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FOREWORD

Welcome again to the ninth edition of ESTEEM Academic Journal (Social Science and Technology issue). It also marks the second successive issue that Unit Penerbit, Universiti Teknologi MARA (Pulau Pinang) has published online journal in tandem with the marked growth of popularity among readers in electronic journals. Apart from that, it has made accessible the online journal in both PDF and EPUB files. It is hoped that these two formats will facilitate readers to view the content using different gadgets and options available to them. This will definitely advance the sharing of research materials and discussions between the authors and the wider fraternal scholars.

ESTEEM Academic Journal 9(2) has also received overwhelming support from many authors from within UiTM main campus as well as from branch campuses and also likewise from other local public institutions. The Editorial Board has its hands full trying its level best to process as many articles as possible for the intended publication. It is therefore befitting that thanks should be accorded to all the relevant parties for making this publication of academic journal yet another reality.

First and foremost, I would like to thank Associate Professor Mohd Zaki Abdullah, outgoing Rector of UiTM (Pulau Pinang), Associate Professor Ir. Hj. Bahardin Baharom, former Deputy Rector of Academic & International Affairs and Dr. Mohd Subri Tahir, Deputy Rector of Research, Industry, Community & Alumni Network for their selfless guidance and enduring support. Next, I would like to register my sincere thanks to the panel of reviewers, managing, language and formatting editors for toiling tirelessly through trying times in order to make this online journal more available to a wider academic community. Lastly, I would like to thank all the authors who have contributed their articles for consideration in ESTEEM Academic Journal and congratulate those who have had their articles published. I look forward to the continued firm support from all the concerned parties. To the readers and researchers alike, I once again hope that you will gain some insights and knowledge from reading these articles.

Liaw Shun Chone
Chief Editor
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CONTEMPORARY TAFALQUH PROGRAMME MODULE IN MOSQUES: A REVIEW AND PROPOSAL

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ABSTRACT

This paper focuses on the module development model for tafaqquh at the mosque in Kubang Pasu, Kedah. The tafaqquh programme has been systematically conducted jointly by JAKIM, the State Islamic Affairs Department and mosques' management committees. The programme has been made successful and effective by the contribution and cooperation of takmir teachers who have been appointed and trained intensively. These takmir teachers play very significant roles in the realisation of the aspiration and the scheme in developing knowledgeable society through the involvement of the mosque. To get the holistic view of the theme and subject of the study, focus is made on several key elements; the history of the development of tafaqquh programme module in the societies of the Malay Archipelago, Islamic education theory which correlates to the National Philosophy of Islamic Education : Studying fiqh method from the current methodology and pedagogy and finally the presentation of the current tafaqquh module of Alternative Islam in Malaysia. The learning of fiqh must be viewed from a broad context and it should be able to have an influence on the life of human beings from all living aspects. The Philosophy of Islamic Education, which is based on al-Quran and al-Sunnah should be able to be implemented realistically. The modification and upgrade of the studying fiqh syllabus in mosques require a drastic approach, besides practical module construction. Through these, it is hoped that the only learning of fiqh through the tafaqquh programme in mosques will progress on par with modernisation and current 'urf awareness in the society.

Keywords: Tafaqquh programme; studying Fiqh; Takmir programme; mosque; Islamic studies.

1. INTRODUCTION

The total perspective on knowledge that is gained by mankind is that it is constructed by man in the context of thinking culture, education and social concepts. In discussing studying *fiqh*, the notion of learning that crosses our mind is about learning rituals e.g. divine knowledge. Studying *fiqh* should encompass very broad context, and it may influence our lifestyle, from

every aspect of living. Therefore the role of the takmir programme teacher should not only concentrate on the matter of information transfer but also relates to the aspect of developing a knowledgeable society with contemporary intellectual values.

The main aim of ensuring dynamic studying *fiqh* is through the enrichment of *tafaqquh* programme module in mosques. It is clear that studying *fiqh* requires a dynamic teaching and learning mechanism. It is obvious that this focus is the most significant aspect which should not be ignored, to ensure that studying *fiqh* is on par with the modern technological and scientific advancement nowadays. At present, *Tafaqquh* programme is based on temporary learning modules, is the foundation for practising and implementing effective *tafaqquh* programme.

This approach is more realistic in improving the function and contribution of studying *fiqh* in facing the changing system of lifestyle now.

2. THE DEVELOPMENT OF TAFUQQUH PROGRAMME IN THE SOCIETY OF THE MALAY REALM

From the historical perspective of the Malay realm, we can see that the Malay-Muslim society has understood and has totally practised this symbiotic paradigm. Based on the analysis of muslim intellectuals, the development of the *tafaqquh* module in the Malay domain can be adapt as a conceptual from several main theories (Syaukani, 1999); among them are:

1. *Syahadah and Credo* theory. Based on this theory, when a person embraces Islam, it is compulsory for him to practise Islamic principles in his daily life. The process of Islamisation of the Malay realm has caused Islamic principles to be implemented; which is further strengthened by the sultanate institution, hence creating islamic judiciary and the system of judicial studies in the society.
2. *Receptio in complexu* theory. As the mosque institution and Islamic education is strong in the Malay-Muslim society, Islamic laws has gained a strong footage in the society and this has become a normal practise ('urf) which is a basis for self-esteem for individuals in the Malay domain. This element has become the main element in the behavioural and aspiration pattern in the Malay tradition.
3. *Reception Exit* theory. This theory came about alongside the British which colonialised the Malay states; influencing every aspect of the Malay society, from politics to the epistemology of the Malay society to the extent of disturbing and spoiling the development of the Islamic education system which had been active earlier.
4. The theory of the influence of the movement of islamic revival awareness in the 1970s on the development of Islamic judiciary in Malaysia. The Islamic awareness movement had triggerd a more positive commitment and political trend of Islamic judiciary by the government. Islamic higher learning institutions for example had placed effort to develop a more practical *Fiqh* syllabus, not merely rhetorical.

The fact that the studying Islamic studies, which had developed in the Malay-Muslim society for decades, is dynamic, flexible and very influential on the Malay culture; and is regarded as the ultimate force which can have an effect on the government.

3. STUDYING *FIQH* METHODOLOGY: CURRENT METHODOLOGICAL AND PEDAGOGICAL PERSPECTIVE

It is obvious that Muslims had practised higher level knowledge culture during the Islamic golden age (Zain, 2005). Among the factors that contribute to the excellent knowledge culture are open attitude and being selective on the type of knowledge and method of learning besides controlled Islamisation process on the epistemological aspect of the knowledge. The next factor is critical analytical thinking on the knowledge without being fanatical on a certain teacher. What is significant here, based on this legacy, is to study the effectiveness in facing the current demand and the modernisation in Malaysia. This awareness should lead to the reconstruction of studying *fiqh* through modern knowledge application approach especially on science to ensure the relevance of the past knowledge culture.

The rationale is to see that large and influential institution should possess a solid identity of its own. The learning of *fiqh* in Malaysia should have an authoritative methodology before moving further. Due to this factor and also the current situation, we should place several important foundations in developing the current studying *fiqh* system.

Because the learning of *fiqh* is dynamic, its scope and methodology should also develop in tandem with the needs of the society and the learning itself. Focus on the general syllabus will be of God's revelations (*wahyu*) and *fuqaha's ijtihad*. Knowledge legacy is codified into a variety of writing forms, including *fiqh* manuscripts (Majib, 1988). Generally, this legacy is the product of *fuqaha's* understanding on the demands of the *Syariah* which is characterized by *wahyu*. The understanding based on *fuqaha's* thoughts is something that always develops according to situations, intellectual capabilities and the reality of life.

The fact that there are no short cuts in studying *fiqh* has made it more dynamic and multi-functional in this era. The learning methods which should be implemented are : inculcating all knowledge elements in the *fiqh* legacy in the syllabus, analysis all current issues, and synthesising all forms of science methodology by positive selection. It is hoped that through this methodology *Syariah* principles in al-Quran and al-Sunnah can be implemented integratively with contemporary intellectual values.

To achieve this discourse, parallel thinking pattern has to be established. (Hassan, 1997). This is to differentiate between *Syariah* principle as basic thoughts in solving edicts and *fiqh* legacy which is the product of assimilation between *Syariah* principles with a certain intellectual person. This approach has to be produced simultaneously with critical and creative thinking elements. Both elements of thoughts are combined to assess a new finding; thus forming a pattern of concept which is more holistic. Besides, there will be a prospect to generate scholars who prioritize intellectual freedom.

In studying *fiqh* the focus is to assist students to know, understand, practise, appreciate (analysis, synthesis, assessment, alive) and inculcate (growth) concept, process, principle, skill, procedure, rules, belief, values, moral and courtesy. The strength of studying *fiqh* is a concept which can be used to identify several skills and abilities, nurtured by students. In

addition, several knowledge characteristics possessed by students can be categorized as follow : (Pa, 2007);

- 1) Based on constructs thought by students and not found from the physical environment students' background knowledge. Knowledge of *Syariah* from this basis may be flawed.
- 2) Generated from activities based on students' background knowledge or from daily needs.

Both characteristics mentioned above can involve misunderstandings, misinterpretations. They are however open to enrichment. Students' thoughts are like generators waiting to be activated. Brainstorming technique can be used to generate strategies which can be applied in studying *fiqh* methodology. This is important for strengthening and enriching students' way of thinking.

In the meantime, the instillation of reflective thinking elements is very relevant to be coordinated in studying *fiqh* methodology based on students' knowledge construction as discussed earlier. This process can motivate students to think in sequence, quick in decision making, critical in assessment and encourages students to think openly.

These ability and skill play a role in constructing solutions to advanced problems. This is the part where *fiqh* plays its role. This is due to the fact that Islamic *Syariah* prepares general principles of politics, economy, social and so forth. Thus it becomes the responsibility of *Syariah* scholars to deal with current issues by applying principles, methods and *fiqh* legacies besides efforts in analysing elements of culture, social and implications of science and technology.

It is not proper at all to deny the role of legacy sources because without these sources scholars in the modern era will not possess anything. Comparative analysis must be applied systematically and based on inductive methodology. This will provide the students with thinking ability that utilizes facts and general principles. Besides, this approach is very related to the culture of inquiry, whereby students are not given direct solutions to a problem but assisted to get the best answer. The knowledge that the students get will be more meaningful, and they are trained to seek information other than the contents of their text books.

Briefly, it can be concluded that the application and methodology of the elements of scientific way of thinking in the learning of *fiqh* must emphasize on the aspect of generating students' way of thinking. Hence enabling the creation of students with proper methods of thinking: rational, meticulous and objective.

Other than this, students will be provided with the ability to derive and analyze; increasing *ijtihad*. *Ijtihad* capability should have the foundation of *istinbat* and *istidlal*, by referring to modern and legacy sources with authority (Mohamad, 2000). Students ought to have scientific skills; a product of the application of scientific way of thinking. This skill, among others enables them to explore new phenomena based on their background knowledge. Further the students will master the ability to experiment, investigate and understand the relationship between theory, concept and general principles which are contained in the learning of *fiqh*.

Generally the main objective of implementing Islamic education system is to provide skills, knowledge and develop an individual so that they can portray taqwa to Allah Almighty. The role of the teacher especially Islamic education nowadays is more focused on the development of scholars with the main intention of progressing the Muslim society to become the main pillar of the other societies in Malaysia. Therefore the duty of teachers in studying *fiqh* is not restricted to information transfer but is also connected to the formation of *Syariah* scholars who possess contemporary intellectual values.

The pedagogy of studying *fiqh* refers to the teaching and learning in the studying *fiqh* system. Teaching means the method used by teachers to impart knowledge to students. Teaching is considered successful if the objective and goal of the lesson are achieved. Tamuri (2007) mentions:

“Teaching is an art because in the process of teaching a teacher needs to be creative. A creative teacher will make his teaching more interesting and effective”.

In the learning of *fiqh*, the method should be made more interesting by relating contents to current issues and integrating thinking skills. Methods and techniques suggested are problem solving, lecture, recitals, demonstration and discussion.

Based on Daud (1990) analysis, local institutions of higher learning which are involved with Islamic studies are regarded as backward in their teaching and learning process of the course as compared to other courses that they offer. In teaching Islamic studies, these institutions are still adhering to a traditional way. The course, especially *Fiqh* studies, not only inherits knowledge from the past era but is supposed to be able to build a culture integrated with current reality. The negative implication which crops up from the implementation of traditional teaching and learning is that they will produce leaders who are weak, narrow-minded, good in memorizing but not able to think. From here, *Syariah* scholars will be passive, accepting views without being critical, prefers *taqlid* and unable to *ijtihad* and not creative.

At the foundation level, the main pedagogical characteristic which is based on the application of scientific elements not only provide information contained in the *fiqh* treasury, but in fact nurture thinking skills which can produce students with critical and creative minds. The effect is that the students will have the ability to think practically and scholarly (Bono, 2001) and eliminate the frozen syndrome, *jumud* and *taqlid*. These syndromes worry Islamic scholars because it gives an impact to the appreciation of holistic concept and *Syariah* principles ('Audah, 1951).

There are a lot of thinking skills which can be applied in the Teaching and Learning (T & L) of *fiqh* studies. The role of the teachers in this context is to become facilitators and guides to the students. Nurturing the culture of thinking analogy and abductive can be applied in T & L so as to give understanding of concepts to execute complex theory analysis.

This element is important to be applied in the teaching of *masaleh al-mursalah* concept and *maqasid* methods which requires evaluation process and is contextual in nature (Mokhtar, 2007). Next it is synthesised by *al-qiyas* to match to the current academic product. Students should be exposed to a global outlook so that they are familiar with global thinking. This is

very realistic as it can be seen from *Syariah* principles which contains universal elements ('alamiah). Scientific method which is instilled in them enables the teacher to stimulate and encourage students to be involved more actively in lessons especially in discussion activities.

Pedagogic method which is suggested in the learning of *fiqh* is not much different from the method applied in science education. This is most probably due to science itself whereby science is a part of religion. For example, both fields of studies suggest the integration of thinking skills. Other than inquiry method that is to be applied in the learning of *fiqh*, as well as in science education, demonstrative method can also be employed in the T & L of studying *fiqh*. Thinking aids such as statistics application and graphic management are very suitable methods to be applied.

Demonstration through the use of statistics and graphics can increase students' interest and understanding on the subject taught. *Talaqi* method in T & L or based on text or books may create a passive and boring learning environment. Studying *fiqh* should be based on practical approach, not merely theoretical.

T & L skills are important for a teacher to become effective. Among the teaching skills which should be mastered by teachers are to start a lesson by posing a question/problem, giving concrete examples and exposing students to issues related to their environment. The creativity of teachers in conducting T & L is significant in creating a conducive and effective learning environment. Current issues in the orientation of scientific development should be made systematic.

The element of systematic method in the pedagogy of studying *fiqh* will ensure teaching and analysis achieve their goals and minimize errors. Application can be realized in the discussion of rules which are based on *talfiq*, *takhayyur* dan *tarjih*. Discussion should end with fortification and enrichment activities. Through systematic method, students are stimulated to be actively involved in T & L activities. Multi-way communication will be displayed from the process and this makes T & L more interesting and effective.

As a semi conclusion here, studying *fiqh* pedagogy must be reinforced on par with the current modernization. T & L practices which can be considered successful and effective will be able to change students' negative perception and perspective towards the learning. Previously *fiqh* is seen as a study that is static and dogmatic; and ironically the study of *Syariah* is seen as the study of history. The benefit of the inclusion of scientific thinking element in studying *fiqh* will produce students who are more competitive and innovative. Through innovative thinking new ideas can be triggered and students are able to design and create problem solving methods which are idealistic and realistic. All problems can be solved easily when human beings develop their dynamic thinking and willing to embrace change for the betterment of their lives.

4. THE NATIONAL ISLAMIC EDUCATION PHILOSOPHY

The Islamic education institutions in Malaysia has gone through a long period; at the initial stage, learning was institutionalised in the houses of the religious teachers (Langgulung, 1997). Later, when the houses were not able to accommodate the growing number of students, the learning shifted to mosques, which created lodgings of the students in the vicinity which eventually developed into *pondok* (a learning system whereby students live in dormitories

provided by the teacher) (Ishak, 1994). The *pondok* system was dominated by the non-elites of the society (Azra, 1998). The palace of the sultans too became early Islamic education institution but was reserved for the elites (Abdullah, 1989). The madrasah institution was introduced successfully to compete with secular learning system (Bakar, 1990); giving an alternative to the *pondok* system. The first higher level Islamic education institution was established in Kelantan (Omar, 1983).

Referring specifically to the learning of *fiqh*, especially in Malaysia, the main reference was the *Mazhab* of Al- Shafi'i's *turath* (Kementerian Pelajaran Malaysia [KPM], 2005); which became the main factor for *taqlid* widespread in *fiqh* thoughts. History has proven that a society which shuns matters other than its *mazhabarian* beliefs or having a traditionalist view will be less critical and creative (Supena, 2002) as they are made to fear religious and political authority. Idea generation, determination and the courage to challenge dominancy of other religion's status quo will also be reduced.

National Islamic Education Philosophy in Malaysia is a superior platform in the holistic development of studying *fiqh*. however a philosophy will remain a philosophy if it is not applied accordingly. The following is an excerpt of the National Islamic Education Philosophy (KPM, 2005);

“Islamic education is a continuous effort to impart knowledge, skills and appreciation of Islam based on al- Quran dan al- Sunnah to develop attitude, skills, personality and life's perspective as a servant of Allah; with the responsibility to develop one self, the society, the environment and the nation for the betterment of life in the world and eternal prosperity in the world beyond”.

Realistically al- Quran is not translated only on its textual characteristics but also on contexttuality (reality). Guidance from Allah is not without essence; the Holy Quran forms an individual's character so as to ensure he is able to manage himself and the system in the context of pure faith. In the Quran there are nearly 200 verses on science (Yahya, 2003). The ability of Muslim scientists to conduct *tadabbur* and *tafakkur* (An-Najjar, 2002; Husni, 2004) has enabled Islamic scientific tradition to rise gloriously.

In Islamic scientific tradition, technology in any form is considered as a tool. Technology simplifies and shortens means, but it is not the final goal. Technology develops, its product is creative and innovative because research tradition progresses forward. New inputs in technology development enables it to permeate into every *mazhab* or of life; its impact on consumers is overwhelming.

In the education world, the importance of tool and goal go hand in hand. In relation to this, Ibn Khaldun (1968) opines that the goals of education are;

- a) To prepare an individual religiously.
- b) To complement man's moral values.
- c) To complement man's social values.

- d) To complement an individuals vocational and career.
- e) To increase thinking ability.

It is obvious that the content of The National Islamic Education Philosophy is relevant to the actual aim of education. However, the integrative value of science in the curriculum has to be formulated intelligently, creatively and comprehensively.

This approach is important to generate human resource that can contribute effectively in the nation's development process. Besides, from the context of education and training, integrative knowledge is significant in forming a holistic personality which encompasses the mind, spiritual and physical aspects. The development and progress of a country depends on the character and charisma of the people born through its education system. The education system in Malaysia cannot avoid change especially after its independence (Ahmad, 1993). Education involves individual development process (Hashim & Ghani, 2003). From western's point of view, education is related to the process of information transfer, credibility and experience from teacher to pupils or from lecturer to students (Daud, 1991).

Education from the Islamic perspective takes into consideration individual and system development factors. Because dynamic system changes, curriculum type and methodology must also undergo change (Hashim, 1999). However the change in the education system maintains its fundamental basis to ensure the nature of knowledge develops and able to adapt itself to time. The national Islamic education philosophy is in tandem with the national education philosophy (KPM, 2005); which focuses on the development of a balanced individual, integrative and harmonious. Nevertheless a philosophy will only be a slogan if the curriculum applied is not concurrent with its philosophical statement. Curriculum is a tangible plan (Said, 1992). It is concrete in interpreting intention, needs, philosophy and educational goals. Curriculum is also a "blueprint" ; a guide to accomplish a plan or programme (Hashim, 1999). Therefore the success of the implementation of new perspectives in the context of studying *fiqh* module requires a very detail and meticulous plan.

The curriculum reformation of studying *fiqh* in Malaysia is prepared to realize the aspiration and objective of Islamic education which is in tandem with the national education policy and national development policy. The statement made in the national Islamic education philosophy which stresses on the dissemination of knowledge, skills and religious appreciation based on al-Quran and al-Sunnah should be insightfully composed. One of the fields that is immediate or close to education is the development of human resource which is based on a curriculum that is conducive and effective. Therefore, the process of rearrangement and readaptation of the studying *fiqh* system must be done systematically.

5. ALTERNATIVE *TAFALQQUH* PROGRAMME MODULE IN MOSQUES

The result of the critical and futuristic analysis on an amount of theories and concepts of studying *fiqh* for *tafaqquh* programme in mosques shows that the most suitable module must be suggested. On this factor, several matters are suggested :

First, the current *Tafaqquh* Programme Module that is most suitable for Malaysia's society must be based upon the *mazhab* of Shafi'i selectively. In contrast to people who have negative perceptions on *mazhab* practises, we should adopt positive and selective attitude. On

the outside, *mazhab* principles are thinking paradigms of the Muslim society based on world-view and *Syariah* method that had been established by certain fuqaha's. It was founded on Islamic traditional basis; it was not from a certain foreign influences like what was claimed by western orientalist (De Boer, 1994). It is the peak of a very long world-view development process.

World-view is perception of the world, life, belief, and thoughts which function as a catalyst for every human behaviour (Bakar, 1993). According to Zarkasyi (2004), the world-view of Islam is: a vision of reality and truth, a unity of arsitectonic thoughts, which function as a non-observable foundation for all human behaviours, including intellectual activity and technology. Among the basic elements of Islamic world-view are the concept of God, revelations and their creations, human psychology, knowledge, religion, freedom, values, welfare and happiness. In Islam, these elements later on will determine change, development and progress.

The formation and development process of a *mazhab* which is centred on Islamic world-view framework progresses gradually, through 4 main stages (Acikgence, 1996);

- 1) *Quasi-scientific* - when Rasulullah himself explains that revelations of Allah are based on 2 stages: *Makkiah* revelations which emphasizes on the elements of faith, followed by *Madaniah* revelations which expands the akidah principles in the form of judicial system and a more applicative life.
- 2) *Pre-scientific conceptual* – revelations of Allah which contains concepts of life, the physical world, knowledge and ethics and human beings started to be studied in detail by Islamic scholars. The conceptual terms of the revelations like *Ilm, Iman, Usul, Kalam, Nazar, Wujud, Tafsir, Ta'wil, Fiqh, Khalq, Halal, Haram, Iradah* and so forth have triggered thoughts and intellectual research which are very effective among muslims.
- 3) *Scientific scheme* – through the birth of Islamic intellectual tradition, this scheme came about through 3 main phenomena :
 - The existence of Islamic scholars community that explores Islamic knowledge seriously.
 - *Disciplinary stage*; whereupon Islamic scholars who possess intellectual traditions unite to discuss the best subjects and methodology for every Islamic knowledge field. This is mainly the effort of Shafi'i who arranged *fiqh* principles systematically.
 - *Naming stage*; a process whereby the discipline, theory and method are given a specific name, which is usually assigned to a particular teacher. This is how the name *Mazhab Shafi'i* and the like is assigned to a certain fuqaha personage.
- 4) *Continuity dan Changing* – a *mazhab* which is already dominant in its methodology framework will undergo a renewal process (*islah*) to strengthen its existence (Safi, 1998). The history of the world knowledge has noted how a certain doctrin can withstand time period if 4 main conditions are met; first, validity of logic and

argument, second; attracting people to follow, third; able to be applied on the case at hand and fourth; it has a mechanism to process old ideas without leaving aside any important tradition (Faruqi, 2000). Obviously all these four conditions are met by Shafi'i *Mazhab* and other *fiqh mazhabs*; an encouraging factor for them to remain until now.

Based on the above discussion, it can be concluded that muslims uphold on Shafi'i *Mazhab* is not a wrong practise or paradigm in Islam. It is a formula flexible in nature which outlines and guides every issue or uncertainty in the life of muslims. Therefore the flexibility element in the reference of a *mazhab* should be widened to ensure the sustainability of the *tafaqquh* program throughout.

Secondly, by referring to the reality context in Malaysia, the practise of upholding (*Taqlid*) to Shafi'i *mazhab* can still be relevant. This is due to several reasons;

- 1) It acts as the main interpretation/reference of Islam for Islamic scholars. This can be referred to the validity of the *Taqlid* and *ijtihad* concepts. In *taqlid* concept, it is possible for the public to have a *taqlid* to a mujtahid, based on the inability of a lay muslim to fully understand Islamic teachings in depth. The attitude to depend totally on *Taqlid* principle has been restricted to *ijtihad* dan *Tajdid* concepts.
- 2) This approach is set not for the purpose of monopolising the effort of religious interpretations by Islamic scholars only but it is done to avoid any reckless acts from the lay public on basic fundamentals of Islam, interpreting impulsively which may damage the image of Islam.
- 3) Unity and uniformity factors are needed to ensure the existence of socio-political stability in the muslim society. This will facilitate the process of enforcement and administration of Islamic law (El-Muhammady, 1992). It is a basic attempt to avoid conflicts and fanatical *mazhabarian* beliefs as those happening in other parts of the world. However, extreme emphasis on *taqlid* domination may cause unhealthy development of Islamic thoughts (Qardawi, 2004).

The muftis in Malaysia have realized this *taqlid* domination. Hence there are efforts to implement reformism approach to limit overzealous *taqlid* application, especially in the methodology of fatwa pronouncement (Rahman, 2003). Reformation and transformation in the analysis of rules and current *fiqh* should be applied in the construction of contemporary *fiqh* thoughts through *tafaqquh* programme with current issues.

Thirdly, the needs to consider the importance of the present reality in the Malaysian society in the process of fortifying *tafaqquh* programme module to elevate the dynamism of today's Studying *fiqh* (Mohamad, 2000).

From Islamic perspective, not all traditions or old practises are stale and *out of date* (Daud, 2001). The same goes with objective-driven and strong commitment to adhere to traditional Islamic legacy cannot be regarded as obsessed (taasub) and fanatical (Long, 2003). Among the main causes are;

- 1) The attribute of Shafi'i *Mazhab* in the form of paradigm synthesis between the views of *Ahl Ray' and al- hadis*. It is more adaptive to the local culture. Early Shafi'i missionaries practises culture-friendly attitude, which gains approval of the political masters and later is able to spread the teachings of Islam in the Malay domain (Rahim, 2006). The effect of this can be seen in the Malay *Legal Digest* like *Hukum Kanun Melayu* (Malay Jurisprudence) (Rahim, 2003) and the instillation of Islamic values in the Malay custom until the phrase *Adat bersendikan Hukum, hukum bersendikan Kitabullah* (Custom is based on *Syariah*, *Syariah* is based on al Quran) was coined. (Fadhil, 2006).
- 2) The combination of two paradigms Sufi and *Fiqh* (Neo-Sufism) in Shafi'i *Mazhab* – provides direct effect to the momentum of the Islamisation of the people in the Malay domain. (John, 1961).
- 3) Fuqahas of Shafi'i *Mazhab* had established a more systematic Islamic education system in the Malay domain (Hamindong, 1993). This refers to the introduction of *Pondok* System which contains specific physical infrastructure, the philosophy of learning, organisational structure, time table, curriculum and systematic assessment method (Ishak, 1995; Bakar, 1994; Rahim, 2003).

Fourthly, clarifies the epistemology aspect of Islamic rulings in the *tajdid* process of the research on rulings. In any intellectual analysis, there is an approach that determines the depth of the truthfulness of knowledge or the epistemology of a certain discipline (Shuib, 1995). The matter is appropriate in defining epistemology, and its scope: the origin, sources, method and the limit of a particular knowledge. (Uthman, 2001). In facing the bold challenges of the modern world, the research on *fiqh* must emphasise on the epistemology of Islamic rulings which will portray clearly to the muslims and non-muslims that *Syariah* is not based on dogmatic belief which cannot be challenged, but built on empirical and rational basis, having its sources, reasons and detailed method, before a judgement on the question of humanity, is determined. (Nasution, 1989).

As an early conclusion, the effort on developing elements of ontology, epistemology and axiology of *fiqh* based on current knowledge (Dawam, 2004). The emphasis is on three main principles: *urf*, *masalah* dan social science. The frequent emphasis on the three main principles shows that the effort to strengthen the epistemology elements (source and method) is important.

This can be done through three main approaches; first, by combining (synthesis) knowledge of *fiqh* with other modern knowledges (like modern social science) which simultaneously complement the research method on alternative Islamic rulings for the modern world. Although knowledge of the tenets of *fiqh* is acknowledged as the best knowledge discipline and is based totally on world-view, for modern context it cannot stand on its own; it has to be supported and combined with other scholarly disciplines. Second, developing the present Malaysian '*urf* methodology which is different from '*urf* in the Middle East, from the aspects of main frame concept and application method. Lastly, developing the principle and *Maslahah* standard in three types, especially *daruriyyah*, *hajjiyyah* and *tahsiniyyah* which are more suitable with the present Malaysian reality.

6. CONCLUSION

As the final conclusion, we can conclude several key matters; first, as Malaysia is a progressively modern Islamic country it is most appropriate to create one *tafaqquh* programme module which is contemporary in nature and with Malaysian features to cater to all Islamic matters which arises in the society. This is needed as most of the Islamic *fiqh* formula utilised now are based on the discussion of past fuqaha from the Middle East era that is totally different from the aspects of sociology and intellectuality of the Malaysian society. The negative effect to this is the *tafaqquh* programme module currently in use can be considered obsolete. Second, the process of developing *tafaqquh* programme module must obtain a strong recommendation from the government, which co-incidentally inclined towards upgrading all weaknesses faced by the Islamic education in Malaysia. The practise of T & L of studying *fiqh* needs to fulfill and achieve *tafaqquh* programme objective and goal, i.e. providing knowledge and understanding. The aspects of thoughts and action in the T & L of *fiqh* need to be more practical and focused on current edicts. Third, the construction of alternative *tafaqquh* programme in mosques requires a paradigm reformation that practises moderate approach, which appreciates the legacy of past fuqaha, to fulfil the flexibility principle in the *mazhab* reference, to understand the reality and the present development and increase the *fiqh* research quality with real Islamic law epistemology orientation, entirely rejecting any elements of liberalism which is against the spirit of thoughts and development of *tafaqquh* programme in the version of the Malay domain.

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