

Mashlahah Fiqh Paradigm of Hasyim Muzadi

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Abstract. This study aims to examine the background of Hasyim Muzadi's *maslahah* fiqh paradigm based on the phenomenon of radicalism and terrorism in the name of Islam. By using a descriptive-analysis method, the results of this study suggest that Hasyim Muzadi's *maslahah* idea suggests various fields of life in terms of the category of *al-mashlahah al-mu'tabarah* as follows: (a) the goal of *fiqh* is mutual respect; (b) the Islamic jurisprudence is based on tolerance. (c) *fiqh* must be open-minded. (d) *fiqh* should seek to fulfill the common goods of *ummah*. Meanwhile, Muzadi's idea of *mashlahah* which is categorized into *al-mashlahah al-mulghah* in which Qur'anic and Sunnah propositions are negotiated between each other in Indonesia can be described as follows: (a) a radical *fiqh* is aimed to establish an Islamic state or *khilafah Islamiyah* in Indonesia; and (b) a terrorist *fiqh* acknowledges acts of violence and bombings in committing an *amar ma'ruf nahi munkar* as in the case of the Bali Bomb.

Keywords: Fiqh, Mashlahah, Radicalism Terrorism

1 Introduction

The dynamics of modern life not only have an impact on human behavior but also have a significant influence on the dynamics of religious life, including Muslims. Muhamad Ngafifi explained that social change affects his social system. Social change is not only limited to the material field but also the spiritual/religious field, both of which have a reciprocal relationship. The rapid social change can trigger social problems because of the mismatch between social elements in the community so that it produces a pattern of community life that is not in accordance with its function [1].

In the context of religious life in Indonesia, Indonesian Muslims have dealt with social problems because during *Orde Baru* era they are marginalized and not involved in socio-political struggles. Their disappointment culminated and resulted in an Islamic radical religious movement. Abdul Mukti Ro'uf argued that Islamic radical movement in Indonesia was inseparable from the issue of the nation-state. The Islamic radical movement had grown since 1980s when there was a policy of de-politicization of Muslims. Therefore, the Islamic radical movement in Indonesia gained momentum after the fall of *Orde Baru* regime. The Islamic radical movement emerged because most Indonesians easily accepted scripturalists' teachings, and at the same time the possible political alliances between scripturalist groups and other social groups were growing with great passion of ambitious politicians in building a mass base.

If the Islamic paradigm (*fiqh*) only relies on text, it will potentially constitute scripturalist Islamic understandings that lead to radical and extreme Islamic movements (read: *al-guluww*

[2], Q.S. al-Kafirun, [109]: 6). One example of the scientific paradigm and the extreme Islamic movement in Indonesia is the *Darul Islam* (DI) movement. In the last decade, there has also been a radical-scripturalism movement that does not recognize the existence of the Pancasila ideology and the Unitary State of the Republic of Indonesia (NKRI) [3].

According to Ridwan al-Makassary and Ahmad Gaus Af, infiltration of radical movements into NU and Muhammadiyah mosques was an early signal of how Islamic radical movements had worked optimally in spreading values and embedded their Islamic radical understanding in the mosque. Culturally and politically, Nahdlatul Ulama and Muhammadiyah organizations are the mainstream of Indonesian Islam which is a representation of the face of Indonesian Islamic moderation in the international world [4].

Islamic radical movements in Indonesia have caused various problems of religious and national life, and it needs immediate attention by offering an alternative to moderate thinking that is based on the principle of *fiqh* thinking as the basis of normative scholarship in Islam. Therefore, the moderate Indonesian Islam presented by Nahdlatul Ulama needs to be a representation of responding to the phenomena of massive Islamic radical movement in the last decade [5].

To respond to the Islamic radical movement, a non-monolithic but cross-border based paradigm of Islamic thinking in *fiqh* is necessary. Likewise, A Syafii Maarif argues that monolithic Islamic thought is inadequate, but must be multi-paradigm of Islamic scholarship, including in the field of *fiqh* [6], [7]. Meanwhile, the scientific paradigm of Islamic *fiqh* which based only on logical jurisprudence will lead to a liberal understanding of *fiqh*. Due to this phenomenon, a study of Hasyim Muzadi's *fiqh* paradigm is important because he has been known as having an ability to integrate both liberal and scriptural-radicalise *fiqh* [8], [9].

The study of KH Hasyim Muzadi's thoughts are considerable, and some of them can be categorized as follows: First, Moh Dahlan's research has resulted that Hasim Muzadi's moderate *fiqh* *ijtihad* paradigm is not only based on Islamic legal texts but also must be affirmed by logical thinking [10]. Secondly, Fuad's research figured out that the background of Hasyim Muzadi's thought in establishing and developing ICIS in 2004, 2006, and 2008 was to set NU into the largest Islamic organization of the world, conducting an *amar ma'ruf nahi munkar* globally through the role of *ulama* [11]. Third, Rasyid's research resulted that according to Hasyim Muzadi, Islam as a religion of grace and peace for the universe needs to be comprehensively and holistically displayed rather than developing Islamic Liberal, Islamic Progressive, Islamic Nusantara and so on [12]. Fourth, Syaiful Anam's research stated that Hasyim Muzadi seeks to return face of Islam and Muslims to be *rahmatan lil 'alamin* after various events of radicalism and terrorism in the name of Islam [13]. Based on the description above, this study attempts to answer the question of why Hasyim Muzadi's *fiqh* paradigm needs to be developed in Indonesia? How does Hasyim Muzadi's principle of *fiqh* benefit be developed in Indonesia?

2 Method

This study uses a descriptive approach to explain Hasyim Muzadi's *fiqh* thought in which his paradigm is based on Imam Al-Ghazali's thought which divides *al-mashlahah* into three levels: First, *al-Maslahah* is recognized or addressed by the texts of the Qur'an and Sunnah or known as *al-Mashlahah al Mu'tabarah*. Second, *Al-Mashlahah* is canceled / not recognized by the texts / theorem of the Qur'an and Sunnah or known as *Al-Mashlahah al-Mulghah*). Third, *Al-Mashlahah* is not found to have a special argument (neither allowed nor disallowed) in the Qur'an or Sunnah or known as *Al-Mashlahah al-Mursalah* [14], [15].

3 Result and Discussion

History of Life and Education of Hasyim Muzadi

Theoretically, socio-cultural conditions have influence on a person's thoughts and attitudes [16]. KH Ahmad Hasyim Muzadi is also inseparable from his socio-cultural background. He was born in Tuban 8 August 1944 from a family of traders and tobacco collectors from Bangilan Tuban. His father, Muzadi, had also studied in Bangkalan Madura under KH Muhammad Kholil. Since childhood, Hasyim Muzadi has a friendly attitude and behavior with anyone regardless of his socio-cultural or economic background. He also likes to make friends with those who are less fortunate or poor and like to share food with his friends. His leadership character has also begun to appear since he was a child. He has learned to work in groups and coordinate his friends to practice *diba'an* and *khitabahan*.

Even though Hasyim Muzadi did not come from a kiai family, he had pursued his career and devotion in the Nahdlatul Ulama (NU), from MWCNU to PBNU. He became Secretary-General of the International Conference of Islamic Scholars (ICIS, 2004-2008), Member of the Commission of Eminent Persons (CEP) Organization of Islamic Conference (OIC) since 2006, Member of the Muslim World League Implementing Assembly since 2006, and President of the World Conference of Religions for Peace (WCRP) since 2006. In the national political stage, he has also been an Indonesian Vice Presidential Candidates in the 2004 elections and was paired with Indonesian Presidential Candidates, Megawati Soekarnopurti. His last position before he died was as a Member of the Presidential Advisory Council starting in 2015 [13], [17]–[20].

The presence of Hasyim Muzadi as Chairman of the PBNU Tanfidziyah has questioned general assumptions that PBNU chairperson must be from kiai's descendants. Aside from being a scholar, he also has a nationalist spirit to build an integration between religion and nationalism. His visit to the United States clarifies his service to Islam and Indonesian nationalism in the global world. During the visit, he explained that Indonesian Muslims are blessed with *rahmatan lil 'alamin* and pluralism, and are down to earth with no connection at all to the network of radical international religious organizations [13].

His educational journey began when he studied Islam and other sciences in Bangilan village, Tuban, East Java. His parents teach him to recite the Qur'an in the mosque near his house, while formal education was undertaken at the Madrasah Ibtidaiyah Bangilan Tuban. After approaching sixth grade, he moved to elementary school in the same village. In 1955, he began his education in Junior High School in Tuban, but not until a year later, he then moved and continued his education at *Kulliyatul Muallimin al-Islamiyah* (KMI) Pondok Gontor Darussalam Modern Darussalam, Ponorogo, East Java, between 1956- 1962. After graduating from Gontor Modern Darussalam, he then continued his undergraduate education at the Sunan Ampel State Islamic Institute of Malang Branch in 1969 [13].

Socio-Cultural-Political Background of Hasyim Muzadi

The Preamble of 1945 Constitution stated that the Republic of Indonesia is a unitary state based on law and has the duty and responsibility to advance public welfare (*al-mashlahah al-'ammah*)[21] by ensuring the realization of a safe, peaceful and harmonious life and actively participating in maintaining world peace. Therefore, the Indonesian government is obliged to preserve and preserve sovereignty and protect Indonesian citizens from various forms of threats and acts of crime both from the country and from abroad. One form of dangerous crime

is an act of terrorism. The terrorist acts of bombing in various regions of Indonesia such as Bali bombing 1 and 2 resulted in lives and property losses, even detrimental in terms of social, economic, political, and relations between Indonesia and international world. The bombing has become a mode of terrorism and a common phenomenon in several countries. Acts of terrorism become more organized and transnational that threaten existence of national and international peace and security. Therefore, appropriate countermeasures are needed by the Government and related parties that are able to deal with terrorism movement [22].

He as an Islamic religious leader and chairman of Tanfidziyah PBNU as the largest Islamic religious organization in Indonesia has an important role in stemming the flow of terrorist movements across countries. At the same time, an effort is needed to convey the principles of fiqh *maslahah* which accommodates the plurality that characterizes Indonesian Muslims to the world. To deal with the proliferation of religious radicalism movements is to prevent oppression and acts of violence between countries as Hasyim Muzadi tried to prevent Bush's aggression against Iraq. Although this mission was not achieved, he had told the world, especially the European Union, that Indonesian Muslims were a religious-pluralist nation who liked peace and harmony in the life of the nation-state. The American aggression against Iraq has led to anti-Bush demonstrations in European countries itself. The wave of demonstrations also spread everywhere, so that Bush's presence in Indonesia was also welcomed with a variety of demonstrations everywhere. According to Hasyim Muzadi, in handling Iraq after the US aggression, all parties must respect the sovereignty of Iraq as an independent state, so that all foreign troops in Iraq must be withdrawn and replaced by United Nations (UN) forces. The United Nations must coordinate for all countries to rebuild Iraq. For leaders and all Iraqis, they should unite and rebuild Iraq after the aggression [17], [20].

Hasyim Muzadi's activity builds international cooperation to achieve *maqsud al-a'dham* (main goal) in order to make a situation in which Indonesian Muslims do not dichotomize between Islam and West. This movement promotes *tawassuth* (moderate) Islamic values throughout the world from all schools of thought and schools of thought. Jurisprudence is urgently needed and also invites Western researchers who have a concern on Islamic studies to understand the current situation of Indonesian Muslims, so that an international relations between Islam, especially NU, and the Western world, are well grounded in *rahmatan lil 'alamin* paradigm. The program of spreading principles of *maslahah* fiqh that carries out the mission of *rahmatan lil 'alamin* needs to be carried out to achieve a goal of building balance relations between the Middle East and the West based on *tawassuth* and *i'tidal* approach.

Likewise, Hasyim Muzadi's visit to Australia aims to express our condolences and make a pilgrimage to the graves of victims of the Bali Bombing I in order to convey to Australians that we Indonesian Muslims adhere to principles of moderate Islam and strongly campaign against terrorism. Indonesian Muslims and Australia citizens also have a strong determination to fight and eradicate acts of terrorism. However, when Australia supported efforts to attack the United States (US) into Iraq, we happened to be in Melbourne with Australians holding a demonstration against the war. The Hasyim Muzadi's visit to Australia implies that Indonesian Muslims have been well recognized, and they have a plan to make regulation of the higher education in Australia and build a cooperation between PBNU and Australia regarding management of Disaster Management Readiness Management in Islamic boarding schools, which require a budget of around 700,000 Australian Dollars or around Rp. 4,000,000,000 (four billion) [17], [20].

Historical Roots of Hasyim Muzadi's *Maslahah* Fiqh Paradigm in Indonesia

The *maslahah* fiqh paradigm was in line with the Prophet's teaching that prioritizes humanist and rational-empirical values. In terms of normative-law, this paradigm has a solid foundation in Qur'an and Sunnah, and possible to be tested by using rational-empirical approach. Normatively, Nurcholish Madjid argues that Islam is humanistic religion and can be a pillar in building the plurality of religious life in Indonesia [23].

The *maslahah* fiqh paradigm is to multiply the values of fiqh law and at the same time try to apply it on an empirical level. Conceptually, the *maslahah* paradigm is aimed at exploring a main message of fiqh law to find the goal of *maqâsid al-syarî* (the purpose of building sharia law) and *asrâr al-syar'î* (secrets of sharia law') [24]. The *maslahah* fiqh paradigm as an *ijtihad* movement was in fact implemented since period of *sahabat* and reached its heyday in the 2nd to the 4th year of Hijriah [25].

The tradition of *ijtihad* in the field of fiqh law was carried out by the Companions of the Prophet and based the Prophet's words. When he was about to send Muadz bin Jabal to Yemen, he asked: what would your answer be if you were asked about a legal problem. Muadz answered: I will answer it with the law in the book of God. If I do not find it, then I will answer with the law contained in the hadith of the Holy Prophet. If I also don't find it, I will resort to *jihad* using my mind while not exceeding the limits. With Muadz's answer, the Prophet was satisfied and patted Muadz's chest [26].

Thus, the scriptural fiqh paradigm needs to be criticized because it has given rise to ignorance in thinking and in applying Islamic legal norms at an empirical level. Criticism of the scriptural fiqh paradigm is necessary to realize the main objective of the existence of fiqh, namely to advance public welfare (*al-mashlahah al-ammah*). The weak point of the scriptural fiqh paradigm can be described in terms of the *ijtihad* paradigm as follows: First, this paradigmatic paradigm concentrates too much on the semantic field by ignoring the role of *sabab al-nuzul*. Secondly, in this scriptural paradigm, the reality is subordinated to the literal sound of the text, so that this paradigm ignores the context (*al-siyâq al-Tarikhi*) [27].

In building a pluralistic religious and religious civilization, Hasyim Muzadi's *maslahah* paradigm is present to provide an alternative way in answering the complexities of Muslim life problems between scriptural fiqh paradigms that tend to be radical and liberal fiqh paradigms that tend to go beyond the limits of reasonableness. These conditions indicate a war of ideas that mislead and justify acts of violence. The debate of schools of thoughts are happening everywhere. One example of a liberal fiqh paradigm that tends to exceed limits of reasonableness is by labeling that prayer or not prayer is allowed. Therefore, Indonesia needs a fiqh paradigm that promotes sincerity and tolerance among people. Good Islam does not depend on 'war of perception' [28].

Likewise, Hasyim Muzadi also initiated the principles of *maslahah* paradigm which emphasizes values of rational-empirical truth by avoiding the misleading problems of human life. Therefore, Muslims need to have an ability to convey truth and rational values to counter the 'war of perception'. Thus, Hasyim Muzadi emphasized that Muslims must not have minds and souls that are easily influenced by various scientific paradigms that lead to violence and crime such as terrorism. Because, when Muslims lose in defending argumentation based on standards of truth, they will be easily trapped in various forms of violence, so Muslims must be able to fight and also reduce the negative effects of wrong perceptions, and at the same time Muslims need to build an atmosphere of life that is pluralist with peace and harmony at both national and international levels [28].

Getting inspired by Abdurrahman Wahid's idea, Hasyim Muzadi's *maslahah* paradigm provides insights into fiqh science that emphasizes the elements of humanity and rationality [29], i.e. *ijtihad* paradigm that inspires and builds one's sincerity based on the depth of knowledge to build a humanist and harmonious life. Thus, the *maslahah* paradigm does not only focused on the passage but also builds thought and scientific insights into fiqh that are able to build social welfare. A mujtahid with his *ijtihad* efforts will get merit, because "*In ahsantum ahsantum li anfusikum*" if you do good to others do not think you are a loss. Truly good deeds to others, you are doing good to yourself".

The *Maslahah* Fiqh Paradigm of Hasyim Muzadi in Indonesia

By using A. Syafii Maarif's idea, *maslahah* paradigm is strongly needed to develop sincerity of people, harmonious and peaceful situation of human life, not compartmentalized and not conflicting with the existence of different schools of thought, except for means to complement shortcomings of each other and to build mutual progress.

The Hasyim Muzadi's fiqh paradigm based on *al-mashlahah al-mu'tabarah* can be described as follows: First, fiqh which teaches mutual respect to Muslims, namely to build mutual acquaintance and mutual understanding between nations and religions so that they can live together peacefully. The life of a pluralistic Indonesian Muslim requires a socially pluralistic order of life because the Indonesian people not only embrace Islam, but also other religions such as Christianity, Hinduism, and others. As a religion of *rahmatan lil 'alamin*, Islamic jurisprudence (fiqh) recognizes the existence of plurality as *sunnatullah*, the function of God's testing on humans, social facts, and social engineering. The plurality of human beings and religious communities as *sunnatullah* has been widely enshrined in the Qur'an (Ar-Rum: 22 and al-Hujurat: 13). The teaching of fiqh of benefit puts plurality or plurality as a conditional condition (*conditio sine qua non*) in the creation of beings.

Secondly, fiqh which teaches tolerance in religious life becomes the majority understanding in Indonesia to build internal harmony and affection of religious communities, so that *maslahah* paradigm becomes the unifying capital of the nation. Therefore, the messages of fiqh *maslahah* must always be socialized to counter negative perceptions about Islam, which are often associated as religious terrorists or radical religious understandings because of acts of terrorists in the name of Islam. The *maslahah* paradigm is based on the Qur'an which calls for peace and affection as stated in Surat al-Hujurat verse 10, which instructs us to look after one another and strengthen the kinship which is also described in the Nahdlatul Ulama religious principle, which consists of three kinds brotherhood (*ukhuwwah*): (a) *ukhuwwah Islamiyyah* which means a brotherhood that grows and develops on the basis of religion (Islam), both on a local, national and international scale; (b) *ukhuwwah wathaniyyah* which means a brotherhood that grows and develops on the basis of nationality; and (c) *ukhuwwah basyariyyah* which means a brotherhood that grows and develops on the basis of humanity.

Third, to build togetherness and harmony in religious life, Hasyim Muzadi asserted that Muslims need to consolidate themselves to fix fiqh understanding to teach open thinking as taught by walisongo who preach in the archipelago who do not use violent methods, but by ways of violence. peace and harmony based on the needs of the surrounding community, not based on the needs of preachers or preachers' perspectives that often appear in various media by spreading fanaticism.

Fourth, the benefit of fiqh that seeks to build a culture that runs on the rails in order to achieve the goal of realizing the passion of the ummah, namely a sincere, sincere, and spirited

Muslim person as a hard and intelligent worker. Thus, fiqh of benefit teaches every Muslim to convey the teachings of fiqh through the path of peace and correct misunderstandings in defining a valid Islam.

The Hasyim Muzadi's fiqh paradigm in explaining the existence of *al-mashlahah al-mulghah* (which contradicts the proposition of al-Qur'an and Sunnah) in Indonesia can be described as follows: First, a radical fiqh paradigm that forces itself to establish an Islamic state or *khilafah Islamiyah* in Indonesia, because the establishment of an Islamic state in Indonesia will only bring decadence not convenience [17], [20], [30], [31]. Radicals want the validity of fiqh teachings through the formation of an Islamic state, even though that is not the case, what is required in a state is not its form, but the development and application of fiqh principles that must be carried out, not fixed on the form of the Islamic state itself. Thus, the radical fiqh paradigm is not in accordance with the arguments of the Qur'an and Sunnah and also not in accordance with the philosophy of life of the Indonesian people based on the ideology of Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD-NRI) [17], [20], [30], [31]. Second, the fiqh paradigm of terrorists who try to commit acts of violence and bombings in committing *amar ma'ruf nahi munkar* as in the case of the Bali Bombing 1 and 2. The fiqh paradigm of the terrorists is contrary to the verses of the Koran which prohibit every human being from bringing down himself in destruction (QS al-Maidah [5]: 32). Likewise, the Prophet's Hadith explains the prohibition of acts of terror. Whoever kills one person without rights, he seems to kill all of humanity. The Prophet's hadith states: "Whoever points his sharp weapon at his brother, the angel will curse him so that he stops" (Muslim HR). Thus, acts of terror or suicide bombing are not permitted in the fiqh because they constitute an act of despair and self-harm. The actions of the terrorists are also contrary to the living tradition of the Indonesian people, which prioritizes harmony and peace in religious, community and national life [17], [20], [30], [31].

4 Conclusion

The existence of religious life problems and transnational Islamic radical movements that have brought a bad image of Indonesian Muslims need to be addressed by building a rival fiqh discourse. This study offers an analysis of Hasyim Muzadi's *maslahah* paradigm which implies a number of solutions in religious and national life in Indonesia as follows: First, Hasyim Muzadi's fiqh based on *al-mashlahah al-mu'tabarah* can be described as follows: (a) fiqh which teaches mutual respect for Muslims; (b) fiqh which teaches tolerance in religious life for majority in Indonesia to build harmony among religious communities. (c) fiqh which teaches open-minded thinking as taught by walisono who preach in the archipelago. (d) fiqh which seeks to build a culture that runs on its tracks in order to achieve the goal of realizing the passion of ummah. Secondly, the fiqh of the benefit of Hasyim Muzadi in explaining the existence of *al-mashlahah al-mulghah* (which contradicts the propositions of the Qur'an and Sunnah) in Indonesia can be described as follows: (a) a radical fiqh paradigm which forces itself to establish an Islamic state or Islamic caliphate in Indonesia and (b) the terrorists fiqh paradigm who tries to commit acts of violence and bombings in committing an *amar ma'ruf nahi munkar* as in the case of the Bali Bombing 1 and 2.

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