

## The Methodology of *Ijtihād Taṭbīqī* KH. Sahal Mahfudh

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### Abstract

*This article aims to examine the methodology of Ijtihād taṭbīqī KH. Sahal Mahfudh in contextualizing and actualizing classical fiqh texts. The method used is qualitative with the theoretical approach of ijtiḥād taṭbīqī by Abū Ishāq Ibrāhīm al-Syātibi and the theory of Social Construction of Peter L. Berger and Thomas Luckmann with the basis of the Sociology of Knowledge analysis. The results of this study indicate that there are three methodologies of Ijtihād taṭbīqī KH. Sahal Mahfudh: first, historical approach. Second, the cultural approach (culture), Third, the sociological approach. The contribution of this research is to actualize and contextualize classical fiqh texts while maintaining their relevant authenticity and then synergizing them with more positive modern scientific disciplines so that they exist and survive in the present and as the future development of Indonesian and world fiqh.*

**Keywords:** *Ijtihād Taṭbīqī, KH. Sahal Mahfudh, Contextualization and Actualization of Fiqh*

### Introduction

Fiqh or Islamic law is not only seen as a tool to measure the truth of orthodoxy, but must also be interpreted as a tool for reading social reality so that fuqaha 'can take certain attitudes and actions on that social reality. As a pesantren figure, Kiai Sahal Mahfudh, he is considered a pesantren figure who has succeeded in making a paradigm shift in fiqh, from orthodoxy truth to social meaning (Baso, 1997). So that fiqh or Islamic law has a double standard. First, as a tool to measure social reality with syari'at ideals which end in lawful or haram, permissible and prohibited. Second, at the same time being a social engineering tool. In positive law, according to Kiai Sahal, it is called the dual science of law, namely the function of law as social control and the function of law as social engineering.

Kiai Sahal is one of the kiai of the NU pesantren (Nahdlatul Ulama) who has visionary thoughts that have not been practiced by pesantren kiai in general, especially in the NU environment. For the general public, maybe Kiai Sahal's character is not very well known except as a figure of kiai at the NU pesantren, this is

because Kiai Sahal rarely speaks to the mass media and rarely appears in public or open forums such as recitation, Kiai Sahal prefers to limited forums that are dialogical, measurable, planned, and sustainable (M. S. Mahfudh, 2007).

In fact, besides being a kiai caretaker of a pesantren, Kiai Sahal also a lecturer, chancellor, and leader of the Nahdlatul Ulama and the Indonesian Ulama Council at the national level, he also a scholar 'and quite a productive writer. Since 1991, he has been active as a columnist for regional and national magazines, especially with regard to religious issues, especially social fiqh, which is a product of his thoughts, such as in Suara Merdeka, Warta Nahdlatul Ulama, Duta and so on. In addition, they also fill in various kinds of scientific meetings, discussions or seminars. This activity is not only in the Central Java region but in various regions in Indonesia, especially after he has appeared as a national level figure. Even more than that, Kiai Sahal has participated in many seminars (Suprpto, 2009) abroad either as a writer, presenter, main discussant, moderator or leader of a trial, including: in the Philippines, Japan, South Korea, Malaysia, Sri Lanka, Saudi Arabia, Beijing (China) and Cairo (Egypt).

The following are some analyzes of Kiai Sahal's visionary thoughts that have not been carried out by pesantren kiai in general, especially in the NU environment in the context of *ijtihād taṭbīqī* as contextualization and actualization of classical fiqh texts, including: (1) Desacralization of the understanding of revelation, according to Kiai Sahal, the effort to promote ijtihād for people who have the capability to do so is by not sanctifying the understanding of revelation which causes fiqh to be out of date, making the understanding of revelations sacred is the same as equating reason with the Koran. and Sunnah. As a result, fiqh which in fact is a product of the mind of a mujtāhid is considered a dogmatic and formalist understanding, Kiai Sahal expressly states fiqh as knowledge obtained by means of ijtihād, the mujtāhid's intellect which is covered with limitations should not be positioned on a par with the Qur'an and Sunnah. An example of concrete evidence of the idea of desacralization of understanding of the revelation of ijtihād taṭbīqī Kiai Sahal Mahfudh is by establishing Bank Artha Mas Abadi whose purpose is to improve the economic welfare of the people. Even though textually there are many arguments that prohibit the practice of bank interest, Kiai Sahal sees a great benefit from the bank, namely as a source of capital in the activities of the people to finance productive efforts for the

sake of improving the economy of the people that cannot be replaced by other institutions, Kiai Sahal still adheres to the results of the NU Congressional decision which penalizes bank interest with three opinions: halal, haram and syubhat (cryptic).

However, if giving more that is done is not said in the transaction (*ṣîgāt*), according to Kiai Sahal it does not include usury and even applies Islamic teachings in a hadith: "the best among you is the best in paying debts". Kiai Sahal rests on the opinion of Imam Al-Ghamrawi in the *Bugyāh al-Murtasyidin* book and Imam Suyuti in the *Asybah wa An-Naḍāir* book (M. A. S. Mahfudh, 2003). By establishing Bank Artha Mas Abadi, it is hoped that the community can run fast in improving the economy and not always be left behind with other religious communities and Muslims should not be trapped by fiqh texts, while the world is moving very fast (Asmani, 2015).

(2) The rationalization of revelation, kiai Sahal emphasized critical study of revelation as a necessity. However, there are two conditions that must be met by the mujtahid in the rationalization of revelation. *First*, the mujtahid must master language and study language. *Second*, the mujtahid were able to seek and find wisdom and 'illat in the law. An example of the rationalization of the revelation of *ijtihād taṭbîqî* carried out by Kiai Sahal Mahfudh in the case of zakat distribution by taking several steps. In the case of zakat distribution, for example Kiai Sahal combines the opinions of the fuqahā 'in the distribution zakat between consumptive and productive (Al-Bajury, 2007).

(3) The theory of basic needs, Kiai Sahal often uses the term "basic needs approach" or the basic needs approach, to explain primary benefits, which means the basic needs needed by humans in everyday life. Example of alleviating poverty through basic needs, approach *ijtihād taṭbîqî* Kiai Sahal Mahfudh in three steps. The first step, dividing the Muslim community into several groups by looking at the reality that develops in poor communities from the shortcomings they have. The second step is to examine the background of poverty that surrounds it because it could be the cause of its poverty is ignorance and underdevelopment or lack of facilities. If the cause of poverty is the lack of facilities to meet their basic needs, the solution is to equip these facilities. If the cause of poverty is ignorance and underdevelopment, the solution is given capital and skills. When the collection and

distribution of zakat is still carried out using the old method, namely sporadically and not institutionalized, it will cause a new problem, namely the character of ṭama 'among the poor. For kiai Sahal it is not enough to provide them with capital, but they must be given skills first and then capital and motivate them to be willing to try and not just wait (*ṭama'*) and not be wasteful.

For example, if a *mustahîq* has sewing skills then give him a sewing machine, if his ability is only to drive a rickshaw, then give a rickshaw. The third step, the collection and arrangement of the distribution of zakat is institutionalized, one of which is in the form of a cooperative with a committee (not 'amil) which is only tasked with collecting and regulating the distribution of zakat and the distribution is not directly in the form of money but is arranged in such a way that it does not conflict with religion by means of having to pay zakat. in the form of money but later withdrawn as savings for the purposes of raising capital. In this way, Kiai Sahal believes that *mustahîq* create jobs with capital collected from zakat assets, even though it cannot eliminate poverty at all, at least it will not succeed in reducing poverty. (Asmani, 2015)

## Result and Discussion

### 1. *Ijtihād Taṭbīqī* of KH. Sahal Mahfudh

*Ijtihād taṭbīqī* (al-Syaṭībî, n.d.) is implementing laws that are already available and have been termed by scholars' from the laws of *tafṣîlî* (detailed). According to Muhammad Iqbal, *ijtihād taṭbīqī* must consider the social situation and conditions of the community, so that the legal products produced are in accordance with the aspirations of society and do not burden them. Because *ijtihād taṭbīqī* is part of *ijtihād* empowerment for the development of new thinking, as part of a form of mujtahid concern in implementing legal products resulting from *istinbâṭ* into social reality, therefore *ijtihād* must consider the social situation and conditions of society, so that the legal products produced in accordance with the aspirations of the community and not burdening them (Iqbal, 2001).

There are two basic concepts (building theory) of *ijtihād taṭbīqī*, namely: First, *ijtihād* which is carried out by a mujtahid using the basic concept of *tahqîq al-manâṭ* (determining the major premise of the minor premise of a legal case). In the basic building of this first concept, a mujtahid

*taṭbīqī* must observe and understand all the things that are most ideal for each personal mukallaf, individually per individual in every place and time (space and time). Because every person of a mukallaf cannot be generalized to one another in a legal provision (al-Syaṭībī, n.d.). So that according to al-Syātibi *tahqīq al-manāṭ*, it is divided into two *tahqīq al-manāṭ al-‘ām* (law moorings in general) and *tahqīq al-manāṭ al-ḥās* (specific legal moorings).

*Second*, using the basic concept of *ma‘ālāt al-af‘āl* means analyzing and predicting the conclusion of an action or causality that might occur as a legal consideration, both *maṣlāhāh* and *mafsādāh* as a separate theory to get a hidden meaning. from the theory of *maqāṣid al-syarī‘ah*. There are three (3) components of the *ma‘ālāt al-af‘āl* legal system, among others: *al-ḥāṣṣ* 'which means preventive action (prevention) and *al-ḥiyāl* which means looking for loopholes to politicize shari'ah. *Third*, *murā‘āt al-khilāf* means considering the controversy of some of the ulama's arguments' whose final goal is to analyze the negative impact that is likely to occur if one has to choose another argument that is considered stronger (al-Syaṭībī, n.d.).

According to Mujamil Qomar, the background of Kiai Sahal's thought, which is advanced and progressive, is included in the category of eclectic typology, which is a thought that tries to choose everything that is considered the best no matter which school, any philosophy and theory, as long as it is better than others, that is what is chosen (Mujamil Qomar, 2002). In philosophy, the definition of eclecticism is choosing ideas (concepts, beliefs, doctrines) from across systems of thought in the process of compiling their own systems, this eclectic thought can be in the form of expressing views that are less commonly measured from the culture of the person who expresses the opinion itself.

The term "eclectic" is borrowed from the concept of a typology of Islamic thought of al-Jabiri, which is a type of thought in Islam that seeks to adopt the best elements from the modern West and Islam and then mix them in such a way as to fit the modernist and traditionalist models. (al-Jabiri, 1989) Modernists (*‘aṣrāniyyūn*) offer the adoption of modernity from the West as a paradigm model for present and future modern civilizations. On the other hand, the traditionalists (*sālfīyyūn*) try to restore the glory of Islam from the past as something that is still relevant to answer the present. Meanwhile, eclectic groups

(*taufūqiyyūn*) try to adopt the best elements found in both modern Western and Islamic (past) models and unite between the two in a form that is considered to fulfill both models (al-Jabiri, 2000).

Donald V. Gawronski and Erich Kahler as quoted by Akh. Minhaji is related to the socio-historical Ijtihād Taṭbīqī KH. Sahal Mahfudh defines history as a living thing or a living tradition, and not a death body (Minhaji, 1999). Furthermore, a professor of social history of Islamic legal thought at UIN Yogyakarta, Akh. Minhaji explained "This instruct us that an adequate understanding of the issues posed by ushul al-fiqh cannot be gained by means of studying any one particular author, for no single ushul can, or should be, allowed to speak on behalf of the others" (Thus, a diachronic study of the development of ushul al-fiqh's thought by studying historical data of thought across historical time is a must. Otherwise, the description of the thoughts we present will be more normative-ideological-deductive in nature and far from being sacred. empirical and historical reality, or in historical science known as salvation history) (Minhaji, 2005).

Socio-historical *ijtihād taṭbīqī* KH. Sahal Mahfudh develops together with the socio-cultural life that surrounds him from creating to creating, because KH. Sahal Mahfudh can always be held accountable to reality, resulting in a kind of dynamic and continuous dialogue process, ultimately encouraging the dynamics of ijtihād carried out by KH. Sahal Mahfudh himself on the one hand, and on the other hand makes his ijtihād always dynamic, contextual and relevant in its application (*taṭbīqī*) (Qardhawi, 1994). So that to understand the socio-historical ijtihād taṭbīqī KH. Sahal Mahfudh is a study of reality that continues to move under the shadow of the socio-cultural life that surrounds it from creation to generation. With the importance of seeing the socio-historical ijtihād taṭbīqī KH. Sahal Mahfudh, then Tutik Nurul Jannah classified it into four stages, including (Janah, 2020).

*First*, the initial period of growth of Sahal for eleven (11) years under as desired. From his birth in 1933 until his death in 1944, basic religious education was in Kiai Mahfudh's own order. Under his guidance, Sahal learned to study (read) the Al-Qur'an, learn Arabic in an applicable way. But it didn't take long

for him to learn from his knowledge. His father died earlier in the military prison in Ambarawa (Janah, 2014).

*Second*, the period of studying with kiai in the Kajen environment for 9 years. Starting after the death of his father until he graduated from the Mathali'ul Falah madrasah (1944-1953), like KH. Muhammadun, KH. Ahmad Rifa'i Naşuha and other Kiai at the Mathali'ul Falah madrasah and especially the ones he learned the most from KH. Abdullah Salah (Mbah Dullah) his uncle. From his teachers in Mathali'ul falah Sahal studied the science of tools (nahwu sharaf) as the basic knowledge of reading yellow books, mantiq and balaghah, fiqh and ushûl fiqh.

*Third*, the period of studying for kiai-kiai outside the Kajen environment, for nine (9) years. Starting from 1953 to 1962, after completing his studies at Mathali'ul Falah in 1953, Sahal continued his education at another pesantren outside his area, namely the Bendo Pare Kediri pesantren for 4 (four) years from 1954-1957. At the pesantren, Sahal studied more of the science of tasawwuf under the guidance of his teacher, KH. Muhadjir, Among the studies that he has touched until his eyes are, among others, Al-Gazali's work, Iḥya' Al-ulūm Al-din. After four years in Bendo (from 1954-1957) (Asmani, 2007), on 9 June 1957 AD or Dzulqo'dah 1376 H Kiai Sahal continued his studies at Sarang Rembang for four years (from 1957-1960). Kiai Sahal studied a lot of Fiqh and Ushul science under the guidance of KH. Zubair Dahlan (Rohman & Dkk, 2012) even became a teacher for students at the pesantren for the discipline of ushûl fiqh at the behest of his teacher. When studying in Sarang apart from reciting the Kiai Zubair, Kiai Sahal secretly began studying with Shaykh Yasin Al-Fadany (Suprpto, 2009).

Learning through correspondence, denying each other, and asking questions. From the learning through correspondence, Kiai Sahal was given the scientific knowledge of Shaykh Yasin which was entrusted to KH. Baidlowi Lasem when performing the haj pilgrimage in 1959. The thing that surprised KH. Baidlowi, because giving sanad means the appointment of a student as well as an acknowledgment of his scientific capabilities, even though at that time Kiai Sahal was practically a child because he was still living in Sarang and was still 26 years old. Kiai Sahal's learning process with Shaykh Yasin continued directly in

Makkah Al-Mukarramah when Kiai Sahal first performed the haj pilgrimage in 1962, he lived and studied in Makkah for about a month. Studying with Shaykh Yasin in Makkah was unlike his time in Indonesian Islamic boarding schools. There Kiai Sahal only visited a few times to meet and ask about certain problems and according to him every time he asked he never got a direct answer except for orders to read certain books (Rohman & Dkk, 2012).

*Fourth*, the period of Kiai Sahal being directly involved in various activities for fifty one (51) years, from 1963 until his death in 2014. The first time he became a teacher at his own pesantren "Maslakul Huda" Kajen Pati, as well as his caretaker from 1963 until his death. 2014. At the same time he also taught at the Mathali'ul Falah Islamic College Kajen Pati (Ma'mur & Dkk, 2012), then in 1963 he was given the mandate as its Director until his death in 2014.

Kiai Sahal not only associates with the pesantren environment but also with non-pesantren educational environments and other social environments, in this case universities and community social organizations (Sam, 2007). In 2003, Kiai Sahal obtained the title of Doctor Honoraris Causa (DR HC) from the State Islamic University (UIN) Syarif Hidayatullah Jakarta, because of his knowledge in fiqh science and his success in the development of Islamic boarding schools and society, so he is known as an expert in modern-day fiqh (Fadeli & Subhan, 2010).

As stated by (Berger & Luckmann, 1990) in social construction theory, a person's knowledge system cannot be separated from the background or setting that lies behind it. Berger and Luckmann understand the world life (life world) as a dialectical process between the individual (the self) and the socio-cultural world which includes three simultaneous moments, namely externalization means adjustment to the sociocultural world as a human product, in this case Kiai Sahal in the early period grew and developed for eleven years under the care of his father, objectivity means social interaction in an intersubjective world which is institutionalized or undergoes a process of institutionalization, and internalization means that the individual identifies himself in the social institutions where the individual is a member (Berger & Luckmann, 1990).

## 2. Methodology of *Ijtihād Taṭbīqī* KH. Sahal Mahfudh

According to Ali Yafie, in Indonesia, fiqh will play a very real role if *ijtihād* is placed proportionally, especially the effort of reasoning in terms of toepassing (*ijtihād fī al-taṭbīq*). Fiqh as a product of *ijtihād* is a series of a unity that cannot be separated from the integrity of Islamic teachings. Intellectual property in fiqh science that has been developed for centuries in a sustainable manner and is well preserved should alleviate the need for *ijtihād* in the present, only add to existing ones for contemporary problems which have not been regulated and ruled by ulama 'before and this is the great task of *ijtihād. fī al-taṭbīq* (Yafie, 1996).

An offer about finding a new methodology of *ijtihād* Islamic law that is comprehensive and systematic in responding to the challenges of modernity came from a Muslim intellectual from Pakistan named Fazlur Rahman in his work "Islamic Methodology in History", according to him there are three steps that need to be taken by contemporary mujtahids (including *mūjtāhīd taṭbīqī*) to find new methodologies in berijtihād, namely:

First, a historical approach to finding the meaning of the text of the Koran in the career and struggle of the Prophet Muhammad, this historical approach will guard against extravagant and artificial interpretations of the Koran. so that it will show clearly the meaning of the whole Qur'an in a systematic and coherent way. Second, separating the legal provisions from the goals and objectives of the Qur'an because the Qur'an usually explains the reasons for its specific legal statements. Third, considering the sociological background, namely the environment in which the Prophet moved and worked within the understanding and objectives of the Qur'an, this approach will distance from the subjective interpretation of the Qur'an (Rahman, 1970).

The application of *ijtihād (ijtihād taṭbīqī)* in the current era, especially in Indonesia, which is a country with the largest Muslim population, is manifested in various forms of *ijtihād* institutions. Such as the Indonesian Ulama Council (MUI) under the auspices of the Ministry of Religion, or the *ijtihād* institution of two Islamic (socio-religious) organizations, such as the Bahtsul Masail of Nahdlatul Ulama (NU), Majlis Tarjih and the Tajdid of Muhammadiyah (MD), both at the local and regional and many more Islamic institutions engaged in *ijtihād*.

Therefore, *ijtihād taṭbīqī* is different from *taṭbīq al-syarī'ah* (sharia product application) or *taṭbīq al-ahkām* (legal product application), whose connotation tends to be understood as a legal positivation in an application and enforcement of law through the formation of laws and the like which has binding legal force. So, there are three steps that need to be taken by contemporary *mujtahid taṭbīqī* to find a new methodology of *ijtihād taṭbīqī* in Indonesia, namely: First, the historical approach. Second, separating the legal provisions from the goals and objectives of the al-Qur'an being revealed. Third, consider the sociological background.

Ijtihād taṭbīqī or an effort to understand how to implement the laws that are already available and have been termed by the scholars' from the laws of *tafṣīlī* (detailed) by Kiai Sahal to be relevant to the development of Islamic law in Indonesia, because the construction (Rechtsconstructie) *ijtihād taṭbīqī* Kiai Sahal in responding to the challenges of modernity, fulfills three principles to be achieved, namely: justice, equality and benefit. Apart from using the three basic concepts of *ijtihād tathbīqī*, namely: *tahqīq al-manāṭ*, *ma`ālāt al-af`āl* and *murā`āt al-khilāf* as the concept of Abū Ishāq Ibrāhīm al-Syātibi, Kiai Sahal's *ijtihād* methodology also goes through three approaches.

The historical approach, through this approach, will keep *mūjtāhīd taṭbīq* from interpreting extravagant and artificial *fiqh* texts. So a *mūjtāhīd taṭbīqī* in order to be able to explore and find the overall meaning of *fiqh* texts in a clear systematic and coherent manner must go through a deep understanding of *maqāṣid syārī'ah* by looking for legal reasons (*'illāt al-ḥūkm*, ratio legis) contained in the rules rules of *usūl fiqh* and *qawā'id fiqhiyyah* and integrating *maqāṣid syārī'ah* into the process of developing a *fiqh* framework. The shift from formalistic *fiqh* to ethic style *fiqh* by integrating legal wisdom into *'illāt* (reason) of law to achieve general benefit is the basic building behind Kiai Sahal in *maqāṣid syārī'ah* within the framework of his *ijtihād taṭbīqī*. Kiai Sahal affirms the profane *māṣlahāh* as something transcendent with *naṣ* as its basis. *Māṣlahāh āmmah mu'tabarāh* which is based on the social context will always be actual and dynamic in dealing with the problems of the people.

The cultural approach, Kiai Sahal emphasizes the importance of absorbing the legal values of Islamic law into social reality so that Islamic law appears

grounded and can answer the complex problems of society. Because in understanding Islamic law, it should not be limited to formal Islamic laws, the implementation of which requires a certain set of institutions and a judicial system. But it is more of its application by emphasizing the absorption of moral and humanitarian values that must be upheld and upheld by all existing components of society because the Islamic legal system is more on legal values which have universal characteristics and legal standing. -Moral law as a humanitarian value whose existence is accepted and upheld by all value systems in this world, namely: (1) Justice, (2) Honesty, (3) Freedom, (4) Equality in public, (5) Legal protection for people of different religions, (6) Upholding the supremacy of God's law. Kiai Sahal argues that whatever form and form of law prevails in a society, as long as it touches and conforms to the universal values of Islam, it can be categorized in Islamic law itself, even though without a specific label or without specific institutions and legal instruments. The goal is to provide space for the process of developing Islamic law in Indonesia, to stimulate Islamic laws in Indonesia to be more dynamic.

The sociological approach, Kiai Sahal in this approach, takes three steps. First, contextualization or efforts to interpret fiqh in accordance with the surrounding context through the development of historical insight into fiqh texts by reviving attention to the cultural and civilizational backgrounds that supported the yellow book in the past. Second, actualizing or reviving the rules and thought products of fiqh which are considered out of date through contemporization (*ta'ṣîr*) of the contents of fiqh texts. Third, the development of the application of *uṣūliyyāh* methods by involving assistive sciences other than linguistics. The importance of involving other sciences outside of fiqh is to determine the legal status of a particular problem and to consider the "sociological context" of both *asbāb al-nuzūl* and *asbāb al-wurūd*.

The aim is to enrich the classical *us klasikūl* fiqh theories as the basis for the enactment and implementation of fiqh in the daily practical life of the Islamic ummah. Because the *ijtihād* product which becomes the decision of fiqh is not a sacred item, which cannot be changed even though the cultural situation has gone very fast. The understanding that makes fiqh sacred according to Kiai Sahal is clearly wrong because it contradicts the meaning of fiqh itself as "*al-'lmu bi al-*

*ahkām al-syār'iyyah al-'māliyah al-muḫtasab min adillatihā al-tafṣīliyyah*" (the science that explains the law Shari'ah law in everyday life, which is extracted from detailed sources). The definition of *al-muḫtasab* (something that is explored) provides an understanding of fiqh born from a series of long intellectual processes of reasoning and work, before it is finally declared a practical law. With that, the ijtihād that was carried out by Kiai Sahal could always accommodate new problems that arose one after another and were increasingly complex.

*Ijtihād taṭbīqī* Kiai Sahal in the development of Islamic law in Indonesia, both through historical, cultural and sociological approaches, does not deconstruct classical fiqh first and then reconstruct it. However, it tends to be more likely to actualize and contextualize classical fiqh by maintaining its authenticity which is still relevant and synergizing it with more positive modern scientific disciplines in order to exist and survive. For this reason, Kiai Sahal's *ijtihād taṭbīqī* in the development of Islamic law in Indonesia, namely: 1) maintaining the essence of classical fiqh as an old building, 2) strengthening "old buildings" which are already fragile, 3) carrying out actualization and contextualization.

The actualization and contextualization of classical fiqh texts is a necessity, because the formulations of classical fiqh texts which were constructed hundreds of years ago are clearly inadequate to answer all the problems that occur today. Political, social and cultural situations are different and the laws themselves must rotate according to time and space. This is where a "*new fiqh*" is needed that can accommodate the problems that are developing in society.

The idea of actualization and contextualization of the formulation of classical fiqh to reformulate (reconceptions) of the "*new fiqh*" by adding and expanding the development of Islam and the study of classical fiqh which is not concerned with matters of halal and haram law and needs to complement certain schools of thought with developing methods to achieve the depth and completeness of a problem. Kiai Sahal argues that the yellow book as a representation of classical fiqh as well as a scientific reference in Islamic boarding schools should be a horizontal line that provides concepts of approaches to ritual and social problems, the study of the yellow book can critically be carried out using the *munāḍarah* (discussion) method that does not just looking for answers, but can

formulate actual concepts that become references to contemporary problems, so that they can change the paradigm from textual to contextual insight.

For Kiai Sahal, in order to change the paradigm from textual to contextual perspective, methodological madzhab (*manhāji*) is needed. Because fiqh texts in the yellow book are seen as inapplicable as space and time change, so that the understanding of fiqh textually is an ahistorical and paradoxical activity with all the complexities of contemporary problems. There are three stages carried out by Kiai Sahal in the construction of *ijtihād taṭbîqî* through contextualization and actualization of fiqh texts, namely:

*First*, the development of *masālik al-'illāh*, by combining the understanding of pure *qiyāsi* with *maqāṣidus syāriāh* (five objectives of sharia application). Thus, the field of *ijtihād* will focus on the area of development of *masālikul 'illāh* only so that fiqh is relevant to the general benefit (*maṣlāḥah' ammah*). *Second*, openness to the *ijtihād* methods of other schools of thought. According to Kiai Sahal, to respond to global challenges, it requires methodological courage (*manhāji*), when there is openness to other schools' methods, what is discussed is the big concepts of past scholars, such as *qiyās*, *ijmā'*, *maslaḥah*, *saddu az-zāriah*, *istiḥsān*, *al-'urf*, and others. So that they are no longer fixated on the thought products of past scholars' schools that are temporary and casuistic in nature.

*Third*, openness to the findings of social sciences, science, technology and others. This is why Kiai Sahal stated that studying modern sciences such as social, cultural, political, social economy and computer education are part of contextualization or an effort to interpret fiqh in accordance with the context of space and time that surrounds it. These auxiliary sciences other than linguistics are used to develop and enrich classical *uṣūl* fiqh theories as the basis for the application and implementation of fiqh in the daily practical life of Muslims. With that, the *ijtihād* that was carried out by Kiai Sahal could always accommodate new problems that arose one after another and were increasingly complex.

## Conclusion

There are three methodologies of *ijtihād taṭbîqî* K.H. M.A. Sahal Mahfudh in responding to the challenges of modernity, among others: *First*, a historical approach, so that *mūjtāhîd taṭbîqî* avoid extravagant and artificial interpretations

of fiqh texts. *Second*, a cultural (cultural) approach, emphasizing the importance of absorbing the legal values of Islamic law into social reality so that Islamic law appears grounded and can answer the complex problems of society. *Third*, the sociological approach, with three steps: (1) contextualization or efforts to interpret fiqh according to the surrounding context through the development of historical insight into fiqh texts by reviving attention to the cultural and civilizational backgrounds that supported the yellow book in the past; (2) actualizing or reviving the rules and thought products of fiqh which are considered out of date through the contemporanization (*ta'ṣîr*) of the contents of fiqh texts; (3) developing the application of uṣūliyyāh principles by involving assistive sciences other than linguistics.

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## Bibliography

- Al-Bajury, I. (2007). *Haasyiyah al-Bajury*. Dar al-Kutub al-Islamiyah,.
- al-Jabiri, M. 'Abid. (1989). *Isykaliyat al-Fikr al-Fikr al-'Arabi al-Mu'aṣîr*. Markaz Dirasah al-Wihdah al-Arabiyyah.
- al-Jabiri, M. 'Abid. (2000). *Post Tradisionalisme Islam, ter. Ahmad Baso*. LKiS.
- al-Syaṭībî, A. I. (n.d.). *al-Muwāfaqāt fî Usûl al-Syārī'ah, tahqîq oleh Abdullah Darraz* (4th ed.). Beirut: Dar al-Ma'rifah.
- Asmani, J. M. (2007). *Biografi Intelektual KH. MA. Sahal Mahfudh*. Global Press.
- Asmani, J. M. (2015). *Mengembangkan Fikih Sosial KH.MA Sahal Mahfudh; Elaborasi Lima Ciri Utama*. PT Alex Media Komputindo.
- Baso, A. (1997). *Melawan Tekanan Agama: Wacana Baru Pemikiran Fiqih NU dalam Jamal D. Rahman (et. al), Wacana Baru Fiqih Sosial: 70 Tahun KH. Ali Yafie*. Bandung: Mizan.
- Berger, P. L., & Luckmann, T. (1990). *'Tafsir Sosial atas Kenyataan: Risalah tentang Sosiologi Pengetahuan*. LP3ES.
- Fadeli, S., & Subhan, M. (2010). *Antologi NU: Sejarah, Istilah, Amaliyah, Uswah, Cet. III*. Khalista.
- Iqbal, M. (2001). *Fiqh Siyasah Kontekstualisasi Doktrin Politik Islam* (1st ed.). Gaya Media Pratama.
- Janah, T. N. (2014). *Inspirasi Gerakan Ekonomi Kiai Sahal Mahfudh dalam Epistemologi Fiqh Sosial: Konsep Hukum Islam dan Pemberdayaan Masyarakat*. Fiqh Sosial Institute.
- Janah, T. N. (2020). *Wawancara*.

- Ma'mur, J., & Dkk. (2012). *Mempersiapkan Insan Sholih- Akrom: Potret Sejarah dan Biografi Pendiri-penerus Perguruan Islam Mathali'ul Falah Kajen Margoyoso Pati 1912-2012 (1 Abad)*. Perguruan Islam Mathali'ul Falah.
- Mahfudh, M. A. S. (2003). *Dialog Dengan Kiai Sahal Mahfudh, Solusi Problematika Umat*. (Surabaya: Ampel Suci dan LTNU Jatim, 2003), cet. 1,.
- Mahfudh, M. S. (2007). *Nuansa Fiqih Sosial* (4th ed.). LKiS.
- Minhaji, A. (1999). *Pendekatan Sejarah dalam Kajian Hukum Islam, Mukaddimah 8 Th V*.
- Minhaji, A. (2005). *dalam pengantar Amir Mu'allim & Yusdani, Ijtihad dan Legislasi Muslim Kontemporer*. Yogyakarta: UII Press,.
- Mujamil, Q. (2002). *Nu Liberal: Dari Universalisme Ahlussunnah ke Universalisme Islam*. Bandung: Mizan.
- Qardhawi, Y. (1994). *al-Ijtihād al-mu'ashirin bayna al-indhibath wal infirath*. Dar at-Tauzi' wan nasyr al-islamiyah.
- Rahman, F. (1970). Islamic Modernism: its Scope, Methode and Alternatives. *Internasional Jurnal of Middle Eastern Studies*, 1(4).
- Rohman, M., & Dkk. (2012). *Kiai Sahal ; Sebuah Biografi*. KMF Jakarta.
- Sam, I. dkk. (2007). *Panduan Ulama' Ayomi Umat: Kiprah Sosial 70 Kiai Sahal Cet. I*. (Jakarta: Majelis Ulama Indonesia).
- Suprpto, B. (2009). *Ensiklopedi Ulama' Nusantara; Riwayat Hidup, Karya dan Sejarah Perjuangan*. Gelegar Media Indonesia.
- Yafie, A. (1996). *Posisi Ijtihad dalam Ijtihad dalam Sorotan*. Mizan Media Utama.

