



## Islamic Law Shapes Sociological Life (Sociology of Islamic Law)

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### ABSTRACT

This research aims to determine the role of Islamic legal sociology in shaping the reciprocal sociological life of changes in law and society. Changes in law can influence changes in society and conversely changes in society can influence changes in law, including Islamic law. In general, the scope of legal sociology is to explain the influence of certain societal cultural patterns and social behavior on legal thinking and change. However, it can be determined that the location or scope of legal sociology is divided into 2, namely, a. Viewed from the social foundations of law. The benefits of legal sociology for understanding the operation of law in society can be seen from the function of law in society. The function of law in question can be observed from various points of view, such as the function of law as social control in society, the function of law as a tool for changing society, the function of law as a symbol of knowledge, the function of law as a political instrument, and the function of law as a tool of integrity.

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## **INTRODUCTION**

The growth of culture and social phenomena in a society is a natural thing, culture will adapt to place and time. An area will have a certain culture which is influenced by its geographical location, it will also experience changes over time. Cultural changes and social phenomena in society are actually more influenced by society's tendencies to do something or need something. The fishing community will be inclined towards working as fishermen, as well as a lecturer majoring in positive law will make changes, when a lecturer takes a doctoral course (Strata) three at the Islamic University with the Department of Islamic Law, it will influence all of his thinking patterns to become more sociological in law. Islam, so he has to carry out habits related to his work. Likewise with the hunting community as well as people who are involved in the world of politics. From these habits, rules will be created which must then be carried out or avoided.

In Islam, the customs and culture of society can be the basis of law and this cannot be denied, meaning that the influence of society's customs and culture on Islamic law in Islamic teachings is something that is natural. Because law was originally part of the habits of society which then regulated society in a coercive and binding manner. In this connection, the science of the sociology of Islamic law emerged, where Islam was observed and studied from the perspective of its legal sociology or social and legal phenomena.

This article will discuss what is meant by the sociology of Islamic law, what is the scope of its study and what are the objectives of the sociology of Islamic law.

## **THEORETICAL REVIEW**

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## **METHODOLOGY**

Legal Research Methods, as the name suggests, have a limited scope in the field of Law, namely law as a rule of human life to be able to realize order and justice. This reminds us of the general understanding of religion, namely the bonds that are necessary to prevent separation and actions that are contrary to religious rules. Therefore, any religion, especially Islam, must be experienced

as a codification of rules with all their consequences. As a rule of human life, any law is necessarily normative.

**Normative Approach** The term approach is something (action, effort) approaching or bringing closer. So the normative approach in this case is intended as an effort to bring the problem being studied closer to the normative nature of law. The normative approach includes legal principles, legal systematics, legal synchronization (adjustment), legal comparison or legal history. If we look at the legal problem, if the problem concerns constitutional law material, then the normative approach is, by reading, studying and explaining norms, statutory articles, views of experts in the field of Islamic law (Shariah). This description is presented within a theoretical and conceptual framework, in the literature review and used to discuss data presentation. Likewise, if the legal issue concerns Islamic legal material, then the normative approach is regarding Islamic law.

## RESULTS AND DISCUSSION

### 1. *Understanding the Sociology of Islamic Law*

Etymologically, sociology comes from Latin, namely socius which means friend or friend, and logos which means science (Auguste Conte; 1798-1857), in general sociology is better understood as the science of society. Another term for sociology according to Yesmil Anwar and Adang and as quoted by Dr. Nasrullah. M.Ag, Etymologically, sociology comes from the Latin word, socius, which means friend and the Greek word, logos, which means word or speech. So, sociology is talking about society. In relation to a science, sociology is a science that studies the actual situation of society. Therefore, the science that studies law in relation to societal situations is legal sociology.

William Kornblum said that sociology is a scientific effort to study society and the social behavior of its members and identify the society concerned in various groups and conditions. Pitrim Sorokin said that sociology is a science that studies the relationships and reciprocal influences between various kinds of social phenomena, for example economic phenomena, family phenomena and moral phenomena. According to Soerjono Soekanto, legal sociology is a branch of science which, among other things, examines why humans obey the law, and why they fail to obey the law as well as other social factors that influence it (Principles of Sociology of Law) and according to Satjipto Rahardjo states that legal sociology is legal knowledge of patterns of community behavior in its social context.

According to language, Islamic law means determining something over something *إِنْبَاءُ شَيْءٍ عَلَى شَيْءٍ*, while according to the term, it is the khitaab (decree) of Allah or the words of the Prophet Muhammad, SAW. Which relates to all mukalaf deeds, whether they contain commands, prohibitions, choices or provisions. According to Nasrullah, the sociology of Islamic law is a law (Islam) that applies and develops and is practiced in a particular society based on ethical and moral principles that have been outlined (qabil li al-niqash, qabil li al-taghyir).

## 2. *Scope of Sociology of Islamic Law*

According to Soerjono Soekanto, the scope of legal sociology includes: First, patterns of behavior (law) of community members. Second, laws and patterns of behavior as creations and manifestations of social groups. Third, the reciprocal relationship between changes in law and social and cultural changes.

According to Nasrullah, demands that arise from common interests are also preferences for themes of Islamic law, which classical scholars had not yet thought of that could actually be included as a category for discussing Islamic law. Themes concerning politics, state administration, banking, human rights (HAM), feminism, contraception, democratization can be considered as study material for contemporary fiqh and Muslim scientists to then find the legal basis and theological roots through their thinking methods (the results are called *tasyri 'wadh'i*). However, here it can be limited only to contemporary social problems which form the basis of juridical (Islamic law) in Islamic society, such as political, economic and socio-cultural problems, and so on.

Atho' Munzhar as quoted by M. Rasyid Ridho said that Sociology in the study of Islamic law can take several themes as follows:

1. The influence of Islamic law on society and changes in society. For example, the law on the mandatory Hajj pilgrimage, with all the social and structural consequences after completing the Hajj pilgrimage.
2. The influence of changes and developments in society on Islamic legal thinking. For example, the oil boom in the early 1970s led to the birth of the Islamic banking system, which then had an impact on Indonesia with the formation of sharia banks.
3. The level of community practice of religious law, such as the behavior of Islamic communities referring to Islamic law.
4. Patterns of community interaction around Islamic law, such as religious and political groups in Indonesia responding to various Islamic legal issues such as the Draft Law on Religious Courts, whether or not women can become state leaders and so on.
5. Community movements or organizations that support or do not support Islamic law, for example the headman's association.

Furthermore, Atho Mudzhar stated that Islamic studies with a sociological approach can take at least five themes:

- First, study the influence of religion on societal change. Emile Durkheim who introduced the concept of the social function of religion in all sectors of women's and men's lives.
- Second, a study of the influence of societal structures and changes on the understanding of religious teachings or religious concepts.
- Third, study the level of community religious practice. Islamic studies with a sociological approach can also evaluate patterns of religious spread and the extent to which religious teachings are practiced by society. Through observations and surveys, people are studied about how intensely they practice the teachings of their religion, such as how intensely they carry out their religious rituals and so on.

- Fourth, study the social patterns of Muslim society, such as the social pattern of a religiously tolerant society.
- Fifth, study of social movements that carry beliefs that can weaken or support religious life.

### 3. *Objectives of Sociology of Islamic Law*

In principle, the sociology of Islamic law (*ilmu al-ijtima'i li syari'ati al-Islamiyyah*) is to help develop the reasoning insight of readers, especially students of the Sharia Faculty at STAIN, IAIN, and UIN as well as Law Faculty Students in Law Colleges (STH), College of Law, IAI Private, towards religious phenomena and social problems. Islamic law is an understanding of juridical (Islamic law) towards societal problems, especially those realized by the Indonesian Islamic community using principles and theories originating from Islamic concepts extracted from the sources of the Koran and hadith and their interpretation in the form of sociological studies in accordance with the needs and development of society.

Alvin S. Johnson said the benefits of studying Sociology of Law:

- ✓ Firstly, legal sociology is able to provide an explanation of one of the best bases for understanding jurists' laws better than natural law, which is no longer given a place, but the empty place left by it needs to be filled again.
- ✓ Second, legal sociology is able to answer why humans obey the law and why they fail to obey the law as well as other social factors that influence it.
- ✓ Third, legal sociology provides capabilities for understanding law in a social context.
- ✓ Fourth, legal sociology provides the capabilities to carry out analyzes of the effectiveness of law in society, both as a means of social control, a means of changing society, and a means of regulating social interactions, in order to achieve certain social conditions.
- ✓ Fifth, legal sociology provides the possibility and capabilities to carry out evaluations of the effectiveness of law in society.

More elaboratively, Atho' Mudzhar details Islamic law into three segments:

- ✓ First. Research on Islamic law as the basic doctrine of the concepts of *maqâsid al-syarî'ah*, *qawâ'id al-fiqhiyyah*, *tharîq al-Istinbâth*, *manhaj ijtihâd* and others.
- ✓ Second. Research on normative Islamic law as norms or rules, both in the form of texts including verses and the Sociology of Islamic Law, hadith, *ahkam*. In the form of binding *ulama fatwas* such as compilations of Islamic law, laws, international agreements, contracts, testimonies and so on.
- ✓ Third. Research on Islamic law as a social phenomenon. The main target is the legal behavior of Muslim communities with non-Muslims. Covers issues such as the politics of formulating and implementing the law (*siyâsah al-syarî'ah*), the behavior of law enforcers, the behavior of legal

thinkers such as mujtahids, fuqaha, muftis and members of legislative bodies, evaluation of the implementation and effectiveness of the law.

From the scientific work written above, it can be concluded that the aim of studying the sociology of Islamic law is to find out the social symptoms of Muslim society as legal subjects who position law as a guide to life. Studying the sociology of Islamic law can also find out the extent of the effectiveness of Islamic law in governing Muslim society and of course you can also find out about legal changes that are developing.

## CONCLUSIONS AND RECOMMENDATIONS

Sociology of Islamic law is a social science that studies legal phenomena which aims to provide an explanation of the legal practices of science that regulates the reciprocal relationship between various social phenomena in Muslim society as creatures that adhere strictly to Islamic law.

The scope of legal sociology includes: First, patterns of behavior (law) of community members. Second, laws and patterns of behavior as creations and manifestations of social groups. Third, the reciprocal relationship between changes in law and social and cultural changes or the scope of the study is the current laws that apply in society.

The aim of studying the sociology of Islamic law is to find out the social symptoms of Muslim society as legal subjects who position law as a guide to life. Studying the sociology of Islamic law can also find out the extent of the effectiveness of Islamic law in governing Muslim society and of course you can also find out about legal changes that are developing.

Sociology of Islamic law has a sociological scope which has the aim of studying the sociology of Islamic law where the law will be applied in society, so that the aim of studying it is to know the extent to which the sociology of Islamic law is effective and the effectiveness of positive law, the extent to which it is experiencing change and development in Indonesia. So here the author feels that this scientific work really needs suggestions and criticism so that this scientific work is more interesting so that it can be thoroughly explored and applied in all aspects of life in subsequent scientific works.

## REFERENCES

- Ali, Zainuddin. 2006. *Sosiologi Hukum*, Jakarta : Sinar Grafika.
- Johnson, Alvin S. 2004. *Sosiologi Hukum*, diterjemahkan oleh Rinaldi Simamora, Jakarta: Rineka Cipta
- Nasrullah. 2016. *Sosiologi Hukum Islam*. SPB
- Ridla , M. Rasyid. 2012. *Sosiologi Hukum Islam (Analisis terhadap Pemikiran M. Atho' Mudzhar)* Al Ahkam V o l. 7 No .2 D e s e m b e r 201 2
- Rifa'I, Mohammad. 1973. *Ushul Fikih*. Bandung : PT. Al Ma'arif
- Soekanto, Soerjono. 1989. *Mengenal Sosiologi Hukum*. Bandung : Citra Aditya
- Bhakti 1980. *Pokok-pokok Sosiologi Hukum*. Jakarta : Raja Grafindo Persada