

QIYAS OF MUZARAAH HADITH WITH FISHERIES SECTOR AND IT'S CONTRIBUTION TO WELFARE OF FISHERMEN

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Abstract

This research background is the condition of Indonesian small fishermen who are generally still below the minimum wage income line. through the qiyas (analogy) method, the muzara'ah hadith can be applied in the fisheries sector with the aim that small fishermen income is better than before. the results of this study indicate that with the distribution system as muzara'ah that is profit sharing according to the percentage, small fishermen will be more prosperous than the wage or payment system.

Keywords: *Muzara'ah* Hadith, Fisheries, Welfare.

I. Introduction

Agriculture is one of the most important sectors for people to meet their food needs, even since they first inhabited the earth (al-Dimasyqiy & Kas'ir, 1999). *Muzara'ah* is one way of cultivating agricultural land collectively which has legitimacy from Islam through the hadith of the Prophet Muhammad saw. although it has a backdrop of the Arab social context; especially Madinah and its surroundings, but what the Prophet has set is part of the Islamic teachings that have been believed by the majority of Muslims (Mukminin, 2015). Agriculture especially in the present, besides related to the planting match, also related to fishery and livestock sector which in fact both of these sectors is agriculture which has stood independently within the scope of the study of agricultural sciences such as the

Bogor Agricultural Institute (IPB) (Bogor Agricultural Institute (IPB) was formed and has four faculties) and other universities.

As one ijtihad device other than *ijma'*, qiyas plays an important role in studying and exploring the Qur'an and hadith as the main source of Islam. This article is based on the context of the traditions of *muzara'ah* which appeared in the time of the Prophet and the distribution of the result, the point of equality between the concept of *muzara'ah* and the fishery sector can be found through the theory of *ushul fiqh*, where qiyas as the main tool to find the equation so that the concept of *muzara'ah* is not only limited to the problem of planting fit but can penetrate into the fishery sector.

II. Discussion

Muzara'ah belongs to the agricultural model which has the main source of hadith because there is no specific Qur'anic argument concerning this, except for the global explanation of the permissibility of farming. When explaining the discussion about planting (الحَرْثُ وَالْمَزَارَعَةُ) in al-Bukhariy, Ibn H}ajar al-'Asqalaniy (w 852 H / 1449 AD) states QS: al-Waqi'ah; 63-65 which is mentioned by al-Bukhariy at the beginning of the chapter indicates the permissibility of farming and apparently (Asqalaniy, 2000), there is no specific guidance or theorem from the Qur'an related *muzara'ah*, though the *muzara'ah* proposition is contained in a hadith which has the function of explaining the Qur'an. Both explanations of the hadith in the form of strengthening the contents of the Qur'an, interpreting with various models even hadith can make provisions that are not contained in the Qur'an (al-Sya'fi'iy, 150-204 AH / 767-819 AD) (al-Suyutiy, 1399 H / 1979 M). For the last part is still a polemic among scholars, whether the hadith can determine a law that is not contained in the Qur'an or the law determined through the hadith actually derived from the Qur'an (al-Sya'fi'iy, 150-204 AH / 767-819 AD).

1. *Muzara'ah* Hadith and Agricultural Product Distribution

This section will parse the traditions used as the basis of the *muzara'ah* by presenting the definition and context of the hadith.

a. Definition and Context of Hadith *Muzara'ah*

The word *muzara'ah* comes from مزارع-يزارع مزارعة means doing *muzara'ah* contract. The word *muzara'ah* is already known, this word comes from زرع meaning sowing seed (planting) (Anis, 1972) (Mukarram & al-Ifriqiy, 711 H). *Muzara'ah* is interacting with others through planting match that is to give the land to the person to manage or plant to have the plant both of them (landowner and farmer). The division of results can be one-third, one-quarter or fewer and/or even more (Qanibiy, 1988) (Sa'diy Abu Habib, 1988). This definition has been expressed earlier by fiqh experts such as Ibn Qudamah (w. 620 H) and is found in *al-Majmu 'Syarh Muhaz/z/ab* (Ahmad & al-Maqdisiy, 1417 H / 1997 M) (al-Nawawiy, without years).

Muzara'ah and *mukhabarah* as they say, both equally means the landowner gives the land to be managed by the tiller by sharing the results between them both, the difference is that the seeds to be planted in *muzara'ah* system come from the temporary landowner in the *mukhabarah* system the seeds of these

seeds come from the farmers (al-Nawawiy, without years) (Syarh, 2000) (Sa'diy Abu Habib, 1988) (al-Zuhailiy, 1405 AH / 1985 AD).

Muzara'ah as a predetermined and agreed sharing system of farm produce between the landowners and the cultivators have been known in the time of the Prophet Muhammad saw, by most scholars equated with the *mukhabarah* because it has the context of hadith related to the processing of the soil in Khaibar. Al-Bukhariy (194-256 H) relates from the companions of Ibn 'Umar (74 H):

حدثنا إبراهيم بن المنذر حدثنا أنس بن عياض عن عبيد الله عن نافع أن عبد الله بن عمر رضي الله عنهما أخبره أن النبي صلى الله عليه وسلم عامل خيبر بشرط ما يخرج منها من ثمر أو زرع (al-Bukhariy, -al) (1995)

This hadith as the initial foundation in *muzara'ah* is also narrated by some hadith priests (al-Qusyairiy, 1993) (al-Sijistaniy, 2003) (al-Turmuzjiy, 2003) (al-Qizwi>niy & Majah, 2004) (Al-Nasaiy also narrated with the same meaning of Ibn 'Umar, 2004) judged the same as *mukhabarah*sting, because the latter word is derived from the word Khaibar as the name of the city where the transaction occurred (al-Ddin & al-Asji, 1979). It seems that this reinforces the opinion of most scholars that between *muzara'ah* and *mukhabarah* there is no difference

(Asqalaniy, 2000), although some *al-Sya>fi'iyah* distinguish it as already mentioned because they judge the word *mukhabarah* stems derived from al-khabr ie farmers (al-Nawawiy, Sahih Muslim bi Syarh al-Nawawiy. Volume V, juz X, 2000). The southern Arabian Peninsula region such as Yemen has practiced a cropping system, this is because the southern regions are cooler but cooler in summer, there are also many rivers and water places as between Yas|rib (Medina) and Mecca having water spots as in Yemen. The Arabs of Medina (then called Ansar) initially learned about the cultivation of Jews, then the Muhajirins joined the farm after they were domiciled in Medina (Ali). Khaibar the birthplace of the hadith about *muzara'ah* is one of the fertile places when Islam entered in Madinah, besides being famous for its solid fortress, the city also has farmland and palm garden which are scattered in it (al-Hamawiy, without years).

b. Ulama's Opinion about *Muzara'ah*

The difference in *muzara'ah* this section can be grouped into two. The first group like Abu Hanifah (d. 150 H), Zufar (d. 158 H) and al-Syafi'iy (d. 204 H) did not approve *muzara'ah* by dividing the results of one third and the like, while the second group approves the method. The

agreeing group is also divided into two; first, how to divide the results of one third and the like may but apply to *muzara'ah* while also following *musaqat* according to *al-Syafi'iyah*. And even if you use the method *muzara'ah* then the cultivator/farmer is paid with money (gold or silver) and not paid from the distribution of the crop yields one third and the like, in this section, it seems that Imam al-Syafi'iy allows to be paid with money. Second, *muzara'ah* by dividing the yield of one third, one quarter or half between the landowner and the cultivator, it is permissible without merging it with *musaqat* and this is the majority opinion like Ali (d. 40 H), Ibn Mas'ud (w 32 H), Ibn Musayyab (d. 94 AH), Umar bin Abd Aziz (d. 101 H), al-Zuhri (d. 124 H), Abu Yusuf (d. 182 H), al-Syaibaniy (d. 189 H), Malik (d. 179 H), Ibn Hanbal (d. 241 H) and Ibn Khuzaimah (d. 311 H) from the Syafi'iy school of thought, and it seems that al-Nawawiy was inclined towards this group (Qudamah & al-Maqdisiy, 1417 H/ 1997 M).

Ulama who do not allow planting by *muzara'ah* have at least three reasons as follows:

1) Hadith about Prohibition of Doing *Muzara'ah*.

There is a hadith that forbids *muzara'ah*, al-Bukhariy narrates from Rafi

'bin Hadij (d. 73/74 H):

حَدَّثَنَا صَدَقَةُ بْنُ الْفَضْلِ أَخْبَرَنَا ابْنُ عُيَيْنَةَ عَنْ يَحْيَى سَمِعَ حَنْظَلَةَ الزُّرَيْقِيَّ عَنْ رَافِعٍ - رَضِيَ اللَّهُ عَنْهُ - قَالَ كُنَّا أَكْثَرَ أَهْلِ الْمَدِينَةِ حَقْلًا ، وَكَانَ أَحَدُنَا يُكْرَى أَرْضَهُ ، فَيَقُولُ هَذِهِ الْقِطْعَةُ لِي وَهَذِهِ لَكَ ، فَرُبَّمَا أَخْرَجَتْ ذِهِ وَلَمْ تُخْرِجْ ذِهِ ، فَنَهَاهُمْ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ

(al-Bukhariy M. , 1995)

In addition to this hadith, there are also a number of different editors' history from various hadith master books, all of them contain a prohibition on *muzara'ah* (al-Nasaiy, 1999) (al-Nawawiy Y. b., 2000) (Asy'as, 2003). This whole story is contrary to the aforementioned hadith about the practice of *muzara'ah* against the inhabitants of Khaibar.

2) There is a deception

Element Ulama who do not allow *muzara'ah* see an element of deception and harm one of the parties, especially the cultivator through the method of farming. Because a portion of the land has been determined by the owner so that the yield of fertile land for him and the yield of less fertile land for cultivators.

3) Status of Khaibar Land

A general view before Islam regarding a city or region that has been conquered and has been controlled by an empire, the city belongs to the empire (Ali). The fall of Khaibar in the 7th year for Muslims was part of the socio-political

context at that time, the city had automatically become part of the territory of Muslims. The emergence of the discussion of the *fuqaha* regarding the status of the land of Khaibar because some judge gained through war while others considered that the fall of Khaibar was through peace (al-Zuhailiy, al-Fiqh al-Islamiy wa Adillatuhu. Juz V. Print II , 1405 H/1985 M) (al-Nawawiy Y. b., Sahih Muslim bi Syarh al-Nawawiy. Volume V, juz X, 2000).

c. Distribution of *Muzara'ah* Results in the Islamic Economic

View The progress that has been achieved by mature conventional economics has now reached an amazing level. From the aspect of innovation, methodology, mathematical models related to evaluation and prediction experience rapid and rapid development. However, he was unable to target humanitarian aspects such as justice and public benefit. According to Chapra, conventional economics ignores values, morals, and religion. economic development should not focus on mere economic variables, moral aspects, social aspects, and so on must also be taken into account (Dimiyati, 2007).

In the context of conventional economics, the element of justice is very little attention. Today's adult phenomenon

is being highlighted even by these economic actors. Although it is undeniable that conventional economics has advantages, but in addition he also has weaknesses. The lack of humanitarian aspects and ethical aspects are two things that are widely criticized in conventional economics regarding justice and considered as a weakness of this economic system (Dimiyati, 2007) (Kholis).

Based on the opinion of the majority of scholars about *muzara'ah* skill by dividing the yields of crops between landowners and cultivators is a step to achieve justice in the economy. This division has been exemplified in the hadith in the form the half for landowners and the other half for farmers. It can also be divided into one third (1/3), one quarter (1/4) or otherwise as practiced by the early Muslim generation (al-'Asqalaniy & Hajar, 2000).

The *muzara'ah* between landowners can follow the requirements set out in the Sharia Economic Law Compilation (KHES) for example in articles 256-265 and also the rules in the field of Agrarian which regulates the weak economic class (usual farmers from the farmer class ordinary) can avoid practices that harm them in the production sharing agreement (Pasaribu, 1996) (Team, 2009).

2. Fisheries Sector

The territory of Indonesia is the largest maritime and archipelagic country in the world which consists of 17,504 islands with a coastline of 104,000 km placing Indonesia. The fisheries sector is an activity that encompasses all kinds of fishing and fish cultivation businesses, types of crustaceans such as shrimp, crabs, mollusks such as squid, cuttlefish and shellfish and other water biota, both in seawater, brackish water (coastal), and fresh water (on land) (<http://beritapertanian.com/pembangunan-sektor-perikanan>, 2018).

a. Definition of Fisheries

Fisheries are all things related to the capture, maintenance, and cultivation of fish (Kamus Besar Bahasa Indonesia online, 2018). While in the Law of the Republic of Indonesia No. 31 of 2004 article 1 paragraph 1 concerning Fisheries stated that fisheries are all activities related to the management and utilization of fish resources and the environment from pre-production, production, processing to marketing carried out in a business system fishery (<http://www.dpr.go.id/dokjdih/document/uu/32pdf>, 2018).

b. Form of Fisheries

Judging from the type of environment, fisheries are divided into

two, namely: (1) marine fisheries and (2) land fisheries which are further divided into (a) freshwater fisheries and (b) seawater fisheries. For freshwater fisheries, the types of fish such as gouramytilapia, mas, and others, while the type of brackish water fish such as shrimp, milkfish, crabs and so on (<http://www.berpendidikan.com/2015/06/2-jenis-perikanan-di-indonesia-beserta-contohnya.html?m=1>, 2018).

c. Indonesian Fisheries Potential.

Fisheries potential for both capture fisheries and aquaculture has increased. Capture fisheries still play a very strategic role in fisheries development in Indonesia. This can be seen from the contribution capture fisheries production which reached 5.71 million tons or around 37.60 percent of the total national fisheries production which reached 15.51 million tons in 2012. The capture fisheries production comes from activities sea capture of 5.44 million tons (93.25%) and fishing activities at Public waters amounted to 0.39 million tons (6.75%).

In 2017 the highest non-tax state revenue (PNBP) in the fisheries sector from a period of 5 years. In 2014 the PNBP was Rp. 214.44 billion to 490.23 billion in 2017, fisheries PNBP rose around 129 percent or the highest in five years

(<https://ekonomi.kompas.com/read/2018/01/11/211200426/kkp-sebut-pnbp-sektor-perikanan-2017-tertinggi-dalam-5-tahun> , 2018).

3. The Analogy of the Hadith of *Muzara'ah* with the Fisheries Sector

In this article, the analogy in question is *qiyas* known in the study of *usul fiqh*, not a tree analogy. In this section, we will describe the foundation, definition, and type of *qiyas* and discuss the application in the context of *muzara'ah* hadith with the fisheries sector. The implications that fishermen will get regarding their welfare through the distribution of the *muzara'ah* model of fisheries.

a. Definitions and Proposals about *Qiyas*

1) Definition of *Qiyas*

The word *Qiyas* comes from the words قاس - يقيس - قيسا - وقياسا meaning that it measures like an expression of measuring something against something like it (Ibn Manzur, Manzur, & al-Ifriqiyy, without years) (Anis I. e., 1972). In etymology, *Qiyas* means looking for similarities or similarities between things and other things. As for the terminology, *Qiyas* is an explanation of the meaning taken (issued) from the text by making the law from something that has a text to other than, or equating (combining) between

origin and branch in law (al-Jurjaniyy, 1424 H/2003 M). *Qiyas* also means connecting origin with branches in law because they are united in both *'illat* (causes) (Qal'ajiy, 1998).

The majority of scholars define *Qiyas* as equating something already known with something else that has also been known to establish or nullify the second law with one thing that covers both (the same), both from the aspect of legal determination, the nature of its determination and nullifying the law of both (al-Raziyy, 1997) (al-Amidiyy, 1402 H/1982 M).

2) *Qiyas* Argument

Ulama are indeed different in seeing *Qiyas* capacity as a source of Islamic teachings. The difference is in legal matters, but in the world, they agree that *Qiyas* are proof (al-Raziyy, al-Mahsul fi Ilm Usul al-Fiqh. Juz III & V. Notated by Taha Jabir Fayyad al-'Alwaniyy. Print III., 1997). The majority of scholars from among the friends, *tabi'in*, four priests of the school and their followers make *Qiyas* as one of the sources of Islamic teachings after the Koran, hadith, and *ijma'* even worship using *Qiyas* is something that is logically possible *syari'ah* (al-Amidiyy, 1402 H/1982 M). Al-Raziyy mentioned those who allowed consisted of two groups, first, worshiping with *Qiyas* was

not only accepted by logic but actually happened empirically. Second, logically worshipping with *Qiyas* can be accepted even though empirically does not occur (al-Raziy, Al-Mahsul fi Ilm Usul al-Fiqh. Juz III & V. Notated by Taha Jabir Fayyad al-'Alwaniy. Print III, 1997). In addition to the group that receives *Qiyas*, there are also groups that reject it. Various arguments were raised by the two groups, but the ones chosen were groups that received *Qiyas* as one of the sources of Islamic teachings (al-Amidiy, 1402 H/1982 M) (al-Raziy, Al-Mahsul fi Ilm Usul al-Fiqh. Juz III & V. Notated by Taha Jabir Fayyad al-'Alwaniy. Print III, 1997).

Some arguments are put forward by scholars who receive *Qiyas* as follows:

a) QS.al-Nisa; 59

In QS: al-Nisa, 59 there is an order to obey Allah and His Messenger, then the command to return to both if the Muslims disagree. Al-Amidiy discusses this verse at length which can be taken from the core of the answer, namely the command to obey is understood by carrying out the instructions that come from both of them and stay away from their prohibitions (in the Qur'an and hadith), while the order to return is by taking the contents from the source of Islamic teachings through *Qiyas*. End This verse affirms that people take *toi'tibar* from the problems that exist with

the *qiyas* method. The key to the verse with the word *i'tibar* for al-Amidiy is a strong logic from the aspect of language and practice which confirms the continuity of *Qiyas* (al-Amidiy, 1402 H/1982 M).

b) Hadith

The hadiths that are often used as permits for using *Qiyas* are the narrations of Abu Daud, Turmuziy and Ibn Hanbal about the Prophet sending Muaz to Yemen and allowing him to use reason when determining laws that are not contained in the Qur'an and hadith (al-Sijistaniy, 2003) (al-Turmuziy, 2003) (Hanbal & Ahmad, without years). Although this hadith is judged while the *muhaddis* is not strong, the history of the sending of Muaz to Yemen is an undeniable fact (al-Bukhariy M. , 1995) (Ibn Asir II, 1979) and there are other propositions in the form of several authentic traditions which all indicate the use of *Qiyas* even the Prophet Muhammad saw practiced it (al-Amidiy, 1402 H/1982 M).

Including the proof of the Prophet saw. using *Qiyas* ie *the* hadith the Muslim history of a person will get a reward when he puts his genitals on his wife because the woman has been lawful for him, as the person will sin if his genitals are placed on the woman who committed adultery with her (al-Qusyairiy, 1993).

c) Consensus (*Ijma'*).

According to al-Amidiy, *ijma* is the strongest argument for the use of *Qiyas*. At the time of the four caliphs, there were several decisions carried out through *Qiyas* and no friends opposed them, one of which was to equate the provision of compensation to those who had already converted to Islam with those who had just converted to Islam because they were both Muslims (al-Amidiy, 1402 H/1982 M).

b. *Qiyas* Pillars and the Kind

The *qiyas* pillar consists of: (1) legal origin; (2) branch as the focus of polemic whether it raises the law or not; (3) law and (4) *'illat* which includes origin and branches. Each pillar has its own details as a condition that the pillars can truly be called *Qiyas* pillars (al-Amidiy, 1402 H/1982 M) (al-Syaukaniy, without years).

Qiyas is divided into several parts when viewed from various aspects, including: (1) *Qiyas* from the aspect of meaning which includes (the whole) in it by requiring the existence the law. If the law that emerges from the *Qiyas* branch is more than the original law called al-*Qiyasal-awla*, if the law of the branch and its origin are the same as al-*qiyas al-musawiy*, if the branching law is lower than the original law it is called al-*Qiyas al-adna*. (2) *Qiyas* from clear and hidden

aspects. If *'illat* is *nas* or there is no *nas* it is called *Qiyas* which is clear (*jaliyy*) and if *'illat* it is excavated from the original law called *Qiyas* hidden (*khafiyy*). (3) *Qiyas* seen from the original aspect *'illat* it is divided into/ (a) *Qiyas 'illat* which is explained in it with the reason *'illat*; (b) *Qiyas* is that it is not mentioned *'illat* in *Qiyas* but the nature that exists for *'illat* and (c) *Qiyas* which are in the original meaning. Besides that al-Amidiy said that *Qiyas* is never empty of the method of setting *'illat* that is dug in *Qiyas*, or matching, or likening and so on (al-Syaukaniy, without years) (al-Amidiy, 1402 H/1982 M).

c. Perspective and Implementation of *Qiyas Muzara'ah* Hadith with Fisheries Sector

1) *Qiyas* Perspective on *Muzara'ah* Hadith with the Fisheries Sector

The reading of the context of the hadith for the fisheries sector has gone through seven perspectives. The seven perspectives are: *first*, agriculture at that time is related to the planting of fruits which will be harvested; *second*, the sharing of results through mutual agreement between landowners and workers. The division of the results can be half, one third, one quarter or otherwise based on the agreement both; *third*, the agricultural land used for *muzara'ah* can

be in the form of private land or land owned by the leader/government; *fourth*, agriculture today is broader, including animal cultivation including fisheries and parts other than plants; *fifth*, profit sharing can be adjusted to past conditions; *sixth*, in addition to private and government land there are also common land owned by the state, especially the marine fisheries sector; *seventh*, profit sharing can involve third parties other than landowners and fishermen, namely units that are related to improving the welfare of fishermen. The first three perspectives are related to the past when the hadith is spoken and the other four are related to the present.

For the seventh perspective, the sharing of results involving third parties such as cooperative units and so on/ serves to regulate so that the distribution of results is truly fair and at the same time a place for savings and loans for fishermen, not just a place for mandatory deposits that some fishermen may find burdensome.

2) Implementation of *Qiyas* against *Muzara'ah* Hadith in the Fisheries Sector

After discussing the views of al-Muti'iy above, it appears that the fisheries sector can be divested *muzara'ah*, but it has not yet been obtained to equate *muzara'ah* as the origin and fisheries sector as a branch. In the other qualifications of the harmony *Qiyas*, the

origin and the branch do not seem to have a problem, except for the ulama who from the beginning did not approve *muzara'ah*.

Indeed, there is one of the original pillar conditions, namely the law contained in the pillars is agreed upon, but this cannot happen because *qiy* as itself is disputed (al-Amidiy, 1402 H/1982 M) (al-Syaukaniy, without years) as *muzara'ah*, so that the pillars of origin in *muzara'ah* apply to those who acknowledge existence *qiyas* as a source of Islamic law.

The conditions for the branch unit, namely the fisheries sector can be declared as having fulfilled the qualifications as a branch of origin, namely *muzara'ah* because the fisheries sector is practiced because in order to obtain general welfare as *muzara'ah*, the law is the same as *muzara'ah* ie may for the majority of scholars, there is no text about the profit sharing in this sector and the law is not first from the law of *muzara'ah* (al-Amidiy, 1402 H/1982 M) (al-Syaukaniy, without years).

The search for *Qiyas* implementation of *muzara'ah* traditions has a relationship between the two, so some problems that have been stated will be traced so that *'illat* between the two can be obtained so that it becomes increasingly clear. Of the seven reasons for detecting *'illat*, it seems that there are four factors

that can be used to implement *Qiyas* against *muzara'ah* traditions in the fisheries sector as follows:

First, the actions of the Prophet Muhammad saw. Hadith about *muzara'ah* clearly exists because the Prophet practiced it and then followed the majority of Muslims. The practice of *muzara'ah* after it was discovered that the Khaibar farm that could manage it was local Jews, therefore the Holy Prophet handed over the management to them. This *maslak* find the Prophet's decision to transact with Khaibar Jews because they were more aware of the management of Khaibar's land as well as the form of *mu'amalah* instead of being good with them for the common good.

What the Holy Prophet did imply that it was due to the experience that had been going on about the management of Khaibar's land. This is *maslak* mentioned by al-Syaukaniy that the actions of the Prophet after something happened, whether it came from the Prophet himself or other than that, al-Syaukaniy said that someone's actions were known by the Prophet and there was a decision included in this *maslak* (al-Syaukaniy, without years) without elaborating in more detail about the actions of the people or the facts that occurred in general that encouraged the Prophet to do something. In Khaibar,

something that had happened was the habit of managing land by local Jews giving birth to the Prophet's decision regarding *muzara'ah* which was reinforced by Muslim history that the Jews requested that they manage the land of Khaibar (al-Qusyairiy, 1993).

Second, the text is clear from the hadith that uses the letter *ta' lil*. In some words the traditions of *muzara'ah* in Khaibar there is the word بشر after the words of Rasul sawwas with the residents of Khaibar. If the الباء letter in the hadith narrated by al-Bukhariy is *sababiyyah* (cause) then it is included in the letter *ta' lil* so this fact found that because the Khaibar Jews worked then they got half of the results of *muzara'ah*. This explanation is reinforced with another al-Bukhariy history:

حدثنا موسى بن إسماعيل حدثنا جويريه عن نافع عن عبد الله رضي الله عنه قال أعطى النبي صلى الله عليه و سلم خيبر اليهود أن يعملوها ويزرعوها ولهم شطر ما يخرج منها

(al-Bukhariy M. b., 1995)

Although this narration and the previous narration are *riwayah bi al-ma'na*, but the Khaibar incident is a fact including the management of Khaibar's land, the two narrations can be used to find *'illat*.

Third, *munasabah* is something that is compatible and acceptable to human

reason because it relates to anything that brings benefit and away from harmful things. The practice of *muzara'ahis* included in this *maslak* needed (*hajjiy*) as the fisheries sector is a general human need. Category *hajjiy* is what is needed but not in something urgent (*daruriy*) such as rent, *musaqat* and so on (al-Syaukaniy, without years) including *muzara'ah*. However, this connects *muzara'ah* with the fisheries sector because both are included in the category *hajjiy*; things that are needed by everyone but not urgent.

Fourth, the *maslak* that can implement *Qiyasmuzara'ah* hadith with the fisheries sector through *syibh* is to establish *'illat* with similarities. This term has become a common thing for *Qiyas*, connecting the branches of the branch in harmony because there are similar or similar ones, even though in the case of combining the aforementioned scholars, we disagree, but this *maslak* including those that must be considered to find similarities (al-Syaukaniy, without years) (al-Amidiy, 1402 H/1982 M) between branches and origin.

The implementation *maslak* *syibhin* the *muzara'ah* hadith as the origin and fisheries sector as a branch can be seen from: (a) between *muzara'ah* and the fisheries sector included in the agricultural sector. Although in the present time

between agriculture and fisheries are studied in their respective fields, in fact, fisheries are recognized as part of agriculture and not vice versa. Here the problem can be developed further through the habits of a society or *'urf* what happens. Fisheries may in the emergence of *muzara'ah* hadith not been discussed and not categorized as part of agriculture, but now adults are actually fisheries born from agriculture because of the following; (b) similar properties (*syibh*) between cropping and fisheries meet at breeding. Agriculture breeds plants and plants while fisheries breed aquatic animals; fish and its types. The similarity of both lies in the nature of breeding; (c) different land between water (at sea and on land) with land but having similarities in the payment system to workers; fishermen or farmers.

For section (c) some of the scholars who do not approve *muzara'ah* have been explained to allow farmers to earn wages paid, even though the fee is not from the transaction *muzara'ah*, but the landowner pays the money to the farmer, so the transaction is *ijarah*. But this happens because one of the causes is because there are similarities in the branches of the branch in this case fisheries with two original pillars, *muzara'ah* and *ijarah* (al-Amidiy, 1402 H/1982 M) (al-Raziyy, Al-Mahsul fi Ilm Usul al-Fiqh. Juz III & V.

Notated by Taha Jabir Fayyad al-‘Alwaniy. Print III, 1997) (Biek, 1988).

4. Fishermen's Welfare and the Distribution of *Muzara'ah* Model Results Implications

a. Indonesian Fishermen's Welfare

The great potential in Indonesia's marine waters that has been mentioned has not been enough to make fishermen more prosperous. In general, the development of national capture fisheries conditions can be illustrated by the status of the development of fishermen, fishing fleets, and fishing gear. Information regarding the trend of the number of fishermen in the last decade (2003-2012 period) decreased the number of fishermen catching fish in the sea. Meanwhile, the number of fishermen caught in relatively public waters tends to fluctuate somewhat. However, overall the number of fishermen tends to decline in the last decade (Kementerian PPN/Bappenas Direktorat kelautan dan Perikanan. *Kajian Strategi Pengelolaan Perikanan Berkelanjutan*. 2014. https://www.bappenas.go.id/files/7614/4401/4206/Strategi_Pengelolaan_Perikanan_Berkelanjutan.pdf, 2018).

The decrease in fishermen's numbers can be caused by several factors, but it seems their condition is no better than unskilled workers, because the average national fishermen's income does

not reflect decent income even if compared to the national minimum wage (UMR) in 2012 the average income of Indonesian fishermen is still under UMR.

The Central Statistics Agency in September 2017 released data on the number of poor fishermen contributing 20% of the total poor population in the country or around 5.2 million people. The World Bank places the total income of fishermen in Indonesia who are below the poverty line of 520,000 every month (<https://m.detik.com/news/kolom/d-3979437/akses-keuangan-bagi-kaum-nelayan>, 2018). The same reports from 2015-2018 about the number of poor fishermen, although Indonesia's fishery potential is so large (<https://m.liputan6.com/bisnis/read/3224886/stok-ikan-melimpah-sudahkah-nelayan-dan-industri-menikmatinya>, 2018).

President Jokowi once mentioned that Indonesia's future is at sea, so the potential of the sea must be utilized for the welfare of the people. But the not-so-high profit can make people think of becoming fishermen. According to Agus Puji Prasetyono, the factors that make people reluctant to become fishermen have to find a solution. One of the important points related to fishermen's economy is that the government plays a role in creating a conducive climate by conducting a

comprehensive and integral analysis with clear and focused directions and targets so that the contribution of maritime potential and economic growth is more significant, among others through organizing the institutions needed by fishermen such as cooperatives and associations so creating a decent fishing life (<https://www.ristekdikti.go.id/ikan-melimpah-di-laut-kemana-nelayan-kita/> , 2018).

b. Implications for the Distribution of *Muzara'ah* Model for the Fishermen's Welfare

Qiyas from *muzara'ah* hadith with the fisheries sector has found similarities between the two. For the distribution of the results through the hadith, you can follow the *muzara'ah* hadith text, that is, the landowner gets half and the fisherman is half, or the fisherman is one third. The division is also through a context that can be adjusted according to the agreement between the two based on the principle of justice. This division of results feels more beneficial to both parties compared to transactions wages (*ijarah*).

In order for the division to be truly fair, it is necessary to describe the status of the land that is the place to take fish and other aquatic animals. Land status can be seen from:

1. Inland Fisheries

Inland fishery land; either in freshwater or brackish water, or in catching or cultivating fisheries that are privately owned, the distribution of the results is easier. Fishermen as workers sprinkle eggs or small fish seeds in the ponds and then manage them until they can be consumed or sold, so the distribution of the results can be divided directly where fish and other freshwater animals are divided into half, one third, one quarter or based on the initial agreement between the landowners and fishermen .

2. Marine Fisheries

Marine fisheries make the sea the mainland. The status of the sea is a shared property as well as rivers, lakes, and swamps even though the government regulates it. in this context. the Prophet Muhammad saw said

الْمُسْلِمُونَ شُرَكَاءُ فِي ثَلَاثٍ فِي الْمَاءِ وَالْأَكْلِ وَالنَّارِ
(Hanbal & Ahmad, without years)

The sea as a land to catch fish, and cultivation is a common property as rivers, lakes, and swamps. The government has regulated the land use rights for those who want to use it (<http://www.dpr.go.id/dokjdih/document/u/32pdf> , 2018).

III. Concluding

This paper finds that the sharing of

results in *muzara'ah* traditions and practices between landowners and farmers can be applied in the fisheries sector between the owner of the pond and the pond or the owner of fishing equipment for free land such as sea, river, lake, with fishermen through *Qiyas* so that fishermen are expected to be more prosperous.

In *muzara'ah* hadith as the origin, the similarity point is found with the fisheries sector as a branch. The equation is found through four theories about *maslak*, namely: the actions of the Prophet, the clear text of the hadith using the letter *ta' lil* in the hadith, *munasabah* and *syibh*.

This paper also reveals that there is hope to improve welfare, especially for small fishermen by implementing fisheries product sharing as in the *muzara'ah* tradition by making fishermen and landowners or owners of fishery equipment as business partners by involving other parties such as the government and joint cooperatives owned by fishermen to safeguard the rights of those who transact so that justice can truly be felt by both parties.

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