

Consideration of Local Wisdom Elements in The Concept of Fiqh Sabahi: A Literature Review

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Abstract

Every society develops its own culture through interactions with various civilizations and religions, often resulting in the synthesis of different elements. Local scholars, in their efforts to blend traditional culture with Islamic Shariah, have contributed to the emergence of multiple patterns of local wisdom. Within the discipline of Shariah, local wisdom holds significant importance in the development of Islamic jurisprudence. Considering local wisdom is crucial as it can influence the construction of Islamic jurisprudence based on the reality of the local community. This study aims to examine the local wisdom of the Sabahan community in shaping the concept of *Fiqh Sabahi*. Emphasizing local wisdom in the formation of Sabahi jurisprudence is vital to maintain a balance between the idealism inherent in current jurisprudence and its practical implementation in society. To achieve the set objectives, qualitative research was conducted using both library and field research methods. The findings of the study indicate that Islamic jurisprudence is evolving, with new laws being established and existing laws being updated in response to social changes, particularly those closely associated with local wisdom. Based on these findings, the incorporation of elements of local wisdom into the concept of *Fiqh Sabahi* needs to be further developed to serve as guidance for the Muslim community in Sabah, ensuring that *Fiqh Sabahi* aligns with the current requirements of jurisprudence. Moreover, the results of this study can assist in formulating policies to promote religious harmony in Sabah in accordance with the concept of *Ummah Madani*. Therefore, this study holds significance as it offers an approach to address

contemporary jurisprudential issues in the context of Sabah, ultimately contributing to the maintenance of a harmonious and pluralistic society in Malaysia, particularly in Sabah.

Keywords: Local Wisdom, Fiqh Sabahi, Transformation of Islamic Jurisprudence, Ummah Madani

Introduction

In general, the need for a holistic transformation of Islamic law, by acknowledging and embracing the demand for social change among Muslims, requires an integrated and critical evaluation process. Failure to meet these requirements may have negative implications for the influence of Islamic law in society (Salleh, 2015). The importance of this topic lies in its potential to enrich Islamic jurisprudence by integrating the cultural context of the community, thus ensuring the relevance and applicability of Islamic law in contemporary society.

Islam, as a complete life system, perceives human society's existence in a rational manner. Islamic law, therefore, emphasizes relevance and rationality in its approach Zuhdi (2010). This is evident in Islamic legal sources, where there exists a method of incorporating the culture of the community known as '*al-urf wa al-adah*' (Mahmasani, 1971). This fact underscores Islam's respect for societal culture and its celebration, provided it aligns with Islamic law. Building upon this concept, this study will delve into the consideration of the local wisdom of the Muslim community in Sabah during the process of '*hukm istinbath*,' particularly in the formation of *Fiqh Sabahi*.

This study is essential as it addresses the evolving societal aspirations of Muslims, highlighting the need for Islamic law to adapt to changing social dynamics while remaining faithful to its principles. By emphasizing the utility and effectiveness of incorporating local wisdom, this research aims to demonstrate how this approach can enhance the practical application of Islamic law, ensuring its continued relevance and influence in society.

Furthermore, studying this topic is beneficial as it provides insights into the dynamic nature of Islamic law and its ability to accommodate diverse cultural practices within the framework of Islamic principles. This research is not only academically significant but also has practical implications for policymakers, legal scholars, and practitioners seeking to enhance the effectiveness of Islamic law in contemporary society.

In conclusion, the study of incorporating local wisdom in Islamic jurisprudence is important for its potential to enrich Islamic law, make it more relevant to contemporary society, and ensure its continued influence and effectiveness (Marinsah et al., 2018). This research seeks to contribute to the ongoing discourse on the evolution of Islamic law and its application in diverse cultural contexts.

Background of Research Problem

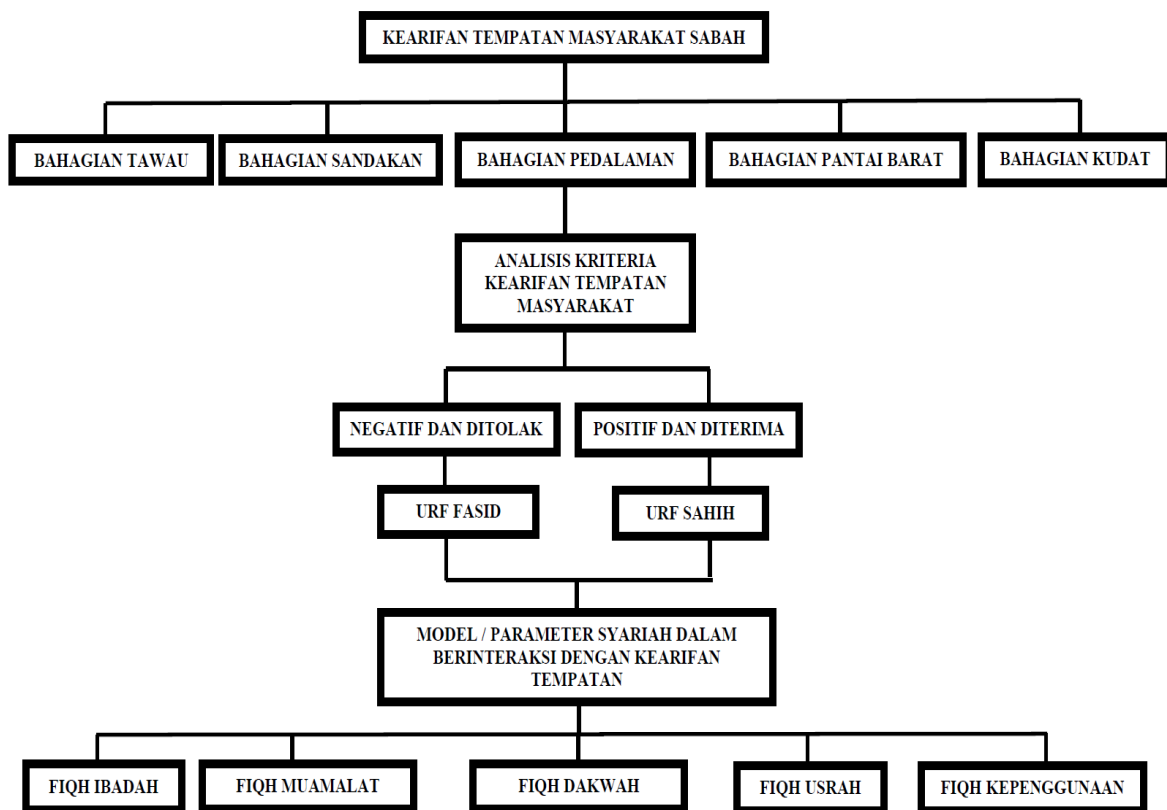
In the context of Sabah, the Mufti of Sabah, Datuk Bungsu @ Aziz Jaafar, is endeavouring to develop the concept of *Fiqh Sabahi*. This concept aims towards the formulation and establishment of a locally oriented jurisprudence specifically characterized by the identity of Sabah (Sabah et al., 2021). According to him, *Fiqh Sabahi* is not a new sect, but rather a methodology of preaching in Sabah, recognizing the distinct realities of preaching in Sabah compared to the Peninsula. In a broader context, *Fiqh Sabahi* encompasses all matters related to laws, *da'wah*, education, and other aspects of community life, tailored to the environment and pluralism of the people of Sabah (State PMNS Bulletin, 2018). Examples of jurisprudence based on the principles of *Fiqh Sabahi* include: the requirement to distribute zakat to non-Muslims, obligatory interactions, and greetings with non-Muslims, and providing sacrificial

meat to non-Muslims (Borneo Post, 2017). Additionally, the concept of *Fiqh Sabahi* seeks to promote the creed of *Ahli Sunnah Wal Jamaah*, particularly Ashairah, as the core of authentic belief to counter extremist religious ideologies according to (Daily News, 2017).

Based on this observation, the researcher emphasizes the critical importance of considering local wisdom in the construction of Islamic law, particularly in the development of *Fiqh Sabahi*. However, research gaps have been identified, indicating a relative lack of exploration or dissemination regarding the Sabah State Fatwa that address the local wisdom of the Sabahan community. The researcher notes that existing fatwas pertaining to the methodology of *Fiqh Sabahi* predominantly focus on social relations (*fiqh ta'ayush*) between Muslims and non-Muslims. However, the development of *Fiqh Sabahi* should encompass a broader spectrum, including aspects such as food jurisprudence (*at'imah*), cultural jurisprudence, *fiqh muamalat*, *fiqh usrah*, and others. Sabah society possesses a distinct identity that sets it apart from others, influencing the interpretation of Islam.

This situation arises due to the dearth of social science research on local wisdom that could empower fatwa institutions, particularly in the formulation of *Fiqh Sabahi* concepts. In fact, the concept of *Fiqh Sabahi* is still in its nascent stage and is undergoing development. From 2016 until now, this idea remains primarily at the conceptual and theoretical level. It has been widely discussed in forums, discourses, and similar platforms. However, papers concerning this concept need to be actively pursued, requiring more detailed studies regarding applications, approaches, problems, and related aspects (Mufti Sabah, Bungsu @ Aziz Jaafar, interview, 2021).

Thus, the conceptual and theoretical framework of this study can be illustrated as shown in the diagram below:



The diagram above illustrates the model employed in this study. The discussion commences with an exploration of the local wisdom prevalent among the inhabitants of Sabah. The researcher has selected five primary locations: Tawau Division, Sandakan Division, Rural Division, West Coast Division, and Kudat Division. The inclusion of all these locations ensures comprehensive research on local wisdom, essential for shaping the concept of *Fiqh Sabahi*. Subsequently, the study delves into analysing the criteria of local wisdom permissible under Shariah law. Here, the researcher endeavours to ascertain whether elements of local wisdom align with Shariah principles, categorizing them as '*urf sahih* (valid custom) or '*urf fasid* (corrupted custom), which is prohibited due to elements such as heresy, superstition, and *shirk*.

Based on the findings, the researcher endeavours to develop models and parameters for engaging with local wisdom. These models and parameters are intended for implementation within the following scope:"

- a. *Fiqh Ibadah*
- b. *Fiqh Muamalat*
- c. *Fiqh Da'wah*
- d. *Fiqh of Culture*
- e. *Fiqh of Food (At'imah)*
- f. *Fiqh Usrah*
- g. *Fiqh of Consumerism*

Literature Review

Based on the researcher's review of several writings closely related to local wisdom, it was observed that there remains a dearth of comprehensive discussions regarding the role of local wisdom in the construction of Islamic law. Nevertheless, it is undeniable that research on local wisdom has been ongoing for a significant period, conducted by both Western and local scholars.

From these studies, it was apparent that each one had its own distinct and limited scope. Consequently, there is a pressing need for a more specific study to be conducted to attain a comprehensive understanding of Sabahi jurisprudence and local wisdom. To address this gap, the researcher has identified several focal points for this study within the available literature, including:

- i. The concept of *Fiqh Sabahi*.
- ii. The incorporation of local wisdom practices in the development of Islamic law.

In the first aspect, concerning the idea of *Fiqh Sabahi*, the researcher has noted that papers directly addressing this concept are still in the research phase, as revealed during interviews with the Mufti of Sabah. Nonetheless, there exist numerous past studies that serve as foundational material for the development of locally oriented fiqh concepts. For instance, K.H. Abdulrahman Wahid, also known as Gus Dur, introduced a theory termed 'Islamic privatization' (Fitriah. A, 2013). This indigenous theory involves the adaptation of foreign elements with local ones, wherein the process entails integrating Islamic values into the customs of a community (Abdullah, 2014). Essentially, 'Islamic privatization' signifies the incorporation of indigenous customs with Islamic teachings through assimilation and acculturation.

According to Gusdur, the concept of 'privatization of Islam' entails Islam being perceived as normative teachings from Allah SWT. In practice, these teachings can be integrated into the local cultural context without compromising their respective identities (Kholiq, 2009). This theory of 'Islamic privatization' serves as an alternative and a counterargument to the concept of "authentic Islam" or "purification Islam," which advocates for Arabization across Muslim communities worldwide. Hence, 'Islamic privatization' was introduced to allow for diverse interpretations in religious practices (Islam) across different regions (Fitriah. A, 2013). Consequently, Islam is no longer confined to a singular version (Arabic) but is viewed in various interpretations. Claims asserting the purest and truest form of Islam in the Middle East are no longer tenable as Islam, like any religion, has undergone extensive evolutionary and historical processes (Zada et al., 2003). This perspective is mirrored in the development of jurisprudence in the region. For instance, (Hasbi, 1977). Proposed the concept of "Fiqh Indonesia," while Zuhdi (2004) emphasized "*Fiqh Malaysia*." These ideas aim to incorporate local realities (*ma'rifat al-waqi*) and the customs (*'urf*) of the local community into legal frameworks.

Moving to the second aspect, concerning local wisdom in the construction of Islamic law, various studies have been conducted by scholars, each with different scopes. These include exploring concepts such as local wisdom in Islam Rosele (2019), local wisdom in death customs Marinsah (2019); Marinsah (2013); Yusri (2020), local wisdom in cultural jurisprudence Ramli. A (2018), local wisdom in the jurisprudence of food (*at'imah*) Ammar (2019), among others. However, a notable gap exists in research focusing on local wisdom within fatwas, particularly in the formation of *Fiqh Sabahi*.

In conclusion, there is a pressing need to intensify the construction of the concept of Fiqh Sabahi, especially in considering elements of local wisdom. The various aspects of local wisdom existing within culture, social relations, worship, muamalat, and other domains, specifically within Sabah's Muslim community, need to be thoroughly analysed to empower Fiqh Sabahi in the process of constructing Islamic law in Sabah.

Research Methodology

i. Library Research

In this methodology, the researcher will conduct specific research on various sources, including

- a. Social science books.
- b. *Usul al-Fiqh* (principles of jurisprudence).
- c. *Maqasid al-Shariah* (objectives of Islamic law).
- d. *Qawa'id al-Fiqh* (legal maxims).
- e. *Fiqh* (jurisprudence).
- f. *Hadith* (Prophetic traditions).
- g. Interpretation (exegesis of the Quran), and Language.

Additionally, the researcher will examine the works of contemporary scholars to gather data related to the methodology of legal investigation in addressing social change, particularly the role of local wisdom in influencing legal evolution. Furthermore, specific research will be conducted on the Qur'an within the schools of thought, namely the Hanafi, Maliki, Shafi'i, and Hanbali schools, to explore their perspectives on contemporary issues and problems in jurisprudence. Sources of argumentation will be collected for further analysis. Moreover, research will extend to related works such as hadith collections, interpretations, and other relevant literature on the topic under study. Lastly, exploration of online resources will be undertaken to gather data pertaining to social change.

ii. Field Research

In this study, the researcher employs two methods: the interview method and the observation method.

a. Interview Method

In-depth interviews will be conducted with key informants who possess detailed knowledge of the local wisdom prevalent among the Muslim community in Sabah. These informants will cover various aspects, including faith, worship, *muamalat*, culture, and consumerism.

Key informants include experts from relevant agencies, such as experts in *fiqh* and *usul fiqh*, particularly the muftis in Malaysia. Their views will be sought to determine their stance on incorporating local wisdom in the legal *istinbath* process. Community leaders, such as village heads and district officials, will also be interviewed to gather data on opinion polls regarding local wisdom issues in the context of cultural jurisprudence. This aims to ensure that cultural practices align with Islamic law.

To ensure objectivity and usability, the researcher will conduct structured appointments with each informant, allowing them sufficient space to respond to the researcher's inquiries. Tape recordings and notes will be utilized during interviews, and the data will be transcribed into organized transcripts.

b. Observation Method

This method involves direct observation of the local wisdom practices within the Muslim community in Sabah.

It allows the researcher to verify the information obtained from interviews for accuracy and truthfulness (Mahzan, 1992). One advantage of this method is the ability to record events as they occur. By employing both the interview and observation methods, the researcher aims to gather comprehensive data on the local wisdom of the Muslim community in Sabah."

Findings

Application of *Urf* (local wisdom) to the idea of *Fiqh Sabahi*

According to al-Alafi (1988), there are two elements that can be considered '*urf*', namely internal elements, and external elements. The internal element of a person's notions and thoughts in society is bound by this practice. External elements refer to the physical things that make the practice practiced continuously or have existed for a long time and are consistent, so that there will be hardship if a community does not practice the custom anymore. Based on the statement, there are several issues that will be highlighted to see the role of local '*urf*' in influencing the text of *syarak*, especially the publication of fatwas in Sabah. Here are the details

a. Greetings in conjunction with non-Islamic festivals

Sabah is a unique and complex state because its people are made up of various ethnicities, cultures, religions, and races. In fact, the latest statistics show that Sabah records the highest number of ethnic groups compared to other states. Thus, maintaining a good and accurate relationship between members of the Muslim and non-Muslim communities is very important and needs to be emphasized. As such, there are several fatwas that consider the interests of non-Muslims as long as they do not conflict with the Sharia, such as the issue of greetings in conjunction with non-Muslim celebrations. Examples that can be seen are *Tadau Kaamatan's* speech and Merry Christmas. The State Mufti of Sabah has taken an approach by allowing the speech on the grounds that the existing local '*urf*' (harmonious interaction) between Muslims and non-Muslims in Sabah has been going on for a long time. The following statement is a Sabah state fatwa regarding greetings in conjunction with non-Islamic festivals (<http://e-smaf.islam.gov.my/e-smaf/>)

1. Any practice or behaviour of Muslims that involves faith or belief in matters related to the festival of non-Muslims, such as recognising non-Muslim religions or considering all religions to be the same, is prohibited by Islam.
2. However, if the practice or conduct is only on the basis of community or social relations between Muslims and non-Muslims for the purpose of unity, then it is permitted by Islam.
3. Giving or sending greetings via cards or telecommunications devices such as e-mail or short message systems (SMS), etc. to non-Muslims in conjunction with their religious celebrations is obligatory, provided that the greeting does not acknowledge, praise, or glorify non-Islamic religion and does not use any symbols or symbols of their religion in the delivery of the speech.

In conclusion, the local wisdom of the Sabahan community, especially in social relations, has long been well established. In fact, the response from the Muslim group is nothing more than simply to please them without involving elements that conflict with *Shariah* in accompanying the celebration. It is clear here that the plurality of religions and cultures in Sabah symbolises

unity among the community. Local wisdom in this context can be interpreted through social unity in religious relations (Islamic and non-Islamic). It is an important indicator of a peaceful and harmonious situation in a community. A religious belief continues to be preserved with this indicator. In fact, research proves that the attitude of acceptance and accommodation records the highest response in dealing with conflicts between religions Suraya S, Budi A. M. Tamring, N. Farhana A. Rahman, S. Aidah Lukin, Lokin, and Halina S. M. Yakin, (2019). Indirectly, the local wisdom of the Sabahan community in social relations such as eating together, living together, celebration of festivals, intermarriage, and the like can influence the interpretation of *syarak* texts that can empower the formation of *Fiqh Sabahi* ideas.

b. Friday Prayer: Less than 40 people.

Muzakarah Sabah State Fatwa Council No. 1/2017 has convened on February 21–23, 2017 (M/24–26 Jamadilawal 1438H), has outlined guidelines for the community in Sabah, especially regarding the matter of "Friday Prayer with less than 40 congregations," and has agreed to decide to gazette in the state of Sabah, namely:

- i. In *Qaul Mu'tamad's* view of *Madhab al-Syafie*, the number of Friday members should be enough for a congregation of 40 people.
- ii. Must perform Friday prayers even if the number of congregations is less than 40, based on *Qaul Qadim* in *Madhab al-Syafie*. The permission of the government or authority is required to preserve the interests of the community.

In this context, the local *'urf* can clearly influence the interpretation of the *syarak nas*. Based on the decision of the fatwa above, it is clearly stated that the *qaul muktamad* in the Syafie school requires the number of congregations to be 40. However, in the context of the state of Sabah, there are some locations, especially in the rural area, where the number of Friday congregations is slightly due to the minority of Muslims (less than 40 people). So, in this case, *waqi* (the current situation) as well as considerations between *masalah* and *mafsadah* need to be prioritised, even though it is a weak view in the Syafie school (Sabah Mufti interview, 2021).

c. Feeding sacrificial meat to non-Muslims

Sacrifice is one of the acts of worship performed by Muslims on *Eid al-Adha*, which is on the 10th, 11th, or 12th of *Zulhijjah*. Sacrificial worship is performed by slaughtering livestock such as cows, goats, or sheep (Zakariah, 2018). In addition, the main purpose of sacrificial worship is to draw closer to Allah SWT and emulate the patience and sacrifice of Prophet Ibrahim AS (Muhammad et al., 2016). In a different perspective, sacrificial worship also has social meaning and humanity, namely by distributing sacrificial meat to people in need, especially Muslim asnaf (Marlina et al., 2019). However, questions arise regarding the distribution of sacrificial meat to non-Muslims: is it allowed in *syarak* or vice versa.

According to Daud and Kashim (2018), on the distribution of sacrificial meat to non-Muslims, scholars of four different schools of thought differ in determining the law. According to the view of Al-Syarbini (1995), in the book *Mughni al-Muhtaj*, the law of giving sacrificial meat to non-Muslims is *haram* because they equate giving sacrificial meat with the practice of *zakat*, which means that only Muslims are eligible to receive it due to strengthening the relationship with fellow Muslims only. In the context of states with multiple races, cultures, and nations such as Sabah and Sarawak, the matter becomes awkward because the close interaction and

relationship between races, especially in the neighbourhood of a village, cannot be denied. For example, they live in longhouses, which have a high level of tolerance. If the distribution of sacrificial meat is only to Muslims, it causes non-Muslim communities to be marginalised and relations between multicultural and religious communities to become strained (Aziz et al., 2023).

Thus, the tradition of giving sacrificial meat in the state of Sabah is also extended to non-Muslims. This is done as a form of tolerance and togetherness between religions and can maintain harmony in Sabah. In daily life, Muslims and non-Muslims in Sabah live together in harmony and respect each other (Anuar, 2012). Because of that, giving sacrificial meat to non-Muslims in Sabah has become a generational tradition. Giving sacrificial meat to non-Muslims is considered a form of respect and mutual respect for fellow believers Mufti Sabah, Bungsu@Aziz Jaafar (2016). The fatwa is based on the high principles of tolerance and harmony between religions in Sabah, as well as the values of humanity and togetherness contained in the sacrifice. In the fatwa, the Mufti of Sabah also emphasised the importance of ensuring that the sacrificial meat given to non-Muslims remains halal and does not contain elements prohibited by Islam e-source of fatwa information 2017.

d. Participating in non-Islamic ritual ceremonies

In general, there is no specific *dalil* according to that issue. The views of scholars on the law of participating in other religious ceremonies diverse depending on the context and situation. The uniqueness of the community in Sabah is that Muslim and non-Muslim families can live together in harmony Suraya (Sintang et al., 2019). In addition, usually rituals such as death are attended by Muslim families due to respect for the passing of their families, in addition to showing that Islam is harmonious and very tolerant (Mokodenseho & Wekke, 2017). Therefore, there is a legal stipulation to participate in non-Islamic ritual ceremonies in order to make the Muslim community in Sabah understand the practice.

According to the fatwa of the mufti of Sabah, for Muslims who go to ritual ceremonies of other religions, there are several things that need to be understood fatwa Sabah (2016)

1. The law can be changed allowed (*mubah*): participating in worship ceremonies of other religions is not a problem as long as it does not contradict the teachings of Islam and does not contain elements of shirk or immorality. This can be done in the context of establishing good relations among religious people and strengthening brotherhood between religions.
2. The law is forbidden (*haram*) if there is a bad influence on the belief and it opens the way to a wrong belief.

In the context of Sabah, which has religious and cultural diversity, it is important for all members of society to respect each other and maintain harmony between religions, as well as strengthen the values of togetherness and tolerance in daily life. Therefore, in a family consisting of Muslims and non-Muslims, it is best to understand and respect each other's religious differences and practice religious beliefs without imposing their will on others. (Sabah Mufti interview, 2021). If there is a difference of opinion or conflict that arises, it should be resolved in a good and peaceful way by speaking well and avoiding actions that

harm or humiliate the other party. As a result, locally oriented jurisprudence (*fiqh sabahi*) was tried to be developed as long as it did not conflict with the *Shariah*.

Conclusion

In comprehending *Shariah*, jurists (*fuqaha*) do not interpret texts in a literal manner. Instead, they strive to understand the present reality by observing societal dynamics and the evolving mindset of life. Consequently, while *Sharia* remains timeless, jurisprudence continually evolves to meet contemporary demands.

Fiqh Sabahi does not seek to disrupt the tradition of jurisprudence; rather, it aims to incorporate the local reality of Sabahan society into legal frameworks. The methodology employed in developing *Fiqh Sabahi* involves reinterpreting *Sharia* arguments found in *fiqh* texts through the lens of the local community's circumstances, ensuring the continued relevance of Islamic *Sharia* across generations. Furthermore, *Fiqh Sabahi* represents an attempt to transition from a purely textual approach to jurisprudence to a methodological approach. In this context, the methodological approach involves adapting to the wisdom of Sabah society by considering elements of benefit and harm in legal deliberations."

Acknowledgments

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