Actualization of Moderation in Reasoning at Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo and Its Influence on Istinbâth of Islamic Law

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Abstract:

This research aims to find and analyze the moderation in reasoning developed at Ma'had Aly Sukorejo and its influence on the inference of Islamic law. The data collection methods are interviews, observation, and document study. The results of this study found that the moderation of reasoning at Ma'had Aly Sukorejo permeated the space of *santri*'s thinking because they studied and discussed the discipline of *ushul fiqh*, *maqâshid*, and other complementary sciences of *ijtihad* and then applied them in the practice of Islamic law inference (*istinbâth*). Their moderations of reasoning cover: 1). thinking that every *nushûsh al-syarî'ah* connects to its own *maqâshid*, 2). viewing proportionally between the idealistic and realistic points of view, 3). connecting the text with the current context, 4). not fanatical to any certain school(s), and 5). having openness,

dialogue, and tolerance for differences. This reasoning results that the Islamic law products being flexible, adaptive, and beneficial as seen in the case of dialogue in the Friday sermon and marriage registration.

Abstrak
Artikel ini bertujuan menemukan dan menganalisis nalar moderat yang berkembang di Ma'had Aly Sukorejo dan pengaruhnya dalam menyimpulkan hukum Islam. Metode pengumpulan datanya adalah wawancara, observasi dan studi dokumen. Hasil kajian menunjukkan bahwa nalar moderat di Ma'had Aly Sukorejo meresap dalam ruang pemikiran santri karena mereka mempelajari, mengkaji dan mendiskusikan ilmu ushul fiqh, *maqâshid*, serta ilmu pelengkap *ijtihad* lain kemudian menerapkannya dalam melakukan *istinbâth* terhadap hukum Islam. Moderasi nalar pemikiran mereka tampak dari beberapa hal berikut: 1. Memandang bahwa setiap *nushûsh al-syarî'ah* memiliki *maqâshid*nya, 2. memandang secara proporsional antara idealistis dan realitas, 3. menghubungkan teks dengan konteks kekinian, 4. tidak terikat dengan mazhab tertentu atau multimazhab, dan 5. Bersifat terbuka, dialogis dan toleran terhadap perbedaan. Nalar pemikiran yang demikian menghasilkan hukum Islam yang berkarakter fleksibel, adaptif dan bermuatan *maslahat* seperti tampak dalam ketetapan hukum perihal khutbah Jum'at dialogis dan persyaratan administratif pernikahan.

Introduction

Islamic law or *fiqh* can change and develop according to the needs and differences in certain times and places as long as it is still in line with *maqâshid al-syarî'ah* and correct principles.[1] Among the characteristics of *fiqh,* are flexibility, elasticity, and dynamics[2], it makes adaptive, easy, and can be implemented according to the context of time, place, and human benefit.[3] Muslims, for example, can implement Islamic law in both normal and emergency conditions either in countries with a majority or a Muslim minority. In the context of Indonesia, even though this country has various tribes, ethnicities, customs, traditions, languages, cultures, and religions,[4] Muslims in various regions can practice Islamic law in their daily lives[5] both in their relationship with God and their interactions with fellow human beings. This is because Islamic law has a flexible, elastic, and dynamic character that makes it not fierce, stiff and rigid. Instead, it is friendly and in harmony with local traditions and customs as long as it does not conflict with the Qur'an and al-Sunnah.

However, the character of *fiqh* can be chipped and torn apart if *nushûsh al-syarî'ah* is only literally understood. With that sort of paradigm, that *fiqh* turns out to be hard, rigid, and complex. The group that understands *nushûsh al-syarî'ah* literally is called literalism (*al-ḥarfiyyûn*). This pattern of interpretation can trigger radical and fundamental understandings which lead to Islamic law formulation with harsh, difficult, and intolerant of differences in nature. It is mainly because the pattern does not examine the context (*asbâb al-*

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[1] Wahbah al-Zuḥaylî, *Mawsû'ah al-Fiqh al-Islâmî wa al-Qadhâyâ al-Mu'Âshirah*, Juz I (Damaskus: Dâr al-Fikr, 2012), 38; Jâd al-Ḥaq 'Alî Jâd al-Ḥaq, *Murûnah al-Fiqh al-Islâmî* (Kairo: Dâr al-Fârûq, 2005), 69.

[2] 'Abdu al-Ḥalîm 'Uways, *al-Fiqh al-Islâmî Bayna al-Tathawwur wa al-Tsabât* (Madînah Munawarah: al-Syirkah al-Su'ûdiyah liabḥâs wa al-Tawsîq, n.d.), 92; Akhmadul Faruq, "al-Pancasila fi al-Mandzûri al-Maqâshidî al-Syar'î: Dirâsah Tahlîliyah," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 27, 2021): 215–16, https://doi.org/10.19105/al-lhkam.v16i1.5027.

[3] Abdu al-Karîm Zîdan, *al-Madkhal li Dirâsah al-Syarî'ah al-Islâmiyah* (Iskandariah: Dâr 'Umar ibn al-Khaththâb, 2001), 67; Shâliḥ ibn Ghânim al-Sadlân, *al-Qawâ'id al-Fiqhiyah al-Kubrâ wa lâ Tafarra'a 'anhâ* (Riyâdh: Dâr Balnasiyah, 1417), 388.

[4] Ahmad Syafii Maarif (Prologue), *Fikih Kebinekaan* (Bandung: Mizan Pustaka, 2015), 20.

[5] Abû Isḥâq Ibrâhim ibn 'Alî al-Fayrûz Abâdzî al-Syayrâzî, *al-Luma' fî Ushûl al-Fiqh* (Beirut: Dâr al-Ḥadîts al-Kitâbiyah, 2013), 82.

nuzûl and *asbâb al-wurûd*) as well as *maqâshid al-syarî'ah*.[6] This type of reasoning can eventually lead to an exclusive religious attitude, narrow-minded, *ghuluw* (beyond limits), intolerant, extreme, radical, and even tend to achieve goals by violent means.[7]

The contradiction to that first pattern of mindsets are the liberal one. Liberal groups make 'reasoning' the primary basis for understanding *nushûsh al-syarî'ah*. They free the mind to reason in expressing the meaning or intent of a passage. For them, if there is a contradiction between the benefit (*maslahah* according to their own logical reasoning) and the text, the benefit is put superior for the consideration of reason. They argue that there are no *qath'î al-dalâlah* texts so that all texts can be interpreted. Liberal groups dare to dismantle the *manhaj* (method) of thinking that has been built by classical scholars who are considered irrelevant to today's era. They offer and build new concepts and *manhaj al-fikr* which are considered more relevant.[8]

Both patterns of reasoning show extreme positions which is not justified in Islamic teachings. Islam teaches its adherents to think and behave moderately. Therefore, *nushûsh al-syarî'ah* can be understood correctly and adequately with moderate reasoning so that the correct understanding can be inferred and Islamic law can be formulated with flexible, elastic, dynamic, adaptive, and beneficial characteristics. Among others, this pattern of reasoning is obvious among students of Ma'had Aly Sukorejo. In understanding *nushûsh al-syarî'ah*, they try to integrate between *naql* and *aql*, text and context,

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[6] Ade Dedi Rohayana and Muhammad Jauhari Sofi, "Critique of Radical Religious Paradigm: An Epistemological Analysis from Principles of Islamic Thought," *Indonesian Journal of Islam and Muslim Societies* 11, no. 1 (June 21, 2021): 174–75, https://doi.org/10.18326/ijims.v11i1.163-184; Lestari Nurhajati and Adam James Fenton, "Islamist Newspeak: The Use of Arabic Terms as a Form of Cultural Hegemony in Political Communication by Muslim Fundamentalist Groups in Indonesia," *Journal of Indonesian Islam* 14, no. 2 (December 1, 2020): 292, https://doi.org/10.15642/JIIS.2020.14.2.287-308.

[7] Muhammad Nasir and Muhammad Khairul Rijal, "Keeping the Middle Path: Mainstreaming Religious Moderation through Islamic Higher Education Institutions in Indonesia," *Indonesian Journal of Islam and Muslim Societies* 11, no. 2 (December 8, 2021): 232, https://doi.org/10.18326/ijims.v11i2.213-241.

[8] 'Abdu al-Raḥîm ibn Shamâyal al-Salamî, *Ḥaqîqah al-Lîbarâliyah wa Mawqif al-Islâm minhâ* (Jeddah: Markaz al-Ta'shîl li Dirâsât wa al-Buhûts, 2009); Shâliḥ Muḥammad al-Damîjî, *Mawqif al-Lîbarâliyah fî al-Bilâd al-'Arabiyah min Muḫkamât al-Dîn* (Riyâdh: Maktabah al-Mulk, 1433 H), 589, 832.

nushûsh al-syarî'ah and *maqâshid al-syarî'ah*, *maqâshid al-syarî'ah* and *furû'*(fiqh issues),[9] *kullî* (universal) and *juz'î* (partial),[10] primary and secondary arguments as well as editorial universality and specificity of the situation.[11]

This is not the only research that examines moderation in the context of Islamic law at the location where this study took place. Abdul Mughits's dissertation entitled *Kritik Nalar Fikih Pesantren: Mengupas Sejarah Sosial-Budaya Dominasi Fikih Mazhab Syafi'i* (Criticism of Fiqh Reasoning at Islamic Boarding School (Exploring the Socio-Cultural History of the Shafi'i School of Fiqh Domination) did the same. He concluded that Ma'had Aly Sukorejo's *istinbāṭ* method is *manhajī* (methodological) by maximizing the theories of *ushul fiqh* and *qawā'id fiqhiyah*. According to him, the doors of *ijtihad* continue to be open because the problem of Islamic law continues to grow thus requiring *shara'* rules.[12]

Meanwhile, the dissertation of Mufidah Ch. with the title *Pandangan Santri Ma'had Aly Tentang Pengarus-Utamaan Gender di Pesantren Salafiyah Syafi'iyah Sukorejo, Situbondo, Jawa Timur* (Santri Ma'had Aly's View on Gender Mainstreaming at Salafiyah Syafi'iyah Islamic Boarding School Sukorejo, Situbondo, East Java) captured another focus. Her research findings show that the students of Ma'had Aly have similarities in the concepts of gender equality and justice.[13] Her study emphasized the views of students of Ma'had Aly on gender mainstreaming with all related issues. In the realm of implementation, he found that they have various views polarized on three typologies,

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[9] According to al-Syâthibî there are two conditions that must be met in ijtihad, namely: understanding maqâshid al-syarî'ah perfectly and establishing Islamic law based on maqâshid al-syarî'ah considerations Al-Syâthibî, *al-Muwâfaqât fî Ushûl*, Juz IV, 76.

[10] Most of the explanations of the Qur'an to Islamic law are in the form of kullî (universal), if a text is found in the form of juz'î (partial) then it is directed at universal values Al-Syâthibî, *al-Muwâfaqât fî Ushûl*, Juz III, 274.

[11] Afifuddin Muhajir, *Membangun Nalar Islam Moderat : Kajian Metodologis* (Sukorejo: Tanwirul Afkar, 2018), 25–26.

[12] Abdul Muqhits, "Kritik Nalar Fikih Pesantren : Mengupas Sejarah Sosial-Budaya Dominasi Fikih Mazhab Syafi'i" (Pascasarjana UIN Syarif Hidayatullah Jakarta, 2007), 275.

[13] Mufidah Ch., "Pandangan Santri Ma'had Aly Tentang Pengarus-Utamaan Gender di Pesantren Salafiyah Syafi'iyah Sukorejo, Situbondo, Jawa Timur" (IAIN Sunan Ampel Surabaya, 2009), 310–17.

namely conservative, moderate and progressive views.[14] Meanwhile, my research is directed to examine the moderation of their thinking.

Third is the dissertation written by Musahadi entitled *Hukum Islam di Pesantren: Studi tentang Elemen Liberal dalam Kajian Fikih di Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo* (Islamic Law in Pesantren: Study of Liberal Elements in the Study of Jurisprudence at Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo). Using Charles Khuzman's theory of Liberal Islam, Musahadi found that Ma'had Aly was colored by liberal elements both in the realm of epistemology and the domain of praxis.[15] The current research is different from those three aforementioned due to its main focus on the moderation of Santri's way of thinking. Therefore, based on the previous research and the background above, the purpose of this paper is to identify and evaluate the moderation in reasoning produced at Ma'had Aly Sukorejo and its impact on the inference of Islamic law.

Method

This paper is the result of empirical, philosophical research using scientific methods that are analytical, logical, conceptual, theoretical, and empirical. This research uses an interdisciplinary approach, namely the Islamic legal philosophy approach, *maqâshid*, and ethnomethodology. The philosophy of Islamic law and *maqâshid* is used to analyze the reasoning pattern that grows in Ma'had Aly Sukorejo while ethnomethodology is to describe and understand the students of Ma'had Aly Sukorejo in their daily life regarding the interaction patterns, ways of thinking, feelings, and ways of communication.[16] This approach emphasizes the character of human behavior that is active, reasoning, and knowledgeable.[17]

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[14] Mufidah Ch., "Pandangan Santri Ma'had Aly Tentang Pengarus-Utamaan Gender di Pesantren Salafiyah Syafi'iyah Sukorejo, Situbondo, Jawa Timur" (IAIN Sunan Ampel Surabaya, 2009), 310–17.

[15] Musahadi, "Hukum Islam di Pesantren: Studi Tentang Elemen Liberal dalam Kajian Fikih di Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo" (IAIN Walisongo Semarang, 2012).

[16] Wirawan, *Evaluasi Kinerja Sumber Daya Manusia : Teori Aplikasi dan Penelitian* (Jakarta: Salemba Empat, 2007), 157.

[17] William Outhwaite, *The Blackwell Dictionary of Modern Social Thought*, Translated by Tri Wibowo B. S. (Jakarta: Prenada Media, 2008), 284, https://doi.org/10.1002/9780470999028.

Ethnomethodological attention focuses on the daily practices carried out by Ma'had Aly students in living their daily lives.[18]

There are two types of data sources in this paper: primary data and secondary data. Primary data is obtained directly from Ma'had Aly Sukorejo, namely statements and information obtained from informants through both interviews and observations. Meanwhile, secondary data are documents, scientific books, and literature that support the data.[19] The data collection method uses interview, observation, and document study techniques. I conducted interviews with informants to dig up the data from *santri* (students) of Ma'had Aly Sukorejo, lecturer, and alumni. Meanwhile, observation is needed to understand an event, fact, or reality when directly observing Ma'had Aly's students. Furthermore, document studies enabled me to examine and analyze the documents of Ma'had Aly's students, such as books, *Tanwirul Afkar* bulletins, articles, and other scientific works. The results of several data and interviews are complementary to produce complete and comprehensive information and understanding.[20]

Discussion and Result

The reasoning that developed at Ma'had Aly Sukorejo reflects the values of moderation among the *satris* and the people who live in it. This moderation of thought crystallizes and manifests in their daily attitudes while influencing the formulation and inference of Islamic law when they have a discussion to answer any actual and factual problems in society. *Santri* (students) of Ma'had Aly Sukorejo is receptive to the development of scientific progress of human civilization and tolerant of differences in understanding and thought. For them, differences are *sunnatullah* and a necessity that should be handled wisely. The difference is considered as a strength instead of a weakness. Therefore, they learn to find common ground instead of widening the gap between or among them.

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[18] George Ritzer, *Modern Sociological Theory*, Translated by Tri Wibowo B. S. (Jakarta: Prenada Media, 2014), 330.

[19] Farida Nugrahani, *Metode Penelitian Kualitatif dalam Penelitian Pendidikan Bahasa* (Solo: Cakra Books, 2014), 109.

[20] Deddy Mulyana, *Metodologi Penelitian Kualitatif; Paradigma Baru Ilmu Komunikasi dan Ilmu Sosial Lainnya* (Bandung: PT. Remaja Rosdakarya, 2010), 195.

The reasoning in Ma'had Aly Salafiyah Syafi'iyah Sukorejo follows the following principles:

Thinking that Every *Nushûsh al-Syarî'ah* connects to its *Maqâshid*
Every prescribed Islamic law is deemed to contain a goal (*maqâshid*) to realize, namely the goodness and benefit of humans in this world and the hereafter. Primarily, *maqâshid muamalah* (human interaction) can be easily known and rationalized, while *maqâshid ubudiyah* (worship) sometimes can be understood and sometimes not. Therefore, they think the *maqâshid al-syarî'ah* contained in the *nushûsh* must be considered so that Islamic law can be produced in line with *maqâshid* and benefit. They believe that study of *maqâshid* is essential because it is the core of Islamic law and the essence of Islamic law is wisdom and human benefit in this world and the hereafter. Every Islamic law, according to them, contains values of justice, mercy, wisdom, and benefit. Therefore, all issues of injustice, disaster, *mafsadah,* and uselessness are not in line with sharia teaching even though they are forced to use *takwil*.[21]

The s*antri* of Ma'had Aly Sukorejo think that every *nushûsh al-syarî'ah* contains the intent or purpose of the *shari'a* which aims to realize benefits and reject harm while achieving goodness and happiness in this world and the hereafter. *Maqâshid al-syarî'ah* is believed as the essence of *sharia* and for that, the primary and secondary postulates are addressed. Identifying *maqâshid al-syarî'ah* hidden in the *nushûsh* is considered useful for grounding the *nushûsh* in a modern context while revealing the meaning and *dalālah* (designation) of the texts that are still vague to be able to adapt them to current situations and conditions. In addition, it is considered

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[21] Muḥammad ibn Abû Bakr, popular with Ibn Qayyim al-Jawziyah, *I'lâm al-Muwaqqi'în 'an Rabb al-'Âlamîn* (Riyâdh: Dâr ibn al-Jawzî, 1423 H), 337; Yûsuf Al-Qardhâwî, *al-Islâm wa al-'Ilmâniyah wajhan liwajhin* (Kairo: Maktabah Wahbah, 1997), 145; Jasser Auda, *Maqâshid al-Syarî'ah Kafalsafah Littasyrî' al-Islâmî Ru'Yah Mandhûmiyah (Maqasid Shariah as Philosophy of Islamic Law: A Systems Approach)*, ed. Translated by 'Abdu al-Lathîf Al-Khayyâth (Herndon: al-Ma'had al-'Âlamî lilfikr al-Islâmî, 2012), 20; 'Abdu al-Karîm Zîdan, *al-Madkhal Lidirâsah al-Syarî'ah al-Islâmiyah* (Iskandariah: Dâr 'Umar ibn al-Khaththâb, 2001), 49; Nûruddîn ibn Mukhtâr al-Khâdimî, *al-Ijtihâd al-Maqâshidî*, Juz I (Qatar: Dâr al-Kutub al-Qatariyah, 1998), 128–29; Aḥmad al-Raysûnî, *al-Taysîr al-Fiqhî* (Beirut: Dâr ibn H̲azm, 2007), 180.

useful to bridge the limited *nushûsh al-syarî'ah* with endless problems and phenomena.[22]

Their technique in formulating Islamic law is carried out collectively. They are typically divided into eight groups with different and respective tasks. The commentary group is assigned to finding, compiling, and linking verses related to the problem in question, examining the *asbâb nuzûl*, identifying between *makkiyah* and *madaniyah* verses, sorting out *al-nâsikh* and *al-mansukh,* and understanding the thoughts of the commentators in interpreting them. The hadith group, meanwhile, is obliged to track, collect, and link the hadiths related to the problem in question, detect the *asbâb wurûd*, study the *takhrîj* hadith, distinguish among *shaḥîḥ*, *ḥasan*, *dha'îf*, *marfû'*, *mursal*, *musalsal,* and so on. Meanwhile, the Ḥanafiyah group, the Malikiyah group, the Syafi'iyah group, and the Ḥanâbilah group are responsible for seeking and reviewing the opinions of respective jurists, the used arguments, and their logical arguments or reasoning. Meanwhile, the *mu'âshirah* group is tasked with tracking and studying contemporary books, fatwas of contemporary scholars, and their reasoning arguments. The group of *ushul fiqh* and *fiqh* rules, the last one, is obliged to seek and explore the theories of *ushul fiqh*, *fiqh,* and *maqâshid al-syarî'ah* with regard to the discussed issues.

After conducting a serious search and study on the classic and contemporary *turâts* books, they usually present the results of their study in the discussion forum. Afterward, they discuss and analyze collectively the results of the study with theories, rules of *ushul fiqh*, rules of *fiqh,* and *maqâshid al-syarî'ah* classical and contemporary. Then, they formulate Islamic law on the case or problem.[23] Therefore, the interaction among reason, *nushush*, and *maqashid* can be seen in Figure 1 below.

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[22]Muhammad Ahdanal Khalim, Abdul Fattah Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview,* Sukorejo, March 3, 2020.

[23]Observation at Ma'had Aly Salafiyah Shafi'iyah Sukorejo and document study—book of Santri Ma'had Aly, 7 March 2020.
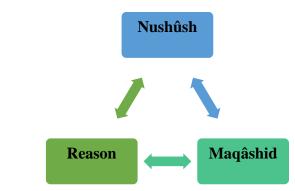
Figure. 1. Moderation and integration of reason, *nushûsh,* and *maqâshid*

Based on Figure 1 above, it can be seen that there are two ways of interaction among the component; *nushush*, reason, and *maqashid*. Furthermore, it means that one component depends on the other. Santri of Ma'had Aly studied *maqâshid al-syarî'ah* both classical and contemporary so that they believed that the theory of *maqâshid al-syarî'ah* formulated by classical scholars results from their *ijtihad* that is compatible with any development.[24] They literally know that 'Abdullah bin Bayyah,[25] Jamâluddîn 'Athiyah,[26] Yûsuf al-Qardhâwî[27] and Aḥmad al-Raysûnî,[28] for instance, include security protection as a part of *maqâshid al-syarî'ah*. 'Abdu al-Majîd al-Najjâr (b. 1945), meanwhile, added humanistic preservation, protection of social existence and environmental conservation as other parts of *maqâshid al-syarî'ah*.[29]

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[24]Syachirul A'dhom and Abdul Fattah, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

[25] 'Abdullah bin Bayyah, *Khithâb al-Amni fî al-Islâm wa Tsaqâfah al-Tasâmuẖ wa al-Wi'âm* (Riyâdh: Akâdamiyah, 1999), 21.

[26] 'Athiyah, *Naẖwa Taf'îl Maqâshid al-Syarî'Ah*, 157.

[27] Yûsuf al-Qardhâwî, *al-Sunnah Mashdarân lilma'rifah wa al-H̱adhârah* (Kairo: Dâr al-Syurûq, 2002), 231.

[28] Aḥmad al-Raysûnî, *Min A'lâm al-Fikr al-Maqâshidî* (Beirut: Dâr al-Hâdî, 2003), 101.

[29] 'Abdu al-Majîd al-Najjâr, *Maqâshid al-Syarî'ah bi Ab'âd Jadîdah* (Beirut: Dâr al-Gharb al-Islâmî, 2008), 116.

Proportionally Balancing between the Idealistic and Realistic Point of View

The santri of Ma'had Aly Sukorejo think proportionally between idealistic and realistic point of view; they do not prioritize ideal rules while at the same time not ignoring reality. Both are really considered in formulating Islamic law. The rules of the Qur'an and hadith are ideal, yet to implement them, supporting factors are needed (social, economic, political, and cultural considerations). Therefore, if the supporting factors have not been met, they do not force us to embody something ideal.[30] Islam aspires to value an ideal order that can be enforced, but it does not turn a blind eye to reality.[31] They also reason moderately between *nas* and *ijtihad*, toughness and flexibility, individual and collective benefit, *taḥlîl* and *taḥrîm*, interpretation and *takwil*, and so on. There are several *fiqh* rules which show that Islam is realistic on the one hand and idealistic on the other. They discuss while deeply thinking about *nash*, laws, and their *maqâshid* to establish Islamic law. On the other hand, they pay attention to reality; social, economic, political, cultural, and other factors. They think about and analyze the impact of benefits on a case for which the law is about to be determined, seen from these various factors.[32]

They do believe that the main characteristics of Islam are *tawassuth*, *tawâzun*, and *i'tidâl*; these three words lead to the same meaning, namely moderate. The three teachings of Islam; the teachings of the faith, morality, and the Sharia are also deemed moderate. Islam, for them, puts a balance between reason and revelation, atheistic and polytheistic, *ta'thîl* (emptying) and *tasybîh* (likening), optimistic (*khauf*) and pessimistic (*rajâ'*), physical and spiritual, outer and inner, spiritual (*rûḥiyah*) and materialistic (*mâdiyah*),[33] individual (*fardiyah*) and collective (*jamâ'iyah*),[34] divinity

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[30]Izzul Madid, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.

[31]Muhammad Rizqil Azizi, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.

[32]Muhammad Rizqil Azizi, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.

[33] Wahbah al-Zuḥaylî, *Qadhâyâ al-Fiqh wa al-Fikr al-MuʿÂshir* (Damaskus: Dâr al-fikr, 2007), 579.

and humanity, the world and the hereafter, idealistic and realistic, *taḫlîl* (halal) and *taḫrîm* (haram), knowledge and charity, individual benefit and collective benefit, persistence and flexibility, instruments and goals, *ushûl* and *furû'*, the spirit of *dakwah* and tolerance, *nas* and *ijtihad*, and so on.[35] Islam is seen to have a moderate character in ideology, worship, rituals, behavior, morals, *adab*, thoughts, *tasyrî'*, and social systems.[36]

a. Connecting Text with Current Context

The santri of Ma'had Aly Sukorejo relate the text to the context of the past and present to obtain the correct understanding of any certain issue. They try to study the context in which the verse was revealed, or when the hadith was spoken then examine the current context. Looking at the text and context is deemed necessary because the history of *tasyrî'* (determination of Islamic law) explains that Islamic law was carried out gradually, such as the law of worship, *muamalah*, *munakahah*, criminal sanctions, prohibition of *khamr*, prohibition of usury, and so on. This indicates that *tasyrî' pays* attention to the context of social reality.

They put very much attention on the history of Umar, a prophet's companion, in enforcing Islamic law which was very concerned about truth. At first glance, his decisions seemed contradictory to the text. Still, in deeper thinking, it is obvious that the essence is in line with the text, such as reading and interpreting the word of Allah from QS. Al-Ma'idah: 38 ,

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وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا

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"Men who steal and women who steal, cut them off their hands (as) recompense for what they did."

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[34] Yûsuf al-Qardhâwî, *al-Fiqh al-Islâmî Bayna al-Ashâlah wa al-Tajdîd* (Kairo: Maktabah Wahbah, 1999), 15.

[35] Muhajir, *Membangun Nalar Islam Moderat : Kajian Metodologis*, 7–23.

[36] The Full description can be read in Yûsuf al-Qardhāwī, *al-Khashâ'ish al-ʿÂmmah lilIslâm* (Beirut: Mu'assasah al-Risâlah, 1983), 135–55; Yûsuf al-Qardhâwî, *Kayfa Nataʿamal maʿa al-Qur'Ân al-ʿAẓîm* (Kairo: Dâr al-Syurûq, 2000), 110; ʿUmar ibn ʿAbdu al-ʿAzîz Quraysyî, *Samâḫah al-Islâm* (Riyâdh: Maktabah al-Adhîb, 2006), 15.

This verse, for them, was judged from the point of view of its *dalâlah* and categorized as *qath'î al-dalâlah*. However, the legal rules of this verse are not implemented literally like what the verse mentions because attention is also needed to pay to the current reality. The contemplation of this model is called *ijtihad bi taḥqîq al-manâth*.[37]

The *santri* also rely on *wasathiyûn* (moderate scholars) in maintaining Islamic law which do not only refer to *nushûsh al-syarî'ah*, but also tries to relate it to the reality of life. Therefore, they do not formulate Islamic law in an ivory tower. Instead, they always make sure that the law has paid attention even touches the reality of life, in harmony with *maqâshid*, benefit, and the spirit of the *Sharia*. They also believe that every problem of Islamic law must have an answer or a solution for its problem.[38] It is because the basics and sources of Islamic law are in the form of *naql* (*nushûsh*) and reason (*ijtihad*) which function to understand, contextualize, and dynamize it so that Islamic law is acceptable to be implemented at any time and at any place.

Knowing the condition of Arab society when the Qur'an was revealed and the hadith was spoken helps them in capturing the message of the text. Furthermore, exploring the present context and then confronting the text and the past context enables them to clarify the points of similarities and differences. The s*antri* of Ma'had Aly Sukorejo make a link between understanding the text (*fahm al-nushûsh*) and reality (*fahm al-wâqi'*). This method helps them to interpret the text correctly and apply it to the real space appropriately. On the other hand, ignoring it is deemed to possibly lead to misinterpretation of the text and establishing Islamic law in the wrong way.[39] Connecting texts and the latest contexts (social, economic, political, and cultural), at the opposite, can produce *fiqh* with adaptive, responsive to new issues, and benefits centered on nature. In sum, they really believe that jurisprudence is the result of the

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[37]Abdul Wahid, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 2, 2020.

[38]Abdul Fattah, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020; Abdul Wahid, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 2, 2020.

[39]Ahsanul Arifin, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

interaction between text and reality.[40] The model of moderation and integration of reason, text, and context can be seen in Figure 2 below.
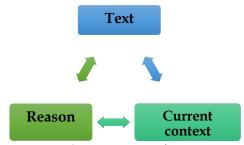

Figure 2. Moderation and integration of reason, text, and current context

Based on Figure 3 above, it can be seen that text, reason, and current context are depended and related to each other. There are two ways of interaction among every component. As a consequence, establishing Islamic law is considered not enough to refer to *nushûsh* only. Instead, it needs to pay attention to reality, consequences, and changes. In observing reality, there are two things that they put very much attention to, namely special attention (*taḥqîq al-manâth al-khâsh*) and general awareness (*taḥqîq al-manâth al-'âm*). *Taḥqîq al-manâth al-khâsh* means paying attention to an individual's conditions, taking his/her freedom into account, and striving for the law that is appropriate for him/her. In this context, a *mujtahid* among *santri* of Ma'had Aly tries to formulate a relevant law for everyone according to the time, condition, and special needs. This is mainly because it is neither justified by *syara'* nor logical thinking to stipulate the same law in certain cases where the surrounding conditions are different from one another because local conditions influence the determination of Islamic law.[41] Meanwhile, *taḥqîq al-manâth al-'âm* is to establish Islamic law based on general considerations of reality.[42] Observing

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[40]Abdul Fattah, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

[41] Fatḥî al-Duraynî, *Buḫûts Muqâranah fî al-Fiqh al-Islâmî wa Ushûlih*, Jld III (Beirut: Mu'assasah al-Risâlah, 2008), 129.

[42] Aḥmad al-Raysûnî and Muḥammad Jamâl Bârût, *al-Ijtihâd al-Nâsh, al-Wâqi', al-Mashlaḫah* (Beirut: Dâr al-Fikr, 2000), 65; al-Syâthibî, *al-Muwâfaqât fî Ushûl*, Juz IV, 69–71; Aḥmad 'Abdu al-Salâm al-Raysûnî, *al-Tajdîd al-Ushûlî Naḫwa Siyâghah Tajdîdiyah li'ilmi*

while not ignoring reality can produce Islamic law that is flexible, adaptive, and beneficial. This shows the importance of seeing reality in establishing Islamic law, whether *ijtihad* uses *taḥqîq al-manâth al-khâsh* or *al-'âm*.

b. *Not Fanatical to any Certain School(s)*

The *santri* of Ma'had Aly Sukorejo study and discuss several opinions of scholars from various schools of thought; Ḥanafiyah, Mâlikiyah, Syafi'iyah, and Ḥanâbilah in giving answers to any problem. The goal is to avoid people being fanatical about certain schools of thought and educate them by explaining some different opinions. Then, they analyze the arguments of each opinion, evaluate them using the *tarjih* method, and choose views that provide benefits to people's lives. However, sometimes, they also allow readers (society) to choose one of the opinions among the *ulama*, mainly the one which is in line with the current situation and conditions, and creates benefits for them. The benefits should be categorized as *mashlaḫah ḫaqîqiyah* (factual benefit) and *mashlaḫah 'ammah kulliyah* (public benefit) and do not conflict with any basic teachings, including *qath'î* texts and arguments based on *ijmâ'*.[43]

In addition to benefits, they also consider *mafsadah* and current reality (social, economic, political, and cultural) to interpret Islamic law so that it can be easily practiced by the community. This shows another nature of moderate reasoning because it facilitates and eases people to apply Islamic law. Having this moderate paradigm in mind, they researched relevant *nushûsh* and reasoned deeply to find the ease in Islamic law that the *Syâri'* or Allah Almighty wanted. Practically, if two opinions are found the same or adjacent in which one is complex while another is easy, they will likely choose the easy opinion.[44] It is

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Ushûl al-Fiqh (Beirut: Dâr al-Kalimah, 2015), 735; Mâhir Ḥusayn Ḥaswah, *Fiqh al-Wâqi' wa Atsaruh fî al-Ijtihâd* (Yordan: al-Ma'had al-'Âlamî lilfikr al-Islâmî, 2009), 25; Muḥammad ibn 'Alî ibn Ḥusayn al-Makkî al-Mâlikî, *Dhawâbith al-Fatwâ* (Bâkûs: Dâr al-Furqân, n.d.), 47; al-Zubaydî, *al-Ijtihâd fî Manâth al-Ḥukmi al-Syar'Î*, 256–57.

[43]Abdul Fattah and Ahsanul Arifin, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

[44]Syachirul A'dhom and Abdul Fattah, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

the basis on which scholars rely on it in strengthening their opinion with the words, "this is easier for humans to practice".[45]

The santri of Ma'had Aly do believe that Muslims, in practice the rules of *fiqh*, have no obligation to bind themselves to certain schools of thought (*madzhab*). This is because this sort of bondage in a certain school of thought can plunge them into the abyss of religious difficulties. Another argument they keep in mind is that every school and opinion of the scholars (*ulama*) has an equal position; both have the possibility of being right and wrong. According to the situation and conditions, they like to follow the *madhhab* as long as they do not mix more than one *qawl* regarding one worship practice or muamalah (*talfîq* is forbidden).[46]

c. Having Openness, Dialogue, and Tolerance for Differences

The *santri* of Ma'had Aly Sukorejo has an inclusive view of dealing with differences in opinions, thoughts, and understanding. They believe that differences are a necessity, including those with other religious believers. For them, instead of a problem, the difference is a gift and wellspring of knowledge.[47] This comes from their background in which they were taught and led to discuss diverse opinions of scholars from several schools of thought. Therefore, they literally think that every opinion has the same proportion and possibility of both right and wrong. This sort of multi-school education and habit of exchanging ideas form their inclusive behavior along with broad insights. They are, as a consequence, not easy to confuse other groups with a different opinions. Neither do they judge other groups doing any transgression and heresy.

In this talk, they perceive that dialogue and exchanging ideas are particularly needed because meeting points, inclusiveness, and sustainable understanding are the core parts to facilitate inter-religious interactions while creating a harmonious and peaceful life.[48]

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[45] Yûsuf al-Qardhâwî, *Dirâsah fî Fiqh Maqâshid al-Syarî'Ah bayna al-Maqâshid al-Kulliyah wa al-Nushûsh al-Juz'Iyah* (Kairo: Dâr al-Syurûq, 2008), 151–52.

[46] M. Khafifuddin, *Metodologi Kajian Fiqh* (Situbondo: Ibrahimy Press, 2011), 23.

[47] Muhammad Abdul Ghafur, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.

[48] Muhammad Rizqil Azizi, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.

Dialogue, according to them, is an obligation to held by religious people as emphasized in QS. al-Naḫl verse 125:

أُدْعُ إِلَى سَبِيلِ رَبِّكَ بِالْحِكْمَةِ وَالْمَوْعِظَةِ الْحَسَنَةِ وَجَادِلْهُمْ بِالَّتِي هِيَ أَحْسَن

"Call (people) to the way of your Lord with wisdom and good lessons and argue with them in a good way."[49]

Moreover, practically, they are also in dialogue with other groups and believers of other religions. The *santri* of Ma'had Aly sometimes invite them (other groups and non-Muslims) for dialogue to find common ground among groups and among religions. Their principle says that every group and religion has noble values that can penetrate and dissolve any barriers of difference. In that way, an attitude of respect and appreciation for other groups and believers of other religions are believed to grow on a humanistic basis as the highest value inherent in every human being. It is no longer entangled by the outer wrap that is unworthy to fuss about.[50]

In a short words, they have a moderate position between conservative and liberal groups which also puts them to be qualified in one of the moderate characteristics, namely tolerance for differences in understanding and religion.[51] In the matter of *furû'*, differences are considered as mercy. On the other hand, the result of *ijtihad* is *ẓannî* (strong conjecture), all of which contain the possibility of being right or wrong. Therefore, they strongly believed that a person or a group should not monopolize a single truth, blame and mislead the opinions or understandings of other people and groups.[52]

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[49]Al-Qur'an, 16: 125.
[50]Syachirul A'dhom and Abdul Fattah, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 3, 2020.
[51]Muhammad Rizqil Azizi, Lecturer of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.
[52]Izzul Madid, Santri of Ma'had Aly Salafiyah Syafi'iyah Sukorejo, *Interview*, Sukorejo, March 5, 2020.

The Influence of Moderate Reasoning in the *instinbâth* of Islamic Law

Islamic law initiated by the *Santri* of Ma'had Aly Sukorejo is flexible, elastic, and dynamic because they are not bound to one certain school of thought. Still, they study several schools of thought, examine the text and observe the current context, consider *maqâshid* concept very well, analyze it and then choose an opinion that is deemed most appropriate to the conditions, easy to practice, and brings benefits to people's lives. Here, I analyzed two products of Islamic law inferred by Santri of Ma'had Aly Sukorejo as a sample of more than 500 results of their reasonings result. The two are as follows:

a. Dialogic Friday Sermon

Friday sermons are usually held without dialogue between the preacher and the congregations or audiences. Moslems are used to this kind of situation every Friday in mosques. Considering that this monotonous sermon can bore the audiences, the *santri* of Ma'had Aly offered a new method of preaching. According to them, the Friday sermon should be dialogical so that those who do not understand the sermon materials can ask the preacher. In suggesting this new type of sermon, they study relevant *nushûsh* while paying attention to the sociology of local people as well as the related *maqâshid*.

The main argument that underlies their opinion is the following hadith of the Prophet PBUH.

أن النبي صلى الله عليه وسلم دخل عليه رجل وهو يخطب يوم الجمعة، فقال: متى الساعة؟ فأومأ الناس إليه بالسكوت فلم يفعل وأعاد الكلام فقال رسول الله صلى ال له عليه وسلم له بعد الثانية: ويحك ما أعددت لها قال: حب الله ورسوله فقال إنك مع من أحببت

"Indeed, someone approached the prophet when he preached at the Friday sermin. The man asked, when is the day of judgment? Then people signaled him to be quiet, but he didn't heed it. He repeated his question a second time. Then, the messenger of Allah replied: Woe to you, what

provisions did you prepare for that day? He replied: love
of Allah and the messenger of Allah. Then the messenger of
Allah said: Verily, you will be with those you love".[53]

The meaning of *mantûq* (expressed statement) in the above
hadith shows that speaking during the Friday sermon is not
prohibited when there is a need. If only the act was forbidden, the
messenger of Allah and his companion would have not done it. Based
on this understanding, dialogical preaching is deemed to be lawful to
apply because no specific texts prohibit it. Relating to this, however
santri of Ma'had Aly Sukorejo set several notes, namely: 1) the content
of the dialogue should not deviate from the material of the sermon, 2)
the dialogue contains questions and short answers, 3) the dialogue
does not argue to sermon or such, and 4) dialogue is carried out in the
first sermon because the second sermon must be shorter than the first
one.[54]

b. Marriage Registration
As mentioned earlier, *santri* of Ma'had Aly Sukorejo pays
attention to the current text and context in answering any problem
while examining *nushûsh* and benefits. They think that marriage
registration in the past was not needed because the situation and
condition of the community did not need it. However, contemporary
society's conditions, behavior, and morals are not the same as those of
the ancients, thus demanding changes in Islamic law. Other aspects,
namely the development of administrative requirement along with
the advancement of science and technology, also affects changes in
Islamic law. Relating to this, *santri* of Ma'had Aly Sukorejo stated that
marriage registration is mandatory. This opinion is based on the study
of *nushûsh* and *mashlahah 'âmmah*, namely to maintain the family order
and prevent harm to the wife and children. In reality, underhand or
unregistered marriages (without registration) cause many problems

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[53] Muḥammad al-Ḥusnî al-Ḥusaynî, *Kifâyah al-Akhyâr* (Damaskus: Dâr al-Basyâ'ir,
2001), 182.
[54] Santri Ma'had Aly, *Fikih Progresif Bunga Rampai Pemikiran Santri Ma'had Aly
dalam Buletin Tanwirul Afkar* (Sukorejo: Ibrahimy Press, 2020), 158.

that harm women and children, such as domestic violence, sexual abuse, neglect of wives and children, and such.[55]

Dealing with it, they studied several verses in determining the law of marriage registration, including surah al-Nisâ' verse 59:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ

"O you who believe, obey Allah and obey the Messenger of Allah and those among you".[56]

There are several opinions of scholars in interpreting the word *uli al-amri*. Abû Hurayrah interpreted the word *uli al-amri* as theleader. Meanwhile, Mujâhid interpreted the word *uli al-amri* with scientists and jurists. Ibn Abî Najîḫ interprets the word *uli al-amri* with *fuqahâ'* and thinkers. In line with him, Jabir stated that the meaning of the word *uli al-amri* was an expert on the Qur'an and a scientist.[57] 'Athâ' interprets the word *uli al-amri* with *fuqahâ'* and ulama. Meanwhile, 'Ikrimah said that the meaning of the word *uli al-amri* was Abû Bakr and 'Umar. Furthermore, the results of al-Thabarî's analysis concluded that the correct opinion is that of scholars who interpret the word *uli al-amri* with *umarâ'* (leader) and *wulât* (ruler) because it is supported by a number of hadiths containing orders to obey leaders and rulers in terms of obedience and rules which contains benefits for Muslims.[58]

Conclusion

Moderation of reasoning can permeate and develop at Ma'had Aly Sukorejo because the *santri* study, analyze, and discuss the science of *ushul fiqh* both classical and contemporary, the rules of fiqh, *maqâshid al-syarî'ah* formulated by classical scholars and developed by contemporary scholars before trying to apply it in establishing Islamic law. The moderation of their reasoning can be seen in integrating *nushûsh* and contemporary contexts (social, economic, political, and

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[55] Santri Ma'had Aly, 672.

[56] Al-Qur'an, 4: 59.

[57] Muḥammad ibn Aḥmad ibn Abi Bakr al-Qurthubî, *al-Jâmi' liaḫkâm al-Qur'Ân*, Juz VI (Beirut: Mu'assasah al-Risâlah, 2006), 505–6.

[58] At-Thabari, *Jâmi' Al-Bayân*, Juz VII, 176–82.

cultural), *nushûsh*, and *maqâshid* and between idealistic and realistic. They take a middle path between conservatives who refer to *ẓahir nushûsh* and liberals who tend to liberate reason and put *nushûsh* aside. They think that every *nushûsh al-syarî'ah* must contain its *maqâshid* which must be studied and considered when formulating Islamic law because *fiqh* without *maqâshid* considerations goes without spirit and becomes stiff and rigid.

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