



RESEARCH ARTICLE

Development of Contemporary Islamic Law

Randi Hermawan^{*1}, Rabiul Awaluddin²

¹Universitas Islam Negeri Sumatera Utara, Pasca Sarjana Syariah dan Hukum, Medan, Indonesia

²Universitas Islam Negeri Sumatera Utara, Pasca Sarjana Syariah dan Hukum, Medan, Indonesia

*Email: rabiula732@gmail.com¹, randihermawan@gmail.com²

Abstract

A concise and concise summary is required (maximum 250 words). The summary should briefly indicate the purpose of the study, the material method, its main results and its major results. The summary is often presented separately from the article, so you need to be able to stand alone. For this reason references should not be used. Times New Roman; 10 pt. Shortly after the summary, provide up to 4-6 keywords avoiding general and plural terms and multiple concepts (eg "and" "). Protected with abbreviations: Strictly used abbreviations may be appropriate. A concise and concise summary is required (maximum 250 words). The summary should briefly indicate the purpose of the study, the material method, its main results and its major results. The summary is often presented separately from the article, so you need to be able to stand alone. For this reason references should not be used. Times New Roman; 10 pt. Shortly after the summary, provide up to 4-6 keywords avoiding general and plural terms and multiple concepts (eg "and" "). Protected with abbreviations: Strictly used abbreviations may be appropriate. A concise and concise summary is required (maximum 250 words). The summary should briefly indicate the purpose of the study, the material method, its main results and its major results. The summary is often presented separately from the article, so you need to be able to stand alone. Times New Roman; 10 pt. Shortly after the summary, provide up to 4-6 keywords avoiding general and plural terms and multiple concepts (eg "and" ").

Keywords

Physical Activity, Exercise, Public Health, Active People

INTRODUCTION

Islamic thought often experiences ups and downs, sometimes even experiencing decline. This is caused by several things, including the influence of power. Very harsh and intimidating power can cause a scientist to be reluctant to write and express his ideas in scientific form, so that it seems as if the door to *ijtihad* has been closed. Even though many contemporary problems have grown and demand to be resolved. These problems consist of economic problems, social problems and cultural problems. Now, what is important to understand is that the defender of the faith (*mujtahid*) must study and review many legal issues decided and depending on conditions and needs.

At that time and even now, Islamic law is alive in Indonesian society (living of law) and animates the Indonesian nation. Islamic law, in the reform era, has now been recognized as a sub-system that influences the national legal system in addition to the customary law system and western legal system (Mardani, 2008). Therefore, Islamic law has a significant role in the development and development of national law. Of the three national sub-systems above, Islamic law is the one that influences the legal system in Indonesia, because Islamic law is holistic and comprehensive and covers all aspects of human life, and Indonesian society cannot be separated from Islamic law, the majority of whom embrace Islam every day. cannot be separated from the implementation and practice of Islamic law.

All the problems that exist in Indonesia require legal legality related to contemporary problems faced by the people, and legal clarity needs to be obtained. Therefore, Muslims need to find a solution that refers to the Koran and hadith. If no answer or solution is found in it, then Muslims can try to explore the law from these two sources, of course using an agreed systematic method (*ijma'*). This is what is called *ijtihad*.

Ijtihad means devoting one's abilities or enduring difficulties. Using ijtihad can make the Shari'a fertile and rich and give you the ability to take control of your life in a direction that is approved by Allah SWT. by not exceeding legal limits or ignoring human rights.

The relationship between state and religion is always influenced by the different socio-cultural history of each country. Even when the relationship was formalized in the constitution, in reality it still remained dynamic and fluid (Ikhwan and Jamal, 2021). The pattern of thinking on the relationship between state and religion can be classified into 3 digmas, namely integralistic, symbiotic and secularistic. These three paradigms form different states, namely religious states, secular states, and states that are not religious states but do not strictly separate religious and state affairs.

The relationship between religion and state from the perspective of Islamic thinkers also varies, which of course has inevitable differences. Differences do not only originate from the interpretation of Islamic religious teachings, but are also influenced by the socio-politics of a nation. These differences also do not arise solely from the interpretation of religious teachings, but are influenced by historical experiences and social realities of each. What is the Muslim view is a reflection of a continuous process of interpretation which is always confronted with reality. Interpretation competes with the control of both formal and informal social institutions. Competition in the public sphere is increasingly dynamic in the public sphere with the diversification of religious authority which does not only exist in the ulama but is also owned by populist preachers, neo-traditionalists, Sufi masters, and the secularly educated new (Muslim intellectuals) (Hoddin, 2020).

Ali Maksum, in contemporary Islamic political thought, especially regarding the study of Islam and the state, states that there are three paradigms of the relationship between religion and the state which often become debates in society and specifically in the Islamic world. The three paradigms are the "secularist", "traditionalist", and "remormis or moderate Islam" paradigms. First, the "secularist" Islamic paradigm or liberal Islam holds the view that Islam only regulates human relationships with God, so that state regulations are completely under human authority. Second, the Islamic paradigm of "traditionalist-revivalist" or "Islamism". This group believes that Islam is not only a belief system and worship system, but also a social and state system, so that it is more accurately described as a way of life for its adherents. Islam does not differentiate between things that are sacred and things that are secular. Third, the Islamic paradigm of "reformist" or moderate Islam. This group emphasizes that Islam is not a religion that solely regulates humans' relationship with God, but it is also not a complete religion (covering all detailed and detailed rules), including regarding state life. According to this group, there is no theological argument in either the Qur'an or the Sunnah that requires the state to implement a certain form of government (Maksum et al., 2015).

From the three paradigms above, two different camps have emerged regarding whether Islam and the state are compatible. Firstly, formalist Islam, that the state must be based on God's law in the form of formalized Islamic law. Second, substantive Islam does not require formalization of Islamic law, only a set of Islamic values must exist. Moreover, classical Islamic law is often confronted with contemporary political events. The problem is that Islamic law in Indonesia is presented not as a critical solution but rather as a justification model to justify certain socio-political actions. At the same time blaming the socio-political actions that are at odds with it. Truth has become a commodity and is growing so absurdly colored by the hustle and bustle of people competing for interests and mutual truth claims.

The events that occurred were more or less based on the failure to separate religion from the views and attitudes of diversity. Religion and Religiosity, two things that are related but must still be distinguished. Religious texts are truth and sacred, but failure to separate these things will make what we understand about the holy books seem to be considered as absolute as the truth of the holy books. For example, many people feel they are defending Islam, but it could be that what they are defending is not Islam itself, but their attitudes and views about Islam. Therefore, from the description above, the author considers it necessary to look at the relationship between religion and the state in Indonesia, especially in political contestation in Indonesia, by harmonizing contemporary Islamic legal political thought.

RESULTS

A. Application of Islamic Law in the National Legal System

Islamic law as a contribution to the formation of national law is increasingly visible. This can be seen from two sides, namely from the side of Islamic law which is one of the sources for the formation of national law, and Islamic law as state law. based on the philosophical order of politicians and referring to the Pancasila perspective, in accordance with the doctrine of legal science in Indonesia itself as the source of all law, in which it is stated that religion is the main center. This is reflected in the first principle in Pancasila which reads "belief in the one and only God" with the existence of Pancasila as the basis of the state that regulates a state that is based on God, meaning that the formation of national laws must in no way conflict with the religious teachings adhered to in Indonesia.

On the other hand, sociological values must have an existence and contribute to the formation of national law. because this law is in accordance with the cultural and social order that develops and lives in society. as quoted from the income discovered by Barda Nawawi, Indonesia itself regarding customary law and Islamic law is a source of values that live and develop in the structure of Indonesian society (Nurhadi, 2020).

Seeing the basic urgency of the need to adopt Islamic law into the national legal system encourages the Indonesian people to continue to formulate and optimize laws in accordance with Indonesian Islamic legal philosophy because some of the laws currently in force are still a legacy of the colonial nation. for example, what we know as criminal law. The criminal law that we currently use when it was first passed was a representation of reality based on a Dutch legal perspective. However, it is not certain that this law is still relevant to current developments in the culture of Indonesian society. So it is deemed necessary to review whether the law meets needs and justice or vice versa.

Seeing this so far as an effort to develop national law, Islamic law is at least trying to prove its existence by making a very significant contribution. Many laws and regulations are adopted from Islamic law as one of the sources of legal law in Indonesia. This proves that so far the formation and development of national law is a representation of Islamic law as a law that has lived and developed in society. Islamic law is so far relevant to the life of society, nation and state that it is used as a reference source for the formation of national law.

The inclusion of Islamic law into national law is not as a result of the majority of the Indonesian population adhering to the Islamic religion, but as a result of Islamic law being considered to be just law. so that with the accommodation of Islamic law, Islamic law only belongs to adherents of the Muslim faith but also belongs to the community and the entire Indonesian people. because in the end, this law will be contained in a legal product that applies universally.

On the other hand, there are three main reasons why Islamic law still exists and makes its contribution to positive law, including:

a. Islamic law has contributed to creating a more orderly order of life in society, especially Muslims, by instilling basic values and understanding regarding what is considered good and bad, what are commands and prohibitions, and what is recommended based on religious teachings.

b. Not a few teachings in the Islamic religion have been absorbed into the form of legal decisions, jurisprudence, and Indonesian positive law which proves that Islamic law is what fulfills a sense of justice amidst the needs of society.

c. There are groups that still have theocratic aspirations among Muslims from various countries so that the full implementation of Islamic law is still a struggle slogan that still has quite a large appeal.

In the end, by accommodating Islamic law into national law, this must be able to strive to fulfill justice in every implementation. so that it can provide benefits not only for its adherents, but also for all Indonesian people. because Islamic law must go hand in hand with western law and customary law as a unified source of law in Indonesia.

Based on article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, it is stated that Indonesia is a rule of law country. Starting from this, this is what resulted in Indonesia being a rule of law country. Departing from this, this is what has resulted in Indonesia embracing the supremacy of law which automatically in every law formation is binding for all Indonesian society (Makmum, 2022). In this case, Indonesian society is bound by the coercive and regulatory power possessed by the law itself so that the law imposes limits that may be violated. This is what is called applicable sanctions (Ritonga et al., 2016).

Seeing the fact that Islam is a religion adhered to by the majority, this means that Islamic law as a guide can be more relevant if it is applied without conflicting situations and conditions. Islamic law is able to adapt to the life order of modern society. so that this provides guidance for facing the challenges of modernity (Mu'allim Dan Yusdani, 1999). Currently, Indonesia is a country where the majority of people are Muslim. Starting from this, people with Islam as the majority religion play a greater role in implementing the teachings of their religion. in its application, this role is in the application of Islamic Law as the rules of its religion. In its application, a study is needed that comprehensively considers the existence of citizens who will implement these legal rules. This does not only focus on people with the Islamic religion, but also other religions that still exist within the territory of the Republic of Indonesia (Kurniawan, 2002).

The study of the existence of Islamic Law intends to analyze legal culture in Indonesia in relation to Islamic Law as a religious law that is developing significantly and dynamically. because considering the diversity that exists in Indonesia, each society has its own character so that it has its own legal culture (Halim, 2005). The legal culture that exists in society originates from various things, including the social norms of society which are believed to be able to regulate the order of social life in society. so that in the context of its application in Indonesia, Islamic law is a law that is capable of becoming a norm that contributes greatly to controlling the existing legal culture.

Examples of statutory regulations adopted from Islamic law include:

- a. Law Number 16 of 2019 concerning amendments to Law Number 1 of 1974 concerning marriage.
- b. Law Number 3 of 2006 concerning amendments to Law Number 7 of 1989 concerning Religious Courts;
- c. Law Number 8 of 2019 concerning the Implementation of the Hajj and Umrah Pilgrimage
- d. Law Number 23 of 2011 concerning Amendments to Law Number 38 of 1999 concerning Zakat Management;
- e. Law Number 41 of 2004 concerning Waqf
- f. Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law.

In the context of implementing Islamic law in the positive legal system in Indonesia, there are at least four things in Islamic law that are currently developing and applying in Indonesia. Among them are Ulama fatwas, Islamic jurisprudence, legislation and court decisions. So far these four products have been implemented in Indonesia and some of them have legal force. Even so, strategic steps are still needed to strengthen the application of Islamic law in Indonesia (Rofiq, 2000).

On the other hand, Islamic law requires a way for Islamic law to function as a governing and coercive law. one way is to increase the awareness of its adherents, namely Muslims, to apply religious principles properly and always try to show that Islamic law is able to adapt to developments over time and solve current problems so that it is worthy of being adopted into State Law (Syarifuddin, 2005).

B. Religious Freedom and Extremism in the Context of Islamic Law in Indonesia

Indonesia's national philosophy, called Pancasila, emphasizes peaceful coexistence with followers of all religions. Indeed, Indonesia is often used as an example of a country that has succeeded in overcoming cultural and religious diversity and achieving racial and religious unity (Umar, 2019). But there is a danger of dividing the nation, especially if religious reasons are cited. Religious conflict can be experienced by anyone, both within the same religious group and between different religious groups. Usually this happens

because people protect themselves from other people's understanding and opinions, feel fair and blame each other (Ministry of Religion of the Republic of Indonesia, 2019).

The emergence of this extremist group is ultimately surprising. Intolerant extremist groups easily believe anyone and spread anything easily, giving rise to conflict and hostility between groups with different opinions. Radicalism is a school of thought that is difficult to understand. So as long as a radical stands in a particular place of worship, other people consider him to be the most righteous person. This Islamic teaching is contrary to karma because Islam is universal.

The Islamic teachings that invite its followers to be fair, balanced, helpful, and harmonious in all aspects of life, are known as Wasatya, or often referred to as "moderation", which is the Islamic word for "This is where the term "religious moderation" comes from. Moderation is seen as a key element of Islamic discourse in the era of globalization and the industrial, information and communication revolution (Yashid, 2014). It is believed to uplift Muslims and make them a more just and important presence in the world. Islamic Wasatya is not a new doctrine or ijihad introduced in the 14th century BC. Some are moderate. A Muslim who understands and practices Islam. The principles of religious moderation in Islam include justice, balance and tolerance. This is part of the Ahrus Sunnah Warjamma ideology, which was formulated by Imam al-Hasan Ashari and Abu Mansur al-Maturidi in the field of faith and follows one of four principles. Schools of thought (Hanafi, Maliki, Al-Ghazali, Al-Junaidi al-Baghdadi follow the fields of Sayarit and Sufism).

According to Egyptian scholar Yusuf al-Qaradawi, Muslims must adhere to the middle path. This idea makes it easier for Muslims to practice their religion. Because, in essence, Islam is a religion that makes it easier for humans to carry out the commands of Allah and His Messenger (Ministry of Religion of the Republic of Indonesia, 2012). The aim of religious moderation in Islam is as a solution to be the key to building harmony, harmony, peace and balance in religious life in personal life, family, society and life in general.

As for various religious thoughts: Between Textualism and Liberalism namely as follows:

1. Thoughts on Religious Moderation in the Majority of Al Sunna Wal Jama'ah

Religious Moderation in the Aqidah Ahul Sunnah Wal Jamaah The concept of religious moderation in Islam is one of the current currents of Islamic thought and has become an important discourse in the Islamic world. Looking at the current situation in the Islamic world, Muslims are blamed for all violence committed by Muslims who misunderstand the nature and teachings of Islam (Cosim, 2019).

Forms of Religious Moderation in Indonesia Islamic moderation cannot be separated from the contribution of Arsun Warjamma as a foundation that represents Islamic moderation, which recognizes religious tolerance and peace in preaching. According to Afrsunna wa al-Jamaa's understanding of religious moderation, the concept of religious moderation can be found in the understanding of the six letters of al-Kaffirun, which means "your religion is for you and my religion is for me." I can. This verse tells that a group of Quraish idolaters came to the Prophet SAW and invited the Prophet to worship his God for a year and also the Prophet's God, namely Allah SWT, who was revealed during worship for a year. Allah then gave this verse as confirmation that Islam does not recognize the truth of the teachings of other religions, even if they are not the teachings of Islam itself (Bahri, 2010).

2. Thoughts on Religious Moderation among Fundamentalist Extremist Believers

Radical fundamentalism is a religious movement that offers a very limited proportion of understanding and reasoning that adheres to the basics of religion while offering interpretations and understanding that adhere strictly to religious scriptures (Rahman, 1992).

Religious moderation Radical fundamentalist understandings of Christianity emphasize that non-Muslims should be relegated to a lower rank before Muslims. For example, non-Muslims must wear special badges for easy identification. Additionally, non-Muslims may not build churches or synagogues higher than mosques and must submit to Muslims in all daily social functions (Marty and Appelby, 1991).

Radical fundamentalist ideology also prohibits non-Muslims from taking the initiative to say peace greetings. The premise that motivated the Puritans was that Islam should rule and rule. Therefore, non-

Muslims living in Muslim areas may feel inferior and cannot tolerate their position. This situation is the starting point for them to see the truth and convert to Islam. Hence, they could abandon their lower ranks. This radical fundamentalist ideology states that Muslims are obliged to care, associate and be friends with Muslims only. Muslims are only allowed to ask non-Muslims for help when they are weak and in need, but as long as Muslims can gain strength, they will maintain their superior position. A Muslim should not be allowed to befriend, care for, or love a non-Muslim (Al-Fad, 2005).

3. Thoughts on Religious Moderation among Liberal Muslims

Liberalism captures religious moderation by placing Islam in a historical context, but of course it is a liberal approach to the holy book of the Koran, in the canonical, quantitative and permanent sense of Islam. teachings. "The concept of additional flexibility is not necessarily correct and depends on the reality of the time" (Shahrudin, 2009).

Apart from the new approach of liberalizing the meaning of the Koranic text using hermeneutical interpretation methods, liberalists also seek to synergize the meaning of the Koranic text with human conditions and the realities of life. (I try my best to realize it. human rights principles) the last one is an application that is completely based on sociological aspects, psychological decisions, sharia oil and macchasids, including deconstructing the "closest" meanings of the verses of the Koran, with evidence of their application. Necessary for human universality, and in the name of human universality, if the requirements of poetry "should" be adaptable to emerging contexts in the field of human social behavior, then what matters is how the text is related. in context (Qasim, 2020).

In the current context, the existence of oil is the main spirit and soul of religion. This Islamic liberalization movement implies that the people are everything, as if it does not benefit them. In that case, religion is just a fossil, far from being beneficial to humans and humanity. Even if it is God's law. As a liberal once said.

The fundamental requirement for understanding Islam correctly is to remember that the main criterion used as the touchstone of any religious interpretation is the benefit of humanity itself. "If the interpretation of Islam conflicts with the interests of humanity itself or oppresses humanity, then this kind of Islam is a fossil religion that no longer serves humanity (Shihab, 2020).

This provides a basic understanding of the ideas of the liberal Islamic movement, which seeks to separate religious establishments, traditions, and religious understanding from mainstream Muslims. In general, the network dismantling method is carried out in three ways:

- a. Liberalization of the field of Islamic faith
- b. Liberalization in the field of understanding the Koran. And,
- c. Liberalization in the field of sharia and morality, liberalization in the field of doctrine are mentioned, and liberals, for example, teach that all (true) religions are equal, and regarding religious pluralism, teach that this is contrary to Islamic beliefs. from *Ars Sunna Wal Jamaah*.

Indeed, in religious moderation there are no limits to upholding the principles of true truth in the choice of faith. Because the true principle of religion lies in belief in religious choice. What needs to be emphasized here is how a firm religious follower can at the same time respect and respect other people's religious choices that are different from their own religion. Choosing to understand religious moderation is an excessive and rigid attitude. At the same time, this intermediate position does not include linking religious moderation with a greater tendency towards left-wing thinking or a greater tendency towards liberal religious views (Maalif, 2020).

They do not emphasize good relations with followers of other religions who believe in the truth of their religion. Furthermore, liberals ignore Sharia as God's law for mankind, for the benefit of mankind, ignore the attitude of the Tawadu Salafist ulama, Akrakul Kalimah and Tadim, and criticize the authority and greatness of Islam, crippling civilization (Komar, 2021).

Based on the views above, the more dominant ideology is liberalism. Liberalism understands that talking about religious moderation means viewing religious teachings in a balanced and impartial manner. This understanding has important consequences so that the position of religious moderation is not excessive. Religious moderation prefers to consistently uphold religious principles without falling into the trap of

liberalism or extremism. Likewise, taking a middle position with respect to Islam should not be described as confusion or lack of zeal (guillot) in religion (Qasim, 2020).

Religious moderation is not only used as a balance against radicalism, but also plays an important role as a balance to religious understanding that leads to the ideology of liberalism. Religious moderation, or what is known in Islam as Wasatya Islam in the sense of understanding the Islamic religion, is one-sided and unbalanced, and no longer tends to follow the extreme left or extreme right. It requires an unfair attitude in understanding the essence of religion itself.

Because there are no limits in religious moderation to uphold the principles of true truth in the choice of faith. Because the true principle of religion lies in belief in religious choice. What needs to be emphasized here is how someone who believes in their own religion simultaneously respects and respects the religious choices of other people who are different from themselves. The choice of religious moderation is in the middle of a position that is too rigid. At the same time, this intermediate position does not link religious moderation with a greater tendency towards left-wing thinking or a greater tendency towards liberal religious views (Cosim, 2019).

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