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The Ideas and Thoughts of Ibrahim Hosen on Indonesian Fiqh

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Abstract: Ibrahim Hosen was a prominent religious figure and Islamic legal thinker in Indonesia who focused intensely on the field of *fiqh* (Islamic jurisprudence). His ideas and thoughts aimed to assimilate national law with Islamic law so that the two legal systems would not contradict each other. However, some of his views were often considered controversial and deviated from the general understanding of mainstream *ulama* (Islamic scholars). Ibrahim Hosen applied a method of *ijtihad* (independent legal reasoning) that prioritized rationality in formulating Islamic legal rulings. The concept of Indonesian *fiqh* should ideally accommodate all interests in order to achieve just and equitable laws. Society should be given the freedom to choose their own *madhhab* (school of thought), while the government should adopt a neutral stance and embrace all groups to prevent religious discord.

Keywords: *Ideas, Thoughts, Ibrahim Hosen, Fiqh, Indonesia*.

A. Introduction

The plurality of human intelligence as a social community holds great potential in generating varied and diverse understandings of a particular subject of study. This phenomenon of intellectual diversity is a logical consequence of the ever-evolving nature of intellectual dynamics.

The realm of intellectual understanding referred to here is that of rationalists, who tend to rely on logical reasoning, as opposed to the understanding of *fuqaha* (Islamic jurists), who tend to approach matters from a more religious standpoint. Based on this difference in perspective between rationalists and *fuqaha*, the essential issue that must be empowered is the development of human resources who possess both rational and religious capabilities simultaneously. (Satria Effendi, 1996)

Objective conditions indicate that empowering rational capabilities alone, without incorporating religious elements, will result in incompleteness. Conversely, if only religious capabilities are developed, it will lead to stagnation. This assumption aligns closely with the statement: *"Science without religion is blind, religion without science is lame."* In other words, science, whose fundamental instrument is reason, cannot achieve much without the support of religion, while religion will become stagnant if not supported by reason. (Ahmad Basyir, 1991)

Therefore, it is necessary to sublimate the potential of reason and religion into an integral force capable of producing a complete human being who, in turn, is able to respond to various contemporary socio religious issues. One figure who was able to sublimate the potentials of reason and religion is Ibrahim Hosen. His ability to achieve this synthesis enabled him to emerge as a central figure who could reflect his reformist ideas in a highly responsive and anticipatory manner.

Born in Bengkulu on January 1, 1917, Ibrahim Hosen was an Indonesian Muslim scholar with broad intellectual insight. He can be categorized as a central figure with a highly representative level of scholarly competence, as evidenced by his extensive professional and academic experience. His experiences included serving as a bureaucratic academic, a religious scholar (*ulama*), and more.

Ibrahim Hosen was an alumnus of Al-Azhar University, Cairo, Egypt, where he studied in the Faculty of Sharia. He held several significant positions, including serving as a staff member at the Ministry of Religious Affairs of the Republic of Indonesia (1961–1977), Rector of IAIN Raden Fatah (1964–1966), expert staff to the Minister of Religious Affairs (1971–1982), Rector of PTIA Jakarta (1971–1977), and Chairman of the Fatwa Commission of the Indonesian Ulema Council (MUI) in 1986.

B. Methodology

This research is a qualitative study that examines and analyzes literature-based data related to the subject under investigation. The primary data used in this study is drawn from literature concerning Ibrahim Hosen's ideas and thoughts on *fiqh* in Indonesia, from which conclusions are then derived.

C. Findings and Discussion

1. Ibrahim Hosen's Ideas and Thoughts on Indonesian Fiqh

The ability or inability of a person's way of thinking essentially reflects the outward expression of their true identity. In this context, when Ibrahim Hosen emerged with his broad intellectual insight in the field of Islamic law, it clearly illustrated that he was a Muslim intellectual with promising and forward-thinking ideas in the realm of *fiqh*. Some of his notable thoughts are as follows:

When there is an effort to apply Islamic law in social life, the most urgent agenda that must be prepared is the establishment of a clear vision and mission. To achieve this goal, a

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comprehensive understanding of the position and relationship between *sharia* and *fiqh* is essential.

According to Ibrahim Hosen, some verses of the Qur'an are clear, definite in their legal implications, and not open to interpretation or *ta'wil*. These verses are categorized as having *qath'iy al-dalalah* (explicit and certain meaning), and it is from such verses that the legal rulings of *sharia* are derived. The implementation of these particular verses within Islamic law is referred to as *sharia*. (Munawir Sadzali, 1995)

In general, *fiqh* and its associated problems can be classified into several integral components. These components have significant potential to influence the substance of *fiqh* rulings themselves. The components in question include the following:

2. Temporary Truth

The truth of *fiqh* derived from *ijtihad* is, by consequence, relative in nature. This is because *ijtihad* is the result of a *mujtahid*'s intellectual construction in their effort to extract legal rulings from the Qur'an and the Hadith of the Prophet (peace be upon him). Therefore, *fiqh*-based rulings are either erroneous or possibly correct but not absolutely certain. Hence, *ijtihad* is not permissible regarding *nass* (text) that is *qath'i fi jami' al-ahwal* (definitive in all situations). However, *ijtihad* is permissible on texts that are *qath'i fi ba'd al-ahwal* (definitive in some situations).

3. Diversity in Legal Rulings

Fiqh rulings, as the intellectual product of *mujtahids*, are heavily influenced by their cultural background, worldview, and level of scholarly expertise. As a result, the *fiqh* produced by one *mujtahid* may differ from that of another due to these differing contexts.

Therefore, in order to reduce differences in opinion among *mujtahids* regarding their *fiqh*-based conclusions, it is crucial to master a wide range of disciplines that are integrally related to the field of *fiqh*. With such a scholarly foundation, it is expected that the legal reasoning (*fiqhiyah*) produced will be more valid and well-substantiated. Although differences of opinion among *mujtahids* are common, Ibrahim Hosen viewed *ijtihad* as an effective means of preserving Islamic law. Thus, variations in *ijtihad* outcomes are something that should be tolerated.

4. Elastic and Non binding

Fiqh law, as a result of *ijtihad*, should not be static or rigid, as the logical consequence of *fiqh* is its elasticity and dynamism. Therefore, its application must be conditional, in accordance with the demands of the time or the society that is its audience. This is where *ijtihad* becomes important: to select the *fiqh* rulings from a particular school of thought (*madhhab*) that is most appropriate, based on the benefit it brings to society. Approaches like this, in principle, are effective steps for Islamic law to stay up-to-date, meaning it can follow societal developments.

Thus, it is neither rational nor religiously justified to be bound to a single *madhhab*, because the *fiqh* produced by a particular *madhhab* at a certain time may not be compatible with the *fiqh* of another time or *madhhab*. For this reason, *mujtahids* prohibit us from merely following them.

Based on the *fiqh* issues above, a responsive attitude is required namely, re-actualizing the legal rulings of past *fuqaha* that may no longer be relevant to modern times. To address this, the following steps can be taken:

a. Ijtihad

Ibrahim Hosen equates *ijtihad* with the term *istinbath*, which means to extract something from its concealment. Therefore, *ijtihad* or *istinbath* the effort to extract the legal rulings hidden in the Qur'an and Sunnah should be pursued, with the understanding that it must meet certain conditions.

While Ibrahim Hosen allows *ijtihad*, it should not be performed arbitrarily. It is important to recognize that although the door to *ijtihad* remains open, it is only open to those who meet the requirements. Therefore, for those who do not meet these criteria, the possibility of *ijtihad* is certainly closed in all its forms. (Ibrahim Hosen, 1994)

Acknowledging the rarity of qualified *fuqaha* (Islamic jurists) today, there are two areas that can be subject to *ijtihad*: first, *ijtihad* in the field of *tarjih* (selecting from the *ijtihad* of past scholars), and second, *ijtihad* on specific cases that have not yet been discussed or legally determined by the past *aimmat al-mujtahidin* (leaders of *ijtihad*).

According to Ibrahim Hosen, *ijtihad* can be conducted individually or collectively. However, if the legal status of the *ijtihad* is intended to carry more weight, it is preferable to conduct it collectively. (Ibrahim Hosen, 1971)

b. Taqlid

According to Ibrahim, blind *taqlid* (following without understanding) is not a commendable attitude. Therefore, the effort to understand something through reasoning is considered praiseworthy. However, not everyone is capable of reasoning or performing *ijtihad*. For those who are not capable, *taqlid* is permissible, and *ijtihad* is prohibited.

On the other hand, for those who meet the qualifications to be a *mujtahid*, it is obligatory for them to perform *ijtihad*, and they are not permitted to follow the opinions of other *mujtahids* through *taqlid*. Based on this, Ibrahim Hosen argues that it is incorrect to claim that *ijtihad* is obligatory and *taqlid* is forbidden. (Ibrahim Hosen, 1993)

c. Talfiq

There are two opinions regarding *talfiq* (the act of shifting or not shifting from one *madhhab* to another). According to Ibrahim, no *nass* (text) from the Qur'an or Sunnah has been found to indicate a prohibition or an obligation to adhere to one or multiple *madhhabs*. However, he argues that if someone is required to be strictly bound to a specific *madhhab*, this would complicate matters for the Muslim community and would not align with the general principles of Islamic law.

5. Understanding the Law of Qath'i

In classifying *nass* (texts), Ibrahim Hosen acknowledges that the rulings contained in *nass* that are *qath'i* (definitive) are absolute and cannot be questioned. This, according to him, is in line with the principle: *la ijtihad fi muqabalati al-nass al-qath'i* (no *ijtihad* is allowed against definitive *nass*). However, he argues that if a ruling cannot be changed, it will become rigid.

To anticipate the rigidity of such laws, Ibrahim Hosen divides *nass* into two categories: 1) *Qath'i fi jami' al-ahwal* (definitive in all circumstances) and 2) *Qath'i fi ba'di al-ahwal* (definitive in some circumstances). According to him, what cannot be subjected to *ijtihad* is the *nass* that is *qath'i fi jami' al-ahwal*. On the other hand, *nass* that is *qath'i fi ba'di al-ahwal* can be open to *ijtihad*.

Nass that is *qath'i fi ba'di al-ahwal*, in its application, must be divided into two parts/categories: 1) the fundamental law or the textual meaning, and 2) the secondary law or the contextual meaning. To support this argument, he provides the example that eating pork is forbidden by the original law, i.e., in circumstances where there are other options. However, in situations of necessity (*darurah*), the secondary law applies, permitting the consumption of pork. He further presents the principle: *al-daruratu tubihu al-madhurat* (necessity makes the forbidden permissible).

In relation to *qath'i fi jami' al-ahwal*, he provides examples such as the number of *raka'at* in prayer and the number of *tawaf* around the Ka'bah, which remain unchanged throughout time. This means that there is no distinction between the first and second laws in such cases. These are examples of laws that cannot be altered and are applicable throughout all time.

6. Domestic Law

In addressing the issue of national law in the Republic of Indonesia, Ibrahim Hosen states that, according to the Qur'an, Surah An-Nisa (4): 59, all laws and government decisions must be obeyed as long as they do not contradict religion. This aligns with the principle *la ta'ata li makhluqin fi ma'ziyati al-khaliq* (there is no obedience to a creature in disobedience to the Creator).

According to him, national law, when viewed from the perspective of its makers, sources, and methods of establishment, cannot be categorized as Islamic law. However, despite this, such laws must be obeyed, even if they are not explicitly mentioned in the Qur'an and Sunnah. Furthermore, even if they literally contradict the Qur'an and Sunnah, they should still be adhered to, provided that the spirit and essence of the law do not contradict the spirit of the Qur'an. (Ibrahim Hosen, 1995)

Regarding national law, Ibrahim Hosen asserts that *fiqh* is a product of *ijtihad* and, therefore, is not binding in an absolute sense. Every Muslim is free to choose the opinion that aligns best with their context and the greater public good (*maslahah*). However, in order to preserve harmony and unity in religious practices particularly in matters concerning social interactions the nature of *fiqh* requires the intervention of the government as a regulatory authority. This is intended to prevent disputes and confusion. This statement is based on the legal maxim that "the decision of the government is binding and eliminates conflict."

D. Conclusion

Ibrahim Hosen was a prominent Indonesian scholar and religious figure with broad insights, particularly in the field of Islamic law (fiqh). He advocated for the encouragement of *ijtihad* as a means to revitalize and contextualize Islamic law in Indonesia. He was a scholar with profound knowledge, as reflected in the legal ideas and fiqh concepts he formulated.

In implementing the reform of Islamic law in Indonesia, Ibrahim Hosen classifies *nash* (textual sources) into *qath'i* (definitive) and *zanny* (speculative). According to him, *qath'i* texts must be applied as they are, while *zanny* texts serve as a field for *ijtihad*. Nevertheless, he further divides *qath'i* into two categories: *qath'i fi jami' al-ahwal* (definitive in all circumstances) and *qath'i fi ba'di al-ahwal* (definitive in certain circumstances). The former cannot be subjected to *ijtihad*, whereas the latter may still allow for jurisprudential interpretation (*fiqh*).

Ibrahim Hosen argues that even if a regulation has been enacted by the government, it may not qualify as Islamic law in terms of its sources or method of legislation. However, such a regulation must still be obeyed as long as it does not contradict the spirit of the Qur'an and Sunnah. The outcome of an *ijtihad* process is not binding in terms of its implementation or adherence. Based on this principle, there is no prohibition against switching from one *madhhab* to another. Such a choice is entirely up to the individual concerned.

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