

Moderate Fiqh in The Perspective of Islamic Boarding School Students (The Study of Mahasantri Ma`Had Aly Situbondo)

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Abstract: Moderation in fiqh issues is one of the things that must be developed because it has a comprehensive character. This study aims to determine the moderate fiqh reasoning of students of Mahad Aly Salafiyah Syafi'iyah Situbondo in building religious moderation. This research uses a literature review using the method of traditional review. The type of data used is secondary data, namely data obtained from library materials by reading and studying the works of Ma`had Aly Salafiyah Syafi'iyah Situbondo students with the titles People's Fiqh, Reality Fiqh, Building Central Islam, and Progressive Fiqh. Based on the discussion and analysis that has been done, it can be concluded that Ma`had Aly Salafiyah Syafi'iyah Situbondo is an educational institution that concentrates on fiqh and ushul fiqh studies. Through moderate fiqh reasoning, several works of thought were born in book form: Reality Fiqh, People's Fiqh, Building Central Islam, and Progressive Fiqh. In these works, efforts are made to build religious moderation by broadening the horizons of fiqh thinking with the study of fiqh from the four schools of thought combined with ushul fiqh and fiqh rules, combining text and reality, and avoiding fanaticism within schools of thought to give birth to solutive thinking, tolerance, unity, harmony, and awareness in the state and religious life.

Keywords: Mahad Aly Situbondo, Moderation, Fiqh

Abstrak: Moderasi dalam persoalan fiqh menjadi salah satu hal yang harus dikembangkan karena memiliki watak yang komprehensif. Penelitian ini bertujuan untuk mengetahui nalar fiqh moderat santri Mahad Aly Salafiyah Syafi'iyah Situbondo dalam membangun moderasi beragama. Penelitian ini menggunakan kajian pustaka. Jenis data yang digunakan adalah data sekunder yaitu data yang diperoleh dari bahan pustaka dengan membaca dan mengkaji karya pemikiran santri Ma`had Aly Salafiyah Syafi'iyah Situbondo dengan judul Fiqh Rakyat, Fiqh Realitas, Membangun Islam Tengah, dan Fiqh Progresif. Berdasarkan pembahasan dan analisis yang telah dilakukan dapat disimpulkan bahwa Ma`had Aly Salafiyah Syafi'iyah Situbondo merupakan salah satu lembaga pendidikan yang memiliki konsentrasi kajian fiqh dan ushul fiqh. Melalui nalar fiqh moderat yang dikembangkan, lahirlah beberapa karya pemikiran dalam bentuk buku yaitu Fiqh Realitas, Fiqh Rakyat, Membangun Islam Tengah, dan Fiqh Progresif. Dalam karya-karya tersebut tampak upaya membangun moderasi beragama melalui perluasan cakrawala pemikiran fiqh dengan kajian fiqh empat mazhab yang dipadukan dengan ushul fiqh dan kaidah fiqh, memadukan antara teks dan realitas, serta menghindari fanatisme dalam bermadzhab sehingga melahirkan

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pemikiran solutif, toleransi, persatuan, kerukunan, dan kesadaran dalam kehidupan bernegara dan beragama.

Kata Kunci: *Mahad Aly Situbondo, Moderasi, Fiqh*

Introduction

One Islamic boarding school educational institution that focuses on education, Islamic studies, and the formation of clerical character is Ma`had Aly Salafiyah Syafi'iyah Sukorejo Situbondo. This institution is a *tafaqquh fi al-din* institution to produce contemporary jurists of fiqh experts who completely understand classical literature and can actualize fiqh in the context of today's real life and have ritual and social purity.

The establishment of Ma`had Aly Situbondo concerned the clergy about the extinction of the treasures of Islamic sciences. It is strongly suspected that this was caused by the pressure of the waves of modernization, globalization, and information which had strong implications for shifting the orientation of people's lives. Public interest in studying religious sciences could be more active. The condition is even more crucial with the number of scholars who must face God before transferring their knowledge and piety to the next generation (Abu Yasid, 2010).

Ma`had Aly Situbondo is an institution that specifically intensely prepares cadres of scholars who have qualified scientific, practical, and khuluqiyah integrity. The concentration of his studies is fiqh and ushul fiqh. In addition, some basic materials must be mastered by the students studying at Ma`had Aly, namely *Qawa'id al-Fiqh*, *Ayat Ahkam*, *Hadith Ahkam*, *Aqidah*, and *Sufism*. Through its fiqh and ushul fiqh, the study results of the thoughts of Ma`had Aly Situbondo students have moderate, progressive, humanist, and contextual characteristics.

In a study written by Ahmad Arifi (Arifi, 2010) it was stated that the style of thinking of the Ma`had Aly Situbondo santri community is based on the social-contextual fiqh paradigm. The reasoning process of this paradigm model uses a socio-historical approach. This conclusion was obtained through a study of the work of Ma`had Aly Situbondo students in the form of a book entitled *Fiqh of the People and Fiqh of Reality*. In addition to *Fiqh of the People and Fiqh of Reality*, the students of Ma`had Aly Situbondo also produced works of thought entitled *Fiqh Today and Progressive Fiqh*. From all the works produced, there are many conclusions that are

different from fiqh studies elsewhere. This is due to differences in methodology and text contextualization.

Santri Ma`had Aly Situbondo uses a dynamically understood school pattern. The fiqh madzhab books are still used as primary references, but are contextualized according to the needs of the times. The pattern of practicing the *manhaji school of thought* is prioritized over the *qouli school of thought*. Non-Madzhab books and works of modern scholars are also used as long as they have strong and clear grounds and arguments.

From several results of fiqh studies of Ma`had Aly Situbondo students both in the form of the Tanwirul Afkar bulletin, books and journals, there is a balance and moderation in responding to religious and social issues. Sometimes it relates to issues of relations between religious communities, models of schools of thought, socio-economic, religious traditions of the archipelago, as well as issues related to the relationship between religion and the state. Through his study of moderate fiqh, santri Ma`had Aly Situbondo does not make fiqh merely punish and judge society, but instead makes it a solution that can provide solutions to the problems faced by society.

It is true that Muslims must have the courage to show the face of Islamic law (fiqh) which is moderate in all matters and accepts the reality of differences that occur on this earth. That is why this research is intended to answer the big question, namely what are the characteristics of moderate fiqh in Ma`had Aly Situbondo and their relevance to religious moderation. Elaboratively the research problem is formulated in the following questions. First, what are the characteristics of moderate fiqh developed by students Ma`had Aly Situbondo? Second, how far is the relevance of the moderate fiqh of santri Ma`had Aly Situbondo towards religious moderation?

Research Method

To obtain data appropriate to the research problem, a study of written documents produced by Ma`had Aly students, such as People's Fiqh, Reality Fiqh, Today's Fiqh, and Progressive Fiqh was carried out. This research uses a literature review. The type of data used is secondary data, namely data obtained from library materials. The data collection technique was by reading and studying the thoughts of Ma`had Aly Salafiyah Syafi'iyah Situbondo students. The data analysis technique

uses deduction and data interpretation. This analysis focuses on understanding and interpreting data using classification, categorization, and identification.

Result and Discussion

Characteristics of Moderate Fiqh of Santri Mahad Aly Situbondo

According to Afifuddin Muhajir (Muhajir, 2018), many things must be done by someone to be able to understand the Qur'an and Sunnah with a correct and moderate understanding. Several things must be done and mastered, namely:

1. Comprehensive mastery of ushul fiqh
2. *Qawaid lughawiyah* (language rules).
3. *Asbabun nuzul* and *asbabul wurud* (because of the revelation of the verses of the Koran and the reason for the arrival of a hadith)
4. *Rabtun nushus ba`diha bi ba`din* (connecting one text with another)
5. *Rabtul ahkam ba`diha bi ba`din* (connecting one law with another)
6. *Rabtul ahkam bil maqa shid as-shariah* (connecting laws with the aim of making law legal).

If the above is done and understood, it will lead to correct and fatal understanding. Some legal rules must go through the process of *ijtihad* because the texts they refer to are categorized as *Zanni* in terms of *wurud* and/or *dalalah* or because there is no specific text regarding these legal rules. This is where the role of the *mujtahid* is needed in order to explore the hidden laws behind the texts of the Koran and Hadith.

People those who will carry out *ijtihad* on texts need to master the science of ushul fiqh. Usul fiqh is a series of rules that can be used as a means to explore operational laws (*istimbath al-ahkam al-`amaliyyah*). Thus, ushul fiqh is the principles of *aqliyyah* as well as standard *syar`iyyah* which can assist *mujtahids* in carrying out activities of extracting operational laws from their original sources. (Abu Yasid, 2012) .

Deep understanding towards ushul fiqh can make a person moderate, tolerant, able to answer contemporary problems, have a complete understanding of classical treasures, and be able to actualize fiqh in the context of real life today. ushul fiqh is a science that combines reason and revelation. All Islamic law has been stated in the Qur'an and Hadith and human reason functions to explore the laws contained in these two main sources.

Ma`had Aly Situbondo as one of the Islamic boarding school higher education institutions that has a concentration on fiqh studies and ushul fiqh tries to make new breakthroughs by balancing the studies of the two sciences. ushul fiqh is not only used as a theory, but is applied in his fiqh studies. Ushul fiqh is used as an analytical tool for fihiyyah problems that occur in society.

Thus, the reference used by Ma`had Aly is not just fiqh dictums and the opinion sheets of scholars contained in the yellow book, but also the rules of *istinbath* law as a methodology in creating the findings of the opinions of fiqh scholars. The epistemology of ushul fiqh is quite colorful in the legal decision-making mechanism of Ma`had Aly (Abu Yasid, 2010) .

In addition to legal theories and lafadz principles, another segment in the science of ushul fiqh that is given to Ma`had Aly students is *maqashid asy-shari`ah*. This segment has a significant meaning in the effort to interpret each text according to the context of the benefit of Muslims in daily religious and social life. The hope of the *maqashid asy-shari`ah material* is that the students of Ma`had Aly Situbondo are not just fixated on the text in addressing religious issues in the midst of society, but also exploring the purpose of establishing law on earth (Abu Yasid, 2010) .

The reflection of the moderate fiqh of santri Ma`had Aly can be seen in the curriculum and learning methods applied . Ma`had Aly Situbondo combines the curriculum of Islamic boarding schools and universities. In the structure of the fiqh curriculum, for example, there are the books of *Fathul Wahhab* and *Bidayatul Mujtahid* , while in the book of ushul fiqh there is *Jam`ul jawami`*. As for tasawwuf, *Ihya` Ulumiddin* is one of Ma`had Aly's curriculum.

The accommodation of Ma`had Aly Situbondo to the tertiary curriculum is carried out by applying the learning method in the form of thematic elaboration and an academic approach. In this curriculum, fiqh and ushul fiqh materials are classified into smaller units and focus on certain subjects. Apart from that, Ma`had Aly appreciates ushul fiqh on a par with fiqh itself. Ushul fiqh is used as a very strategic epistemology in the mechanism of legal decision making (Abu Yasid, 2010) .

As a form of integration between university academic education and Islamic boarding school education, teaching and learning activities also refer to these two approaches. With reference to education in tertiary institutions, Ma`had Aly uses a

student-centered learning system, which is a type of education where students are given full authority to seek, discover, and develop the information or knowledge they get while the lecturer acts as motivator, facilitator, and director in teaching and learning activities. From this learning system, the activities in class are more directed at discussions between fellow students to assemble their own knowledge building. In this case, teaching and learning activities use three models of approach.

1. Textual, namely understanding *nushūsh* in *lughawiyah*, *literal* and *tarkibiyah* terms. This is done in two ways, namely *al-tadris* (guidance of a lecturer) and *deliberation* (discussion).
2. *Maqāshidiyah*, namely understanding *nushūh* carefully and focusing on *its maqāshid al-syar'iyah*.
3. Textual-Contextual, namely learning that combines text with context. This learning directs the text to be able to answer and solve contextual problems.
4. Comparative, namely learning that involves various references to the various works of mujtahid imams with *muqābalatu al-polaru al-qadimah wa al-mu'āshirah* (comparison of classic books and contemporary references).
5. *Naqdiyyah* (critical), namely learning by dissecting the book based on the *ushul fiqh* theories and then trying to find a better opinion.

Using the Islamic boarding school education approach, the learning model at Ma'had Aly uses the *bandongan* and *sorogan* system to study with members of the community whose scientific capacity and integrity have been recognized in the community. Learning with *sorogan* carried out by the *masyayikhs* is carried out in *surau* or in their respective classes while continuing to open a discussion and question and answer space for *mahasantri*. With the *bandongan* system *mahasantri* not only get additional vocabulary and knowledge, but also can see and observe directly the daily life of the *masyayikhs* to then emulate their attitudes and activities.

By going through the processes described above, both related to the rationale, *fiqh* learning methodology, and curriculum structure, the Ma'had Aly Situbondo students can produce *fiqh* products that have moderate characteristics. In addition, Ma'had Aly Situbondo's *fiqh* study is combined with *maqashid sharia*. In each study, the *illat* that underlies the formation of law is displayed for further analysis using the *qiyas method*.

Portrait of Moderate Fiqh Thoughts of Santri Ma`had Aly Situbondo in His Thought Book

In fact, there are many results of the thoughts of Ma`had Aly Situbondo students which are contained in various books related to religious moderation. However, due to space and time limitations, the author only presents a number of important topics related to moderation in inter-religious relations, moderation in schools of thought, tradition and culture, and moderation in the relationship between fiqh and the state. In the following, the author describes a complete review related to this topic.

Moderation in Interfaith Relations

One of the titles written by students of Ma`had Aly Situbondo relating to moderation in inter-religious relations is "Reconciling Jesus and Muhammad". This paper discusses the future of the relationship between Islam and Christianity. In the perspective of the Ma`had Aly students, there are three theological thoughts that lead to disputes among religious communities, namely other religions are considered as enemies of truth, religion can be measured by text or thought, and religion consists of closed standard teachings (Afkar, 2000) .

Santri Ma`had Aly Situbondo believes that if the three theologians' thoughts are preserved, there will be divisions and they will not accept the reality of differences. Every religious leader will not feel at ease if followers of other religions do not join their religion. So every way will be done to carry out Christianization or Islamization efforts, for example.

In order to strengthen his view, this article presents arguments regarding the necessity to accept reality and differences, namely,

لِكُلِّ جَعَلْنَا مِنْكُمْ شِرْعَةً وَمِنْهَاجًا وَلَوْ شَاءَ اللَّهُ لَجَعَلَكُمْ أُمَّةً وَاحِدَةً وَلَكِنْ لَيَبْلُوَكُمْ فِي مَا آتَاكُمْ فَاسْتَبِقُوا الْخَيْرَاتِ إِلَى اللَّهِ مَرْجِعُكُمْ جَمِيعًا فَيُنَبِّئُكُمْ
بِمَا كُنتُمْ فِيهِ تَخْتَلِفُونَ

"For every nation among you, We have sent down rules and a clear path. If Allah had willed, He would have made you one people (only), but Allah wanted to test you against His gifts to you, so compete in doing good. It is only to Allah that you will return, then He will inform you about what you have disputed ". (QS. Al-Maidah: 58)

This verse emphasizes that religious differences are God's will. If Allah wanted all mankind to convert to Islam, then surely it could happen. But God wants to test

mankind against what He has given. Human duty is to compete in goodness regardless of religion. There are no obstacles for Muslims and people of other religions to respect each other, help each other, maintain peace, unity and integrity within the framework of the Unitary State of the Republic of Indonesia.

Moderation in Bermadzhah

In terms of practicing madzhab, the Ma`had Aly Situbondo santri community believes that Muslims must adhere to madzhab, bearing in mind that nowadays there is no one who is capable of being a mujtahid mutlaq. However, the opinion of the mujtahid imams is only binding on the originator of the opinion itself. That is, a mujtahid must consistently stick to his own opinion, not jump to the opinion of other mujtahids. Beyond that, for Muslims, there is no single mujtahid's opinion that is binding on him. He may choose to follow the opinion of any mujtahid he wishes. So, there is no obligation to continue to defend against one particular school of thought.

But this freedom of thought has rules that must be followed, namely, *First*, for consumption common people, the permissibility of changing schools of thought is only around the area of the four schools of thought (Hanafi, Maliki, Shafi'i, Hambali). because, schools other than the four madhhabs, are not systematically codified. *Second*, when there is an *Intiqal* (changing schools of thought), one must really understand what is required by the school one is following. So that in that transfer, no *talfiq* appears. *Third*, *Intiqal* is not driven by lust (Mahad Aly Situbondo team, 2014) .

This kind of thinking may according to some circles is contrary to the opinion of some scholars. However, it is undeniable that there are some scholars who liberate in matters of madzhab. In social, religious, and societal issues, sometimes the answers prepared by one school of thought are not satisfactory, so that a solution is needed from another school of thought. Rather than carrying out legal engineering, it is better to follow the opinions of other schools of thought which are more solutive.

Moderation in Tradition and Culture

There are several titles of fiqh studies that are discussed by Ma`had Aly Situbondo students related to tradition and culture. Among them are related to haul traditions, birthdays of the Prophet, obstetric celebrations, picking the sea, and birthday celebrations. Traditions and culture of this kind have taken root in the lives of most Indonesian Muslim communities.

In general, with regard to the traditions and culture of the Ma`had students, Aly Situbondo argues that as long as *`urf* does not contradict the provisions of the revealed text, so there is no reason to ignore it. Even the Shari'a itself as a life guide for mankind is actually oriented towards *`urf*. This can be seen in the principles in Islamic teachings, such as the principle of *`adam al-haraj* (absence of narrowness), *tadrij fi tasyri`* (phasing in syariat), *al-musawah* (equality), *rahmatan lil `alamin* (spreader of mercy to throughout nature) (Abu Yasid, 2007) .

Moderation between Fiqh and the State

Imam al-Ghazali in his monumental work, *Ihya` Ulumiddin* stated that religion and state are like twin brothers. The state will exist with religion and religion will prosper with the support of the state. It is very likely that Imam Ghazali's statement became the basis for the thinking of Ma`had Aly Situbondo students in understanding moderation between religion and the state. One example of writing regarding this matter is " *Talaqlah Your Wife in Court* " and " *Marriage Registration: Jurisprudence vis a vis the State* " (Mahad Aly, 2014) .

In the majority opinion in the yellow book, it is said that talaq can occur by simply saying it without having to go through a court process. Likewise with marriage, where the majority of scholars do not require marriage registration. However, in the marriage law and the Compilation of Islamic Law, it is stipulated that divorce can occur if it is carried out through a court hearing and marriage must not only fulfill the requirements and be harmonious, it must also be recorded. (Abu Yasid, 2005) .

At first glance, there is a conflict between fiqh rules and state rules. However, the Ma`had Aly Situbondo santri community tries to examine this problem through *maqoshid sharia*. Santri Ma`had Aly chose the opinion about the necessity of testimony in talaq. The spirit of testimony is to obtain solid legal force. This objective cannot be achieved if the testimony is not presented before an official government institution such as a religious court. As it should be, divorce is carried out through a religious court. In line with this line of thinking, the Indonesian government has the authority to make regulations that divorce can only be carried out before a religious court session after the religious court has tried and failed to reconcile the two parties. The government's decision rests on the benefit of society in general. A government policy that refers to the benefit must be obeyed. In addition, differences of opinion among the ulama' regarding whether or not it is obligatory to testify, can be resolved by a

government decision requiring divorce through a trial process in the religious court. This is in accordance with the rule:

حُكْمُ الْحَاكِمِ يَرْفَعُ الْخِلَافَ

" Government decisions can eliminate disputes"

Then with regard to marriage registration, Ma`had Aly Situbondo students argue that the obligation to register marriages is based on the benefit of the people (*public interest*), namely for the sake of maintaining the stability of the family order and as a preventive measure (*saddu al-dzarî'ah*) so that there is no harassment of the women and their offspring. Moreover, harassment due to marriage under the hand (without registration) is now increasing . Like the case of abortion (abortion), the wife does not get maintenance services and is even left alone.

Even so, marriages that have complied with fiqh rules but are not recorded at the religious affairs office are still considered valid, but do not have legal force. Therefore, it is necessary to make efforts to *istbat* marriage in the Religious Courts. The goal is that the rights and obligations of husband and wife can be properly maintained and guaranteed.

Analysis of the Moderate Fiqh of Santri Mahad Aly Situbondo and Its Study Methodology

In this discussion it is necessary to state in advance the concept of moderate in Islam. This needs to be done so that the understanding of moderate fiqh is more in-depth and directed. Moderate is often expressed by the word *al-wasathiyyah* which means balance.

Moderation in the Big Indonesian Dictionary is defined as mediating a problem. According to Ibn al-Athir, moderation (*wasathiyyah*) means a balance between two different or opposite things (Ibnu al-Atsir, 2010) . The examples of moderation are the balance between the spirit and the body, between *`aql* and *naql*, between *ijtihad* and texts, between the world and the hereafter, between means and goals, between *ushul* and *furu`*, and so on.

According to Kiai Afifuddin Muhajir, moderation in Islam has two meanings. First, moderation means neither this nor that. For example, the Islamic concept of subsistence is the middle way between miserly (*taqtir*) and extravagant (*israf*), meaning

that Islam teaches that the breadwinner is neither stingy nor wasteful, but something in between. (Muhajir, 2018) . This can be seen in the word of Allah surah Al-Isra` ,

وَلَا تَجْعَلْ يَدَكَ مَغْلُولَةً إِلَىٰ عُنُقِكَ وَلَا تَبْسُطْهَا كُلَّ الْبَسْطِ فَتَقْعُدَ مَلُومًا مَّحْسُورًا [الإسراء/29]

"And do not make your hands shackled around your neck and do not stretch them too much therefore you become reprehensible and regretful."

meaning of moderation according to Kiai Afifuddin Muhajir (Muhajir, 2018) is not only this and not only that, for example Islam is between the body and the spirit. This means that Islam does not only deal with physical matters and does not only deal with spiritual matters, but takes care of both simultaneously. Another example, Islam is between texts and ijtihad. This means that Islamic law is not only based on texts alone, but also involves ijtihad activities. For this last example, it can be seen from the dialogue between Rasulullah and Muadz bin Jabal when he was sent to Yemen,

عَنْ أَصْحَابِ مُعَاذٍ مِنْ أَهْلِ جَمْعٍ قَالَ : وَقَالَ مَرَّةً عَنْ مُعَاذٍ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، لَمَّا بَعَثَ مُعَاذًا إِلَى الْيَمَنِ ، قَالَ لَهُ : كَيْفَ تَقْضِي إِذَا عَرَضَ لَكَ قَضَاءٌ ؟ ، قَالَ : أَقْضِي بِكِتَابِ اللَّهِ ، قَالَ : فَإِنْ لَمْ تَجِدْ فِي كِتَابِ اللَّهِ ؟ ، قَالَ : أَقْضِي بِسُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، قَالَ : فَإِنْ لَمْ تَجِدْ فِي سُنَّةِ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ؟ ، قَالَ : أَجْتَهِدُ رَأْيِي وَلَا أَلُو ، قَالَ : فَضَرَبَ رَسُولُ اللَّهِ يَدَهُ صَدْرِي ، قَالَ : الْحَمْدُ لِلَّهِ الَّذِي وَفَّقَ رَسُولَ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، لَمَّا يُرْضِي رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ :

"From some residents of Himsh, it was told from some of Mu'adz bin Jabal's friends, that actually when the Messenger of Allah intended to send Mu'adz to preach to Yemen, he asked Mu'adz: How do you decide the problems you will face? Mu`adz replied: I will decide based on the Koran. The Prophet asked again: If you don't find the answer in the Koran? Mu`adz replied: with the Sunnah of the Prophet. The Prophet asked again: what if the answers were not found in the two sources? Mu`adz replied: I will do ijtihad by using my mind to solve it and I will not be careless in doing ijtihad. After that, Rasulullah saw. patted Mu`adz' chest (as a sign of approval and pride in Mu`adz bin Jabal's intelligence, saying: Praise be to Allah, Who has given taufiq to his Messenger Rasulullah (Mu`adz) according to what the Messenger wanted." (Abu Dawud , 2010)

Moderation (*wasathiyyah*) is a characteristic of the Islamic religion which is a combination and unification of the concepts of *ta`adul*, *tawazun* and *tawassuth* . The expression *wasathiyyah* can be found in the following verses of the Koran and the Hadith of the Prophet,

وَكَذَلِكَ جَعَلْنَاكُمْ أُمَّةً وَسَطًا لِتَكُونُوا شُهَدَاءَ

"And thus (also) We have made you (Muslims), a just and chosen nation so that you may be a witness to the (actions of) humans and that the Messenger (Muhammad) may be a witness to your (actions)." (Al-Baqarah: 143)

While among the hadiths that explain *wasathiyah* namely,

خَيْرُ الْأُمُورِ أَوْسَطُهَا

"The best of affairs is the middle way."

There are also other hadiths that are similar to the hadith above, namely,

وَحَيْرُ الْأَعْمَالِ أَوْسَطُهَا وَدِينُ اللَّهِ بَيْنَ الْقَاسِي وَالْعَالِي

"And the best deeds are those in the middle, and Allah's religion is between those that are frozen and those that are boiling."

Thus, it can be concluded that moderation is a characteristic of Islam which has the characteristics of *tawassuth*, *ta`adul* and *tawazun* in every pattern of thought, pattern of action, and behavior. At a practical level, moderate forms in Islam can be classified into four areas of discussion, namely: 1). Moderate in matters of aqidah; 2). Moderate in matters of worship; 3). Moderate in matters of temperament and manners; 4) Moderate in the matter of establishing sharia (Abu Yasid, 2010) .

In connection with the study of the fiqh of Ma`had Aly Situbondo, it can be said that the development of moderate fiqh is in accordance with the characteristics of Islam itself, namely moderate (*wasathiyah*). The study of fiqh at Ma`had Aly by maximizing the use of ushul fiqh as a tool for *istimbath ahkam* needs to be appreciated. Ushul fiqh will become a guard so that the law does not shift from *maqoshid sharia*. So it is not surprising that most of the laws contained in the works of Ma`had Aly Situbondo students are not textual, but pay attention to social reality and benefit, so that the legal products are acceptable and in accordance with the benefit of the people.

in essence, The purpose of shariat law in Islam is to bring benefit to all people. Maslahah is the final estuary of a long series of processes of revelation and establishment of Shari'a in Islam. Each revelation text has a relationship and even an interrelationship with the benefit of mankind. In the terminology of ushul fiqh, the end of the whole series of making shari'a is called *maqoshid asy- syariah*, namely the aim of distipulating religious teachings . The purpose of the Shari'a is none other than the

implementation of the benefit of the servant both in this world and in the hereafter (Abu Yasid, 2007) .

In Islam, benchmarks of benefit and harm cannot be returned to human judgment because they are very vulnerable to the influence of human desires. On the other hand, the measure of benefits and harms must be returned to the will of *syara`* , which in essence is summarized in the five principles of protection (*al-Mabadi` al-Khamsa*) , namely: protection of religion, soul, mind, property and offspring (Imam Ghozali, 2010) .

Analysis of Moderate Fiqh Thoughts of Santri Ma`had Aly Situbondo and Its Relevance to Religious Moderation

It cannot be denied that all human actions cannot be separated from what is their understanding and belief. One person's understanding may differ from one another, depending on the environment, reading and association. It is possible that someone who has a radical understanding will act radically and commit violence and it is possible that someone who has a moderate understanding will act moderately in all his activities, both related to the private and public spheres.

Ma`had Aly Situbondo as one of the institutions that develops moderate fiqh, of course, can more or less influence the mindset of the community, especially the santri to be able to think moderately in all their activities. So that if there is a balance between moderate thinking and all life activities, then religious moderation can be realized easily. It is for this reason that in this discussion the author will examine, analyze and clarify the moderate fiqh thoughts of santri Ma`had Aly in matters of inter-religious relations, issues of practicing schools of thought, understanding tradition and culture, and moderating the relationship between fiqh and the state. Apart from that, this discussion will emphasize the role of the moderate fiqh of Ma`had Aly students in building religious moderation.

Analysis of Moderate Fiqh Thought on Inter-Religious Relations

In the context of the interests of the state and nation, religious harmony is an important part of national harmony. Religious harmony is the state of inter-religious relations based on tolerance, mutual understanding, mutual respect, value equality in

the experience of religious teachings and cooperation in the life of society, nation and state within the State The Unitary Republic of Indonesia is based on Pancasila and the State Constitution Republic of Indonesia in 1945. Therefore, the harmony of life between religious believers is a precondition that must be created for development in Indonesia.

humans certainly need other people or in other terms *Zoon Politicon* therefore an attitude of tolerance must exist in each individual, especially regarding beliefs, where everyone has the right to determine what their beliefs are, there is no need for us to blame the beliefs that person holds. if we understand it, the triggering factors for inter- and internal conflicts among religious communities include; a) in the form of a shallow, fanatical and textual understanding of the teachings of their religion, which has the effect of looking narrowly at followers of other religions; b) there is a driving force to resolve the problem of differences between religions and conflicts; Conflict as an outlet for the limitations of fulfilling the necessities of life for the perpetrators due to factors of livelihoods, poverty, and social disharmony. Positive social interaction is created when social harmony and social empathy are created and aggressive attitudes are anticipated.

What the students of Ma`had Aly Situbondo think about moderation in inter-religious relations fits perfectly with the diversity and diversity in Indonesia. In the view of Ma`had Aly students, the task of humans is to compete in goodness regardless of their religion. There are no obstacles for Muslims and people of other religions to respect each other, help each other, maintain peace, unity and integrity within the framework of the Unitary State of the Republic of Indonesia (Abd Aziz 2018) . If the thoughts of the majority and even the entire population of Indonesia are the same in understanding moderation in inter-religious relations, peace and tranquility will be created in this life. Radicalism, anarchism and SARA issues will gradually disappear from Indonesian soil. Religious leaders, community leaders, students, educated people and all elements of the nation must participate in spreading this understanding of moderation (Muzakki, 2019) .

Analysis of Moderate Fiqh Thought in Madzhab

In the matter of moderation with madhhab, Ma`had Aly students think that there is no obligation to consistently follow a particular school of thought. The thinking of

the Ma`had Aly students is based on the principles of Islamic law, which include avoiding difficulties and pettiness. However, freedom in this school of thought has several binding rules as explained in the results of the research above.

The thinking of the Ma`had Aly students is in line with what was written by Kiai Afifuddin Muhajir, one of the Fiqh and Ushul Fiqh experts Ma`had Aly Situbondo that part of the principle of perfection and elasticity of Islamic shari'ah is that there is no obligation to adhere to a particular school of thought. '*adamu iltizâmin bi madzhabin mu'ayyanin*). The necessity of consistency in practicing madzhab will cause the ummah to fall into religious insularity and difficulties. This is not in line with the purpose of the birth of *al-madzâhib* which is God's grace and mercy to the people. On the other hand all *madzhab* and *aqwâl al-ulama`* have the same position, both have the possibility of right and wrong (Asror et al. 2017) .

In practicing schools of thought, Muslims must realize how diverse the opinions of scholars are regarding a legal issue and are accompanied by strong arguments on which to base their opinions. Muslims must avoid fanaticism and feel that their school of thought is the most correct. If this is done, there will be harmony in religion, moderation in addressing differences and tolerance in inter-religious life.(Anshor and Muttaqin 2022)

Analysis of Moderate Fiqh Thought in Understanding Tradition and Culture

In every study regarding tradition and culture, Ma`had Aly students always conclude that a tradition is permissible or unlawful depending on the substance contained in it. As long as it does not come out of the principles of Islamic law, then please do it. This thought was probably born from their understanding of a fiqh rule which reads "*al`adah muhakkamatun*".(Naim and Qomar 2021)

In the study of ushul fiqh, *urf* or *`adah* is something that is well known and lived by the community, either in the form of actions (*`amali*) or words (*qouli*). *`Urf* and *`adah* are two words whose understanding is different but the mashodaq is the same (Al-Hariri, 2019.) . Something called *`urf* is also called *`adah* and something called *`adah* is also called *`urf*. So, *`urf* and *`adah* are synonymous words. If translated into Indonesian, both mean tradition (Muhajir, 2011) .

The legal basis for using *`urf* is the following texts. *First*, the word of God:

خُذِ الْعَمَلُ وَأْمُرْ بِالْعُرْفِ وَأَعْرِضْ عَنِ الْجَاهِلِينَ (١٩٩)

"Be forgiving, order people to do good habits and turn away from stupid people. (QS. Al-A`raf: 199)."

The legal basis for using *`urf* is also found in the hadith of the Prophet, namely:

مَا رَأَى الْمُسْلِمُونَ حَسَنًا فَهُوَ عِنْدَ اللَّهِ حَسَنٌ

"Something that is considered good by Muslims, according to Allah is also good. " (Narrated by Imam Ahmad)

In addition to the arguments of the text above, in fact God as *syari`* considers the existence of *Urf* as a basis for the laws he stipulates. Trade, for example, according to custom can lead to the development of goods that are urgently needed by mankind to preserve life. Then departing from this habit, God provides guidance on trading laws, including guidelines for transactions that are permitted and which are prohibited. (Abu Yasid, 2010) .

At the time of the Companions and the next generation, *`urf* often received a positive response. One example is what was done by the caliph Umar bin al-Khattab who used *urf considerations* in determine the law of divorce. Triple divorces pronounced by a husband were originally punishable by one divorce. This legal provision has been in force since the Rasulullah arrived at the beginning of the caliph Umar bin al-Khattab. However, when people's habits began to change, the caliph Umar gave a fatwa that three divorces pronounced at once could cause the law to fall into three divorces. The consideration of the caliph Umar was that people at this time were getting used to saying divorce words easily. That's why the provisions of divorce law need to be tightened, so that they no longer mess around with the word divorce (Abu Yasid, 2004) .

Caliph Umar bin Abdul Aziz when he served as Governor in Medina wanted to give a legal verdict for the plaintiff's lawsuit if he could present two witnesses or one witness accompanied by the plaintiff's oath. However, after becoming caliph who was domiciled in the national capital at that time, namely Syam, he was reluctant to give a legal ruling on submitting the same witness formula. When asked about his stance, he replied: "We see that the people of Syria are different from the people of Medina" (Abu Yasid , 2004) .Imam al-Qorofi, a scholar of the Maliki school of thought, forbids a fatwa that violates customary laws in a community. According to al-Qorofi, such a fatwa undermines the *ijma`* order. Meanwhile, Imam Ibnu Qoyyim al-Jauziyah, a cleric with

the Hanabilah school of thought, stated that changes to fatwa could occur due to changes in time, place, circumstances and customs. (Abu Yasid 2010) .

Thus , actually *`urf* (tradition) throughout the history of the formation of Islamic law is indeed very concerned by Islamic jurists. As long as *`urf* does not contradict the provisions of the revealed text, there is no reason to ignore it. Even the Shari'a itself as a life guide for mankind is actually oriented towards *`urf* . This can be seen in the principles in Islamic teachings, such as the principle of *`adam al-haraj* (absence of narrowness), *tadrij fi tasyri`* (phasing in syariat), *al-musawah* (equality), *rahmatan lil `alamin* (spreader of mercy to whole nature).(Taufiq, Harisudin, and Maimun 2022)

In everyday life, many legal provisions are taken with reference to traditions that do not explicitly intersect with the provisions of religious texts. This is understandable because the number of revealed texts is very limited when compared to the number of legal events that occur in each time period. The existence of custom and culture in every community needs to be considered in order to appreciate the legal dynamics in responding to any issues that arise at any time. A deep understanding of tradition and culture will give birth to a moderate attitude, not easily misleading and blaming other parties.

Analysis of Moderate Fiqh Thought in the Relationship Between Fiqh and the State

Islam is not only a religion related to religious rituals, but Islam also regulates the state. The state will exist with religion and religion will prosper with the support of the state. The relationship between the rulers and the clergy must be maintained properly, so that the process of running a country is in line with what has been outlined by religion.

In several Indonesian state regulations, especially those related to marriage, sometimes there are several articles that are not the same as the rules in fiqh. However, if understood in depth, the actual purpose of state regulations is to provide benefits and protection for the entire nation. In some cases of marriage, where laws are not the same as fiqh rules, Ma`had Aly Situbondo students are often more supportive of following state rules, such as registration of marriages, divorce in court, strict rules regarding polygamy, and the like. If we explore some of the literature on the thinking of the Ulama relating to the relationship between laws and fiqh, several opinions are

found that support the thinking of Ma`had Aly's students. In the Nihayatuz Zain book, for example, it is written,

إذا أوجب الإمام بواجب تأكد وجوبه وإذا أوجب بمستحب وجب وإذا أوجب بجائز ان كانت فيه مصلحة عامة كترك شرب الدخان وجب.

"If the priest (ruler) orders a mandatory case, then the obligation of the case becomes stronger. If he orders a sunnah matter, then it becomes obligatory. If the ruler obliges ja'iz matters, if there is a general benefit in it such as leaving cigarettes, then jaiz matters become obligatory." (Imam Nawawi , 2010)

If for the purpose of public benefit, the state has the right to make any regulations as long as they do not conflict with religious values. Even cases that are originally permissible, if the government makes it obligatory, then the case becomes mandatory. In this case Wahbah az-Zuhaili (Wahbah Zuhaily , 2010) state :

ومن القاعدة الشرعية وهي ان لولي الامر ان يأمر بالمباح بما يراه من المصلحة العامة ومتى امر به وجبت طاعته .

"Among the syar'iiyyah rules that it is permissible for the waliyyu al-amri/ruler to order something permissible based on considerations of the public benefit that he sees. If the government/ruler has ordered it, it must be obeyed (by the people) "

of thinking can be a capital to be able to always maintain good relations between religion and the state. Government rules as long as they do not violate Islamic rules, then it is not a problem to be enacted as law. Every government regulation and legislation needs to be studied through the *maqashid sharia* and *maslahat approach* , not solely studied through fiqh.

Conclusion

After analyzing the data relating to moderate fiqh and religious moderation at Ma`had Aly Situbondo, the following conclusions are obtained: *First*, Characteristics of moderate fiqh which was developed by the students of Ma`had Aly Situbondo was carried out by combining fiqh and ushul fiqh, combining Islamic boarding school and university learning methods. Ushul fiqh is used as a bodyguard so that the law does not shift from *maqashid sharia*. The moderate thinking of Ma`had Aly Situbondo students is not textual, but pays attention to social reality and benefits, so that the legal products are acceptable and in accordance with the benefits of the people. *Second*, Moderate fiqh developed by santri Ma`had Aly Situbondo has a strong relevance to religious moderation . Thoughts of moderation in relations between religious

communities, schools of thought, preservation of traditions and culture, as well as moderation in relations between fiqh and the state can give birth to tolerance, inter-religious harmony, safe from fanaticism, avoiding mutual blaming and misleading and safe from efforts to separate religion and the state.

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