

**DYNAMICS OF CONTEMPORARY FATWA IN THE SOCIAL
CONTEXT OF NATIONALITY:
A Study of the Thought of Sahal Mahfudz and Yusuf Al-Qaradawi**

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Abstrak: Penelitian ini bertujuan untuk menelaah fatwa-fatwa Islam kontemporer melalui perspektif fikih sosial kebangsaan, dengan menggunakan pendekatan studi pustaka sebagai metode utama. Fokus kajian ini secara khusus menyoroti pemikiran KH. Sahal Mahfudz dan Yusuf al-Qardhawi, dua tokoh yang merepresentasikan pendekatan penting dalam pembaruan fikih agar lebih relevan dengan dinamika sosial dan politik masa kini. Temuan menunjukkan bahwa fikih sebagai hasil ijtihad bersifat dinamis dan dituntut untuk terus menyesuaikan diri dengan perkembangan zaman, terutama dalam konteks negara-bangsa yang kompleks dan global. Konsep fikih sosial yang digagas KH. Sahal Mahfudz menggarisbawahi pentingnya menjadikan kondisi sosial sebagai pijakan utama dalam merumuskan fatwa, sedangkan gagasan fikih realitas dari Yusuf al-Qardhawi menekankan urgensi harmonisasi antara teks keislaman dan realitas sosial untuk menjaga relevansi hukum Islam. Keduanya berpandangan kritis terhadap sikap fanatisme mazhab dan sama-sama mendorong pendekatan fikih yang moderat dengan landasan maqasid al-syari'ah yang bernilai etis dan filosofis. Secara keseluruhan, penelitian ini menekankan perlunya transformasi paradigma fikih dari pendekatan tekstual-normatif menuju model fikih sosial kebangsaan yang lebih kontekstual, solutif, dan responsif terhadap tantangan era modern.

Kata Kunci: Fikih sosial, Fatwa Kontemporer, Maqasid Syari'ah

Abstract: This research aims to examine contemporary Islamic fatwas through the perspective of national social fiqh, using a literature study approach as the main method. The focus of this study specifically highlights the thoughts of KH Sahal Mahfudz and Yusuf al-Qardhawi, two figures who represent an important approach in the renewal of fiqh to be more relevant to today's social and political dynamics. The findings show that fiqh, as a result of ijtihad, is dynamic and is required to continue to adapt to the times, especially in the context of a complex and global nation-state. The concept of social fiqh initiated by KH Sahal Mahfudz underlines the importance of making social conditions the main footing in formulating fatwas, while the idea of fiqh reality from Yusuf al-Qardhawi emphasizes the urgency of harmonization between Islamic texts and social reality to maintain the relevance of Islamic law. Both have a critical view of the fanaticism of the madhhab and both encourage a moderate approach to fiqh based on maqasid al-syari'ah which has ethical and philosophical value. Overall, this study emphasizes the need for a transformation of the fiqh paradigm from a textual-normative approach to a more contextual, solutive, and responsive model of national social fiqh to the challenges of the modern era.

Keywords: Social Fiqh, Contemporary Fatwa, Maqasid Shari'ah

INTRODUCTION

Indonesia is a Muslim-majority country with the largest population in the world. Nationalism with religious nuances is the main characteristic of this nation, which has been deeply rooted in various aspects of life. Religious values cannot be separated from the soul of the Indonesian nation. Therefore, people's need for the role of religion in every aspect of life is unavoidable. In carrying out various activities, people really expect religious guidance. Herein lies the relevance and importance of the existence of fatwa institutions in providing guidance to the people towards a life that is favored by Allah and His Messenger (Ma'mur 2018).

Etymologically, fatwa means explanation or illumination. While terminologically, a fatwa is an explanation of sharia law given on a problem submitted by an individual or group (Muh. Nashirudin 2017). From this definition, fatwa has two main characteristics. First, a fatwa is responsive, which is issued in response to questions or requests related to a particular event or case. Second, a fatwa is not binding; the party requesting the fatwa is not obliged to comply with it. Thus, fatwas are different from court decisions that have binding legal force (Adiyes Putra, Suparmin, and Anggraini 2022).

In the context of Indonesia and the Islamic world in general, fatwas are not only an instrument of religious law, but also a response to socio-political dynamics (M. Marwan Jaya Putra 2025). Along with the changing times, there is a need to interpret Islamic law in a more contextual and

applicable manner, especially in the social realm of nationality. According to Kiai Abdurrahman Wahid, the problems of human life that continue to develop over time and changing times, making the needs and benefits of human life also change (Deni Wahyu 2023). These rapid social changes pose serious challenges for modern society to Islamic law (fiqh), especially in responding to national issues such as democracy, pluralism, human rights, and social justice (H.B. Syafuri 2025).

Thus, it is very rational if fiqh law also changes according to the dynamics of human life and the demands of the benefit. This shows that the context of space and time greatly influences the development of fiqh law carried out by scholars. This approach is known as social fiqh or national fiqh which seeks to present Islamic law in the dimensions of society, state and civilization.

Fatwa is a legal answer to the problems of Muslims that continue to develop along with the dynamics of the times. In the modern era, Muslims face social, economic, political, and national challenges that are far more complex than the classical era. This condition raises the need for fatwas that are more contextual and in favor of the people's interests. Unfortunately, the classical fiqh approach that tends to be legalistic and normative is often unable to answer social issues as a whole. Therefore, a social fiqh approach is needed, which is a way of Islamic thinking that makes social reality the main ingredient in the process of legal *istinbat*. This approach does not replace classical fiqh, but rather develops its function

to make it more relevant in the life of society and the nation.

KH Sahal Mahfudz and Dr. Yusuf al-Qaradawi are two important figures who emphasize the importance of the contextual fiqh approach in responding to the challenges of the people and the nation. This article will analyze the contribution of their thoughts and provide examples of contemporary fatwa in the social realm of nationality.

This research distinguishes itself by focusing on the contribution of KH Sahal Mahfudz and Dr. Yusuf al-Qaradawi to the development of contextual fiqh that addresses contemporary challenges in the social and national contexts, particularly in Indonesia. While existing studies tend to focus on classical fiqh or general discussions about Islamic law, this research specifically explores how these two prominent figures have contributed to Islamic jurisprudence that is responsive to issues like democracy, human rights, and social justice in modern nation-states. Their innovative fatwas highlight how Islamic law can evolve in response to the shifting social and political landscapes, making it more applicable and practical for modern society.

The novelty of this research lies in its comparative analysis of the contextual fiqh approaches of KH Sahal Mahfudz and Dr. Yusuf al-Qaradawi, and their contributions to addressing the challenges of a modern, pluralistic society. By examining their fatwas on issues like democracy, social justice, and human rights, the study offers new insights into how Islamic law can be applied in a way that is both relevant and

responsive to the needs of the people in the national context. Additionally, this research contributes to the broader discourse on the relevance of Islamic law in modern governance by exploring how *ijtihad* (legal reasoning) can be used to adapt to contemporary societal changes, making the findings highly relevant to current debates in both the Islamic world and Indonesia.

METHODS

This research uses a type of library research with a qualitative approach that aims to analyze the dynamics of contemporary fatwa in the social context of nationality, focusing on the thoughts of KH. Sahal Mahfudz and Dr. Yusuf al-Qaradawi. The qualitative approach was chosen because this research aims to explore and understand the meaning contained in the works of the two figures, as well as to explore how their thoughts are related to social fiqh and responses to national challenges.

Primary data sources used in this research are the original works of the two figures, including books, articles, fatwas, and other writings published by KH. Sahal Mahfudz and Yusuf al-Qaradawi. Secondary data sources are literature that examines their thoughts, analysis from experts, and scientific studies related to social fiqh and contemporary fatwas. Researchers will examine these texts to identify key themes related to the application of social fiqh in the socio-national context.

The research steps begin with the identification and selection of relevant

primary data sources, then data collection is carried out through literature review of the works of the two figures. The data obtained will be analyzed using thematic analysis, to identify the main concepts in their thoughts on social fiqh and responses to national issues. In addition, a comparative analysis will be conducted to compare the contextual fiqh approaches proposed by both in responding to social issues, such as pluralism, democracy, and human rights. With this approach, the researcher hopes to uncover the differences and similarities in their thoughts, as well as their relevance in the context of Islamic law in the modern world.

In the data collection process, the researcher will select texts that have high credibility and relevance to the research theme. The data collection technique used is documentary analysis, focusing on written works produced by both figures, as well as scientific journals that discuss the contribution of their thoughts to social and national fiqh. The data will be verified by comparing several sources that support each other, to ensure the validity and accuracy of the information obtained.

The data analysis technique used is thematic analysis, in which the researcher will search for and categorize key themes that appear in the works examined. Comparative analysis will be used to compare the views of KH Sahal Mahfudz and Yusuf al-Qaradawi regarding the application of social fiqh and how these two figures respond to social and national dynamics. Data validity assurance is carried out through source triangulation, namely by

comparing views from several different sources to ensure consistency and reliability of findings. In addition, the data obtained will also be checked for suitability and applicability in the broader national context.

This research is limited to analyzing written texts relevant to the topic of social fiqh and contemporary fatwas, without involving empirical data or direct interviews. However, with this approach, it is expected to provide a deeper understanding of the contribution of KH. Sahal Mahfudz and Yusuf al-Qaradawi's thoughts in developing social fiqh that is responsive to social and national needs in the Islamic world today.

RESULTS AND DISCUSSION

Framework of National Social Jurisprudence

As the result of the *ijtihad* process, fiqh is a dynamic discipline that must continue to develop in line with the changing times and the needs of modern society (Aulia 2023). In individual practice, the application of fiqh usually does not cause many problems. However, when fiqh is implemented in a space involving authority or power, its complexity increases significantly. This problem becomes even more complicated when the context of power is a modern government system in the form of a nation-state. This is because the people in the nation-state system automatically become part of a global community consisting of various countries with mutual dependence.

Therefore, in dealing with these issues, national social fiqh guided by the principle of *maqasid al-syari'ah* that has been compiled by scholars is considered worthy of being prioritized in answering global issues

(Asmuni and Firman 2022). Because the formulation of maqasid al syar'iah, as defined by the scholars, basically seeks to explain what Allah's purpose is in sending down shari'a so that the study is more philosophical, substantive and universal. Maqasid al-Syari'ah includes five main objectives, namely: protecting religion, protecting the soul, protecting the mind, protecting offspring and protecting property (Syarif 2023).

KH. Sahal Mahfudz and Social Jurisprudence

KH Sahal Mahfudz was born on February 16, 1933 in Kajen Village, Maroyoso District, Pati Regency. Kiai Sahal is a descendant and spouse of KH. Mahfudh bin Adus Salam and Nyai Badi'ah. Kiai Sahal's father is the younger cousin of KH. Bisri Syamsuri, a prominent scholar and one of the founding figures of the highly respected Nahdlatul Ulama (NU). Meanwhile, Kiai Sahal's wife, Dra. Hj Nafisah, is the granddaughter of KH. Bisri Syamsuri. Thus, Kiai Sahal has a strong lineage from among the ulama, both on his father's, mother's and wife's sides, all of whom come from large kiai families (Rasyid 2021).

Kiai Sahal is the third of six children. Since childhood, he grew up and was raised in a pesantren environment. In other words, from an early age he has been educated by his parents in thick religious nuances. His religious education began at his father's pesantren, then continued to several well-known pesantren such as Pesantren Bendo in Pare, Kediri, and Pesantren Sarang in Rembang. He also studied in Makkah under Sheikh Yasin al-Fadani. In 1963, after the death of his father, Kiai Sahal continued the

leadership of Pesantren Maslakul Huda in Kajen.

In the world of religious organizations, Kiai Sahal played an important role, especially within Nahdlatul Ulama (NU). He served as Rais Aam Shuriah of PBNU from 1999 to 2014. In addition, he was also trusted as Chairman of the Indonesian Ulema Council (MUI) from 2000 until the end of his life. Kiai Sahal is known as a wise and careful scholar in delivering fatwas, and has advanced thinking in developing social fiqh.

KH. Sahal Mahfudz's social fiqh departs from the social conditions of the Kajen community, which is predominantly Muslim and devoutly religious, but they live as a poor community. The absence of yard land and full houses make the Kajen community unable to grow crops. This socio-political situation made Kiai Mahfudz think of advancing the economy of the Kajen community to be more prosperous by building entrepreneurship and placing social fiqh as a religious approach that makes the reality of society the main footing in making a fatwa (Muhammad Riyadi 2024).

Kiai Sahal's idea to make fiqh a tool for social change strengthens Kiai Sahal's commitment to formulating the concept of social fiqh. This concept departs from the belief that efforts to overcome social problems such as poverty, ignorance, and environmental damage are an inseparable part of the obligations of Islamic law. As a religious teaching, fiqh cannot be separated from social dynamics and various problems that arise in society. Therefore, the renewal and refreshment of ijtihad is a necessity. Without a continuous process of reasoning,

analysis and *ijtihad*, Islamic law risks stagnating and losing its relevance. Without *ijtihad*, it is also difficult to realize Islamic values that are moderate (*tawasuth*), balanced (*tawazun*), dynamic, and universal (Putri Qurrata A'yun 2022).

Kiai Sahal's *fiqh* thinking is heavily influenced by his anxiety about the dominance of a formalist *fiqh* mindset, namely the application of *fiqh* theories which are only based on understanding the text alone without paying attention to social or contextual realities. Similar anxiety was also felt by the community, who felt less free with a rigid and textualist approach to *fiqh*. From here the idea of contextual *fiqh* was born as an alternative that is more responsive to social dynamics. The term used is quite inclusive, namely social *fiqh*, which reflects a *fiqh* approach that considers the social conditions of society but remains grounded in the textual foundations of Islam (Rusli 2021).

KH Sahal Mahfudh's social *fiqh* has five prominent characteristics including: First, reinterpretation is always sought in studying *fiqh* texts to find new contexts. Second, the meaning of *madzhab* changes from textual *madzhab* (*madzhab qauli*) to methodological *madzhab* (*madzhab manhaji*). Third, the fundamental verification of which teachings are main (*ushul*) and which are branches (*furu'*). Fourth, *fiqh* is presented as social ethics, not as positive state law. Fifth, the introduction of philosophical thinking methodologies, especially in cultural and social issues (KH. MA. Sahal Mahfudh 2011).

Yusuf al-Qardawi and Reality Jurisprudence

Yusuf al-Qaradawi was born on September 9, 1926 in the village of Shafat Thurab, located in the western region of Egypt (Ahmad Muzakki 2024). This village has historical value because it is the final resting place of one of the companions of the Prophet Muhammad, namely Abdullah bin Harith r.a. Yusuf al-Qaradawi came from a religious family. When he was only two years old, he lost his father and has since been raised by his uncle, who is his father's sibling (Putra and Rumondor 2020).

From an early age, al-Qaradawi has shown brilliance in religious knowledge. Before turning 10 years old, he managed to memorize the entire Qur'an. His formal education began from Ma'had Thantha and Ma'had Tsanawi, then continued to the Faculty of Ushuluddin al-Azhar University, Cairo. He earned his doctorate degree in 1973 with a dissertation entitled *Zakat and its Effect in Overcoming Social Problems*, which was later published and translated into various languages, including Indonesian (Ismail and Aisyah 2024). Dr. Yusuf al-Qaradawi passed away on September 26, 2022 at the age of 96. Despite his passing, his thought lives on through his important works, especially in the fields of contemporary *fiqh* and Islamic economics. Some of his famous works in the field of Islamic economics are *al-Halal wal-Haram fil Islam* and *Dawr al-Qiyam wal - Akhlaq fi al-Iqtisad*.

Yusuf al-Qaradawi is a contemporary scholar who is widely recognized for his moderate and contextual approach in issuing fatwas. Yusuf al-Qardhawi's idea of reality

fiqh stems from his life experience in the midst of a society that from the beginning was very fanatical about one particular school of thought. This fanaticism made them reluctant to refer directly to the Qur'an and Sunnah, and ignored maqāṣid al-shari'ah and the ongoing social conditions at that time. This situation prompted al-Qardhawi to seek a new approach in fiqh, so that fiqh becomes more flexible and relevant to the circumstances of the times. Because, according to him, fiqh in his childhood seemed like something "dead" only stopped as a written theory without any effort to understand or respond to the dynamics of real life (Ipandang 2019).

Texts are basically not born separately from the context, but rather emerge along with the development and changes of the times. Therefore, texts have a broad meaning, encompassing teachings that are connected to the historical experience of humanity. This historical fact shows a close reciprocal relationship between the texts of the Qur'an, Hadith, and the social reality of society. Therefore, the existence of text and context cannot be separated, but must be harmonized systematically. This is because the laws revealed by God aim to realize human benefit and welfare (Makhrus 2019). Thus the characteristics of Yusuf Al-Qardawi's fiqh are: not fanatical and not taqlid, providing convenience, speaking to humans in the language of their time, being in the middle: between obtaining and tightening and the last is realistic.

Yusuf al-Qaradawi, as one of the leading contemporary scholars, expressed the view that fiqh law should be able to adapt to the ongoing social dynamics. Thus, fiqh does

not become rigid or stagnant, but remains relevant and responsive to various actual problems faced by Muslims today. Therefore, ijtihad and a contextual approach to fiqh texts are very important so that Islamic law remains functional in responding to the challenges of modern times (Abidin 2021).

Departing from this thought, al-Qaradawi formulated an approach in the field of fiqh known as fiqh of reality (fiqh al-waqi'), which is a form of fiqh that seeks to adapt to the real and actual social conditions in the lives of Muslims. The main goal is that the teachings of Islam can be understood more easily and applied effectively by the community.

Contemporary Fatwas in the National Social Context: Fatwa on Democracy by Yusuf al-Qaradawi (1991)

In a fatwa issued by Yusuf al-Qaradawi in 1991, there was a debate about democracy and its relevance to Islamic teachings. Some Muslims, especially those associated with certain organizations, argued that democracy is contrary to the principles of Islam. They cite the views of some scholars who state that democracy is an infidel system of government, because according to them, in democracy, the people are the holders of power and determinants of law, while in Islam, only Allah has the right to determine the law (al-An'am: 57). They also equate this understanding with the view once expressed by the Khawarij group which was later refuted by Caliph Ali bin Abi Talib, which states that the true sentence is often used for falsehood.

Yusuf al-Qaradawi responded to this by criticizing the views that oppose

democracy in a hurry. According to him, democracy fought for by many countries in the world, both in the East and in the West, is the result of a long struggle against tyranny and dictatorship. Democracy, according to al-Qaradawi, is not a form of disbelief, but a system that allows people to choose the leaders they want and be accountable for that leadership. The essence of democracy, says al-Qaradawi, lies in the principle that people have the right to elect and replace leaders, and can criticize them if they do wrong. Democracy also gives people the freedom to choose the economic, social and political systems they want, which in his view, are in accordance with the principles of Islamic law that prioritize justice and the benefit of the people.

The fatwa affirms that democracy, in its moderate sense that does not contradict the basic principles of Islam, is acceptable within the framework of Islamic law, provided that it does not deviate from Islam's main objective of safeguarding the benefit of the people and social justice. Thus, Yusuf al-Qaradawi rejects a view that is too rigid and extreme towards democracy, and invites Muslims to be more open in understanding the social and political contexts that develop in the modern world.

National Social Jurisprudence KH Sahal Mahfudz: Fatwa on the Role of Religion in Democracy

One example of national social fiqh issued by KH Sahal Mahfudz relates to the role of religion in Indonesia's democratic system. As a cleric who is known to be moderate and has a deep understanding of Islamic law and the socio-political context,

KH. Sahal gave a fatwa affirming that democracy as a system of government does not contradict Islamic teachings. This fatwa was issued in order to answer the doubts of some Islamic groups who view democracy as an ideology that is contrary to the principles of Islamic law.

In the fatwa, KH Sahal Mahfudz emphasized the importance of the principle of shura (deliberation) in Islam, which is actually in line with the basic concept of democracy, namely people's participation in decision-making. According to KH Sahal, in a democracy, decisions made for the benefit of the people must reflect social justice and the benefit of the people, which are also part of the main objectives of maqasid al-syari'ah (the goals of Islamic law). He emphasized that democracy, with the principle of deliberation that prioritizes dialogue and consensus, actually provides space for the application of Islamic values in state life, such as justice, welfare and freedom.

In addition, KH Sahal also emphasized that social fiqh must be adapted to the social and political conditions in Indonesia, which is a country with a majority Muslim population, but also multicultural. Therefore, this fatwa is very relevant to the context of Indonesia as a democratic country with religious, ethnic and cultural plurality.

This fatwa shows KH. Sahal Mahfudz's contextual approach to Islamic law that does not only prioritize textual aspects, but also considers social and national realities. Thus, the social fiqh of nationality proposed by KH. Sahal emphasizes the importance of harmonization between Islamic principles and democratic

values, as well as the need for *ijtihad* that continues to develop to ensure that Islamic law remains relevant to the social and political dynamics of the times.

CONCLUSIONS

This research emphasizes that *fiqh* as a product of *ijtihad* cannot be separated from the demands of the times that continue to develop. In the context of modern nation-states full of social complexity and global interconnection, *fiqh* is required to be present adaptively and transformatively. KH Sahal Mahfudz's thinking through the concept of social *fiqh* makes an important contribution in making social reality the main footing in making a fatwa. This approach not only expands the function of *fiqh* from just legal norms to social ethics, but also emphasizes the importance of *maqasid al-syari'ah* as a philosophical and contextual framework in answering the problems of the people. Similarly, Yusuf al-Qardhawi through the idea of reality *fiqh* argues that integration between text and context is an absolute requirement for Islamic law to remain relevant and solutive to contemporary issues. These two figures show consistency in rejecting textualist and fanatical approaches to *fiqh* and offering a moderate, inclusive and contextual middle ground. Al-Qardhawi's acceptance of democracy as a socio-political mechanism that does not contradict Islamic values emphasizes that *fiqh* can synergize with modern systems as long as it upholds the principles of justice and benefit. Thus, the framework of national social *fiqh* offered by the two thinkers can be a new paradigmatic basis in the development

of *fiqh* that is more grounded, dynamic, and relevant, without ignoring the normative essence of Islamic law.

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