



Subjectivity of Implementation of Islamic Legal Thought Products

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ABSTRACT Among Muslims, applying the product of Islamic legal thought is the basic assumption in making decisions that can be used as a reference so that there is no need to take other legal products. Fiqh, fatwa, and jurisprudence are the basis for strengthening a decision so that Islamic society gets fair treatment. The product of mujtahid thinking is very subjective because there are no binding standard rules that are able to adjust the legal rules that have been formulated with the situation of society so that there is a great opportunity for change. The solution to overcoming this subjectivity needs to be made in a dictation so that it can be elaborated to find common points so that the products of Islamic legal thought can be accepted in society. Keywords: <i>Islam, Products, Thoughts</i>			

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INTRODUCTION

Basically, the provisions of the legal provisions for mankind that are ordained by God are to regulate the order of their life in this world, both in religious and societal matters (Larson dkk., 2019; Z. Li dkk., 2022; Zheng dkk., 2019). And what is more important in Islamic teachings is the legal aspect which is part of the overall religious doctrine, which functions to regulate human relations with their God, with fellow Muslims, non-Muslims, nature, and their social environment. Islamic law is based on certain sources and arguments, the essence of which is Allah's Revelation, both the material and pronouncement from Allah, which is called the Qur'an, as well as the material from Allah, and the pronouncement from the Prophet, which is called Hadith. These two sources were then formulated by the experts to become practical implementation guidelines called fiqh (Saleh dkk., 2021; Wu dkk., 2020). While fiqh according to Abdul Wahab Khallaf. As knowledge of the legal conditions regarding human actions that are attempted from detailed arguments, or a collection of legal requirements regarding human actions obtained from detailed arguments.

Fiqh as a product of human thought is not something that is rigid towards changes, because fiqh must be able to provide juridical answers to various problems of life and human life, while the dynamics of life always cause changes (Falabella, 2020; Grzywalski dkk., 2019). For this reason, opportunities for the study of fiqh must always be open, and must be carried out by taking into account the social implications of the application of the products of legal thought, while maintaining their relevance to the will of the Qur'anic doctrines regarding human behavior.

At the time of the Companions, the territory of Islamic rule expanded. Along with this, social problems grew very heterogeneous, as a result of ethnic renewal and various kinds of culture in solving various actual problems at that time (Avgerinos dkk., 2019; Singh & Rathi, 2021). The role of ijihad is felt to be increasingly important, because without ijihad, there will be many problems whose legal status is unknown. It is for this that the early Muslim movement especially Islamic jurists responded to the problems that arose after the death of the Prophet.

However, the passage of time has changed the face of the development and dynamics of Islamic law, and this continued until the end of the thirteenth century Hijra (Y. Li dkk., 2021; Price, 2020; Renigier-Bilozor dkk., 2019). In this phase, the ulamas had weak will to reach the level of absolute mujtahid and to explore Islamic laws in accordance with their main sources. This condition has led to a situation where Islamic law is no longer able to respond to the demands of social development (Conrad dkk., 2019; Delmonte Oliveira dkk., 2019; Mandolini dkk., 2019). The products of thought as a result of ijihad do not develop along with the spread of the doctrine that the door to ijihad is closed. The question that arises now is whether the products of Islamic legal thought are able to anticipate the problems faced in the current context. This is the basic assumption in developing research on the objectivity of Islamic law products.

RESEARCH METHODOLOGY

In the Method section, you explain clearly how you conducted your research order to: enable readers to evaluate the work performed and permit others to replicate your research. You must describe exactly what you did: what and how experiments were run, what, how much, how often, where, when, and why equipment and materials were used. The main consideration is to ensure that enough detail is provided to verify your findings and to enable the replication of the research. You should maintain a balance between brevity (you cannot describe every technical issue) and completeness (you need to give adequate detail so that readers know what happened).

RESULT AND DISCUSSION

Products of Islamic Legal Thought

Fiqh

The word fiqh (فقه) etymologically means 'understanding'. If the word 'understanding' can be used for things that are outward in nature, it means that fiqh understands what conveys spiritual knowledge to spiritual knowledge (Eriksen dkk.,

2019). Understanding according to Amir Syarifuddin is good thinking in terms of its readiness to catch what is demanded. Meanwhile, according to Hasbi Ash-Shiddieqy, fiqh is the science of Shari'a. Al-Amidi defines fiqh as the science of a set of syara' laws which are furu'iyah in nature which are successfully obtained through reasoning or istidlal.

According to Dede Rasyada, fiqh is knowing syara' law which is practical in nature which is studied from detailed arguments (Gabriela dkk., 2022; Kartel dkk., 2022; Qureshi dkk., 2022). based on these definitions, it can be understood that fiqh is a matter related to the actions of a mukallaf. Bearing in mind that sunnah is in the same position as the Qur'an as a reference to fiqh legal provisions, during the time of the Prophet, this science of fiqh had not yet developed and all problems could be solved by him, without having to do ijtiha. His completion and answers became al-Sunnah.

The study of fiqh only developed during the time of the companions after the death of the Prophet. According to Abu Zahrah, fiqh discussions emerged and developed. This was caused by the emergence of various problems due to the expansion of Islamic territory with different ethnic and cultural backgrounds (Dewi S dkk., 2022; Keshav dkk., 2022). This phenomenon raises new problems that have never been experienced by the Prophet so that the Companions are required to think about resolving the legal provisions. In certain discussions, the notion of fiqh is often confused with the notion of syara'. Both are even interpreted as Islamic law, even though these two toren have universal changes.

It is often said among writers on Islamic law that the current understanding of shari'ah is broader than that of fiqh (Hikmah dkk., 2022). because the field of shari'ah is what includes the science of kalam and the science of fiqh or in other words, fiqh is part of the content of sharia, because shari'ah is the whole religion not just fiqh, and the positions of the two terms are very different, if shari'ah comes from God while fiqh comes from humans.

Fatwa

A fatwa is the result of a mufti's ijtiha in relation to a legal event submitted to him. The implementation of fatwas began since Islam expanded its area of influence in the 7th and 8th centuries (Anoum dkk., 2022; Demina dkk., 2022). Muslims through various kinds of problems, which require a legal solution, for those who live in big cities, judges can generally be found who can answer the questions- the question (Firman dkk., 2022; Ilham dkk., 2022; Safitri dkk., 2022). But in places that are far from big cities or for questions that do not have direct explanations in the Qur'an and hadiths, then scientists try to solve them by issuing fatwas.

As for the giving of fatwas in Indonesia, it was entirely done by the scholars, until the beginning of the 20th century, fatwas in Indonesia had started to be given by the scholars in groups in 1926, the traditional scholars had established the group of nahdatul ulama (NU) and started giving fatwas- fatwa coincided with the first congress that year as well. Since then (Hartini dkk., 2022), every nahdatul ulama congress, in addition to issuing organizational and political statements, also produced fatwas on matters related to Islamic law, which were collected and published under the title Ahkam Fuqaha.

Muhammadiyah, which has a modern stance, initially did not pay attention to the issue of fatwas, at that time the organization needed a special committee called majelis tarjih which was tasked with determining religious issues in general and Islamic law in particular. The committee from time to time held meetings and produced fatwas which were collected in the collection of decisions of the Tharj Muhammadiyah Council (Najeed dkk., 2022; Nopiana dkk., 2022). A new development emerged when the Majelis Ulama Indonesia (MUI) was formed in 1975, both the traditional and the modern groups had their representatives in the MUI and from then on the body issued joint fatwas. Since its establishment until now, MUI has produced many fatwas.

So, fatwas are more specific than jurisprudence or *ijtihad* in general because, it could be that the fatwas issued by a mufti have already been formulated in jurisprudence, but have not yet been understood by the fatwa requester (Dianovi dkk., 2022; Rahmah dkk., 2022; Rohmalimna dkk., 2022). The scholars in this case determine that a mufti must have the same conditions as a mujtahid, fatwas also have a relatively high dynamic, especially since the fatwa is for the person who requests the fatwa.

Judge's Decision/Religious Court (Jurisprudence)

A judge is a person appointed by the head of state to be a judge in settling lawsuits and disputes. Educational institutions have existed together with the growth of various centers of Islamic power in Indonesia long before the colonial era. The principle of independent judicial power is one of the teachings of Islam because judges must decide matters fairly. It is not possible for a judge to be fair. If his power is under the influence of other elements of power. Religious courts and religious courts must be able to contribute a lot, because religious courts do not only decide based on man-made rules, but also the rules given by God to mankind.

In any legal system, jurisprudence occupies a very important place because in jurisprudence it occupies a very important place because in jurisprudence, people can find the existence of concrete rules in addition to being in accordance with the function of judges, through jurisprudence it is possible to adjust legal rules with demands for change. Both changes in circumstances and changes in the sense of justice (Nadya dkk., 2022). The decision of the court, the product of this thought, is the decision of the court judge based on the results of the examination of the case in front of the court (court) in technical terms called *al-Qadha* or *al-mukmin*, that is the speech or (written) determination or decision issued by the body authorized for that (*al-qadha* region). There are those who define it as the rulings of shari'a law conveyed through a *qadhi* or law appointed for that. Ideally, a judge can also serve as a legal reference (jurisprudence) for other judges.

Legislation

Regulations referred to by a legislative body or what are called statutory regulations, every product of a law that provides witnesses against people who commit violations as a collective product of laws has a broader binding power than envoys, not only limited to scholars or jurists but also in terms of scholars or important politicization what the law must have is high quality and can reflect legal justice in society.

The product of legal thought of this type of law is that not every Muslim country has Saudi Arabia for example, there has not been a law found because they feel that it is sufficient but the progress is not known. The majority of Muslim countries in the world have laws having regulations regarding certain organic matters.

PROBLEMATICS OF ISLAMIC LEGAL THINKING PRODUCTS

By listening to each of these products of Islamic legal thought, the main problem faced is the discrepancy between the legal dictum that is formulated with the conditions and legal problems and a sense of justice. As for fiqh products, they must be carried out effectively and should not be seen as laws that are ready to be used directly. Regarding the laws that need to be considered are the dynamics which demand a lot because it requires maximum preparation time to amend the law so that Islamic law can be integrated into the law because their commitment will have a positive impact which is understood from sharia sharia cannot be carried out properly without understood through fiqh.

Nevertheless, there are characteristic differences between fiqh and sharia and if not understood professionally it can lead to confusion which is not impossible to give rise to a misguided attitude towards fiqh. Initially, following this, we will put forward the differences in these differences (Abasimel, 2022). The formulation of the results of the study of Guqha and its truth is relative. An understanding of differences in the substance of the differences in the substance of Sharia and Fiqh, at least makes a person wise or prudent in dealing with fiqh.

CONCLUSION

Based on these explanations, it can be concluded that the four products of Islamic legal thought can be applied to Muslims in accordance with the legal needs of society. this dictum with the legal needs and awareness of the community, because these products are unable to accommodate the dynamics or changes in society. Therefore, so that these problems can be limited, then ijthad must be optimized, thus these products become a legal configuration and are able to answer legal needs and touch justice.

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