EDITORIAL

A Problem of Methodological Approaches to Islamic Law Studies

It has often been said that "law is the distilled essence of civilization of people and it reflects the people's soul more clearly than any other organization. If this is true of peoples and civilizations in general, there can be no doubt that it is particularly true of the world of Islam." Accordingly, it could be easy to understand that law has a central position among Muslims and that it may be not an exaggeration to say that "there is no subject more important for the students of Islam than what is usually called Islamic law." This, of course, is the ideal characteristic of Islamic law.

In practice, however, modern scholarship has shown the weakness of the study of Islamic law, more particularly in terms of the problems of approach and method (*uṣūl al-fiqh*). *Uṣūl al-fiqh* is often described as a theoretical, rather than empirical, discipline which is studied more for its own sake than as a means of developing the law in relationship to new issues. Above all, the methodology of research in the field of Islamic law (or in the study of Islam in general) is very much relied on linguistic and textual analysis and pay little attention to empirical reality. This creates a gap between those discussed by *fuqahā'* in the book of *fiqh* and the real problems faced by the *ummah*. In short, there is a gap between theory and practice.

In the last few years, the students of Islamic law has shed light on how to deal with such a problem. According to some, three agendas should be adrressed. First of all, the relationship between reason (*al-'aql*) and revelation (*al-waḥy*) should be redifined. Secondly, the meaning of *ijtihād* and the role of *fuqahā'* in the process of intellectual reform should also be redifined. Lastly, the religious-secular dualism which is a creation of Western scholarship should be ended as it is alien to Islamic thought. In line with this, some are of the opinion that to solve the problem, scholars should go beyond the boundaries of the conventional *uṣūl al-fiqh*, paying attention to the development of methodology used in the field of social sciences. As such, they divide the law, as an object of research, into three categories: (a) law as a doctrine dealt with philosophy of law, logic of law, and the method of *ijtihād*, etc. (b) law as a norm concerned with the inventarization of law, sincronization of law, comparative madhhab and law, jurisprudence, etc. and (c) law as a social pehenomenon dealt with the mutual interaction between law and society, such as the formulation of law, its application, its institutions, its history, and its function

as a social engineering. It has often been said that the research of Islamic law, so far, focuses more on the first category, give some attention to the second, and lack of the third aspect, as a social phenomenon.

It is indeed realized by many that such a methodological problem of research is not an easy one to solve. Serious efforts to reach the ideal type of the study of Islamic law will certainly take time. The articles on Islamic law published in the present journal may be considered as continuing efforts which corroborate to those already done by other scholars or institutions.

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