

## Abstrak

Kajian ini merupakan satu kajian yang menganalisis mengenai konsep *ghalat* dalam fiqh Islam. Pendapat ulama terkemuka dalam Islam merupakan asas kepada hukum *ghalat* meskipun mereka tidak membahaskannya dalam satū topik yang khusus. Manakala pendapat sarjana moden juga diketengahkan kerana mereka mempunyai konsep *ghalat* yang lebih jelas dan teratur dalam fiqh.

Satu takrifan yang sesuai dengan *ghalat* agak sukar dikemukakan kerana terdapat percanggahan pendapat samada ia merupakan sesuatu yang objektif atau subjektif. Tetapi penulis lebih cenderong kepada konsep objektif kerana mudah untuk difahami dan digambarkan.

Perbandingan undang-undang di antara Fiqh, Undang-undang Sivil Mesir 1949 dan Undang-undang Kontrak Malaysia dapat memperlihatkan beberapa persamaan dan perbezaan antara ketiga-tiga perundangan. Sememangnya Undang-undang Sivil Mesir 1949 mempunyai pengaruh Islam yang dominan tetapi mereka lebih terpengaruh dengan mazhab Hanaf i dalam memberi penyelesaian kepada konsep *ghalat* ini. Manakala Undang-undang Kontrak Malaysia juga mempunyai beberapa persamaan dengan mazhab Hanaf i kerana lebih menekankan konsep boleh batal.

## **Abstract**

The research attempts to analyse the concept of mistake or *ghalat* in the Shariah Law. The opinion of prominent scholars in the Islamic Law on the concept of mistake is quite basic and their discussion of the topic are mentioned in various subjects.. The view of modern Islamic scholars in this matter on the other hand is much clearer and arranged in more systematic fashion.

The meaning of mistake is difficult to establish because there is considerable disagreement among the jurists whose use of methodology various from subjective and objective one. This research uses subjective methodology in discussing the subject of mistake.

In addition, a comparative study of the Shariah Law, the Civil Law of Egypt 1949 and the Malaysian Law of Contract has been made in this research. The aim of this comparison is to elucidate some points of similarity and difference on the concept of mistake between these systems of laws. The Civil Law of Egypt 1949 and the Malaysian Law of Contract appear to be similar to that of the Hanafi school in their approach to the concept of mistake, in respect that a contract is voidable if it is effected by element of mistake.