Contextualization of the19ᵗʰ century Islamic law in Buton (a study on Sultan Muhammad Idrus Qaimuddin thought about *mawaris*)

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This was a literary research about the contextualization of Islamic Law in Buton in the 19ᵗʰ Century. It proved a descriptive data about the paradigmatic basis used by Idrus Qaimuddin to re-actualize Islamic law in Buton. It utilized Von Eckartsberg's phenomenological hermeneutic approach combined with Miles and Huberman's analysis model. The study concluded that Idrus thought about *mawaris* was designed based on the Butonese needs and local character. It was product of Al-Qur'an constructed based on the spirit of reformation by prioritizing justice aspects to create social and cultural fairness. His attempt to re-interpret the *mawaris* verse showed his view on the text as something alive so that it needs a dialogue with condition and realities. Even though he did not explore much potentials of Islamic thurats which could enrich his views on *mawaris*, at least his thought proved that in the beginning of the 19ᵗʰ century, there was an Islamic scholar attempting to re-actualize Islamic teaching in this archipelago.

Kontekstualisasi Hukum Islam di Buton Abad 19 merupakan penelitian kepustakaan yang bertujuan memberikan data deskriptif tentang dasar paradigmatik yang dijadikan argument oleh Idrus Qaimuddin dalam melakukan reaktualisasasi hukum Islam di Buton. Data-data dalam penelitian dianalisis dengan menggunakan pendekatan hermeneutik fenomenologi sebagaimana teorisasi Von Eckartsberg yang dipadu dengan model analisis Miles dan Huberman. Merujuk pada hasil analisis data, penelitian ini menyimpulkan bahwa, konstruksi pemikiran Idrus tentang mawaris, didesain berdasarkan kebutuhan dan karakter lokal masyarakat Buton. Pandangan dan pemikiran Idrus tentang mawaris merupakan prodak ijtihad yang dikonstruksi di atas landasan semangat pembaruan dengan mengedepankan aspek keadilan sehingga tercipta kewajaran sosial dan budaya. Adanya realitas yang menunjukkan bahwa Idrus melakukan upaya reintrepetasi terhadap ayat mawaris, menunjukkan secara eksplisit jika tokoh ini memandang teks sebagai sesuatu yang hidup, sehingga niscaya untuk selalu didialogkan dengan realitas zaman. Kendatipun Idrus tidak banyak mengesplorasi potensi thurats Islam yang dapat memperkaya pandangan dan pemikirannya terkait mawaris, namun setidaknya pemikiran Idrus niscaya untuk dicatat dalam peta khazanah intelektual Islam Nusantara, bahwa pada satu titik zaman diawal abad XIX terdapat seorang sosok ulama lokal yang berusaha melakukan reaktualisasi ajaran Islam.

Keywords: *contextualization; Button; Idrus Qaimuddin; mawaris.*

Introduction

Buton, from the beginning of the XVI century to the end of the XIX century, was recorded as a sovereign country and made Islam a *state ideology* (Zaenu, 185: 34). As one of the ex-sultanates in the archipelago, Buton has various cultural treasures. As a country with a sultanate style, Islam influences cultural texture. It may have had a significant effect on the *Butonese* past and present. The influences of Islam can be seen not only in the change of power system, but also in its constitution, known as *Murtabah Tujuh* laws (Scorrl, 2003: 147).

The term *Murtabah Tujuh* used as the name to describe the constitution of the Sultanate of Buton. It is a term known in the world of Sufism, created by Ibn Arabi (Yunus, 1995: 55). Some legacies from the past in Buton show facts about the significant influence of Islam in its socio-cultural system. It is the building of an old mosque in the center of power of the old Buton Sultanate. Also, several *zawiyah* are authentic evidence. Those state that the past Buton is the treasure trove of Islamic wealth in the archipelago (Nanti, 2018: 61; Chaer 2015:24). Besides several cultural heritage buildings such as forts, mosques, and palaces of the Sultans of Buton, according to Hasaruddin (2013: 89), what is no less important is that this region has inherited at least 359 manuscripts containing various lessons and

life philosophies, including sermons, Sufism, spiritual knowledge, prayers, hadith, and *fiqh* which are rich with wisdom (Ilyas, 2017: 125). Some of these manuscripts were written by Sultan Buton and some by Buton intellectuals or scholars.

Muhammad Idrus Qaimuddin (referred as MIQ), according to Yamaguchi (2007: 43), wrote no less than 96 works. Some of them were written in Arabic. It becomes an explicit marker of how much MIQ has broad scientific insights. Thus, it is interesting to study. One of the aspects of the MIQ thought that important to examine is the fatwa or religious views on women's inheritance rights. It was stated in the book of inheritance that he wrote.

From this reality, this study presents data related to the treasures of religious thought. They had grown in the space of Indonesian Islamic culture in the early nineteenth century. It was presented by *ulama* who also the XXIX Sultan of Buton (Zahari, 1977: 29). This research show data on the views of MIQ. They are about the inheritance rights of women and the philosophical foundation that underlies its religious fatwa. The commentary on the religious representations of the MIQ is very crucial. It does not only describe the thoughts and visions of the figures concerned. But the MIQ perspective differs from the mainstream view of inheritance distribution between men and women.

Literature review

As a historical area that holds cultural inheritences, the study of of Buton's cultural treasures has become one of the focuses of historical and cultural researchers. Thus, there have been many papers that present Buton and all its diversity. It also included descriptions of MIQ thinking. La Niampe (2010: 251), for example, wrote *LaOde Muhammad Idrus Qaimuddin Sastrawan Sufi Ternama di Buton Abad XIX* (2010). La Niampe said that MIQ was a very productive Sufi writer, his works written in Malay, Wolio, and Arabic. One of his works is *Bula Malino*, which contains advice and life lessons.

Sjahartijan and Jumaidin (2015: 887) wrote *Budaya Pendidikan Islam di Kesultanan Buton Pada Masa Pemerintahan Sultan Muhammad Idrus Qaimuddin (Abad ke XIX)*. This study found evidence of the Islamic education network in the Sultanate of Buton in the 19th century. It implemented an educational pattern that integrated local culture with al-Qur'ân values based on Sufism. Sjahartijan also stated that this education system had an effectual function

to provide the Sultanate. It accommodated the ability to build a political, government, and security system.

Hidayatullah (2020: 22) in *Local Wisdom Pemikiran Sultan Muhammad Idrus Qaimuddin* in "*Kabanti Bula Malino*" said that the MIQ thought as embodied in *Bula Malino's* literary work was manifested as a tradition. So that it functions to maintain the local wisdom of the Muslim community in Buton.

Other writings about MIQ are provided in the results of Rajab's research (2015: 49), *Dakwah pada Masa Pemerintahan Sulatan Buton ke XXIX*. He mentioned that MIQ had three steps and a strategic mission. They were sentimental strategy, rational strategy, and sensory strategy. They were carried out as an approach to make people aware of the various challenges they faced. These challenges came from both the Dutch colonial government and community groups allied with the Dutch. To realize these three strategies, MIQ regenerates preachers (*da'i*) from various levels of society. There are still several studies on the figure and work of MIQ. Based on the author's tracing, at least until this research, there has not been a single work that describes MIQ thinking. It is in the field of Islamic law in the aspect of *mawaris*, particularly in journal writing, both national and international. Thus this study is very crucial.

Shabuni (2010: 29) argues that based on literal meaning, *al-mīrāts* (*waritsa-yaritsu-irtsan-mīrātsan*) means that something is moving from one person to another or from one group to another. From this literal meaning, then Islamic jurists define inheritance as the transfer of ownership rights from people who have died to their surviving heirs. It is in the form of assets in the form of money, land, or anything that is property right justified by the Sharia.

The arguments for this matter are found in some verses from the Qur'an, namely QS.an-Nisâ: 7, 11, and 33, QS. Al-Baqarah: 233, QS. Al-Anfal: 75, QS. Al-Ahzâb: 6. Apart from that, there are also explanations of the Prophet which can be found in many hadiths. Conceptually, inheritance in Islam occurs when there is a binding reason between the heir and the heirs. This is because there is a marital relationship, kinship relationship, and because of the *wala'* relationship (Jawad, 1982: 11).

The inheritance system in Islam, according to Rachman (tt: 11), is a response to the inheritance system that occurs in Arab society. In the pre-Islamic Arab community, there was no distribution of inheritance to women and children. Furthermore, the widow of a

husband who died becomes a form of legacy that can be inherited by the family. During the era of *jahiliyyah*, a woman was not entitled to inheritance. Based on the argument that women's groups cannot fight to prevent and defend themselves, their ethnic groups, or societies. Thus, those who have the right to inherit are boys who are sturdy and able to take up arms to defeat the enemy in every battle (Shabuni, 2013: 15).

The presence of Islam then changes the tradition. Earlier, woman did not receive inheritance rights, then Islam determines the inheritance rights of a woman as stated in QS. An-Nisa': 7 and 11, where it is determined that women get separation from the male part (Shihab, 2009: 353). The view of the stipulation of the women's part above is a general view among Muslims. Indeed, in the relationship between religion and adat in its environment and Islamic law, there are two well-known views or two primary theories in Islamic legal thought (Syharil, 2011: 220).

The two views are, in reality, not only different but also contradictory. The first theory is based on the aspect that Islamic law that a revelation established by Allah is eternal and cannot change or be changed. As a consequence, Islamic law does not adapt to the times. This theory is called the normativity of Islamic law or the principles of immortality. Meanwhile, the second theory assumes that as a rule created for humans, God's law is not only able to adapt to a cultural system that develops in a certain period but also can change or be changed to realize the benefit of humans. The two paradigms also appear to be manifest in the perspective of the *ulama* when understanding the verses about inheritance. On the one hand, the view remains firm with the suggestion of the text where women get half of what is obtained by men, while other looks are not the same.

Shihab (2002: 181) states that considering that the distribution of inheritance between men and women is a decree from Allah that cannot be changed by anyone, the distribution of heritage between men and women refers to the *Al-Qur'an*'s instructions with a 2: 1 level. But, he is in another of his writings states that: "if in the distribution of heirs the distribution of heirs requires a division that is not based on Islamic law by dividing equally and all parties have agreed on this, it is justified, as long as the distribution is based on judging that the level of division determined by Allah is unfair or wrong." (Shihab, 2002, 41)

The different needs of the heirs and the socio-cultural roles of women, which generally

shifted or experienced changes compared to the early days of Islam, have implications for the problem of inheritance distribution. Several Muslim thinker figures have tried to get out of the *faraid* (inheritance division) frame that has been adhered to by most Muslims. It is about the number of inheritance rights between women and men. In Indonesia, one of the figures who questioned this was Munawir Syadzali (the former Minister of Religious affairs of the Republic of Indonesia). He presented with a project of re-actualization of Islamic teachings. One of the core points of Munawir's scheme was to rethink the inheritance rights of a woman, which he considered violated the aspect of "justice". Munawir saw the ambivalence of the Islamic *ummah* in implementing Islamic law. Muslims seem reluctant to carry out Islamic law because it does not meet their expectations, as in the case of bank interest. Likewise, in the case of dividing the inheritance with a 1: 2 part, in reality, many Muslims have abandoned this. It is in this context that Munawir initiated the need for the re-actualization of Islamic law. It is by re-examining critically and carefully the application of the law in the context of changing cultural spaces. For Munawir, due to changes in the socio-cultural system of society about the role and position of women, the inheritance distribution between men and women is equal (1: 1) (Munawir, 1995: 87).

Research methods

This research is descriptive-analyty using qualitative data. Most of the data came from literature reviews or manuscript documents, especially MIQ writings in the related fields. The rest was obtained through interviews with local figures. Considering that this research referred more to written data, the data obtained were analyzed using a phenomenological hermeneutic approach as Von Eckartsberg's theory combined with Miles and Huberman's analysis model. The flow of the analysis stages was as follows: 1) Problems and formulation of research questions, 2) Data narration, 3) Reduction, 4) Data interpretation and implication, and 5) Drawing conclusions (Moustakas, 1994: 15; Miles and Huberman, 1986: 20). Through the combination of the above approaches, the researcher can interpret and understand more the sociological and anthropological reasons for the MIQ fatwa of the distribution of inheritance as the focus of this study.

Overview of Muhammad Idrus Qaimuddin and his intellectual works

Muhammad Idrus Qaimuddin was born in Buton (Wolio) at the end of the XVIII century (1198H / 1758 AD). His father was named LaOde Badaruddin (La Badaru) Sultan Buton XXVII (1799 H / 1822 AD), and his mother was named Oputa Balu Lampenano. He is the XIV descendant of King Buton I, known as *Wa Ka Ka*, and come from the *kaomu* (aristocrat) *Kumbewaha*. He was raised by his grandfather, where he first received lessons and education in Islamic religious knowledge (Zahari, 1977: 75).

Idrus is recognized as a prominent scholar. Thus, his teachings and books have been used as life references by the *Butonese*. Apart from being a pious and sultan, he is also a Sufi. It can be seen in many of his works, including *Bula Malino*. This book contains advice directed at him. From several other tasks, it seems explicit that Idrus, apart from being a political leader at his time, is also a scientist, Sufi, and writer (Niampe, 2010: 251). He learned his Sufism from a teacher named Abdul al-Karim al-Samman. The peak of his religious education was when he received learning from a teacher who came from Mecca named Syekh Muhammad Ibn Syekh Syais Sumbul al-Makki. It was through this teacher that he got awarded a diploma and at the same time was confirmed as the sheikh of the *Khalwatiyah Sammaniyah tariqat* in Buton, a path his teacher adhered to and taught him. He obtained this predicate after serving as Sultan of Buton XXIX (Yunus, 1995: 55).

Idrus can be said to be an intellectual Sultan because apart from being a leader of the State, he is also a productive writer. Most of his works and writings represent his thoughts. They contain advice to improve character (Khaidir, et al., 2020) based on religious teachings based on Sufism. These works were written in *Wolio* using the Arabic script *Wolio* (*Buri Wolio*), Malay, and Arabic. Some of his works written in the local language include: (1) *Bula Malino*, (2) *Tazikiri Mamampo Dona (Tanbihul Ghafilin)*, (3) *Jauhara Manikamu Molabi*, (4) *Kanturuna Mohelana*, (5) *Fakihi (Fiqhi)*, (6) *Nuru Molabina*, and (7) *Kanturuna Mohelana II*. While the books he wrote in Arabic include: (1) *Rawdat al-Ikhwan*, (2) *Takhsin al-Awlâd*, (3) *Uturat al-Miskiyât*, (4) *Siraj al-Muttaqîn*, (5) *Durrat al- Ikhkam*, (6) *Sabil al-Salâm*, (7) *Targhib Al-Anam*, (8) *Tazkiyat al-Qulûb*, (9) *Kasyf al-Hijab*, and (10) *Dhiya 'al-Anwar* (Zahari, 1977: 75). His works as mentioned are only a small part of his total works. Based on the research of Hiroko Yamaghuci (2003: 47), a Japanese Butonan research anthropologist, he stated

that Idrus had written at least 96 papers.

Idrus's intellectuality is not only visible in the writings he produced but can also be seen from his critical attitude towards socio-cultural and political phenomena. Thus, besides to his image as an intellectual Sufi, he is also a reformist figure. He restored some regulations contained in the Buton Sultanate's *Murtabah Tujuh* Law to meet the demands of the times and circumstances. Social rules that do not show partiality for the community are denied. For example, the rule of *popena* that made possible for a husband who was divorced by his wife to cancel the wife's claim by paying *bhoka* money more than the obligation that must be paid by a wife when registering for divorce. He viewed this rule as generally detrimental in practice. Besides, he considered that the law was not following the demands of the times, so that it was undoubtedly to be removed. With the abolition, the *thalak* money was determined by *Syara'* at six terms and not justified for more than that. The description above is only one example of the many rules reformed by Idrus. It is because considered incompatible with the times (Zahari, 1977: 42).

As mentioned above, Idrus showed a self-image of a multi-talented human child. Apart from being a scientist, he was known as a reliable knight on the battlefield. Before being appointed as Sultan of Buton, he several times led the war troops of the Buton Sultanate. It was because before serving as Sultan, he had been a *capitalao*. One of his services in the security sector was the success of the troops he leads in conquering pirates at Pasar Wajo (Zahari, 1977: 25).

Distribution of inheritance in Muhammad Idrus Qaimuddin's perspective

Buton formally implemented Islamic law, to be precise, during the time of Sultan Muhammad Idrus Qaimuddin or the 29th sultan. This well-known sultan, during his reign, tried to formalize Islamic law as state law (Zahari, 1977: 145). Though, this formalistic tendency wants to be applied in his territory. In particular cases, however, the sultan had very moderate and liberal thoughts. His thoughts on inheritance, as outlined in a *Farâid* book, became one of the laws in the Buton sultanate until the end of the sultanate. The book that discusses the law of inheritance distribution shows his moderate tendency and thinking style. It is especially true in understanding women's rights in the inheritance system (Zahari, 1955: 23).

As described before, the figure of Idrus, apart from being a Sultan or a political leader, was also a scholar who has written several books. It is useful for perpetuating the religious views he believed in. From the review of his books and works, most of the books he wrote were related to moral and Sufism issues. It is not surprising because he is one of the *murshid tariqats*. But, it does not mean that he does not have a concern with legal issues.

There are two works by Idrus that discuss legal issues, namely *Fakihi* (read: *fiqhi*), which describes *Thaharah* and its laws. In the *Fakihi* book, it illustrated how Idrus' obedience is. It is, at the same time, an expression that this figure understands the relativity of a religious opinion or views. Apart from writing *Fakihi*, Idrus also wrote a book entitled *Bidâyat al-'Ilmiyât fî Overview of Ba'd Sharîat al-Muhammadiyah*. This book explains the *kaifiyat* of ablution as well as the various prayers that are said every time you wash the ablution member. Another book related to legal matters is *Farâid*, which discusses inheritance.

Idrus gave an explanation of inheritance in *Farâid*'s book. It should be noted that before the time of he came to power, there was a pattern that was traditional in *Butonese* culture. The *Butonese* knew it by the term *botu bitara arata pusaka*. It was a mandatory payment from the heirs for the inheritance to the parents, who were summoned to witness the distribution of the inheritance. In this connection, all legacy that was shared to heirs, who were not partners, in the sense that they could not be shared equally among the heirs, because the customary law *botu bitara arata pusaka* is the right of the parents who share it. This rule was detrimental to the heirs. Based on these considerations, he eliminated the tradition based on religious deliberation and justice (Zahari, 1977: 38). The fact of the abolition of the *botu bitara arata pusaka* tradition, as described, shows the inherent paradigm of justice in Idrus' way of thinking in addition to the rationality aspect. So rules that appear to be invisible violate the principles of rationality and justice, are deemed unfit to maintain their application in society.

Idrus's reform steps were not only in the aspects related to the customs maintained in society, such as the *botu bitara arata pusaka* tradition, as the author has explained. By using the parameters of rationality and justice referring to the Qur'anic argument, he tried to examine the aspects of the distribution of inheritance to women and men. From the results of his analysis, he implied that the inheritance rights between women and men in the context of Buton could be equated, 1:1. It was stated in his writing: "This chapter states

that the child's share is based on a will because previously the child's share was different between boys and girls, that is, the part of the boy as two girls. The regulations that state the difference between the parts of boys and girls are as evident in the *Faraid* book." (Idrus, 1955: 32)

The description above illustrates the cultural reality faced by Idrus at his time about inheritance so that it requires wise answers and does not lose context. The argument for the legality of the law comes from the conception of the *al-Qur'ān*, which states that humans are created from one source, as the verse says: *wa khalaq al-insān min māin mahīn*. He understood the creation of humans from the same origin as the principle of equality. Thus, in the distribution of inheritance, there was no difference between men and women.

According to Zahari (1977: 45), Idrus' *ijtihād* by providing equal inheritance rights between girls and boys, because there was an impression of injustice with this part even though of the origin of the incident both were created or originated from contempt, and that arena is unfair if treated unequally. Besides to basing his argument on the norms of the *al-Qur'anic* verse, he also examined the aspect of differentiation that occurs in women and men in the case of inheritance as stated in the al-Qur'ān, not something without background. Thus, in his explanation, he further established that the reality of a mother in the social context of Buton in the past, in actuality, played more of a role as a single parent.

Another thing that was explained by Idrus of the division of inheritance between women and men was the division between the Sultan and the empress, which in conventional terms (Farida et al., 2020: 33) was locally called *weta ika-ne*, which means splitting fish (which balanced). It was because both the Sultan and the empress were working together for the prosperity of the country. The Sultan worked physically, and the empress worked mentally. To strengthen his argument, he provided evidence that they were appointed as leaders in charge of the country by *Baluwu* and *Peropa* and bound by oaths and promises. The right to inherit, as mentioned above, also applied to *papara* (slaves). According to him, the *papara* were also considered because both men and women worked together to support each other. So inheritance rights were the same as the provisions in Islamic law.

Likewise, with the position of children in a family, both men and women had the same inheritance rights. As the basis for his argument that seems to contradict the text of the

al-Qur'ān, he stated that both daughters and sons have an equal share in the development of the kingdom. As well as their obligations to the empire were congruent and functional (Suud, F. M. 2015). The proof can be seen from their respective duties carried out by the empress in developing the nation and the country were no different from the necessities carried out by the sultan. Thus, it was natural and rational if the right to share inheritance between the two was one to one (Idrus, 1955: 30). In his more explanation, he stated that the basis of the distribution of assets that distinguishes between husbands (men) and wives (women) was related to the context of the cultural situation. The 2: 1 division was because the husband who brought or works, while the wife only cared for it (Zahari, 1977: 46).

Paradigmatic roots of Idrus's thought about inheritance

Referring to the description of the data obtained from several writings, it shows the fact that there was an attempt or movement to re-actualize Islamic teachings in the land of Buton at the beginning of the XIX century, especially the distribution of inheritance. This movement was spearheaded by Idrus, who was also the XXIX Sultan of Buton. Even though the fatwa on the equalization of inheritance rights between women and men has been going on for more than a century, it is still essential to study it. It is to know the epistemological basis on which to base the argument from the fatwa. The phenomenon of the re-actualization of Islamic teachings as a thought movement and *al-Qur'ān* activity in Buton is interesting, considering that this movement occurred in the context of the socio-cultural space of the local Islamic community more than a century ago. One century after that, a similar concept was voiced by contemporary Islamic scholars and thinkers, in this case, Munawir Syadzali.

Whatever the subject and focus of the study, *al-Qur'ān* and the fatwa of *ulama* as a thought movement are not born in a cultural space, but always based on several arguments. It is especially so if the fatwa or *al-Qur'ān* in question appears or seems to have deviated from the mainstream view. Likewise, with Idrus's perspective, so the question of why the fatwa came out and whether the basis of his argument had an epistemological grounding in the historical context of Islamic thought is an urgent matter to know. In this study, at least his fatwa based on two approaches, namely socio-culture and text (norm) approach.

1. Socio-cultural approach

Idrus's fatwa moved in a fact of the socio-cultural context experienced by groups of people who lived in a geographic space that made it impossible to survive and because most of the surrounding land was less promising or unsuitable for agricultural land. Based on this reality, most of the local population, in this case, the men chose to work as sailors, traders, and nomads. The profession, as an overseas trader in the past, was carried out or lived by a man for a long period. It was related to the mode of transportation at that time separated from being limited in number and still very simple. The implication was that a wife who lives in the village for a determined duration (years) acts as a single parent for their children. If the husband as the head of the household chose to leave, a Buton woman was required to be loyal to her family and also to support her children by working. Thus socially and culturally the economic life of the family in Buton was built not on the income from a man's business and/or a father in a family.

Besides to the reality described above, Idrus, according to Zahari (1977: 46), also saw the involvement of women in building a kingdom whose share was not inferior to that of men. Even in the history of the construction of the Buton fort, recorded as one of the longest and largest garrisons in the world, the majority of the funding came from the private funds of a Buton woman named WaOde Wau. He saw this phenomenon in the society he led. Thus, it prompted him to rethink the inheritance distribution rights that before prevailed in the Buton community.

Idrus examined the facts of the socio-cultural phenomena that manifest in the life of the *Butonese* people. Then, he compared them to the context of the early Islamic socio-cultural system from the implementation of inheritance law as stated in many fiqhi books. In his statement, he stated, "The 2: 1 division is because the husband is the husband who brings or works, while the wife only cares for it" (Zahari, 1977: 154). Thus, Idrus's perspective on inheritance based on his study of the relationship between text and context, where the text did not stand alone but was always related or runs with the context. In the realm of law, especially those with conditions with *muamalah* dimensions such as in the case of inheritance, knowledge of the context becomes very urgent so that conclusions on the interpretation of a text are not paralyzed by the times. Changing a law as a result of changing context is not something strange in the Islamic tradition.

This view of related matters can at least be seen in the statement of Ibn Qayyim al-Jawziy, which stated that changes in legal perspective or thoughts and differences occur because of changes in times, space, circumstances, intentions, and needs" (al-Jawziyat, t.th.III, 14). Furthermore, al-Jawziy said that not understanding or considering change is a big mistake in shari'ah (al-Jawzy, tt: 14). That the reinterpretation effort made by Idrus on the pattern of distribution of inheritance between women and men is methodological is not something foreign to the tradition of interpreting the *al-Qur'ān*. Considering that an interpretation of a text is inseparable from social context and experience, so it is necessary to understand the texts contained in the *al-Qur'ān* according to their context. In this way, the meaning of a text becomes *alive*, not frozen, and rich in meaning. The text will be dynamic in purpose and always contextual, along with the development of human culture and civilization (Baidhawi, 2005: 116).

In principle, the fundamental argument of Idrus is similar to the reasons contained in the idea of the re-actualization of Islamic teachings echoed by Munawir. Munawir's view on the equalization of the inheritance rights of women and men is also inseparable from the existence of different cultural phenomena when textual dictums of inheritance norms are revealed in the cultural context that is prevalent in this era (Syahril, 2011: 236-237). To strengthen his view, Munawir referred to the theory of maṣlahaḥ as put forward by al-Tufi, which stated that if there was a dispute between the interests of the community and the texts and *ijma'*, it was obligatory to put the interests of the community first. Based on this perspective, Munawir then argued that if a society wanted the distribution of inheritance between men and women in the same amount and they view it as fair, then this provision was used on the condition that women had a role (Faizah, 2016: 29).

2. Approach text (norms)

Another reason to determine the same rights in the pattern of distribution of inheritance between women and men is that both are created from the same source (material). Zahari stated that: "And the basis for this change, Muhammad Idrus took the consideration that the condition of boys and girls is the same as coming from "dirty" water because that is one of the requirements is not the same" (Abu Bakr, 2014: 136).

This argument comes from the text of the QS. al-Mursalat: 20, which states: "Didn't we create you from *despicable* water." Thus, besides to basing his views on arguments for social

dynamics in the context of changing dynamic socio-cultural contexts, Idrus strengthened his religious aspect with the reasons of the *al-Qur'ān*, as mentioned above. QS. al-Mursalāt: 20, by Idrus, elaborated as the common origin of every human being. The consequence, according to Idrus, was that every human being is equal in position and rights. The meaning of the word *main mahīn* with the purpose of water, which is *despicable* according to the Quraish Shihab, is not very precise. It is because the term *mahîn* is not taken from the word *hana* (*hina*). Sperm itself is not filthy water. *al-Qur'ān,* when interpreting with *mahīn*, does not mean to describe the humiliation of the origin of human events, but to show it at so little level. Because of that, many scholars underline that the word is not taken from the concept *hana* to drop the wrong impression (Shihab, 2009: 686).

Apart from the difference in the meaning of the word *mahīn*, substantially the use of the arguments of the *al-Qur'ān* surah al-Mursalat verse 20 as stated by Idrus aimed to put forward the purpose that humans (men and women) came from the same essential material. So both of them deserve to have the same rights or be fair.

In principle, departing from this perspective, Idrus's argument is in line with the reasons developed by feminists in campaigning for the law of gender equality in inheritance rights or as campaigned by Aminah Wadud. Idrus's attempted to link the QS. al-Mursalāt: 20, with the problem of equalizing inheritance rights between women and men, also showed that this character can distinguish between aspects of the universality of the *al-Qur'ān* and those that are private.

In the above context, it is clear how Idrus emphasized the importance of understanding the *al-Qur'ān* as an unified meaning of all its parts. In other words, he viewed the *al-Qur'ān* as an integral unit. So that understanding, it required a combined comprehensive approach. Need to because of the dynamics between universality and details of the *al-Qur'ān*. Based on that spirit, he developed his understanding of the provisions of the distribution of inheritance from the *al-Qur'ān*. He tried to view the case based on the moral substance of the ideal values of the *al-Qur'ān* verse by promoting the significances of justice and benefit. Understanding the concept of inheritance by moving from the perspective of the aspect of the ideal moral spirit of the al-Qur'ān was one of the approaches chosen by some contemporary Muslim thinkers such as Munawir, as before mentioned.

Idrus Qaimuddin thought about *Mawaris*

As a reality, religion (including *masāil al-fiqhiyah*) and culture can influence each other because both are values and symbols. Religion is a symbol that symbolizes the worth of obedience to natural forces, while culture is a value and representative that directs humans to live in their environment. In contrast to the culture, which can change in nature, religion, as believed by most of its adherents, is *final* and does not recognize the change. But even though religion is said to be *eternal* or *final* because it is in the space and historical process, the position of religion may be displaced by culture. The two-way interaction occurs because both religion and culture are historical facts (Kuntowijoyo, 2005: 201).

The reality, as described above, seems to have occurred in the *fiqhi* tradition of the *Butonese* people. The *Butonese*, as a cultured society, of course, have their characteristics that distinguish them from other ethnic groups or communities. These differences are built in parallel with the historical journey of their civilization. Also, religion as a set of values that lives in society inevitably follows the flow of history that is established.

Idrus dared to claim the equality of inheritance rights between men and women based on his understanding of the universality of the *al-Qur'ān* about the same human position by referring to the text of the verses of the *Aal-Qur'ān* on the origin of the material for human formation. Another thing was the fact that there were differences in socio-cultural aspects that covered the inheritance verses when revealed by the factual conditions he experienced in Buton.

Idrus's earnest efforts to provide religious fatwa services to his people can be stated as a wise solution. It is because done by considering aspects of the socio-cultural reality at that time and deserves appreciation. But, considering that religious fatwas are carried out through a process of mechanisms or methodological steps that are rigorous and meticulous by considering all aspects related to the focus of the problem being addressed. Like the use of the arguments of the *al-Qur'ān* and *as-Sunnah* (hadith) and other aspects of *thurāts*, so that with a comprehensive review can produce an in-depth view, so in this context, his religious perspective from the viewpoint of reference contains a few problems.

Idrus's view relied more on the arguments of the *al-Qur'ān* by doing rational reasoning after connecting the cultural facts when the verse was revealed with those experienced

by the *Butonese* people. Even though it is not a wrong thing, his perspective did not pay attention to the hadith instruments related to the focus of the problems. Or in other words, he put forward the aspect of rationality in a cultural context that lived at a certain period without exploring other sources of Islamic law. So that his description seems *dry* in the aspect of dialogue between arguments.

The above impression is explicitly seen from Idris' description of *Farāid*, which does not explore the potential wisdom contained in the *thurāts*. This fact, according to the author, maybe because his figure is better known as a Sufi. He prioritized the aspects of the *irfāni* approach rather than the *bayāni* from a theoretical point of view. He is more flexible and open to understanding the text. It is because of the position and affiliation of the *Sufistic* religious pattern. As a scholar in his day, he had done at least three things. Those things are regardless of the weakness of his view, which tends not to take advantage of the wealth of references inherited by Muslims.

First, in principle, Idris carried out a methodological reform in understanding the *mawaris* verse. It can be seen when he tried to reinterpret the concept of inheritance distribution (2: 1) as contained in the text. He placed the universality aspect of the *Qur'anic* verse above its particular perspective. Then, he related it to the factor of socio-cultural determination, which was the historical background of the provisions inheritance. Based on these considerations, he concluded to define the distribution of heritage for men and women in Buton land. Second, the fatwa of his *mawaris* was his attempt to reform at an ethical level. He prioritized the aspect of justice, which was the main principle of the teachings of the *al-Qur'ān*, to create cultured social fairness. Third, even though his fatwa was carried out in an atmosphere of limited textual *references*, the creativity he demonstrated in principle has led to reforms, both from an approach and epistemological perspective. He made normative texts as open and dynamic concepts in facing the developing socio-cultural realities.

Conclusion

Idrus's thought construction about *mawaris* can be stated as a product of *fiqh* thought, which was designed based on the needs and local character of the *Butonese* people. The locality

that was visible to a load of Idrus's thought was inevitable. It is because the individual quality and the culture in which a religious law grows is not an empty cassette or a cultural vacuum. In this context, religion (read: sacred text) and cultural reality undoubtedly carry out dialogue or be discussed, with one another, to form and live together. Thus, religion cannot avoid cultural locality, which is relative and particular. This pattern and approach are used by Idrus in reinterpreting the concept of *mawaris*.

Idrus's views and thoughts on *mawaris* are a product of *al-Qur'ān*. This was constructed based on the spirit of renewal by prioritizing aspects of justice, so that social and cultural fairness were created. The existence of a reality as the object he tried to re-interpret in *mawāris* verse showed him viewing a text as something alive. So that it is open for a dialogue with the reality of the times. Although he did not explore much of the potential of Islamic thurâts, which could enrich his views and thoughts related to *mawāris*, at least his thought was noted in the map of the Islamic intellectual treasures of the archipelago. That at one point in the era at the beginning of the XIX century, there was a figure of a local scholar who tried to re-actualize Islamic teachings.

Bibliography

Abubakar, Syukri, "Pemikiran Munawir Dsyadzali tentang Pembagian Waris di Indonesia", *Schemata*, Vol. 3, No. 2 (2014): p. 130-139.

Baidawi, Ahmad. *Tafsir Feminis, Kajian Wanita dalam al-Qur'an dan Para Penafsir Wanita.* Bandung: Nuansa, 2005

Chaer, Moh. Toriqul. "Kuttab: Lembaga Pendidikan Islam Klasik", *al-Murabbi: Jurnal Kependidikan dan Keislaman*, Vol. 1, No. 2 (2015): p. 23-32.

Faizah, Ayu, dkk. "Konsep Keadilan Gender dalam Pembagian Warisan (Studi Komparatif Pemikiran, M. Quraish Shihab dan Munawwir Syadzali)," Diya al-Afkar, Vol.4, No.2 (2016): p. 23-37.

Farida, D., Sarong, H., Darmawan, D., & Suud, F. M. "Legal Protection for Disputing Parties through the Aceh Customary Court." *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* Vol. 15, No. 1 (2020): p. 31-49.

Hasaruddin dan Andi Tenri Mahmud, "Pengembangan Tradisi Tulis di Kesultanan Buton", *Jumantara*, Vol. 3, No. 2 (2013): p. 89-104.

Hazairin, *Hukum Kewarisan Bilateral Menurut Al-Qur'an dan Hadits*, Jakarta: Tintamas,1982

Hidayatullah, Muhammad Said, "Local Wisdom Pemikiran Sultan Muhammad Idrus Qaimuddin dalam "Kabanti Bula Malino", *Sultan Agung Fundamental Reseach Journal*, Vol. 1, No. 1 (2020): p. 22-30.

Ilyas, Husnul Fahima, "Sepenggal Warisan Tertulis di Negeri Buton", *Jurnal Pusaka*, Vol. 5, No. 1 (2017): p. 125-139.

Jawad, Ahmad Abdul. *'Uṣūl: 'Ilmu al Mawārits,* Beirut: Dār al-Jil, 1986.

al-Jawzy, Ibnu Qayyim. *'Ilām al-Muāwaqqi'in an Rab al-'Alamin,* Juz III, Beirtu: Dār al-Fikr, t.th.

Kuntowijoyo. *Muslim Tanpa Masjid,* Bandung: Mizan, 2005.

Khaidir, E., & Suud, F. M. "Islamic Education In Forming Students'characters At As-Shofa Islamic High School, Pekanbaru Riau." *International Journal of Islamic Educational Psychology*, Vol. 1, No. 1 (2020): p. 50-63.

La Niampe, "LaOde Muhammad Idrus Qaimuddin Sastrawan Sufi Ternama di Buton Abad XIX" , Jurnal Humaniora Vol. 22, No. 3 (2010): p. 250-265.

Miles, Matthew B &Huberman. *Qualitatif Data Analysis: A Sourcebook of New Method*, Baverly Hills: Sage Publication, 1986.

Moustakas, Clark. *Phenomenologi Research Methode*, London: SAGA Publication, Intc. 1994.

Muhammad Sjahartijan LaOde dan LaOde Jumaidin, "Budaya Pendidikan Islam di Kesultanan Buton Pada Masa Pemerintahan Sultan Muhammad Idrus Qaimuddin (Abad ke XIX)", *Etnoreflika*, Vol. 4, No. 2 (2015): p. 887-899.

Rahman, Fatchur , *Ilmu Waris*, Bandung: PT Al-Ma'arif, t.t

Rajab, "Pemikiran Dakwah Pemerintahan Sultan Buton XIX, *Jurnal Diskursus Islam*, Vol. 3, No. 1 (2015): p. 49-72.

Syahril, Sultan. "Munawir Syadzali (Sejarah Pemikiran dan Kontribusinya Bagi Perkembangan Pemikiran Islam di Indonesia)," Analisis, Vol.11, No. 02 (2011): p. 219-240.

Schoorl. *Masyarakat, Sejarah dan Budaya Buton*, terj. G.Widya, Jakarta: Jambatan, 2003.

al-Shabuni, Muhammad Ali. *al-Mawāris fī al-Syarī'ah al-Islamiyyah fī Dhaw'i al-Kitāb wa al-Sunnah*, Jakarta: Dar al-Kutub al-Islamiyah, 2010.

Shihab, M. Quraish. *Tafsir Al-Misbah, jilid 2*, Jakarta: Lentera Hati, 2009.

Shihab, M. Quraish. *Anda Bertanya, Quraish Shihab,* Bandung: al-Bayan, 2002.

Suud, F. M. "Perempuan Islam Dalam Sejarah Kerajaan Aceh Darussalam (1641-1699 M)." *Serambi Tarbawi*, Vol. 3, No. 1 (2015): p. 23-42.

Syadzali, Munawir. *Kontekstualisasi Ajaran Islam*, Jakarta: Temprint, 1995.

Nanti, Syarifuddin, Ahmad M Sewang, and Muzakkir Muzakkir. "Pendidikan Islam di *Zawiyah* Pada Masa Kesultanan Buton Abad Ke-19." *Jurnal Diskursus Islam* Vol. 6, No. 3 (2018): p. 538–561.

Yamaguci, Hiroko "Manuskrip Buton Keistimewaan dan Nilai Budaya", *Journalarticle,UKM*, Vol. 25, (2007): p. 41-50.

Yunus, Abdul Rahim. *Posisi Tasawuf dalam Sistem Kekuasaan di Kesultanan Buton,* Jakarta: INIS, 1995.

Zaenu, LaOde. *Buton dalam Sejarah*, Surabaya: Suradipa, 1985

Zahari A. Mulku. *Sejarah dan Adat Fi Darul Butuni*, Jakarta: Proyek Pengembangan Media Kebudayaan,1977.

Zahari A. Mulku. *Soal Pembagian Harta Pusaka Menurut Hadat Kesultanan Buton*, Bau-Bau: tp.t.th, 1955.