becomes the victim, namely some criminal acts (theft, murder), and there are those that must be carried out by three parties, namely the marriage contract (guardian, groom and bride)³¹.

Then, apart from that, talking about legal acts (legal objects), there are those that give rise to or give birth to legal relations and there are those that do not give rise to or give birth to legal relations.

Legal acts that give rise to legal relations, for example, are marriages that give rise to legal relations between husband and wife and legal relations between parents and their children. Then legal acts that do not give rise to legal relations include prayer, theft and others.⁴⁰

The narrative above provides important knowledge that not all mukallaf legal acts can then give rise to legal relations. The author recommends that there be special research to be able to find out what acts can give rise to legal relations and what legal acts do not give rise to legal relations.

ANALYSIS OF THE DIFFERENCES IN LEGAL OBJECTS BETWEEN LEGAL SCIENCE AND ISLAMIC LAW

Based on the explanations above, it is known that in terms of normative conception, there are substantive differences regarding legal objects from the perspective of legal science and Islamic law.

Legal objects in Legal Science can be divided into private and public fields, legal objects in the private field are objects (*zaak*) or rights that are beneficial and can be controlled by legal subjects while legal objects in the public field are everything that is valuable or beneficial to the public interest both materially and immaterially. In Islamic law, legal objects are human legal acts or events that are attached to the law.

³¹ Al Yasa Abubakar, p.41

⁴⁰ al-Yasa p.41.

So, based on the explanation above, it can be concluded that the understanding and substance of the legal object between the perspective of legal science and the perspective of Islamic law are not the same or different between the two. According to the author, the difference may be caused by the background and sources of the two sciences which are different, Islamic law is sourced from the Qur'an and hadith, while legal science is sourced from human thought. That is just the author's guess and the author hopes that there are Islamic legal experts or legal experts to conduct studies or research on the reasons for the differences in the concept of objects in legal science and Islamic law.

Although the substance is different, the author sees that the object of law in legal science and Islamic law are both related to the subject of law, namely humans and legal entities. The object of law in legal science is something that is useful and can be controlled by the subject of law, as well as the object of law in Islamic law, namely the actions of the subject of law (humans or legal entities).

The legal object in Islamic law which is a human act and an event that is bound by law is more or less the same as the term legal event in legal science because a legal event in legal science is defined as the act and behavior of a legal subject that has legal consequences.

The author does not yet know what terms are used in Islamic law related to the concept of legal objects in legal science or objects or rights that are beneficial to legal subjects.

According to al Yasa' Abubakar in the book of ushul fiqh there is no term for the object of a legal act and he offers to distinguish between the object of law and the object of a legal act. For example, buying and selling is the object of law (human action) while the goods being traded are the object of the act of buying and selling.³² If the offer from al Yasa' Abubakar which distinguishes between the object of law (action) and the object of a legal act can be accepted, then the term object of a legal act according to the author is more or less relatively the same as the term object of law in the perspective of legal science.

Furthermore, legal objects in legal science are classified into legal objects in public law and legal objects in private law (other than public law), meaning that legal objects in public law are not the same as legal objects in the realm of private law. For example, in public law in the criminal category, the legal object is the criminal penalty (sanction)

³² al-Yasa p.42.

imposed on the legal subject and for private law in the civil law category, the legal object is goods traded between the seller and the buyer.

Meanwhile, from the perspective of Islamic law, there is no difference between the objects of law in the field of worship and the field of customs (muamalah, munakahat, jinayat), meaning that in all these fields, the objects of law are the actions of legal subjects (humans and legal entities) and events that can be attached to the law, such as the setting of the sun as a reason for the obligation to perform prayer.

Then talking about the object of law in Islamic law is an act of mukallaf that is related to the command of Allah and His Messenger, meaning that if there is an act of mukallaf that is not related or does not originate from the provisions of Allah and His Messenger, then it is not called an object of law. This is certainly different from the concept of an object of law in the perspective of legal science which is not related to the provisions of Allah and His Messenger.

Regarding the object in Islamic law as the author explained above, which is the actions of the mukallaf which are related to sharia law, the author has not found a concrete reason why only the actions of the mukallaf are considered as objects of law, even though the legal subjects in Islamic law are not only the mukallaf but also *the mahkum 'alaih*.

The term mukallaf specifically refers to people who can receive rights and are burdened with obligations (*ahliyatul al-ada' kamilah*), while *mahkum 'alaih* relates to people who only receive rights and rights and obligations.

Mumayyiz people are a category of *ahliyatul ada' naqishah* can be classified as *mahkum 'alaih* and not mukallaf because they have not reached puberty, but they are valid to perform worship such as prayer even though it is not mandatory and in terms of muamalah contracts according to the Hanafi school of thought there are three categories, *first* a contract that benefits or increases the mumayyiz's property such as receiving waqf then it is valid, *second* a contract that harms or reduces the property such as endowment of his property to others then it is invalid and *third* a contract that benefits and harms at the same time such as buying and selling then the law is valid after obtaining permission from his guardian. So, there must be further study to be able to find out whether the actions of mumayyiz can be considered legal acts (legal objects) in Islamic law.

CONCLUSION

Based on the discussion above, several conclusions can be drawn, namely:

1. There are substantive differences regarding the concept of legal objects between the perspectives of legal science and Islamic law. In the perspective of legal science, legal objects can be divided into private and public domains, in the private civil domain the legal object is an object (*zaak*) or right that is useful and can be controlled by the legal subject while in the public legal domain, the legal object is anything that is useful or valuable for the public interest or the general public, an example of a legal object in the field of public criminal law is the legal sanction given to the convict, in constitutional law the object of law is a legal entity in the public sector such as the state to the lowest government. The legal object in Islamic law is a human legal act or event that is attached to the law.
2. In the field of law, legal acts are called legal events.
3. In the *ushul fiqh* book there is no term for the object of a legal act and *al Yasa* Abubakar offers to differentiate between the object of law and the object of a legal act. If the offer is accepted, then the object of the legal action is more or less the same as the object of law from the perspective of legal science.

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