



Sahal Mahfudz's Sociological Approach to Islamic Legal Thought in Indonesia

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ABSTRACT

Scholarly disputes, which eventually gave birth to a methodology or *ijtihad*, are integral to the evolution of Islamic philosophy. The capacity to adjust to societal changes and needs is a key feature of this Islamic legal finding. Using a sociological lens, this study aims to delve more into KH Sahal Mahfudz's ideas. The literature review in this study is of a qualitative nature. Examining Islamic practices via a sociological lens is actually not a novel idea. It is widely acknowledged that this approach has deep roots in Islamic intellectual history, and this includes KH Sahal Mahfudz of Indonesia. In the realm of traditional *pesantren*, which has extensive experience with the study and development of *fiqh*, it would be greatly appreciated if ideas of social *fiqh* could be effectively articulated. A dynamic leap forward in *fiqh* theory can be achieved by expanding upon the concepts already present in social *fiqh* thought. As a first step, social *fiqh* aspires to integrate revelation's veracity with social reality. As part of the renewal movement of Islamic legal thinking in Indonesia, this alternative is vital in the quest to fit religious principles to social reality via the ever-changing cleansing.

Keywords: *Sociological; Sahal Mahfudz; Islamic Law*

ABSTRAK

Perselisihan ilmiah, yang akhirnya melahirkan metodologi atau *ijtihad*, merupakan bagian integral dari evolusi filsafat Islam. Kapasitas untuk menyesuaikan diri dengan perubahan dan kebutuhan masyarakat merupakan ciri utama dari temuan hukum Islam ini. Dengan menggunakan lensa sosiologis, penelitian ini bertujuan untuk lebih mendalami gagasan KH Sahal Mahfudz. Tinjauan pustaka dalam penelitian ini bersifat kualitatif. Menelaah praktik Islam melalui lensa sosiologis sebenarnya bukanlah ide baru. Secara luas diakui bahwa pendekatan ini memiliki akar yang dalam dalam sejarah intelektual Islam, dan ini termasuk KH Sahal Mahfudz dari Indonesia. Dalam ranah *pesantren* tradisional, yang memiliki pengalaman luas dalam studi dan pengembangan *fiqh*, akan sangat dihargai jika gagasan *fiqh* sosial dapat diartikulasikan secara efektif. Sebuah lompatan maju yang dinamis dalam teori *fiqh* dapat dicapai dengan memperluas konsep-konsep yang sudah ada dalam pemikiran *fiqh* sosial. Sebagai langkah pertama, *fiqh* sosial bercita-cita untuk mengintegrasikan kebenaran wahyu dengan realitas sosial. Sebagai bagian dari gerakan pembaruan pemikiran hukum Islam di Indonesia, alternatif ini penting dalam upaya menyesuaikan prinsip-prinsip agama dengan realitas sosial melalui pembersihan yang terus berubah.

Kata Kunci: Sosiologi; Sahal Mahfudz; Hukum Islam

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INTRODUCTION

Islamic law as a whole will deal with the more superficial, formal, and legal aspects of religion, such as the question of whether something is reasonable or not, and the halal-haram rules that govern religion. It is not about the existence of law. that alone is an obstacle to integration with *fiqh*; rather, how important the actual legislation is and needs to be refreshed, especially when associated with location (local) and time (temporal), is a topic of much debate in academic circles. The geographical conditions surrounding the design of *sharia* have a significant influence on the composition of the *tasryi* 'dates, which detail the history of law and its application. This results in Islamic law referring to comparable scriptures, especially the Qur'an and Sunnah, to build strategies that adapt to the context of new issues. The elements of legitimacy presented are also influenced by alternative opinions and techniques of researchers in studying social reality. So, it is not unusual for researchers to produce different solutions at the same time in the same situation. From a regulatory perspective, the issue of progress and its impact is now a challenge for Islamic studies, given the static, latent and conventional nature of *fiqh*. (Asmani, 2007)

Since each generation experiences changes as a result of the progress of society, Islamic teachings consistently take into account these changes in society. Law can develop in response to shifts in context, time, place,



and customs, in accordance with the principles of Usul Fiqh (al- Hukmu). Yataghayyar bi Taghyyur al- Azminah wa al- Amkinah wa al-Ahwal wa al-'Adat). The values and standards derived from several methodological requirements in the law are the essence of Islamic teachings, according to this interpretation. In order to effectively practice a more compassionate social orientation, especially in Islamic life in Indonesia, fiqh is dynamic, adaptable, and not dynamic. adhere to one interpretation of the Bible. Due to the lack of laws related to muamalah, it is essential to develop Fiqh through ijthad in a way that meets the demands of Indonesian society and addresses emerging problems. There is no doubt that the presence of social fiqh is very significant in shaping the way of looking at religious life in the diverse regions of Indonesia. This understanding must be flexible enough to accommodate the needs of various communities.(Iqbal, 2017)

The openness that arises from the cosmos due to ijthad is a crucial thing in open fiqh that must be immediately communicated to the public. There are several questions that arise, including who, what, where, when, and how, all of which indicate the fact that fiqh is not an island in itself but a continuous creative process. Social and political actors work together with producers based on degrees. The framing of fiqh has been busy all this time. In general, fiqh makes progress in historical growth rather than filling empty spaces. In every case, scholars and the socio-political and sociological factors around them work together to produce a fiqh decision. It is in this state that all Islamic fiqh is prepared. The reason is that fiqh is very specific to certain cases. Because there is still no "definite" level of certainty in fiqh, the law is said to be in the "relative" scope.

The question of the appropriateness of Islamic law in today's complex society has arisen with the passage of time and the complexity of the social environment. This involves the use of sociological and empirical methods to the findings of unique Islamic law. One aspect of Islamic law that has been revealed is its ability to adapt to different situations and meet the demands of different communities.

On the other hand, some argue that Islamic law only applied during the time of the Prophet and his companions, while others argue that Islamic law can also be applied in modern times. Islamic law, according to some groups, is static and unchangeable; it can only be applied in the present. However, some communities argue that Islamic law is context-dependent and must be applied accordingly. Understanding the role of Islamic law in contemporary society can be enhanced by adopting a sociological perspective in this regard. Since law needs to be adjusted to suit current social conditions, this perspective argues that law is both normative and empirical. The effort to uncover Islamic law that is distinctive and unique in diverse social conditions by integrating normative and empirical methodologies is referred to as the discovery of Islamic law *sui generis cum empirical*.

It is very important that ijthad courses taught by mujtahid legal professionals continue to encourage the development of new concepts in the field of Islamic legal theory (fiqh). He put forward an interesting phenomenon in the discussion of Islamic legal theory initiated by Indonesian scholars that we should pay attention to. Among several academics who devoted themselves to the field of social fiqh is KH. Sahal Mahfudh who perfected the concept as the latest branch of Nusantara Fiqh. When several problems emerged in traditional fiqh, the discussion of social fiqh began. Classical fiqh was his attempt to respond to this criticism. After that, the book *Nuansa Fiqh Sosial* was published, which marked the continuation of methodical efforts in this direction. Although there are still challenges in presenting and perfecting current jurisprudence, he argued that it was enough. Consequently, community life requires reconstruction and the publication of the next Fiqh paradigm.(Rohman, 2022)

KH. Sahal Mahfudh emphasized that the principle of humanity of al-lima Syatibi as outlined in *Maqashid al- Syariah* is an effort to help society understand that Islam is more than just a'abbudi. (worship). Consideration of beneficial values should be given consideration if the problem is not only about the relationship between servants and their God. This is where the concept of socially oriented fiqh is formulated within the framework of Islamic law, with the aim of achieving the welfare and well-being of humanity.

The above thoughts have an impact on how Islamic law in Indonesia has developed over time. That is the main point put forward by the author of this article. In this case by taking a sociological stance towards the evolution of Islamic legal theory in Indonesia.

Heirs are often related to a Testament, inheritance cannot be divided if the Testament related to the property is not settled. A person's inheritance Testament be distributed if the debt or Testament of the heir has been fulfilled or settled. The law of inheritance is closely related to the scope of human life, because every human being Testament



definitely experience legal events, namely death, so that it Testament cause legal consequences of the event of a person's death, including the problem of how the rights and obligations of a person who dies, how the settlement of rights and obligations as a result of the death of a person is regulated by inheritance law.(Ellyne Dwi Poespasari 2016),

METHOD

This study uses a normative legal research method with a qualitative approach that focuses on the analysis of Testament conflicts in the distribution of inheritance according to Islamic law. This type of research was chosen because the problems studied are related to the normative legal provisions contained in the Quran, Hadith, and the Compilation of Islamic Law (KHI). The approaches used include a statutory approach to analyze the provisions of the KHI, especially Article 171 and articles related to Testaments, a conceptual approach to understand the concept of Testaments in fiqh mawaris, a case approach to analyze conflicts of Testaments that conflict conflict in one object of inheritance, and a historical approach to understand the development of the arrangement of Testaments in Islamic law and implementation in Indonesia.

The data sources of this research consist of primary legal materials including the Quran and Hadith related to Testaments and inheritance, the Compilation of Islamic Law, Law Number 1 of 1974 concerning Marriage, as well as court decisions relevant to Testament disputes. Secondary legal materials are in the form of Islamic inheritance law books, legal journals, scientific articles on compulsory Testaments, and the results of previous research relevant to the research topic. Meanwhile, tertiary legal materials include legal dictionaries, Arabic-Indonesian dictionaries, and internet sources related to research topics. Data collection techniques are carried out through library research and documentation studies by inventorying, identifying, and classifying legal materials based on their hierarchy and relevance to the research problem.

Data analysis in this study uses descriptive analysis techniques to describe the arrangement of Testaments in Islamic law and KHI, comparative analysis to compare various opinions of scholars regarding the resolution of conflicting Testaments, normative juridical analysis based on the principles of Islamic law and the principles of justice in the distribution of inheritance, and legal interpretation of the provisions of Testaments in the Quran, Hadith, and KHI. To ensure the validity of the data, this study uses source triangulation by utilizing various primary, secondary, and tertiary data sources, as well as conducting member checks with Islamic legal experts and peer review with fellow researchers in the field of Islamic law. The systematics of the analysis begins with the identification of legal problems, an inventory of the applicable legal rules, an analysis of the application of the legal rules to the facts of the case, and the drawing of conclusions by providing appropriate legal solutions to resolve conflicting Testaments in the division of inheritance.

RESULT AND DISCUSSION

Understanding the Sociological Approach

From its Latin etymological roots, the word "sociology" comes from the meanings "socius" (same) and "logos" (to say or utter). Therefore, sociology is the study of human social interaction. Sociology is a branch of social science that focuses on understanding and documenting social dynamics, especially change. From the perspective of human relationships and the social processes that develop from them, society is the focus of sociology. While the goal is to make humans stronger and more adaptable to their environment.

Research in sociology aims to provide insight into the origins and characteristics of recurring human social patterns, such as ways of thinking and behaving. Unlike psychology, sociology focuses only on the ideas and actions created by humans in social groups or societies, not on the characteristics of individual thoughts or behavior.(Sanderson, 1984)

However, it is important to remember that sociology covers a wide range of topics and that different branches of the field of research different topics with different goals. In addition, sociology is a discipline that studies aspects of social dynamics and groups that are interrelated and mutually reinforcing. Sociology is not a science that studies humans but rather social phenomena that are explained through events in history and seen in everyday life. Here, Major Polak continued, sociology is a discipline that investigates society as a whole, including social, formal, material, static, and dynamic relations between individuals, groups, and society at large. Like sociological theory,



scientific inquiry requires a methodology to generate hypotheses. Sociology can be broadly classified into three schools of thought:(David, 2020)

Structural-functional approach

Combining elements of structuralism and functionalism, this scientific method is multidisciplinary. By ignoring the purpose of each structure, the structuralism method will focus on the structure of social life. According to this method, the entire society is a building structure. On the other hand, functionalism is more concerned with studying how everything in society has a purpose. Without the proper functioning of each component, social life will be unbalanced, although in this study this function is emphasized more than structure. This synthesis of structuralist and functionalist perspectives tends to analyze society from the perspective of its structure and function, and the relationship between the two, rather than seeing society as a monolith from both perspectives.

Conflict Approach

In the late 1930s, a macro-social view known as structural-functional analysis gained popularity. Halcot Parsons of Harvard University was the first to provide a systematic formulation of this theory, but it had its roots in the work of European sociologists such as Max Webber, Emile Durkheim, Vill Predo. Hareto, and a number of British social anthropologists. After that, Parsons' students and their students, especially in America, developed these ideas.

Although the publications of the structural-functionalists only hint at ideological practices, Marxist sociologists use Marx's sociological principles and ideology quite openly. He looked at the methods of production throughout history and came to the conclusion that a small number of individuals control economic resources, and the rest of society is doomed to work for those resources and depend on the benevolence of those in power. Starting from this perspective of human history, Marx put forward his theory of socialism which aims to solve the problem of inequality by distributing wealth equally. If we can achieve our utopian goals of ending poverty, exploitation, and war, then we will no longer need revolution.

Symbolic-Interactionist Approach

This method is also multidisciplinary; more specifically, it is a social science approach known as interactionism. The symbolism method was later added to this method, with the premise that all social interactions can only be properly understood when linked to the symbols that apply between them. However, from a micro perspective in sociology, the symbolic interactionist method may be too speculative given the current state of research. Although this technique draws heavily on the Western context in which it was created, it does not include any ideological tendencies. Starting from the most basic level of social contact, symbolic interactionism is more commonly known as the interactionist approach, as the name suggests.

Starting from the micro level, this branch of social psychology is expected to expand its analysis to include society as a whole, as a factor in various interaction processes, unlike other branches of the field. Society is considered to have a broad curiosity about various situations, including those involving political and commercial transactions, family dynamics, educational and recreational environments, organizations, formal and informal environments, and so on.

These three modern sociological frameworks—structural-functional, conflict, and symbolic-interactionism—were all designed with Western civilization in mind and therefore cannot be applied outside that region. Western thought not only fails to address the problems facing non-Western countries today, it is also often at odds with local perspectives in those societies. Religion can be better understood through a sociological lens because of the close relationship between religion and social values.(Ira, 2022)

The term “social fiqh” comes from the Arabic term “fiqh” and “social” in its etymological meaning. Fiqh, on the other hand, is defined as a deep understanding of the evidence of sharia and the rules of sharia that are amaliyah in nature. Meanwhile, according to al-Amidi, fiqh is one of the branches of Islamic law that develops through premise reasoning. It is clear from the previous definition that fiqh is not sharia itself but rather a rendering or explanation of sharia. Since fiqh is merely an interpretation of the facts and circumstances surrounding the alleged scenario, fiqh will inevitably develop in response to shifts in the historical context.



Community empowerment programs that revolve around his pesantren environment, Kiai Sahal Mahfudz has succeeded in integrating the theory of fiqh civilization. *Fiqh Sosial Nusansa, Pesantren Exploration For This Means Social Fiqh Study, New Face of Islamic Boarding School Fiqh, Conversation with Kiai Sahal*, and many more of Kiai Sahal's writings that provide the basic principles of his fiqh as well as recommendations for its success. Many scholars with bachelor's, master's, and doctoral degrees have studied these books extensively to explain his main ideas. These works provide a fundamental understanding of Kiai Sahal's social fiqh and his role in community empowerment. This is where Kiai Sahal uses the concept of social fiqh to connect normative fiqh texts with various modern societal issues.

Kyai do more than mediate; they also contribute creatively to the transformation of society. Not because religious leaders seek to soften the impact of change, but because they are actually paving the way for societal transformation. Rather than selectively presenting facts, they propose reform programs that take into account the actual needs of the society they oversee. Knowing that societal change is an inevitable evolution, the Kyai play a full role, not a smaller role, by delaying the arrival of change through a process of filtering information. (Horikoshi, 1987)

As the most comprehensive Islamic legal text, fiqh addresses four important areas of human existence. *Ubudiyah* is the first, and discusses the heavenly relationship between the believer and God. The other three are devoted to topics directly related to material and social existence in this world: *jinayah* (criminal), *munakahah* (marriage), and *mu'amalah* (civil relations). Failure to implement these ideals is inevitable if the above ideals are not fulfilled. This suggests that, depending on their upbringing and level of education, individuals no longer use fiqh as a comprehensive guide to life or do not understand the validity of fiqh. In any case, the general public's ignorance of fiqh is the cause. Religious organizations that fail to articulate their ideal conditions that can be achieved through fiqh are rightly held responsible for realizing this state. (Ja'far, 1999)

The benefit to society is one of the important conclusions that can be drawn from KH. MA Sahal Mahfudz's *Social Fiqh Theory*. The purpose of social fiqh is to address societal problems through the application of Islamic law in a way that primarily pays attention to the welfare of the general public. Population problems are a prime example of this problem. There will be more benefits to a larger population, but this will not stop them from exceeding the benefits of more human resources.

Muslim intellectuals began to speak out, realizing their lapses, and seeking solutions to their plight in the 17th and 18th centuries. In the contemporary era, several individuals emerged as engines of Islamic revival, especially in the field of Islamic law. Among them were Shah Waliyullah al-Dihlawi from India, Muhammad Abduh from Egypt, Sheikh Nawawi Banten from Indonesia, and many more. Although geographically separated, some of their main schools of thought had the same goal: to raise awareness of the internal stagnation of the Muslim community and to work together to find solutions. Therefore, one of their proposals was to give a greater role in encouraging freedom of thought, work, and innovation, especially in the field of Islamic law. As a result, Muslims, who were not necessarily proud of the golden age of Islam, would cultivate courage by giving greater weight to thought in creative endeavors. (Asmawi, 2021)

Addressing complex population problems, which are important life issues in the view of Islamic law, means consistently fulfilling the responsibility of Muslims for the obligation to realize public welfare (*al-mashalih-'ammah*) as stated in social jurisprudence. This is reflected, for example, in the chapters on *zakat*, *fai*, *amwal dlai'ah* and others. In this case, public welfare is more or less the real needs of the community in a certain area to support its external welfare. (Wahab, 2020), Whether these needs have a *dlaruriyah* dimension or basic needs which are the main means to achieve salvation in religion, soul, body and soul, lineage (descendant) and property, there are also *hajiyah* needs. (secondary) and needs that have *tahsiniyah* or complementary dimensions.

According to Islamic law, the solution to complex population problems is to fulfill the requirements of the social jurisprudence of Muslims to realize the public interest (*al-mashalih-'ammah*). Chapters such as *zakat*, *fai*, *amwal dlai'ah* and others reflect this. Here, what is meant by "public interest" is the fulfillment of the real needs of the population of a certain area in order to guarantee their material welfare. Some of these demands are fundamental (*dlaruriyah*), which relate to matters of religion, reason, body, and soul; some are secondary (*hajiyah*) and additional (*tahsiniyah*), and some are additional (*tahsiniyah*).



The purpose of Islamic law is to ensure the welfare of society, and one way to achieve this is by addressing population issues. However, in doing so, we must not compromise the importance of faith and belief. Indeed, the principle of faith and belief can be further refined through the practical application of Islamic law within the framework of efforts to achieve social welfare by resolving population issues. To achieve physical and spiritual well-being, society can achieve a balance between *aqidah* and *sharia* through rational and responsible attitudes and behaviors towards the family *masalah* and various aspects of life, such as religion, social, economic, education, health, security, and the overall order.

The development of *fiqh* thought has undergone major changes since the idea of benefit was created by scholars of *Usul Fiqh*, including the most famous figure in studying it, for example Imam Syatibi. The scholars seem to have the same belief that the theory of benefit has revealed the hidden aspects of the flexibility of *fiqh*, despite the fact that scholars differ on whether *masalah* can be used as a legal basis in relation to its various details. Therefore, what should be proposed is *fiqh al-maqasid*, or *fiqh* that prioritizes humanitarian principles such as benefit, justice, and equality over certain regulations. The three-part framework of the theory of benefit is very important for KH. MA Sahal Mahfudz's social *fiqh* proposal: (1) *dharuriyyat* (main), (2) *hajjiyyat* (secondary), (3) *tahhsiniyyat* (complementary). (Taufiq et al., 2023)

There is a surge of interest in making the theory of benefit the main focus of *fiqh* research and practice. This idea subtly reminds us of the current reality and phenomenon: the increasing number of *fiqh* legal products that fail to provide the expected results when practiced. Moreover, there are more and more *fiqh* products that do not mention the concept of benefit, all because these products are limited to non-methodological interpretations of texts, *nash*. That is why the need for a methodical and systematic separation of *ushul* religion and the *furū* 'component is very interesting. Of course the goal is to apply the principle of excellence more fairly.

As Islam developed in the field of social sciences, several great works emerged, many of which continue to have an impact on modern society. The authors of these writings aimed to provide a deeper, more humane explanation of Islam that could be applied to all groups. Among them is social *fiqh* which is the fruit of the thoughts of KH. Mahfudz, Sahal.

Many religious teachings address societal issues, highlighting the importance of a sociological perspective on religion. Because religion places a high value on social justice, religious believers are more likely to use social science as a lens through which to view their beliefs. Because religion expresses itself for social purposes, it can easily be understood through a sociological lens. For example, the Quran has verses that discuss human interaction, the prosperity and sorrow of a nation, and the factors that contribute to each of these purposes. Those who know the social history of the religious teachings that are passed down are able to understand all of this.

Muslims rely on *fiqh* to help them overcome their difficulties and regulate the behavior of society through their efforts to reorganize, embody, and contextualize it. These ideas became the basis of indigenous Islam offered by KH Abdurrahman Wahid. Given that Abdurrahman Wahid was a figure who embraced two great traditions – modernism and traditionalism – this idea presented a philosophical dilemma. The philosophical compromise with the world problems he experienced seemed to be the concept of Indigenization of Islam. Regarding the development of the idea of *fiqh*, KH. Sakhal Mahfudz proposed a social *fiqh* framework to investigate practical legal problems, by referring to the postulates of *Sharia* with an emphasis on social concern. Initially, social *fiqh* was an approach that bridged the gap between social reality and religious revelation. There has been a reform movement in Indonesia that seeks to produce new ideas regarding the interpretation and application of Islamic law in society. This alternative is important because it is part of a larger effort to adapt religious standards to social reality.

CONCLUSION

There is indeed a history of using a sociological lens to study aspects of Islam. This method has long existed in Islamic thought, according to some, including KH. Salah Mahfudz, an Indonesian Islamic thinker. The world of traditional Islamic boarding schools has a lot of experience in studying and developing *fiqh*, so if it succeeds in socializing social *fiqh* thinking, it will be something spectacular. Applying the principles outlined in KH. MA Sahal Mahfudz's social *fiqh* theory will likely bring revolutionary changes in the field of *fiqh*. Initially, social *fiqh* was an approach that bridged the gap between social reality and religious revelation. There has been a reform movement in



Indonesia that has attempted to give birth to new ideas regarding the interpretation and application of Islamic law in society. This alternative is important because it is part of a larger effort to adapt religious standards to social reality.

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