

Differences in Schools and Opinions of Ulama: Historical Perspectives and Their Functions

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ABSTRACT

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The madhhab is the tree of mind or basis used by the mujtahid Imam in solving problems; or abolished Islamic law. The emergence of the madhhab, as part of the historical process of establishing Islamic law neatly arranged from the generation of companions, tabi'in, to reaching the golden age of the Abbasid caliphs, it will be undeniable that the madhhab has contributed great thought in the establishment of Islamic fiqh law. The reasons for the occurrence of differences of opinion / madhhab are due to differences in perception in Ushul Fiqh and Fiqh and differences in interpretation or interpretation of mujtahid. Adhering to the idea of madhhab, because of our "inability" factor to explore the sharia law itself directly from its sources (the Qur'an and as-Sunnah). Madhhab correctly can be achieved by understanding that in fact our understanding of differences of opinion among schools is something healthy and natural, the effect of something odd or deviating from Islam.

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1. Introduction

As we all know, the development of Islamic law has undergone various phases. From the time of the Prophet to the present day the Prophet made rules that were followed by his companions. When he died, his companions continued their scholarship of Islamic law. Certainly, as a result, the field of ijtihad expanded along with the spread of Islamic power.

2. Method

In this article, the literature study methodology is used to collect data by understanding and studying theories from various literature relevant to the research. Literature study consists of four stages: preparing the necessary tools, creating a working bibliography, managing time, and reading or recording research materials. This data collection is carried out through the method of finding sources and constructing from various sources. Examples such as books, journals and research that have been done. Literature material obtained from various references is analyzed critically and must be in-depth in order to support its propositions and ideas.

3. Results and Discussion

A. Understanding the Historical Context of the Emergence of Different Schools

According to Imam Yahya in his book *Dynamics of Ijtihad*, there are at least two perspectives—political and theological.⁹ The emergence of madhhab, the development of jurisprudence, and political events in the second century of the Hijri were influenced by politics. When the rule of the Umayyads ended and the Abbasid caliphs appeared. During the reign of the Abbasids, the scholars were divided into two groups: the scholars of Kuffa and the scholars of Medina. The Abbasid government gave greater support to the Kuffa clerical group. In the third century, groups of Hanafi, Maliki, Shafi'i, and Hanbali scholars adopted more individual characterizations. By the beginning of the third century Hijri, more than five hundred schools had emerged in Muslim societies, but only a few survived[1].

In Islamic law or fiqh, there are also schools such as the science of kalam and tashawuf. The comparative fiqh course focuses on how these schools of fiqh differ. It discusses the different opinions among scholars, particularly the mujtahids, about Islamic law or fiqh, as well as the reasoning behind those opinions. There have been differences of opinion on this issue of fiqh since the time of the Companions. When they take ijtihad and associate the law with the Qur'an and Sunnah, they sometimes have different opinions. In other words, there are issues of fiqh agreed upon by the Companions, but some are not. There is no problem for the tabi'in on the subject of fiqh on which they agree; They just need to follow the context. However, issues on which they disagreed made the tabi'in and scholars reconsider deciding which opinion to follow or practice[2].

At the beginning of the II century to the middle of the IV century Hijri which was the golden phase for ijtihad fiqh, namely in a span of 250 years under the Abbasid Caliphate which ruled since 132 AH. At this time, 13 mujtahids appeared whose madhhab was recorded and followed by his opinions. They were Sufyan ibn Uyainah of Mecca, Anas ibn Malik in Medina, Hasan Al-Basri in Basra, Abu Haneefa and Sufyan Ats Tsauriy in Kufa, Al-Auza'i in Sham, ash-Shafi'i, Laits ibn Sa'ad in Egypt, Ishaq ibn Rahawaih in Naisabur, Abu Tsaur, Ahmad ibn Hanbal, David Adz Dzhahiri (d.270H) and Ibn Jarir At-Thabary (d. 310 AH), all four in Baghdad[3].

Some people interpret an action as qurbah or worship, while others interpret it as mubah or ordinary. One example is the companions of the Prophet Muhammad (PBUH) doing a small run during tawaf. As a result, many people regarded his actions as sunnah because of the needs of the country. Madzhab in the Age of Tabiin: Seven people known as fuqaha al-Madinah were Said bin Musayyib, Urwah bin Zubair, Al-Qasim bin Muhammad, Kharijah bin Zaid, Ibn Hisham, Sulayman bin Yasan, and Ubaidillah. Tabiin scholars differ on the iddah of pregnant women for adultery: A). According to Imam Sufyan as Sauri and some famous characters, pregnant women for adultery do not have an iddah period because iddah is to keep nasab, adulterers do not. According to Imam Hasan Basri, Ibrahim An Nakho'i, and several other characters, pregnant women due to adultery still have a period of iddah because iddah is to cleanse the womb[4].

State institutions follow the most basic civil law requirements. It is no exaggeration to say that the Abbasid period was the heyday of Muslims, including the golden age of philosophy, science, law, Sufism, architecture, government, and other sciences. In the field of jurisprudence, the Abbasid period gave birth to many fukaha who belonged to two groups, namely ahl al-hadith and ahl al-ra'yi. The great fukaha were imam Abu Haneefa (80-150 AH), imam Malik (93-173 AH), imam Ash-Shafi'i (150-203 AH), imam Ahmad ibn Hanbal (163-241 AH)[5].

Imam David Zahiri, Imam Shafi'i, Imam Hanbali, and others. Later, Muslims devoted themselves to the various schools of jurisprudence that had developed. The first Islamic kingdom in Indonesia with the Shafi'i school was the Kingdom of Samudera Pasai. This also applies to the

Kingdom of Aceh Darussalam and other Islamic kingdoms in Indonesia. By looking and looking at the developments that occur in today's society, it can be said that differences of opinion about madzhab or between madzhab are increasingly rife, causing sharp differences among Muslims in Aceh[6].

The treatise explains why taqin in the field of Islamic law is necessary because of concerns about the negative impact of the development of schools that could lead to divisions. The Caliph then responded to the suggestion by asking Imam Malik bin Anas to help draft the codification of Islamic law and impose it on all Muslims. Imam Malik finally compiled Kitab al-Muwatta to fulfill the first request, and he subtly refused the second request. Caliph Harun al-Rashid later again defended the request, but the Imam stood his ground.

Seeing from the attitude of Imam Malik can be understood, he understands very well that in understanding the teachings of Islam does not have to be forced by one understanding, because the differences that exist among the ummah are a form of mercy and wealth of Islamic sciences. In its development, all schools have contributions vary so that there is no claim to a single madhhab in Islam, because all madhhabs are important instruments for the clarification and implementation of Islamic sharia (Lubab & Pancaningrum, 2015). The existence of various schools is one form of mercy for this people. Because understanding the Qur'an and Sunnah requires conditions that are not easy, the imams of the madhab formulated a rule of law in understanding the teachings of Islam[7].

B. Assessing the Function and Contribution of Different Schools of Fiqh

Muslims are obliged to extract and issue laws directly from the main sources, namely the Qur'an and the sunnah. But the fact is that not all Muslims are able to do so, namely extracting and taking the law (istinbâth) of law directly from these two sources because of limited knowledge. In general, scholars agree that a person who is able to perform legal istinbath directly from the Qur'an and Sunnah is obliged to hold fast to his opinion and it is obligatory for him to practice it according to the results of his ijtihad. Al-Ghazali said that the scholars agreed that if a person has obtained ijtihad and has obtained a law, then he is not allowed to follow the opinions of other mujtahids who violate the results of ijtihad or his opinions. For those who are unable to do ijtihad, there are two first views, a group of ulama ushul argues that madhhab is forbidden. All Muslims should follow what is in the Qur'an and Sunnah. Second, Jumhur ulama Ushul argues that madhhab for laymen is permissible, even for people who are really laymen in religion, madhhab is mandatory for him[5].

Imam Al Ramli, a figure from the Shafii school, gave the opinion that changing schools was okay as long as it did not aim to find ease in religion. The opinion given by Imam Al Ramli is in line with the opinion according to Imam Al Ghazali and Al Subki. Some scholars claim that taking laws from various schools is permissible even if the purpose is to find an easy one[8].

The entire school of fiqh does not differ in its essential area in Islamic law even in any one part. This shows that there is no madhhaban in Islam, only because of the urgency that encourages various ijtihad to be carried out by fiqh scholars to negotiate various possibilities to solve existing problems practically and easily. Fuqaha or the plural form of the word faqih found in various schools is also called a group of reasoners who differ in thought from the muhadditsin. In practice formulating laws always uses reason and qiyas based on the Qur'an, Sunnah, Ijma', and some basis to be able to examine the stronger statements between the two statements[3].

Talfiq is a newly recognized concept during and after the madhhab, however, it is more popular than the madhhab itself. The problem of talfiq is that allowing and refusing has created unrest in society, especially the laity whose level of understanding of the religion of Islamic law is very limited[9].

C. Analysis of the Role of Renewal and Development of Fiqh Through Different Schools

The role of ushul fiqh as a methodological basis for Islamic legal thought, is very important, because it is not only to change the erroneous image of Islamic law, but also to actualize fundamental principles of Islamic law into the reality of modern times. Restoring the vital role of Usul Fiqh as exemplified during the time of Imam Mujtahid and his disciples is an absolute necessity. Only that seems to be the dilemma facing Muslims can be overcome. The first dilemma – if the door of ijtihad is closed – is the death of the dynamics of thought due to the imposition of rigid, uniform understanding. The second dilemma if ijtihad is opened freely - the emergence of free thought uncontrollably because of the absence of standards of restrictive criteria. The mujtahid imams have exemplified how these two dilemmas were overcome by compiling methodological frameworks in berijtihad, according to the formulation of Usul al-Fiqh[10].

The behavior of tolerant characters in answering the problem of ikhtilaf can basically be seen in the context of the totality of psychological and socio-cultural processes that are mixed in four processes, namely: thought, heart, sports, and taste.²⁴ In this case, the differences that occur among jurisprudence scholars certainly get special attention to be studied and analyzed in depth. The study of ikhtilaf fuqaha is also commonly referred to as fiqh muqarin. The study in this Science will analyze or study the opinions of jurisprudence scholars, both classical and contemporary times.²⁵ By using thought one will have an open mind in understanding differences by jurisprudence scholars and respect each other's differences.²⁶ Yusuf al-Qaradawi mentioned the ethics of opinions and rationale in addressing differences in jurisprudence including "one does not deny absolutely or final against. The problems of ijthadiyah are still debatable, as well as not believing and supporting absolutely. This is in accordance with the rule that says: "ijtihad cannot be canceled with another ijtihad." In addition, one should focus on things that are muhkamat or clear interpretation, and avoid arguing about things that are mutasyabihat (still vague)." ²⁷ Departing from the above statement, Malik bin Anas as the founder of the Malikiyya school and one of the classical scholars who carried the spirit of tolerance said that "freedom of opinion and difference must be respected and must not be suppressed by efforts to homogenize through the policies of the ruler" Imam Malik's remarks departed from the initiative of the caliph Harun al[1]Rashid to hang the book al-muwatta' by Imam Malik bin Anas on top of the Kaaba. With the intention that everyone follows or refers to the book. Imam Malik refused and said, "O leader of the believers, do not hang the book on the Kaaba, for the companions of the Messenger of Allah have also dissented." Imam Malik's attitude clearly avoids absolute justification of his work so as to eliminate the grace of dissent as a form of wealth of Muslims. This is one form of thought in accepting the attitude of openness to thinking towards ikhtilaf[11].

An important role in suspending disputes that begin with disagreements. Even though it is very common, jurisprudence or law can actually change with changes in maqashid, reasons, and social conditions. Like the popular rule of jurisprudence, "changes in law occur due to changes in times, places, realities, and customs of a society". So, it is increasingly clear how important the role of maqashid in addressing disruptive and reductionist contemporary problems. As Shatibi argues, if one wants to attain the degree of mujtahidd, one must have two criteria; First, it can understand the maqashid shari'ah perfectly. Second, have the ability to draw legal content based on understanding and knowledge of maqashid shari'ah, by utilizing auxiliary sciences such as; Arabic, Qur'an and Sunnah.⁵⁰ Even a mujtahid is required to understand the maqashid of the Shari'ah, for Khaled Aboe El-Fadl before understanding the maqashid, the mujtahid must follow the following criteria; honest, diligent, holistic, rational, and able to control themselves[12].

The establishment of law based on the analysis of 'illat as done by Umar, formulated in the three ka'idah above is an important stage in the development of sociological analysis of law. Differences around the normative aspects of Islamic law and the sociological aspects of man (society) will always be found in everyday reality. At a time of tug-of-war between normative and sociological approaches, Umar dropped his choice on sociological factors with rationalistic considerations of benefit in order

to interpret Islam in the reality of life without abandoning the spirit ordered in the texts of the Qur'an and al-Sunnah. Therefore, it is very important to understand that a belief system (religion) in a social community should not let its teachings be included in the field of law there is a void of value. Struggles and clashes with social values are common and can affect the intensity of religious experiences[13].

The renewal of Islamic law is needed so that Islamic law is easier to apply and always keeps up with the times, in addition to not abandoning the principles and values and spirit of Islamic teachings. The renewal of Islamic law according to Bustanul Arifin, is more focused on the institution of Islamic Law through the role of bureaucracy as a locomotive for the renewal of Islamic Law thought in Indonesia. Thus Islamic law that has appeared as a living law in society, has been updated by Bustanul Arifin from the aspect of his legal culture (legal culture) to the aspect of legal structure (legal institutions) and legal substance (legislation). This shows that Islamic law has qualified as one of the legal systems[14].

D. Evaluating the diversity of schools in determining law

Disagreements in Islamic law (Ikhtilafatu al-fiqhiyah) is like many fruits from one tree, namely the Qur'an and Sunnah, and many fruits from various trees. The roots and trunks of the tree are the Qur'an and Sunnah, the branches are the postulates of naqli and aqli, and the fruit is Islamic law (fiqh). These trees have many fruits, although the number of fruits is different or numerous.

From the above explanation, it is clear that there is a difference between ordinary people from Muslims and ahlul Kitab who follow their opinions. The laymen of the Muslims who follow the opinions of their imams use the Qur'an and Sunnah as sources of their opinions, as Allah commands in His Word, "Ask those who have knowledge, if you do not know."

While religious people follow the opinions of their pastors, the source is from the pastors themselves, which according to the Qur'an contradicts many of the commands of their God. In his words, Allah Almighty explains this: "They made their pious men and their monks as gods other than Allah".

There are differences (ikhtilaf) in the issue of ushul and furu' as a result of the many discussions (munazharat) among scholars. If the proposal is associated with the method of preference (thariqah al-istinbath), while furu' refers to the laws of the Shari'a extracted based on this method.

According to Abu Ameenah Bilal Philips, the three main reasons why imams differ in the establishment of law are as follows: first, the interpretation of word meanings and grammatical arrangements; second, the narration of the hadith (its existence, validity, conditions of acceptance, and interpretation of different hadith texts); and third, the interpretation of the narration of hadith. Recognize the use of certain principles, such as ijma, tradition, istihsan, and the opinions of friends; and Qiyas Method.

Abdul Wahab Khallaf said that there are three reasons for the difference in legal provisions: first, differences regarding the establishment of several sources of law (sihab, how to adhere to the sunnah, standards of narration, fatwas of companions, and qiyas); Second, differences regarding the conflict of Tasyri law (the use of hadith and ra'yu) and third, differences regarding the principle of language in understanding nash-nash shari'a (ushlub language).

Muhammad Zuhri divided the ikhtilaf madhhab into three things: first, related to the source of law; second, related to the ijihad method (theory of tahsin wa taqbih, linguistic theme); and third. Tradition[15].

E. Solutions to Respect Diversity and Apply a Thoughtful Approach

If we look at the history of the emergence of the school above, we can understand that the true relationship between the four imams of the madhhab is teacher and student. As Imam Hambali who is the favorite disciple of Imam Shafi'I, and Imam Shafi'I is a disciple of Imam Malik. Where each other demanded knowledge from their respective teachers, even the imams of the madhab did not only learn from one teacher, and this was a tradition of Islamic scholarship at that time[6].

So that the difference of opinion of the imam of the madhab is a natural thing that occurs. However, the four imams of the madhhab never underestimated their students or blamed the opinions of other imams who differed from his. Even imams of the madhab often discuss with each other to deal with a problem. As for today, there are many disputes caused by differences in believing in the four schools that do not reflect the attitude of the imam of the madhhab itself. Tolerance, harmony, and mutual respect have been shown by the four imams of the madhab for a long time[16].

Therefore, as followers of the madhhab we must have a correct perception of madhhab, namely *first*, it is obligatory upon the muqallid of a school not to be fanatical about the school followed. If indeed the school that one follows in one matter and the correct opinion is present in another, then it is obligatory for us to follow the correct opinion according to its strong guess[15].

Al-Hakim and al-Baihaqi also narrated, that Imam Shafii once said, "If you see my words violating the hadith, practice the hadith and throw my opinion against the wall."

Second, in fact, differences of opinion among schools are something healthy and natural, not something strange or deviant from Islam, it is precisely this that makes colors in our religion.

There are solutions needed to respect the diversity of madhhab, among others:

1. It must be realized and believed that differences of opinion are the will of Allah Almighty and all of them want a truth that is close to the truth that Allah Wills.
2. Cultivate the view that the understanding we believe to be true has the potential for error, and that the understanding of others based on our understanding always has the possibility of being right.
3. Believing the opinions we take based on a sincere intention to seek the truth and the pleasure of Allah SWT.
4. Given these differences, we should give priority to finding similarities that exist in the body of Muslims[17].

4. Conclusion

Islam did not initially recognize the teachings of madhhab. However, after the death of the prophet Muhammad SAW, Muslims have been disorganized has followed the opinions of certain scholars in carrying out Islamic law, especially in the aspect of jurisprudence. This tradition has been going on since the time of the companions. The existence and dependence of the madhhab from the beginning was debated by scholars. The mainstream leads to two groups, first the group that forbids following the madhhab and the second is the group that allows madhhab, especially for laypeople.

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