

STUDI ANALISIS QAWA'ID KONSEP FIQHIYAH: IMPLEMENTASI MODERASI DALAM BERAGAMA

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ABSTRAK

Indonesia dengan keanekaragaman budaya, agama, suku, bahasa yang dimilikinya menunjukkan sebagai salah satu bangsa yang memiliki masyarakat multikultural. Beberapa keanekaragaman tersebut menjadi rahmat tersendiri jika dikelola dengan baik, menjadi keunikan dan kekuatan, namun juga menjadi ancaman perpecahan dan perseteruan jika keanekaragaman tidak disikapi dengan arif dan bijaksana yang dapat mengoyak keamanan sosial. Moderasi merupakan budaya nusantara yang berjalan seiring dan tidak saling mempertentangkan namun mencari penyelesaian dengan toleran. Terkait dengan adanya implementasi moderasi beragama dengan kaidah fiqih kemadaratan ini dapat mengedepankan sikap keterbukaan terhadap perbedaan yang ada, tetapi juga tidak hanya memuat sifat toleransi tetapi terdapat suatu hal yang tidak boleh di tinggalkan karena sudah terikat dengan syariat. Tujuan dari penelitian ini adalah untuk para pembaca baik dari kalangan yang berlatar belakang akademik maupun masyarakat umum agar dijadikan pengetahuan bahwasanya kita memang dianjurkan untuk saling toleransi antar sesama tanpa membedakan ras, suku, dan agama namun tidak boleh meninggalkan apa yang sudah disyariatkan oleh agama. Penelitian ini menggunakan metode penelitian hukum empiris Dengan melakukan pendekatan Konseptual atau *conceptual approach*, selanjutnya peneliti menggunakan kaidah fiqih sebagai upaya mengharmonisasikan antara budaya digital dan juga hukum islam. Dari hasil penelitian diperoleh bahwa Terkait dengan adanya implementasi moderasi beragama dengan kaidah fiqih kemadaratan ini dapat mengedepankan sikap keterbukaan terhadap perbedaan yang ada, tetapi juga tidak hanya memuat sifat toleransi tetapi terdapat suatu hal yang tidak boleh di tinggalkan karena sudah terikat dengan syariat.

Kata Kunci: Moderasi, Kemudaratan, Kaidah Fiqhiyah

ABSTRACT

Indonesia with its diversity of cultures, religions, tribes, languages shows as one of the nations that has a multicultural society. Some of this diversity is a blessing in itself if managed properly, becoming uniqueness and strength, but also a threat of division and feud if diversity is not addressed wisely and wisely which can tear social security. Moderation is an archipelago culture that goes hand in hand and does not contradict each other but seeks a tolerant solution. Associated with the implementation of religious moderation with the rules of fiqh of omnipresence can promote an attitude of openness to existing differences, but also not only contains the nature of tolerance but there is something that cannot be left because it is bound by sharia. The purpose of this research is for readers both from academic

backgrounds and the general public to be used as knowledge that we are encouraged to tolerate each other without distinguishing race, ethnicity, and religion but must not leave what has been prescribed by religion. This research uses empirical legal research methods by conducting a conceptual approach, then researchers use fiqh rules as an effort to harmonize digital culture and Islamic law. From the results of the study, it was found that related to the implementation of religious moderation with the fiqh rules of omnipresence, it can promote an attitude of openness to existing differences, but also not only contains the nature of tolerance but there is something that cannot be left because it is bound by sharia.

Keywords: *Moderation, Adversity, Fiqhiyah Rule*

INTRODUCTION

Religious moderation is considered the most important factor in order to strengthen unity and maintain peace in Indonesia, the existence of this religious moderation is to maintain the diversity of understanding of religion so that it does not easily lead to extreme ways of religion, the concept of religious moderation itself is the openness of cooperation from each different group. Therefore, the existence of religious moderation will realise a tolerance that is able to maintain religious harmony. This can make inter-cultural religions and races can form a community or group that is accepting of differences and able to live together in an atmosphere of different lives. This religious diversity makes people understand religion in general and can be divided into three, namely exclusive inclusive and moderate. The general view in exclusive and inclusive attitudes are attitudes that are considered less supportive of inter-religious shortcomings, this happens because of the sentiment towards other religions, and is also prone to being material that will suck in the situation or trigger social conflict in society.

In the rule of Al yuzar it can be explained that the misfortune must be eliminated in this case it is proven that when hoarding goods for the basic needs of the community it is not recommended because this can cause a very large misfortune. According to Izuddin Ibn Abd (1980:73), sharia aims to achieve benefit and reject misfortune. Meanwhile, according to Amir Syarifudin (2008: 426-427) kemaslakhatan will bring benefits while mafsadah will cause harm. In addition, the Qur'an also explains the prohibition of actions that can cause something forbidden, even though basically the action is permissible. The concept of this rule teaches that humans must be prevented from idlrah (not harming), both by themselves and others, and they should not cause harm (harm) to others. Islam discourages dlarurat, both to oneself and to others, which is why the Prophet (peace be upon him) strictly forbade taking any action without considering the consequences of that action. Based on this explanation, the author is interested in discussing how we moderate in religion properly based on one of the rules of fiqh.

DISCUSSION

Definition of fiqh rules (al-qawaid al-fiqh

The word howaid Al fiqhiyah has two words, namely the word khawait which is the plural form of the word qoidah which linguistically means the principle or basis, whether it is in the sensory form or the meaning of the word rule in the sensory form can also be called howaid Al Bait which means the basis or foundation of the house. While the word rule in the form of meaning can also be called which means the basis or principle of religion.

MusthafaAhmadZarqa(1968:946)by quoting the opinion of Nahwu experts defines qawaid as a law that can be applied to all its parts. while the word fiqh linguistically means understanding while according to. Firdaus (2015: 28) the word fiqh means deep understanding to get to it needs to direct thought seriously. thus it can be concluded that the rule of fiqh is a rule where the rule is general in nature which contains fiqh issues. The word fiqh means a deep understanding that requires careful thought. Thus it can be concluded that the rule of fiqh is a rule where the rule is general in nature which contains problems.

Al-qawaid Al-fiqhiyah (fourth rule) The pronunciation of the fourth rule

الضرر يزال

"Harm must be eliminated"

The rule above is that all that causes harm must be eliminated this rule is very important in building Islamic law basically this rule aims to realise legal efforts, namely to realise the benefit and reject all damage or disaster., Even if the beneficial thing causes damage or disaster, the beneficial thing must also be eliminated. The concept of this rule teaches that humans must be prevented from idlar (harm), both by themselves and others, and should not cause harm (harm) to others. Islam discourages dlarurat, both to oneself and to others, which is why the Prophet (peace be upon him) strictly forbade taking any action without considering the consequences of that action. The basis for taking the rule is: (QS al-A'raf: 56)

وَلَا تُفْسِدُوا فِي الْأَرْضِ

“And you shall not make mischief on the earth.” (QS al-A'raf: 56)

HR Malik, Ahmad, Ibnu Majah, Hakim, Baihaqi, dan al-Daruqutni

عَنْ أَبِي سَعِيدٍ سَعِيدِ بْنِ مَالِكِ بْنِ سِنَانَِ الْخُدْرِيِّ رَضِيَ اللَّهُ عَنْهُ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: لَا ضَرَرَ وَلَا ضِرَارَ
“ Abu Sa'id ibn Malik ibn Sinan al-khudrir.a. reported that the Messenger of Allah, peace be upon him, said: "There should be no harm and no harm to others." (HR Malik, Ahmad, Ibn Majah, Hakim, Baihaqi, and al-Daruqutni)

From the two sources of law above we can draw the conclusion that we are prohibited from doing something that will cause harm in Islam even if something is useful but in it against

rebellion then it must be eliminated but it does not rule out the possibility of many people experiencing emergency conditions whether the emergency is caused by the actions of others due to hunger changing from disease when there is a fire drowning accidents and so on. According to Agus Hermanto (2021: 265), which causes an emergency condition because it maintains 5 things that must be protected in Islam, namely:

1) Safeguarding religion

This is the most important emergency and ranks highest, because with religion humans will distinguish between what is right and what is false. because human reason is not sufficient to find the truth except for the guidance of Revelation. and with religion, humans can worship properly to Allah Subhanahu Wa Ta'ala.

2) Guarding the Soul

Religion cannot be established if there is no soul to uphold it.

3) Preserving the mind

Humanity has been ennobled by Allah with reason, with human reason being a noble creature compared to other creatures. With reason we can also worship Allah SWT, on this earth. And with the existence of reason we are able to develop the mandate to become caliphs. That is to manage the earth well. One of the means to keep the mind is science, because the sentence of revelation that first came down was iqra' (reading) because by reading we can get the way of knowledge, although not the only way but it is the most important way.

4) Preserving offspring

Among the dharurat al-khams that are preserved and guarded in sharee'ah is the preservation of offspring.

5) Guarding the treasure

The last part of the dharurat al-khams that is safeguarded by Shari'ah is something that is the support of life, welfare and happiness.

Branches of the Rule

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

“Fear is permitting things that are forbidden.”

The limitation of farawayness is something that threatens human existence related to the five objectives, namely maintaining religion, soul, mind, lineage, property or honor. The majority of scholars of usul fiqh are of the opinion that what is meant by dharurat is the permissibility of prohibited things in circumstances that meet the following conditions:

1) The condition is life and limb threatening.

- 2) The dharurat situation will only be carried out in a way that does not exceed the limit.
- 3) There is no other lawful way except by doing what is prohibited.

For example, if a person in the forest has nothing to eat except a wild boar, and if he does not eat it he will die, then it is permissible for him to eat the boar only to the extent that he needs it.

This rule is in accordance with the Qur'anic verse precisely in QS. Al-Baqarah: 173

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنزِيرِ وَمَا أُهْلَ بِهِ لِغَيْرِ اللَّهِ فَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ إِنَّ اللَّهَ غَفُورٌ رَحِيمٌ

“But whoever is in a state of necessity (to eat) and does not desire it, nor does he transgress the limits, there is no sin on him. Indeed, Allaah is most forgiving and most merciful.” QS Al-Baqarah:173)

According to the above rule, not all compulsion permits something forbidden, but the compulsion is limited to compulsion that really has no other way except by doing it, and if not doing it can endanger his soul. Under these conditions, everything that is forbidden becomes legalized.

According to Abdul Qadir Awdah (1949:577) A person is said to be in a state of emergency or may take a concession if the conditions are met: a person is said to be in a state of emergency or may take a concession if the conditions are met:

- 1) Him/herself or another person is in a serious situation where it is feared that his/her life or limbs may be endangered.
- 2) An urgent situation that cannot be delayed any longer.

الضَّرَرُ لَا يُزَالُ بِالضَّرَرِ

“Mudharat cannot be eliminated by mudharat.”

The harm is something that is urgent, or something that is harmful, so another harm cannot remove that harm. If we compare it to wanting to clean a shirt stained with blood with murky water that is stained with chicken feces. According to this rule, one is prohibited from eliminating the harm by bringing in another harm of the same quality or magnitude. An example of this rule is like someone who is starving cannot take food from someone who is starving.

الضَّرَرُ الْأَشَدُّ يُزَالُ بِالضَّرَرِ الْأَخْفِ

“The greater harm is eliminated by the lesser harm.”

When a person is in a difficult situation or suffers a harm, it is not permissible to remove it with a similar harm. But if he still cannot avoid the mudharat, then look for lesser

mudharat. An example that can be taken from this rule is a doctor who treats his patient a pregnant woman who has difficulty saving the mother and child in her womb and the only way is to sacrifice one. In this case the doctor must save the mother rather than the child who is still in the womb, because the mother's soul is more important and certainly alive. However, if the hardship is comparable then it is not permissible to eliminate one of them.

الضَّرُّ لَا يُزَالُ بِمِثْلِهِ

“An evil cannot be eliminated by an equal evil.”

According to Ahmad Djazuli (2010:74) This rule explains that an evil cannot be eliminated by another equivalent evil.

For example, a doctor cannot take the blood of patient A for patient B when the blood is urgently needed by patient A, so it cannot be done.

دَرْءُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

“Rejecting harm should take precedence over attracting benefit.”

According to this rule, if in a case or problem there is a benefit, then the mafsadat must be eliminated, because it can spread everywhere, and cause great mafsadat. For example, drinking alcohol has benefits, but the mafsadat outweighs the benefits, so it is prohibited. The conditions of the benefit itself are:

The benefit must be in accordance with maqasid sharia.

1) The benefit must be convincing.

It is a benefit that brings convenience rather than hardship and is beyond the pale, in the sense that the benefit is feasible.

2) The benefit benefits the majority of people, not a small number of people.

Religious Moderation

Indonesia is a pluralistic country that has various races, tribes, religions and customs. One of the most basic aspects of Indonesia's pluralism is the variety of religions and beliefs that are practiced, including Islam, Christianity, Hinduism, Buddhism, Catholicism and Confucianism. However, the majority of the Indonesian population adheres to Islam. Within the diversity of religions there is still some more diversity in it, so that many give birth to sects, schools or schools in each religion. This difference is because humans have the capacity and

Each person's thinking ability, approach and experience are also different. In addition, these differences also occur because there are religious texts in certain religions that are still general in nature and allow for various interpretations that cause the emergence of various religious sects and groups that are diverse and even contradictory.

In Indonesian society which has a variety of cultures, an exclusive religious attitude which only recognizes truth and salvation unilaterally, of course it can cause friction between religious groups. Religious conflicts that often occur in Indonesia are generally caused by an exclusive religious attitude, as well as the contestation between religious groups in gaining the support of people who are not based on tolerance, because each uses its power to win so as to trigger a conflict. Therefore, moderation in religion is very important.

The word moderation in English is called *moderati*, which means moderation or moderation. We can conclude that moderation emphasizes balance in terms of belief morals, and character, both when treating others as individuals, and when dealing with state institutions.

Moderation according to Islamic thought is to prioritize a tolerant attitude in differences. Openness in accepting diversity. Both diversity in *mazhab* and diversity in religion. And differences do not prevent cooperation with the principle of humanity. Believing that Islam is the truest religion does not mean that it must harass other people's religions, so that there will be unity and brotherhood between religions.

Religious moderation aims to restore the purpose of religion, which is to spread the widest possible benefit so that there is harmony of life in the many religious diversity, instead of causing division because it is too extreme in understanding religion. Religious moderation emphasizes on the aspect of universal principles or human values contained in the teachings of all religions to create peace, with this religious moderation is expected to change the religious way of the people. Religion properly and correctly without having to change religious teachings that are final and cannot be changed.

Religious moderation here must also be understood that what is moderated is not the religion, but how we practice religion. Moderation must be developed as a joint commitment to maintain balance, where every citizen, regardless of ethnicity, culture, religion, and political choices must be willing to listen to each other. As a recent example is the election where there are many differences in voting, then we must respect each other and also not demonize each other. Don't let the differences in our choices divide us. And in fact it is true that when there are differences in the election and the person they choose loses, they actually demonize each other and hold demonstrations. Therefore, the role of religious moderation is very important to maintain unity, brotherhood, and also create a peaceful life.

Religious Moderation in Relation to the Rule of Harm

Indonesia has diverse beliefs, where each belief has diverse interpretations of their respective beliefs. Here, the importance of insight into nationality and religious moderation,

so that religious people understand when dealing with an interpretation that is impossible to implement because it does not fit the context of diversity or contradicts other beliefs.

If religious people do not have insight into nationality and religious moderation, then there will be an extreme (hard) attitude that imposes that the beliefs they embrace are the most correct without caring about diversity without looking for other alternatives that are more in line with diversity. Therefore, this attitude of religious moderation is very important, so that religious people are smart in seeing and responding to all the differences that exist in our country.

The concept of religious moderation, when associated with the fiqh rules above is very close. Given that the concept of religious moderation can eliminate the existence of harm and a lot of benefits obtained from the implementation of religious moderation, starting from protecting beliefs, souls, thoughts, offspring, and property, so many benefits are brought from the concept of religious moderation. In addition, religious moderation can also protect religion so as not to insult each other among religious believers, which if not addressed wisely will lead to religious conflicts that are very difficult to resolve. In fact, it is not uncommon to swallow victims, so by instilling an attitude of religious moderation has saved human lives.

In addition, the concept of religious moderation can also protect religious people from extreme understanding that can poison the mindset between religious communities, so that many are wrong in interpreting religious teachings. The result of Thismisunderstanding of religion can lead to divisions among religious communities, cold wars between religious communities that eventually take victims and damage the economy, damage public facilities and conflicting parties.

However, sometimes someone misuses the concept of religious moderation. Such as the familiar case of interfaith marriage which is clearly prohibited by religion, especially Islam. Furthermore, referring to Law Number 39 of 1999 concerning Human Rights, precisely in article 10 paragraph 1 that everyone has the right to form a family and continue offspring through legal marriage and of free will. Then in Law Number 1 of 1974 concerning Marriage, it is not specifically regulated regarding interfaith marriages, while the facts that occur in today's society really need a solution to the problem of interfaith marriage.

Marriage in Indonesia is regulated in Law Number 1 of 1974 Article 2 paragraph 1 concerning marriage, where the definition of marriage is as a physical and mental bond between a man and a woman as husband and wife for the purpose of forming a happy and eternal family based on God Almighty. while a valid marriage according to the law is a

marriage that is carried out according to the law and religion of each other's beliefs. In addition, the marriage must also be registered according to the applicable law.

Furthermore, considering that interfaith marriages are prohibited according to Marriage Law No. 1 of 1974 and the Compilation of Islamic Law, how does this religious moderation mediate this issue. Even though the positive law in Indonesia does not provide space for Muslims to perform interfaith marriages, the practice is still carried out because it is based on love and love as well as maintaining human rights.

What has been in the spotlight recently is the legalization of interfaith marriages. Where in essence it violates the rules of sharia. In fact, the implementation of this religious moderation in society is the attitude of tolerance between religious communities. And if it is associated with interfaith marriages that are not in accordance with Islamic teachings, then whether this concept of moderation can be used as a solution in determining the legality of interfaith marriages. Looking at the impact of interfaith marriage is not as simple as the thinking of ordinary people, where as long as both parties respect the differences that exist and can establish a harmonious family relationship. Without thinking about the impact of interfaith marriages, such as the nasab of children, because in shari'ah the marriage is not valid. And in sharia it is also explained that the relationship between husband and wife is included in the class of adultery. Therefore, we must also be careful in applying this concept of religious moderation when there is an act that is contrary to sharia and the teachings of each religion. So, we must be able to place the attitude of tolerance within the limits of each other's beliefs and beliefs.

CONCLUSION

There is no way out of this misfortune except to commit an offense or crime. Therefore, with the existence of reason we are able to develop the mandate to become caliphs. In fact, the implementation of this religious moderation in society is the attitude of tolerance between religious communities. Therefore, we must be able to place an attitude of tolerance within the limits of each belief and belief. This concept of religious moderation when associated with the fiqiyah rules above is very close. However, sometimes someone misuses the concept of religious moderation.

This religious moderation. And it is with religion that humans can worship properly to Allah SWT. As an example that is no longer alien, namely regarding marriages of different religions. Considering that interfaith marriages are prohibited according to Marriage Law No.1 of 1974 and the complications of Islamic law, this

religious moderation mediates this issue. Religious moderation in Indonesia is a pluralistic country that has various races, tribes, religions and customs. Keeping the soul of religion cannot be upright if there is no soul that upholds it. Both from madzab and in religion. Therefore, the role of religious moderation is very important in terms of maintaining unity, brotherhood, and also creating a peaceful life. In this religious moderation, it must also be understood that what is moderated is not the religion, but how we practice religion. The word moderation in English is called moderationi which means the attitude of moderation of this people, so that religious people are smart in seeing and responding to all differences that exist in our country. Therefore, moderation in religious communities is very important.

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