

## Breaking The Dullness of Thought Among Nahdliyin: The Genealogy of KH. Sahal Mahfudh's Civilization Jurisprudence

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### Abstract

This article discusses the central role of the KH. Sahal Mahfudh as a breaker of thought dullness among Nahdliyin through a genealogical approach to the jurisprudence of civilization. Nahdlatul Ulama (NU), one of the largest Islamic organizations in Indonesia, plays a significant role in shaping the religious identity and civilization of society. However, like other organizations, NU also face challenges in the face of rapid social, political, and technological changes. KH Sahal Mahfudh, a renowned scholar and NU leader, became a key figure who carried out the mission of renewing the understanding of jurisprudence among Nahdliyin. This article describes the genealogy of jurisprudence thought among Nahdliyin since the beginning of NU to KH. Sahal Mahfudh's role as a pioneer in reviving and renewing scientific discourse within the NU. Through the genealogy analysis method, this article traces the origins of jurisprudence in Nahdliyin and examines its development from time to time. The results show that over time, jurisprudent thinking among Nahdliyin tends to experience stagnation, especially in dealing with contemporary issues. This poses a challenge to answering the problems of Islamic laws that are relevant to the context of the times. KH Sahal Mahfudh, with his progressive and inclusive vision, succeeded in offering a jurisprudent approach that is relevant and adaptive to changing times. Through his work, he invited Nahdliyin to re-explore the roots of authentic Islamic science, while still paying attention to the context of modern civilization. KH. Sahal Mahfudh's important contribution to developing scientific discourse among Nahdliyin helped unravel the stagnation of thought and paved the way for the continuous renewal of Islamic thought. Thus, this article provides insight into the importance of the renewal of thought among Nahdliyin, especially in the context of modern civilization. The genealogy of civilization jurisprudence is described through the role of KH. Sahal Mahfudh provided a valuable contribution to understanding the dynamics of Islamic thought in Indonesia, as well as its relevance in facing various contemporary challenges.

**Keywords:** Civilization Jurisprudence, The Dullness of NU Jurisprudence, Sahal Mahfudz

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## Introduction

In an era of globalization and rapid social change, the study of legal thought and views on civilization plays an increasingly important role in understanding the complexity of modern legal challenges.<sup>1</sup> Sahal Mahfudz is one of the intellectual figures who contributed to the development of this discourse. Sahal Mahfudz is a legal scholar who has produced several important writings on law and civilization.<sup>2</sup> One perspective that attracts attention is his criticism of the legal views of Nahdlatul Ulama (NU), one of the largest Islamic organizations in Indonesia, which he considers to have a monotonous and rigid view of law. NU's legal thinking has been based on interpretations of the Holy Quran and Islamic traditions that have developed over the centuries. Although it has deep values and is able to guide spiritual life, Sahal Mahfudz considers the legal views that grow from this framework as less responsive to the complexities of modern life. Therefore, NU needs fresh thinking to avoid being trapped in the concept of rigid and conservative fiqh thinking. Thus, NU initiated the Fiqh of Civilization with various contemporary themes.<sup>3</sup>

Of course, it is not something new for NU because the embryo of civilizational fiqh already exists and stems from the will of KH. Abdurrahman Wahid (Gus Dur). Four months before his death, Gus Dur stated that a strategic plan was scheduled for the West to help Islam.<sup>4</sup> The strategic will was then embodied by the Chairman of PBNU, KH Yahya Cholil Staquf, by organizing a civilization, fiqh halaqoh, conducted in various regions in Indonesia. This activity is part of a series of events that welcome the century of Nahdlatul Ulama (NU). Gus Yahya explained that the holding of fiqh of civilization aims to create a peaceful and harmonious life.<sup>5</sup> Deputy Rais Aam Syuriah of the Nahdlatul Ulama Executive Board (PBNU) KH. Afifuddin Muhajir explained that what is meant by fiqh of civilization is actually the first time discussed by NU, although in substance it has actually become a discourse among NU, but if it is packaged in an official activity at NU it is new. The students and residents of Nahdliyin may feel strange when they hear the term fiqh of civilization. What is usually heard is the *fiqh munakahat* or *fiqhun nisa*. However, the term fiqh civilization is still new to them. From Kiai Afif's perspective, the concept of fiqh of civilization is often misinterpreted as *fiqhul adab* or fiqh that regulates the relationship between teachers and students, between kiai and santri, and so on. This is not correct because what is meant by the fiqh of civilization is identical to *fiqhul hadharah*.<sup>6</sup>

Kiai Afif explained that the word hadharah is the opposite of the word al badawah. There is insan hadhari and insan badawiyah. Insan badawi is synonymous with primitive humans, while what is meant by insan hadhari is that they are advanced humans. From here on, Kiai Afif confirmed that the main task of humans is not to build civilization. Civilization here means not just building physical structures, such as buildings, but building civilization involves building morals and manners. This is in line with what is said by Allah SWT in QS.al-Baqarah Verse 30. That

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<sup>1</sup> Danial Murdani, "Globalization and the Paradigm of Islamic Law Implementation in Aceh," *Mazhab* 21, no. 1 (July 11, 2022): 1–28, <https://doi.org/10.21093/mj.v21i1.4323>.

<sup>2</sup> Munawar Aziz, "Konsep Peradaban Islam Nusantara: Kajian Atas Pemikiran Syekh Ahmad Mutamakkin (1645-1740) Dan KH Sahal Mahfudz (1937-2015)," *Jurnal Lektur Keagamaan* 13, no. 2 (December 20, 2015): 455–74, <https://doi.org/10.31291/jlk.v13i2.235>.

<sup>3</sup> Priyanto, "Apa Itu Halaqah Fiqih Peradaban," *Kompas.TV*, 2023.

<sup>4</sup> Firdausi, "Halaqah Fiqih Peradaban Bermula Dari Wasiat Gus Dur," *NU Online*, 2022.

<sup>5</sup> Yulia Novita Hanum, "Fiqh Peradaban: Ikhtiyar Mewujudkan Dunia Damai Dan Harmonis," *NU Online*, 2023.

<sup>6</sup> Suci Amaliyah, "KH. Afifudin Muhajir Luruskan Makna Fiqih Peradaban: Bukan Fiqih Adab, Tapi Fiqih Hadharah," *NU Online*, 2022.

humanity has been appointed as *khilafah fil ardhi as well as amirul fil ardhi*, namely, with the main task of building civilization on the face of the earth.<sup>7</sup>

KH. M.A Sahal Mahfudh, who was also the Rais 'Aam of Nahdlatul Ulama in the 1999-2014 period, is known as a figure of ulama, leaders, economists, breakers of stagnation, decline, poverty, and backwardness. Kiai Sahal, who is a multidisciplinary and multifunctional figure, is an inspirer, motivator, and dynamizer for pesantren, kiai, santri, and Nahdlatul Ulama. As a scholar, Kiai Sahal certainly has no doubt about his religious knowledge, especially related to al-Turast al-Islami. He is an expert in Arabic language (grammatical), such as sharaf, nahwu, balaghah, mantiq, and arudh. Similarly, Kiai Sahal's expertise in the fields of fiqh, ushul fiqh, qawa'id fiqh, tawhid, tasyawuf, and other disciplines.<sup>8</sup> The many works he created and covered in various scientific aspects are proof of Kiai Sahal's expertise. Kiai Sahal's understanding and expertise in the field of religion which is very prominent in the circle of scientific activities of pesantren and Nahdlatul Ulama is Bathsul Masail, an activity that examines actual problems from a religious perspective, especially the discipline of fiqh. In addition, Kiai Sahal intensively and extensively developed and socialized the rational-philosophical thinking paradigm by optimizing the function of ushul fiqh.<sup>9</sup>

Kiai Sahal is a clerical figure who originated social fiqh, he has many new breakthroughs in the field of fiqh to respond to the development and civilization of the times. Kiai Sahal Mahfudh's manhajul afkar (methodology of thought) in his social fiqh is a method for exploring and responding to the dynamics of law that occur and develop in society. The social fiqh initiated by Kiai Sahal Mahfudh is a model of fiqh development that has an orientation towards maslahah with a clear manhaj. Social fiqh is an embryo for the birth of civilized fiqh based on the method underlying the thinking of scholars, not the product of their thinking. If you follow this method, the product can certainly be the same and can also be different.<sup>10</sup> The method offered in Kiai Sahal Mahfudh's social fiqh is to contextualize the yellow book through various developments and examples of application of the rules of ushul al-fiqh, or qawaid al-fiqhiyyah. Likewise, the development of the masalik al-'illah theory initiated by Kiai Sahal Mahfudh in social fiqh aims to bring public benefit (maslahah al-'ammah). It is in this position that Kiai Sahal Mahfudh's fiqh is able to play a role in presenting solutions to all forms of people's problems, whether in the form of integration of authenticity or modernity, which is often contradictory and antagonistic.<sup>11</sup>

Fiqh, in Kiai Sahal's perspective, is not just a dogmatic-normative concept, but an active-progressive concept. Fiqh must be combined (relevant) with 'afal al-mukallifin behavioral attitudes, situations, conditions, and actions of Muslim society in every element of life, both in terms of ubudiyah (worship) and mu'amalah (socio-economic interaction). Kiai Sahal's conceptualized social fiqh is always oriented towards five main principles, namely; First, contextual interpretation of fiqh texts. Second, it moved from qauli mazhab to manhaji (methodological). Third is the fundamental verification of which teachings are ushul (main) and furu' (branch) doctrines. Fourth, fiqh is social

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<sup>7</sup> Muhammad War'i, "Dialog Inklusif: Dari Kebenaran Subjektif Menuju Kebenaran Objektif (Tinjauan Semiotik-Hermeneutik Al-Quran Surat Al-Baqarah Ayat 30-33)," *Dialog* 42, no. 1 (2019): 21–38, <https://doi.org/10.47655/dialog.v42i1.318>.

<sup>8</sup> Zumrotul Mukaffa, "Peranan Ulama' Pesantren Dalam Pendidikan Masyarakat; Potret Keulama'an KH.M.A. Sahal Mahfudh," *Muróbbi: Jurnal Ilmu Pendidikan* 1, no. 2 (October 3, 2017): 19–34, <https://doi.org/10.52431/murobbi.v1i2.100>.

<sup>9</sup> Jamal Ma'mur Asmani, *Fiqh Sosial Kiai Sahal Mahfudh: Antara Konsep Dan Implementasinya* (Surabaya: Khalista, 2007).

<sup>10</sup> Almunauwar Bin Rusli, "Nalar Ushul Fiqh KH. Sahal Mahfudh Dalam Wacana Islam Indonesia," *Potret Pemikiran* 22, no. 2 (December 31, 2018), <https://doi.org/10.30984/pp.v22i2.785>.

<sup>11</sup> Jamal Ma'mur Asmani, "Fikih Sosial Kiai Sahal Sebagai Fikih Peradaban," *Al-Ahkam* 24, no. 1 (2014): 31, <https://doi.org/10.21580/ahkam.2014.24.1.130>.

ethics, not positive state law. Fifth, fiqh comes with philosophical nuances, particularly in social and cultural matters.<sup>12</sup>

Kiai Sahal Mahfudh has the characteristics of fiqh thinking that tends to be different from other kiai. This is due to his anxiety about the formalist culture of thought, meaning that there are many kiai figures who only apply fiqh theories based on textual understanding without considering the context and practical conditions. The reality is that people also experience anxiety and feel uncomfortable with formalist thinking models.<sup>13</sup> From here on, contextual fiqh emerged as an alternative choice for growing anxiety in society. The term social fiqh used by Kiai Sahal Mahfudh feels accommodating to be interpreted as a way of thinking (*manhajul afkar*) and acting in accordance with the social conditions that develop in society without the slightest loss of textual basis.<sup>14</sup>

Kiai Sahal Mahfudh is an idol figure for santri, kiai, and even leaders. He succeeded in creating updates in Islamic civilization with a transformative style of thought (*manhajul afkar*).<sup>15</sup> Even though Kiai Sahal is now dead, only his body is dead, because his thoughts and works never die. This is in line with a poem that says that the bodies of the pious may be buried, but their ideas and thoughts will always live for all time, studied, and discussed by the generations afterwards. The problem for the next generation is whether they are willing and able to study Kiai Sahal's thoughts as an alternative to the great thoughts of the current millennial era. This paper examines Kiai Sahal Mahfudh's thoughts on the Fiqh of Civilization, which has recently become an interesting theme for discussion, especially in NU circles.

The purpose of this article is to explore Sahal Mahfudh's views on "Civilization Jurisprudence" and his criticism of NU's legal views. This article analyzes the arguments raised by Sahal Mahfudh in his work entitled "The Dullness of NU Jurisprudence." Through this in-depth analysis, this article aims to provide insight into how the law of civilization can become a framework that is more inclusive and adaptive to the development of civilization and the demands of the times. This scientific article is expected to contribute to the understanding of modern legal thinking that is more inclusive and adaptive to the dynamics of civilization. By exploring Sahal Mahfudh's views on the law of civilization and his critique of NU's legal views, this article can pave the way for further debate on the relevance and flexibility of law in the face of social, technological, and cultural changes in contemporary society.

## Method

This study uses a qualitative research approach with a focus on library research.<sup>16</sup> The purpose of this research is to explore and analyze Kiai Sahal Mahfudh's thoughts on the fiqh of civilization. This study uses two types of data, namely primary and secondary data, to provide a comprehensive understanding.<sup>17</sup> Primary data sources include books, articles, and previous research on Kiai Sahal Mahfudh's fiqh thinking. In addition, several books that discuss theoretical fiqh, *qawaidul fiqiyah*, and the method of *istinbath al-ahkam* (*ushul fiqh*) are used as primary

<sup>12</sup> K. H. M. A. Sahal Mahfudh, *Nuansa Fiqh Sosial* (Lkis Pelangi Aksara, 2003).

<sup>13</sup> KH Sahal Mahfudh, "Pengantar Buku Fiqh Perempuan Refleksi Kyai Atas Tafsir Wacana Agama Dan Gender," *Yogyakarta: IRCiSoD*, 2020.

<sup>14</sup> Arbanur Rasyid, "Social Fiqh and Its Implications for Community Life in Society 5.0," *Al-Ahkam* 31, no. 2 (October 31, 2021): 141–60, <https://doi.org/10.21580/ahkam.2021.31.2.8219>.

<sup>15</sup> Dr. Jamal Ma'mur Asmani, KH. MA. SAHAL MAHFUDH: *Sang Penegak Khittah NU* (Yogyakarta: DIVA Press, 2021).

<sup>16</sup> Barry Glassner and Jay Corzine, "Library Research as Fieldwork: A Strategy for Qualitative Content Analysis," *Sociology & Social Research* 66, no. 3 (1982): 305–19.

<sup>17</sup> Douglas Ezzy, *Qualitative Analysis* (Routledge, 2013).

data.<sup>18</sup> The secondary data sources included articles relevant to this research and other supporting books.<sup>19</sup> The data collection technique used in this study was a documentation technique. Researchers collected books, articles, journals, and other materials related to Kiai Sahal's fiqh thinking. This process aims to provide the necessary materials for a comprehensive data analysis. To analyze the data, researchers used descriptive methods and content analysis.<sup>20</sup> Textual data from primary and secondary sources were used in this analysis. This research aims to provide an in-depth description of Kiai Sahal Mahfudh's fiqh thinking and its implications for the fiqh of civilization. This research method is expected to provide deeper insight into Kiai Sahal Mahfudh's fiqh thinking about civilization. Through comprehensive data analysis, fiqh concepts that are relevant to modern civilization can be identified. This research can also pave the way for further discussion regarding the application of legal thinking in the face of the dynamics of contemporary civilization.

## Result and Discussion

### *Biography of KH. Sahal Mahfudh*

Since childhood, he has been born with the full name Muhammad Ahmad Sahal bin Mahfudz bin Abdus Salam al-Hajaini. On February 16, 1939, he was born in KH. Mahfudh Salam and Mrs. Nyai Badi'ah, precisely in Kajen village, Margoyoso District, Pati Regency. The date of birth of Kiai Sahal Mahfudh is not the same as what is listed on the Identity Card or in other official documents. Only recently was an old record found belonging to his father KH. Mahfudh Salam, which explains that Kiai Sahal's actual date of birth was not December 17, 1937, but February 16, 1939.<sup>21</sup>

From the father's line, the KH. Mahfudh Salam, who is the son of KH. Abdussalam, is known as a family of Qur'an experts. KH Mahfudh bin Salam is also a younger cousin of the KH. Binsi Sansuri who is one of the founding figures of Nadlatul Ulama. When viewed from the father's line, Kiai Sahal Mahfudh's lineage reaches the 7th descendant of Waliyullah in Kajen, namely Sheikh Ahmad Mutamakkin, namely KH. Mahfudz Salam bin KH. Abdussalam bin Kiai Abdullah bin Kiai Ismail bin Kiai Bunyamin bin Kiai Hendro bin Syaikh Ahmad Mutamakkin. From the mother's line, Kiai Sahal is the 8th descendant of Sheikh Ahmad Mutamakkin. Nyai Hj. Badi'ah is the daughter of Raden Nyai Hafshoh binti Kiai Ma'sum bin Kiai Sholeh bin Kiai Asnawi Sepuh bin Nyai Jiroh binti Nyai Alfiyah binti Sheikh Ahmad Mutamakkin, and Kiai Sahal Mahfudh's wife, Nyai Hj. Nafisah is KH's granddaughter. Bisri Sansuri.<sup>22</sup>

KH. M.A Sahal Mahfudh is the 3rd of 6 children, M. Hasyim, Hj Muzayyanah, Salamah, Hj Fadhilah, and Hj. Khodijah was his sibling. Some of his sisters are married to caretakers at the Islamic Boarding School or NU figures, including Hj. Muzayyanah married KH. Mansur. He is the caretaker of An-Nur Lasem Islamic Boarding School, who is also the grandson of KH. Abdul Salam. Similarly, Salamah married the KH. Mawardi who is the caretaker of Bugel Jepara Islamic Boarding School as well as he is the brother-in-law of KH. Abdullah Salam. Then Hj. Fadhilah married KH. Rodhi Sholeh who lives in Jakarta, he is the deputy Rais 'Am PBNU in 1984, and the last is Hj. Khodijah married KH. Maddah is the caretaker of Assuniyah Jember Islamic Boarding

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<sup>18</sup> Anthony J. Onwuegbuzie, Nancy L. Leech, and Kathleen M. T. Collins, "Qualitative Analysis Techniques for the Review of the Literature," *Qualitative Report* 17 (2012), <https://eric.ed.gov/?id=EJ981457>.

<sup>19</sup> Donald E. Polkinghorne, "Narrative Configuration in Qualitative Analysis," *International Journal of Qualitative Studies in Education* 8, no. 1 (January 1, 1995): 5–23, <https://doi.org/10.1080/0951839950080103>.

<sup>20</sup> Jane Ritchie and Jane Lewis, *Qualitative Research Practice: A Guide for Social Science Students and Researchers* (SAGE, 2003).

<sup>21</sup> Umdah el Baroroh, *Fiqh Sosial: Masa Depan Fiqh Indonesia* (Pati: PUSAT FISI, 2016).

<sup>22</sup> Asrori S. Karni, *Pandu Ulama Umat: Kiprah Sosial 70 Tahun Kiai Sahal* (Jakarta: Majelis Ulama Indonesia, 2007).

School and, at the same time, is the grandson of KH. Nawawi, the younger brother of the KH. Abdul Salam.<sup>23</sup>

KH. Sahal Mahfudh married Hj. Nafisah, often called Nyai Nafisah, is KH's daughter. Abdul Fattah Hasyim Tambak Beras Jombang. The marriage occurred in 1985.<sup>24</sup> After marrying Nyai Nafisah, Kiai Sahal and his wife lived in a small, simple house made by his uncle KH. Abdullah Salam. Kiai Sahal and Nyai Nafisah have their own busy lives, for example Kiai Sahal is busy teaching, serving the people, and leading the Nahdlatul Ulama (NU) organization. While Nyai Nafisah has an activity-selling fabric, she lectures because she is a preacher.

At the beginning of married life, kiai Sahal and Nyai Nafisah experienced economic difficulties. However, with patience and calmness, and the existence of diligent, hard efforts, kiai Sahal and Nyai Nafisah were able to get through those times. This is where kiai Sahal provides an example that if you want to achieve prosperity, you must make diligent and serious changes. Kiai Sahal and Nyai Nafisah were blessed with a child named Abdul Ghafar Razin,<sup>25</sup> who is currently continuing the baton of leadership at Maslakhul Huda Pati Islamic Boarding School.

### ***Genealogy of KH. Sahal Mahfudh's Scholarship***

Kiai Sahal's intellectual journey is a historical pilgrimage from pesantren to pesantren. Therefore, when discussing what kind of religious tradition and scientific model is the background of Kiai Sahal's life, the answer is the scientific tradition and style of thought of pesantren. The village of Kajen deserves to be dubbed a santri village because there are many Islamic boarding schools that have educated thousands of students. Kajen Village has a cool, calm, and peaceful atmosphere, which can arouse students' enthusiasm to work and achieve. This is where students can be seen passing here and there is a stack of papers, listening to the divine word, looking at the pearl horizons of their predecessors, and it is in this village that Kiai Sahal lives in the nuances of great and sacred spirituality.

Since at home KH. Mahfudh Salam who educated Kiai Sahal Mahfudh with great discipline and attention. Apart from being educated directly by his father, Kiai Sahal also studied at the Mathali'ul Falah Islamic College (PIM), a madrasa pioneered by his grandfather KH. Abdussalam, which was later developed by his father KH. Mahfudh Salam. In various book references that explain the biography of Kiai Sahal, it is explained that apart from studying religious sciences, Kiai Sahal also studied general sciences by attending courses in administrative science, state administration, and English.<sup>26</sup>

A high learning ethics makes Kiai Sahal not easily satisfied with what he has in the field of science. Therefore, after studying at Kajen, Kiai Sahal Mahfudh continued to various Islamic Boarding Schools such as the Bendo Kediri Islamic Boarding School, raised by KH. Muhajir. He is a student of Syaikhana Cholil Bangkalan Madura, who is famous for his sacred and extraordinary knowledge because many kiai were born from the cold touch of his hand. Pesantren Bendo became the destination of kiai Sahal's scientific rihlah after previously during ngaji pasanan in Lasem, precisely at Pondok KH. Kholil, he kiai Sahal met several Bendo students who were also ngaji

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<sup>23</sup> Sumanto Al-Qurtubi, *KH. MA. Sahal Mahfudh Era Baru Fiqih Indonesia* (Yogyakarta: Cermin Yogyakarta, 120AD).

<sup>24</sup> Jamal Ma'mur Asmani, *Biografi Intelektual KH. MA. Sahal Mahfudh: Pergulatan Fikih Sosial Dalam Realitas Empiris* (Yogyakarta: CV. Global Press, 2020).

<sup>25</sup> Budi, "Biografi Dr. KH. MA Sahal Mahfudz," *Laduni.ID*, 2023.

<sup>26</sup> Mukhlison Effendi and Suradi Suradi, "TRANSFORMASI KURIKULUM PESANTREN: Telaah Pemikiran KH. MA. Sahal Mahfudh Dan Nurcholish Madjid," *Cendekia: Jurnal Kependidikan Dan Kemasyarakatan* 12, no. 1 (2014): 15–32, <https://doi.org/10.21154/cendekia.v12i1.361>.

pasanan there. There was intensive interaction and dialog between the kiai Sahal and Bendo students.<sup>27</sup>

In Bendo, kiai Sahal deepened his knowledge of Sufism and also fiqh, one of the books studied by kiai Sahal while in Bendo was Ihya Ulumiddin, Mahalli, Fathul Wahab, Fathul Mu'in, Bajuri, Taqrib, Sulamut Taufiq, Sullam Safinah, Sullam Munajat and other books. In addition, the kiai Sahal actively attends to halaqohs with senior santri. Kiai Sahal also takes advantage of his time off every Tuesday and Friday, while walking approximately 2 km without the knowledge of his friends, he takes courses in Pare to learn languages, both Arabic and English and even he also studies administration and politics.<sup>28</sup>

Subsequently, Kiai Sahal Mahfudh continued to the Sarang Islamic Boarding School under the guidance of KH. Zubair Dahlan. After finishing the santri in Sarang, Kiai Sahal returned to Kajen to serve at the Mathali'ul Falah Islamic College and continued to pioneer the Maslakul Huda Islamic Boarding School founded by his father. If read in various pieces of literature related to the biography of Kiai Sahal Mahfudh, it can be concluded that his father KH. Mahfudh Salam was very instrumental in shaping the character of the leadership spirit and the orientation of the struggle carried out by Kiai Sahal Mahfudh.<sup>29</sup> Apart from his father, another figure who played a role in coloring Kiai Sahal Mahfudh's character was KH. Abdullah Zain Salam. He is known as the figure who continued to educate Kiai Sahal after his father died. KH. Abdullah Zain Salam is the younger brother of KH. Mahfudh Salam.

### ***The Meaning of Civilizational Fiqh***

Fiqh is one of the main concepts in Islamic science and refers to the understanding and application of Islamic laws in daily life. The concept of fiqh involves the process of studying, interpreting, and implementing Islamic religious teachings in various aspects of life, such as worship, muamalah (social and economic affairs), and family. Among Islamic boarding schools, Fiqh is defined as follows:

الفقه لغة الفهم، ويقال: فقهه - يفقه كعلم - يعلم، أي فهم مطلقاً، سواء أكان الفهم دقيقاً أم سطحياً، ويقال: فقهه - يفقهه مثل كرم - يكرم، أي صار الفقه له سجية، ويقال: تفقه الرجل تفقها: أي تعاطى الفقه، ومنه قوله تعالى (لِيَتَفَقَّهُوا فِي الدِّينِ)<sup>30</sup>

Artinya : *al-fiqh* etymologically comes from the word *faqih*-*yafqahu*, whose word change is the same as '*alima*-*ya'lamu*, which means the ability to understand anything either deeply or superficially. The diction of *al-fiqh* can also come from the word *faqih*-*yafqahu*, which changes the root of this word to the same as *karuma*-*yakramu*, with this form the word *fiqh* having the meaning of (*fiqh* has become a person's expertise), and when it is said *tafaqquha ar-rajulu tafacquhan*, it means that the man has the knowledge of fiqh, which is in line with what is said by Allah Swt, in QS. at-Taubah verse 122 (*liyatafaqquhu fid-diin*).

<sup>27</sup> Ika Arina Wulandari, "Pendidikan Sosial Keagamaan, Studi Analisis Pemikiran K.H. M.A. Sahal Mahfudh Tentang Pesantren Dan Pengembangan Masyarakat," *Al-Makrifat: Jurnal Kajian Islam* 7, no. 1 (April 23, 2022): 170–86.

<sup>28</sup> Dani Dani, "Sejarah Dr. KH MA. Sahal Mahfudz Dan Pemikirannya Tentang Fikih Sosial (Telaah Kitab Thariqah Al-Hushul 'Ala Ghayah Al-Wushul)" (PhD Thesis, Fakultas Agama Islam UNISSULA, 2017).

<sup>29</sup> Jamal Ma'mur Asmani, *Tasyawuf Sosial KH.MA. Sahal Mahfudh* (Jakarta: Quanita Gremedia, 2019).

<sup>30</sup> Syaikh Wahbah az-Zuhaili, *Fiqh Islam Wa Adillatuhu* (Damaskus: Dar-al Fikr, 2008).

In Arabic etymology, civilization is called "al-hadharah." Although in some literacy it is found that the word "al-hadhirah" which means city, becomes the opposite word of "al-badiyah" which is interpreted as a tribe, or inland area. Sometimes, the word "al-hadhirah" is also used to mean the capital of a country. The word "al-hadharah, which means (civilization) is intended to indicate living or living in a city. While civilization is viewed in terms of terminology, there are some differences in defining it. For example, the book "Al-Mu'jam Al-Wasith" explains that civilization is defined as: "The phenomenon of progress in the fields of science, art, literature and society in permanently inhabited areas." There are also those who define civilization as: "A comprehensive achievement in the order of civil (civil, urban) life and culture." From these definitions, it can be deduced that civilization is a package of all life with certain material-spiritual forms and patterns.<sup>31</sup>

Another definition of civilization was explained by a famous Muslim thinker, historian, and social philosopher, Ibn Khaldun, that what is meant by civilization is: "The pattern of settled life that is different from the life of the hinterland (nomadic, moving)." From this type of life, cities and villages are formed, and over time, models of how to live (how to live), work (work), social interaction, and the emergence of science and administration in various fields of life, industry, and government systems are formed. He gave another understanding that civilization is a natural process, or the process of transferring generations that occur naturally in the lives of diverse communities. Ibn Khaldun also gave a definition that what is meant by civilization is "the peak of development". These two short and clear words can be said to be the easiest definitions of civilization to understand.<sup>32</sup>

Ibn Khaldun defines the meaning of civilization in his book entitled *Muqaddimah* Ibn Khaldun, explaining that humans are creatures of society or politics (*al-insanu hayawanun madani*). Humans are creatures that cannot live alone. To meet their needs, humans tend to need help from others. With this sense of fulfilling needs, humans must interact with others. Starting from the scope of an individual, it will gradually expand to include many people to create a group or group scope, which is then known as society.<sup>33</sup> In Ibn Khaldun's understanding, what is meant by society is a group of people who contribute to carrying out their activities as movers on Earth. Humans play an important role in establishing and accumulating it in a nation and state. Thus, humans must play different roles depending on their level of expertise. This is determined by character and mindset, both of which play an active role in shaping the environment, which eventually becomes a place of socialization.

The term *al-insanu hayawnun madani*, used by Ibn Khaldun, seems relevant to the meaning of civil society, which is identical to urban society. This means that they have a dynamic, progressive, busy, practical lifestyle, logical thinking, cosmopolite insight, and look for new alternatives to obtain a prosperous life.<sup>34</sup> This temperament is supported by al-Karimah morals. Therefore, the author simplifies if the meaning of civil society is indeed so, then it is not wrong if it is called the ideal society, as it was done by the Apostle Muhammad Saw in Medina. From the explanation above, the author can simplify that what is meant by the definition of *fiqh* of civilization is, as explained by Kiai Afif, that what is meant by *fiqh* of civilization is not *fiqh* adab,

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<sup>31</sup> Sulaiman Hazin, *Muqawwimaat Al-Hadharah Al-Islamiyah* (Mesir: Akademi Riset Islam Cairo, n.d.).

<sup>32</sup> Ibnu Khaldun, *Muqaddimah Ibnu Khaldun* (Beirut: Matba'ah Adabiyah, 1900).

<sup>33</sup> UI Ardaninggar Luhtitanti and Achmad Zainal Arifin, "Ashabiyah Theory Of Ibn Khaldun: An Alternative Perspective For Studying The Indonesian Muslim Society," *Al-A'raf: Jurnal Pemikiran Islam Dan Filsafat* 17, no. 2 (December 23, 2020): 259–80, <https://doi.org/10.22515/ajpif.v17i2.2969>.

<sup>34</sup> Djamel Chabane, "The Structure of 'Umr al-'Alam of Ibn Khaldun," *The Journal of North African Studies* 13, no. 3 (September 1, 2008): 331–49, <https://doi.org/10.1080/13629380701844656>.



which regulates the relationship between teachers and students or kiai with their students. However, *fiqh al-hadlarah* is *fiqh*, which is closely related to civilization. The civilization referred to here is the development of morals and adabs, not physical development, such as buildings, bridges, and other infrastructure. This definition provides consequences for humans to think openly to all fields of science, because *fiqh*, if leaned on civilization, requires humans to appear charming and play its role in caring for the earth. This is in line with what has been mandated by Allah SWT for humans contained in QS. al-Baqarah verse 30, that humans have a great responsibility for the prosperity of the earth which in the language of the Qur'an is called *khalifah fil ardh*.<sup>35</sup>

### ***The Dynamics of Fiqh Thought in NU Circle***

Nahdlatul Ulama (NU), the largest Islamic organization in Indonesia and even in the world whose birth was initiated by scholars, actually departed from the issue of *fiqh*; thus, NU cannot be separated from the tradition of *fiqh* thinking. Be this in the aspect of the theoretical framework in the form of *ushul al-fiqh* or *fiqh* rules (*al-qawaid al-fiqhiyyah*).<sup>36</sup> *Fiqh* is also the basis of *amaliyah* for NU residents; according to Masdar Farid Mas'udi's term, *fiqh* in the NU environment (circle) is the commander. As is commonly known, in the NU circle, *fiqh* thinking is identical to *madzhab fiqh*, where every religious issue (*al-masail al-diniyyah*) that arises and becomes a problem of the people is responded to and the solution is sought through the *bahtsul masail* forum and refers to the *fiqh* books of the four *madzhab*, namely Imam Hanafi, Imam Maliki, Imam Shafi'i, and Imam Hanbali. In the process of *istinbath al-ahkam* (determining the law) carried out in the NU Bahtsul Masail forum using three methods:<sup>37</sup> The first is the *qauliy* method, which is the making of legal decisions by quoting texts or editorial opinions from *madzhab* scholars written in *madzhab fiqh* books. Second, the *ilhag* method or *ilhag al-masa'il binadhairiba*, which is by analogizing the issue with similar problems that already have legal rulings in *madzhab fiqh* books. Third, the *manhajiy* method, namely, by applying the *istinbath* law according to the method (*manhaj*) taken by the *madzhab* imam. This method is known as *madzhab manhajiy*.

The existence of the above three methods in doing *istinbath al-ahkam* within NU indicates that the *fiqh* thinking "tradition" of the *madzhab* pattern in NU, despite the traditional characteristics inherent in NU, the dynamics of *fiqh* thinking still exists. Momentum began in the 1990s, where in the *bahtsul masa'il* forum, *fiqh* thinking within NU experienced an intensive struggle. The increasing number of NU intellectuals from universities who participated in the *bahtsul masa'il* forum colored the mindset (word view) in discussions and debates that occurred increasingly lively. Likewise, the problems faced by people are becoming increasingly complex regarding contemporary issues, thus inviting exciting debates when confronting *ketub al-madzhab* with contemporary problems. The struggle also touches the ontological aspects, namely about the nature of *fiqh*, epistemology (such as arguments and *al-keutub al-mu'tabarah*) which become references (*maraji'*) and methodological aspects, namely about *istinbath al-ahkam*.<sup>38</sup>

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<sup>35</sup> Wahidul Anam and Mubaidi Sulaeman, "Reinterpretasi Hadis Mesoginik Kepemimpinan Wanita Dalam Musnad Ahmad Perspektif Maqasid Al-Shariah," *AL QUDS : Jurnal Studi Alquran dan Hadis* 6, no. 3 (December 28, 2022), <https://doi.org/10.29240/alquds.v6i3.5172>.

<sup>36</sup> M. Ali Haidar, *Nahdlatul Ulama Dan Islam Di Indonesia Pendekatan Fiqh Dalam Politik* (Jakarta: : PT Gramedia Pustaka Utama, 1994).

<sup>37</sup> Ahmad Zahra, *Tradisi Intelektual NU* (Yogyakarta: LKis, 2004).

<sup>38</sup> Ahmad Arifi, "Dinamika Pemikiran Fiqh Dalam NU: Analisis Atas Nalar Fiqh Pula Madzhab," *Ulumuna: Jurnal Studi Keislaman* XIII (2009): 189.

There are several NU figures whose ideas make the dynamics of fiqh thinking in NU circles more progressive. For example KH. MA. Sahal Mahfudh with his Social Fiqh which puts forward the need to contextualize madzhab pattern fiqh by referring to maqashid shari'ah and qawa'id fiqhiyyah has a major influence on the tradition of NU fiqh thinking.<sup>39</sup> Then another figure who also made a progressive contribution to the dynamics of NU fiqh thinking was Masdar Farid Mas'udi, he was a young cleric with critical thinking, and was brave with his lawsuit against the madzhab pattern adopted by NU. His critical and substantive thinking was expressed in Emancipatory Islam (fiqh).<sup>40</sup>

The occurrence of fiqh thought struggles in NU circles with the various expressions of thought above cannot be separated from the attitude of NU scholars in interpreting the adage *al-muhafabat 'ala al-qadim al-shalih wa al-akhdzu bi al-jadid al-aslah*. In the author's opinion, this adage becomes a dynamic space for NU thinkers, and NU intellectuals are in the position of two poles that attract each other. On the one hand, NU as jam'iyyah diniyyah affirms the pattern of madhhab by consistently trying to hold on to the classical heritage (*al-turats al-qadim*), namely, the books of madhhab fiqh. On the other hand, NU cannot avoid social change and progress as a result of modernization, namely the existence of modern (Western) intellectual works known as *al-turats al-gharbi*. If we borrow the term from Al-Jabiri, the struggle of fiqh thinking in NU is a tug of war between the old or classical heritage (*al-turats*) and modernity (*al-hadatsah*).<sup>41</sup>

The dynamics of fiqh thinking in the NU circle are a starting point to be elaborated in the context of kiai Sahal Mahfudh's prescriptive civilization fiqh thinking. Among the NU figures who succeeded in providing ideas about the fiqh of civilization was kiai Sahal with his work in the form of Social Fiqh. From kiai Sahal's perspective, every problem has its own context, which is usually far more complex than the problem itself. Therefore, using the yellow book (*al-turats al-qadim*) as a reference to solve actual problems is not a scientific error; it only requires the ability to be developed by providing concepts and approaches that pay attention to the roots and problems that arise in society, because it is impossible for problems to arise by themselves.<sup>42</sup> The problem is how to position the yellow book (*al-turats al-qadim*) with contemporary problems, while so far the yellow book has been used as a compendium of jurisprudence that is very legalistic, so that the yellow book is often considered as a positive law that can judge all problems in detail with background considerations, arguments, and decisions aligned with the Qur'an and hadith.<sup>43</sup>

### ***Characteristics of Kiai Sahal Mahfudh's Fiqh Thought***

A thought is never born in a vacuum; it comes to the surface as a reflection of the social setting that surrounds it. How much influence the social conditions experienced by a person will certainly affect their thinking. Thus, it is fair to say that a person's opinion or thought, and even policies born from political authority, are the thoughts of his era.<sup>44</sup> In Indonesia, the circle of

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<sup>39</sup> Faqih Jalaludin and Ahmad Zahro, "Implementation of Social Jurisprudence by KH Sahal Mahfudh in the Practice of Family Planning Program in Pagertanjung Jombang," *Jurisprudensi: Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam* 15, no. 1 (February 17, 2023): 109–12, <https://doi.org/10.32505/jurisprudensi.v15i1.5538>.

<sup>40</sup> "Childfree Pasca Pernikahan: Keadilan Hak-Hak Reproduksi Perempuan Perspektif Masdar Farid Mas'udi Dan Al-Ghazali | Al-Manhaj: Journal of Indonesian Islamic Family Law," December 29, 2021, <http://ejournal.iainmadura.ac.id/index.php/almanhaj/article/view/5325>.

<sup>41</sup> Abdul Mukti, "Post-Traditionalism in Indonesia: Tracking of Muhammad Abid al-Jabiri's Thought," *Jurnal Ushuluddin* 31, no. 1 (June 28, 2023): 114–25, <https://doi.org/10.24014/jush.v31i1.19379>.

<sup>42</sup> Ahmad Najib Burhani, "Kitab Kuning Dan Kitab Suci: Pengaruh Al-Jabiri Terhadap Pemikiran Keagamaan Di NU Dan Muhammadiyah," *Masyarakat Indonesia* 41, no. 1 (September 15, 2016): 29–42, <https://doi.org/10.14203/jmi.v41i1.241>.

<sup>43</sup> KH. MA. Sahal Mahfudh, *Fikih Sosial Upaya Pengembangan Mazhab Qauli Dan Manhaji* (Jakarta: UIN Syarif Hidayatullah Jakarta, 2003).

<sup>44</sup> KH. MA. Sahal Mahfudh, *Nuansa Fiqh Sosial* (Yogyakarta: LKis, 2001).

Muslim society, especially *fuqaha*, there are at least two major group categorizations involved in the discourse on the enactment of Islamic law provisions. First, those known as normative groups believe that the Qur'an is the authoritative and complete source of Islamic law; this argument is believed to be based on the words of Allah Swt in QS. al-Ma'idah verse 3. Thus, they assume that Islamic law must be implemented for all Muslims to live the reality of life. Second, they chose to use a cultural approach because they believed in the importance of absorbing the values of Islamic law into social reality. Thus, Islamic law appears grounded and can address the complexity of people's problems. In Indonesia, one of the reformers and, at the same time, a thinker and guardian of tradition, who is the category of this second group, is Kiai Sahal Mahfudh.<sup>45</sup>

Kiai Sahal Mahfudh is known as a scholar who is very sensitive in seeing social realities and problems in people's lives. The socioeconomic gap restlessens and upsets his heart and mind. Thus, Kiai Sahal thinks and works hard to find solutions to the existing problems. Departing from this analysis, Kiai Sahal Mahfudh has characteristics in his fiqh thinking because in Kiai Sahal's perspective fiqh must be directly related to *'afal al-mukalifin*. Some things that are important for building the civilization of the people from the perspective of the Kiai Sahal are to improve the quality of life of the people for the better, and one of them is starting from the problem of theology or people's understanding of the teachings of their religion, which will later reach complex and collective problems.<sup>46</sup> Kiai Sahal Mahfudh is one of a series of contemporary Indonesian Muslim thinkers who feel uneasy about the powerlessness of classical fiqh in presenting solutions and solving the complexity of contemporary problems of the people. Kiai Sahal has high hopes that fiqh with its methodological tools - be it in the form of qawaid al-Fiqh or ushul fiqh - is able to play its role, and bring benefits to the people. Thus, from Kiai Sahal's perspective, it is necessary to actualize classical fiqh texts or reinterpret classical fiqh so that fiqh does not stutter and is able to reflect on the current context.<sup>47</sup>

In Kiai Sahal's perspective, the problem of the people that must be eliminated immediately in order to present a new civilization is the word view of the people towards fiqh. Kiai Sahal said that fiqh has been seen as a domagmatic-normative and stagnant concept and is unable to present solutions to the problems of the people. This makes the community no longer open and reluctant to follow the development and civilization of the times. This is one of the main factors that cause Muslims to lag behind because their understanding of fiqh has been wrong.<sup>48</sup> The scientific pilgrimage carried out by Kiai Sahal Mahfud became a valuable experience that was able to provide its own color in shaping his thought patterns. When referenced in various studies on Kiai Sahal Mahfudh, five characteristics of Kiai Sahal Mahfudh's thinking in fiqh were found. This was written as a result of the discourse (discussion of a series) of the NU ulama halaqoh in 1988-1990 initiated by Rabitah Ma'ahid Islamiyah (RMI) in collaboration with Pesantren and Community Development (P3M).<sup>49</sup> Among the five characteristics of Kiai Sahal's thinking is the contextualization of fiqh texts. Kiai Sahal's thinking is contained in his work *Fiqh Sosial* which the author uses as a starting point to elaborate Kiai Sahal's thoughts on the fiqh of civilization.

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<sup>45</sup> Mahsun, *Kontruksi Epistimologi Fiqh Sosial* (Pati: Fiqh Sosial Institute Staimafa, 2015).

<sup>46</sup> Muhammad Ahnu Idris, Taufik Taufik, and Bahrur Rosi, "Dakwah Pembebasan' Perspektif KH. MA. Sahal Mahfudh Dalam Buku 'Nuansa Fiqih Sosial,'" *Ulumuna: Jurnal Studi Keislaman* 6, no. 1 (June 15, 2020): 35–52, <https://doi.org/10.36420/ju.v6i1.3702>.

<sup>47</sup> Lutfan Muntaqo, "Fiqh Sosial: Pemikiran KH. MA. Sahal Mahfudz," *Manarul Qur'an: Jurnal Ilmiah Studi Islam* 14, no. 1 (June 2, 2014): 71–86.

<sup>48</sup> Irham Irham, "Al-Ta'lim al-Islami al-maftuh lada KH. Sahal Mahfudz (1937-2014)," *Studia Islamika* 29, no. 1 (June 22, 2022): 143–88, <https://doi.org/10.36712/sdi.v29i1.14657>.

<sup>49</sup> Rachman Iqbal, "PEMIKIRAN FIKIH SOSIAL KH. SAHAL MAHFUDH DAN KONTRIBUSINYA DALAM PEMBANGUNAN EKONOMI PESANTREN" (UNIVERSITAS ISLAM INDONESIA, 2022).

### ***Contextualization of Fiqh Texts as an Embryo of Civilization Fiqh***

Re-interpretation in the discourse of fiqh texts is characteristic of Kiai Sahal's fiqh thinking. He implemented it in social fiqh, and this is in line with the fiqh of civilization, which, with this contextualization, will be able to respond to various forms of problems of modern-day people. From the perspective of Kiai Sahal, the contextualization of fiqh is a form of effort to interpret fiqh so that it is relevant to the context (space and time) of the challenges and expectations faced by the people. Of course, the current context is very different from the context of ancient times, so a new understanding of the current context is needed.<sup>50</sup> Seeing this problem, the step needed in the contextualization of fiqh text is to open up with various other disciplines outside the religious sciences, be it exact, or social sciences with an orientation to obtain an understanding of the yellow book (*al-turats al-qadim*) in accordance with the context. In the study of KH. Sahal Mahfudh's social fiqh epistemology states that re-understanding the community about religion and fiqh is fundamental because it determines the mindset of the community in attitude and behavior, especially in terms of ethos in changing fate.<sup>51</sup>

Generally, people understand religion only as vertical-transcendental worship or *hablu min Allah*. Meanwhile, things related to property, human interactions, and other social issues are considered part of the world to foster the assumption that such things do not bring any reward at all. This is an issue for the Kiai Sahal because of the people's wrong way of thinking.<sup>52</sup> Working to produce abundant property can also encourage charity and generate many rewards. From Kiai Sahal's perspective, the world is a field for the afterlife; the more the world gets, the more *ukhrawi* value can be achieved. Of course, this must be based on correct religious knowledge so that it is more guided and remains on the track of the values of faith.<sup>53</sup>

Kiai Sahal views that fiqh is considered formalistic by the community which ultimately has an impact on fiqh that is not in line with praxis life. This is exacerbated by the doctrine of life that relies only on theology, which leads people away from the orientation of fiqh, which is legal formalism. Fiqh itself is the science of law or products of religious law (Islamic jurisprudence). This means that fiqh is impossible to stand alone as a scientific discipline or legal decision tool, but fiqh requires several methods and theoretical frameworks in making decisions such as the science of *ushul fiqh*, *qawa'id al-fiqhiyyah*, the study of the Qur'an and hadith, Arabic grammar. This component is what fiqh needs to answer the complex problems of the people today.<sup>54</sup>

In addition, the characteristic of Kiai Sahal's thinking in fiqh is that it tends to emphasize the philosophical aspects of thinking so that the results of his thinking are more adaptive, progressive, substantive and dynamic. The characteristics of Kiai Sahal Mahfudh's thinking in fiqh determine a law tends to be on *maslahah* rather than *qiyas*.<sup>55</sup> This is because he sees the background or cause of the law (*masalik al-'illah*) issued in relation to social and economic inequality so that welfare which is the purpose of the law must be presented to build human civilization.<sup>56</sup>

<sup>50</sup> Rüdiger Lohker, "Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia," in *Humanitarian Islam* (Brill Schöningh, 2023), 163–80, [https://doi.org/10.30965/9783657790265\\_010](https://doi.org/10.30965/9783657790265_010).

<sup>51</sup> Reza Fauzi Nazar and Mohammad Fahmi Abdul Hamid, "Tracking the Genealogical Reasoning Reconstruction of Nahdlatul Ulama (NU) Fiqh: From 'Social Fiqh' to 'Civilization Fiqh,'" *Tashwirul Afkar* 41, no. 2 (December 30, 2022): 137–62, <https://doi.org/10.51716/ta.v41i2.74>.

<sup>52</sup> Muchlis Bahar, "Konstruksi Metodologis Dan Dimensi Aksiologis Fiqh Sosial KH. Sahal Mahfudh Dalam Kondisi Sosial Kontemporer," *AKSELERASI: Jurnal Ilmiah Nasional* 2, no. 1 (June 29, 2020): 100–108, <https://doi.org/10.54783/jin.v2i1.534>.

<sup>53</sup> Tuti Munfaridah, "Islam Nusantara Sebagai Manifestasi Nahdlatul Ulama (NU) dalam Mewujudkan Perdamaian," *Wabana Akademika: Jurnal Studi Islam dan Sosial* 4, no. 1 (July 11, 2017): 19–34, <https://doi.org/10.21580/wa.v4i1.1476>.

<sup>54</sup> KH. MA. Sahal Mahfudh, *Nuansa Fiqh Sosial*.

<sup>55</sup> Muhammad Ulil Abshor, "Dinamika Ijtihad Nahdlatul Ulama (Analisis Pergeseran Paradigma dalam Lembaga Bahtsul Masail NU)," *Millati: Journal of Islamic Studies and Humanities* 1, no. 2 (December 15, 2016): 227–42, <https://doi.org/10.18326/mlt.v1i2.227-242>.

<sup>56</sup> Abas Mujiburohman, "Fiqh Al-Aqalliyat As An American Version Of Local Wisdom," *Khazanah: Jurnal Studi Islam Dan Humaniora* 16, no. 1 (September 19, 2018): 1–22, <https://doi.org/10.18592/khazanah.v16i1.2091>.

Some of Kiai Sahal's sparks of thought about contextualizing fiqh texts that are relevant to the fiqh of civilization are as follows:

### **1. *Standard of Maintenance in the Family***

In the book fiqh, three standards of maintenance in the family are explained, which in Kiai Sahal's perspective is more modern than the standards established by the World Health Organization (WHO). It is explained in the book of fiqh that for a rich person (musir) the standard of maintenance for a family is two mud (12 ounces), for a moderate person (mutawassith) there is one mud and a half (9 ounces), while for a poor person (mu'sir) is one mud (6 ounces), while for the side dishes it is adjusted according to custom. In the opinion of kiai Sahal, as explained by Jamal Ma'mur Asmani in his book, a wife is very sufficient with 1.2 kg, 9 ounces, and 6 ounces in a day and night.<sup>57</sup>

Kiai Sahal encouraged NU scholars not to be apathetic towards the actual contemporary discourse. But must dare to respond with classical treasures that are believed to be able to present solutions and alternative discourse. In the context of maintenance, if contextualized with the current era, classical fiqh already has a clear concept, namely dividing the standard of maintenance into three, namely people with categories of rich, moderate, and poor. Regarding the view of family maintenance standards, Kiai Sahal uses the rule of law, namely *taghayyurul ahkam bitaghayyurul amkinah wal azminah wal ahwal fi majalil adati wal mu'amalat duna al-ibadati*, changes in law with changes in place, time, and conditions in the field of customs and *muamalah*, not in the field of worship.<sup>58</sup>

This means that the standard of maintenance can certainly be changed in accordance with economic, geographical, cultural, and human education developments, all of which are influenced by time and space. It must be understood that before the WHO formulated the categorization of Islamic maintenance, Islam already had this concept. This is where the author considers that the contextualization of fiqh texts carried out by kiai Sahal is relevant to the orientation of civilized fiqh, which has recently been echoed by the NU community. Sahal's responsive and dynamic fiqh thinking proves that the treasures of classical books are relevant to contemporary issues.

### **2. *Human rights***

At a time when the discourse on human rights (HAM) was booming nationally and internationally, Kiai Sahal introduced the concept of human rights in QS. al-Isra' verse 70 which means: "And indeed we have honored the descendants of the Prophet Adam and we have distributed them on land and sea and we have prioritized them over most of the creatures that I have created truly." From the perspective of kiai Sahal, the verse above very clearly explains that humans are creatures of Allah Swt who get takrim (glory) from Allah as well as tafdil (superiority), which is certainly not owned by other creatures. Thus, humans must be glorified and not be harassed, insulted, bullied, or deprived of their rights.<sup>59</sup> This is because it is a human right that exists from the womb until the end of life. In fact, in the author's opinion, humans not only obtain takrim (glory) and tafdil (virtue) from Allah SWT, but are also endowed with the privilege of fitrah. This

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<sup>57</sup> Asmani, *Fiqh Sosial Kiai Sahal Mahfudh: Antara Konsep Dan Implementasinya*.

<sup>58</sup> Andi Darna, "Perkembangan Hukum Islam Di Indonesia: Konsep Fiqih Sosial Dan Implementasinya Dalam Hukum Keluarga," *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (March 13, 2021): 90–107, <https://doi.org/10.22373/ujhk.v4i1.8780>.

<sup>59</sup> Jumain Azizi and Opan Satria Mandala, "Analisis Pemikiran Ali Yafie Dan Sahal Mahfuzd Dalam Fiqih Sosial Terhadap Perkembangan Hukum Islam," *JURNAL MAHASANTRI* 2, no. 2 (March 28, 2022): 398–423, <https://doi.org/10.57215/pendidikanislam.v2i2.147>.

is in line with what is explained by the hadith which means: "Every child is born in a state of purity." (HR. Bukhari).<sup>60</sup>

The hadith is explained by M. Ali As-Shabuni that what is meant by fitrah is a straight teaching, namely in the form of faith in Allah SWT.<sup>61</sup> The three glories given by Allah to mankind show Islam's high regard for humans, which is known as human rights. In the study of ushul fiqh, maqasidus shari'ah is also known, namely the purpose of implementing Islamic law which is divided into three, namely dharuriyyat (primary), hajiyat (secondary), and tahsiniyat (complementary). In this dharuriyyat field, the objectives of Islamic law are listed, namely; protecting religion, soul, property, mind, self-esteem and offspring which are the pillars of life both in this world or in the hereafter. These five are called al-kulliyatul khamsah (five basic rights) which are identical to human rights.<sup>62</sup>

Kiai Sahal was able to show the public that the classical treasures of pesantren, especially in the field of fiqh thinking and its supporting elements, already have concepts about human rights, not just concepts that come from the West. The counter discourse carried out by Kiai Sahal is very important to show the world that progressive thoughts already exist in the yellow book which must be contextualized in the modern era which is relevant to the developments and challenges of the times that surround it with gradual modification and development so that fiqh is not outdated, and this is where the author can simplify that Kiai Sahal's thoughts on human rights are in line and in line with the goals of fiqh civilization.

### 3. Birth Control

Kiai Sahal is a kiai figure who is very concerned about the problems of the people, be it socio-cultural, economic-health, political-education, and so on. Therefore, when the government discussed the BKKBN program, the kiai Sahal became the foremost cleric who supported the program. In kiai Sahal's perspective, as long as family planning aims to educate children to be more qualified in spiritual, emotional, and intellectual aspects, family planning is a good thing. In the opinion of kiai Sahal, Birth Control, which is prohibited, has the aim of cutting off offspring.<sup>63</sup> Of course, the arguments conveyed by the kiai Sahal when consumed by the public gave rise to pros and cons. Some kiai believe that with many children, there will be a lot of sustenance; this is the argument of kiai, who reject the family planning program. However, kiai Sahal does not simply justify this because the Prophet Muhammad Saw recommended multiplying children in the early days of Islam. However, after the Muslim population is as large as it is today, the guidance is to develop quality in order to raise the dignity and degree of each individual in the family.<sup>64</sup>

From here on, Kiai Sahal supports the family planning program, because by carrying out a family planning program based on educational, health, religious, and economic considerations, it can prevent difficulties for life in the future, both for children, mothers, and fathers as individuals

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<sup>60</sup> Shinta Anggraini, "Pentingnya Pendidikan Anak Usia Dini Kajian Terhadap Hadits Kullu Mauludin Yuladu Alal Fitrah," *Jurnal Golden Age* 6, no. 2 (December 30, 2022), <https://doi.org/10.29408/goldenage.v6i2.6789>.

<sup>61</sup> M. Ali As-Shabuni, *Min Kunuz As-Sunah* (Surabaya: Syirkah Bankul Indah, n.d.).

<sup>62</sup> Nurcantika Syahputri, "Hak-Hak Masyarakat Dalam Perspektif Fiqh Sosial," *ENLEKTURER: Journal of Islamic Studies* 1, no. 1 (June 29, 2023): 67–90, <https://doi.org/10.21266/ejis.v1i1.130>.

<sup>63</sup> Abdul Hakim, Ridzwan Ahmad, and Syed Mohd Jeffri Syed Jaafar, "The Methodology of Reforming Islamic Law Fatwa Bahthul Masail Nahdhatu Ulama in Family Planning (KB) in Indonesia by the Maqasid Shari'ah Approach," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (June 26, 2023): 939–52, <https://doi.org/10.37680/almanhaj.v5i1.2934>.

<sup>64</sup> Imamul Muttaqin, "Studi Analisis Terhadap Pendapat KH. MA. Sahal Mahfud Tentang Wali Mujbir," *AL-HUKAMA: The Indonesian Journal of Islamic Family Law* 2, no. 1 (June 30, 2012): 19–36, <https://doi.org/10.15642/al-hukama.2012.2.1.19-36>.

in the family.<sup>65</sup> Kiai Sahal also gave the opinion of scholars who allow the implementation of family planning such as the opinion of Imam al-Ghazali for several reasons. First, family planning can make the wife healthy and stay beautiful and can perpetuate a harmonious relationship between husband and wife. Second, it can protect the wife's life from risks associated with pregnancy. Third, it can prevent families from experiencing economic or life difficulties (*haraj*).<sup>66</sup>

Kiai Sahal with his expertise is able to refer to the classical treasures of the yellow book as reference material to convince the family planning program by presenting the arguments of Islamic figures who allow family planning for health and education reasons. The contextualization carried out by Kiai Sahal is in actual observations in the midst of Muslim society, which of course at that time was still entangled in problems of poverty, health, and education even now. Children from the majority Muslim families are difficult or do not develop well so that they become an internal problem for the family and of course for society and the State. Because they are not able to prepare their children to become quality and competitive cadres, which in the language of Kiai Maimun Zubair is a generation that is *arifan biẓamanibi*, namely children who are relevant and able to master the development and civilization of their era. Because to achieve this requires economic sufficiency, and access to adequate education. The contextualization of fiqh texts is a valuable lesson for Islamic jurists to understand fiqh texts that are relevant to the dynamics of an era that runs dynamically, competitively and productively. Kiai Sahal provides a good example of how to contextualize fiqh texts in various aspects of people's lives such as economics, health, humanity and civilization. Thus, it can be summarized that the contextualization of the fiqh text provides confidence and confidence that if the treasures of thought that are usually studied in pesantren are understood contextually, they are still relevant to the times and their challenges.<sup>67</sup>

### ***Fiqh of Civilization Perspective of Kiai Sahal Mahfudh to Breaking the Dullness***

The Progressive fiqh, also known as fiqh of civilization, can be understood as knowledge related to sharia law that regulates solutions to the problems of the people in modern times. This knowledge refers to *dalil tafsiliyyah*. Fiqh of civilization is Islamic Sharia law that tends to side with minorities, take sides with the oppressed, or criticize hegemonic (unfair) power.<sup>68</sup> KH. Yahya Cholil Staquf in the opening of the civilization fiqh halaqah at the Krapyak Yogyakarta Islamic Boarding School said that the civilization fiqh halaqah event which took the theme "Fiqh Siyasah NU and the Reality of the New Civilization" was a stepping stone for NU to move towards progressive and dynamic thinking, as has been the tradition of previous NU scholars. Of course, the statement conveyed by Gus Yahya is not without reason, because the idea of progressive thinking about fiqh has been pioneered by Kiai Sahal Mahfudh in Social Fiqh. In the civilization fiqh halaqah there are at least 5 major themes which include: first, fiqh siyasah and the Nation State; second, fiqh siyasah and citizenship; third, siyasah and the new world order; fourth, fiqh siyasah and minority issues; and fifth, fiqh siyasah between war and peace.<sup>69</sup>

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<sup>65</sup> Jalaludin and Zahro, "Implementation of Social Jurisprudence by KH Sahal Mahfudh in the Practice of Family Planning Program in Pagertanjung Jombang."

<sup>66</sup> Reno Ismanto, "Maqasid Pernikahan Perspektif Imam Al-Gazali Berdasarkan Kitab Ihya 'Ulum al-Din," *ISLAMITSCH FAMILIERECHT JOURNAL* 1, no. 01 (December 13, 2020): 46–65, <https://doi.org/10.32923/ijf.v1i01.1569>.

<sup>67</sup> Dr. Jamal Ma'mur Asmani, *Mengembangkan Fikih Sosial KH.MA Sahal Mahfudh: Elaborasi Lima Ciri Utama* (Jakarta: Gramedia, 2015).

<sup>68</sup> Anjar Nugroho, "Rekonstruksi Pemikiran Fikih: Mengembangkan Fikih Progresif Revolusioner," *Al-Manhaj* 9, no. Vol.9 No.1 2015 (2015): 1–19.

<sup>69</sup> Muhammad Misbah, "Relasi Patronase Kiai-Santri Dalam Pendidikan Karakter Di Pondok Pesantren Ma'Hadu Tholabah Babakan Tegal," *Jurnal Smart Studi Masyarakat,Religi, Dan Tradisi* 5, no. Vol.5 No.2 2019 (2019): 213–27.

Indeed, the fiqh of civilization is in line with what was initiated by Kiai Sahal Mahfudh in Social Fiqh. Where in the perspective of Kiai Sahal Mahfudh fiqh has responsibility for human behavior. In other words, fiqh must work directly with 'afal al-mukalifin, so that humans continue to walk (on the track) in the policy corridor and not become a problem for others. Thus fiqh has a role to help humans realize a new civilization that is full of benefits and based on human values. The discourse of fiqh of civilization is an interesting study considering that in the last few decades, the study of fiqh in Islamic boarding schools has experienced dullness. This is also agreed by Kiai Sahal Mahfudh, that in Kiai Sahal's perspective fiqh is not a dogmatic-normative concept, but fiqh is an active-progressive concept. Therefore, fiqh must be directly combined with 'afal al-mukallifin, that is, fiqh is relevant to the behavioral attitudes, situations, conditions, and actions of Muslims in all aspects of life. Be it in the aspect of ubudiyah (worship) or economic social interaction (mu'amalah) including socio-political (Siyasah) of course. In Kiai Sahal's perspective, the fiqh that has been adopted by the scholars tends to have madzhabi nuances that have taken root into an ideology that is only understood strictly (blind taqlid).<sup>70</sup> Whereas in fact fiqh is a legal product of istinbath, fatwa, and ijtiḥad so that in the process it requires certain components which are then known as ushul fiqh and qowa'idul fiqhiyah. Therefore, Kiai Sahal in his social fiqh deconstructs by seeking to integrate religious texts (fiqh) with social reality so that fiqh is in accordance with the spirit of religion which has an orientation towards the benefit, justice, prosperity and welfare of the people. Thus fiqh is able to play its role in building a new civilization for Muslims.

The notion that fiqh is a result of istinbath (derivation), fatwa (legal opinions), and ijtiḥad (independent reasoning) underscores the dynamic nature of Islamic jurisprudence. However, traditional interpretations of fiqh often risk becoming stagnant and rigid due to an overemphasis on established doctrines and a lack of adaptation to changing societal circumstances. This has been a challenge within various Islamic communities, including NU. Nahdlatul Ulama, as a progressive Islamic organization, acknowledges the need to address this issue. Within NU's diverse and dynamic context, there is a growing recognition that a more flexible and adaptable approach to fiqh is necessary. The recognition of istinbath, fatwa, and ijtiḥad as processes for deriving legal rulings is consistent with NU's commitment to scholarly inquiry and intellectual growth. Ushul fiqh (principles of jurisprudence) and qowa'idul fiqhiyah (legal maxims) are pivotal in ensuring the accuracy and relevance of legal rulings. Nevertheless, the interpretation of these principles can vary. Kiai Sahal's approach to social fiqh serves as a response to the rigidity that can develop in fiqh reasoning. By advocating for the integration of religious texts (fiqh) with the practical realities of society, Kiai Sahal bridges the gap between classical interpretations and contemporary challenges.

In the context of NU, Kiai Sahal's approach could be seen as a way to overcome the potential stagnation of fiqh reasoning. By harmonizing religious teachings with the evolving needs of society, this approach maintains the integrity of Islamic values while adapting them to address new circumstances. This dynamic approach aligns with NU's emphasis on ijtiḥad and its rich tradition of accommodating diverse viewpoints within the framework of Islamic scholarship. It suggests that Kiai Sahal's approach is a response to a potential issue within NU's approach to Islamic jurisprudence (fiqh). This issue is the "stagnation of fiqh reasoning," which refers to the risk that fiqh interpretations can become fixed, rigid, and resistant to change over time. This can

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<sup>70</sup> Muhammad Nasarudin, "Halaqah Fikih Peradaban Dan Relevansinya Terhadap Penguatan Nilai Moderasi Beragama Di Pesantren," *Pesantren Studies Annual Symposium on Pesantren Studies* 1, no. Prosiding Nasional Vol. 01 2022 (2022): 3–4.



be a challenge when Islamic legal interpretations are not flexible enough to adapt to new societal contexts and challenges.

Kiai Sahal's approach aims to address this stagnation by proposing a strategy of "harmonizing religious teachings with the evolving needs of society." This means that instead of treating fiqh as a set of fixed rules, Kiai Sahal advocates for an interpretation that takes into account the changing circumstances and challenges faced by society. This approach ensures that Islamic values and principles remain relevant and applicable in different eras. Despite the adaptation to new circumstances, Kiai Sahal's approach emphasizes that the "integrity of Islamic values" must be maintained. This implies that while adjusting to new contexts, the core ethical and moral principles of Islam remain unchanged. The approach seeks to strike a balance between preserving the timeless essence of Islamic teachings and addressing the specific needs of contemporary society.

Kiai Sahal's approach is "dynamic." This means that it is flexible, open to change, and willing to reinterpret Islamic teachings as necessary. This aligns well with NU's emphasis on "ijtihad," which is the process of using independent reasoning to derive legal rulings and solutions. NU's focus on ijtihad reflects its recognition that Islamic jurisprudence should be adaptable and responsive to new challenges. NU's "rich tradition of accommodating diverse viewpoints within the framework of Islamic scholarship." This refers to NU's openness to different interpretations and approaches within the realm of Islamic thought. Kiai Sahal's dynamic approach to fiqh resonates with this tradition, as it encourages a broader range of perspectives and ideas, leading to a more comprehensive understanding of Islamic jurisprudence. By ensuring that fiqh remains in accordance with the spirit of religion, with an orientation toward benefit, justice, prosperity, and welfare, Kiai Sahal's social fiqh aligns with NU's objectives. The aspiration to build a new civilization for Muslims resonates strongly with NU's vision of fostering a just, harmonious, and progressive society. Kiai Sahal's approach encourages the evolution of fiqh that actively contributes to the betterment of the community, allowing NU to overcome any potential rigidity in its approach to Islamic jurisprudence.

## Conclusion

The results of this study reveal that, over time, jurisprudential thinking among Nahdliyin tends to stagnate, especially in dealing with contemporary issues. This poses a challenge to answering Islamic legal issues relevant to the context of the times. KH Sahal Mahfudh, with his progressive and inclusive vision, managed to present a jurisprudential approach that is relevant and adaptive to changing times. Through his work, he invited Nahdliyin to re-explore the roots of authentic Islamic science, while still paying attention to the context of modern civilization. KH. Sahal Mahfudh's important contribution in developing scientific discourse among Nahdliyin helped pave the way to breaking the ice of thought and paved the way for continuous renewal in Islamic thought. As such, this article provides insight into the importance of thought renewal in Nahdliyin, especially in the context of modern civilization. The genealogy of civilizational jurisprudence is illustrated through KH's role. Sahal Mahfudh made a valuable contribution to understanding the dynamics of Islamic thought in Indonesia as well as its relevance in facing various contemporary challenges. Through his works and ideas, KH Sahal Mahfudh made valuable contributions to overcoming the stagnation of thought in Nahdliyin. The inclusive and adaptive approach that he introduced has opened up space to address the challenges of an ever-evolving era. In this era of modern civilization, the renewal of thought is increasingly crucial and KH. Sahal Mahfudh's

contribution inspired Nahdliyin and Islamic thought to continue to develop relevant and adaptive views in the face of changing times.

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