

Contribution of T.M. Hasbi Ash-Shiddieqy in the Renewal of Islamic Law in Indonesia

Asy'ari

STAIN Teungku Dirundeng Meulaboh, Indonesia

asyari@staindirundeng.ac.id

Abstract

T.M. Hasbi ash-Shiddieqy is one of the leading reformers of Islamic law in Indonesia. He initiated the idea to draft Islamic law in accordance with the socio-culture of Indonesian society called "Fiqh Indonesia". According to T.M Hasbi ash-Shiddieqy law that applies in Indonesia does not follow Indonesian society's personality. Therefore, he emphasized the need to make laws that follow Indonesia's socio-cultural society and follow the conditions and developments of the times. As for the Ijtihad of the previous scholars contained in the fiqh, madhab is not necessarily discarded but chosen in accordance with the socio-cultural conditions of Indonesian society. In expressing his opinion, T.M Hasbi ash-Shiddieqy uses a textual and contextual approach based on urf, mashlahah mursalah and sadd adz-dzari'ah. Among the ideas of renewal of T.M. Hasbi ash-Shiddieqy is collective, allowing shaking hands with non-mahram women (women who have no blood relation), zakat (tax) non-Muslims, the establishment of zakat board institutions, the ability to make pictures and statues, the use of hisab methods in determining the beginning of Ramadan and the law of cutting hands because it is continuously repeated not due to the level of stolen goods.

Keywords

T.M. Hasbi ash-Shiddieqy;
renewal; Islamic law



I. Introduction

The Qur'an and hadith are the two sources of Islamic law that are the guidance of humanity in this world. The Qur'an and hadith contain universal principles that are a reference in solving the problems of the ummah. If a problem is not found in the Qur'an and hadith, then the scholars do Ijtihad to the issues that are not found by the law. As the times progress, many things that happen today have no detailed explanation in the Qur'an and hadith. So it is required that the activeness of the scholars be Ijtihad find legal solutions to the problems faced by Muslims today.

Indonesia, as a Muslim-majority country with a diversity of tribes, cultures, and religions is faced with a variety of very complex legal problems. This diversity automatically raises new legal problems in the community that need to find a way out—seeing these phenomena, religious leaders in Indonesia have moved to reform Islamic law in Indonesia.

The renewal of Islamic law can be interpreted as an effort through a specific process carried out by people who have complement and authority in developing Islamic law. This aims to make Islamic law more modern and can be applied throughout the ages. (Syaukani, 2006) The renewal of Islamic law is also intended as a tendency to understand fiqh according to the needs of the local community adapted to its culture and environment. (Abubakar, 2005)

This kind of thinking is illustrated in the era of the 40s, as was the idea of T.M. Hasbi ash-Shiddieqy to make Islamic law in accordance with the socio-cultural society of Indonesia. So he initiated "Indonesian fiqh." (Barkatullah & Prasetyo, 2006) T.M. Hasbi ash-Shiddieqy is considered the first reformer of Islamic law in Indonesia. T.M. Hasbi ash-Shiddieqy was a figure who dared to renew and differed with the majority of scholars at the time.

II. Review of Literature

2.1 Background of Life T.M Hasbi ash-Shiddieqy

T.M. Hasbi ash-Shiddieqy is a legendary cleric of the archipelago who is very productive writing various works. He has written books on the reform of Islamic law and the modernization of fiqh in Indonesia. He is a scholar who is an expert in the field of fiqh science, fiqh proposal, tafsir, hadith, and kalam science. T.M. Hasbi ash-Shiddieqy was born on March 10, 1904 in Lhokseumawe, North Aceh, Indonesia. He is of Aceh-Arab descent, his father named Al Hajj Teungku Qadhi Chik Maharaja Mangkubumi Husein ibn Muhammad Su'ud, a famous scholar who has a dayah and a qadhi chik. The position was occupied by him after the death of his in-laws, Chik Tengku Abdul Aziz. His mother named Teungku Amrah princess Teungku Abdul Aziz held the position of Qadhi Chik Maharaja Mangkubumi, sultanate of Aceh at that time. He is also the nephew of Abdul Jalil, who holds the title Tengku Chik in Awe Geutah, where according to the people of North Aceh is considered a sacred guardian. His grave is still being visited to ask for blessings. Another uncle named Tengku Tulot occupied the first position at the beginning of Sri Maharaja Mangkubumi. (Penulis, 2008).

According to genealogy, T.M Hasbi ash-Shiddieqy is a descendant of Abu Bakr ash-Shiddieqy (the first caliph), the 37th generation. Therefore as a descendant of Abu Bakr ash-Shiddieqy, he attached the title ash-Shiddieqy behind his name. His genealogy is Muhammad Hasbi bin Muhammad Husain bin Muhammad Su'ud bin Muhammad Taufiq ibn Fathimy ibn Ahmad ibn Dhiyauddin ibn Muhammad Ma'shum (Faqr Muhammad) ibn Ahmad Alfar ibn Mu'aisyidin ibn Khawajaki ibn Darwis ibn Muhammad Zahid ibn Marwajuddin ibn Ya'qub ibn 'Alauddin ibn Bahauddin ibn Amir Kilal ibn Syammas ibn Abdul Aziz ibn Yazid ibn Ja'far ibn Qasim ibn Muhammad ibn Abu Bakr Ash-Shiddiq.

His birth and growth coincided with the development of the thought reform movement in Java that blew away the Indonesian and anti-colonial national spirit. While in Aceh, the war with the Dutch is increasingly raging. When T.M Hasbi was six years old, his mother, Tengku Amrah left the world. Then, he was fostered by his aunt named Tengku Shamsiah. (Penulis, 2008)

2.2 Background in Science and Struggle of T.M Hasbi ash-Shiddieqy

As a child, T.M. Hasbi ash-Shiddieqy began studying Islam in his father's dayah (pesantren). There he studied qiraah, tajwid as well as the basics of fiqh and tafsir. Then at the age of eight, he began to travel. First T.M. Hasbi ash-Shiddieqy studied at Dayah Teuku Chik led by Tengku Abdullah in Piyeung. Here he focuses on the science of nahwu and Sharaf. A year later he moved to Dayah Tengku Chik in Bluk Bayu, here he was just a year later he moved to study at Dayah Tengku Chik Bang Kabu, Geudong. Then Dayah Blang Banyak in Samakurok and finally he continued his studies at Dayah Tanjung Barat in Samalanga until 1925. It was in this last dayah that T.M. Hasbi ash-Shiddieqy earned a diploma from his teacher to open his dayah. (Penulis, 2008, pp. 13-14)

During his odyssey and visiting various dayah in the former center of the Kingdom of Pasai for 15 years (1910-1925), he had received Arabic lessons from an Arab scholar named

Sheikh Muhammad ibn Salim al-Kalali. Al-Kalali is a teacher and friend in voicing renewal in Indonesia, especially the Aceh region. From al-Kalali, he also obtained many books and magazines related to the revival of Islam.

When T.M. Hasbi ash-Shiddieqy studied in Dayah Tanjung Barat, he secretly learned Latin letters from his teacher's son and his friend in the dayah, he was able to master it in a short time. In addition, T.M. Hasbi ash-Shiddieqy had also studied Dutch from a Dutchman who learned Arabic to him. T.M. Hasbi ash-Shiddieqy was able to access all forms of information from the mass media which at that time was controlled by the Dutch East Indies government. (Penulis, T.M. Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia, 2004)

After T.M. Hasbi got his diploma from his teacher in Dayah Tanjung Barat, in 1925, he established his dayah in Buloh Beureugang with the help of the local Hulubalang. Dayah, founded by T.M. Hasbi ash-Shiddieqy is 8 km from his hometown. In 1927 he accepted sheikh Muhammad ibn Salim al-Kalali's offer to travel to Surabaya for T.M. Hasbi ash-Shiddieqy to explore the ideas of renewal at Madrasah Al-Irsyad College which was a religious organization founded by Sheikh Ahmad Soorkati (1874-1943). Sheikh Ahmad Soorkati was a Sudanese cleric who was famous for having modern thought at the time. In the madrassa, T.M. Hasbi ash-Shiddieqy studied by taking takhassus (specialization) lessons in education and languages. (Shiddiqy, 1997)

Al-Kalali offered T.M. Hasbi ash-Shiddieqy to study at al-Irsyad college because al-Kalali was amazed by T.M. Hasbi ash-Shiddieqy's intelligence and saw enormous potential in him to reform. So al-Irsyad college is seen as the right place for T.M. Hasbi ash-Shiddieqy to gain knowledge and develop the potential that exists in him. In 1928 T.M. Hasbi ash-Shiddieqy returned to Aceh, he along with al-Kalali founded a madrassa named Madrasah Al-Irsyad in Lhokseumawe. It's just that administratively this madrassa has no connection with Madrasah Al-Irsyad Surabaya, where T.M. Hasbi ash-Shiddieqy has studied. Still, idealistically this madrassa follows the curriculum and teaching and learning process as developed at Al-Irsyad college in Java. But in later life, the madrassa established by T.M. Hasbi and al-Kalali was run out of students because of accusations that the madrassa he founded was a heretical and misleading madrassa T.M. Hasbi ash-Shiddieqy used a colonial teaching and learning system (using benches and tables). The issue was raised by Abdullah TB. (Shiddiqy, 1997, pp. 215-216)

T.M. Hasbi ash-Shiddieqy's failure to develop the dayah and madrassa he founded did not dampen his zeal to establish a new school. As a result of the accusations that had been directed at him, T.M. Hasbi ash-Shiddieqy chose to move to Krueng Mane precisely to the west of Lhokseumawe. In that place, T.M. Hasbi ash-Shiddieqy got help from Teuku Ubit who is Hulubalang Krueng Mane to establish a madrassa named al-Huda using the curriculum and idealistic Madrasah al-Irsyad as he once established along with al-Kalali in Lhoksumawe. But in the end, this madrassa had to be closed due to the dutch east indies government ban. (Penulis, Biografi Rektor IAIN Ar-Raniry, 2008, p. 20)

While in Aceh T.M. Hasbi and being a lecturer in Muhammadiyah courses and schools, he also led SMI (Islamic High School). In addition, he is also actively through MASYUMI. T.M. Hasbi ash-Shiddieqy became chairman of MASYUMI North Aceh branch. On December 20-25, 1949 held the Indonesian Muslim Congress (KMI) in Yogyakarta, T.M. Hasbi represented Muhammadiyah and Ali Balwi represented PUSPA. At the congress, T.M. Hasbi delivered a paper titled "Guidelines for Islamic Tradeon Statehood." This is where Abu Bakar Aceh introduced T.M. Hasbi ash-Shiddieqy to Wahid Hashim (Minister of Religion) and K. Fatchurrahman Kafrawy. A year later after the introduction, the Minister of Religious Affairs called T.M. Hasbi ash-Shiddieqy to become a lecturer at the PTAIN to be established, so that in January 1951, T.M. Hasbi ash-Shiddieqy left for Yogyakarta and settled there

concentrating in the field of education. In 1960 he was appointed dean of the Faculty of Shari'ah IAIN Sunan Kalijaga Yogyakarta. He held this position until 1972. In 1962 T.M. Hasbi ash-Shiddieqy was also appointed Dean of the Faculty of Shari'ah IAIN Ar-Raniry, Darussalam. (Penulis, T.M Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia, 2004, p. 65)

The depth of Islamic knowledge and recognition of his ability as a scholar is seen from several doctoral degrees (Honoris Causa) received, such as from the Islamic University of Bandung on March 22, 1975, and from IAIN Sunan Kalijaga on October 29, 1975. Previously, in 1960, he was appointed as a professor in hadith science at IAIN Sunan Kalijaga. T.M. Hasbi ash-Shiddieqy retired from his post in 1972. (Penulis, T.M Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia, 2004, p. 65)

There are several exciting sides to T.M. Hasbi ash-Shiddieqy include:

First, he was a self-taught man. The education he took from dayah to dayah and only one and a half years sitting in al Irsyad School (1926). Based on such formal education, he presented himself as a thinker. The international community recognizes his ability as an intellectual. He was invited and presented a paper in the International Islamic Colloquium held in Lahore, Pakistan (1958). In addition, in contrast to other figures in Indonesia, he has issued a voice of renewal before going on Hajj or studying in the Middle East.

Second, he began to move to Aceh, in a community that is known to be fanatical, even some who think "haunted". But T.M. Hasbi ash-Shiddieqy, at the beginning of his struggle, dared to defy the current. He was undaunted and receded from his battle even though he was hostile, held captive, and exiled by those who disagreed with him.

Third, in his opinion, he feels free not bound by the views of his group. He had a conversation with the people of Muhammadiyah and Persis, even though he was also a member of both unions. He even dared to disagree with the ulama, which rarely happens in Indonesia (ash-Shiddieqy, 2001).

Fourth, he was the first person in Indonesia since 1940 and reaffirmed in 1960 to call for the construction of fiqh with an Indonesian personality. This appeal jolted some Indonesian scholars. They spoke out against fiqh (law in concreto) in Indonesia or localized. For them, fiqh and sharia (law in the abstract) are universal and equally universal. Since 1960, voices declaring the Indonesian Muslim community needs "Indonesian fiqh" are heard again now that it has passed thirty-five years. Unfortunately, they refused to say who the original initiator was. Recording the beginning initiator in history is an obligation for the sake of the establishment of historical truth. (Hamid & Iskandar Ahza, 2003)

Without a doubt and for the sake of straightening out the historical facts of T.M. Hasbi ash-Shiddieqy was the first to initiate the idea of the emergence of "Indonesian fiqh". The following Indonesian reformers then followed this idea.

III. Discussion

3.1 Political Activity T.M. Hasbi ash-Shiddieqy

After the madrasa he founded was closed due to a Dutch ban, T.M Hasbi ash-Shiddieqy returned to Lhoksumawe and switched briefly from educational to political activities. When T.M Hasbi ash-Shiddieqy went into politics, he wrote a book entitled "Penoetoep Moeloet". As a result of his writing, T.M Hasbi ash-Shiddieqy had to leave Lhoksumawe and move to Kutaraja.

In 1933 T.M. Hasbi ash-Shiddieqy arrived in Kutaraja. He joined the Nadi Ishlahil Islam organization, a reforming organization in the city and at the same time, he has also been named editor-in-chief of Soera Atjeh. In addition, he also taught courses organized by

JIB (Jong Islamietien Bond) Aceh and became a teacher at HIS and MULO schools. (Penulis, Biografi Rektor IAIN Ar-Raniry, 2008, p. 26)

T.M. Hasbi ash-Shiddieqy once led Muhammadiyah Aceh due to being active in Muhammadiyah. In March 1946 T.M. Hasbi ash-Shiddieqy was held captive by the Social Revolution Movement driven by the Social Revolution Movement by PUSPA (Persatoean Oelama Seloeroeh Atjeh). The organization saw that Muhammadiyah Aceh, under the leadership of T.M. Hasbi ash-Shiddieqy was a rival. As a result of this mysterious captivity T.M. Hasbi ash-Shiddieqy had to languish in prison in Aceh Burnitelog Camp for approximately one year. Then in mid-1948, T.M. Hasbi ash-Shiddieqy was released and allowed to return to Lhoksumawe due to the insistence of the Muhammadiyah Central Leadership through Sultan Mansur and the central government through Vice President Mohammad Hatta, but he was still a city prisoner. It was only in February 1947 that the detention status of T.M. Hasbi ash-Shiddieqy was revoked and declared free of the Aceh resident. (Penulis, Biografi Rektor IAIN Ar-Raniry, 2008, p. 26)

3.2 Scientific Works of T.M. Hasbi ash-Shiddieqy ash-Shiddieqy

T.M. Hasbi ash-Shiddieqy is a prolific scholar who writes down his Islamic ideas. His writing covers a wide range of Islamic disciplines. The book he wrote amounted to 73 titles (142 volumes), according to the records. Most of his work is about fiqh (36 tags). Other fields are hadith (8 titles), tafsir (6 titles), tawhid/kalam science (5 titles). The rest of his works are general themes.

His scientific career in the field of fiqh is seen from the results of his many works, including Introduction to Islamic Law, Introduction to Fiqh Science, Islamic Fiqh Laws, Facts and Majesty of Islamic Shari'ah, Dynamics and Elasticity of Islamic Law and The Points of Grip of Imam Madzhab in Fostering Islamic Law. In this field, it appears that he has his own opinion which he dug from the opinions of the previous scholars of fiqh and returned to the Qur'an and hadith. (Penulis, Ensiklopedi Islam, 2005)

In tafsir, T.M. Hasbi ash-Shiddieqy has written an interpretation seen as the complete first interpretation in the Indonesian, namely Tafsir an-Nur (1955). His other works in this field include Tafsir al-Bayan, History and Introduction to the Science of the Qur'an, The Subjects of The Qur'an. In the field of hadith, he wrote History and Introduction to Hadith Science, History of Hadith Development, Problematimka Hadith, Points of Hadith Dirayah Science, Pearl of Hadith, Collection of Legal Hadiths that originally planned to be published as many as eleven volumes, but only published six volumes because he died. In kalam science, he wrote History and Introduction to the science of Tawhid / Kalam, al-Islam, Joins of Islamic Creed, and others. (Penulis, Ensiklopedi Islam, 2005, p. 324)

Admittedly, T.M. Hasbi ash-Shiddieqy is the most productive person giving birth to written works, both in books and opinions contained in print and seminar papers. Many of these works exhibit their characteristics in terms of science to reflect their ideas and ideas.

3.3 E. T.M. Hasbi ash-Shiddieqy ash-Shiddieqy returned to Rahmatullah

He died on December 9, 1975, at the age of 71, after several days of entering the hajj quarantine to perform Hajj. His body was buried in the iain ciputat family cemetery in Jakarta. His wife Hj. Tengku Nyak Asiah, his daughter Zuhairah, Anisatulfuad, and his son Prof. Dr. Nourouzzaman Shiddieqy are now deceased. The surviving son of his youngest son H. Z. Fuad Hasbi. At the ceremony of the release of the deceased's body, also gave the welcome of the deceased Buya Hamka, and at the funeral, he was released by the late Mr. Moh. Rum. The last manuscript he completed was the Hajj Guidelines which have now been widely circulated in the wider community. (Penulis, Ensiklopedi Islam, 2005, pp. 42-43)

F. Contribution of thought T.M. Hasbi ash-Shiddieqy ash-Shiddieqy in the Renewal of Islamic Law in Indonesia

Like other scholars, T.M. Hasbi ash-Shiddieqy claims that Islamic sharia is dynamic and elastic following the development of time and place. Its scope covers all aspects of human life, both with one's fellow man and with his Lord. Islamic Sharia derived from the revelation of Allah SWT., and Muslims then understand this through the *ijtihad* method to anticipate any developments that arise in society. It was *Ijtihad* who then gave birth to *fiqh*. *Mujtahid* scholars write many books of *fiqh*. Among famous are the *mujtahid* imams of the four schools of Abu Hanifa, Malik, *asy-Shafi'i*, and Ahmad bin Hanbal. (Penulis, *Ensiklopedi Hukum Islam*, 1997)

However, according to T.M. Hasbi ash-Shiddieqy, many Muslims, especially in Indonesia, do not distinguish between sharia that directly comes from Allah SWT and *fiqh* which is the understanding of *mujtahid* scholars against the sharia. So far, there is an impression that Indonesian Muslims tend to think of *fiqh* as absolute sharia. As a result, the books of *fiqh* written by the imams of the school are seen as the source of sharia, although sometimes the relevance of the opinions of the imams of the school there is something that needs to be examined reviewed with the current context. This is because the results of their *Ijtihad* are inseparable from their situation and conditions, socio-culture, and geographical environment. Of course, this is different from the current state of society. (Penulis, *Ensiklopedi Hukum Islam*, 1997, p. 531)

T.M. Hasbi ash-Shiddieqy alluded to the importance of establishing Islamic law based on the results of *Ijtihad* tailored to the local needs of the Indonesian nation. This was written in an article published in *pandji Islam* in 1940 entitled "Revealed the Understanding of Islam". At that time, T.M. Hasbi ash-Shiddieqy less clearly stated his idea. It was not until 1961, in his scientific oration entitled "Sjari'at Islam Answering the Challenges of the Times" that he detailed his thoughts. In the view of T.M. Hasbi ash-Shiddieqy, Islamic law or *fiqh* developed by Muslims so far is none other than the Hijazi *fiqh* built on the Hijaz people's customs or Misri *fiqh* built on Egyptian customs. (Syaukani, 2006, p. 3)

According to him, the *fiqh* law embraced by the Indonesian Islamic community does not follow the Indonesian nation's personality. They tend to force the *fiqh* of the priests of the school. He proposed re-formulating the Islamic *fiqh* Indonesian personality as an alternative to this attitude. According to him, Muslims should be able to create a *fiqh* law following the socio-cultural and religious background of Indonesian society. However, the results of past clerical *Ijtihad* do not mean it should be discarded altogether but must be researched and studied freely, critically, and regardless of fanatical attitude. Thus, the opinions of scholars from any school, as long as they are appropriate and relevant to the situation of Indonesian society, can be accepted and applied. (Penulis, *Ensiklopedi Hukum Islam*, 1997, p. 531)

At the beginning of T.M. Hasbi ash-Shiddieqy conveyed his idea of the need for Indonesian *fiqh*. Many people considered his opinion strange, and some strongly opposed his idea. It turned out that a few years later, people realized how necessary T.M. Hasbi ash-Shiddieqy was. Even Indonesian *fiqh* is now a very needed thing because many of the legal problems in the *madhab* books are no longer relevant to the times, significantly if it is associated with socio-cultural Indonesian society. Later emerged reformers such as Hazairin, Munawir Sadjali, and others.

The approach that T.M. Hasbi ash-Shiddieqy uses in deciding a law is textual and contextual. It depends on the issues that need to be resolved. In creed and worship, T.M. Hasbi ash-Shiddieqy holds firmly to the *sahih* proposition. But in the problem of *muamalah* he is more likely to use socio-historical (contextual). This is because T.M. Hasbi ash-Shiddieqy believes that the law is inseparable from the changing times and places. T.M. Hasbi ash-Shiddieqy suggests using a socio-historical approach to unearthing a law. This is

intended to make the resulting regulation compatible with Indonesian society and follow the times without being bound by other regional cultures. (Yasir & Shafwan Bendadeh, 2021)

In expressing his opinion T.M.Hasbi ash-Shiddieqy based on the principle of *mashlahah mursalah* which is based on justice and expediency and *sadd adz-dzari'ah*. Based on that, T.M. Hasbi ash-Shiddieqy then made socio-cultural as his method of establishing the development of Islamic law. Therefore it is understandable why T.M. Hasbi ash-Shiddieqy expects Indonesian *fiqh*. (Amiruddin, 2004)

T.M. Hasbi ash-Shiddieqy stated that arguing with *maslahah mursalah* is a must. This principle follows the generality of *Shari'ah* which means it becomes the most likely basis for changes in the provisions of the law according to the context that surrounds it. Denying *maslahah mursalah* means freezing the *shari'ah*. This is because various problems that continue to arise and develop are not easy and can be solved by basing on specific propositions. (Ash-Shiddieqy, 1993)

According to T.M. Hasbi ash-Shiddieqy for this effort scholars should develop and encourage *ijtihad*. T.M. Hasbi ash-Shiddieqy rejected the view that the door of *ijtihad* had been closed. According to him, *ijtihad* is never closed because *ijtihad* is a necessity that can not be avoided from time to time. According to him, to go to Islamic *fiqh* that is insightful to Indonesia, three forms of *ijtihad* need to be done, namely:

First, *ijtihad* by classifying the laws of the products of past scholars of the school. This is intended to select opinions that are still suitable to be applied in our society.

Second, *ijtihad* by classifying laws based solely on the customs and atmosphere of the society in which the law developed. This law, according to him, changes following the changing times and circumstances of the community.

Third, *ijtihad* by seeking laws against contemporary problems arising from advances in science and technology such as organ transplants, banks, insurance, breast milk, and artificial insemination. (Penulis, *Ensiklopedi Hukum Islam*, 1997, p. 531)

In addition, according to T.M.Hasbi ash-Shiddieqy in the framework of the renewal of Islamic law in Indonesia, needs to be implemented *talfiq* method and selectively choose which opinions are suitable for the conditions of the Indonesian state. In addition, it is also necessary to encourage the process of comparison, namely the process of comparing one opinion with other opinions of all legal schools that are closer to the truth and supported by solid arguments. This comparative study should also be conducted between *fiqh* and customary law and positive law in Indonesia. (Manan, 2006)

His thoughts on the renewal of Islamic law can be seen from several problems. To solve the issues of establishing new rules, T.M. Hasbi ash-Shiddieqy suggested that a permanent legal institution be established, whose members consisted of clever people both from Islam and from the general social sciences. T.M. Hasbi ash-Shiddieqy argues that studies conducted by an institution that gathered experts from various disciplines will be more perfect than studies conducted by individuals or groups with one domain only. (Shiddiqy, 1997, p. 465)

The complexity of the problems that occur as a result of the progress of civilization, then the approach is taken to overcome it cannot be divided in specific fields only. Economic problems, for example, will also have an impact on other aspects. Therefore, according to him *ijtihad* can not be done effectively by individuals only. T.M. Hasbi ash-Shiddieqy offers the idea of *ijtihad jama'i* (collective *ijtihad*). Its members are not only from among scholars but also from various other Muslim scholars such as economists, doctors, culturalists, and politicians who have a sharp vision and insight into the problems of Muslims. Those who sit in this collective *ijtihad* institution seek to contribute thinking following their expertise and disciplines. Thus, the formulation of *ijtihad* decided by this institution is closer to the truth

and much more following the demands of the situation and the benefit of society. (Penulis, Ensiklopedi Hukum Islam, 1997, p. 531)

What T.M. Hasbi ash-Shiddieqy is very relevant to the current condition. At this time, there is a very complex problem among Muslims because of the development of science and technology. What was triggered by T.M. Hasbi ash-Shiddieqy is a necessity today because of the limited human resources and the impossibility of someone who mastered various disciplines well. It is hoped that the institution can answer the problems of Muslims and provide solutions to realize the benefit among Indonesian Muslims.

The idea of T.M. Hasbi ash-Shiddieqy was realized by establishing the Indonesian Ulema Council (MUI) as an institution that solves and answers religious problems among Muslims. Although this institution still has weak authority in the R.I. Country, this is the right step to answer the people's issues. Through this collective *ijtihad*, Indonesian Muslims can formulate their *fiqh* following the personality of the Indonesian nation. The formulation of the *fiqh* should not be bound to one of the schools but is a merger of opinions that are following the state of society. Good law considers and pays attention to the social, economic, cultural, customs and tendencies of the people concerned. In this idea of *ijtihad*, T.M. Hasbi ash-Shiddieqy considers the urgency of the methodology of legal determination (*istinbath*) that has been formulated by scholars such as *qiyas*, *istihsan*, *maslahah mursalah* (*maslahat*) and *urf*. (Penulis, Ensiklopedi Hukum Islam, 1997, p. 531).

In addition to the above thoughts, he also did *ijtihad* to answer legal problems in society. Among the results of *Ijtihad* T.M. Hasbi ash-Shiddieqy which reflects the idea of Indonesian *fiqh* seen in the legal issue of handshakes between men and women. Here he differs from the fatwa of Muhammadiyah tarjih assembly and Ahmad Hasan from Persis who prohibits the practice. T.M. Hasbi ash-Shiddieqy refused to ban the practice of handshakes of men and women for several reasons, including because the haram law was based on *qiyas*. According to T.M. Hasbi ash-Shiddieqy, denying something must be based on *nash*'s proposition that *qath'i* should not only be with *qiyas*. Since there is no *qath'i* proposition in either the Qur'an or *sunnah* that prohibits the practice of handshakes between men and women, such practices are not forbidden by religion. (Fuad, 2004) T.M. Hasbi ash-Shiddieqy also saw the handshake practice as having become a tradition in Indonesian society. Since T.M. Hasbi ash-Shiddieqy did not see the rule as harmful, there was no reason to ban it.

In the matter of *zakat*, the thought of *Ijtihad* T.M. Hasbi ash-Shiddieqy is classified as modern and advanced. In general, he agrees with the ulama who say that the object of *zakat* is property, not people. Therefore, from the property of a small child who has not been recluse who has reached his *nisabnya* must be issued *zakat* by his guardian. T.M. Hasbi ash-Shiddieqy considers *zakat* social worship aimed at bridging the gap between the rich and the poor. Therefore he argued that *zakat* could be levied from non-Muslims (*kafir kitabi*) to be handed back for their own sake. He based his opinion on the decision of Umar ibn al-Khattab who gave *zakat* to the *zimmi* or *ahluz zimmah* who were old and poor. Umar also once took *zakat* from the Christians of Bani Tughlab. This opinion is based on the principle of building common welfare in a country regardless of religion and class. (Penulis, Ensiklopedi Hukum Islam, 1997, p. 531).

According to T.M. Hasbi ash-Shiddieqy, the social function of *zakat* is to alleviate poverty, so the principle of justice must take precedence in *zakat* collection. He argued that the standardization of *nisab* size as a mandatory requirement needs to be reviewed. He understood *nisab* size, not textually as rigid number symbols. He emphasized that *nisab* *zakat* has been regulated and cannot be changed according to the times. However, this *nisab* standard must be measured with gold, which is 20 *miscal* or 90 grams of gold. According to him, gold is used as the *nisab* standard because its value is stable as a medium of exchange. (Penulis, Ensiklopedi Hukum Islam, 1997, p. 531).

In line with his goal to create the community's welfare, he viewed that the government as *ulil-amri* can take zakat forcibly against people who are reluctant to pay it. He also argued that the government should establish a zakat council (*baitul mal*) to coordinate and regulate zakat management. This council shall stand-alone, not included in the Ministry of Finance or the state's treasury. Given the importance of this zakat issue, he proposed that the arrangement be poured in the form of laws that have legal force. (Penulis, *Ensiklopedi Hukum Islam*, 1997, p. 531) Another problem that is still related to the issue of zakat is about people who are entitled to receive zakat. The view of T.M.Hasbi ash-Shiddieqy who is considered very brave in this issue, is that the poor non-Muslims who are unable to work are included in the poor and poor who are entitled to receive zakat. (Fuad, 2004, p. 74).

As for making pictures and statues, although some scholars forbid it, T.M. Hasbi ash-Shiddieqy argues that if there is a need to make images or statues such as for the world of medicine or to exemplify which animals are halal and which are haram, then the law is permissible. T.M. Hasbi ash-Shiddieqy declared his ban because the statue was made to be worshipped and believed to have a power that rivaled God. Therefore, as long as the making of the statue is not for efficacy and is not intended to be worshipped, then the law may be. Likewise, it is permissible to make a statue of a memorial, but it should not be worshipped. (Penulis, *T.M Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia*, 2004, p. 73).

While in terms of determining the beginning and end of Ramadan, T.M. Hasbi ash-Shiddieqy argues that it is permissible to use the *hisab* method in determining Ramadan, although there is a hadith that states it by looking at the *hila*. But according to T.M. Hasbi ash-Shiddieqy, the hadith *illat* was because in the time of the Prophet, people did not know the science of *hisab*. (Penulis, *T.M Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia*, 2004, p. 73).

As for the law of cutting hands, T.M. Hasbi ash-Shiddieqy is different from *ulama*. According to him, the punishment of cutting hands is not based on the level of stolen goods but rather on the innate nature that often or continuously commits theft. This is different from which sets the penalty of cutting hands based on the level of stolen goods (Sutarip, 2020). Against the law according to Hazewink el-Suringa in Purba (2019) is without its own rights or authority, contrary to the rights of others, and contrary to objective law. Within the scope of the law, if someone commits a crime, then that person must comply with the positive legal procedures (Tumanggor, 2019). In social life, law and society are two interrelated things that can never be separated or known as *Ibi Ius Ibi Societas* which can be translated to where there is a society there is law (Pratiwi, 2020).

Such is the contribution of T.M. Hasbi ash-Shiddieqy's thought in the renewal of Islamic law in Indonesia with Indonesian *fiqh* which he initiated in 1940. T.M. Hasbi ash-Shiddieqy strives to realize *fiqh* following socio-cultural conditions and the needs of Indonesian society. He accommodates customary laws that have been practiced in Indonesian society as long as it does not conflict with the law of *syara'*. Thus *fiqh* and customs can be accepted simultaneously and used as national law in Indonesia. In addition, laws outside Indonesia and the *ijtihad* of scholars who are not compatible with the socio-cultural conditions of Indonesian society do not need to be forced into a law that applies in Indonesia.

IV. Conclusion

Based on the idea and *ijtihad* T.M. Hasbi ash-Shiddieqy above, it looks like what is initiated by T.M. Hasbi ash-Shiddieqy is something new and can even be said to be something audacious. T.M. Hasbi ash-Shiddieqy dared to oppose the community's current understanding and scholars at that time, and even he dared to disagree with the *ulama*.

Courage is very rare in Indonesia. Until now, very few people dare to come out of the opinion of ulama and madhab, although they feel that many problems are no longer counted in the fiqh-fiqh madhab and not following the socio-cultural conditions of Indonesian society.

The courage of T.M. Hasbi ash-Shiddieqy in bringing up the idea has posed a significant risk to T.M. Hasbi ash-Shiddieqy, many religious and community leaders at the time who cursed him, even considered himself heretical. But this bold, critical and intelligent step is the first step in renewing Islamic law in Indonesia. This idea then received a welcome and was also followed by several figures afterward. What was initiated by T.M. Hasbi ash-Shiddieqy in the past is at least a small part of it has been realized in the present. This thinking is very relevant to the conditions that occur and is also considered suitable for socio-cultural Indonesian society. The thought of T.M. Hasbi ash-Shiddieqy is then considered the beginning of the renewal of Islamic law in Indonesia which is expected to realize fiqh following the Indonesian context so that it is expected that all Islamic legal rules can be included in the Indonesian national legal system and can be applied in people's lives.

References

- Abubakar, A. (2005). *Bunga Rampai Pelaksanaan Syariat Islam*. Banda Aceh: Dinas Syariat Islam.
- Amiruddin, M. H. (2004). *Muhammad Hasbi Ash-Shiddieqy; Tokoh Pembaharu dan Penggagas Fiqih Indonesia*. Banda Aceh: Ar-Raniry Press.
- ash-Shiddieqy, T. H. (2001). *Pedoman Shalat*. Semarang: Pustaka Rizki Putra.
- Ash-Shiddieqy, T. M. (1993). *Falsafah Hukum Islam*. Jakarta: Bulan Bintang.
- Barkatullah, A. H., & Prasetyo, T. (2006). *Hukum Islam Menjawab Tantangan Zaman Yang Terus Berkembang*. Yogyakarta: Pustaka Pelajar.
- Fuad, M. (2004). *Hukum Islam Indonesia: Dari Nalar Partisipatoris Hingga Emansipatoris*. Yogyakarta: LKiS.
- Hamid, S., & Iskandar Ahza. (2003). *Seratus Tokoh Islam Yang Paling Berpengaruh Di Indonesia*. Jakarta: Intermedia Cipta Nusantara.
- Manan, A. (2006). *Reformasi Hukum Islam Di Indonesia*. Jakarta: Raja Grafindo Persada.
- Penulis, T. (1997). *Ensiklopedi Hukum Islam*. Jakarta: Ichtiar Baru van Hoeve.
- Penulis, T. (2004). *T.M Hasbi ash-Shiddieqy dan Pembaharuan Pemikiran Islam Indonesia*. Banda Aceh: Ar-Raniry Press.
- Penulis, T. (2005). *Ensiklopedi Islam*. Jakarta: Ichtiar Baru van Hoeve.
- Penulis, T. (2008). *Biografi Rektor IAIN Ar-Raniry*. Banda Aceh: Ar-Raniry Press.
- Shiddiqy, N. (1997). *Fiqh Indonesia: Penggagas dan Gagasannya, Biografi, Perjuangan dan Pemikiran Teungku Muhammad Hasbi Ash-Shiddieqy*. Yogyakarta: IAIN Sunan Kalijaga.
- Sutarip, S. b. (2020). , *Pembaharuan Fiqh Indonesia (Telaah Tafsir Al-Bayan Karaya T.M Hasbi Ash-Shiddieqy)*. JII Indo-Islamika.
- Syaukani, I. (2006). *Rekonstruksi Epistemologi Hukum Islam Indonesia*. Jakarta: Raja Grafindo Persada.
- Tumanggor, F., Muazzul, and Zulyadi, R. (2019). *Handling of Narcotics Child Victims in Child Special Coaching Institutions Class I Tanjung Gusta, Medan*. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 2 (4): 50-55.
- Yasir, E., & Shafwan Bendadeh. (2021). "Urf Sebagai Metode Istinbath Hukum Islam (Pemikiran Hasbi Ash-Shiddieqy dengan Fiqh Indonesianya),. SYARIAH: Journal of Islamic Law.
- Pratiwi, P.F.P., Suprayitno, and Triyani. (2020). *Existence of Customary Law through Comparative Education between Dayak Ngaju Customary Law and National Law*.

Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 3 (2): 712-717.

Purba, I.G., and Syahrin, A. (2019). Demand against Law and Using Authority in Corruption Criminal Action. Budapest International Research and Critics Institute-Journal (BIRCI-Journal) Vol 2 (4): 194-206.