



ZAKAT WITHIN THE FRAME OF THE UNITARY STATE REPUBLIC OF INDONESIA: ADAPTABILITY OF SHARIA VALUES AND CULTURES

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Abstract

This paper aims to elaborate the dynamics of Islamic law assimilation with local culture. With the hope that in the future it will form a basic perspective in shaping the philanthropy of contemporary Islamic law based on the reality of Indonesian society. The conclusion from this study shows that, first, the characteristics of Islamic law indicate the ability of adaptability to the culture of the society in which it is accepted. Even in this case Islam has provided important principles regarding rational development in efforts to adapt to its new environment. Second, placing zakat as a support for the integrity of the Unitary State Republic of Indonesia is worth to be formulated. This is a logical consequence of the efforts of the Islamic ummah to always place al-Qur'an and al-Sunnah as limited texts. Third, the methodological formulation of zakat in the frame of Unitary State of the Republic of Indonesia is in a dynamic and accommodating ijtihad towards change. This methodological framework is based on *al-Mashlahah*, *'Urf*, *Sad Dzaria'ah* and dialectics between religion and the State.

Keywords: Philanthropy, Adaptability, Zakat, Sharia Values.

Abstrak

Tulisan ini bertujuan untuk mengelaborasi dinamika asimilasi hukum Islam dengan budaya lokal. Dengan harapan ke depan dapat membentuk dasar perspektif dalam membentuk filantropi hukum Islam kontemporer berdasarkan realitas masyarakat Indonesia. Kesimpulan dari penelitian ini menunjukkan bahwa, pertama,

karakteristik hukum Islam menunjukkan kemampuan beradaptasi dengan budaya masyarakat di mana ia diterima. Bahkan dalam hal ini Islam telah memberikan prinsip-prinsip penting mengenai perkembangan rasional dalam upaya beradaptasi dengan lingkungan barunya. Kedua, menempatkan zakat sebagai penunjang keutuhan Negara Kesatuan Republik Indonesia layak untuk dirumuskan. Hal ini merupakan konsekuensi logis dari upaya umat Islam untuk selalu menempatkan al-Qur'an dan al-Sunnah sebagai nash yang terbatas. Salah satu hasil sosial budaya Indonesia yang paling mendasar adalah terwujudnya Negara Kesatuan Republik Indonesia. Ketiga, perumusan metodologi zakat dalam bingkai Negara Kesatuan Republik Indonesia berada dalam ijtihad yang dinamis dan akomodatif terhadap perubahan. Kerangka metodologis ini didasarkan pada *al-Mashlahah*, *'Urf*, *Sad Dzaria'ah* dan dialektika antara agama dan Negara.

Kata kunci: Filantropi, Adaptasi, Zakat, Nilai Syariah.

Introduction

As one of the pillars of Islam, the implementation of zakat still faces many obstacles that come from among Muslims themselves. Awareness of the implementation of zakat among Muslims is still not followed by an adequate level of understanding. Lack of understanding about the types of assets that must be issued to zakat, the mechanism of payment and distribution as well as the development of the concept of zakat which still relies on referential authorities are some of the things that make the effort to develop zakat as the foundation of the people's economy is still far from expectations.

The concept of zakat in Islamic Fiqh gives wide opportunity of *ijtihad*. Therefore it is undeniable that efforts to review applications, explore definitions and meanings contained therein are still underway to form a comprehensive system to be able to meet the needs of the people. The formulation of zakat is the result of *Ijtihad* which is explicitly affirmed in the Holy Qur'an at-taubah (9). Then the application mechanism is described in classical literatures and becomes a dictum of Islamic law (*fiqh of zakat*). However, the current condition of the modern era has brought fiqh (Islamic law) to a problematic and dilemmatic position. Islamic jurisprudence which is challenged in solving various problems and social issues has not been able to define its position, especially in the context of formulating viable legal methods used to resolve these problems. In Coulson's view, this problem is among the causes of the "conflict and tension" between theory and practice in the history of research and application of Islamic law.¹

¹ Noel James Coulson, *Conflict and Tension in Islamic Jurisprudence*, (Chicago & London: The University of Chicago Press, 1969), p. 58-76.

This condition also seems to occur in the formulation of fiqh of zakat applied in Indonesian society. The concept of zakat as a result of ijtihad certainly was not born from empty space (innihilio), but was born in the midst of the dynamics of change and the struggle of people's lives as the answer / solution to the actual problems that arise. It is why Islamic Law (*fiqh*) will always evolve and change in harmony with the development and change of time and space that surrounds it.²

Islamic law (*fiqh*) is usually assumed to be a religious, sacred law, which is therefore eternal. How do such laws face the increasingly complex challenges of change? This fundamental question is certainly raised in an effort to present the problem of adaptability of Islamic law in answering the challenges of contemporary discourse, because the change that occur in society are common symptoms. In the sense that the change will be related to social institutions, one of which is law. So, whether we realize it or not, changes in social and cultural practices will affect the values related to the law.

At the time of the change, sometimes the law seems to be in a position separate from social reality, even though the law is essentially social reality itself. Thus, the legal system in every society has its own nature, character and scope. Likewise the application of Islamic law (*fiqh*) in the midst of a pluralistic Indonesian society certainly has its own style because it is confronted with its social reality.³

On this basis, the author considers that the study of the relationship of Islamic law (the concept of zakat) with the socio-cultural construction of Indonesia as a nation state is a necessity worthy of discussion. This means that the development of zakat as the foundation of the people's economy will be directly proportional to the existence of zakat as one of the supports of the integrity of the Unitary Republic of Indonesia (NKRI).

As a multicultural nation, one of the prominent features of Indonesia is its diversity, both in physical and socio-cultural. Indonesia is also a country with the highest heterogeneity compared to other countries. The heterogeneity includes socio-culture and religion, namely Islam, Christianity, Catholicism, Buddhism, Hinduism and Confucianism. This authentic fact proves that

² Ibn al-Qoyyim al-Jauziyyah, *I'lam al-Muwaqqi'in 'an Rabb al-Alamin* (Beirut: Dar al-Fikr, t.th), p. 14. See also Fazlur Rahman, *Neo Modernisme Islam*, translated by Mizan (Bandung: Mizan, 1987), p. 51. Hasbi ash-Shiddiqie, *Falsafah Hukum Islam* (Jakarta: Bulan Bintang, 1993), p. 444.

³ Islamic law that lives and develops in society is characterized as Islamic law that is responsive, adaptive and dynamic. This can be seen from the sensitivity of the problems related to Islamic law, both in the form of thoughts and findings of events that occur in society.

Indonesian nationality is composed based on a combination of various ethnic groups that are so diverse. For the Indonesian people, pluralism is a blessing in disguise, because there will be no Indonesian entity and state entity, if there is no plurality.

With a “multicultural” society, Indonesia has invaluable socio-cultural wealth, but on the other hand, Indonesia also has the potential to fall into anarchy if it fails to find an adequate pluralist federation formula. This is the biggest challenge for the “plural society” which shows the urgent need to reconstruct “Religious and National Culture of Indonesia” which can become an integrating force that binds all ethnic and cultural diversity. This is what underlies the author’s interest to further examine the existence of zakat in the frame of the nation state as a support for the integrity of the Unitary Republic of Indonesia.

There are at least two reasons why this theme becomes significant. First, its contribution feels very important to foster the soul of Indonesia’s Religious and National Culture. But the starting point that will be examined is what, why and how the relationship (zakat - NKRI frame) is built and should be connected, harmonized and integrated.⁴ Second, the discussion about Islamic law and social change is an important theme that continues to be raised as an effort to develop Islamic law so that it is reflected in its character, *shalih likulli zaman wa makan*.⁵ Moreover, as *the queen of Islamic sciences*⁶, *fiqh* (Islamic law) holds an important and strategic role in giving birth to Islamic teachings as *rahmatan lil alamin*. The stiff and hard or soft and sweet face of Islamic teachings is very much determined from the building of this knowledge. Seeing this position, the formulation of Islamic law should be dynamic and open to improvement efforts.

Through this research the author tries to explain further the argumentation of the relationship between religious pillars (zakat) and cultural pillars (NKRI), especially the dynamics of the struggle of Islamic law with local culture in the hope that in the future it will form a basic epistemological framework (Islamic law) that rests on the reality of Indonesian society.

⁴ See Azyumardi Azra, *Pergolakan Politik Islam* (Jakarta: Paramadina, 1996), p. 47.

⁵ For some important notes about social change in relation to changes in Islamic law, read Muhammad Khalid Mas’ud, *Islamic Legal Philosophy: A Study of Abu Ishaq Al-Shatibi’s Life and Thought* (Pakistan: Islamic Research Institute Islamabad, 1977), p. 1-5, 20-24 and 287-311.

⁶ Imran Ahsan Khan Nyazee, *Theories of Islamic Law* (Pakistan: Islamic Research Institute and International Institute of Islamic Thought, 1945), p. 1.

1. Islamic Law in the Middle of Indonesian Multicultural Culture

Universality of Islam requires that its presence is not only for one ethnic, certain group or race, but is intended for all humans. Thus Islam has the ability to go beyond certain limits of time and space. The consequence of this characteristic is that Islam must have the ability to adapt to the locality of the community in which it is accepted. Even in this case Islam has provided important principles regarding rational development in efforts to adapt to its new environment.⁷

This condition then opens the gate of acculturation between Islam and local culture as two variables that are dynamically interconnected and influence each other. It shows that from a theological perspective, Islam is a religion with a system of values and teachings that is divine and absolute, therefore it is transcendent.⁸ While from a sociological perspective, it is a phenomenon of civilization and culture in human reality. Therefore, Islam in social reality is not just a universal “doctrine”, but also manifests itself in social institutions that are influenced by situations and conditions and is related to the dynamics of space and time.⁹

Social conditions and geographical location become important variables that influence the development of Islam especially “jurisprudence / Islamic law”. As a reflective crystallization of *mujtahid* reasoning over texts, Islamic law is always related with the contents of space and time that surrounds it.¹⁰ Islamic law was not born from the empty (exnihilio) and the empty space (innihilio), but was born in the midst of the dynamics of change and the struggle of people’s lives as an answer / solution to the actual problems that arise. Therefore Islamic law (*fiqh*) will always develop and change in harmony with the development and change of time and space that surrounds it.¹¹

There are quite a lot of historical facts about this, as applied by Umar bin Khattab in the matter of cutting off the hands of thieves. In the Koran it is stated

⁷ John Donohue dan John L. Esposito, *Pembaharuan Pemikiran dalam Islam*, translated by Rajawali (Jakarta: Rajawali Press, 1984), p. 72.

⁸ Transcendent means “beyond all human capabilities or superior and extraordinary”. See Ministry of National Education, *Kamus Besar bahasa Indonesia* (Jakarta: PT. Gramedia, 2008), p. 1484.

⁹ The statement implies that Islamic teachings which consist of universal doctrines or teachings, at the social level cannot avoid change. See Azyumardi Azra, *Pergolakan Politik Islam* (Jakarta: Paramadina, 1996), p. 47.

¹⁰ Sya’ban Muhammad Ismai’il, *al-Tasyri’ al-Islami* (Kairo: Maktabat al-nahdhal al-Mishriyyah, 1985), p. 16.

¹¹ Ibn al-Qoyyim al-Jauziyyah, *I’lam al-Muwaqqi’in ‘an Rabb al-Alamin* (Beirut: Dar al-Fikr, t.th), p. 14. See also Fazlur Rahman, *Neo Modernisme Islam*, translated by Mizan (Bandung: Mizan, 1987), p. 51. Hasbi ash-Shiddiqie, *Falsafah Hukum Islam* (Jakarta: Bulan Bintang, 1993), p. 444.

that the punishment for the perpetrators of theft is to cut off hands. In this case the Qur'an explains: "[As for] the thief, the male and the female, amputate their hands in recompense for what they committed as a deterrent [punishment] from Allah".¹² On the basis of this verse, the punishment for cutting off hands is for the thieves. However, Umar did not carry out the punishment of cutting off hands to thieves of his time. This is because at that time the social conditions of the people were going on a famine season.

Then Imam Shafi'i ijtihad (d. 204 H) which has two types of fatwas, qaul qadim (old opinion) and qaul jadid (new opinion), the existence of two opinions (qaulani) does not mean that Imam al-Shafi'i is inconsistent in fiqh thinking, this is indeed the basic attitude of fiqh, which is flexible contextual and must be relevant to the locality of place and time. But all of that still relies on the same source, namely general rules and universal principles contained in the Qur'an and al-Sunnah.¹³

Similarly, in the case of men as a condition to become a judge. Although the majority of fuqaha argue that the nature of men is a legal requirement that must be possessed by a judge, but Abu Hanifah instead argues that a woman can be a judge in deciding matters relating to disputes over property. Even Ibn Jarir al-Tabari (d. 310 H) in the next period along with the times, argued that women can be judges absolutely, in the sense of being able to decide on any case.¹⁴

When referring to the term "adaptability", is a form of the word "adaptation". In the Collins Dictionary of Sociology for example, it is mentioned that adaptation is the way taken by social systems in all matters, which regulate or react to their environment.¹⁵ As for the Indonesian General Dictionary, the term adaptation is defined as, (1) adjustment, and (2) adaptation.¹⁶ In the Advanced English-Indonesian Dictionary, the term adaptation is articulated as adaptation to the environment or conditions.¹⁷ Another definition of adaptation as stated

¹² Q.S. al-Maidah (5): 38.

¹³ *Qaul qadim* is the formulation of al-Shafi'i ijtihad while in Baghdad, while qaul jadid when he moved to Egypt. See further Ahmad Nahrawi Abd al-Salam in *Imam al-Syafi'i fi Madzhabihi al-Qadim wa al-Jadid* (t.tp: tnp, 1988). For another comparisons, see Amir Syarifuddin, *Perubahan Pemikiran Dalam Islam* (Bandung: Angkasa Raya, 1993), p. 98. See also Sjechul Hadi Permono, *Dinamisasi Hukum Islam dalam Menjawab Era Globalisasi* (Demak: Demak Press, 2002), p. 21.

¹⁴ Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid* (t.tp: Dar al-Fikr, n.d.), juz. II, p. 344.

¹⁵ David Jary and Julia Jary, *Collins Dictionary of Sociology* (Inggris: Harper Collins Publishers, 1991), p. 6.

¹⁶ W.J.S. Poerwadarminta, *Kamus Umum Bahasa Indonesia*, Vol 5 (Jakarta: Balai Pustaka, 1976), p. 15.

¹⁷ Peter Salim, *Advanced English-Indonesian Dictionary*, Vol 3 (Jakarta: Modern English Press, 1991), p. 11.

by Talcot Parsons is that adaptation is part of the functional prerequisites in which all systems must be sufficient for them to save lives.¹⁸ So, with some of the definitions above, the term "adaptability" means changing to adapt to new conditions.

One form of dialectics between shari'ah values on the one hand and customs and culture on the other, is the form of dissent contained in fiqh, because it is basically the result of different methodologies to dictate both in addition as well because differences in the socio-cultural conditions of the community itself.¹⁹ One example of this case is, at the beginning of the history of fiqh development, for example, there were often differences between the Medina *fuqaha* and the *fuqaha* of Kuffah, regarding the inheritance rights of *zawul arham* (family members of the female line) when there were no *ahl furud* and *ashabah*, according to *fuqaha* of Medina, *zawul arham* will never inherit, because the Qur'an itself does not inherit rights to them.²⁰ While *fuqaha* of Kuffah argues, that although the Qur'an does not explicitly mention them, but by recognizing inheritance rights for female relatives including *zawul furud* means the Qur'an implicitly also recognizes inheritance rights for people connected with the female relatives, namely *zawul arham*.

Another example is the case of "wali for women" in a marriage contract. For *fuqaha* of Madinah, whose people are still firm on legal concepts that maintain the Arab tribal system, and marriage becomes the prerogative of male family members. Therefore no one in Medina who entered into a marriage by themselves, except to be submitted to his *wali*. While Kuffah, whose society is heterogeneous consisting of various races, such tribal norms are foreign. Therefore, although they continue to occupy lower positions, women in Kuffah in certain matters have authority over themselves, including in matters of marriage. Adult women are allowed to do their own marriage, without having to include a *wali* (male) on the condition that there is *kafa'ah* (equality between the bride and groom).²¹ Besides being able to do their own marriage contract, according to Abu Hanifah (d. 150 H), one of the *fuqaha* figures in Kuffah, an

¹⁸ Quoted in David Jary and Julia Jary, *Collins Dictionary*, p. 6.

¹⁹ Regarding differences in methodology, the scholars have discussed at length in various books and literature. See Syah Wliyullah al-Dihlawi, *al-Insafi fi Bayan Asbab al-Ikhtilaf* (t.tp: Dar al-Nafais, 1977). Mustafa Said al-Khin, *Asar al-Ikhtilaf fi al-Qawaid al-Ushuliyah fi Ikhtilaf al-Fuqaha* (t.tp: Muassasah al-Risalah, 1972). Muhammad Abu al-Fath al-Bayanuni, *Dirasah fi-alkhtilaf al-Fiqhiyyah* (t.tp: t.p, 1983)

²⁰ According to Imam Malik, this has become the agreement of the Medina scholars, see Malik Ibn Anas, *al-Muwatta' ; the Book of Faraid*. Chapter Man la Mirasa (Beirut: Dar al-Fikr, 1989), p. 326.

²¹ -*Mujtahid wa Nihayah al-Muqtasid* (t.tp: Dar al-Fikr, n.d.), chapter II, p. 6-7.

adult woman can become *wali* for her young children or be a representative for others to marry.²²

In the modern era, the influence of socio-culture on Islamic legal institutions can be observed from several legal decisions in Muslim countries, such as Tunisia, India, Bahrai, Egypt and so on. A representative example of this is, Tunisia, in 1956, stated in its Law that polygamy was prohibited, and violators could be sentenced to one year imprisonment or a fine of 240,000 francs.²³ Likewise what happened in India, in 1937, in the marriage law stated that divorce for Muslims is regulated according to *madzhab* Hanafi and this is only valid if decided by a court. Because the rules regarding the right to seek divorce in *madzhab* Hanafi are very difficult or even non-existent, the Law has banned divorce from women. Seeing the lack of symptoms caused by this pattern, then in 1939 India changed the law that divorce procedures no longer use *madzhab* Hanafi, but rather *madzhab* Maliki which could provide an opportunity for women to request divorce from the court..²⁴

In Indonesia, this can also be found, where the majority of the people are in Shafi'i who legalize the existence of the *wali mujbir* (*wali* who has the right to force) in marriage, ie the *wali* or parent can force his daughter to marry a man determined by the girl's parents.²⁵ In modern times, the pattern is considered irrelevant or too burdensome. In response to this problem, then the juridists carried out *ijtihad*, to look for new legal decisions that were more accommodating to the situation. This new pattern was later adopted in the Compilation of Islamic Law (Presidential Instruction No. 1 of 1991) book I Marriage Law. In the Compilation of Islamic Law article 16 paragraph (1) it is stated that marriage is based on the approval of the prospective bride.²⁶

From the explanation above, it can be clearly seen that the formulation and construction of *fiqh* is not only based on reasoning and deductive deduction from sharia values contained in the Qur'an and al-Sunnah. But at the same time it is also based on inductive reasoning by looking at the socio-cultural conditions

²² Muhammad Ibn Ismai'il al-San'ani, *Subul al-Salam* (Mesir: Syirkah Maktabah wa Matba'ah Mustafa al-Babi al-halabi wa Auaduh, 1950), chapter II, p. 120.

²³ M. Atho Mudzar, *Membaca Gelombang Ijtihad: Antara Tradisi dan Liberasi* (Yogyakarta: Titian Ilahi Press, 1998), p. 111-112.

²⁴ *Ibid.*,

²⁵ Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtashid* (Surabaya: al-Hidayat, t.th), chapter II, p. 4.

²⁶ See Sudirman Tebba, *Sosiologi Hukum Islam* (Yogyakarta: UII Press, 2003), p. xi-xii. See also Indonesian Ministry of Religion, *Intruksi Presiden R.I Nomor 1 Tahun 1991: Kompilasi hukum Islam di Indonesia* (Jakarta: Direktorat Pembinaan Badan Peradilan Agama Islam, Dirjen Binbaga Islam Depag RI, 2001), p. 19.

of the community. That is why it is not surprising and very reasonable in the discourse of the adaptability of Islamic law to socio-cultural change, Islamic Jurisprudence (*ushul fiqh*) gave rise to various theories offered in response to these socio-cultural changes. According to M. Khalid Masud, the emergence of the theory of *qiyas*,²⁷ *istihsan*,²⁸ *istishab*²⁹ dan *istislah*³⁰ is an answer to the need for adaptability of Islamic law.³¹ Basically, these theories contain consideration of the good (benefit) for humanity, in addition to evidence of the adaptability of Islamic law to socio-cultural changes. Mahmassani stated that Islamic legal principles such as consideration of *maslahah* and the flexibility of Islamic law in practice and the emphasis on the use of *ijtihad* showed that Islamic law could be adapted to social change.³² So the principle of *maslahah* itself occupies a very important position in the process of adaptability of Islamic law to socio-cultural changes.

History records in the span of the 1940s to the 2000s, various ideas and methodological proposals emerged as a form of contextualization of Islamic law with the culture and reality of Indonesian society.³³ T.M. Hasbi Ash Shiddiqie gave rise to his ideas which are famous for the term “*Fikih Indonesia*”.³⁴ Then Hazairin with “*Mazhab Nasional/Indonesia*”, which in a simple way, the substance of this thought is trying to adjust (compromise) the specifications of customary law with Islamic law.³⁵

In the mid-1980s Munawwir Syadzali brought up the idea of “Contextualization of Islamic Law in Indonesia”, taking the issue of the issue of

²⁷ Yusuf Qardhawi, *Keluasan dan Keluwesan Hukum Islam*, translated by Salim Bazemool (Solo: Pustaka Mantiq, 1993), p. 20. See also Masjufuk Zuhdi, *Pengantar Hukum Syari'ah*, vol 2 (Jakarta : Haji Masagung, 1991), p. 75.; Marsum, *Jinayat : Hukum Pidana Islam* (Yogyakarta: UII, 1988), p. 39.

²⁸ Mukhtar Yahya dan Fatchur Rahman, *Dasar-dasar Pembinaan Hukum Fiqh Islami*, cet. ke-5 (Bandung: al-Ma'arif, 1986), p. 100; Hussein Khalid Bahreisj (ed.), *Kamus Standar Hukum Islam* (Surabaya: Tiga Dua, 1997), p. 100; Qardhawi, *Keluasan dan Keluwesan*, p. 2325-.

²⁹ So, *Istishab* shows that the laws that existed in the past still apply to the present and the future, as long as there is no proof that changes the law. *Ibid.*, p. 111.

³⁰ Dede Rosyada, *Hukum Islam dan Pranata Sosial* (Jakarta: Raja Grafindo Persada, 1993), p. 48; See also Qardhawi, *Keluasan dan Keluwesan*, p. 29.

³¹ Masud, *Islamic Legal Philosophy*, p. 166169-.

³² Subhi Mahmassani, *Falsafah at-Tasyri' fi al-Islām: Muqaddimah fi Dirāsah asy-Syari'ah al-Islāmiyyah 'Alā daw Mazāhibihā al-Mukhtalifah wa daw al-Qawānīn al-Hadīisah*, vol 3 (Beirut: Dār al-'Ilm, 1961), p. 158162-.

³³ See Akh. Minhaji, “The Whadatama and Its Impact on Islamic Legal Thought in Indonesia”, in *al-Jami'ah Journal of Islamic Studies*, State Islamic Institute of Sunan Kalijaga Yogyakarta, vol. 40, no. 2, Juli-Desember 2002, p. 259-260 and 227.

³⁴ T.M. Hasbi Ash Shiddiqie, *Syariat Islam Menjawab Tantangan Zaman* (Jakarta: Bulan Bintang, 1966), p. 43.

³⁵ Hazairin, *Tujuh Serangkai Tantangan Hukum* (Jakarta: Bina Aksara, 1981), p. 153: *idem*, *Hukum Kekeluargaan Nasional*, vol 3 (Jakarta: Tintamas, 1982), p. 5-6.

inheritance, slavery, bank interest, and interpreting it in bold language.³⁶ Earlier in the mid-1975s, Abdurrahman Wahid introduced a thought "Islamic law as a support for development",³⁷ Then in the early 1990s, Masdar F. Mas'udi rolled out controversial thinking with the "religion of justice", as its central theme.³⁸

The birth of the Compilation of Islamic Law (KHI), whose wide spread is mentioned in Presidential Instruction Number 1 of 1991, apparently did not make the emergence of various innovative individual Islamic legal thoughts. After the discourse, Busthanul Arifin emerged with his idea "Making Islamic legal institutions in Indonesia",³⁹ A. Qodri Azizy with his idea of "Positivation of Islamic Law in Indonesia",⁴⁰ and Yudian Wahyudi with "Reorientation of Indonesian Jurisprudence"⁴¹ In subsequent developments, the urge to maximize the role of Islamic institutions (law, to some extent fiqh) in social and state life experienced a significant escalation. Although it cannot be denied that the pressure is different in intensity and the method used.

The peak of the adaptability of Islamic law to the reality of Indonesian culture gave birth to the discourse of "Indonesian Jurisprudence". Indonesian Fiqh, namely "fiqh which is determined based on the personality and character of the Indonesia"⁴², certainly is a preoccupation for those who are interested. Pros and cons are inseparable parts. Parties who refuse usually depart from the notion that fiqh (not sharia) is universal. This view is represented by Ali Yafie⁴³ and Ibrahim Hoesein⁴⁴ which firmly rejects the presence of Indonesian Fiqh. From their criticism, it turns out that there is an impression that they are measuring a

³⁶ Munawwir Syadzali, *Ijtihad Kemanusiaan* (Jakarta: Paramadina, 1997), p. 58-75; *idem*, "Reaktualisasi Ajaran Islam", in Iqbal Abdurrahman Sulaiman (ed.), *Polemik Reaktualisasi Ajaran Islam* (Jakarta: Pustaka Panjimas, 1988), p. 6-8.

³⁷ See Abdurrahman Wahid, "Hukum Islam Sebagai Penunjang Pembangunan", in *Prisma* No 4, August 1975. This article has been reproduced in various books, including in Eddi Rudiana Arief (ed.), *Hukum Islam di Indonesia: Pemikiran dan Praktek* (Bandung: Rosda Karya, 1991), p. 124.

³⁸ Masdar Farid Mas'udi, *Agama Keadilan: Risalah Zakat (Pajak) dalam Islam* (Jakarta: P3M, 1991).

³⁹ Busthanul Arifin, *Pelebagaan Hukum Islam di Indonesia: Akar Sejarah Hambatan dan Prospeknya* (Jakarta: Gema Insani Press, 1996), p. 56-57.

⁴⁰ A. Qodri Azizy, *Hukum Nasional: Eklektisisme Hukum Islam dan Hukum Umum* (Jakarta: Penerbit Teraju, 2004), p. 291-298.

⁴¹ Yudian Wahyudi, "Reorientasi Fiqh Indonesia", in Sudarnoto Abdul Hakim, et.al (eds), *Islam Berbagai Perspektif: Didedikasikan untuk 70 Tahun Prof. Dr. Munawwir Syadzali, MA* (Yogyakarta: Lembaga Penerjemah & Penulis Muslim Indonesia), p. 223-232; *idem*, *Ushul Fikih Versus Hermeneutika: Membaca Islam dari Kanada dan Amerika*, cet. 3 (Yogyakarta: Pesantren Nawasea Press, 2006), p. 35-44.

⁴² Hasbi Ash Shiddiqy, *Sjari'at Islam Mendjawab Tantangan Zaman* (Yogyakarta: IAIN Sunan Kalijga, 1961), p. 24.

⁴³ Alie Yafie, "Matarantai yang Hilang", *Pesantren* No. 2/Vol.II, 1985, p. 36.

⁴⁴ Ibrahim Hoesein, "Pemerintah sebagai Mazhab", *Pesantren* No. 2/Vol.II, 1985, p. 45-46.

concept with their own assumptions, not based on a specific understanding that was sparked by the owner of the idea.

The Indonesian *Fiqh* based on multiculturalism (a characteristic of Indonesian people) based on the reality of heterogeneous and plural Indonesian society, where each community has its own distinct cultural and traditional historicity. The idea of "multicultural-based Indonesian Jurisprudence" is oriented towards the appreciation of the values and morality of local culture, although unification of *fiqh* at the national level such as the Compilation of Islamic Law cannot be ignored either. This is based on that multiculturalism is built on pluralism which enables the unification of ideals or collective agreements in the national territory, while still respecting the values and products of local culture.

From various ideas that emerge about "Indonesian *fiqh*" emphasizing the need for *fiqh* which is unique and in accordance with the Indonesian context so that it can then be applied formally through legislation. In general these ideas emphasize the need for a "dialectical epistemology" between the texts (al-Qur'an and al-Sunnah) and the Indonesian *'urf* (customs) which are based on the *maqashid al-shari'ah*, so that Indonesian *fiqh* will be very flexible and can accommodate pluralism, multiculturalism and change according to the evolving social and political context.

Meanwhile, in its application, Indonesian Jurisprudence is oriented towards formalization in the form of codification to enact Islamic law in Indonesia. The formalization is pursued constitutionally through existing democratic mechanisms, both through political parties and existing institutions. If it has been codified and enforced in Indonesia, according to its users, the rules of Islamic law can be seen as Indonesian *ijmak*. Their Indonesian *fiqh* thinking certainly has a major contribution to the existence of codified laws and regulations, especially those whose material is derived from Islamic law and applied to the Islamic community.

2. Zakat as a Support for the Unity of the Republic of Indonesia: Argument of Sociological Jurisdictions

Islamic law will always interact with local cultural realities, so placing zakat as a support for the integrity of the NKRI nation state is a necessity, of course this requires a strong normative juridical foundation and clear methodological formulas so that the realization of zakat as supporting the integrity of the Unitary State Republic of Indonesia can be implemented.

The historical foundation emphasized by the previous sub-chapter is that wherever Islamic law takes place it will always undergo a process of adaptation, so do 'zakat'. As one of the main instruments in Islam, zakat is functioned to foster the ideals of benefit and justice, the purpose of giving zakat is the realization of social justice and prosperity along with principles, the strong help the weak. The space of *ijtihad* in relation to the concept of zakat is: first, defining social justice and equitable distribution of welfare in a particular space and time context, for example the context of the Indonesian nation, second, some burdens that must be carried out by those who are able (*miqda'r al-zakāh*), on the basis of any wealth (*maḥall al-zakāh*) when it should be paid (*waqt al-ada'*) and whoever and where the address is real and definitive must be supported by zakat, and what sectors must also benefit from zakat funds (*maṣraf al-zakāh*), and so forth.

On that basis, the author views that placing zakat as a support for the integrity of the Unitary Republic of Indonesia is worth formulating. This is a logical consequence of the efforts of the Islamic ummah to always dialogue al-Qur'an and al-Sunnah as limited texts, with the development of socio-culture as an unlimited context. One of the most fundamental results of Indonesian social culture is the realization of the Unitary State of the Republic of Indonesia (NKRI). Making the formulation of zakat in the frame of the Unitary Republic of Indonesia is a clear proof that Islamic law contains universal values which *salih li kulli zaman wa makan*.⁴⁵

As a law state, Indonesia adheres to the juridical positivism. This flow states that what can be accepted as actual law is only those that have been positively determined by the state. The law only applies because the law gets its positive form from an authorized agency (state). In this context, despite the textual conclusion, there is no necessity for the enforcement of Islamic legal rules through political decisions or the legality of the authorities, either in the form of laws (*taqniri*) or other legislative instruments,⁴⁶ however, the legitimacy of the state can be a necessity, because of the large benefits for legal certainty and legal strength-positive.

For this reason, many Islamic laws have been adopted and given positive instruments. Evidenced by the enactment of Law Number 1 of 1971 concerning Marriage, Government Regulation Number 28 of 1977 concerning

⁴⁵ Muhammad Syahrur, *al-Kitab wa al-Qur'an; Qira'ah Mu'asirah* (Damaskus: Ahali li al-Nasyr wa al-Tawzi, 1992), p. 33.

⁴⁶ Harun Nasution, *Islam Ditinjau dari Berbagai Aspeknya*, (Jakarta: UI Press, 1985), p. 41. See also H. Zaeni Ahmad Noeh, "Lima Tahun UU Peradilan Agama: Sebuah Kilas Balik", *Mimbar Hukum* No. 17 Tahun V1994, (Jakarta: Al-Hikmah & Ditbinbapera 151301,1 p. 13.

Representation, Law Number 7 of 1989 concerning Religious Courts, Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning Religious Courts, Law Number 7 of 1992, Law Number 10 of 1998, and Law Number 23 of 1999 concerning the National Banking System which permits the operation of sharia banks, Presidential Instruction Number 1 of 1991 concerning Compilation of Islamic Law,⁴⁷ Act Number 17 of 1999 concerning the Implementation of Hajj, Act Number 38 of 1999 concerning Management of Zakat, Act Number 41 of 2004 concerning Waqf.

To place zakat in the frame of the Unitary Republic of Indonesia, the author takes the basis of two main arguments, first, normative juridical arguments and second, socio-political arguments (religious and state relations). *Fist*, normative juridical arguments. Etymologically, zakat is a basic word (*maṣḍar*) from *fi'il Zakā*" which means blessing, growing clean and well. In the book *Lisānul Arab* the basic meaning of the word zakat, in terms of language is sacred, growing, blessing and praiseworthy. The word zakat can be used for obligatory alms, alms sunnah, liakah and truth.⁴⁸

By regulating the legislation in the management of zakat which reads: «The government is obliged to provide protection, guidance and services to muzaki, mustahiq and amil zakat».⁴⁹ The regulation referred to is Law No. 38 of 1999 concerning zakat management, which is valid since September 23, 1999. Government efforts to play an active role in zakat management have become very strategic, where the work of zakat managers has become more directed and accountable, so that the public can freely supervise how zakat funds it is managed and distributed.

Then to support the performance of zakat managers so that the management is right on target. The government has given restrictions on the person or legal entity that must pay zakat. These provisions are listed in one of the articles in the law on the management of zakat, which reads: «Every Indonesian citizen who is Muslim and or or a body owned by Muslims is obliged to pay zakat».

⁴⁷ The compilation of Islamic law in question is a compilation that has legal power to be disseminated and used as a guide in solving problems in the field of Islamic law for government agencies and the people who need it. The legal force is the Inpres. No. 1 of 1991, issued on 10 June 1991, y'uncto Minister of Religion Decree. Rl. No. 154 of 1991 on July 22, 1991.

⁴⁸ Ibrahim Anis dkk, *Mu'jam al-Wasīf* (Beirut : al-Maktabah al-Ilmiyah, t.t), I: 398. See also Allāmah Jamāluddīn, *Lisān al-Arab*, 1st edition (Beirut: Dār as-Ṣadīr, 1990), XIV: 358. Ibnu Nujaym, *al-Baḥr al-Rāiq Syarh Kanz ad-Daqāiq*, 3rd edition (Beirut: Dār al-Ma'rīfah, 1993), p. 216. Allāmah as-Ṣan'ānī, *Subūl as-Salām Syarh Bulūg al-Marām* (Beirut: Dār al-Kutūb al-Ilmiyah, t.t), II: 120

⁴⁹ Article 3 Law No. 38 of 1999 concerning Management of Zakat.

Zakat is a worship that has two dimensions, namely vertical and horizontal dimensions. This means that besides worship is directly related to Allah (mahdah) also worship is directly related to humans (ghairu mahdah / is social). This will affect the social system in society. Viewed in terms of benefits include the moral, social and economic fields. Which is the zakat acts as a special instrument to channel people who are rich in social responsibility.

This is where zakat is expected to solve the social crisis. And can sustain the commitment regarding poverty alleviation and prosperity leveling. And in the end all needs in a just and prosperous society will be fulfilled if this zakat-style financing is empowered as it should, the social gap between *agniyah* and *dūafa* can be avoided.⁵⁰

For the purpose of zakat, there are eight *asnaf* (people who are entitled to receive) namely the needy, poor, administrators of zakat, mu'alaf, to free slaves, those who are in debt, those who strive in the path of Allah and those who are on their way, as mentioned in Quran⁵¹

Based on that, it is clear that the distribution of zakat (utilization of zakat) is given to eight *asnaf*, meaning that the distribution (utilization) of zakat is not to everyone of their own volition but it has been determined by Allah SWT : *Fakir, Amil Zakat, Mu'alaf* (People who softened their hearts to accept Islam), To Free Slaves, *Al-Gharim* (People who are in debt), *Fi Sabilillah* (Fighting in the way of Allah), and *Ibnu Sabil*.

The normative foundation of the concept of zakat outlined above is as a basis for placing zakat within the frame of the Unitary State Republic of Indonesia by way of distributing and distributing zakat to the predetermined *asnaf*, but given a broader interpretation as a form of development relevant to the context of Indonesian society so that it can become sustaining the integrity of the Unitary State Republic of Indonesia.

During this time the distribution of zakat on *asnaf* has been determined based on a rigid interpretation and deemed to be ineffective because it only dwells around poor and poor *asnaf*. In the frame of the Unitary Republic of Indonesia the distribution of zakat can be given to *asnaf* which are categorized '*al-muallafah qulubuhum*' which so far has only been understood with the understanding of a convert or someone who just converted to Islam to become more convinced. In fact, if traced further the meaning of *al-muallafah qulubuhum*

⁵⁰ Heri Sudarsono, *Bank dan Lembaga Keuangan Syari'ah; Deskripsi dan Ilustrasi*, 2nd edition (Yogyakarta: Ekonisia, 2004), p. 237 – 238.

⁵¹ Qs : at – Taubah (9) : 60.

also included in the category of a non-Muslim who softened his heart so as not to apply negative action towards Muslims, in the context of the Unitary Republic of Indonesia *al-muallafah qulubuhum* can be developed by a non-Muslim who is on the border of the Unitary State Republic of Indonesia distributed zakat in order to keep them in Unitary State Republic of Indonesia.

The development of this meaning becomes important in the context of the Republic of Indonesia, because many of our brothers and sisters, especially those who are on the border with other countries, experience an economic crisis that is willing to be separated from Republic of Indonesia. This certainly must be a concern of the government to continue to give more attention to those who are on the border. Placing zakat in the frame of the Republic of Indonesia can be done by distributing zakat to those who are on the borders of various areas, whether they are Muslim or not, so that they feel protected.

But this mechanism will certainly experience a normative juridical conflict with the standard concept of zakat distribution that has been understood by the public. The basic question is whether this method can be justified and there is a normative juridical basis. The author tries to trace in various classical literature.

Second, *Al-muallafah qulubuhum* basically means “people who softened their hearts “. According to the term, the meaning is “People who are desired to be softened in their hearts to convert to Islam, to remain in Islam, so as not to persecute Islam or to be able to help in defeating the enemies of Islam.”⁵²

In the above verse, there are eight recipients of alms in Islam, one of which is: *Al-Muallafah qulubuhum*. On the basis of that verse the Prophet Muhammad during his lifetime always gave alms to the eight *ashnaf* in full, including *ashnaf al-muallafah qulubuhum*. Some people who were given zakat on the criteria of *al-muallafah qulubuhum* include Abu Sufyan, Aqra ‘bin Habas, Abbas bin Muradas, Shafwan bin Umayah and Uyainah bin Hashan. Shafwan once said, “Muhammad gave me alms even though he is a person who really hates me because of my disbelief and he continued to give alms to me until he became dear to me because of my Islam.”⁵³

At the end of the reign of Abu Bakr and the time of Umar bin al-Khattab things changed completely. One day Uyainah bin Hashan and Aqra ‘bin Habas came to ask for alms to Abu Bakr. They explained that since the time of the Prophet they continued to get alms, but for this year they had not received alms. Abu

⁵² Rasyid Ridha, *Tafsir al-Manar*, Juz X (Dar al-Manar, Mesir, 4th edition, 1373 H.), p. 574.

⁵³ Ahmad Amin, *Fajr al-Islam* (Sulaiman Mar’iy, Singapura, Kotabaru, Pinang, 10th edition, 1965), p. 238.

Bakr then gave a letter to both of them to come to Umar. And they went to meet Umar and deliver the message of Abu Bakr. Umar spontaneously answered:

Allah has strengthened Islam and does not need you anymore. So if you convert to Islam then convert to Islam, and if not, then between us and you are a sword.⁵⁴

Hearing Umar's answer, Uyainah and Aqra 'were surprised and confused. Both of them then returned to Abu Bakr while asking, in a hopeless tone, "Who exactly is the Caliph, you or Umar? " Since then *ashnaf* "al-muallafah qulubuhum" no longer receive zakat shares until the end of Umar's reign.

This is where the problem arises: Is Umar's actions not giving alms to "*al-muallafah qulubuhum*" that does not mean changing the Qur'an? Even though it is explicitly mentioned in the Koran? Is that *ijtihad* allowed? Does that not mean that Umar violated Islamic teachings? This is what drives us to seek the background of his thinking.

By observing the statement of Umar above we can interpret, that Umar's understanding of the purpose and essence of the zakat verse above is oriented towards:

1. He gave the part of zakat to them, "*al-muallafah-qulubuhum*" because they are expected to change and convert to Islam.
2. To reject the possibility of negative action coming from them.

After his reign, Umar felt Islam was strong and preaching in that way was seen as no longer needed, so Umar has his own *ijtihad* and set removal of this group from *ashnaf* (recipient of zakat). Toward this *ijtihad* of Umar, there are no prophet companion who against it.⁵⁵ The scholars who came later has different view on this. They differed on this matter especially in relation to the position of verse 61 of the letter of *at-Taubah*. Does that mean the verse is already categorized as *mansukh*?

Some Indonesian scholars also expressed the same opinion and in line with Umar. In general, they argue that Umar's *ijtihad* does not mean violating or changing texts, nor does it mean that Umar left Islam's teachings.

After observing the background of Umar's thoughts and some of the opinions mentioned above, according to the opinion of the writer, *Ijtihad* Umar does not mean that it is contrary to *nash* nor does it mean nullify the law of «*al-muallafah qulubuhum*» from *mustahik* of zakat, rather it is only the

⁵⁴ *Ibid.*, p. 238.

⁵⁵ Rasyid Ridha, p. 576.

application of law to a condition and at a particular moment in connection with the existence of a *masalahah* that needs to be achieved.

Even if *Umārs* *ijtihād* was at one time carried out, then the one who was prevented from receiving zakat at that time and condition was only «*al-muallafah qulubuhum*» from the Infidels, but «*al-muallafah qulubuhum*» from the Islamic group can still accept zakat. Even in a country that is a Muslim minority, maybe «*al-muallafah qulubuhum*» from the infidel group were given zakat. Here lies the significant placement of zakat as a support for the sovereignty of the Republic of Indonesia. Especially in border areas with other countries, the zakat should be distributed to both Muslims and non-Muslims who have low economic levels.

Based on what was done by Umar Ibn Khattab who applied Islamic law with a spirit of justice and benefit, the authors stressed that the concept of zakat in Indonesia must be framed in an effort to strengthen the sovereignty of the Republic of Indonesia. Because the realization and maintenance of the Unitary State Republic of Indonesia is a real benefit for the Indonesian people. Thus the realization of Islamic law does not merely fulfill formal-procedural demands or theoretical standards, but is far more than that. Moral proportionality in various interests must really be the standard reference for the formulation of Islamic law.⁵⁶

The legal formulation of the zakat system in order to uphold justice and sovereignty, all of which must be read in the context of upholding the benefit objectively-rationally. If the benefit consideration can show objectively-rational convincing verification, then the offer will be applied as a reference for solving complex problems. If it's the other way around, then other alternatives that are more suitable can be found. The objective-rational benefit of its validity for the Indonesian people must be obtained through agreement in consultation as a way to uphold the ethical / moral message.⁵⁷

From the authors' search as described above, the distribution of alms to *al-muallafah qulubuhum* with the meaning not only concerns a person who has just converted to Islam, but a non-Muslim person is the realization of zakat on the frame of Unitary State Republic of Indonesia with the benefit of maintaining justice and sovereignty of the state. It is proven to have a strong juridical basis.

⁵⁶ Masdar F. Mas'udi, "Meletakkan Kembali Maslahat Sebagai Acuan Syari'ah", in *Jurnal Ulumul Qur'an*, (No. 3, Vol. VI, 1995), p. 96

⁵⁷ Masdar F. Mas'udi, *Agama Keadilan Risalah Zakat (Pajak) Dalam Islam*, 3rd edition (Jakarta: P3M, 1993), p. 114

Conclusion

Indonesia has invaluable socio-cultural wealth, but on the other hand, Indonesia also has the potential to fall into anarchy if it fails to find an adequate pluralist federation formula. This is the biggest challenge for the “plural society” which shows an urgent need to reconstruct “Religious and National Culture Indonesia” which can become an integrating force that binds all ethnic and cultural diversity. For this reason, placing zakat as a support for the integrity of the Unitary Republic of Indonesia is worth formulating. This is a logical consequence of the efforts of the Islamic ummah to always dialogue al-Qur’an and al-Sunnah as limited texts, with the development of socio-culture as an unlimited context. One of the most fundamental results of Indonesian social culture is the realization of the Unitary State of the Republic of Indonesia. Making the formulation of zakat in the frame of the Unitary Republic of Indonesia is a clear proof that Islamic law contains universal values which is *sahih li kulli zaman wa makan*.

The methodological formulation of zakat in the NKRI frame is sheltered in a dynamic and accommodating *ijtihad* space for change, because if Islamic law in the sense of *fiqh* is not responsive to change then *fiqh* will be left behind with the benefit surrounding it. In that context, jurisprudence becomes counter productive because it produces laws that are not in accordance with the objectives and the *maqasid as sharīa* itself. Such a Jurisprudence should be re-read in order to regain the spirit of Islamic law. This methodological framework rests on *al-Mashlahah*, *‘Urf*, *Sad Dzariāah* and the dialectics between religion and the State.

REFERENCES

- Abu Sunah, A. F. *al-Urf wa al-Adat fi Rāyil al-Fuqaha*, (pp. 8). Mesir: Maktabah al-Azhar. 1947.
- Abu Zahra. *Ushul Fiqh*. Beirut: Dar al-Fikr al-Arabiyyah. 1994.
- al-Jawziyah, Ibn al Qayyim. *Īlam al-Muwaqqīn*, Juz III. Beirut: Dar al-Kutub al-'Ilmiyah. 1993).
- al-Jaziry, A. *Kitab al-Fiqh 'Ala al-Madzahib al-Arba'ah*, Juz I. Dar al-Fikr, Beirut. 1972.
- Al-San'ani, Muhammad Ibn Ismai'il. *Subul al-Salam*. Mesir: Syirkah Maktabah wa Matba'ah Mustafa al-Babi al-halabi wa Auaduh. 1950.
- al-Qayyim, Ibn. *I'lam al-Muwaqqiin an Robb al-Alamin*. Beiru Darul Jil. 1973.
- Anis, I., dkk. (nd.) *Mu'jam al-Wasīt*. Beirut: Al-Maktabah al-Ilmiyah.
- Arifin, B. *Pelebagaan Hukum Islam di Indonesia: Akar Sejarah Hambatan dan Prospeknya*. Jakarta: Gema Insani Press. 1996.
- Ash Shiddiqy, H. *Sjari'at Islam Mendjawab Tantangan Zaman*. Yogyakarta: IAIN Sunan Kalijga. 1961.
- Azizy, A. Q. *Hukum Nasional: Eklektisisme Hukum Islam dan Hukum Umum*. Jakarta: Penerbit Teraju. 2004.
- Azra, A. *Pergolakan Politik Islam*. Jakarta: Paramadina. 1996.
- az-Zuhali, W. (nd.). *Ushul fikih al-Islami*. Beirut: Dar al-Fikr.
- Bahreisj, H. K. (ed.). *Kamus Standar Hukum Islam*. Surabaya: TigaDua. 1997.
- El Fadl, K. M. A. *Atas Nama Tuhan: Dari Fikih Otoriter ke Fikih Otoritatif*. Jakarta: Serambi. 2004.
- Harisudin, M. N. "Urf sebagai Sumber Hukum Islam (Fiqh) Nusantara". *Jurnal al-Fikr*. Vol. 20, No.1. 2016.
- Hazairin. *Tujuh Serangkai Tantangan Hukum*. Jakarta: Bina Aksara. 1981.
- Hazairin. *Hukum Kekeluargaan Nasional*, Jakarta: Tintamas. 1982.
- Hoesein. "Pemerintah sebagai Mazhab". *Pesantren*, Vol. 2. 1985.
- Isma'il, S. M. *Al-Tasyri' al-Islami*. Kairo: Maktabat al-nahdlah al-Mishriyyah. 1985.
- Ibn Abidin. *Noshr al-'arf fi bina' ba'd al-ahkam aid al-'urf*. Istanbul Maktab Sanayi. 1869.

- Jary, D. and Jary, J. *Collins Dictionary of Sociology*. London: Harper Collins Publishers. 1991.
- Marsum *Jinayat : Hukum Pidana Islam*. Yogyakarta: UII. 1988.
- Mas'ud, M. K. *Islamic Legal Philosophy: A Study of Abu Ishaq Al-Shatibi's Life and Thought*. Pakistan: Islamic Research Institute Islamabad. 1977.
- Mas'ud, M. K. *Filsafat Hukum Islam dan Perubahan Sosial*. Surabaya: Al-Ikhlash. 1995.
- Mas'udi, M. F. *Agama Keadilan: Risalah Zakat (Pajak) dalam Islam*. Jakarta: P3M. 1991.
- Minhaji, A. "The Whedatama and Its Impact on Islamic Legal Thought in Indonesia". *Al-Jami'ah Journal of Islamic Studies*, (40), 2002.
- Mu'allim, A. and Yusdani. *Konfigurasi Pemikiran Hukum Islam*. Yogyakarta: UII Press. 2001.
- Mudzar, M. A. *Membaca Gelombang Ijtihad: Antara Tradisi dan Liberasi*. Yogyakarta: Titian Ilahi Press. 1998.
- Nasution, H. *Islam Ditinjau dari Berbagai Aspeknya* Jakarta: UI Press. 1985.
- Nawawi, H. and Martini, M. *Penelitian Terapan*. Yogyakarta: UGM Press. 1996.
- Nyazee, I. A. K. *Theories of Islamic Law*. Pakistan: Islamic Research Institute and International Institute of Islamic Thought. 1945.
- Partanto, P. A. and Al Barry, M. D. *Kamus Ilmiah Populer*. Surabaya: Arkola. 1994.
- Permono, S. H. *Dinamisasi Hukum Islam dalam Menjawab Era Globalisasi*. Demak: Demak Press. 2002.
- Poerwadarminta, W.J.S. *Kamus Umum Bahasa Indonesia*. Jakarta: Balai Pustaka. 1976.
- Qardhawi, Y. *Keluasandan Keluwesan Hukum Islam*. Solo: Pustaka Mantiq. 1993.
- Rosyada, D. *Hukum Islam dan Pranata Sosial*. Jakarta: Raja Grafindo Persada. 1993.
- Rusyd, Ibn. (nd). *Bidayah al-Mujtahid wa Nihayah al-Muqtashid*. Dar al-Fikr
- Salim, P. *Advanced English-Indonesian Dictionary*. Jakarta: Modern English Press. 1991.
- Sudarsono, H. *Bank dan Lembaga Keuangan Syari'ah; Deskripsi dan Ilustrasi*, Yogyakarta: Ekonisia. 2004.
- Syadzali, M. "Reaktualisasi Ajaran Islam", in Iqbal Abdurrahman Sulaiman (ed.), *Polemik Reaktualisasi Ajaran Islam*. Jakarta: Pustaka Panjimas. 1988.

- Syahrur, M. *al-Kitab wa al-Qur'an; Qira'ah Mu'asirah*. Damaskus: Ahali li al-Nasyr wa al-Tawzi. 1992.
- Syarifuddin, A. *Perubahan Pemikiran Dalam Islam*. Bandung: Angkasa Raya. 1993.
- Tebba, S. *Sosiologi Hukum Islam*. Yogyakarta: UII Press. 2003.
- Yahya, Mand Rahman, F. *Dasar-dasar Pembinaan Hukum Fiqh Islami*, 5th edition. Bandung: al-Ma'arif. 1986.
- Zaeni Ahmad Noeh, Z. A. "Lima Tahun UU Peradilan Agama: Sebuah Kilas Balik", *Mimbar Hukum*, 13. 1994.
- Zuhdi, M. *Pengantar Hukum Syari'ah*. Jakarta : Haji Masagung. 1991.

