

THE IMPORTANCE OF IJTIHAD IN ISLAMIC LAW

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Abstrak	Article Info
<p><i>The development and progress of the times both in the fields of science and technology is a necessity in human civilization. These advances on the one hand offer and have a positive impact on human life, namely the availability of various facilities that make it easy for humans to fulfill their needs. But on the other hand, these advances raise and give birth to various problems that are quite complex. If this problem is not responded to properly, it will cause instability, unrest and a threat to human life. Seeing this reality, if the applicable law is not able to answer the problems that are being faced by the community, while if these problems are left it will create a legal vacuum, this is in law not justified in the existence of a legal vacuum. Therefore, a judge is required to be able to fill the void, and must be able to make an accommodative legal solution, regulate all problems that arise in a fair manner and bring the common good. To answer this problem, an instrument has been found, namely ijthad</i></p>	<p>Article History Received : 25 -08- 2022, Revised : 03-09-2022, Accepted : 10-10-2022</p> <p>Keywords: <i>Ijthad, Islamic law</i></p>

Introduction

Islam as a religion offers a universal concept, everything has been regulated by Islam comprehensively, from the smallest things to things that are beyond human reach (unseen and metaphysical) Along with the entry of Islam in Indonesia, Islamic law has been used since then until now, not only at the symbolic level but also at the practical level. The continuity was long enough, before the Dutch and Portuguese entered to colonize the archipelago, Islamic law was already used in Indonesia.

Even progressing when Muslims held political power in the archipelago, marked by several Islamic kingdoms including the kingdoms of Demak, Samudra Pasai, Banten and others.

At that time and even now, Islamic law has lived in the midst of Indonesian society (living law) and animates the Indonesian nation. Islamic law, in the reform era, has now been recognized as a sub-system that affects the national legal system in addition to the customary law system and the western legal system. Therefore, Islamic law has a significant role in the development and development of national law. Of the three national sub-systems above, it is Islamic law that influences the legal system in Indonesia, because Islamic law is holistic, 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. inseparable from the implementation and practice of Islamic law.

So everything that exists in Indonesia requires legal legality related to contemporary problems faced by the people, and it is necessary to obtain legal clarity. Therefore, Muslims need to find a solution, which refers to the Qur'an and As-Sunnah. If no answer or solution is found in it, then Muslims can try to extract the law from the two sources, of course with an agreed systematic method (ijma'). This is called ijthad. Ijthad means; devote one's ability or endure hardship, by using ijthad can make the shari'a fertile and rich and provide the ability to take control of life in a

way that is pleasing to Allah SWT. By not exceeding the limits of His law nor ignoring human rights. (Muhammad Roy Purwanto, 2014)

ANALYSIS AND DISCUSSION

1. Definition of Ijtihad

Ijtihad as an Arabic word is rooted from the language al-juhd, which means al-thaqah (ability, strength) or from the word al-jahd which means al-masyaqah (difficulty, difficulty). While ijtihad in terms of ishuliyah terminology is the maximum ability to gain knowledge about the laws of the Shari'ah. In a broad or general sense, ijtihad is also used in other fields of religion. for example, Ibn Taymiyya mentions that ijtihad is also used in the field of Sufism and others, saying: "actually they (the Sufis) are mujtahids in matters of obedience, like other mujtahids." "And in essence they (the Sufis in Basrah), in matters of worship and ahwal (things) these are mujtahid-mujtahid, as is the case with their neighbors in Kuffah who are also mujtahid-mujtahid in matters of law, state administration, and others." (Harun Nasution, 1966)

According to Abdul Hamid Hakim, ijtihad is the mobilization of the ability to think in obtaining the law by way of istimbath (drawing conclusions) from the Al-Qur'an As-Sunnah; while A. Hanafi interprets with the addition "in certain ways." According to At-Ta'ribat chapter "Alif" ijtihad is a situation in which a fakih devotes his mind to finding Islamic law that is still zhonni (in suspicion). (Moh. tholib, 2016)

Meanwhile, according to ushul fiqh experts, there are many different definitions of ijtihad, by defining ijtihad from various views, but their intention is to close the path of ijtihad from people who are in a hurry to take the law and people who neglect to take the law as they please without exploiting their abilities first. first to examine the arguments, deepen their understanding and draw conclusions from these arguments and compare the arguments that contradict them.

Imam Shafi'i r.a. said that a mujtahid should not say "don't know" in a matter until he has made a serious effort to research it and does not fulfill the law. Likewise, a mujtahid must not say "I know" while mentioning the law he knows before he devotes his abilities and gets the law. (Muhammad Roy Purwanto, 2004)

Mujtahid's Requirements

1. Knowing all the verses and sunnah related to the law.
2. Knowing the problems that have been approved by the experts
3. Knowing Nasikh and Mansukh.
4. Knowing Arabic and its sciences perfectly.
5. Knowing ushul fiqh
6. Knowing the secrets of tasyrie '(Asrarusyayari'ah).
7. Know the rules of ushul fiqh
8. Knowing the ins and outs of qiyas.

2. Kinds of Ijtihad

a. Ijma'

Ijma 'is an agreement or agreement with a matter regarding the syara' law of an event after the death of the Apostle.

b. Qiyas

Qias, namely equating, comparing or establishing the law of an event or event that has no textual basis with the law that has been determined based on the text.

c. Ihtisan

Ihtisan is to undo the law that has been set on an event or events that are determined based on the arguments and syara'.

d. Maslahah mursalah Is a benefit.

e. Urf

Habits that are known to many people and become traditions.

f. Istishab

Establishing a law against something based on previous circumstances so that there is a postulate that calls for the change.

Various types of Ujtihad according to their level

1. Ijtihad Muthalaq

This is done by creating their own norms and rules that are used as a system/method for a mujtahid

2. Ijtihad Muntasib

A mujtahid is carried out by using the norms and rules of his imam's istinbath

3. Ijtihad Madhhab or Fatwa

Namely Ijtihad carried out by a mujtahid within a certain school of thought.

4. Ijtihad in the field of tarjih

That is ijthid by means of mentarjih from several opinions that exist within one particular school of thought or from various schools of thought.

History records that Muslims performed ijthid for the first time, namely in the case of the successor of the prophet Muhammad SAW. as caliph or head of state after his death. Then after serving as caliph, Abu Bakr faced a problem, some Muslims did not want to pay zakat after the Prophet Muhammad died, then he resolved the problem by ijthid. (Muhammad Roy, 2004) In Islam, ijthid is a problem that will never stop, which has been busy since ancient times until today.

Ijthid is an effort to reform and develop Islamic law which has its own characteristics and characteristics, including ta'amul (perfect), wasathiyah (harmonious) and harakah (dynamic). Ijthid, is the third source of Islamic teachings. This harakah or dynamic nature possessed by Islamic law is able to accommodate and respond to and answer all problems that are not found from the main sources of Islamic law as a result of changes and social progress that cannot be avoided.

The description above actually narrows down to a discussion of the importance of ijthid and its urgency in our lives, as an effort to ground the Islamic law which we believe is a way of life. With ijthid, Islamic law will forever appear eliminatory in various places and times. No doubt, ijthid in the contemporary era is a necessity (Erlan Naufal, tt)

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3. Social Change and Its Implications for Islamic Law

Living in society is one of human nature that has been carried since birth, one of the characteristics of human life is the constant change in society. Besides that, humans are the most noble creatures of Allah, even so noble humans, everything that exists on this earth was created and subdued by Allah so that humans can use them as servants and caliphs. (Nasruddin Rusli ,1999) To carry out responsibilities as servants and caliphs, then Allah gives humans something that is not given to other creatures, namely the mind. With this mind, humans are able to develop and achieve progress that was never imagined by humans before both in the field of science and in the field of technology. (Muhammad Roy Purwanto, 2015)

Human life is always dynamic and developing, there is no society that stops at a certain point throughout time, from historical evidence it is found that the condition of society is not in a certain condition, but is always changing and moving forward, social constructs are not the same as the life of the apostles, then the social structure, social institutions and social systems that existed and lived in society began to have a shift from time to time. (Muhammad Roy Purwanto, 2015)

It is possible that there will be a new problem, this is a natural thing and even a necessity in life. Changes that occur in a society, can be observed can take various forms. There are changes that occur slowly (evolution) and some that occur quickly (revolution). Change slowly happens by itself. As a result of the adaptation of the community to its environment, large-scale changes are changes that have been planned. However, rapid changes cannot be measured by the time they occur, because they often take a long time.

According to James W. Vander Zanden, a sociologist from Ohio State University, United States. These changes were caused by several factors, including the following:

- a. Increase or decrease in population and changes in the ecosystem around humans.
- b. The influence of other people's culture as a result of cultural interaction.
- c. Collective character of society, social movements and revolutions Technology and modernity.

Of the four factors above, technology is the one that plays a large role in the process of social change in society. Along with the development of technology, it has had a significant influence on human life, both positive and negative influences from the impact of technology.

Among the positive impacts of technology are that life becomes easier, distance is not an obstacle, and humans are increasingly pampered. But on the other hand, technology gives birth to various very complex problems, so it requires an accommodative law to solve and provide a middle way of these problems.

In a condition like this, if the applicable law (*ius constitutum*) cannot provide answers to any problems that occur, it will then create a legal vacuum (*rechtsvacuum*) which will lead to anarchic conditions. Therefore, the law is required to be adaptive to keep up with the current developments, as well as a judge in this condition is challenged to explore new laws that are relevant to the development of responsibility to fill the void, so that the law is felt to be dynamic.

For every judge and person who is concerned with the development of Islamic law in responding to and accommodating the changes and progress of the times, an instrument of legal discovery is available called *ijtihad*.

4. Ijtihad Is An Effort To Develop Islamic Law

Ijtihad as a method of finding law that relies on the hadith of the Prophet narrated by Mu'adz bin Jabal when he was sent as a judge to Yemen, which reads the hadith; Meaning: "From Mu'adz bin Jabal that the Messenger of Allah, when he sent him to Yemen, said: "How do you determine the law if something is presented to you that must be decided, Muadz replied I will decide based on the book of Allah, the Messenger of Allah said: "if you do not find it in the book of Allah? Muadz replied: "I will decide based on the sunnah of the Messenger of Allah. The Messenger of Allah said: "If you do not find it in the Sunnah of the Messenger of Allah, Muadz replied that I will *ijtihad* with my opinion and with all my ability. So the Messenger of Allah was relieved and said: Praise be to Allah who has given *taufiq* to the Messenger of Allah (muadz) in matters that are pleasing to the Prophet. This hadith is used by scholars as the basis for the existence of *ijtihad* as a source in the Islamic legal order and describes the hierarchical sources of Islamic law which include the Qur'an, Hadith and *Ijtihad*.

Islamic law material that comes from the Qur'an and sunnah is general and universal. Such laws can be absorbed to enrich and perfect national law. However, to facilitate the absorption, clear and rational formulations are needed, so that they can be applied in real terms. Thus, to develop efforts to contribute Islamic law to national law, it is necessary to rethink the legal teachings of the Qur'an and Sunnah. Or specifically, there is a need for renewal in the field of Islamic law, in order to answer the challenges of the times.

To answer the problem, we cannot be separated from the renewal of Islamic thought in general. And in this case, two approaches were found by experts, namely: an approach through textual analysis and a socio-historical approach. The first model approach, through linguistic analysis and interpretations of salaf scholars, finally concluded that the word renewal (*tajdid*) in Islam contains six elements, including:

- a) Renewal is an effort to revive the teachings of Islam, spread it, and return it to its original form during the first salaf.
- b) Such reforms also include efforts to maintain true and authentic religious sacred texts in order to avoid human intervention.
- c) Reform efforts must be balanced with a correct method of understanding sacred texts, and such understanding can be traced through the comments that have been made by the Sunni school.
- d) An important goal of religious reform is to make Islamic law the legal basis for various aspects of life.
- e) To achieve this goal, an *ijtihad* is needed, so that Islam can answer all legal problems that arise in society
- f) An important aspect in reform is the effort to distinguish the actual religious teachings from those that were inserted into it, both insertions that emerged from within and in the form of external influences. (Nasruddin Rusli)

From the description above, it can be concluded by the author that the renewal effort on the one hand is an effort to clean up religious teachings from various things that are not religious teachings, but only in the form of culture which is understood as religious teachings and on the other hand renewal is also an effort to answer the challenges of the times. The first side, it can be said as a purification of religious teachings, which is meant is to purify the teachings of things that smell of polytheism, superstition, and *bid'ah*, to be returned to the original teachings of Islam, which were

taught by the Qur'an and the prophet. Muhammad, PBUH. So it is the second part of the above elements that can be said to be a renewal in religion. Meanwhile, Harun Nasution sees the renewal of the socio-historical context. According to him, the discourse of "renewal" in the treasures of Islamic thought is almost identical to "modernization". He mentioned that the terms modernization and modernism came from the west. Modernism in Western society contains the notion of thoughts, schools, movements, and efforts to change the ideas, customs, old institutions, and so on, to be adapted to the new atmosphere created by the progress of modern science and technology.

According to Harun Nasution, these thoughts and sects soon entered the field of religious life in the West, which aimed to adapt the teachings of Catholicism and Protestantism to modern science and philosophy, which ended with the emergence of secularism in the West. Then, with the contact of the Islamic world with the west in the early 19th century, such ideas also entered the Islamic world, giving rise to thoughts and movements to adapt Islamic religious ideas to the new developments brought about by advances in science and technology. modern.

From the two paradigms above, it can be seen that the first paradigm reviews reform in general, namely in the form of *ijtihad* to find solutions to new problems that arise in society, and this effort is carried out by *mujtahids*, who appear in every generation of the *ummah*. While the second paradigm sees the renewal of the historical context, where at the beginning of the 19th century there has been a very basic change in human culture, namely a change from an agrarian life pattern to an industrial one, which marked the transition from the middle to the modern century.

Then, if the renewal is drawn in the context of Islamic law, what is said to be Islamic legal reform is an effort to make adjustments to Islamic teachings in the field of law with modern progress, so that Islamic law can answer problems that arise in society caused by social changes, the development of science and technology. - modern knowledge and technology.

Amir Syarifuddin, an expert on *Ushul Fiqh* at IAIN Imam Bonjol Padang, tends to see the effort to reform Islamic law in the realization of *Fiqh* reformulation, namely the reformulation of the formulations made by previous *mujtahids* which in the current era are difficult to apply in real life. According to Amir Syarifuddin, the results of the previous scholars' *fiqh* formulations are not something that is considered finished, but basically the formulation can be criticized, reviewed, and reformulated against it if the circumstances so desire. And in Indonesia, such efforts have been made and continue to be carried out, both by individual *ulama* and by Islamic organizations. From the above study, it can be emphasized that any efforts made, either by individuals, institutions in society, or by the government, if these efforts refer to the adjustment of Islamic teachings in the field of law with modern progress, so that Islamic law can provide solutions. fair and beneficial law in various problems that arise in society as access to social change today, all of these efforts can be part of efforts to reform Islamic law.

Conclusion

The development and progress of the times both in the fields of science and technology is a necessity in human civilization. These advances on the one hand offer and have a positive impact on human life, namely the availability of various facilities that make it easy for humans to fulfill their needs. But on the other hand, these advances raise and give birth to various problems that are quite complex. If this problem is not responded to properly, it will cause instability, unrest and a threat to human life.

Seeing this reality, if the applicable law is not able to answer the problems that are being faced by the community, while if these problems are left it will create a legal vacuum, this is in law not justified in the existence of a legal vacuum. Therefore, a judge is required to be able to fill the void, and must be able to make an accommodative legal solution, regulate all problems that arise in a fair manner and bring the common good. To answer this problem, an instrument has been found, namely *ijtihad*.

1. This *ijtihad* will reformulate the existing law, renew it, and even make a new law if the situation and conditions require it. With the renewal, Islamic law can provide a fair legal solution to various existing problems. Legal solutions that are just and beneficial in various problems that arise in society as access to social change today, all of these efforts can be part of efforts to reform Islamic law.

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