IBNU QAYYIM AL-JAUZIYAH ON THE INFLUENCE OF SOCIAL CHANGES ON LEGAL CHANGES

IBNU QAYYIM AL-JAUZIYAH TENTANG PENGARUH PERUBAHAN SOSIAL TERHADAP PERUBAHAN HUKUM

Tarmizi Tahir [1]
[1] *Ma'had Aly As'adiyah Sengkang*

*tarmizitahir0@gmail.com

ABSTRACT

This article discusses Ibn Qayyim al-Jauziyah's views on the influence of social change on legal change. Human social change is an absolute part of his destiny. In Islamic law, socio-cultural changes and geographical location are important variables that influence legal changes. This article will answer the following questions: (1) What is Ibn Qayyim al-Jauziyah's theory of legal change? (2) How does it affect the reality of the Islamic ummah in the future? The results of the discussion show that: (1) Ibnu Qayyim al-Jauziyah, with his theory of legal change, calls for freedom of thought but still adheres to the main teachings of Ilam and the aqidah of the Salaf. In his view, ijtihad must continue to develop in accordance with developments in situations and conditions in various places and times. (2) The influence of Ibn Qayyim al-Jauziyyah's theory shows that the formulation of Islamic law is needed to answer various developing problems, both developments in science and technology and changes. social events that occur in society.

Keywords: Law, Social Change, Theory of Ibn Qayyim al-Jauziyah

ABSTRAK

Artikel ini membahas tentang pandangan Ibnu Qayyim al-Jauziyah tentang pengaruh perubahan sosial terhadap perubahan hukum. Perubahan sosial manusia merupakan suatu kemutlakan dalam takdirnya. Dalam hukum Islam, perubahan sosial budaya dan letak geografis menjadi variabel penting yang ikut mempengaruhi adanya perubahan hukum. Tulisan ini akan menjawab tentang masala: (1) Bagaimana teori perubahan hukum Ibnu Qayyim al-Jauziyah, (2) Bagaimana pengaruhnya terhadap realitas ummat Islam masa sesudahnya. Hasil pembahasan menunjukkan bahwa: (1) Ibnu Qayyim al-Jauziyah dengan teori perubahan hukumnya menyerukan kebebasan berfikir, namun tetap berpegang teguh pada pokok-pokok ajaran Ilam dan aqidah para salaf. Dalam pandangannya ijtihad harus terus berkembang sesuai dengan perkembangan situasi dan kondisi di

berbagai tempat dan zaman, (2) Pengaruh teori Ibnu Qayyim al-Jauziyyah menunjukkan bahwa diperlukan formulasi hukum Islam dalam menjawab berbagai persoalan yang berkembang, baik perkembangan sains dan teknologi maupun perubahan sosial yang terjadi di dalam masyarakat.
Kata-kata kunci: *Hukum, Perubahan Sosial, Teori Ibnu Qayyim al-Jauziyah*

A. INTRODUCTION

The social history of human life always experiences different dynamic movements from time to time. Therefore, human life continues to experience changes resulting from changing patterns of social relations that are experiencing development. The development of social relationship patterns occurs as a manifestation of human existence as social creatures who are always socializing. Thus, it is not an exaggeration to say that human social change is an absolute part of his destiny. Even though social change is natural, in reality, it is not unique. In this case, social change is a plural reality that does not stand alone and occurs by itself. This means that social change is basically formed from various factors, including assumptions, paradigms, social theories, political structures, and others. Thus, social change is a variable that is dependent on other aspects surrounding it, both material and non-material (Muhammadong, 2018).

The development of an increasingly advanced world accompanied by the era of globalization and the rapid development of science and technology in several areas of social life, such as medical, legal, social, and economic, has had a major influence, including legal issues (Musthafa Muhammad al-Zarqa, 2000). Islamic society, as an inseparable part of the world, cannot escape from issues concerning the legal position of a problem.

Barub issues whose legal status is clear and unequivocal, as stated explicitly in the Koran and hadith, will not give rise to pros and cons among Muslims. However, regarding new problems whose legal status is not yet clear in these two sources, it requires ulama to provide solutions and answers quickly and precisely so that Islamic law becomes responsive and dynamic.

To ensure that Islamic law remains dynamic, responsive, and has high adaptability to the demands of change, we must revive the spirit of ijtihad among Muslims. In this position, ijtihad is an inner dynamic for the birth of change to guard the ideals of universality of

Islam as a true teaching. This is where the strategic position of ijti-had lies as an instrument for carrying out social engineering.

Islam believes change is a reality that cannot be denied. Islam also provides the most appropriate position to make it easier for all things to change safely. Religion goes hand in hand with the pace of life. The task of religion is to oversee change properly for the benefit of mankind (Abdul Halim Uways, 1998).

In Islamic law, socio-cultural changes and geographic location are important variables that influence legal changes. Ibnu Qayyim al-Jauziyah stated that "changes in fatwas are caused by changes in times, places, circumstances, and habits (Ibnu Qayyim al-Jawziyyah, 1993). In another fiqh rule, it is stated that "the law re-volves around its illat (legal reasons) in realizing and eliminating the law (Mukhtar Yahya and Fathurrahman, 1996). Therefore, the focus of the study in this paper is Ibn Qayyim al-Jauziyah's theory regard-ing changes in law due to social changes that surround it.

B. RESULT AND DISCUSSION
Understanding Islamic Law

In Islam, law is seen as part of Islamic teachings, and legal norms originate from religion, so the concept of Islamic law is differ-ent from the concept of law in general, especially modern law. Mus-lims believe that Islamic law is law that originates from the Koran and the Hadith of the Prophet Muhammad and is part of the Islamic religion.

The Qur'an is a guide that contains various legal provisions that regulate human life, starting from the rules of true belief and divinity, rules and regulations on how to serve Allah, and ways to get along with fellow humans in the context of muamalah relation-ships, to the rules for behaving and behaving with fellow creatures of Allah. This is what is then called Islamic law.

Islamic Sharia, which regulates belief in God and correct belief, is called al-ahkam al-tiqadiyyah. Islamic Sharia, which regulates the procedures for serving and serving Allah and interacting with fellow humans in the context of muamalah, is called al-ahkam al-'amaliyyah. The Islamic law that regulates how a person behaves and behaves with fellow creatures of Allah is called al-ahkam al-akhlaqiyya (Dedi Ismatullah, 2011).

In further developments in the treasures of Islamic thought, the terms fiqh and Islamic law emerged. These two terms appear as a more specific explanation of the various rules contained in al-ahkam al-'amaliyyah because there are many verses of the Koran or Hadith of the Prophet SAW whose instructions are still general and even vague, so they require a detailed explanation. more operational; this is what is called fiqh.

The term Islamic law is narrower in scope than fiqh and is only known in Indonesia, where it is adopted literally from Islamic law (Dedi Ismatullah, 2011). Thus, Islamic law is not a translation of sharia, because Islamic law is very different from sharia, both in philosophy, source of adoption, and objectives.

The definition of Islamic law also differs among scholars and legal experts in Indonesia. Hasbi Ash-Shiddieqy explained that Islamic law is a collection of the fuqaha's efforts in implementing Islamic law in accordance with the needs of society (T. M. Hasbi Ash-Shiddieqy, 1982).

Hasbi as-Shiddieqy's opinion means limiting Islamic law to only fiqh, so that Islamic law still opens up the possibility of change or development in accordance with the demands and social conditions of the community concerned.

Meanwhile, Amir Syarifuddin stated that Islamic law is what the syaari (lawmaker) desires. In this case, Syaari' is Allah. Syaari's will can be found in the Koran and its explanation in the Sunnah. Understanding Syaari's will depends entirely on understanding the legal verses in the Qur'an and the Hadith of the Prophet (Amir Syari-Fuddin, 2008).

Thus, it can be said that Islamic law is law based on Allah's revelation, so that according to Amir Syarifuddin, Islamic law includes sharia law and fiqh.

Based on the explanation above, it can be understood that Islamic law has never changed. This shows that Islamic law here means sharia law, which is complete and perfect. On the other hand, Islamic law can and will continue to change according to developments and the demands of society; here, Islamic law means fiqh.

Thus, it can be understood that Islamic law and fiqh are a set of rules of Allah SWT as a product of the ijtihad of mujtahids, which

are dynamic, moving, and following developments and demands of society according to the place and era.

Biography of Ibn Qayyim al-Jauziyah

Ibn Qayyim al-Jauziyah's full name is Muhammad bin Abi Bakar bin Ayub Sa'ad bin Sa'ad al-Ruz'ial-Dimasqy Abu Abdillah Syamsuddin (Ibnu Qayyim al-Jauziyyah, 2003). He is better known as Ibnu Qayyim al-Jauziyah because his father was the school principal and guard (qayyim) of Madrasah Jauziyah. He was born in Damascus on 7 Safar 691 H., which corresponds to January 29, 1292 M., and died on 13 Rajab 751 H., which corresponds to September 26, 1350 M. He was buried in Babu al-Shaghir (Ibnu Qayyim al-Jauziyyah, 2003).

Ibnu Qayyim grew up and developed in a religious, scientific family and had many advantages under the care and guidance of his father. At the age of seven, Ibnu Qayyim had begun to learn to read hadith and other sciences in assemblies of shaikhs and teachers. At this age, Ibnu Qayyim had listened to several juz related to ta'bir al-Ru'ya (interpretation of dreams) from Shaikh Syihabuddin al-'Abir. He has also perfected the knowledge of nahwu and other Arabic knowledge from Shaykh Abu al-Fath al-Ba'labakki, such as Alfiyah Ibnu Malik and others (http://ceritamuslim.com/biografi-ibnul-qayyim-al-jauziyyah, 2018).

Ibn Qayyim studied with many teachers; among these teachers was Ibn Taimiyah. He was known as Ibn Taymiyah's most important student and was even named as the head of the students (class head), so that Ibnu Taimiyah was not mentioned by name unless Ibnu Qayyim al-Jauzi's name was also mentioned at the same time (http://ceritamuslim.com/biografi-ibnul-qayyim-al-jauziyyah, 2018).

Ibnu Qayyim is a jurist of the Hambali school of jurisprudence who is an expert in various fields of science. He is known to have authority in the science of interpretation, as well as being an expert on hadith, an expert on nahwu science, an expert on ushul al-fiqh, and an expert on kalam science. He is also skilled at forming cadres of ulama. From his hands were born famous scholars from various schools of thought in the land of Syria, both Syafi'iyyah and Hanabilah. Like Ibn Kathir, Imam al-Zahabi and Ibn Rajab were students of Ibn Qayyim al-Jauziyah.

Ibn Qayyim is known to be prolific in writing books. It is recorded that he has written around 41 books in various scientific disciplines during his life. Because of this, it is nicknamed the "dictionary of science" (Inpa-sonline.com, accessed March 29, 2018).

Ibn Qayyim lived in a totally scientific atmosphere. He utilized all his time to study and deepen the principles of Islamic teachings, as well as fight atheism, falsehood, and deviation. His entire life was spent fighting the problem of doubt that developed around Islam. He called for freedom of thought but still adhered to the basic teachings of Islam and the beliefs of the Salaf. He followed in the footsteps of his teacher, Ibn Taymiyah, and liberated the principles of Islamic teachings, which had been mixed with bid'ah and kurafat. He also had various thoughts and civilizations and mastered various kinds of science. If Islamic civilization is filled with the names of pious scholars and great thinkers, then the name Ibnu Qayyim is one of them (Ibnu Qayyim al-Jauziyyah, 2003).

That is Ibn Qayyim al-Jauziyah; his expertise in various scientific disciplines is beyond doubt, so his thoughts, especially on the issue of reforming Islamic law, are still relevant in the current era. In fact, his theory of social change has become the main topic of discussion for every mujtahid who tries to actualize and ground Islamic law so that it remains suitable in all times and places.

Ibn Qayyim al-Jauziyyah's Theory of the Influence of Social Change

Ibn Qayyim al-Jauziyyah's fiqh and ushul fiqh thoughts are outlined more in his books, I'lam al-Muwaqqi'in, 'an Rabb al-'Alamin, and Thuruq al-Hukmiyyah. He discussed in depth ijtihad and its methods. According to him, ijtihad must develop in accordance with developments in situations and conditions in various places and times. Because of this, he put forward a rule that is familiar among fiqh scholars, namely taghayyur al-ahkam bi taghayyur al-azman wa al-amkinah wa al-ahwal wa al-niyat wa al-'awa'id. His ijtihad thoughts were a reflection and opinion that developed in society at that time that the door to ijtihad had been closed (16 Dahlan, Abdul Azis, 2006). This made Ibnu Qayyim and his teacher, Ibnu Taymiyyah, increasingly introduce the ideas of freedom of opinion. In fact, according to him, ijtihad must continue to be developed because the laws that existed at that time were no longer in accordance with

developments in time and place. (Kangbudhi.blogdetik.com, accessed March 29, 2018).

Ibn Qayyim, in his manhaj al-isthinbat, in matters of determining the law, always adheres to the book of Allah, sunnah, ijma', qiyas, istishhab, fatwas of friends, maslahah murlah, sadd al-dzari'ah, and urf (Ibn Qayyim al-Jauziyah, 2003).

Analyzing and paying close attention to the description above, it seems that the man-haj used by Ibn Qayyim in the field of jurisprudence is very much related to the conditions and era he was in, and also looking at the condition of the society where the law will be applied. This influenced the ijtihad method he used, especially the issue of urf and sadd al-dzira'ah. Therefore, the rules of jurisprudence that he put forward contain a broad and deep understanding of various aspects of jurisprudence because Islamic law always refers to human benefit, and human benefit is much related to place, era, and environmental conditions.

For greater clarity, see Ibn Qayyim al-Jauziyyah's theory in his book I'lam al-Muwaqqi'in 'an Rabb al-'Alamin (Ibn Qayyim al-Jauziyah, 2003). as follows:

<div dir="rtl">فى تغير الفتوى واختلافهــــا بحسب تغير الازمنة والامكنة والأحوال والــنيات والعوائد</div>

It means:

Changes and differences in fatwas are based on changes in time, place, conditions and intentions and customs.

<div dir="rtl">بناءالـــشريعة على مـــصالح الـــعبد فى الـــمعاش والمـــعاد</div>

It means:

Sharia is enforced for the benefit of servants in this world and the hereafter.

The more complete text is as follows: "This is an article that is very useful (so it doesn't know about it), but there are a lot of big mistakes in understanding the Shari'ah that actually give rise to sin, difficulties, and burdens on something that is actually the Shari'ah itself (which was established for the benefit of humans) does not stipulate that, because in fact the foundations and principles of the Shari'ah are policies and goodness for mankind in this world's life and also in the life to come. Shari'ah brings justice, mercy, and benefit to all, so that every problem that flows from justice leads to error, from mercy leads to the opposite, and from maslahah (bene-

fits) and from wisdom leads to chaos, then that is not part of shari'ah. Even though it is included in Takwil, Shari'ah is Allah's justice among His servants, His mercy among all His creatures, His shadows on the face of the earth, His wisdom, which shows Him, and also the truth of His Messenger perfectly and correctly. And the Shari'ah is also His light, so that people who have the eyes of the heart can see it; it is also His guidance, so that people who receive guidance will get guidance; and if only it were not for the functions of the Shari'ah, if it still exists, then the world will truly be destroyed and nature folded" (Ibn Qayyim al-Jauziyah, 2003).

In this way, the Shari'a is the preserver of humans and the guardian of the establishment of this nature, by means of which Allah keeps the heavens and the earth from being destroyed. So if Allah SWT wants to destroy the world and fold nature, Allah will undoubtedly lift up what remains of the functions of the Shari'ah. With the Shari'ah, Allah also sent His Messenger. Sharia is the pillar of this world and also the pole of luck and happiness in this world and the hereafter.

Here the question arises: do all fatwas regarding Sharia law have to be adapted to the time, place, and traditions? Regarding this, Ibnu Qayyim said in his book Ighasyah al-lahfan, as quoted by Yusuf Qardawi (21 Yusuf Qardawi, 2003). as follows:

"Law is divided into two schools: first, law, which is standard and does not change due to time, place, and the ijtihad of ulama. Such as obligatory and haram cases, sanctions for criminal acts that have been determined by the Shari'a, and so on. This model law has not changed and does not provide room for other different ijti-had. Second, laws that are adapted to the demands of benefit at a particular time, place, and circumstances, such as the size, type, and nature of punishment, In this condition, the Shari'ah provides the freedom to choose what best suits one's benefit."

Furthermore, Ibn Qayyim gave an example, as in his book I'lam al-Muwaqqi'in, as follows: Prohibition of cutting off the hands of thieves during war. The Prophet (PBUH) forbade cutting off the hands of thieves during war. This history was conveyed by Abu Daud, and this is one of the provisions of Allah SWT, while Rasulullah SAW has prohibited its implementation in conditions of war because it is feared that it will spread to something that Allah SWT hates more by apostasy or ending it by the thieves' friends

from among the people. polytheists for the reason of protecting it and because of their anger, as stated by Umar, Abu Darda, and Huzaifa.

According to Ibnu Qayyim, most of the actions of ending (punishment) are for the sake of a strong benefit, whether that benefit is part of the needs of the Muslims or because of fear that they will leave Islam (apostate) and become infidels. Ending a had for a purpose is a matter that has been determined by the Shari'ah, as is ending it during pregnancy and breastfeeding, during times of heat, cold, and illness. This is a suspension carried out for the benefit of the person being punished, and ending it for the benefit of Islam is more important (Ibn Qayyim al-Jauziyah, t.t.).

The Influence of Ibn Qayyim al-Jauziyah's Theory on the Determination of Islamic Law

In the study of Islamic law, the influence of elements of change can lead to social changes in the system of Islamic thought, including the renewal of Islamic law. Basically, the renewal of Islamic legal thought only elevates the locality and temporality aspects of Islamic teachings without ignoring the universality and eternity aspects of Islamic law itself. Without efforts to reform Islamic law, there will be difficulties in popularizing Islamic law in particular and Islamic teachings in general (Muhammad Azhar, 1996).

Considering that Islamic law is an important part of religious teachings, it is necessary to emphasize which aspects are undergoing changes (the area of ijtihadiyah). Here it can be emphasized that religion, in its understanding of God's revelation, has not changed, but human thinking about its teachings, especially in relation to their application in and among society, may change. Based on the above, the changes referred to are not textual changes but contextual changes.

The increasingly advanced development of the world, accompanied by the era of globalization and the rapid development of science and technology in several areas of social life, such as medical, legal, social, and economic, has had a major influence, including legal issues (Musthafa Muhammad az-Zarqa, 2000). Islamic society, as an inseparable part of the world, cannot escape from issues concerning the legal position of a problem.

Society, with its various dynamics, demands social change, and every social change generally requires a change in the value and legal system. Marx Weber and Emile Durkheim stated that "law is a reflection of the solidarity that exists in society." In line with Marx, Weber, and Durkheim, Arnold M. Rose put forward a general theory of social change in relation to legal changes. According to him, the legal changes will be influenced by three factors: first, there is a progressive accumulation of discoveries in the field of technology; second, there is contact or conflict between people's lives; and third, the existence of social movements (Soerjono Soekanto, 1985). According to the theories above, it is clear that law is more of a consequence than a causal factor in social change.

The influences of the elements of change above can give rise to social changes in the system of Islamic thought, including the renewal of Islamic law.

Basically, the renewal of Islamic legal thought only elevates the locality and temporality aspects of Islamic teachings without ignoring the universality and eternity aspects of Islamic law itself. However, in reality, without efforts to reform Islamic law, there will be difficulties in popularizing Islamic law in particular and Islamic teachings in general.

To ensure that Islamic law remains dynamic, responsive, and has high adaptability to the demands of change, this is done by reviving the spirit of ijtihad among Muslims. In this position, ijtihad is a method for the birth of change to safeguard the universal ideals of Islam as a system of righteous teachings.

Muslims are fully aware that normative-textual legal sources are very limited in number, while new cases in the legal field are unlimited in number. Therefore, Ibn Rushd states in the book Bidayat al-Mujtahid that "the problems of people's lives are unlimited in number, while the number of texts (both the Qur'an and al-Hadith) is limited. Therefore, it is impossible for something that is limited in quantity to face something that is unlimited (Ibn Rushd, t.t.).

The spirit or moral message that we can understand from Ibn Rushd's statement above is the recommendation to carry out ijtihad on new legal cases whose legal sources are not explicitly explained in the text. Thus, Ijtihad is the only way to dynamize Islamic teach-

ings in accordance with the demands of changing times and the various complex issues that enter all dimensions of human life.

Islam believes change is a reality that cannot be denied. Islam also provides the most appropriate position to make it easier for all things to change in a valid and safe manner. Religion goes hand in hand with the pace of life. The task of religion is to oversee change properly for the benefit of human life. This is where the real task of a Muslim scholar is: to formulate the right approach and methodology according to the surrounding context so that religion becomes functional and grounded.

In Islamic law, socio-cultural changes and geographic location are important variables that influence legal changes. Ibn Qayyim al-Jauziyah stated that "changes in law are due to changes in time, place, circumstances, and habits" (Hasbi ash-Shiddiqie, 1993). In another fiqh rule, it is stated that "the law revolves around its illat (legal reasons) in realizing and eliminating the law" (Mukhtar Yahya and Fathurrahman, 1996).

One concrete proof of how socio-cultural environmental factors influence Islamic law is the emergence of two opinions of Imam Syafi'i known as qaul qadim and qaul jadid. The old opinion (qaul qadim) is the legal opinion of Imam Syafi'i when he was in Egypt (A. Hasan, 1994). The difference in legal opinion on the same issue from a Mujtahid Imam Syafi'i is clearly due to factors of social structure, culture, and geographical location between Iraq (Baghdad) and Egypt. Society, with its various activities, demands social change, and every change in society in general demands a change in the value and legal system.

This condition shows that the law exists largely as a result of the factors that cause social change. The influences of the elements of change above can give rise to social changes in the Islamic thought system, including the renewal of Islamic law.

Ibn Qayyim al-Jauziyyah's theory of fatwa change is a conceptual formulation of the renewal of Islamic legal thought. The target of Islamic law reform in this case is fiqh. Jurisprudence is the result of the thoughts of experts. In exploring jurisprudence, the scholars are very influenced by their social conditions, so sometimes there are differences of thought among the jurists who differ in the conditions of time and place. This also emphasizes that in jurisprudence there are opportunities for rethinking or reforming.

According to Amir Syarifuddin, there is a need to renew Islamic legal thinking (fiqh) in order to achieve the benefit of society in accordance with the objectives of the law revealed by Allah SWT. Meanwhile, the benefit to the people is largely determined by factors of time, place, and circumstances. Benefits can change if times have changed and societal conditions have also changed. What is considered beneficial at a certain time may no longer be considered beneficial at the next time,at the next time, and vice versa (Amir Syarifuddin, 1993).

According to Ibn Qayyim al-Jauziyyah, important factors for formulating legal provisions or legal determinations must be linked to five things, namely al-azminah (time situation), al-amkinah (place situation), al-ahwal (circumstances), al-niyat (because of intention or desire), and al-awa'id (custom or tradition). All of this influences the development of the law. It is possible that a legal provision has existed in the past, but because the current times and situations are different from the past, the law has changed to be further developed.

To find out the relevance of Ibn Qayyim al-Jauziyyah's theory to the determination of Islamic law, it can be used as an example in the case of:

1. Public Law (siyasah)

When the Indonesian Democratic Party of Struggle (PDIP) won the 1999 election, views emerged among Indonesian ulama (kyai). Some ulama said that a woman should not be head of state (president), and other ulama stated that women could become head of state. These two opinions actually both understand the authentic hadith text narrated by Imam Bukhari, Ahmad bin Hanbal, al-Nasa'i, and at-Tirmizi from Abu Bakrah. When the Messenger of Allah heard the information that the Persian population was ruled by a queen, the daughter of Maharaja Kisra (Chursu), he said:

$$ لـــن يفلح قوم ولواأمــــرهم امـــرأة^{31} $$

It means:

> People who hand over their affairs to women will not be happy (Muhammad bin Isma'il bin Ibrahim bin al Mughirah bin Bardizbah, 1987).

M. Quraish Shihab, in commenting on this hadith, is of the opinion that this hadith cannot be understood as generally applicable

but must be linked to the appointment of the daughter of the supreme ruler of Persia, Buwaran bint Syairawaih bin Kisra bin Barwaiz, as the heir to the power of her deceased father. How can it be said that all supreme rulers who are women are doomed to failure? Doesn't the Qur'an describe how wise Queen Saba was, who led the Yemeni region? As stated in Q.S. al-Naml, verse 44, In fact, before and now, there are many women who lead various countries and are successful in their leadership, surpassing the success of a number of male heads of state (M. Quraish Shihab, 2005).

This case actually challenges the mujtahids to be able to carry out ijtihad in an intiqa'i or tarjihi manner, whichever opinion is considered more contextual and more suitable to the demands of current conditions.

2. Private Law
    a. Marriage

The decision of the South Jakarta Religious Court Number 1751/P/1989 has examined and given a decision at the first level regarding the marriage isbat case submitted by Prof. Dr. H. Baharuddin Harahap, who legalized the marriage between Drs. Ario Sutarto bin Soeroso Darmo Atmodjo and Dra. Nurdiani bint Prof. Dr. H. Baharuddin Harahap on May 13, 1989. Implementation of the marriage contract via telephone (Abdul Manan, 2006).

The decision by the South Jakarta Religious Court has given birth to new laws that are not regulated in fiqh books and statutory regulations regarding marriage in Indonesia. The stipulation regarding the validity of marriage via telephone has given a new nuance to marriage law, which initially did not receive much response from the Islamic community, but now this stipulation has been widely followed by the Islamic community in carrying out marriages if they encounter the same difficulties as the contract event. got married over the phone.

The judges of the South Jakarta Religious Court have made ijtihad find the law for a problem as a result of advances in science and technology so that there is no legal vacuum for new problems that arise in people's lives.

    b. Inheritance (Gono-Gini assets)

The gono-gini system is regulated in the Compilation of Islamic Law Article 96, Paragraph (1): "In the event of a divorce, half of the joint property becomes the right of the spouse who survives long-

er." It seems that this provision was adopted from customs that have grown and developed in society.

In the practice of dividing the inheritance of mutually beneficial assets, after taking half and giving it to the spouse who lives longer, the remaining half is then divided using the inheritance division system (Ahmad Rofik, 2002).

The law of gono-gini was not discovered at the time of the Prophet Muhammad. So it can be said that this is the result of the ijtihad of the Indonesian ulama, who accommodated the customary laws that apply in society as long as the customary law does not conflict with Islamic law.

C. CONCLUSION

From the description of the previous discussion, it can be concluded as follows:

1. Ibn Qayyim al-Jauziyah, with his theory of legal change, called for freedom of thought but still adhered to the main teachings of Ilam and the aqidah of the Salaf. In his view, ijtihad must continue to develop in accordance with developments in situations and conditions in various places and times.
2. The influence of Ibn Qayyim al-Jauziyyah's theory shows that the formulation of Islamic law is needed to answer various developing problems, both developments in science and technology and social changes occurring in society.

D. REFERENCE

Al-Munawwar, Said Agil Husein. (2004). *Islam dalam Pluralitas Masyarakat Indonesia*. Jakarta: Kaifa.

Arifin, Syamsul dkk. (1996). *Spiritualisasi Islam dan Peradaban Masa Depan*. Yogyakarta: Sipress.

Ash-Shiddieqi, T. M. Hasbi. (1982). *Pengantar dan Sejarah Hukum Islam*. Jakarta: Bulan Bintang.

Ash-Shiddieqi, T. M. Hasbi. Falsafah Hukum Islam. Jakarta: Bulan Bintang, 1993. Qardawi, Yusuf. (2003). *Membumikan Syari'at Islam Keluwesan Aturan Ilahi untuk Manusia*. Cet. I; Bandung: Mizan.

Azhar, Muhammad. (1996). *Fiqh Kontemporer Dalam Pandangan Neomodernisme Islam*. Yogyakarta: Pustaka Pelajar.

Az-Zarqa, Musthafa Muhammad. (2000). *Hukum Islam dan Peru-bahan Sosial* (Studi Komparatif Delapan Mazhab). Terj. Ade Dedi Rohayana, Jakarta: Rineka Cipta.

Dahlan, Abdul Azis. (2006). *Ensiklopedi Hukum Islam*. Cet. I; Jakar-ta: PT Ichtiar Baru Van Houve.

Hasan, A. (1994). *Pintu Ijtihad Sebelum Tertutup. Bandung: PT al-Ma'arif*.

http:// kisahmuslim.com/ biografi- ibnul- qayyim- al- jauziyyah. Di-akses tanggal 29 Maret 2018.

Inpasonline.com. diakses tanggal 29 Maret 2018.

Ismatullah, Dedi. (2011). *Sejarah Sosial Hukum Islam*. Cet. I; Ban-dung: CV Pustaka Setia.

Kangbudhi.blogdetik.com. diakses tanggal 29 Maret 2018.

Manan, Abdul. (2006). *Reformasi Hukum Islam*. Cet. I; Jakarta: Ra-ja Grafindo Persada.

Muhammad bin Isma'il bin Ibrahim bin al Mughirah bin Bardizbah, (1407 H/1987 M). Shahih Bukhari Juz XIII, Beirut: Dar Ibn Kasir.

Muzdhar, M. Atho'. (1998). *Membaca Gelombang Ijtihad antara Tradisi dan Liberasi*. Yogyakarta: Titian Ilahi Press.

Qayyim, Ibn al-Jauziyah.(t.t). *I'lam al-Muwaqi'in Rabbi al-'Alamin*. Beirut: Dar al- Fikr.

Qayyim, Ibnu al-Jauziyyah.(2003). *Al-Fawaid: Menuju Pribadi Takwa, Terjemah Munirul Abidin*. Cet. II; Jakarta: Pustaka al-Kautsar.

Rofik, Ahmad. (1993). *Fikih Waris*. Cet. IV; Jakarta: Raja Grafindo Persada, 2002. Syarifuddin, Amir. *Pembaharuan Pemikiran da-lam Hukum Islam*. Cet. II; Padang:Angkasa Raya.

Rusyd, Ibn. (t.t.). *Bidayat al-Mujtahid wa Nihayat al-Muqtashid*. In-donesia: Daar al- Kutub al-Arabiyyah.

Shihab, M. Quraish. (2005). *Perempuan*. Cet. I; Jakarta: Lentera Hati.

Soekanto, Soerjono. (1994). *Pokok-Pokok Sosiologi Hukum*. Jakar-ta: Raja Grafindo Persada.

Syarifuddin, Amir. *Ushul Fiqh* Jilid II. Ed. I; Cet. 4; Jakarta: Kencana, 2008. Soesanto, Astrid S.(1985). *Pengantar Sosiologi dan Perubahan Sosial*. Jakarta:Binacipta.

Yahya, Mukhtar dan Fathurrahman. (1996). *Dasar-Dasar Pembinaan Hukum Fiqh Islam*. Bandung: PT Al-Ma'arif.