

Postmodern Jurisprudence: The Law Of Text In The Texts Of Law

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Postmodernism Approach in Islamic Jurisprudence (Fiqh)

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Abstract: The history of Islamic jurisprudence (*fiqh*) has gone through various phases. From the time of the Prophet Muhammad (PBUH), it has continuously become a dynamic force in fulfilling the contemporary needs of the Ummah. After the period of imitation (*taqlid*), Islamic jurisprudence enters the renewal process (*tajdid*) in order to rejuvenate Muslim society to the practice of *Ijtihad*. The emergence of new approach was caused by the changes and developments in human life that spark to the existence of new issues, which their answers cannot be traced in the works of classical *fiqh*. Accordingly, some would prefer to utilize the postmodernism approach in the process of interpretation of the divine texts in order to get the ruling (*hukm*). Some of the thinkers and scholars seem to neglect the normative guide in classical *Usul al-Fiqh* (the principle of Islamic jurisprudence) and tend to formulate new approaches in jurisprudence deciding process such as deconstruction, hermeneutics, limitation theory and double movement theory. Therefore, this article tends to analyze in the frame of new discourse of postmodernism approach in Islamic Jurisprudence (*fiqh*). This is especially in jurisprudences that are related to gender issues such as polygamy, inheritance and woman's testimony. Eventually, it becomes crucial to critically analyze the postmodern approach in *fiqh* whether it is in accordance with the provision in the divine scripts and the higher objectives of Shariah.

Key words: Islamic jurisprudence % Postmodernism % Gender % *Fiqh* % Polygamy

INTRODUCTION

The emergence of various streams of Islamic legal thoughts among the classical and contemporary scholars showed the dynamics development of Islamic jurisprudence discourse along its rich history. Started along the way from the early years of the Prophet PBUH, to the ages of the Caliphates, until it came to its golden ages in the time of Umayyad and Abbasid, varieties of trends in Islamic legal thought came to the forth as a response to the contemporary need of the different times. In our contemporary ages, the Islamic legal thought continues to develop until the emergence of a new trend of the postmodern trend. This new trend offers several new methods in Islamic jurisprudence especially in the epistemological level. It has gained

strong attraction on some parts of Muslim society as it promotes new ideas that are marketable in the contemporary global world such as promoting equality of rights among citizens and genders and safeguarding the minority groups' rights in society. Therefore, this new trend deserves a detail analysis and careful academic observation.

Contemporary Typologies in Islamic Thought and Jurisprudence (Fiqh): According to Abdul Rahman Abdullah, basically there are no consensus upon the definition on Islamic Thought's trends or the concepts they try to promote [1]. There are generally five main streams that underlying the Islamic thinkers' mind that illustrate varieties of trends and stands in different issues [2]. There are:

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