DISCLOSING THE SIDE OF ISLAMIC LEGAL METHODOLOGY OUT OF THE SYAFII FIQH MAZHAB ON THE INTERPRETATION OF MUSLIM SCHOLARS CONSTELLATION AND THE DYNAMICS OF FIQH IN SERDANG SULTANATE (1856-1946)

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ABSTRACT

The Syafii fiqh mazhab became the official mazhab of the Serdang Sultanate. It is not only a religious practice but also a legal methodology as a reference. However, when advocating for contemporary legal cases, the Muslim scholars develop istidlal processes outside the Syafii fiqh mazhab. First, the reason for the benefit, this is a priority. Legal arguments such as istihsan, maslahat al-mursalah, sad al-dzariah and maqashid al-sharia, which in fact are based on mazhab outside of Syafii fiqh, in which the substance teaches about benefit, is actually used in cases of law during the Sultanate of Serdang, such as the law of injections to save many people therefore the law of injection is allowed. Second, the development of the istidlal process. There is a tendency that the pre-muslim scholars' mind today is more open-minded, not dwelling on just one mazhab, with this openness can solve legal problems that arise. Third, the need for law in advocating for problems that arise, requires legal arguments such as istihsan, maslahat al-mursalah, sad al-dzariah and maqashid al-sharia are seen as solutions in the midst of legal dynamics. Fourth, the support and democracy of the Sultanate of Serdang for the istidlal process, has made Islamic law quite developed. The Sultan was not too strict and rigid in using the Syafii mazhab even though it was the official royal mazhab. On the other hand, the Sultan gave room to the istidlal processes of other mazhabs. The process of determining the law is carried out through an istidlal process outside of the Syafii fiqh mazhab. Such as the use of istihsan argument, maslahat al-mursalah, sad al-dzaraiyah and maqashid al-Sharia. This legal methodology as a solution is accepted by all muslim scholars and the output of the law is issued containing benefits felt by the Islamic community of Serdang. In other words, the legal methodology (ushul fiqh) used was not only text-oriented (al-taqlidi) but muslim scholars of the Serdang Sultanate were also able to accommodate ushul fiqh that were oriented towards legal objectives (al-Maqashid)"

Keywords: Ushul fiqh, Methodology, Islamic Law, Fiqh, Syafii Fiqh and The Sultanate of Serdang.

INTRODUCTION

The development of Islamic law everywhere, including in Indonesia, is always dynamic. The law continues to move regardless of time and place as well as existing social changes. Law continues to present itself as having many faces in every aspect of life, in touch with socio-cultural, economic, politics and other contexts. These factors make the law change and even emerge with new laws as a necessity of human life. The existence of Islamic law continues to follow changes in time, place and social changes and even political situations. However, every country experiences growth and legal development will be different, as well as a society of fiqh cases that arise will also be different. The law appeared driven by the existing social growth and development. In the past, the growth and development of fiqh was still simple, but over time the law became more dynamic. Fiqh cases that appear increasingly modern which cannot be imagined to occur later must be responded positively. The variety of fiqh cases requires legal settlement. These two things, namely the dynamics of law and legal

settlement, must be an important concern in people's lives, especially for those as legal policy makers such as public figures, muslim scholars and institutions that are concerned about the law. There is no law that appears that must not be responded to. Every fiqh case that develops requires a legal settlement. Everything must be accommodated and have a place in Islamic law.

In the study of Islamic law, the process of legal settlement or formulation of a law is carried out through ushul fiqh, as a methodology in formulating law. The ushul fiqh carries out an intinbath process with legal arguments, starting from the Qur'an, sunnah to ijtihad. The Qur'an as a basic source has outlined legal verses as an important basis in making law. According to Abdul Wahab Khallaf, the legal verses in the Qur'an are relatively few and limited. However, these few verses become an important principle in answering the dynamics of law anytime and anywhere. Furthermore, the sunnah becomes the operational source of the Qur'an, the sunnah places its function as the establishment, strengthening and interpretation of law. Likewise, ijtihad functions as a source of dynamics towards the basic source (Qur'an) and operational source (Sunnah). Through the three legal arguments above, the ushul fiqh plays an important role as a thuruq al-istinbat towards existing laws or laws that are present requiring legal stipulation. Through an ushul fiqh, there is no legal case that does not have legal status. If the text (Alqur'an - sunnah) is limited, the role of ijtihad, which consists of the ijtihad method, namely: Ijma', qiyas, istihsan, maslahat al-mursalah, urf, istishab, qaul Sahaba, sad al-zariah and maqasyd al-sharia, play an important role in answering legal issues that arise.

However, in practice, the use of the method of ijtihad (Ijma', qiyas, istihsan, maslahat al-mursalah, urf, istishab, qaul friends, sad al-zariah and maqasyd al-sharia) among mazhab scholars becomes khilafiah. Not all muslim scholars agree to use the whole method of ijtihad. The Hanafi mazhab as the first mazhab establishes the basis for its legal istinbat through: the Qur'an, sunnah, qaul sahabi, ijma, qiyas, istihsan and urf (Thalib, 1990). The Maliki mazhab of its basic istinbat includes: the Qur'an, sunnah, ijma ', qiyas, amal ahlu madinah, maslahat al-mursalah (istislah), qaul sahabi, istihsan, sad al-zara'i, urf and istishab (Thalib, 1990) Meanwhile, the Syafii mazhab laid the foundation of its legal istinbat based on: the Qur'an, sunnah, ijma ', qiyas and istishab (Thalib, 1990). Likewise the Hanbali mazhab of its basic istinbat which it uses are: the Qur'an, sunnah, ijma 'qiyas, istishab, masalih al - mursalah and sad al-zariah (Thalib, 1990). In the context of the development of the legal methodology it is based on the dominance of the relevant fiqh mazhabs. Most of Indonesian adopted the Syafii mazhab, so the basics of istinbat used are the domain of the Shafii mazhab. As can be seen from the religious practices of Muslims, as well as the books used by religious and educational institutions. The strengthening of the Syafii mazhab as the major school in Indonesia is inseparable from historical factors, because the first Shafii mazhab was brought to Indonesia along with the spread and development of Islam in Indonesia which incidentally was brought by Muslim scholars from the Middle East based on the Syafii mazhab. In the historical record of Islam, which was brought and taught by the muslim scholars, it provides reinforcement of Islamic praxeology and Islamic law to various dimensions of community life without exception and it caused the mazhab used in the kingdoms and sultanates in Indonesia. Moreover, one of the routes used by Middle Eastern scholars in developing Islam used a power approach in the form of an approach to regional rulers (kings) in the process of accelerating the development of Islam in the archipelago, thus contributing to strengthening the Syafii mazhab developed in the archipelago.

One of the Sultanates in the archipelago which was quite dominant with the Syafii mazhab was the Serdang Sultanate in East Sumatra, which was under the rule of Sultan Syariful Alamsyah (1856-1946). The Sultanate of Serdang was a Malay kingdom, with many kingdoms in charge of the areas under its control. Islam became the official religion and the majority in the Sultanate of Serdang applied the Syafii mazhab as the official mazhab in the Sultanate. There are several indicators of the Syafii mazhab, as the mazhab of the Serdang Sultanate, namely: First, most of the muslim scholars in the Serdang Sultanate adopted the

Syafii mazhab, this is a matter of hereditary history of the Islamic community in the Serdang Sultanate who are familiar with the Syafii mazhab that entered the archipelago, especially the Serdang Sultanate from the archipelago. Second, the Sultanate of Serdang was a Malay kingdom and its people were of Malay ethnicity. In fact, almost the majority of Malay areas in the archipelago adopted the Syafii fiqh mazhab. Third, the territory of the Sultanate of Serdang became the basis of mass organizations whose main thoughts were the Syafii mazhab such as Al-Washliyah. This mass organization was founded by muslim scholars who had close relationship to the Sultanate of Serdang, so that some of the Al-Washliyah's muslim scholars became advisors to the Sultan and then influenced the strengthening of the syafii fiqh mazhab in the Serdang Sultanate. Fourth, the muslim scholars of the Serdang Sultanate were those with the Syafii mazhab to introduce and teach the Syafii fiqh mazhab to the community, Islamic educational institutions and others.

As the official mazhab of the Serdang Sultanate, the Syafii mazhab became the dominant mazhab in religious practice ranging from material to methodology. Methodologically, all legal products that appear are inseparable from the legal thought framework of the Syafii mazhab, both past legal products that are still considered relevant and laws that will be imposed. According to Abu Hasan Thalib, the foundation of legal istinbat is based on the Qur'an, sunnah, ijma ', qiyas and istishab (Thalib, 1990). The laws that are formulated cannot be separated from the orientation of the legal istinbat above. This is an important principle in Syafii fiqh mazhab. But interestingly, there were various fiqh problems that emerged during the Sultanate of Serdang, the legal methodology used tended to be outside the legal methodology of the Syafii fiqh mazhab itself. It was uncommon for the Sultanate's muslim scholars in the legal settlement process to use other methodologies outside of the Syafii fiqh mazhab. Moreover, legal cases that arise are those that are known to the wider community, witnessed by the Sultan and the royal government and the legal settlement process is carried out through dialogue in open forums. This topic becomes interesting to be explored more deeply, revealing the legal methodology used by the muslim scholars during the Sultanate of Serdang (1856-1946).

RESEARCH PROBLEMS AND OBJECTIVES

The findings of the research problem above were formulated into several research questions as follows: Firstly, how is the space for strengthening the Syafii fiqh mazhab in the Sultanate of Serdang. Secondly, what is the dynamics of fiqh in the Serdang Sultanate. Thirdly, how to use legal methodology in the dynamics of fiqh in the Serdang Sultanate.

Based on the formulation of the problem above, the purpose of this research is to describe the reality of the methodology of Islamic law in studying the constellation of muslim scholars on the dynamics of fiqh in the Sultanate of Serdang during the Sultan Syariful Alamsyah era, which is explained in detailed in the objectives of this study as follows: Firstly, to describe the space for strengthening the Syafii fiqh mazhab in the Sultanate of Serdang. Secondly, to describe the dynamics of fiqh in the Serdang Sultanate. Thirdly, to describe the use of Islamic law methodology in the dynamics of fiqh in the Sultanate of Serdang.

RESEARCH SCOPE AND SIGNIFICANCES

The scope of this research focuses on the problems and questions that arise in this study, including a description of the space provided by the Sultanate of Serdang towards strengthening the Syafii fiqh mazhab, the dynamics of fiqh in the Sultanate of Serdang and the use of legal methodology in the dynamics of fiqh in the Sultanate of Serdang.

The significance of this research is to comprehensively reveal and understand the legal methodology used by the muslim scholars of the Sultanate of Serdang (1856-1946). This research is expected to have two significances; Firstly, to provide qualitative

information on the legal methodology used by muslim scholars during the Sultanate of Serdang, so that the information obtained is not only new information in the growth and development of Islamic law, but also to straighten existing history so that it will not disappear. Secondly, from an academic point of view, it can enrich scientific treasures that have occurred and are recognized as strengthening various dimensions during the Sultanate of Serdang.

THEORETICAL FRAMEWORK

An important focus of this research is to reveal the side of the methodology of Islamic law outside the Syafii fiqh mazhab, which was used by the muslim scholars of the Serdang Sultanate in responding to the developing legal needs at that time. For this reason, it is necessary to explain the meaning of legal methodology. Etymologically, the word methodology is derived from two words, namely "method" and "logos." Both of these words come from the Greek word "Metodos" means "way" and "logos" means "science." Semantically, methodology means science that studies the ways or paths taken for a goal with effective and efficient results (Silalahi, 2009). Methodology (science of method) is a theoretical concept of various methods involved in a knowledge system. Method is an orderly way to achieve a desired goal. In scientific studies, the method concerns the problem of working in order to understand the object which is the science concerned (Silalahi, 2009). Each branch of science develops a methodology, namely knowledge of how various works are adjusted to the object of study of the relevant sciences (Silalahi, 2009). In the context of Islamic law, the methodology is meant to be a knowledge of the sources and basis of Islamic jurisprudence. According to Taha Jabir al-Alwani, methodology is identified with ushul fiqh as a science that contains a collection of methods of understanding the sources and arguments of Islamic law. If it is studied carefully, it will convey to understanding both the meaning of sharia regulations and at least the assumptions that can be accepted by the mind regarding the sources and arguments mentioned above. Moreover, in this science also discussed about how to understand the sources of argument in presenting the content of law and how the position of these arguments (Taha, 2001). Therefore, it can be concluded that ushul fiqh is a methodology of legal stipulation.

Ushul fiqh is sufficient as a methodology, because the substance of ushul fiqh has the criteria needed for a methodology since there is a source and an essence in the formation of Islamic law.

The term ushul fiqh comes from Arabic consisting of two words "ushul" and "fiqh", each of which has its own meaning. Linguistically, the word "ushul" is plural form of "al-ashl" means "base, principal and foundation." The lexical meaning of "ashl" means "the foundation or base on which something is built" (ma yubna `alayhi dzalika al-syay`). While the word fiqh basically means "fahm" or "deep understanding" (al-fahmu al-amiq) (Zahrah, 1979). Semantically, fiqh is defined as "knowing something and understanding it well." (Ibn Zakariya, 1970; Syarifuddin, 2009) The ushul fiqh has its own meaning when it is combined. According to Abdul Wahab Khallaf, ushul fiqh is: "Knowledge of the rules and their descriptions which are used as guidelines in establishing Islamic Sharia law regarding human actions, on which these rules come from detailed and clear religious arguments. In other words, ushul fiqh is defined as a set of rules and its descriptions which are used as guidelines in establishing Islamic Sharia law regarding human actions, in which the rules are derived from detailed religious propositions." (Khallaf, 1972) Meanwhile, Muhammad Abu Zahrah defined ushul fiqh as: "The knowledge of principles which provides an overview of the method in the process of applying the amali law based on detailed arguments".

The ushul fiqh is essential to be done, this is because: First, the istinbath method is related to linguistic principles. As we know, the Qur'an revealed in Arabic requires understanding by using a set of rules, because the legal verses in the Qur'an itself are displayed in various forms, characteristics and various sides. In various forms it is displayed

in the form of amar (command), nahi (prohibition) and tahyir (choice). The characteristics of the law in the Qur'an are shown to be am (general), khas (special), absolute, muqayyad (limited in meaning), mantuq (explicit), mafhum mukhalafah and others. Second, the istinbath method, is related to the determination of legal objectives through maqashid al-sharia (the purpose of shari'a), because the Qur'an and Sunnah require legal designation through the understanding of the language, as well as through their legal objectives. Islamic Shari'a was revealed aimed at the benefit of the people, every commandment and prohibition is substantially the benefit of mankind. The limitations of legal verses in the text must be developed through the maqasid approach based on ijtihad, the methodology used remains in touch with the arguments of qiyas, istihsan, maslahat mursalah, sadd zariah, these arguments are used as maqasid based ijtihad. These arguments are still used as a methodology, only in determining the law no longer in the strength of the text, but on the philosophical values of its maqashidal-sharia, this approach is universal because it is based on universal Islamic values. Third, the istinbath method is related to the settlement of arguments that seem contradictory to the mujtahid, due to the limited ability of his mind to understand an argument so that it seems contradictory to other arguments, the solution is by using the tarjih method, which of course is also part of the ushul fiqh study (Efendi & Zein, 2009). From the above explanation, it is concluded that ushul fiqh is a science that explores and discusses certain methods or rules in terms of using the law from its arguments, as well as the evidences of the arguments, in terms of their designation to law, the methods or rules are used as guidelines in establishing Islamic law. Because the existence of ushul fiqh is quite important in the process of formulating Islamic law, not only understanding the method of istinbath law, Islamic law will also be preserved from the abuse of the argument in answering various legal cases.

The need for ushul fiqh has interconnectivity with fiqh. The existence of the ushul fiqh is not only oriented to the text (al-Taqlidi) but also must be pushed to the idea of fiqh which is oriented towards legal objectives (al-Maqashid). This is emphasized by Hasan al-Turabi in the book "Tajdid ushul al-fikih" quoted by Ahmad Imam Mawardi, encouraging firmly to orientate ushul fiqh al-taqlidi a theory of Islamic law which has been oriented to the text which is the old format towards ushul fiqh al-maqashidi as a legal theory that is oriented towards the reality of the goal of law (al-Thurabi, 2002; Mawardi, 2010). The methodology referred to in this paper remains in touch with the qiyas argument with all its forms, istihsan, maslahat al-mursalah, sadd zariah, urf and maqashid al-sharia, these arguments are used as maqasid based ijtihad among fiqh mazhab, only in determining the law it is necessary judging by the philosophical values of the maqashid al-sharia, this approach is universal because it is based on universal Islamic values. The existence of this motivation cannot be separated from the nature of the law which is always dynamic. Law must be formed oriented to the future and not to the past, law must be able to be a driving force to change people's lives to be better and beneficial for all parties. Therefore, in a modern society, the law must be modern as well, this is where the renewal of Islamic law is seen as a necessity, as well as affirming the function of law in a society.

METHODOLOGICAL FRAMEWORK

Types, Methods and Research Approaches

This type of research is a combination of field research and library research by collecting field data as the primary source. The type of research is descriptive analytical, in order to obtain comprehensive data about the methodology of Islamic law during the Sultanate of Serdang, Sultan Sulaiman Syariful Alamsyah (1865-1946 AD). The method used is qualitative with inductive and deductive analysis. Then this research used a historical approach, namely legal history. Legal research is a scientific activity based on methods, systematics and certain thoughts that aim to study one or more specific legal phenomena by analyzing them. An in-depth examination of these legal facts was carried out to find solutions

to the problem of symptoms that arise in the problem (Soekanto, 1986). The historical approach is considered important because the research occurs in the past. Therefore, the analysis of sources that contain information about the past is carried out systematically. The goal is to make a reconstruction of the past, systematic, objective by collecting, evaluating, verifying and synthesizing evidence to support the facts to obtain strong conclusions. Where there is a truly intact relationship between humans, events, time and place chronologically by not partially placing the object being observed (Damayanti, 1997; Kementerian Agama RI Badan Litbang dan Diklat Puslitbang Lektur dan Khazanah Keagamaan, n.d). Because this research is qualitative, the researcher directly collected data in real situations. Therefore, the researcher went directly to the field, actively listening, observing, asking, taking notes, engaging, appreciating, thinking and drawing inference from what was obtained in the field. In addition, instruments evaluation are also required. This stage was carried out to find out whether the instrument that had been prepared was truly capable of measuring and assessing the aspects to be studied. The evaluation of the instrument aims to determine whether the instrument has been able to reveal the methodology of Islamic law during the Sultanate of Serdang in responding to the dynamics of law. Furthermore, expert judgments were carried out to several experts in the field to be studied.

Location and Object of Reseach

The research location is focused on Serdang Bedage District and Deli Serdang District. In the past, these two areas were the basis for the Sultanate of Negeri Serdang. While the object of research is legal research to reveal the side of the Islamic legal methodology used by the muslim scholars of the Serdang Sultanate. This event had occurred in the past. Therefore, the object of research was carried out in written texts, oral information (hikayat), and the relics of the Sultanate of Serdang during that time.

Data Sources

The data source of this research is historical data optimizing all historical sources, such as inscriptions, official documents, individual writings, speech stories and even legends that develop in society. There are sources used in historical research: First, history is seen as an event, often referred to as history as reality and objective history. Sources of information regarding these incidents in order to be certain that they actually happened must be supported by corroborating evidence, either in the form of eyewitness accounts that are used as historical sources, relics and records. Second, the incident is known from sources that are told by the people from time to time. There are two kinds of oral sources, namely: (1) Oral history, oral reminiscenses, namely first-hand memory passed down orally by the interviewee by the historian; (2) Oral tradition such as narratives and descriptions of people and events in the past that are conveyed by the people for generations. Whatever the form of historical events, it is only known if there is a source that reaches historians to be used to arrange events by source. Therefore, a historical story is very dependent on the skill of the historian itself and the completeness of the available sources (Kementerian Agama RI Badan Litbang dan Diklat Puslitbang Lektur dan Khazanah Keagamaan, n.d.).

It can be concluded that a number of sources of historical writing in this study are: Remains, documents, written sources, document inscriptions, monuments and so forth. All of these are obtained from the historical legacy of the Sultanate of Serdang.

Data Collection Technique

The data collection technique in this research was carried out in three stages. First, an orientation was carried out in which the researcher collected general and broad data about interesting, important, prominent and useful things for further in-depth research. Second, the

researcher conducted an exploration of data collection which was carried out more directed in accordance with the focus of the study and knew the source of data or informants who were competent and had sufficient knowledge of the things to be studied. Third, the researchers conducted focused research, namely developing exploratory research with a focus on revealing the methodology of Islamic law during the Sultanate of Serdang (1865-1946 AD).

To collect data in the field, the following research steps were carried out as follow: First, field observations were conducted systematically; an effort is made to observe the normal and actual condition without being regulated, influencing or manipulating the object of observation being observed. The observations followed Sparadley's instructions, namely: descriptive observation and focused observation after analyzing the recorded data in general. Second, interviews, namely conducting interviews with people who were witnesses when the incident occurred. In this case, it is a special form of historical research called oral history, which is transferred by the people from time to time, such as folk tales, legends, traditions and so forth. Third, reviewing documents, namely material written or printed in the form of books, magazines, newspapers, notes, manuscripts and so forth. Collecting data through documents in this study were conducted through activities, namely: Relief, it was physical objects or visual characteristics that provide some information about past events. Such as building monuments, equipment, clothing and so forth.

Data Analysis Techniques

The research data were analyzed using interactive techniques, as developed by Miles and Hubermen, namely: First, data collection was carried out by means of observation, interviews and documentation. The data in the field were recorded in a descriptive field note about what was seen, what was heard and what was experienced or felt by the research subjects. Descriptive notes are natural records gained from the field without any components or interpretations from researchers about the components found. From the field notes, the researchers made reflective notes. Reflection notes are notes from the researchers themselves, which contain comments, impressions of opinions and interpretations of the phenomena found. Second, data reduction. It is defined as the process of selecting, focusing on simplifying, abstracting and transforming raw data arising from direct records. Data reduction took place continuously during the study. Data reduction is a form of analysis needed in organizing the required data according to the focus of the problem under study. During the data collection process, data reduction was carried out through the process of selecting, centralizing, simplifying, abstracting and transparently obtaining the crude data obtained using written records in the field. Furthermore, making summary, coding, tracing themes, making partitions and writing small notes (memos) on the study immediately in the sense of importance. Third, presentation of data.

Presentation of data used in qualitative research is in the form of narrative text from field notes, by grouping according to problem topics. Presentation of data is a stage to understand what is happening and what should be done next to analyze and take the necessary actions. Fourth, verification and drawing conclusions. This method is an activity of a complete configuration, because the conclusion is also verified from the beginning of the research to the end of the research which is a continuous and ongoing process. In conducting verification and drawing conclusions, it is important to review the presentation and field notes through Focused Group Discussions (FGD), religious leaders, community leaders, traditional leaders, educators and others.

RESEARCH FINDINGS

Room for Strengthening the Syafii Fiqh Mazhab in the Sultanate of Serdang

The Sultanate of Serdang is a Malay kingdom, born and developed and experiencing the peak of its glory in East Sumatra. During his reign, several Sultans had been led by several Sultans as the inheritor of the Serdang kingdom, namely Raja Deli Tuanku Panglima Paderap (The third King of Deli). This is the early history of the Serdang kingdom. Starting from the reign of Tuanku Umar Johan Pahlawan Alamsyah (1713 - 1782 AD), Tuanku Ainan Jihan Alamsyah (1767 - 1817 AD) Sulthan Thaf Sinar Basyarsyah (1817 AD - 1850 AD), Sultan Basyaruddin Syaiful Alamsyah (1819 - 1980 AD) and Sultan Sulaiman Syariful Alamsyah (1865 - 1946 AD). In the beginning, the Sultanate of Negeri Serdang was part of the Sultanate of Deli (Sinar Basarshah II, 2006). However, after the seizure of power, the Deli kingdom was split until the Serdang Sultanate was founded. During the time of Sultan Syariful Alamsyah (1865 - 1946 AD) as the next king, the Sultanate was more advanced than before. This progress is measurable in various fields, from politics, economy, education, social, religion and others. As Sultan, he carried out three important tasks, namely: (1) As Head of Government of Serdang Kingdom, (2) As Head of Islamic Religion (Khalifatullah fi'ardh) (3) As Head of Malay Custom (Sinar Basarshah II, 2006).

In a text, the position of the Sultan in the Malay structure system is said to be in the highest class, namely:

"The Malay power structure, the Sultan is the center of power while the Sultan's descendants are at the top of the social stratification structure. At this level, the function of authority as ulil amri (Islamic leaders) must be fully carried out by a Sultan, fairly and wisely. Various matters, from trivial matters within the palace environment, customs, religious practices to various complex governmental problems were based on the Sultan's policy. In handling all these matters the Sultan has absolute authority by custom and the subordinates are obliged to obey him. The provisions governing the Sultan's rights and authority are contained in Malay paraphrases taken from the Qur'an: Follow the word of Allah, follow the words of His messengers and follow your king."

The manuscript describes the Sultan as a king, head of religion and head of custom. As a Head of Religion, Sultan Serdang must be able to guarantee religious life to his people. The official religion of the Serdang Sultanate is Islam, Islam is the religion followed by the people of the Serdang Sultanate. Sultan Sulaiman Syariful Alamsyah as a king shaped religious life to run peacefully and religiously. All worship facilities such as mosques were built everywhere as a form of concern for the Muslim community as the majority community in the country of Serdang. Moreover, the Sultanate of Serdang rejected the establishment of houses of worship for other religions. This means that there was no establishment of a house of worship other than a mosque. It was recorded that until the Dutch left Indonesia in 1942 and until Japan took control of the Sultanate of Serdang, there was never a single church in the Sultanate of Serdang (Nasution, 1975). In other words, the Sultan's commitment was strong enough to make Islam as the official religion and the Muslim community to become the majority in the Sultanate of Serdang.

Then Sultan Sulaiman Syariful Alamsyah's attention to Islam, also to the implementation of Islamic law itself. Islam was not only the official religion adhered to and implemented by its adherents in the context of Islamic law, it guaranteed the implementation of Islamic law as an implementation of Islamic teachings that touch other dimensions of life, namely economic, social, political culture and others. In the context of law, the legal practices that were carried out and applicable in the Serdang Sultanate were based on Islamic law, both civil and criminal. Even in the context of Islamic law, various instruments for Islamic law were established. In 1927 a new institution was established called the "Majelis Syar'i" Kingdom of Serdang, whose power in the field of religion covered the Kingdom of Serdang (Nasution, 1975). Although the existence of qadhi and mufti already existed and played an important role, the establishment of this institution was also considered important and needed for strengthening the implementation of Islamic law in the Sultanate of Serdang. There were several names of muslim scholars appointed by the Sultanate of Serdang to sit as officials in

the Syar'i Council, namely: Tengku Fachroeddin, Tengku Yafizham, Abdul Muin, H. Yahya and others.

In the implementation of Islamic law in the Sultanate of Serdang, the influential fiqh mazhab was the Syafii fiqh mazhab. As already mentioned, the beginning of the existence of the development of fiqh syafii were: First, the muslim scholars in the Sultanate of Serdang were the majority of the Syafii mazhabs, this is a historical issue that has been passed down from generation to generation where the Islamic community in the Sultanate of Serdang was familiar with the Syafii mazhab that entered the archipelago, especially the Serdang Sultanate that was part of the the archipelago. Second, the Sultanate of Serdang was a Malay kingdom and its people were of Malay ethnicity. In fact, almost the majority of Malay areas in the archipelago are the Syafii fiqh mazhab. Third, the Sultanate of Serdang became the basis of mass organizations with the Syafii mazhab such as al-Washliyah, the muslim scholars whofounded al-Jamiyatul al-Washliyah were muslim public figures who had close relationship to the Sultanate of Serdang. Fourth, the muslim scholars of the Serdang Sultanate were those who also adopted the Syafii mazhab, both education from the Middle East, Islamic Boarding Schools and others. Likewise, the classical books that were explained to the wider community and educational institutions such as Islamic boarding schools and madrasas are mostly yellow books with the Syafii fiqh mazhab. The reasons above made the Syafii fiqh mazhab as the dominant mazhab in the Serdang Sultanate. The Sultan provided space for the growth and development of the Syafii fiqh mazhab to guide the implementation of religious worship in the Serdang community. There was no Muslim community in the Serdang Sultanate who did not have a Syafii mazhab, all worship practices were quite thick with the Syafii mazhab. The position of the Syafii mazhab is important as the main choice in the study and practice of daily Islamic law, especially in matters of ubudiyah. However, there is no prohibition in Islamic educational institutions and al-Washliyah prohibits studying other fiqh mazhabs.

Actually, the dominance of the Syafii mazhab was not only in the Sultanate of Serdang, but also became the dominant mazhab in the archipelago. According to Abdul Muqhits' analysis, the dominance of the Syafii mazhab in the archipelago and Southeast Asia cannot be separated from several factors:

1. The early history of the entry of Islam which is said to have been brought by mubaliqh (Islamic missionaries) who had embraced the Syafii mazhab. Islam entered in the 10th century, not long after the establishment of the fiqh mazhab in the Middle East, so that Islam that entered the archipelago was already characterized by mazhabi fiqh nor Islam in a pure and fundamental form. This can be proven in historical records such as the story of the first generation kings of Samudra Pasai kingdom (13th century AD) who had embraced the Syafii fiqh mazhab. Likewise, Islam which was first organized in Java (14th century AD) was brought by Islamic missionaries such as Maulana Malik Ibrahami (d. 822/1419) also known as Wali Songo was the Syafii mazhab followers.
2. The trend of mazhabi fiqh (Islamic jurisprudence) became increasingly crystallized after the establishment of a network of Indonesian muslim scholars with the Middle East starting in the 17th century AD in the form of preservation of intellectual and spiritual links. This intellectual transmission was in the form of a transformation of Islamic sciences and books produced by the Middle East, while spiritual transmission was in the form of information on ascetic teachings of the Middle East and its surroundings to the archipelago (Muqhits, 2008, pp. 245–246)

In the context of the Sultanate of Serdang, the factors mentioned above were factors that influenced the growth and development of the Syafii mazhab. Moreover, the history of the establishment of the Sultanate of Serdang was connected to the Kingdom of Samudra Pasai, which has long known the Syafii mazhab. Along with the approval room given by the Sulatanate of Serdang, the Syafii mazhab became the official mazhab in the study and practice of daily Islamic law, especially in the matters of worship.

The Dynamics of Fiqh in the Sultanate of Serdang

The development of fiqh in the Sultanate of Serdang was in line with the praxis of Islamic law that grew and developed in the Sultanate of Serdang. In terminology, fiqh is defined as the understanding or knowledge of sharia law about the actions of mukallaf (persons who were chosen by Allah) which are extracted or obtained from detailed arguments (Khallaf, 1972). The role of fiqh is quite important in shaping Islamic law. Every legal case that appears to be a fiqh area, once fiqh has been established and continues to be implemented into Islamic legal practice is part of the dynamics of Islamic law itself. Along with changes in time, place and social changes in fiqh continue to appear coloring in the formation of law. Every legal case that arises must be responded to both by the nash (Alqur'an and Sunnah) and the product of human thought (ijtihad). Therefore, fiqh is zhanni and profane, not qat'i and transcendent. All fiqh products become areas of relativity in the study of the products of human thought.

In the context of the Sultanate of Serdang, the development of fiqh was quite dynamic. Fiqh is constantly engaged in the formation and development of Islamic law. The various fiqh products that came to the attention of the Sultan and the muslim scholars of the Serdang Sultanate. No legal cases emerged apart from the law which was the decision of the muslim scholars at that time. The roles of qadhi and mufti were central figures in responding to any legal cases that arise. A number of recorded muslim scholars such as H. Zainuddin, Tengku Fachroeddin, Tengku Yafizham, Abdul Muin, H. Yahya and others, became fuqaha who were directly involved in the stipulation and formulation of emerging laws. Moreover, with the establishment of the Syar'i Council by the Serdang Sultanate, it became a coordinated fiqh institution in the legal process.

To measure the growth and development of fiqh, two things were observed during the Serdang Sultanate. First, fiqh was considered to be established in Islamic legal practices in the form of fatwas of previous muslim scholars, recorded in the Syafii mazhab and outside the Syafii mazhab. Legal products like this were quite visible in the practice of the Islamic community of the Serdang Sultanate. Second, contemporary fiqh, which appears to be casuistic in nature, requires new laws in response to the legal needs in question. If it is not responded to, it will be in contact with the benefit of the community. So the Sultan and the muslim scholars quickly responded to the law through the Syar'i Council which had been established. Therefore, the role and function of Syar'i Council as an Islamic legal institution is sufficient to contribute in responding to the emerging fiqh dynamics.

Various cases of contemporary fiqh were quite visible during the Serdang Sultanate. Sometimes the case law became a cause for concern when the law had not been decided or the law was decided by the mufti of the Serdang Sultanate who needed to be reviewed. Several legal cases can be seen, such as the injection law fatwa which was declared haram by mufti H. Zainuddin as the mufti of the Serdang country, this fatwa made Serdang people hesitate to inject (Nasution, 1975). In addition, the issue of ushalli law is whether to pronounce ushalli was included in the law of sunnah or bid'ah in the language of Islamic law is called talaffuz with intention. The settlement of this khilafiyah also involved many muslim scholars (Nasution, 1975,). More interestingly, the debate with Ahmadiyah Qadian tried to expand its understanding to the land of Serdang by a propogandist named Siddik and an Indonesian from Minangkabau named Abu Bakar Ayub. At the request of various parties, a legal debate was held in response to the development of Ahmadiyah Qadiyan (Ihoetan & Lubis, 1934).

The emergence of these legal cases is clear evidence that the dynamics of fiqh during the Sultanate of Serdang was quite developed, which was then responded by Sultan Sulaiman Syariful Alamsyah by involving the muslim scholars and muftis of the Serdang Sultanate. There were no fiqh cases emerged that were independent of the law, all cases had been responded to through the Fatwa of Syar'i Council as a reflective institution in terms of its relation to Islamic law.

Islamic Law Methodology Responds to the Dynamics of Fiqh in the Sultanate of Serdang

Theoretically, the emergence of fiqh cannot be separated from its methodological role. In this case, it is the ushul fiqh which is in the form of knowledge of rules and discussion which leads to obtaining practical syara' law from detailed sources. Thus, the role of ushul fiqh becomes an important methodology in producing fiqh. The object of the study of ushul fiqh as a scientific discipline includes: Discussion of syara' law and its relation. Such as judge, mahkum fih and mahkum alaih. Discussion of the sources and arguments of law. The discussion about the general proposition of syara' is seen from general legal provisions as well. Discussion on the process of istinbath law from the sources of these arguments and discussion on ijtihad (Efendi & Zein, 2009).

As we know, the fiqh mazhab of Serdang Sultanate is a Syafii mazhab, all religious and legal practices are based on the Syafii fiqh mazhab. The Syafii mazhab became the official and dominant mazhab in the Serdang Sultanate, this can be seen from the evidence as an argument, namely: First, the Fiqh books and ushul fiqh in existing Islamic boarding schools or educational institutions such as Al-washliyah were dominated by Syafiiyah. Second, the daily ubudiyah practice of the Serdang people is based on Syafii fiqh. Third, the fiqh books that the mufti holds on to were the Syafii fiqh books. Therefore, the Syafii mazhab becomes a strong guide in the practice of ubudiyah and Islamic law. However, there is something interesting in the context of contemporary cases related to the praxeology of Islamic law, the basics of Islamic mazhab of law are the Qur'an, sunnah, ijma ', qiyas and istishab (Efendi & Zein, 2009), which became the guideline for the legal methodology of the muslim scholars of the Serdang Sultanate. On the other hand, the Syafii mazhab did not also become a well-established methodology. In certain cases, the Sultanate of Serdang also used methodologies outside of the Syafii mazhab, such as: Istihsan, maslahat al-mursalah, maqashid al-sharia, sad al-zarai and others.

A fairly casuistic example is the injection law case. After the end of World War I, the people of Serdang were also infected with various infectious diseases. The government is anticipating mass injections to prevent the development of these infectious diseases. A Mufti of Serdang named Tuan Syekh H. Zainuddin gave a fatwa (statement) in Perbaungan that it was haram to take injections. The fatwa had enough influence on the community to cause people not to take injections. The community's refusal was heard in the Sultanate of Serdang and then responded seriously by summoning the muslim scholars including Tengku Fachroeddin to exchange opinions at the Perbaungan Palace attended by the Sultan, important officials and some of the people who also witnessed. For more details, the muzakarah is narrated below:

"In this dialogue, Tengku Fachroeddin thought that injection was not wrong. The reason was that something was permissible if there was no nash against it. Based on the Islamic law, it is obligatory to prevent oneself from disease when there is an efidemic. Tuan Haji Zainuddin stated that taking injection is haram (strongly prohibited in Islam). Because there were restrictions, injections were the same as wasyam (Wasyam is prohibited and haram, as stated in the Hadith Bukhori, Muslim, Abu Daud, Nasai, Tirmidhi, Sunni Darimi). Meanwhile, Tengku Fachroeddin explained that injecting was not wasyam, which meant making marks in the body by using ink was continuously placed on the skin as has been done by various national groups. The crew always write his name with wasyam. If a person was put wasyam on his body, it was difficult to purify himself, both for taking ablution and for bathing, because the water was blocked by ink or a chemical that was inserted into the body. Injections were different, only drugs were inserted by injection and immediately absorbed into the body without leaving a mark (Nasution, 1975)".

In the muzakarah, Tengku Fachroeddin stated that the injection was different from the nature of wasyam. The law of injections when epidemic is obligatory in order to prevent destruction. It obvious that Tengku Fachroeddin as a Serdang muslim scholar built legal

thoughts in establishing benefit-oriented law. The use of the basis of benefit actually lays the foundations of legal istinbath based on maslahat al-mursalah, istihsan, sad al-zaraiyah and maaqashid al-syariah, which commonly used by fiqh mazhab outside the Syafii mazhab that Imam Syafii has rejected, such as istihan. In the study of ushul fiqh, various arguments mentioned above become khilafiyah areas, some are used as arguments and some are not at all. Istihsan is defined according to al-Karhi from the Ushul Hanafiyah, which is quoted by Husein Hamid as: The turning away of a mujtahid from a law concerning a problem to another law is because there is a more important consideration requiring the diversion (Hasan, 1971). Istihsan as part of the method of developing ijtihad can be used as evidence, this is emphasized by the Hanafi, Maliki and Hanbali mazhabs. Meanwhile, muslim scholars who rejected istihsan are asy-Syafii muslim scholars. Based on the above explanation, the position of istihsan is very important in the process of forming Islamic law. According to Amir Syarifuddin (Syarifuddin, 2009), in solving the law, if it only relies on the conventional method approach used by previous muslim scholars to deal with it, it may not be able to solve all these problems properly, therefore mujtahids are required to be able to find alternative approaches or arguments beyond the conventional approach. Istihsan is seen as one of the appropriate methodologies in responding to increasingly complex legal issues.

Maslahat al-Mursalah quotes Abdul Wahab Khallaf's opinion, it is a maslahat that is not established by the syar'i as the basis for legal stipulation, nor is it fair, shari'a which states its existence or must leave it (Khallaf, 1972). Al-Ghazali divides maslahat into three parts, namely: Maslahat which is justified by syara'. This means that there are guidelines for syara', either directly or indirectly, the existence of maslahat becomes the reason for establishing the law. Maslahat canceled by syara'. This means that maslahat is considered good by reason, but is not noticed by syara'. Maslahat for which there is no specific argument justifies or cancels it. This means that what is considered good by reason is in line with the goals of syara' in establishing law. But there is no clue of syara' which takes it into account and there is no clue of syara' which rejects it. The first category of maslahah can be used as evidence and its implementation returns to qiyas. The second category of Maslahah can be used as evidence. Meanwhile, the third category of maslahah (maslahah al-mursalah) is debated among muslim scholars. In the view of ushul fiqh scholars, there are differences of opinion. Imam Malik made al-maslahat al-mursalah as evidence (Al-Syatibi, n.d.). Meanwhile, Asy-Syafii does not include al-maslahat al-mursalah as legal evidence. Al-Shafii strongly emphasizes the attachment of each law to the Qur'an, sunnah, ijma' and qiyas. The only method of ijtihad used is qiyas (Nasution, 1998).

In addition, Sad al-Dzariat is defined as al-Syatibi is to establish a law based on the result of an action. Meanwhile, the stipulation of law by observing the end of an act is part of the objectives of sharia (Nafis, 2011 Thus Sadd al-dzariah always means preventive efforts to close roads that can cause damage or lead to something that is prohibited even though the law allows it. According to Imam Hanafi and Imam al-Syafii Sadd al-Dzariah it can be used as evidence in certain legal cases only (al-Zuhaily, 1989). Furthermore, Maqashid al-Sharia, as stated by al-Syatibi, is actually the Shari'a which aims to create the benefit of mankind in the world and the hereafter (Al-Syatibi, n.d) Another definition is that laws are prescribed for the benefit of the servant (Bakri, 1996).

The various arguments that have been described above have the substance of being benefit, the ijtihad methods are indirectly used in responding to the fiqh dynamics of the Serdang Sultanate.

The next legal case that is no less interesting is the case on the ushalli issue, whether to pronounce the ushalli law is sunnah or bid'ah in the legal language is called talaffuz with intention. The settlement process was also carried out with a muzarah where Sultan Sulaiman Syariful Alamsyah gathered muslim scholars from all over East Sumatra to discuss the issue. Problems can be resolved by means of an istidlal process as carried out by the mujtahid priests. The method used was a suggestion from Tengku Fachroeddin and was accepted by all attendees.

This method seemed to be forced towards the Syafii mazhab, but it is done by means of an istidlal process, based on various arguments and educating us to have a sense of freedom to express our arguments (Bakri, 1996). From the various examples of cases above, it is evident that the development of fiqh so existed in the Sultanate of Serdang. The istidlal process that was carried out was not only concerned with one fiqh mazhab but also used the basics of the contextualization of the mazhab istinbat. The muslim scholars at that time built legal thoughts with freedom of thought. Moreover, the role of the Sultan is very important in determining democracy in the process of determining the law as in the room for discussion and exchange of ideas witnessed by many people. So that the process of running the discussion or muzakarah runs successfully, the methodology used also specific and known by all attendees, even though it was outside the arguments of the Syafii fiqh mazhab.

From the explanation above, there are several reasons for the use of legal methodology outside the Syafii fiqh mazhab, as the basis for istinbat in completing the law that emerged in the thick of the Syafii fiqh mazhab as the official mazhab of the Sultanate. First, the reasons for benefit, this reason is a priority. Legal arguments such as istihsan, maslahat al-mursalah, sad al-dzariah and maqashid al-sharia teach substantially about benefit. Therefore, legal cases occurred during the Sultanate of Serdang such as the law of injections to save many people then the injection is allowed. Second, the development of the istidlal process. There is a tendency for the minds of pre-muslim scholars today to be more open in the process of developing istidlal. Not only based to one mazhab, this openness can solve legal problems that arise. Third, the need for law in advocating for issues that arise. The use of legal propositions such as istihsan, maslahat al-mursalah, sad al-dzariah and maqashid al-sharia are seen as solutions in the midst of legal dynamics. Fourth, the support and democracy of the Sultanate of Serdang for the istidlal process made Islamic law quite developed. The Sultan was not too strict and rigid in using the Syafii mazhab even though it was the official royal mazhab. On the other hand, the Sultan gave room to the istidlal processes of other mazhabs.

Based on the various explanations above show the reasons for the important keywords for the growth and development of Islamic law during the Sultanate of Serdang, especially in the development of the methodology of Islamic law. The use of legal methodology is not only the Syafii fiqh mazhab as the majority mazhab, but the legal methodology outside the Syafii fiqh mazhab is also used and it was developed. If it is reviewed to the theoretical basis mentioned earlier, the legal methodology (ushul fiqh) is not only oriented to the text (al-taqlidi) but the muslim scholars of the Serdang Sultanate have also been able to accommodate the ushul fiqh that are oriented towards legal objectives (al-Maqashid). This means that there is the ability of the muslim scholars to orientate towards the text which is an old format towards ushul fiqh al-maqashidi, a legal theory that is oriented towards the reality of legal objectives. The methodology referred to in this paper remains in touch with the arguments of qiyas, istihsan, maslahat al-mursalah, sadd zariah, urf and maqashid al-sharia.

CONCLUSION

From the description above, it can be concluded that there were enough space for strengthening the Syafii fiqh mazhab in the Serdang Sultanate is given by the Sultan. The Syafii mazhab was made the official mazhab of the kingdom. Furthermore, the dynamics of fiqh in the Sultanate of Serdang were quite diverse, some were legal practices that were already established in legal practices in the form of previous muslim scholars' fatwas, recorded in the Syafii mazhab and outside the Syafii mazhab. Legal products like this are quite visible in the practice of the Islamic community of the Serdang Sultanate. There are also contemporary and casuistic fiqhs, requiring new laws in response to these legal needs. Next, in response to the dynamics of fiqh in the Sultanate of Serdang, they did not dwell on one fiqh mazhab. In fact, the process of legal stipulation is carried out through an istidlal process

outside of the Syafii fiqh mazhab. The legal methodology used has made the istidlal process acceptable to all muslim scholars and the legal outputs issued contain mutual benefits.

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