

Social and Cultural Relations in Islamic Law in Javanese Context: KH. Bisri Musthofa's Thought on Qur'an and Hadith Issues

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Abstract

From an epistemological perspective, the environment creates knowledge and meaning of life for society. Knowledge is used to achieve people's goals and expectations. This article examines the epistemology of Islamic law in Indonesia, particularly on the north coast of Java, in the context of its social and cultural background. To that end, this study investigated the works of KH. Bisri Musthofa, namely Tafsir al-Ibriz li Ma'rifa Tafsir al-Qur'an al-'Aziz and al-Azwad al-Mustafawiyya fi Tarjama al-Arba'in al-Nawawiyya. Many have already discussed the works of KH. Bisri Musthofa, but only a few touch on the issue of Islamic law in these works. This study argues that cultural context influences the authors of qur'anic and hadith interpretations to negotiate their understanding of customs and traditions, including in Java. Thus, the understanding of Islamic sharia on the north coast of Java is not passive, imitative and follows the thinking in the Arabian peninsula. The interpretation of the Qur'an and the understanding of hadith in Java indicate an active, creative and sustainable negotiation process related to the reality of society, social and cultural. This process then reconciles the two sources of law, between religious texts and cultural and social realities, and between sharia and haqiqa. Reconciliation shows that Islamic law was in its epistemic space on the north coast of Java in the 20th century.

Abstrak

Dalam perspektif epistemologis, lingkungan menciptakan pengetahuan dan makna kehidupan bagi masyarakat. Pengetahuan digunakan untuk mencapai tujuan dan harapan masyarakat. Artikel ini mengkaji epistemologi hukum Islam di Indonesia, khususnya di pesisir utara Jawa, pada konteks latar sosial dan budayanya. Untuk itu, penelitian ini menyelidiki karya-karya KH. Bisri Musthofa, yaitu Tafsir al-Ibriz li Ma'rifa Tafsir al-Qur'an al-'Aziz dan al-Azwad al-Mustafawiyya fi Tarjama al-Arba'in al-Nawawiyya. Banyak yang sudah membahas karya-karya KH. Bisri Musthofa, tetapi hanya beberapa yang menyentuh persoalan hukum Islam dalam karya-karya tersebut. Studi ini berargumen bahwa konteks budaya mempengaruhi penulis tafsir Al-Qur'an dan Hadits untuk menegosiasikan pemahaman mereka tentang adat istiadat dan tradisi, termasuk di Jawa. Dengan demikian, pemahaman tentang syariat Islam di pesisir utara Jawa tidak berkarakter pasif, imitatif dan mengikuti pemikiran di semenanjung Arab. Penafsiran Al-Qur'an dan pemahaman Hadis di Jawa menunjukkan adanya proses negosiasi yang aktif, kreatif dan berkelanjutan terkait realitas masyarakat, sosial dan budaya. Proses ini kemudian mendamaikan kedua sumber hukum, di antara teks agama dan realitas budaya dan sosial, dan antara syariah dan haqiqa. Rekonsiliasi menunjukkan bahwa hukum Islam berada di ruang epistemiknya di pantai utara Jawa pada abad ke-20

Keywords: Islamic law, social and cultural relation, Java, epistemology

Introduction

The issue of Islamic law had been debated since the beginning of the independence of Indonesia in 1945. There were two groups in this phase, one demanded to reshape religious understanding in Indonesia based on Islamic sharia (*corpus islamicum*), similar to time of *al-khulafā' al-rāshidūn* while the other wished to reconcile between the values of Islamic law and nationalism.¹ Prior to 1955, the representative of Islam in the Indonesian parliament only 57 people (24%). Shortly after, the representatives from Islamic community in parliament rose to 116 after the general election (Pemilu). This escalation used to support Islamic values as the ideological and philosophical basis of the state.

There were three basic designs of the state, the ideological and philosophical basis of Pancasila supported by national and non-Islamic group, Socio-Economic basic supported by the *Musyawahar Rakyat Banyak* (Murba) Party and the Labor Party, and Islamic basic by Islamic group. The basis of Islam is very strongly supported by the reformer groups such as *Partai Syarikat Islam Indonesia* (PSSI) and *Majelis Syuro Muslimin Indonesia* (Masyumi) Party. *Nahdlatul Ulama* (NU) Party defended Islam as the ideological and philosophical basis of the state, but not as strong as the reformers. According to NU, Islam can provide huge improvements.² Therefore, members of NU party claimed that Islam was in daily life practices, not in legal and formal constitution. In the Islamic world, Islam as the ideological and philosophical basis of state debates was going on among the Islamists with nationalists and secularists in Egypt and Malaysia.³

In the study of Islamic law in Indonesia, especially in Java, many scholars use ready-made sources. The scholars, for example from

¹ Jan Prins, "Some Notes about Islam and Politics in Indonesia," *Die Welt des Islams* 6, no. 1/2 (1959): 117–129.

² Kacung Marijan, *Quo Vadis NU Setelah Kembali Ke Khittah 1926* (Jakarta: Erlangga, 1992).

³ Jan Stark, "The Islamic Debate in Malaysia: The Unfinished Project," *South East Asia Research* 11, no. 2 (July 1, 2003): 173–201.

the *Nahdlatul Ulama*, do not take much law by the path of *ijtihad* through the Qur'an and Hadith directly. Most of them, as *Shāfi'iyya* follower, do not take the process of *ijmā'* and *qiyās*. Decision-law had just been taken from secondary sources, from the discourse of *fiqh* as a product of decisions created by leader's school (*mujtahid*) centuries ago. Numerous religious issues (*baḥth al-masā'il al-dīniyya*) were produced from *fiqh* studies, not *uṣūl al-fiqh*, and sometimes did not accept the opinion of other schools. Literatures and decisions used by its school members also did not accommodated contemporary works of scholars. *Yaḥyā bin Sharaf al-Nawawī* (d. 676 H), a scholar with dozens of works, for example, had a hierarchy of books that prioritized in citing and practicing. Therefore, religious fatwa was generated from repetition legal product in the medieval Arabian Peninsula. No much legal novelty concerns to social and cultural relations, which can change and adjust to space and time in Nusantara.⁴

However, not all scholars directly used the secondary sources as the main study. Many of them had the ability to study Qur'an and Hadith directly, such as KH. Bisri Musthofa. As community leaders, scholars and politicians, he had more attention in the Qur'an and Hadiths. He had works in Qur'anic exegesis, *Tafsīr al-Ibrīz li Ma'rifa Tafsīr al-Qur'ān al-'Azīz*,⁵ and hadith commentary, *al-Azwād al-Mustafawiyya fī Tarjama al-Arba'in al-Nawawiyya*.⁶ Both his works had many advantages for the Javanese community. This works were using Javanese Pegon, local terms and adapting to the situation and conditions of the author. Previous

⁴ See Imam Ghazali Said and A. Ma'ruf Asrori, eds., *Aḥkām Al-Fuqahā' Fī Muqarrarāt Mu'tamarāt Nahdah al-Ulamā': Solusi Problematika Hukum Islam, Keputusan Mukhtar, Munas Dan Konbes Nahdlatul Ulama (1926 - 1999)* (Surabaya: LTN NU Jawa Timur dan Diantama, 2005); Muhib Rosyidi, "Membumikan Teks Agama Ala Nahdlatul Ulama," *Journal of Qur'an and Hadith Studies* 2, no. 1 (2013): 19–42; Ahmad Zahro, *Lajnah Bahtsul Masail 1926-1999: Tradisi Intelektual NU* (Yogyakarta: LKiS, 2004).

⁵ Bisri Musthofa, *Tafsīr Al-Ibrīz Li Ma'Rifah Tafsīr al-Qur'ān al-'Azīz* (Kudus: Menara Kudus, 1956).

⁶ Bisri Musthofa, *Al-Azwād al-Mustafawiyyah Fī Tarjamah al-Arba'in al-Nawawiyyah* (Kudus: Menara Kudus, 1955).

researches focused on his tafsir, but a few had discussed Islamic law in his tafsir and hadith commentary.

In strategic considerations, epistemological study deals with how humans manage their knowledge, experience and power to achieve a goal. The knowledge has the power to change the circumstances of society.⁷ In socio-epistemology studies, there is said that the greater and the wider the area of knowledge, the greater and the wider awareness of its responsibilities. This responsibility is in order to empower people and emancipate society from its reality. Thus, knowledge is not used to utilize and exploit people in their subconscious for knowledge itself.⁸ This paper will discuss about social and cultural relations in the formation of Islamic law in Java through works of Kiai Bisri.

KH. Bisri Musthofa's Emphasis on the Qur'an and Hadith Issues

KH. Bisri Musthofa was born in 1915 on Sawahan Rembang, Central Java, with Mashadi as his childhood name. Since adolescent, he was accustomed to the education of *pesantren*, system that teaches religious education. In 1935, Bisri performed the pilgrimage hence explore the religious knowledge there.⁹ Previously he married Ma'rufah, the daughter of KH. Cholil Kasingan in 1935. Upon his return from Hajj, he taught more religious knowledge he gained to the wider community. He became the leader of pondok *pesantren* founded by KH. Cholil Kasingan when died in 1939.¹⁰

In 1943, Bisri attended the second period of clerical training in Jakarta. After that, he became chairman of Majelis Syura Muslimin Indonesia (Masyumi) and became an employee of Shumuka (Bureau of Religion during the

Japanese occupation at the residency level) in Pati Residency. Political career of Bisri raised in 1955 when he became a constituent assembly from Nahdlatul Ulama Party and member of the Majelis Perwakilan Rakyat (MPR) from Central Java. During the New Order period, Bisri became the vote getter for NU Party in the 1971 general election. The fusion of Islamic parties centered on Partai Persatuan Pembangunan (PPP) in 1973 still retained Bisri as their vocal figure to gather voters in the general election around Central Java. Bisri felt ill and died on Šafar 27, 1397/ Feb 17, 1977 AD.¹¹ NU permitted scholars who had position to maintain their political position in the government as a need to strengthen their community. The permissibility was discussed on Konferensi Besar Syuriah NU in Jakarta, Shawwāl 21-25, 1379/April 18-22, 1960.¹² Previously, the 20th Muktamar NU in Surabaya on Muħarram 10-15, 1374 / September 8-13, 1954 decided that the government and the president of the Republic of Indonesia were the emergency government due to its authority (*walī al-amr darūrī bi al-shauka*).¹³

Kitāb Al-Azwād began to write on Ramaḍān 28, 1375 / May 9, 1956 and completed on Friday Wage, Rabī' al-Awwal 1376 / October 1956. The reason for writing this book was the popularity of *al-Arba'īn al-Nawawīyya*, the work of Abū Zakariyyā Muħyī al-Dīn Yaħyā bin Sharaf al-Nawawī (d. 676/1277), which contains the forty chosen hadith. According Bisri, *al-Arba'īn* had benefits to people so that it was needed for translation and commentary. The translation of *al-Arba'īn* expected to easily understood by laymen (*'awāmm*) and also got the benefits and blessings from *al-Arba'īn*. This translation and commentary written in Javanese Pegon (both language and writing) and cited *al-Majālis al-*

⁷ J. Sudarminta, *Epistemologi Dasar: Pengantar Filsafat Pengetahuan* (Yogyakarta: Penerbit Kanisius, 2002).

⁸ Aholiab Watloly, *Sosio-Epistemologi: Membangun Pengetahuan Berwatak Sosial* (Yogyakarta: Kanisius, 2016).

⁹ Saifullah Ma'shum, *Karisma Ulama: Kehidupan Ringkas 26 Tokoh NU* (Bandung: Mizan Pustaka, 1998).

¹⁰ Abu Rokhmad, *Hermeneutika Tafsir Al-Ibriz* (Semarang: RaSAIL Media Group, 2010).

¹¹ Ibid.; Munawir Aziz, "Produksi Wacana Syiar Islam Dalam Kitab Pegon Kiai Saleh Darat Semarang Dan Kiai Bisri Musthofa Rembang," *Jurnal Afkaruna* 9, no. 2 (July 28, 2013): 112-128.

¹² Said and Asrori, *Aħkām Al-Fuqahā' Fī Muqarrarāt Mu'tamarāt Nahḍah al-Ulamā': Solusi Problematika Hukum Islam, Keputusan Muktamar, Munas Dan Konbes Nahdlatul Ulama (1926 - 1999)*.

¹³ Ibid.

Saniyya fi al-Kalām 'alā al-Arba'in al-Nawāwīyya by Aḥmad bin Ḥijāzī al-Fasyānī (d. 978/1570), the most famous commentary of *al-Arba'in* until now. Bisri compiled *Kitāb Al-Azwād* in his busy life as a political figure, religious scholar and government official. Hadith derived from *al-Arba'in* written above the line and given *gandul* meaning (dependent meaning as famous in pesantren) and below the line were some of the comments.

Kiai Bisri was completed *Tafsīr al-Ibrīz* on Rajab 29, 1379 / January 28, 1960. He did not say when the start of the writing the *tafsīr*. The reason for the *tafsīr* writing was that the Qur'an is a guide book for Muslims, and for those who understand it will get more reward. Many have been translated the Qur'an in Dutch, English, German, Indonesian, and others. Some also use regional languages such as Javanese, Sundanese, and others. Bisri presented this *tafsīr* with Pegon Javanese (both language and writing), for people who understood Javanese with a brief and short description.

As *Kitāb al-Azwād*, *al-Ibrīz* was written with the Java language with *gandul* meaning. The recitation of the Qur'an placed in the middle of the page, while the interpretation was on the edge with the given verse number. This *tafsīr* references included commentary from great books such as *Hāshiyā al-Jamal 'alā al-Jalālain*, *Tafsīr al-Baidāwī*, *Tafsīr al-Khāzin*, *Riyād al-Ṣāliḥīn*, *Fath al-'Allām fi Ahkām al-Salām* and various fiqh references in some legal issues. About various reading (*qirā'āt*), he took from *Ghais al-Nafi* by al-Ṣafāqūsī (d. 1118/1706) dan *Hirz al-Amānī* by al-Shāṭibī (d. 665/1266)

Kiai Bisri was a productive cleric with his various Javanese translations from various disciplines, including *tafsīr*, hadith, hadith, fiqh, theology, history, Arabic literary and grammar, ethics and *taṣawwuf*. Bisri's works were not just a translation, but accompanied by a variety of simple, easy and understandable reviews and commentaries for large society.¹⁴ In *al-Azwād*

and *al-Ibrīz*, Kiai Bisri discussed much living issues in society. He also gave some fatwas for the issues, based on his commentary and interpretation in Qur'anic and Hadith texts. This fatwas became Islamic law, especially in where and when he was lived. Some of Islamic law issues in Java in *al-Ibrīz* and *al-Azwād* include the movement of Islamic purification, family planning, food that is forbidden, interaction with non-Muslims and obligations of obedience to the government.

A. Islamic Purification Movement

Islamic purification movement was originating from Saudi Arabia, and entered Indonesia in the early nineteenth century. The movement propagated to return to the original source of Islam directly, to the Qur'an and Hadith. The scholars were used as the basis of this purification were Aḥmad bin Muḥammad bin Ḥanbal (d. 241/855) and Aḥmad bin 'Abd al-Ḥalīm Ibn Taimiyya (d. 728/1327). The religious movement, which returned directly to the Qur'an and al-Hadis, supported by political movements in the Arabian Peninsula and then extended to Muslim countries around the world.¹⁵ The development of this movement caused conflicts between some Islamic organizations like al-Irsyad, Jami'at al-Khair, Persatuan Islam, Muhammadiyah and more with pondok pesantren groups in the first al-Islam Congress in Cirebon in 1922. The conflicts were at issues on *ijtihād* and *taqlīd*, *sunna* and *bid'a*, *ziyāra al-qubūr* and *wasīla*, The issues continued until the establishment of Nahdlatul

Rembang"; M. Maslukhin, "Kosmologi Budaya Jawa Dalam Tafsīr Al-Ibrīz Karya KH. Bisri Musthofa," *Mutawatir* 5, no. 1 (September 10, 2015): 74–94; Abu Rokhmad, "Telaah Karakteristik Tafsir Arab-Pegon Al-Ibriz," *Analisa* 18, no. 1 (June 3, 2011): 27–38.

¹⁵ Nurcholish Majid, *Islam, Kemodernan, dan Keindonesiaan* (Mizan Pustaka, 2008); P. M. Holt, Ann K. S. Lambton, and Bernard Lewis, *Cambridge History of Islam: The Indian Sub-Continent, Southeast Asia, Africa and the Muslim West (Volume 2, Part A)* (Cambridge University Press, 1970).

¹⁴ See Aziz, "Produksi Wacana Syiar Islam Dalam Kitab Pegon Kiai Saleh Darat Semarang Dan Kiai Bisri Musthofa

Ulama on January 31, 1926 and continued until the end of the 20th century.¹⁶

Related to various accusations against pondok pesantren, Bisri wrote his commentary, quoting from 'Izz al-Dīn 'Abd al-'Azīz bin 'Abd al-Salām (d. 660/1261), that *bid'a* is everything never existed and found in life of the Prophet. This heresy was divided into five types, *wājiba* (such as reviewing and studying *naḥw* and *ṣarf* to learn fiqh), *muḥarrama* (such as schools of Qādiriyya, Jabbāriyya, and Jismiyya or Mujassima), *mandūba* (such as building pondok pesantren, madrasas and bridge river or *kretek*), *makrūha* (such as decorating mosques) and *mubāḥah* (such as freedom in food and clothing).¹⁷

Bisri also continued his explanation of a heretic like *taqlid* to scholars. He based on the hadith that religion is the guidance (*naṣiḥa*) of all men, including to priests or clerics. Therefore, following the clerical directive, *taqlid* to their behavior and being kind to the scholars are duty for Muslims. For people who cannot directly access the Qur'an and Hadith, they must follow the scholars, especially in the field of fiqh.¹⁸ Other *bid'a* according to Bisri was raising both hands when praying. He said that the tenth hadith of *al-Arba'in al-Nawawiyah* showed that good proper when praying is raising the hand.¹⁹

Based on this hadith, he rejected the view of puritan groups whom forbade it. Bisri did not assume that all *bid'a* was forbidden, except *bid'a muḥarrama*. It dismisses the Islamic purification movement who wanted to erase all forms of *bid'a*. He proposed to negotiate between social and cultural realities with the fatwa of the ulama, not to delete the existing tradition and customs.

Taqlid with ulama or mujtahid was not forbidden. Bisri said, at his time, many people did not understand about fasting. Many did not perform fasting because they were ill or on the journey, whereas the pain was not severe or the journey was near. This was caused by literal understanding in interpreting QS. Al-Baqarah verses 183-184. Therefore, Muslims must learn finished products in the form of fiqh, which defined how ill and journey were allowed to not fast.²⁰ He also said that returning to the Qur'an and Hadith as in QS. Al-Nisā' verse 59 did not mean forbidden to use *qiyās*, *ijma'* and mujtahid opinion. This was because *qiyās*, *ijma'* and *ijtihad* were created from the lawmaker's interpretation to the Qur'an and Hadith.²¹

In addition, most NU scholars also emphasized on the importance of traditional chain transmitter (*isnād*) and the genealogy of knowledge (*silsila*).²² Some accusations of NU practices, which considered heretical, was also raised in the 13th Mukhtamar of NU in Menes, Banten on Rabī' al-Akhīr 13, 1357 / July 12, 1938. In the mukhtamar, there was question of how someone who considered NU organization as a heresy? The answer at that time was that the person did not apostate, but misunderstood because he did not understand that NU's spirits are based on *ahl al-sunna wa al-jamā'a*.²³

B. Family Planning

When the New Order came to power, a family planning idea emerged for the welfare of the family. In 1974, a government-proposed marriage bill was seen as hurting the feelings of

¹⁶ Musthofa, *Tafsīr Al-Ibrīz Li Ma'Rifah Tafsīr al-Qur'ān al-'Azīz*.

¹⁷ Ibid.

¹⁸ Azyumardi Azra, *The Origins of Islamic Reformism in Southeast Asia: Networks of Malay-Indonesian and Middle Eastern "Ulama" in the Seventeenth and Eighteenth Centuries* (Allen & Unwin/Asian Studies Association of Australia, 2004).

¹⁹ Said and Asrori, *Aḥkām Al-Fuqahā' Fī Muqarrarāt Mu'tamarāt Nahḍah al-Ulamā': Solusi Problematika Hukum Islam, Keputusan Mukhtamar, Munas Dan Konbes Nahdlatul Ulama (1926 - 1999)*.

¹⁶ M. Ali Haidar, *Nahdatul Ulama Dan Islam Di Indonesia: Pendekatan Fikih Dalam Politik* (Jakarta: Gramedia Pustaka Utama, 1998); Howard M. Federspiel, *Islam and Ideology in the Emerging Indonesian State: The Persatuan Islam (Persis), 1923 to 1957* (Brill Academic Pub, 2001).

¹⁷ Musthofa, *Al-Azḥād al-Muṣṭafawiyah Fī Tarjamah al-Arba'in al-Nawawiyah*.

¹⁸ Ibid.

¹⁹ Ibid.

the Muslim community.²⁴ Even with the aim to reform family and national law, the legislation considered to have damaged the law of the sharia marriage that has long been used as a basis law by the Muslims. Representatives of Muslims in parliament also cannot do much to defend the aspirations of Muslim society.²⁵

Bisri said that abortion by using drugs and other dangerous substances were forbidden. He based this argumentation on the agreement of Ammad bin Yūnus bin Muḥammad al-Mūsīlī al-Shāfi'ī (d. 608/1211) and others. According to Bisri, embryo or fetus with three month ages had been written certainty of his/her livelihood, doom, deed and becomes a good or bad one. Therefore, he suggested that fetus had performed *slametan* (safety request) and prayer that always granted fetus perfection in the afterlife.²⁶ In Javanese tradition, *slametan* usually had food charity and prayer for safety to God. This form was adapted from pre-Islamic religious rituals, but its contents are subsequently replaced by teachings that were compatible with Islam.²⁷ In this case, Bisri accommodated local tradition in the life cycle based on view of the Javanese community.

Bisri also mentioned that the family and child's livelihood was guaranteed by God. He said in interpreting QS QS. Al-An'ām verse 151 and QS. Al-Isrā' verse 31:

“...sira aja pada mateni anak-anake kerana wedi faqir. Jalaran Allah Ta'ala kang paring rizki

²⁴ Gavin W. Jones, “Which Indonesian Women Marry Youngest, and Why?,” *Journal of Southeast Asian Studies* 32, no. 1 (2001): 67–78; Gavin W. Jones, Yahya Asari, and Tuti Djuartika, “Divorce in West Java,” *Journal of Comparative Family Studies* 25, no. 3 (1994): 395–416.

²⁵ Kuntowijoyo, “Religion, State and Social Formation in Indonesia,” *Southeast Asian Journal of Social Science* 15, no. 1 (1987): 1–15.

²⁶ Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba'in al-Nawawiyah*.

²⁷ Mark R. Woodward, “The ‘Slametan’: Textual Knowledge and Ritual Performance in Central Javanese Islam,” *History of Religions* 28, no. 1 (1988): 54–89; Jan Newberry, “Rituals of Rule in the Administered Community: The Javanese Slametan Reconsidered,” *Modern Asian Studies* 41, no. 6 (2007): 1295–1329.

marang sira kabeh lan kang paring rizki marang anak-anak ira kabeh...”

(...you do not kill your children because of frightened by poverty. This caused Allah Ta'ala is giving livelihood to you and your children all...)²⁸

“Sira kabeh aja pada mateni anak-anak ira kerana wedi faqir. (Aja kuatir) Ingsun (Allah Ta'ala) kang ngerezekeni anak-anak ira lan iya kang ngerezekeni sira kabeh. Tenanan mateni anak iku keluputan kang gedhe”

(You all do not kill your children because of frightened by poverty. I (Allah) am giving livelihood to your children and you all).²⁹

He also continued in the commentary of QS. Al-Ṭalāq: 3 that God will provide livelihood through many ways. Nevertheless, one must keep doing *ikhtiyār* or struggle and afterwards doing *tawakkul* (surrender) or trust to Allah.³⁰ Other authors also made a response to the government's policy in this commentary. For example, Hamka in his interpretation, *Tafsir al-Azhar*, responded about family planning programs. According to him, the program plans to contradict some verses of the Qur'an such as QS. Al-An'ām verse 151. Economic, educational and health reasons on which family planning was based were considered by Hamka as a good thing. But according to him, the implementation of the program also had a negative impact on moral and mental health. Many contraceptive devices and drugs were subsequently abused, and even kept secret by spouses. Despite the various positive and negative impacts, he submitted the family planning law to his experts.³¹

²⁸ Musthofa, *Tafsir Al-Ibriz Li Ma'Rifah Tafsir al-Qur'an al-Aziz*.

²⁹ Ibid.

³⁰ Ibid.

³¹ Hamka, *Tafsir Al-Azhar* (Jakarta: Pustaka Panjimas, 1982).

This diplomatic response was a sign of the unfavorable and unstable political and social situation and the repressive of New Order regime against opinions that were contrary to government policy. Moreover, the description of the Hamka commentary, completed in mid-1965, was the time when the issue of family planning will be a demographic policy.³² In this case, NU had issued a fatwa that 'azl (getting of sperma outside the uterus) or taking drugs to pause pregnancy was *makrūh* (not forbidden but dislike). But if it was meant to break pregnancy altogether, then the law was *haram* (forbidden), unless there was a danger. It also did not matter if experts say that too much childbirth could cause harm for the wife. This decision resulted in Konferensi Besar Pengurus Besar Nahdlatul Ulama in Jakarta on Shawwāl 21-25, 1379 / April 18-22, 1960.³³

C. Forbidden Foods

Under the topic of food consumption, Bisri said that eating harmful foods to the body or brain were forbidden by religion. For example, stone, *beling* (small broken glass), soil, venom, opium, amethyst and others such as drinking wine, spiritus, *peceren* (wastewater), carbolic and others.³⁴ On the coast of Java, cigarettes and opium was a different matter. In 1850, there were 2,664 legal opium stores in Java and Madura. Prohibition for opium embodied in several Islamic organizations as Sarekat Islam and also became a rule for the Keraton Surakarta family in 1788-1820.³⁵ He said when interpreting QS. Al-An'ām verse 145:

“(*Tanbih*). Saweneh menuso iku ana kang keliru tompo. Sahingga ngarani yen kang diharamke iku namung papat: (1) bathang (2) getih encer (3) daging babi (4) sembelihan kang ora disembelih secara Islam. Liyane kabeh iku jare ora haram. Kaya ula, macan, kucing, asu, cacing lan liya-liyane. Lan babi iku jare sing haram namung daginge. Dadi gajihe, atine, kebuke, usus lan liya-liyane jare ora haram. Faham kang mengkonono iku faham sing keliru. Jalaran sakliyane dalil al-Qur'an, iku ora ana dalil maneh. Rupane al-Hadis. Al-Qur'an lan al-Hadis ora kena dipisah-pisahake, sebab karo-karone iku wahyune Allah Ta'ala. Apa maneh yen kita iki memandangi yen katerangane al-Qur'an iku dipasrahake dening Allah Ta'ala marang kanjeng Nabi Muhammad. Sahingga kita ora pareng nafsiri al-Qur'an kanti tafsir kan tentangan karo dawuh-dawuhe Nabi Muhammad shallallahu 'alaihi wa sallam. Dadi cekak cukupe, kejaba perkara papat kang diterangake harame dening al-Qur'an iki, isih ana maneh kang diharamake berdasar hadis Rasulullah shallallahu 'alaihi wa sallam, iya iku kabeh satu galak kang duwe siung (untu ngarep landep), kaya macan lan sepadane. Lan manuk kang duwe cengerem kuat kaya bido lan sepadane. Wallahu a'lam.”³⁶

In that interpretation, Bisri restated that people who only studied the Qur'an literally will find only four types of forbidden foods. Whereas in the Hadiths of the Prophet, many foods were also forbidden. The Qur'an and Hadith are indeed the basis of Islam, but not all of them can take directly from both sources. Therefore, people who do not have the ability to produce the law (*istinbāṭ al-ahkām*) should follow the opinion of the law-maker (*mujtahid*) that collected in fiqh sources.

D. Works and Interaction with Non-Muslim

In the field of muamalah, Bisri emphasized that the best work was farming. He said that farming was a job, which at that time, was more

³² Wening Udasmoro, “Konsep Nasionalisme Dan Hak Reproduksi Perempuan: Analisis Gender Terhadap Program Keluarga Berencana Di Indonesia,” *Humaniora* 16, no. 2 (August 6, 2012): 147–154.

³³ Said and Asrori, *Ahkām Al-Fuqahā' Fī Muqarrarāt Mu'tamarāt Nahḍah al-Ulamā': Solusi Problematika Hukum Islam, Keputusan Mukhtar, Munas Dan Konbes Nahdlatul Ulama (1926 - 1999)*.

³⁴ Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba'īn al-Nawawiyah*.

³⁵ Edy Supratno, *Djamhari: Penemu Kretek* (Yogyakarta: Pustaka Ifada, 2016).

³⁶ Musthofa, *Tafsīr Al-Ibriz Li Ma'Rifah Tafsīr al-Qur'ān al-'Aziz*.

halāl than others. Farming was from peasants themselves, by and for them. *Halāl* and good food (*tayyib*), which were further away from *harām*, made it easier for praying of someone to grant by God. The virtue of this farming absolutely delivered to the Javanese majority whom became peasants.³⁷ At that time, peasants were considered to be a lower social group, which people wanted to become civil servants and factory employees as a result of the socio-economic transformation after independence.³⁸

In case of interaction and socialization with unbelievers or non-Muslim, Bisri said that it was not prohibited in Islam. He said that respecting the neighbors, even they were non-Muslim, was a duty. Muslims should not interfere with unbelievers and damage their property. In order to raise social and human relations, Bisri suggested to giving them food if Muslims were cooking or when they were in need.³⁹ The unbelievers according to Bisri might be Hindus, Buddhists, Christians, Catholics, even the people of China who has been in Indonesia since about 1866 in Java to trade and do business.⁴⁰ In addition, in Central Java and East Java from 1880 until 2010, the group which considered more tolerant of Christians and others were the scholars who participated NU than Persatuan Islam and Muhammadiyah.⁴¹

Bisri also said that QS. Al-Mumtahanah verse 8 showed how God commanded to Muslim in order to do good action to non-Muslims who are not hostile to Islam and also

did not interfere their security.⁴² In fiqh literature of Shāfi'iyya schools also explained that Muslim should not be hostile, to blockade or kill non-Muslims without any cause.⁴³ In this case, NU issued fatwa on obligation to fight the unbelievers who fight the Muslims within *qasr* prayer distance, which was 94 km by *wajib 'ain*. If less than that distance, then the law was *wajib kifāya*. The decision that was resulted in the 16th Mukhtamar NU in Purwokerto on March 26-29, 1946 also said that Muslims who entered the organization that was not based on Islam was *harām* if that harmed Islam. If it gave benefits for Islam, then that was good and if it was not harmful and did not give benefit, then that was *jā'iz* or *mubāh*.⁴⁴

Therefore, Bisri still advocated that Muslim leaders should be cautious about non-Muslims who are unhappy with Islam. Muslims should always be aware and do not follow non-Muslims orders.⁴⁵ At that time, Bisri said that Muslims were being hit by various kinds of misfortunes or trials. Therefore, Muslims should be strong and should never give up hope of realizing the great wish, *'izz al-Islām wa al-muslimīn* in appropriate time.⁴⁶ Periodization of Islamic victory and its loss was already a cycle of life in this world.⁴⁷ Misfortunes or trials according to Bisri here were various conditions that make difficult for Muslims in Indonesia in the mid of 20th century such as a confrontation in the name of religion,⁴⁸ separations of Islamic

³⁷ Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba'in al-Nawawiyah*.

³⁸ Nurdien H. Kistanto, "Peasants, Civil Servants, and Industrial Workers in Java: A Preliminary Note," *Sojourn: Journal of Social Issues in Southeast Asia* 6, no. 2 (1991): 290–306.

³⁹ Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba'in al-Nawawiyah*.

⁴⁰ James Rush, "Placing the Chinese in Java on the Eve of the Twentieth Century," *Indonesia* (1991): 13–24; Thomas B. Pepinsky, "Colonial Migration and the Origins of Governance: Theory and Evidence From Java," *Comparative Political Studies* 49, no. 9 (August 1, 2016): 1201–1237.

⁴¹ Jeremy Menchik, *Islam and Democracy in Indonesia: Tolerance without Liberalism*, Cambridge Studies in Social Theory, Religion and Politics (Cambridge University Press, 2016).

⁴² Musthofa, *Tafsīr Al-Ibriz Li Ma'Rifah Tafsīr al-Qur'ān al-'Aziz*.

⁴³ Sulaimān bin 'Umar bin Maṣṣūr al-Jamal, *Futūḥāt Al-Wahhāb Bi Tauḍīḥ Syarḥ Manhaj al-Ṭullāb* (Beirut: Dār al-Fikr, n.d.).

⁴⁴ Saïd and Asrori, *Aḥkām Al-Fuqahā' Fī Muqarrarāt Mu'tamarāt Nahḍah al-Ulamā': Solusi Problematika Hukum Islam, Keputusan Mukhtamar, Munas Dan Konbes Nahdlatul Ulama (1926 - 1999)*.

⁴⁵ Musthofa, *Tafsīr Al-Ibriz Li Ma'Rifah Tafsīr al-Qur'ān al-'Aziz*.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Chiara Formichi, "Pan-Islam and Religious Nationalism: The Case of Kartosuwiryo and Negara Islam Indonesia," *Indonesia*, no. 90 (2010): 125–146; R.E. Elson and Chiara Formichi, "Why Did Kartosuwiryo Start Shooting? An

organizations, appearing of new ideology and religious beliefs, political and ideological struggle among the Muslims with nationalist in parliament and cabinet and others.⁴⁹ He also called for unity to Islamic parties to achieve a common goal.⁵⁰

E. Obligation to the Government

Bisri said that obedience to the authority (*ulī al-amr*) is obliged, by the terms that the ruling orders do not conflict with the teachings of Islam, as the Prophet said “*lā ṭā’a li makhluq fī ma’ṣiya al-Khāliq.*” Its interpretation was based to QS. Al-Nisā’: 59. He suggested that authorities must also provide the infrastructure to sustain the nation. In interpretation of QS. Al-Tawbah: 92, he said:

“(Tanbih). Para mahos aja pada kaget! Zaman biyen karo sakiki iku bedha. Zaman sakiki ana wong arep melu berangkat perang, apa-apane wus ana kang nanggung, yaiku negara, utawa yen kaya zamane revolusi kahe, kang nanggung lang ngusahake apa-apane iya kumpulan. Nanging ana ing zaman kawit-kawitane revolusine kanjeng Nabi, wong-wong kang arep berangkat perang iku, apa-apane kudu sedia dewe-dewe lan usaha dewe-dewe. Cocok karo kang aran jihad fi sabilillah bi amwalikum (kelawan banda ira kabeh) wa anfusikum (an jiwa raga ira kabeh)”⁵¹

He also discussed how to maintain security and criminality in an area. For the government, it must exercise its power to maintain peace. For the people, they can make a request for security through representatives of the people who are in parliament with various regulations of the existing legislation.⁵²

Social and Cultural Relation: Negotiating Text and Reality

Kiai Bisri performed contextualizing religious texts in the form of the Qur’an and Hadis text based on social and cultural reality. In this case, both texts are described and adapted to the space and time at which Kiai Bisri is lived. This starts with space and time in the countryside, pesantren, Java coastal communities, Shāfi’iyya schools until NU organization followed by Kiai Bisri.⁵³ In this case, there is knowledge innovation of the Qur’an and Hadith determined by the system of public knowledge that lay at that time. The innovation is a vernacular process of the language of the Qur’an and Hadis, explaining with short and solid language as well as social, political, cultural and religious responses in the writings of Kiai Bisri.

Therefore, the legal products by Kiai Bisri in his two works on the Qur’an and Hadith are not necessarily free and empty from the surrounding situation. The various results of ijtihad by Kiai Bisri are relating to the movement of purification of Islam, family planning, forbidden food, interaction with non-Muslims and obligation of the government can be conveyed to the wider community, with the strength of the local language, the primary source of Islamic teachings and fatwas of the fiqh scholars. This must be done by Kiai Bisri because he was a public figure, official government and a person who has an emotional bond with his followers.

The political and religious situation that existed in Indonesia after its independence in 1945 underwent a significant change. In the

Account of Dutch—Republican—Islamic Forces Interaction in West Java, 1945—49,” *Journal of Southeast Asian Studies* 42, no. 3 (2011): 458–486.

⁴⁹ Marijan, *Quo Vadis NU Setelah Kembali Ke Khittah* 1926.

⁵⁰ Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba’in al-Nawawiyah*.

⁵¹ Musthofa, *Tafsīr Al-Ibriz Li Ma’Rifah Tafsīr al-Qur’ān al-‘Aziz*.

⁵² Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba’in al-Nawawiyah*.

⁵³ It is important to note that the relation between the kiai and pesantren within the Javanese community in general are complex. On the one hand, kiai and pesantren accommodate a big meal together as tradition, grave visiting, and puppet show. But on the other hand, they reject excessive honor tradition to honorable man or aristocracy. See Ronald A. Lukens-Bull, “Two Sides of the Same Coin: Modernity and Tradition in Islamic Education in Indonesia,” *Anthropology & Education Quarterly* 32, no. 3 (2001): 350–372.

political aspect, there were religious and nationalist frictions in determining the country's basis. This was added with various subsequent government regulations that were considered contrary to Islamic law and religious teachings. In addition, the religious situation influenced by the Islamic purification movement in Saudi Arabia at the beginning of the 20th century led some scholars to accommodate local culture to maintain socio-religious harmony. In contrast to this urge, Muhammadiyah's efforts at that time to renounce cultural burdens that were perceived as delaying progress. Its leaders said that the practice of syncretic society considered as *takhayul, bid'ah dan churafat* (TBC) should be purified and replaced with a more puritanical religious attitude. This rationalization was carried out by eliminating the old culture and doing anti-heretical.⁵⁴ The movement of literalists group influenced by Wahhābism and the politicization of Islam by the government in the '80s were also considered a prohibitive factor of traditional culture and religious practices, as well as some radical movements in Indonesia and its surrounding.⁵⁵

This purification movement then was becoming myth and the knowledge, that carries it, does not see how social responsibility to people who are unfamiliar and lay about religion except through the kiai or the cleric. The absence of negotiations to social and cultural realities makes this kind of movement to tend oppressive. Therefore, the kiai then cultivate the power of critical awareness for the learning process in their lives, either through recitation, translated book and jurisprudence and opinions of mujtahid as intermediaries to understand the Qur'an and Hadis.

In cultural considerations, knowledge is considered as part of the culture. Culture

includes a view of the knowledge, meaning and importance of that knowledge for society lives. Someone searching for knowledge is not for the ingenuity and intelligence, but to achieve a more thoughtful life.⁵⁶ Rural communities in Java have a different world view with the urban population in the capital state. NU community views, that many in rural areas are more determined by their leaders, including kiai. They have emotional considerations with kiai in every choice.⁵⁷ What is desired by kiai is often followed by the people, especially those who has charisma, knowledge and much works like Kiai Bisri.⁵⁸

Thus, Kiai Bisri does not necessarily issue a legal fatwa without reflecting the world view of the surrounding community. Cultural setting makes interpreters and commentators of Qur'an and Hadith to negotiate their understanding of the customs and traditions.⁵⁹ Qur'anic and Hadith studies by Kiai Bisri are a form of reason and Islamic tradition in the coast of Java, an area that became the center of world traffic at the

⁵⁶ Sudarminta, *Epistemologi Dasar: Pengantar Filsafat Pengetahuan*.

⁵⁷ Marijan, *Quo Vadis NU Setelah Kembali Ke Khittah 1926*.

⁵⁸ With the power of the masses and clerics, the government approached them so that government programs can be implemented. Jeremy Menchik noted that in 1938-1968 the government negotiated and lobbied to the elite of Indonesia's largest Islamic organizations such as Nahdlatul Ulama and Muhammadiyah to receive family planning regulations. Some of the figures became known for promoting the government's program and received numerous awards from the state. See for example Jeremy Menchik, "The Co-Evolution of Sacred and Secular: Islamic Law and Family Planning in Indonesia," *South East Asia Research* 22, no. 3 (September 1, 2014): 359-378; Mark Cammack, Lawrence A. Young, and Tim Heaton, "Legislating Social Change in an Islamic Society-Indonesia's Marriage Law," *The American Journal of Comparative Law* 44, no. 1 (1996): 45-73.

⁵⁹ These negotiations are not within the broad definition, e.g. invited scholars to establish national schools to accommodate the cultural context of local and national interest as Hasbi Ash Shiddieqy, Hazairin, M. Natsir, Anwar Harjono and others. See R. Michael Feener, "Indonesian Movements for the Creation of a 'National Madhhab'," *Islamic law and Society* 9, no. 1 (2002): 83-115; Carool Kersten, *Islam in Indonesia: The Contest for Society, Ideas and Values*, 1st ed. (Oxford University Press, 2016).

⁵⁴ Kuntowijoyo, *Paradigma Islam: Interpretasi untuk Aksi*, ed. A. E. Priyono (Bandung: PT Mizan Publika, 2008).

⁵⁵ Lily Zubaidah Rahim, "Discursive Contest between Liberal and Literal Islam in Southeast Asia," *Policy and Society* 25, no. 4, Asia Early this Century: Contested Politics and Mentalities (January 1, 2006): 77-98.

time. This form reflects the character and tradition of knowledge of the surrounding community, not forgetting all the local knowledge. The text presented is considered to accommodate the local culture and tradition which gives space for the understanding of the community around him.⁶⁰

Social and cultural setting as described above affect the establishment of Islamic law in Java. This formation is related to how Kiai Bisri does the explanation of the Qur'an and Hadith, that not only based on what was written by *mufasssirūn*, *muḥaddithūn* nor *fuqahā'*, but adjust to the situation, tradition and society understanding about Islamic teaching. Understanding of the Javanese community, which is still not widely understood Arabic, should be done through the process of vernacular, both in terms of translation and explanation. In addition, Kiai Bisri also should provide an explanation that is not confrontational, not elitist and could reject the idea of purification movement who want to eliminate culture and tradition totally. Thus, the establishment of Islamic law on the coast of the Java island is not only by passive, imitative and just follow the pattern of thought in the Arabian Peninsula, as did by purification movement.⁶¹

The interpretation of the Qur'an and understanding Hadith in Java shows the active and creative process, and always negotiates the reality of the community, social and cultural circumstance. The process then reconciles the two sources of law, the religious texts with social and cultural realities in the legal establishment, and between customs and the nature of the sharia.⁶² Religious text, social and cultural reality, which reconciled, are evidence

that Islamic law is the product in its epistemic space on the coast of Java in the 20th century. Movement to restore the local language, religious and cultural practices happened in some post-colonial countries where they have the spirit to remove the colonial power and build their communities and countries.⁶³ In this case, John R. Bowen said:

"Sharī'a and adat share the feature of reaffirming worlds of law outside the state, indeed, worlds existing before the state, that do not require state sanction for their legitimacy... Throughout their colonial histories, in most Muslim-majority countries Islamic law was restricted to "family law,"... (and, in Indonesia, much less with matters of commerce, theft, and so forth). Adat plays on different normative registers."⁶⁴

Returning directly to the Qur'an and Hadith, as voiced by reformist group, could lead to the lay interpretation and explanation to a law. This situation can lead to the emergence of individuals or groups who freely use verses or hadith for their own interests, with making corresponding interpretations and explanations of their purpose. This then makes the product of a law is to be manipulated for political agendas and not for the public beneficiaries.⁶⁵ Therefore, the Qur'an and Hadith must be understood within the framework of Islamic law by considering the sociocultural aspects.

⁶³ Donald L. Horowitz, "The Qur'an and the Common Law: Islamic Law Reform and the Theory of Legal Change," *The American Journal of Comparative Law* 42, no. 2 (1994): 233–293.

⁶⁴ John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning*, 2003.

⁶⁵ Indira Falk Gesink, "'Chaos on the Earth': Subjective Truths versus Communal Unity in Islamic Law and the Rise of Militant Islam," *The American Historical Review* 108, no. 3 (June 2003): 710–733; L.A. Majid and N. Kurt, "Bahr Al-Madhi: Significant Hadith Text Sciences for Malay Muslims as a Tool for Political Teaching during Twentieth Century," *Mediterranean Journal of Social Sciences* 5, no. 20 (2014): 2249–2254.

⁶⁰ Aziz, "Produksi Wacana Syiar Islam Dalam Kitab Pegon Kiai Saleh Darat Semarang Dan Kiai Bisri Musthofa Rembang."

⁶¹ See for example of this process in Angelika Neuwirth, "Locating the Qur'an in the epistemic space of late antiquity," *Ankara Üniversitesi İlahiyat Fakültesi Dergisi* 54, no. 2 (2013): 189–203.

⁶² See for example in Musthofa, *Al-Azward al-Mustafawiyah Fī Tarjamah al-Arba'īn al-Nawawiyah*.

Conclusion

Works of *al-Ibrīz* and *al-Azwād* by KH. Bisri Musthofa appeared after the independence of Indonesia. Therefore, the work is not much to discuss about the struggle and the resistance to the colonials. However, both works are much discussing history, situation and condition of the occupation. Although Kiai Bisri used the Qur'an and Hadith in producing Islamic law in Java, but from some of the explanation can be seen that there are many taking from fiqh. He argued that the decision of an Islamic law is to be submitted to the scholars of fiqh and the authority in the field of law.⁶⁶ He used the Qur'an and Hadith as a reinforcement of the mujtahid opinion existing in the books of fiqh. Fiqh becomes mediator toward the Qur'an and Hadith, not directly to both sources, as did by reformist groups. Use of fiqh is also not free from the hegemony and the tradition of the school of Shāfi'iyya in Nusantara.

However, steps taken by Kiai Bisri are a significant progress in his time. First writing of tafsir and hadith by Kiai Bisri considered as a systematic grounding to the formulation of Islamic law from the Qur'an and Hadith that make fiqh as an intermediary. Though as kiai, he did many oral transmissions or oral teaching in pesantren and society, but he also balanced the teaching by writing. *Second* Kiai Bisri was one of NU scholars that made easy and happy teaching by translating the Qur'an, Hadith, jurisprudence, history, Arabic literary and grammar, ethics and mysticism. Thus, the vernacular process in Islamic knowledge is not only for the kiai and students, but can be enjoyed by the layman and wider society. Responsibility taken by Kiai Bisri is the responsibility of social knowledge and cultural character, which provides a critical awareness power in religion through various books in local languages, including the Qur'an and al-Hadith.

⁶⁶ Musthofa, *Tafsīr Al-Ibrīz Li Ma'Rifah Tafsīr al-Qur'ān al-'Azīz*; Musthofa, *Al-Azwād al-Mustafawiyah Fī Tarjamah al-Arba'in al-Nawawiyah*.

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