

DYNAMICS OF TARJIH MUHAMMADIYAH AND ITS CONTRIBUTIONS ON THE DEVELOPMENT OF ISLAMIC LAW IN INDONESIA

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Abstract: This dissertation aims to; 1) analyzing the dynamics of tarjih in responding to problems that arise in society; 2) analyzing the dynamic pattern of tarjih and 3) evaluating the contribution of tarjih products to the development of Islamic law in Indonesia. This research is a qualitative, type of literature. The data source is taken from Tarjih's decision and writings related to Tarjih. Data were collected through documentation as well as interviews as a complement. The data were analyzed using content analysis, using a sociological-historical approach. Conclusion; first, the dynamics of tarjih in responding to developing problems can be seen in three aspects; a) institutional aspects, there is changes in the nomenclature, organizational structure, requirements for tarjih members and tarjih implementation. b) Manhaj aspect, there are five stages of development, 1) 1928, 2) 1954/1955, 3) 1986, 4) 2000 and 5) 2018. c) In the product aspect, tarjih is dynamic in assessing problems and there are three forms of product. Second, the dynamic pattern of tarjih follows an evolutionary pattern, is multilinear, follows many pathways that influence each other and occur due to changes in society. Third, tarjih contributes to the development of Islamic law in Indonesia, normatively and positively.

Keyword: *Dynamics, Tarjih, Contribution*

A. Introduction

Majelis Tarjih was formed in 1928, the 17th Muhammadiyah Congress in Yogyakarta. The formation of this Assembly is very pragmatic in nature, formed with the intention of resolving disputes over the implementation of religious worship that occurs between Muhammadiyah members. When the Muhammadiyah organization expanded outside Yogyakarta, the people who joined had different religious practices. As a result, there was a *khilafiyah* which led to disputes. To avoid that, it is deemed necessary to form a special institution to handle this issue, known as the Majelis Tarjih. But over time, the Majelis Tarjih continues to be dynamic, tarjih is not only understood to mean choosing an opinion that is considered more diligent than existing opinions, but also as an effort to make legal decisions on issues that are not touched on by the Qur'an and Sunnah as well as among classical scholars. Even today, the Majelis Tarjih has become the mouthpiece of the Muhammadiyah organization to transform religious values in the lives of Muhammadiyah citizens and also the Indonesian Muslim community. On that basis, researchers are interested in making this institution an object of study. With the aim, to analyze how the dynamics of Muhammadiyah tarjih respond to problems that arise in society; evaluating how the contribution of Muhammadiyah Majelis Tarjih to the development of Islamic law in Indonesia and how the dynamic pattern of Muhammadiyah tarjih.

B. Literature Review

1. Theory of Dynamics

The word dynamics comes from the Greek "Dynamics". In a number of dictionaries there are a number of dynamic meanings, such as; power, ability, strength to do something, activities or events in a state of motion, change, continuous movement or it can be something related to progress, a powerful force, always moving, developing and adaptable to circumstances. Thus, the core dynamic is development or change. To explain how the dynamics that occur in tarjih in responding to legal problems that arise in society. Here will be explained that the theory of evolution, a theory that explains the process of change that occur gradually, from one form or state to another, due to the high diversity and complexity of organisms. Although this theory initially talks about the evolution of biology or organism, but the sociologists are used as an analog to describe the stages of social development.

2. Theory of Social Change and Legal Change

Ubi socius ibi ius is an adage that describes that society and law have a relationship and are interdependent. Hugo Sinzheimer said, the rule of law is made in accordance with existing problems, because the function of law is to regulate relationships or events in society. Therefore, when changes occur in society, the law must adapt itself, so that its existence in society is maintained. Ibn Qayyim al-Jauziyah in his book, "*al-I'lam al-Muwaqqi'in*" said that the law change and experienced development due to five things, namely: time or age, place, state, intention and also custom. These five factors always surround the law and cause legal changes and developments.

3. Theory of legal Discovery (Metode Ijtihad)

The method of legal discovery in the term *usul* is called the *ijtihad* method. According to the *ulama usul*, there are three methods of *ijtihad* in finding and formulating laws that are not explicitly mentioned in the texts and or are not clearly mentioned in the texts namely the *bayani* method, the *qiyasi* method and the *istislahi* method. The *bayani* method is to understand the *zhanni* text, both from the point of view of the law and in terms of its stipulation. This method is also called the interpretation method. The method of *qiyasi* is an attempt to find a law based on the similarity of *'illat*. This method is also called the *ta'lili* method or *ta'lili* reasoning because in finding the law *'illat* is used as the main tool. While the *istislahi* method is explore, find and formulate laws about something by applying the *kulli* rule. This method is a reasoning activity that rests on *maqasid al-syari'ah*.

4. Theory of Maslahah

This theory explains *maslahah* as an objective in law formation. Said Ramadhan al-Buthi in his book, "*Dhawabith al-Maslahah fi as-syari'ah al-Islamiyah*" said, *maslahah* is to create *al-kullyah al-khams*" namely; *hifz ad-din*, *hifz an-nafs*, *hifz al-'aql*, *hifz an-nashl* and *hifz al-mal*. Then, according to him, there are also three level of *maslahah*, namely; 1) *maslahah dharuriyyah*, 2), *maslahah hajiyyah* and 3) *maslahah tahsiniyyah*. These three levels must be placed in their respective positions, the higher *maslahah* must take precedence over the lower *maslahah*.

5. Theory of Development and application of Islamic Law

The existence of Islamic law in Indonesia has become a living law and has experienced development. The application of Islamic law is consequence of pronouncing two sentences of the creed or what is called the *credo* theory or theory of legal authority (H.A.R. Gibb). The development of the application of Islamic law in Indonesia takes two routes. First, the cultural route or what is called non-legislation. The application of Islamic law is carried out by making Islamic values an order in life so that it has binding strength. This route is carried out by means of proselytizing, education or Islamic organization, such as; Muhammadiyah, Nahdhatul

Ulama, Persatuan Islam and so on. Second, the structural path, namely the political path. Where the political elite tries to implement Islamic values into the existing legal system, so that it becomes a source of national law.

C. Method

In assessing, researching and interpreting the problems in this study, researchers used a qualitative research design. Collecting data and information uses the documentation method by tracking and collecting available sources, such as the official documents of the Majelis Tarjih Muhammadiyah, reference books about Muhammadiyah, journals, magazines, academic research results and others. In fact, to complete the data, interviews were also conducted by telephone to the General Chairperson and also the Deputy Chairperson of the Central Majelis Tarjih Muhammadiyah. The collected data are then analyzed by means of content analysis, using a number of theories as the analysis knife. Such as, the theory of dynamics, the theory of social change and legal change, theory of *Maslahah* and theory of Development and application of Islamic Law

D. Result and Discussion

1. The Dynamics of Tarjih Muhammadiyah in Responding to Legal Issues.

a. Institutional Aspects

The Majelis Tarjih was formed in 1928 at the 17th Muhammadiyah Congress in Yogyakarta, as the Tarjih Council. Mu'ammal Hamidy said this designation was related to the task of the assembly at that time, namely selecting existing opinions then taking opinions whose truth was more in accordance with the Qur'an and hadith (*rajih*). So, the object of study of this institution is the issues that have been studied by classical fiqh scholars and have legal provisions. In 1995, it changed to the Majelis Tarjih dan Pengembangan Pemikiran Islam (MT-PPI). The addition of the word "Pengembangan Pemikiran Islam", illustrates the expansion of duties and functions from before. Majelis Tarjih, not only examines *khilafiyah* issues, but also new issues for which there are no legal provisions. Even the Majelis Tarjih is required to contribute thoughts to developing issues such as social, political, economic and others, in the form of discourse or insight into Islamic values.

In 2005, the nomenclature changed again to the Majelis Tarjih dan Tajdid (MTT) until now. Alyasa Abubakar said that this change was to re-establish the identity of the Muhammadiyah organization as a tajdid movement, which continues to try to generate new thoughts, new methodologies to create fiqh in accordance with the needs of society. Another opinion says that this nomenclature is to balance the two previous forms of tarjih style. This is because the term Majelis Tarjih (MT) has been assumed to only deal with religious matters, fiqh oriented, tends to be literal-conservative, emphasizing purification with the naqli-bayani approach. Meanwhile, the MT-PPI is assumed to be a liberal-progressive institution, emphasizing dynamism with the Burhani and Irfani approaches. So, with the title MTT, this institution is expected to be able to mediate between the two poles of the tarjih pattern. Where practical religious issues are discussed and current and progressive issues are intensified. This nomenclature change was also followed by other things that support the existence of this assembly, such as the implementation of tarjih activities, the requirements for tarjih ulama and its organizational structure.

b. Manhaj Aspect

Manhaj Tarjih in responding to legal problems that occur in society experiences dynamics. In this case there are five stages of development. First, in 1928. At this time, the Majelis Tarjih in solving legal problems only used the tarjih method developed by ulama uşul. Namely, examining the opinions of scholars in depth in order to obtain the most diligent opinions from the source of their teachings and the methods of instruction used. Second, the year 1954/1955. At the Tarjih special session dated 29 December 1954 to 3 January 1955 in Yogyakarta, the Tarjih Council issued *masail al-khamsah*, (five basic principles), one of which is *qiyas*. This *Masail al-khamsah* is an appeal for Muhammadiyah to see the realities that exist in making Islam a contextual and progressive religion.

Third, in 1986. The Majelis Tarjih for the period 1985-1990 reconstructed the *manhâj masail al-khamsah* and produced 16 points of Manhaj Principles. 1) In *istidlal*, the main basis is the Qur'an and *al-Sunnah al-Shahihah*. *Ijtihad* and *istinbath* on the basis of '*illah* against things that are not in the text, can be done. As long as it does not concern the field of *ta'abbudi*, and indeed it is something that is taught in meeting the needs of human life. In other words, the Majelis Tarjih accepted *ijtihad*, including *qiyas*, as a way of enacting laws that did not have a direct text. 2) In deciding a decision, it is done by deliberation. In determining the issue of *ijtihad* the *ijtihadh jama'iy* system is used. Thus the individual opinion of the assembly members cannot be considered strong. 3) Not binding oneself to a school of thought, but the opinions of the *mazhab*, can be taken into consideration in determining the law. As long as it is in accordance with the spirit of the Qur'an and *al-Sunnah*, or other foundations that are considered strong. 4) Have an open and tolerant principle, and do not think that only the Majelis Tarjih is the most correct. Decisions are made on the basis of the arguments that are considered the strongest, which are obtained when the decision is made. And correction from anyone will be accepted. as long as other strong arguments can be given. Thus, it is possible for the Tarjih assembly to change the decisions that have been made. 5) In the case of *aqidah* (*tawhid*), only *mut* worries are used. 6) Not rejecting *ijma'* friends, as the basis for a decision. 7) Against the arguments that appear to contain *ta'arudh*, the method used is: *al-jam'u wa 'l-taufiq*. And if you can't, then Tarjih will do it. 8) Using the principle of "*sadd-u 'l-dzarrat*" to avoid slander and *mafsadah*. 9) *Ta'lil* can be used to understand the contents of the arguments of the Qur'an and *al-Sunnah*, as long as it is in accordance with the objectives of the *shari'ah*. As for the *qaidah*: "*al-Hukmu yaduru ma'a illatihi wujudan wa 'adaman*" in certain cases, can apply. 10) The use of arguments to establish a law is carried out in a comprehensive, whole and unanimous manner. Not separate. 11) General arguments of the Qur'an can be *takhsis* with the *hadith ahad*, except in the field of *Aqidah*. 12) In practicing Islam, use the principle of "*at-taysir*". 13) In the field of worship the provisions of the Qur'an and *al-Sunnah* are obtained, the understanding can use reason, as long as the background and purpose are known. Although it must be admitted that reason is relative, so that the principle of giving precedence to text over reason has flexibility in dealing with changing situations and conditions. 14) In matters which are included in *al-Umur-u 'l-Dunyawiyah* which are not included in the duties of the prophets, the user of reason is very necessary, for the benefit of the people. 15) To understand the *musytarak* text, the understanding of a friend is acceptable. 16) In understanding the texts, the meaning of *dhahir* takes precedence from *ta'wil* in the field of *'aqidah*. And *takwil* *sahabat*, in that case, do not have to be accepted.

Fourth, year 2000. The XXIV National Conference (Munas) Tarjih in Malang, followed by the XXV Tarjih National Conference in Jakarta, Majelis Tarjih gave birth to legal *manhâj* and development of Islamic thought. In the decision, several technical terms were formulated to equalize perceptions in *manhaj*, such as *ijtihad*, *maqashid asy-syari'ah*, *ittiba'*, *taqlid*, *talfiq*, *tarjih*, *as-sunnah al-maqbulah*, *ta'abbudi*, *ta'aqquli*, sources of law, *qath'iyyul-wurud*, *qath'iyyud-dalalah*, *zanniyyul-wurud*, *zanniyyu ad-dalalah*, *tajdid* and

thought, also sources of law, ijthad method, ijthad approach, ijthad technique, *ta'arud al-Adillah* settlement method and tarjih method against the nash. Fifth, the year 2018. In the book "Manhâj Tarjih Muhammadiyah" compiled by Syamsul Anwar, several important points are mentioned, both in terms of affirmation of the previous manhâj tarjih, development and new things that had not existed before. Such as, integralistic assumptions and hierarchical assumptions. This method then became the basis for building the Muhammadiyah fiqh paradigm, which was different from fiqh in general.

c. Product Aspects

At first, the Majelis Tarjih only produced one product known as the Putusan Tarjih, published in the book Himpunan Putusan Tarjih (HPT) and also in the "*Berita Resmi Muhammadiyah*". But then it developed, in 1986 the Majelis Tarjih activities increased as a fatwa giver. This Fatwa Tarjih is published in the book "*Tanya Jawab Agama*" and today 8 books have been published. In 1996, the Majelis Tarjih issued a new product called Wacana Tarjih, in the form of ideas, thoughts or opinions on contemporary issues. The goal is to broaden horizons as well as get ideas for solving problems facing society. These three products illustrate that Tarjih experiences dynamics in responding to legal issues. Bearing in mind, the issues discussed are developing, ranging from questions of faith to issues of public interest. The Majelis Tarjih historically only discussed matters of faith and worship, because both were the reasons for the formation of this institution. But over time, the issues discussed grew to mu'amalah problems. Then, in the 2000 developments that were discussed in terms of mu'amalah were the public's need or the needs of the community. For example, Fikih Perempuan, Fikih Seni dan Budaya, Fikih Tata Kelola (Munas Tarjih ke-XXVII tahun 2010), Fikih Kebencanaan (Munas Tarjih ke-XIX tahun 2015), Fikih Lingkungan (Munas Tarjih ke-XXX tahun 2018), Fikih Perlindungan Anak, Fikih Lalu Lintas and now Fikih Zakat is being discussed.

2. Contribution of Tarjih to the Development of Islamic Law in Indonesia

The success of the Majelis Tarjih in making guidance on faith, morals, worship and mu'amalah in the form of decisions and fatwas, indicates that the Tarjih has played a role in the development of Islamic law in Indonesia, both in the form of normative law as well as positive law. Through purification and dynamism movements, Majelis Tarjih built a more puritanical and rational religious culture. All of this is a guide to the attitude and behavior of Muhammadiyah members in particular and Indonesian Muslim community in general, so that the community in turn has an awareness of Islamic values. The high level of awareness becomes the capital in carrying out legal positivization. Because the aspirations of the community become a consideration for the government when making decisions in legislation. As seen in the formulation of a number of laws, such as UU Perkawinan No. 1 1974, KHI, Perbankan Syariah and others. The formation of a number of these laws, has involved the Muhammadiyah community either directly or not, whether as a legislative representative joining the parliament, the Student Organization (IPM) and also representatives of the ulama. Even the Putusan Tarjih and Fatwa Tarjih have been taken into consideration in the formulation of legislation.

3. The Dynamic Pattern of Tarjih Muhammadiyah

Tarjih Muhammadiyah has experienced dynamics. The dynamic pattern that occurs in the Muhammadiyah Majelis Tarjih in responding to problems that arise has a multilinear process (neo evolutionism). From the institutional, manhaj and product aspects, the Majelis Tarjih has evolved from a simple to a more complex form. The stages of development that occur in tarjih are influenced by surrounding factors, namely social change. The existence of the Majelis Tarjih as a

religious (legal) institution is required to always be able to adapt to the existing environment. Then development takes place in many aspects and every achievement at every stage, leaving nothing behind what was before. Majelis Tarjih Muhammadiyah in its development continues to preserve old things and create new things in accordance with the demands of the times.

E. Conclusion

Tarjih Muhammadiyah in responding to legal problems in society has evolved. This can be seen in three aspects, namely the institutional aspect, the Manhaj aspect and the assessment product aspect. These three aspects undergo a change or development gradually and simultaneously from one state to another. The dynamics that occur are multilinear processes, follow many paths, are influenced by changes that occur in society or the environment and do not leave previous achievements. Then, in its journey, the Majelis Tarjih has contributed to the development of Islamic law in Indonesia, both in the form of normative and positive law. The success of the Majelis Tarjih in making guidance on faith, morals, worship and also mu'amalah has formed an Islamic society in various forms of life and shows *uswah hasanah* behavior (good role models). So that society in turn has an awareness of Islamic values. The high level of awareness becomes the capital in carrying out legal positivization. Because the people's aspirations become a consideration for the government when making decisions in legislation.

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