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Development of Islamic Law in Indonesia: Explore Traces, Legacy and Contributions Ahmad Azhar Basyir's Thoughts

Yusdani

Universitas Islam Indonesia, Yogyakarta

Januariansyah Arfaizar

STAI Yogyakarta, Universitas Islam Indonesia

Asmuni

Universitas Islam Indonesia, Yogyakarta

Muslich KS

Universitas Islam Indonesia, Yogyakarta

Ahmad Arifai

STAI Raudhatul Ulum Sakatiga, Sumatera Selatan

Email: yusdani@uii.ac.id

Abstract: This study discusses the Islamic thoughts of Ahmad Azhar Basyir, an Indonesian scholar who has mastered Islamic sciences in various fields, and written various books on Islamic philosophy, law, jurisprudence, and economics. However, studies on the his thoughts in these various fields are rarely conducted. Today, in the renewal of Islamic legal thought and the public's enthusiasm for Islamic economics in Indonesia, it is urgent to consider and study Ahmad Azhar Basyir's thoughts. The main problem being studied is the contribution and position of his thoughts in response to the issues of nationality and community in Indonesia. The approach used in this article is a three-dimensional philosophical and socio-historical model. This study was carried out using a heuristic model, which involved stages of exploration, identification and classification of various literary sources related to Ahmad Azhar Basyir's religious thought in Indonesia. Accordingly, this study concludes with the analysis and interpretation of the various sources that have been explored, identified and classified. One of the important findings in this study is Ahmad Azhar Basyir's view regarding the renewal of Islamic thought, law and economic development which requires *ijtihad*, which integrates textual and contextual aspects and involves various social science and humanities disciplines. Lastly, the development of Islamic economics in various fields aims to realize the welfare of the people.

Keywords: Ahmad Azhar Basyir, *ijtihad*, Islamic law, Islamic economics, welfare

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Abstrak: Studi ini membahas pemikiran Islam Ahmad Azhar Basyir, seorang cendekiawan Indonesia yang menguasai ilmu-ilmu Islam di berbagai bidang, serta menulis berbagai buku tentang filsafat Islam, hukum, fikih, dan ekonomi. Namun, kajian tentang pemikirannya dalam berbagai bidang tersebut jarang dilakukan. Saat ini, dalam pembaruan pemikiran hukum Islam dan antusiasme masyarakat terhadap ekonomi Islam di Indonesia, sangat mendesak untuk mempertimbangkan dan mempelajari pemikiran Ahmad Azhar Basyir. Masalah utama yang dikaji adalah kontribusi dan posisi pemikirannya dalam menanggapi isu-isu kebangsaan dan kemasyarakatan di Indonesia. Pendekatan yang digunakan dalam artikel ini adalah model filosofis dan sosio-historis tiga dimensi. Studi tersebut dilakukan dengan menggunakan model heuristik, yang melibatkan tahapan eksplorasi, identifikasi, dan klasifikasi berbagai sumber literatur yang berkaitan dengan pemikiran keagamaan Ahmad Azhar Basyir di Indonesia. Sesuai dengan itu, studi ini diakhiri dengan analisis dan interpretasi berbagai sumber yang telah dieksplorasi, diidentifikasi, dan diklasifikasikan. Salah satu temuan penting dalam studi ini adalah pandangan Ahmad Azhar Basyir tentang pembaruan pemikiran Islam, hukum, dan pembangunan ekonomi yang memerlukan ijtihad, yang mengintegrasikan aspek tekstual dan kontekstual serta melibatkan berbagai disiplin ilmu sosial dan humaniora. Terakhir, pengembangan ekonomi Islam di berbagai bidang bertujuan untuk mewujudkan kesejahteraan umat.

Kata Kunci: Ahmad Azhar Basyir, ijtihad, hukum Islam, ekonomi Islam kesejahteraan

Introduction

The development of Islamic law in Indonesia cannot be denied from the two largest religious organizations, namely Muhammadiyah and Nahdlatul Ulama (NU) without denying the role of other organizations. Meanwhile, the activities of these figures come from historians, activists, ulama and bureaucrats.¹ The thoughts of this figure have been able to provide solutions and alternatives to Islamic legal problems throughout history until now in Indonesia. so that the presence of Islamic law makes a significant contribution to the formation of national law.² Figures that can be mentioned include: KH. Hasyim Asyari, KH. Sahal Mahfudz, KH. Abdurrahman Wahid, KH. Ali Yafie, KH. Masdar F. Mas'udi, from NU circles. Meanwhile, from Muhammadiyah, for example, KH.

¹ Khoirun Niam, "Nahdlatul Ulama and The Production of Muslim Intellectuals in The Beginning of 21st Century Indonesia," *Journal of Indonesian Islam* 11, No. 2 (2017). Zuly Qodir, et.al., "Muhammadiyah Identity and Muslim Public Good: Muslim Practices in Java," *International Journal of Islamic Thought* 19, (2021).

² Asmuni Asmuni, et.al., "Dynamics Response of Indonesian Islamic Law to the Protection of Intellectual Property Rights," *Ulumuna: Journal of Islamic Studies* 27, No. 2 (2023). Faisal Ismail, "The Nahdlatul Ulama: Its Early History and Contribution to the Establishment of Indonesian State," *Journal of Indonesian Islam* 5, No. 2 (2011).

Ahmad Dahlan, Buya Hamka, Buya Ahmad Syafii Ma'arif and KH. Ahmad Azhar Basyir.

In the context of the development of Islamic thought in Indonesia, Ahmad Azhar Basyir emerges as a prominent scholar with significant influence. He is recognized as an expert in various disciplines of Islamic studies, including Islamic philosophy, law, jurisprudence (fiqh), and economics. His diverse works reflect his profound and comprehensive understanding of Islam. Despite the breadth and diversity of his contributions, in-depth studies on the thoughts of Ahmad Azhar Basyir remain scarce. This indicates a gap in the literature that requires further attention from academics and researchers in the field of Islamic studies.

Ahmad Azhar Basyir not only writes about Islamic theories but also strives to connect them with everyday practices and broader social contexts. His works include deep analyses of how Islamic principles can be applied in various aspects of life, from economic governance to law and social ethics. In each of his writings, Ahmad Azhar Basyir consistently aims to balance adherence to sacred texts with adaptation to contemporary conditions, an approach highly relevant in a constantly changing world.

Amid efforts to renew Islamic legal thought and the increasing public interest in Islamic economics in Indonesia, studying the thoughts of key figures like Ahmad Azhar Basyir becomes increasingly urgent. Contemporary society faces various challenges, ranging from economic globalization to rapid social changes, all of which necessitate strong ethical and legal guidance. In this context, the thoughts of Ahmad Azhar Basyir provide a significant contribution that can help address contemporary issues faced by the Muslim community in Indonesia.

This research aims to explore and analyze Ahmad Azhar Basyir's contributions to Islamic law in responding to these issues. The study will also examine how Ahmad Azhar Basyir integrates textual and contextual aspects in his *ijtihad* (independent reasoning), as well as how he engages various disciplines of social sciences and humanities in the development of Islamic law. The findings of this research are expected to provide new insights into the importance of Ahmad Azhar Basyir's thoughts in addressing contemporary challenges and affirm the relevance of his contributions to the development of Islamic law aimed at achieving the welfare of society. Thus, this study not only enriches the literature on Islamic thought in Indonesia but also offers a fresh and relevant perspective for the renewal of Islamic law and economics in the modern era.

The focus of this research is to explore and analyze Ahmad Azhar Basyir's contributions to Islamic Law in Indonesia within the context of contemporary challenges. It examines how Ahmad Azhar Basyir integrates textual and contextual aspects in his *ijtihad* and engages various disciplines of social sciences and humanities. By highlighting his efforts to connect Islamic principles with everyday practices, this study aims to provide new and relevant perspectives for

the renewal of Islamic law and economics in Indonesia, while affirming his contributions to achieving societal welfare.

This study was conducted using a heuristic model, which involves the exploration, identification, and classification of various works of literature, journals, and other sources related to Ahmad Azhar Basyir's religious thought in Indonesia written directly by the figure himself or by other authors. Ahmad Azhar Basyir's works include "Principles of Islamic Commercial Law (Islamic Civil Law)," "Islamic Law on Endowment-Lease-Partnership," "Fundamentals of Issues in Islamic Legal Philosophy," "The Function of Property and Endowment According to Islam," "Islamic Inheritance Law," "Ijtihad in Focus," "Reflections on Islamic Issues," "Concerning Philosophy, Law, Politics, and Economics," and "Reactualization of Sociological Approaches Not Always Relevant." Following this, conclusions were drawn from the interpretation and analysis of various sources that have been explored, identified, and classified

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Basyir's Islamic Legal Thought

Ahmad Azhar Basyir was born in Yogyakarta on 21 November 1928 and died in Yogyakarta on 28 June 1994. This figure is an Indonesian Muslim scientist who mastered various fields of Islamic sciences, such as jurisprudence and Islamic philosophy, and was the top leader of the Muhammadiyah Islamic organization in the 1990s. Ahmad Azhar Basyir grew up in the Kauman village, Yogyakarta, a community that adheres to religious teachings. His father's and Mother's names are M. Basyir, a Kiai, and Siti Djilalah respectively.⁵ Following this, the scholar's formal education started with elementary education at the Muhammadiyah People's School Suronatan, Yogyakarta, in 1940, after which he

³ Joko Sayono, "Langkah-langkah Heuristik dalam Metode Sejarah di Era Digital dalam Sejarah dan Budaya" *Jurnal Sejarah, Budaya, dan Pengajarannya* 15, 2 (2021), p. 370-375.

⁴ John Obert Voll, *Islam: Continuity and Change in the Modern World* (Boulder Colorado: Westview Press, 1982), p. 2-4.

⁵ Redaksi Muhammadiyah, "Kyai Haji Ahmad Azhar Basyir MA (Ketua 1990 – 1995)", Muhammadiyah Cahaya Islam Berkemajuan, 2020, <https://muhammadiyah.or.id/kyai-haji-ahmad-azhar-basyir-ma-ketua-1990-1995/>. Accessed on Thursday, 22 December 2022.

attended Madrasah al-Falah in Kauman in 1944. From 1942-1943, Ahmad Azhar Basyir also studied at Islamic Boarding School Salafiah Termas, Pacitan, East Java, and finished Madrasa Muballighin III (*tabligh* school) Muhammadiyah, Yogyakarta in 1946. He concluded high school at Yogyakarta Higher Secondary Madrasa in 1952.⁶

Accordingly, he continued his studies at the Yogyakarta State Islamic College (PTAIN) (which later became UIN: Sunan Kalijaga State Islamic University, Yogyakarta) until doctoral level I in 1956. He also had the opportunity to study science in the University of Baghdad, Iraq, at the government's expense. In this institution, the figure entered the Faculty of Adab, majoring in Arabic Literature for a year. Ahmad Azhar Basyir left Baghdad for Cairo, Egypt, and studied Islamic Studies in the Faculty of Sharia at Dar al-Ulum University. Furthermore, he earned his master's degree in Islamic law and customary inheritance law at this university.⁷

During the defense of Indonesian independence in May 1946, Ahmad Azhar Basyir actively joined the Yogyakarta *Hizbullah* Indonesian National Army (TNI). From December 1948 to October 1949, he joined the Islamic armed forces, Askar Sabil War, whose institution was named Ulema Headquarters Askar Sabil War. This institution was founded by 40 ulemas on 17 Ramadan 1367 H or 23 July 1949 in Yogyakarta in response to the Dutch Military Aggression I which took place on 21 July 1947. Furthermore, the institution accommodated Muslim youth and former members of the *Hizbullah* and *Sabilillah* troops who did not join the TNI to participate in helping the Indonesian government maintain sovereignty.⁸

Since high school, Ahmad Azhar Basyir has been active in the Muhammadiyah Tabligh Council. Initially, he only served as a typist and delivery man. Because of this scholar's superiority in religious knowledge, young Ahmad Azhar Basyir was appointed as the Muhammadiyah Youth Chairman in 1956 at the Muhammadiyah Youth Conference in Palembang. However, a year later, the scholar handed over the position to the Muhammadiyah Central Executive and left for Baghdad to study.⁹

After returning from Cairo in 1968, Ahmad Azhar Basyir returned to being active in Muhammadiyah and was entrusted with the position of deputy chairman of the Muhammadiyah Central Leadership Council Tarjih until 1985. Additionally, from 1985 to 1990, the figure became chairman of the Tarjih

⁶Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi* (Bandung: PT Mizan, 1993), p. 5.

⁷ Ahmad Azhar Basyir, *Fungsi Harta Benda dan Wakaf Menurut Islam* (Yogyakarta: Majelis Tabligh PDM, 1990), p. 39; Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 5.

⁸ Abdul Azis Dahlan, *Ensiklopedi Hukum Islam I*, (Jakarta: PT Ichtiar Baru Van Hoeve, 1996), p. 155.

⁹ Abdul Azis Dahlan, *Ensiklopedi Hukum I*, p. 155-156.

Council and, at the 42nd Mukhtamar Muhammadiyah in 1990, Ahmad was entrusted to become the general chairman of the Central Executive of Muhammadiyah for a period of 5 years, from 1990 to 1995.¹⁰

Although Ahmad Azhar Basyir was usually busy dealing with people's problems, he devoted himself to teaching staff at various universities. Since 1968, he has been a lecturer at UGM Yogyakarta in charge of Philosophy, Jurisprudence, Islamic Law, and Religious Education. Apart from that, he was also a lecturer at UII Yogyakarta, UMS Surakarta, UMM Malang, and IAIN Sunan Kalijaga Yogyakarta, both at the undergraduate and postgraduate levels. Furthermore, he was a remarkable lecturer on Islamic Thought and Philosophy for the Postgraduate program at the Faculty of Law, University of Indonesia.¹¹

Ahmad Azhar Basyir was also active in several national and international organizations, for example, as a member of the Sharia Supervisory Board of Bank Muamalat Indonesia, chairman of the Central Indonesian Ulema Council (MUI) for the period 1990-1995, member of the People's Consultative Assembly from 1993 to 1998, as well as Indonesia's permanent representative at the Islamic Jurisprudence Academy and the Islamic Conference Organization.¹² Therefore, it can be said that this scholar is an Indonesian Muslim figure of international caliber.

As an academician, Ahmad Azhar Basyir has written some of his thoughts on Islam, especially in the fiqh field. For the figure, fiqh is not only an expression of classical thought but also a set of modern thoughts. Therefore, it is not surprising that in this field, Ahmad Azhar Basyir has brought about a distinctive and moderate methodology that always maintains a balance.¹³ This methodology covers almost all of his works, including philosophy, law, *kalam*, and sufism.

Ahmad Azhar Basyir's Islamic thoughts, which are recorded in his writings, can be grouped into Islamic law, politics, philosophy, economics, and other Islamic fields.¹⁴ Furthermore, this Muslim scholar has produced a lot of works during his lifetime. His works include: *Garis Besar Ekonomi Islam*, *Hukum Perkawinan Islam*, *Hukum Adat bagi Umat Islam*, *Asas-Asas Hukum Muamalat (Hukum Perdata Islam)*, *Pokok-Pokok Persoalan Filsafat Hukum Islam*, *Hukum Islam tentang Wakaf-Ijarah-Syirkah*, *Citra Masyarakat Muslim*, *Hubungan Agama dan Pancasila*, *Refleksi atas Persoalan Keislaman*, and other works mainly related to education and morals.

¹⁰ Abdul Azis Dahlan, *Ensiklopedi Hukum I*, p. 156.

¹¹ Abdul Azis Dahlan, *Ensiklopedi Hukum I*, p. 156.

¹² Ahmad Azhar Basyir, *Fungsi Harta Benda dan Wakaf Menurut Islam*, p. 39. Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 5.

¹³ Mutohharun Jinan and Ahmad Azhar Bayir, "Prototipe Ulama Intelektual Muhammadiyah," *Tajdid* 12, no. 2 (2014), p. 138.

¹⁴ Ahmad Azhar Basyir, "Hukum Islam Indonesia," *UNISIA*, 16 (XIII Triwulan V/1992), p. 9-13.

Thoughts in the Islamic Law Fields

1. Renewal of Islamic Law Reform

In Indonesia, during the emergence of the "renewal of Islamic law" in the 1980s and 1990s, Ahmad Azhar Basyir appeared as one who contributed to the renewal of Islamic law in the country. These contributions had different characteristics from other fiqh thinkers. The figure suggested integrating the textual and contextual sides of Islamic law in a philosophical pattern.¹⁵ According to Ahmad Azhar Basyir, the passion to study Islamic law in Indonesia is very encouraging. This is caused by the tendency to increase awareness and a sense of diversity among Indonesian Muslims, which in turn increases the practice of Islamic teachings. Islamic law is, therefore, an integral part of Islamic teachings and cannot be separated from Muslims' life.¹⁶

Muslims try to practice religious teachings and identify their actions with Islamic values.¹⁷ As a result, intellectuals and scholars try to issue slogans of indigenization, actualization, contextualization, and re-actualization of Islamic teachings to realize Islamic values in Indonesian Muslim society.¹⁸ Ahmad Azhar Basyir was fully aware of the increasing attention and need of the people for Islamic law. It was at this time that thoughts toward meeting their needs were required. Thereby, Islamic law can be disseminated in the Muslims' life and not only lived as legal ideals.¹⁹ The possibility of Islamic law dissemination was also supported by the state conditions, which provided constitutional opportunities.²⁰ Subsequently, the thought renewal in fiqh can be traced to the scholar's works with the salient features by using two techniques, one of which emphasizes the fiqh side as a thought product, and the other has to do with the methodological side -*usul fiqh*.²¹

Ahmad Azhar Basyir, an expert in Islamic law and an enthusiast of Islamic philosophy, points out the problematic issue of how to reconstruct Islamic thought, which until now has been more established. His works, integrating theory and practice, exemplify this reconstruction. It is based on methodologies recorded

¹⁵ Muslim MS, "Pembaharuan Hukum Islam Di Indonesia Refleksi Pemikiran Ahmad Azhar Basyir Tentang Aktualisasi Hukum Islam," *Al-Fikra: Jurnal Ilmiah Keislaman* 4, 1 (Januari-Juni 2005), p. 39.

¹⁶ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 142-143.

¹⁷ M. Amin Abdullah, "Islam di Indonesia atau Islam Indonesia (Studi Pergulatan Definisi dan Jatidiri)," *Jurnal Ilmiah Sosiologi Agama* 9, 2 (2015), p. 1-28.

¹⁸ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 142-143.

¹⁹ Syamsul Arifin, et.al., "The Idea of Progress Meaning and Implication of Islam Berkemajuan in Muhammadiyah," *Al-Jami'ah* 60, 2 (2022), p. 547-584.

²⁰ Abdul Azis Dahlan, *Ensiklopedi Hukum Islam* (Jakarta: PT Ichtiar Baru Van Hoeve, 1996), p. 156.

²¹ Abdul Azis Dahlan, *Ensiklopedi Hukum Islam*, p. 156. Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman*, p. 142-143.

by the legacy of Muslim thinkers, thereby making it a valuable and appreciable source of information.²² The academicians saw that the problems associated with today's social life are increasingly complex. On the other hand, Islamic teachings in the social field have a global nature. Actualization and implementation can only be developed according to people's needs through *ijtihad* efforts. It is in this context that *ijtihad* activities are indispensable.²³

Ahmad Azhar Basyir stated that the problem with settlement in Islam and Islamic law should be tackled through the participation of various parties with their respective expertise.²⁴ According to him, it is tough for someone who is an expert in a certain field to solve various problems of social life and society without the other experts' involvement. On this basis, *ijtihad* in the fiqh requires the *ijtihad* model to be carried out collectively,²⁵ to avoid public confusion about individual *ijtihad*, thus, giving room for opinion differences. All of these were carried out with the goal of achieving the law objectives, which include the improvement of people's lives and the satisfaction of people's interests to improve both worldly and spiritual existence.²⁶

In order to understand, develop and implement various muamalah law aspects which are still global, as well as to respond to, and solve muamalah legal issues that have emerged in accordance to the level of development, dynamics, and people's lives, solutions with *ijtihad* are needed. *Ijtihad* plays a significant role in developing the fiqh muamalah field. Thereby, it is urgently needed for further development and response to the challenges associated with the field.²⁷ Nonetheless, the question is, what kind of *ijtihad* model can be used to develop Islamic economics as an aspect of fiqh muamalah discussions in the present and future eras? Is it individual *ijtihad* using mono-discipline or collective *ijtihad* which employs multi, inter, or trans-disciplinary?

In the present and future contexts, the collective *ijtihad* referred to by Ahmad Azhar Basyir has to do with academics which can be interpreted as *ijtihad* with multi, inter, and trans-disciplinary patterns, which means that it is not monodisciplinary. The multi, inter, and trans-disciplinary approaches are meant

²² Abdul Azis Dahlan, *Ensiklopedi Hukum Islam*, p. 156. Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman*, p. 142-143.

²³ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat (Hukum Perdata Islam)* (Yogyakarta: UII Press, 2000). Ahmad Azhar Basyir, *Pokok-Pokok Persoalan Filsafat Hukum Islam* (Yogyakarta: UII Press, 2000), p. 13-15.

²⁴ Ahmad Azhar Basyir, "Corak Lokal dalam Hukum Positif Islam di Indonesia: Sebuah Tinjauan Filosofis", *Mimbar Hukum*, 1994, p. 13.

²⁵ Bukhari Ali, "Otoritas Ijtihad dalam Kajian Hukum Islam (Analisis Kaedah Fikih al-ijtihadu la yunqadhu bi al-ijtihadi)," *El-Usrah* 4, 1 (2021), p. 108-121.

²⁶ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 134-135.

²⁷ Ahmad Azhar Basyir, *Ijtihad dalam Sorotan* (Bandung: Mizan, 1988), p. 46, 63; Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat (Hukum Perdata Islam)*. Ahmad Azhar Basyir, *Pokok-Pokok Persoalan Filsafat Hukum Islam*, p. 15.

to be *ijtihad* which integrates various disciplines in solving problems faced by the ummah. Admittedly, in performing *ijtihad*, both now and in the future, it is no longer relevant to only use one particular discipline model.

Ijtihad needs to be multidisciplinary, interdisciplinary, and transdisciplinary because humanity's problems in the present and future are very complicated and complex, especially in law and economics from an Islamic perspective. It no longer can be solved with a monodisciplinary approach. The pattern of *ijtihad* needed in the present and future eras is a transdisciplinary way of thinking. In simple language, transdisciplinary *ijtihad* can generate, realize, and promote the benefit and common good related to certain problems that are being faced by humanity.²⁸

In the Indonesian context, Ahmad Azhar Basyir suggested that Islamic law elements could be integrated into the national legislation system, especially in efforts to realize the welfare of society and the nation as a whole. The connection with the national law development is that this opens opportunities for Muslims to propose Islamic sharia concepts. This way, the applicable laws, and regulations do not conflict with the Islamic law provisions, especially those that apply specifically to Muslims, which are the authority of the Religious Courts. According to him, efforts in this direction are always open and in line with juridical constitutional imperatives that do not conflict with Pancasila and the 1945 Constitution.²⁹ Additionally, Ahmad Azhar Basyir brought up these ideas before the emergence of Law no. 7/1989 (regarding the Religious Courts) and the Indonesian Compilation of Islamic Law. This hope was later realized after the enactment of Law no. 7/1989 and the emergence of the compiled Islamic Law.³⁰

Studies on the evolution of fiqh that provide comprehensive perspectives are required in light of the phenomena of Muslims' growing interest in and awareness of Islamic law. It is necessary to conduct a study with a philosophical approach,³¹ comparative law, and study state laws, especially those that are applicable in Indonesia, to develop Islamic law in the future.³²

In 1980, the idea of the re-actualization of Islamic teachings with an example of modifying the provisions for dividing inheritance between men and women at a ratio of 2: 1 emerged as an effort to renew and develop Islamic law in Indonesia. The proposed solution was considered unfair because sociologically, many women have worked in the public sphere. As a result, it was offered to be modified to 1: 1 between male and female heirs, and this raised the pros and cons.

²⁸ M. Amin Abdullah, *Fresh Ijtihad Manhaj Pemikiran Keislaman Muhammadiyah di Era Disrupsi* (Yogyakarta: Suara Muhammadiyah, 2018), p. 90 -91.

²⁹ Ahmad Azhar Basyir, "Hukum Islam dari Masa ke Masa", *UNISIA*, 16 (XIII Triwulan V/1992), p. 13.

³⁰ Abdul Azis Dahlan, *Ensiklopedi Hukum Islam*, p. 155.

³¹ Nurul Ainy, "Pendekatan Filsafat Dalam Islam: Teori Dan Praktik," *An-Natiq Jurnal Kajian Islam Interdisipliner* 2, 1 (2022), p. 71-83.

³² Ahmad Azhar Basyir, *Hukum Islam dari Masa ke Masa*, p. 13.

In this regard, Ahmad Azhar Basyir's gave a critical response to this idea. In the scholar's view, the renewal and development of Islamic law in Indonesia using a sociological approach is not always relevant and solutive. For this reason, a comprehensive and balanced study is needed from various sides and perspectives both on the Qur'an and the people's lives, hence a firm understanding is required to carry out this re-actualization.³³

2. Islamic Law and Local Wisdom in Indonesia

Following this, Ahmad Azhar Basyir's thoughts about the local wisdom in Islamic law were exciting. One, of the local cultural criteria for being accepted in fiqh is that the people should not contradict the Qur'an or Sunnah. In order to assess whether a local culture in a certain area in Indonesia contradicts the text, it is, therefore, necessary to conduct a careful study. There is a possibility that local wisdom may appear to conflict with the Qur'an or Sunnah, but after being confronted with various texts in various aspects, it turned out that an approach can be made between the applicable local wisdom and the existing text without showing any conflict that cannot be reconciled and resolved.³⁴ For example, in local Javanese tradition, there is a provision that children who have received grants from their parents when they separate from their parent's household to start theirs (living separately) will not receive any more from the parent's inheritance. The grant is, thus, regarded as the heir's part of the parent's inheritance.³⁵

Achmad Siddiq emphasized the importance of contextualizing Islamic law within the social, cultural, and political realities of Indonesia. According to him, Islamic law must be adapted to the local context to be effectively accepted and applied in Indonesia's diverse society.³⁶ Azyumardi Azra has extensively discussed the development and application of Islamic law in Indonesia. He emphasizes the importance of integrating Islamic law with Indonesian local customs and modern legal systems. Azra believes that Islamic law in Indonesia should be dynamic and adaptable, reflecting the diverse cultural and social realities of Indonesian society.³⁷ He advocates for a progressive interpretation of

³³ Ahmad Azhar Basyir, "Reaktualisasi Pendekatan Sosiologis Tidak Selalu Relevan", in *Polemik Reaktualisasi Ajaran Islam*, Iqbal Abdurrauf Saimima (Ed.), (Jakarta: Pustaka Panjimas, 1998), p. 116.

³⁴ Ahmad Azhar Basyir, *Hukum Adat Bagi Umat Islam* (Yogyakarta: Fakultas Hukum UII, 1990), p. 30-31. Mursyid Djawas, et.al., "Harmonization of State, Custom, and Islamic Law in Aceh: Perspective of Legal Pluralism," *Hasanuddin Law Review* 10, No. 1 (2024).

³⁵ Ahmad Azhar Basyir, *Fikih dan Pranata Sosial di Indonesia Refleksi Pemikiran Islam Ulama Cendekia K.H. Ahmad Azhar Basyir, MA*, trans. Yusdani et al., (Yogyakarta: UII Press, 2020), p. 262.

³⁶ Mustofa, "Konsep Islam dan Negara Menurut KH. Ahmad Siddiq", *Al Daulah* 5, No. 2 (2016), p. 296.

³⁷ Ahmad Bagus Kazhimi, et.al., "Islam dan Civil Society: Studi Pemikiran Azyumardi Azra Dalam Membangun Gerakan Kultural di Indonesia", *Journal of Islamic Thought and Philosophy* 3, No. 1, (2024), p.137.

Islamic law that aligns with the principles of justice, equality, and human rights, ensuring that it remains relevant and applicable in contemporary Indonesian society. Azra's approach highlights the need for a contextual understanding of Islamic law that considers Indonesia's unique historical, cultural, and social landscape.³⁸

At first glance, the local culture contradicts sharia texts because fiqh distinguishes between grants and inheritance. This means that a child who has received grants from his parents when leaving may also sue for a share of his inheritance because, according to fiqh, grants differ from an inheritance. In that case, a judge can redirect the problem to what was provided by the fiqh regarding parental grants to their children. When one child is given grants, the same should be done for the other children. Therefore, if the parent's inheritance is quite large, the judge can take the path of setting aside part of the inheritance to be given to children who have never received grants from their parents, hence justice, as determined in fiqh, can be achieved. In the case of a small inheritance, nothing can be set aside to be given to heirs who have never received grants from their parents. The fiqh methodology that can be used in this context is *takhsis*, which involves excluding or limiting the generality of the Qur'anic text with local wisdom.³⁹ The explanation provided above demonstrates how important it is for Indonesian Islamic law to take into account local wisdom from an anthropology and sociological perspective. This is called Islamic law with a local Indonesian character.⁴⁰

Islamic Economic Thought

One of the important aspects to understand deeply about Ahmad Azhar Basyir's Islamic economic thoughts is the close relationship between Islamic economics and muamalah fiqh. In his view, Islamic economics is part of the study of muamalah fiqh, and this close link deserves attention because there is a tendency for both subjects to be separated.⁴¹ Themes in Islamic economics generally include science, assumptions based on the sharia framework, production

³⁸ Ahmad Bagus Kazhimi, et.al., "Islam dan Civil Society, p. 143.

³⁹ Ahmad Bagus Kazhimi, et.al., "Islam dan Civil Society, p. 31-34. Ahmad Azhar Basyir's, *Nizam al-Miras fi Indonesia* Tesis (Cairo: Cairo University, 1965). Abidin Nurdin, et.al., "Mappatammaq Mangaji in Mandar, West Sulawesi: Childrearing Patterns Based on the Qur'an in the Anthropological Perspective of Islamic Law," *El-Usrah: Jurnal Hukum Keluarga* 7, No. 2 (2024).

⁴⁰ Ahmad Azhar Basyir, "Corak Lokal dalam Hukum Positif Islam di Indonesia: Sebuah Tinjauan Filosofis", in *Mimbar Hukum*, 1994, p. 13. Mursyid Djawas, et.al., "The Integration Between Syara' and Ade' in Marriage Tradition Bugis Bone, South Sulawesi," *al-Ihkam: Jurnal Hukum dan Pranata Sosial* 18, No. 2 (2023).

⁴¹ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat (Hukum Perdata Islam)*; Ahmad Azhar Basyir, *Pokok-Pokok Persoalan Filsafat Hukum Islam*, p. 7-8.

factors, organization, income distribution, financial politics and zakat, economic development, and international cooperation.⁴²

According to Basyir, it is natural for humans to fulfill their needs such as clothing, food, and shelter to survive, and they must work to process natural goods to meet these needs.⁴³ Humans are inherently social beings who cannot fulfill life's needs alone but must work together and help each other. For a peaceful society, an economic system addressing production, consumption, distribution, and marketing is necessary. Economics, therefore, discusses human behavior in fulfilling life needs, where humans are both individual and social entities, including legal entities like companies and NGOs. The economic system is applied in practice, and the concept of necessities often implies limitless needs with limited resources.⁴⁴ The Islamic economic system interprets economics as the application of Islam's basic principles in the practice of organizing production, distribution, and utilization of goods and services by individuals, families, communities, and countries.⁴⁵

1. Cash and Securities Waqf

One form of implementing productivity is cash waqf. Attention has been paid to, and discussions have been made about this subject by the parties involved. Even though waqf has been a topic of discussion for a long time, there are still differences of opinion among scholars about its legality. According to the growing consensus among scholars, the worth and advantages of the waqf assets are what will ensure the waqf's permanence. Therefore, the value and benefits involved need to be protected and developed productively, and this can last a long time.⁴⁶

The concept of cash waqf according to the Hanafi school is recognized and permitted. This school views that cash waqf can be utilized by circulating the money in productive economic activities, such as trade or investment, with the aim of generating profit. The profits earned can then be used for designated waqf purposes.⁴⁷ According to the Maliki school, which holds a stricter view compared to the Hanafi school, cash waqf is essentially rejected because, in their view, waqf must be perpetual and should not diminish or lose its value. Since money is

⁴² Suroso Imam Zadjuli, *Prinsip-Prinsip Ekonomi Islam* (Surabaya: Fakultas Ekonomi Universitas Airlangga, 1999), p. 11.

⁴³ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat*, p. 7-8.

⁴⁴ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 177.

⁴⁵ Suroso Imam Zadjuli, *Prinsip-Prinsip Ekonomi Islam* (Surabaya: Fakultas Ekonomi Universitas Airlangga, 1999), p. 8. Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 178-231.

⁴⁶ Mundzir Qahaf, *Manajemen Wakaf Produktif*, trans, Muhyidin Mas Rida, (Jakarta: Khalifa, 2004), p. 166.

⁴⁷ Fahrurroji, *Wakaf Kontemporer*, (Jakarta: Badan Wakaf Indonesia, 2019), p. 37.

considered to be expendable and subject to depreciation, it is not suitable to be an object of waqf.⁴⁸

Meanwhile, the Shafi'i school approaches the concept of cash waqf (*waqf al-nuqud*) with caution. This school is more conservative in accepting waqf objects and tends to adhere to the basic principles of waqf emphasizing perpetuity and sustainable benefit.⁴⁹ Lastly, according to the Hanbali school, the concept of cash waqf (*waqf al-nuqud*) adopts a more flexible approach compared to other schools. The Hanbali school is more open to using money as a waqf object, with specific conditions to ensure sustainable benefits from the waqf.⁵⁰

Ahmad Azhar Basyir also agrees with the view above, even laying more emphasis on the fact that the benefits and value of the assets donated need to be preserved for eternity so that they will continue to provide benefits for a long time. Also, this figure is of the opinion that cash waqf can be carried out with the aim that it can be used as capital for profitable businesses. This profit will then serve as the goal of the waqf assets. In addition, the waqf money can also be given to other parties to be used as capital for other businesses, and the returns resulting from these businesses can be divided as profit.

Furthermore, Ahmad Azhar Basyir warned that when waqf is allocated in the form of business capital, it must be kept safe from chaotic actions so that the business can run smoothly. In this regard, waqf assets in the form of capital are managed in a trustworthy and responsible manner. Furthermore, in developing capital originating from waqf, attention must be paid to Islamic law and its basic principles of must not violate the related rules.⁵¹ It is, therefore, necessary to pay close attention to the principle that waqf assets need to be preserved for an eternity of benefits and value, and not conflict with the main objective. Money can be maintained in value and profits from its development can provide benefits to achieve the waqf's goals.

Securities, which are often also called shares can be traded and their form, such as certificates or bonds, is proof that the holder of the securities is a shareholder in a company.⁵² Shares in this context can be considered as a form of further development of a system of capital and wealth joint ventures which in fiqh terms is referred to as *syirkah*. In this regard, shares can be categorized into two, namely securities that are traded through the capital market and those that are not. Stocks or securities in this last form are in accordance with Islam because the value is realistic, apart from the low cost and easy procedure. Meanwhile, securities via the capital market are considered to have a negative side and cause

⁴⁸ Fahrurroji, *Wakaf...*, p. 38.

⁴⁹ Fahrurroji, *Wakaf...*, p. 39.

⁵⁰ Fahrurroji, *Wakaf...*, p. 39.

⁵¹ Ahmad Azhar Basyir, *Hukum Islam tentang Wakaf-Ijarah-Syirkah* (Bandung: PT AlMaarif, 1987), p. 10-13.

⁵² Masjfuk Zuhdi, *Masail Fiqhiyyah* (Jakarta: CV Haji Masagung, 1994), p. 133.

many difficulties even though many regulations have been stipulated. These securities tend to be used as both instruments of change and gambling elements. On this basis, this business model and practice is contrary and is a form of deception in the Islamic view.⁵³ Securities that can be used as waqf assets are ordinary and not traded in the capital market. Because of the aim for good, the waqf assets must be able to generate benefits from lawful businesses that are free from violent acts and elements.

In Ahmad Azhar Basyir's view, all shares of a company or industry can become waqf assets. Profits from these shares can be a source for financing other waqf assets such as places of worship, mosques, and buildings, to become a financial source for various social and community activities broadly.⁵⁴ However, according to Ahmad Azhar Basyir, it is necessary to consider that share management is carried out transparently while following Islamic principles.

The securities donated to the company need to be carried out in a very careful procedure. Its management also requires the use of trustworthy and responsible principles because waqf, apart from being entrusted by the people, is also the right of Allah. In this regard, waqf may not be used for personal purposes, rather, it needs to be invested in a properly managed business for profit maximization, thus, providing benefits in line with its goals.⁵⁵

In order for waqf to achieve the objectives described above, a governmental institution is needed to guarantee the development of securities such as PT. Danareksa. Similarly, Islamic banking can be used as an institution that is guaranteed to find business institutions that would be investing in these securities. Sharia banking is, in this regard, considered an institution that can determine the world of business and investment companies. This action is carried out as a precautionary measure, thereby it does not bear any losses.

The idea and orientation of developing waqf, as outlined by Ahmad Azhar Basyir, are based on productivity, development, and management in Egypt. On these bases, it is anticipated to bring benefits to the people, especially by increasing socio-economic prosperity. Hence, waqf can lead to proper and productive development if managed properly, productively, and professionally by the government and laws.

2. Life Insurance

Islamic ulemas hold various positions on insurance, some of which condemn it all together and others of which permit it. Ahmad Azhar Basyir is one of the Islamic jurists who encouraged insurance because the insured is seen as a group of people who collaborate through and fund an insurance firm, which then

⁵³ Masjfuk Zuhdi, *Masail Fiqhiyyah* (Jakarta: CV Haji Masagung, 1994), p. 133.

⁵⁴ Ahmad Azhar Basyir, *Fungsi Harta Benda dan Wakaf Menurut Islam*, p. 18.

⁵⁵ Ahmad Azhar Basyir, *Hukum Islam tentang Wakaf -Ijarah-Syirkah*, p. 10.

receives payment from the company as appropriate based on the terms of the contract.⁵⁶

Following the collaboration concept or *ta'awun*, all issues that are considered to be hindered by opposing ideas disappear. This makes the resemblance to gambling and the element of obscurity to be automatically gone. Also, whether there is a balance or not between the premium paid and the compensation received by the insured is not considered anymore. All premiums are to be allocated to the insured if they survive the contract period. The only problem then remains with additional services or usury, which can be solved in other ways and this is because the insurance company does not develop the funds collected through usury.⁵⁷

Furthermore, the insurance contract is based on the *ta'awun* principle, which demands that the conditions and intentions of the policyholder are in line with the agreement between the insurance company and the policyholder. The contract signed between the two parties is based on mutual assistance (*ta'awun*), not an exchange agreement. This agreement is, therefore, not based on profit and loss calculations, but on how the mutual helping relationship is realized. If the insured party terminates the contract before the maturity date, it will result in the loss of the premium that was paid either in part or whole. Moreover, in health insurance, premiums that have been paid will not be returned or enjoyed by policyholders who are always healthy. This will not be felt as a loss, because the premium that has been paid can be used by another insured who is sick.

Insurance companies in general, particularly, life insurance companies are truly trustworthy institutions in managing mutual cooperation agreements, and they usually receive rewards for their efforts in managing premium money in a balanced manner. Therefore, companies managing premium funds are not trying to make big profits through their services. These reason why insurance companies are often judged as being unfavorable.

The meaning of life insurance is often misunderstood. The idea of being insured is seen as an intervention against God's destiny. Although the insurance is intended to cover the authorized heirs of the insured in the event of their death.⁵⁸

3. Sale of Waqf Assets

There is a difference in opinion among the ulema about waqf assets are allowed to be exchanged or traded if they are not functioning or are no longer productive. This clarity was essential to ensure that the waqf assets as a whole or only in part have the same purpose, which involves that all the requirements

⁵⁶Yusdani and Januariansyah Arfaizar, *Fikih Keindonesiaan Pemikiran MA. Sahal Mahfudh dan Ahmad Azhar Basyir* (Yogyakarta: Diandra, 2022), p. 57.

⁵⁷Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman, Seputar Filsafat, Hukum, Politik, dan Ekonomi*, p. 150-151.

⁵⁸ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman*, p. 149-151.

pledged by the waqf giver are maintained.⁵⁹ In several events, it was found that waqf assets were often exchanged or traded. Given that it is known that these activities are motivated by the desire to profit and that the principal assets cannot be contested, exchanged, inherited, or donated, the question is whether doing so is legal or not.⁶⁰

Regarding the above issues, Ahmad Azhar Basyir view is of the opinion that waqf assets may be transferred it is more beneficial. It is believed that the purpose of waqf assets is very dependent on how they can be obtained and whether or not they can generate benefits. Therefore, the assets being donated will be worthy of worship if they can bring about and realize the benefits intended by the *waqif*.⁶¹ Whenever the waqf assets are no longer useful, damaged, or no longer as productive as their original purpose, efforts are usually made to keep them productive and beneficial. It is, therefore, permissible to sell or exchange these assets for others.

Islamic law recognizes the principle of *maslahah* or *maqasid* sharia, which is a principle to maintain sharia's objectives, namely to provide benefits and avoid harm or loss. This principle or basis of action is used to ensure that the waqf assets are maintained and may not be sold or exchanged. However, if these assets become unproductive, they may be sold. Based on benefit consideration, waqf assets can be exchanged, traded, transferred, or replaced, thereby providing more benefits.⁶²

4. Productive Waqf

Besides some of the ideas mentioned above, Ahmad Azhar Basyir had other proposals in the field of productive waqf. The emergence of thoughts about productive waqf is motivated by the reality and concern that waqf assets are not managed responsibly, properly, and professionally. Ideally, waqf assets and their management are intended for the welfare of the people but in reality, they have not been optimally managed and utilized. This fact shows that Muslims still adhere to their traditional way of thinking that waqf is only intended for houses of worship, hospitals, and educational institutions.⁶³

Accordingly, thoughts about cash waqf as mentioned above are oriented toward the people's prosperity. This type of waqf can also be carried out in the form of goods or tools that can reproduce other than being consumed. This led to the development of accumulating capital in the form of an asset whose productivity will in turn increase the people's welfare level. The various

⁵⁹ Mundzir Qahaf, *Manajemen Wakaf Produktif*, trans, Muhyidin Mas Rida, (Jakarta: Khalifa, 2004), p. 255.

⁶⁰ Ahmad Azhar Basyir, *Hukum Islam tentang Wakaf - Ijarah – Syirkah*, p. 10.

⁶¹ Ahmad Azhar Basyir, *Hukum Islam tentang Wakaf - Ijarah – Syirkah*, p. 10.

⁶² Ahmad Azhar Basyir, *Hukum Islam tentang Wakaf - Ijarah – Syirkah*, p. 18.

⁶³ Ahmad Azhar Basyir, *Fungsi Harta Benda dan Wakaf Menurut Islam*, p. 19.

alternative concepts and development of waqf mentioned above clearly show Ahmad Azhar Basyir's expertise as a Muslim intellectual who has mastered the treasures of Islamic law and is supported by an in-depth analysis of the philosophy of Islamic law. All of these are centered on providing direction for the development of waqf assets to make them productive and prosperous. However, the main problem is how to change this traditional way of thinking, which has been established in the majority of the Muslims.

Based on the explanation and description of the basic thoughts and themes of Islamic economics above, it can be emphasized that the Islamic economic system, in Ahmad Azhar Basyir's view, is a system that is subject to the basic Islam principles (Qur'an and Sunnah) but distinguished from conventional systems. In more detail, the fundamental differences between the Islamic economic system and the conventional economic system are described as follows:

- 1) Islamic economics as an economic system is based on an Islamic ethical system. The enactment and application of these basic assumptions cover both the processes and interactions of applied economic activities.
- 2) The basic principles of Islamic economics are also based on the application of the principles of efficiency and benefits, while also maintaining the preservation of the natural environment.
- 3) The motive for economic activity in Islam is based on the purpose of worship in the broad sense of seeking *Falah* (prosperity) in the world and hereafter as *khalifatullah*.⁶⁴

Following this, the description of the fundamental differences between the Islamic economic system and the conventional economic system above can further be emphasized that the Islamic economic system is ethical and requires obedience to Islamic values, principles, and business ethics. Philosophically, these principles include the principle of devotion to Allah Almighty (*al-tauhid*), mutual help (*al-ta'awun*), freedom (*al-hurriyat*), equality (*al-musawat*), justice (*al-adl*), tolerance (*al-tasamuh*) and others.⁶⁵ These values, principles, and Islamic business ethics are the basis and starting point for all economic behaviors in Islam, macro and micro, as well as bank and non-bank finance. Meanwhile, Islamic business ethics are related to regulating the Islamic economic behaviors governing all forms of ownership, management, and distribution of assets between individuals and groups fairly and proportionally.

Starting from the business ethics mentioned above, in the economics, Islam firmly rejects all forms of economic behavior that are manipulative, monopolistic, exploitative, and discriminatory. Similarly, in the Islamic economic

⁶⁴ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman*, p. 178-231.

⁶⁵ Ahmad Azhar Basyir, *Refleksi atas Persoalan Keislaman*, p. 190.

system, there is a prohibition against all monopoly and oligopoly practices because they are detrimental to all parties and in the long term, can lead to disparities in the economic life of a society. The formulation of Islamic economic ethics in every economic activity is, therefore, needed to guide society's economic behavior. As a result, Islamic business ethics is used as a practical framework that is functional in guiding and directing the right behavior following Islamic corridors.⁶⁶

Based on the explanation above, it can be emphasized that the concepts and practices of Islamic economics that are most prominent and are concerns to Ahmad Azhar Basyir started from the fundamental concept that Islam is an ethical economy oriented towards welfare.⁶⁷ Hence, Islamic economics as an ethical economic system can be further elaborated and explained based on three levels of norms, namely value, basic and concrete norms.

Values are philosophical ethical norms (*al-qiyam al-asasiyah*), which are basic in Islam. They include justice, benefit, equality, freedom, brotherhood, and others. *Secondly*, the basic norms, which simultaneously acts as a bridge between basic values and concrete Islamic norms. Furthermore, this middle norm comprises the general principle of Islam and can be concretely divided into two kinds, namely *an-nazariyyat* (general principles) and *al-qawa'id*. *Third*, concrete Islamic norms (*al-far'iyyah* atau *al-furu'*).⁶⁸ The levels of these norms are structurally and hierarchically arranged. They include the basic (philosophical) values, which are decomposed into middle norms, principles (*an-nazariyyat*), and general principles (*al-qawa'id*).

Moreover, Ahmad Azhar Basyir's ideas and proposals as recorded in his efforts to develop and utilize waqfs, such as productive, cash waqf, the sale/exchange of waqf assets or land that is no longer productive, money and company shares as mentioned above are permissible, progressive and offer rational as well as contextual thinking. This thinking is also a perspective, and consistent thought can aid the efforts to develop *philanthropy*⁶⁹ for the empowerment, prosperity, and welfare of the people in various fields of life, both

⁶⁶ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat*, p. 15 -17. Sri Sudiarti, "Strategi Politik Ekonomi Islam," *Human Falah* 3, 1 (2016), p. 53-54.

⁶⁷ Ahmad Azhar Basyir, *Asas - Asas Hukum Muamalat*, p. 15 -17.

⁶⁸ Syamsul Anwar, "Development of Islamic Law Research Methods", *Prophetic Journal of Islamic Studies* 4, 1 (2002), p. 131–132. Syamsul Anwar, "Building Good Governance in the Implementation of Public Bureaucracy in Indonesia Review from a Sharia Perspective with the Science of Usul Fiqh Approach", Speech of the Inaugural Professor of Usul Fiqh at the Faculty of Shari'a 'ah before a Limited Senate Meeting of Sunan Kalijaga State Islamic University Yogyakarta, 26 September 2005, p. 2-5. Jamaluddin Atiyah, *Nahwa Taf'il Maqasid al-Sharia* (Damsyik: Dar al-Fikr, 2001), p. 219-221.

⁶⁹ Amelia Fauzia, *Faith and the State A History of Islamic Philanthropy in Indonesia* (Leiden & Boston: Brill, 2013), p. 204.

economic and others. This study indicates the need to manage people's economic assets professionally, in a trustworthy and responsible manner.

As a Muslim scholar who has mastered various fields of Islamic scholarship, such as Islamic philosophy and jurisprudence, Ahmad Azhar Basyir is based on the principles of Islamic morality or ethics. This moral position is central to Islam.⁷⁰ This religious development, both in the field of law and economy, is based on noble morals. One of the most prominent moral or ethical aspects in all Islamic teachings is the upholding of justice as well as creating prosperity. In this regard, justice in this scholar's view is one of the moral values that need to be upheld generally in human life, particularly in the economic field.

The value of justice requires, among other things, that people give to others whatever is their right. Citizens against the state are obliged to act fairly and comply with the rules of the state and government, which is called *legal justice*. Furthermore, the state is also obliged to act fairly towards its citizens, including in the even distribution of income and assets. This is what is called distributive justice. While *commutative justice* obligates fellow citizens practice justice amongst each other.⁷¹

In general, there are 2 approaches to the framework of thought built by Islamic economic reviewers and developers, namely the *subyektivus* and *objektivus genetivus* approaches.⁷² *Genetivus subyektivus*, involves placing Islam as a subject, as a starting point for thinking. From this starting point, various themes in economic studies can act as materials for Islamic studies. The second approach, *genetivus obyektivus* has to do with placing economics as a subject as a starting point for thinking that talks about Islam as an object of study. It can be seen that the basic framework of Ahmad Azhar Basyir's thoughts on the themes of Islamic economics necessitates the use of the *genetivus subyektivus* way of thinking.

The logical consequence and further implication of one of his Islamic economic thoughts substances are that in the field of economics, the ummah, besides having to develop an Islamic economic system⁷³, also has to *orient*, by exploring universal values in the Qur'an, Sunnah, and existing Islamic treasures, as well as actualizing them in the system and their economic life in order to uphold justice and realize prosperity.

⁷⁰ Ahmad Azhar Basyir, *Hukum Waris Islam* (Yogyakarta: BP. Fak. Ekonomi UII, 1981), p. 66. Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat*, p. 56-59. Ahmad Azhar Basyir, *Pokok-Pokok Persoalan Filsafat Hukum Islam* (Yogyakarta: UII Press, 2000).

⁷¹ Ahmad Azhar Basyir, *Reflections on Islamic Issues, Regarding Philosophy, Law, Politics, and Economics*, p. 186-200.

⁷² Miska Muhammad Amin, *Epsitemologi Islam Pengantar Filsafat Pengetahuan Islam* (Jakarta: UI Publisher-Press, 1983), p. 10.

⁷³ Hamim Ilyas, *Fikih Akbar Prinsip-Prinsip Teologis Islam Rahmatan Lil Alamin* (Jakarta: Pustaka Alvabet Company, 2018), p. 229.

Accordingly, the various statements mentioned above clearly show that the development of a strong Islamic economy needs to be based on ethical philosophy extracted from the sources of the Qur'an, Sunnah, and Islamic treasures. On these bases, one thing that needs to be urgently carried out in this regard is the comprehensive formulation of the philosophy of Islamic ethics. This will, in turn, act as a basis for the development of Islamic economics which in the end can create prosperity.

Ijtihad is needed in the development of Islamic law and economic system as a science not only to reject, patch, and complement the conventional system, but also to orient by exploring universal values in the Qur'an, Sunnah, and the existing treasures of Islam, as well as to actualize them in the system, and the legal economic life of the people.⁷⁴ In Ahmad Azhar Basyir's view, fiqh muamalah is one of the areas of Islamic scholarship, which is one of the bases for the development of the Islamic economic system. Therefore, an economic system that adheres to the fundamentals of muamalah fiqh drawn from the Qur'an and Sunnah is an ethical economy since it is based on ethical-philosophical Islam. This explanation also shows the difference between Islamic economics and conventional economic systems.

Based on the description above, it can be emphasized that Ahmad Azhar Basyir is one of the experts in the field of Islamic Law in Indonesia. Apart from being an academician, this figure is also a Muslim figure who is heavily involved in movements towards advancing Islam, Muslims, and Islamic sciences in Indonesia. Furthermore, Ahmad Azhar Basyir was active in several national and international organizations, for example, this scholar was a member of the Sharia Supervisory Board of Bank Muamalat Indonesia, chair of the Central Indonesian Ulema Council (CIUC) for the period 1990-1995, became a member of the People's Consultative Assembly Indonesia from 1993 to 1998, permanent member (representing Indonesia) at the Islamic Jurisprudence Academy, and the Organization of the Islamic Conference. These attained positions classified him as an Indonesian Islamic figure of international caliber.

Ahmad Azhar is more engaged in Islamic law than in other fields. In the widespread discourse of Islamic thought and Islamic law renewal in Indonesia, he emerged as a Muslim scholar. Therefore, it is not surprising that in this field of Islamic studies, Ahmad Azhar Basyir proposed a methodology that integrates textual and contextual ways of thinking at the same time. This methodology and way of thinking characterize almost all of Ahmad's works, including those in philosophy, law, kalam, and Sufism.

Following this, this scholar, who is an expert in Islam and a fan of philosophy, shows how to develop Islamic thought in the contemporary era. The development of Islamic thought was inspired by a methodology that was very

⁷⁴ Saifuddin Sa'dan, "Ijtihad on the Proof of Qath'i in the Study of Islamic Law," *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 2 (2017), p. 479-490.

appreciative of the works of Muslim scholars in the classical and middle eras, which were used as inspiration and responsive to challenges and the dynamics of the times.⁷⁵ Ahmad saw that the problems of today's social life are so complex and it is in this context that *ijtihad* activities in a broad sense are indispensable. Based on this observation, it can be said that the development aspect and framework above are one of the important contributions of this figure.

Ahmad Azhar Basyir has made significant contributions in several areas of Islamic legal thought, including: reconstruction of Islamic thought, in this context Basyir encourages the reconstruction of Islamic thought by integrating theory and practice, as well as combining the heritage of Islamic thought to provide a valuable source of information. then in the field of Islamic economic law, he developed the concept of Islamic economics by incorporating sharia principles into economic governance, income distribution and financial policy. while in context.

Local wisdom and Islamic law, Basyir examines the interaction between Islamic law and local wisdom in Indonesia, showing how aspects of local wisdom can be integrated with Islamic legal principles without irreconcilable conflict. then in the development of Islamic inheritance law, he provides in-depth insight into the application of Islamic inheritance law in the Indonesian context, trying to balance the provisions of fiqh and social justice. Next, ethics in Islamic law, Basyir discussed the importance of ethics in the application of Islamic law, highlighting the moral values that must be upheld in the application of law.

Through his thoughts in these fields, Ahmad Azhar Basyir has made a very important contribution to the development of Islamic legal thought, not only in Indonesia but also globally. so that in the historical context of the development of Islamic law and Islamic thought in Indonesia, it cannot be denied that Basyir contributed quite a lot so that together with several other figures, through his thoughts, he led the Islamic community and the Indonesian nation to prosperity.

Conclusion

This study has examined the significant contributions of Ahmad Azhar Basyir in various fields of Islamic thought in Indonesia, particularly in the context of Islamic law and Islamic economics. Through his approach of integrating sacred texts with contemporary conditions, Basyir successfully bridged theory with practice, demonstrating the relevance of Islamic teachings in various aspects of modern life. His research encompasses the reconstruction of Islamic thought, Islamic economic law, local wisdom in Islamic law, the development of Islamic

⁷⁵ Afridawati Afridawati, "History, Typology, and Implementation of Islamic Law in Indonesia: Combination of Sharia and Fiqh or the Result of Historical Evolution?" *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 21, No. 1 (2021). Syahrizal Abbas and Ramzi Murziqin, "Sharia-Based Regional Regulations in the Indonesian National Law System," *Jurnal Ilmiah Peuradeun* 9, No. 3 (2021).

inheritance law, and ethics in Islamic law. These findings affirm that Basyir's thought not only provides strong guidance in facing the challenges of globalization and social change but also offers practical solutions to achieve the welfare of the ummah. Therefore, this study enriches the literature on Islamic thought in Indonesia and offers a fresh and relevant perspective for the renewal of Islamic law and economics in the modern era.

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