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CONTEMPORARY ISLAMIC LEGAL DEBATE IN
INDONESIA: SPECIAL REFERENCE TO NAHDLATUL
ULAMA AND PERSATUAN ISLAM

BY

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A dissertation submitted in fulfilment of the requirement for
the degree of Master in Islamic Revealed Knowledge and
Heritage (Fiqh and Uşūl al-Fiqh)

Department of Fiqh and Uşūl al-Fiqh
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ABSTRACT

This research aims to examine the primary legal cases and examples showing the juristic divergences between Nahdlatul Ulama and Persatuan Islam in the sphere of jurisprudence of worship and Islamic legal transactions while exploring some of the legal debates between these two organizations in the political arena. As such, the legal methods underlying the juristic reasoning adopted by both are discussed. The methodology applied in this study is based on analytical approach, involving the explanation, detail of selected legal verdicts and their evidence in order to show the influences on the socio-political context in Indonesia. This study also applies the inductive approach to observe the legal theories and methodologies while exploring convergences and divergences between both. The study has identified that Nahdlatul Ulama bases its juristic interpretation on the legal theory drawn from the Shāfi‘ī School of law. It seems that the NU considers *madhhab* because it provides a reliable and systematic framework and as such Muslims should adhere to the rulings of a *madhhab*. On the other hand, PERSIS considers *madhhab* as one influential source in legal rulings while holding that the Qur’ān and the *Sunnah* are the fundamental truths for Muslims. As such PERSIS encourages Muslims to avoid *taqlīd*.

ملخص البحث

تتناول هذه الرسالة بالبحث عن الفتاوى الفقهية الصادرة عن نخبة العلماء وفرساتوان إسلام والمقارنة بينهما في مجال العبادات والمعاملات والسياسة، وتستكشف تطبيق المبادئ الأصولية المستخدمة. وتنتهج الدراسة المنهج التحليلي لبيان تلك الفتاوى وتأثيرها في الجانب الاجتماعي والسياسي بإندونيسيا. وأما المنهج الاستقرائي فقد استخدم لاستقصاء القواعد والمبادئ الفقهية لدي الجمعيتين. وبينت هذه الرسالة أن الفكرة الفقهية لدي نخبة العلماء مبنية على القواعد التي وضعها العلماء في المذهب الشافعي لأن المذهب قد وضع القواعد والمبادئ الفقهية المنظمة، لذا على المسلمين اتباعه. ومع ذلك، فرساتوان إسلام يشجع المسلمين على التمسك بالأحكام من القرآن والسنة وتوصل إلى أن الإسلام لا يأمر المسلمين بتقليد مذهب معين.

APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion it conformed to acceptable standard of scholarly presentation and is fully adequate in scope and quality, as a dissertation for the degree of Master of Islamic Revealed Knowledge and Heritage (Fiqh and Uṣūl al-Fiqh).

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Benaouda Bensaid
Supervisor

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Human Science

DECLARATION

I hereby declare that the findings of this study are the product of my research effort. I also declare that it has not been previously or concurrently submitted as a whole for any other degree at IIUM or any other institution.

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**CONTEMPORARY ISLAMIC LEGAL DEBATE IN
INDONESIA: SPECIAL REFERENCE TO NAHDLATUL
ULAMA AND PERSATUAN ISLAM**

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I dedicate my thesis to my loving parents, Hadi Nuryono and Tina Martini for their love, endless support and encouragement, my sister and her husband, Husnul Khotimah and Mohammad Jufri whose words of encouragement and push of tenacity ring in my ears. It is also dedicated to the memory of my late uncle, H. Abdullah who taught me the meaning of sincerity in this life.

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LIST OF ABBREVIATIONS & GLOSSARY

‘Asābiyyah	Fanaticism
Asas Tunggal	The sole ideology
Baḥthu al-masā’il	Discussion of religious issues
Bid‘ah	Innovation
Dār al-Islām	The nation of Islam
Dewan Hisbah	Hisbah Council (Fatwa-Issuing Body of Persatuan Islam)
Fiqh al-‘Ibādāt	Jurisprudence of Worship
Fiqh al-Mu ‘āmalāt	Islamic legal transaction
Ijmā’	Scholarly consensus
Ijtihad	Independent legal reasoning
Ijtihād jamā‘iy	Collective legal reasoning
Ikhtilāf	Disagreement
Jumhūr al-‘Ulamā’	Majority of Muslim scholars
KHI	Kompilasi Hukum Islam (Compilation of Islamic Law)
Khilāfiyyah	Juristic differences
<i>khiṭṭah</i> 1926	Action plan of NU
Khurafāt	Superstition
Kyai	The title used for religious leaders or teachers in Java
LBM	Lembaga Bahtsul Masa’il (Fatwa-Issuing Body of Nahdlatul Ulama)
Madhhab	Sunni schools of Islamic law and jurisprudence
Masyumi	Majlis Syuro Muslimin Indonesia (Consultative Council of Indonesian Muslims)
Muftī	Interpreter of Islamic law
Mujtahid mutlaq	Unrestricted Jurist Scholar
NU	Nahdlatul Ulama (Muslim Scholars Awakening)
PBNU	Pengurus Besar Nahdlatul Ulama (Executive Board of Nahdlatul Ulama)
PERSIS	Persatuan Islam (Islamic Unity)
PNI	Partai Nasional Indonesia (Indonesian Nationalist Party)
Pancasila	The Indonesian national ideology consisting of five principles
Pesantren	One of educational institution in Indonesia with different curriculum from school
Qunūt	Invocation in Morning Prayer
Resolusi Jihad	The Fatwā of struggle against the Dutch
Ribā	Usury
Ru’yat al-hilāl	Moon sighting
Sarekat Islam	Islamic Union
Ta’wīl	Interpretation
Tahlilan	Assembly to pray for deceased
Tariqah	Sufi Order
Taqlīd	imitation
Tasawwuf	Sufism

Tawassul
Waqf al-Nuqūd
Zakāt al-Tijārah
Ziyarah

Intercession
Cash Endowment
Business alms
Practice of visiting and praying at the grave of a parent
or holy person

CHAPTER ONE

INTRODUCTION

1.1 INTRODUCTION

Indonesia is one of the largest Muslim populated countries, known for its religious pluralism and cultural diversity. The public sphere of Indonesia enjoys the contributions of socio-religious and cultural movements and organizations, each with its different ideology, thoughts, and reformed methodology and plan. Among those leading organizations are Al-Irsyad founded on August 11th, 1915, Muhammadiyah founded on November 18th, 1912, Persatuan Islam and Nahdlatul Ulama.

Despite the fact that many of those organizations show more concern for the effective role of Islamic law in social change, they do not renounce other critical programme such as social welfare and education for Indonesian Muslims. The establishment of *madrasah* (Islamic schools), hospitals, *zakāt* institutions, and youth organizations by those organizations only result in highly positive impression not only for the Muslim population in Indonesia but for the Indonesian society in general. Each organization continues to play significant role in the development of Indonesia to the point that the Indonesian government often involves them in move decisions.

One of the most famous and influential religious organizations in Indonesia is Nahdlatul Ulama (Muslim Scholars' Awakening) (abbreviated as NU). Established on 31st of January, 1926 in Surabaya by the Kyai of the Pesantren,¹ NU was set to develop

¹ *Kyai* or *kiai* (or *ajengan*, *tuan guru*) is the title used for '*ulama*, religious leaders, pesantren leaders, or senior pesantren teachers in Java. The kyai does not only denote spiritual leadership in the pesantren, but also a holistic one embracing all aspects of life in pondok pesantren. Meanwhile, pesantren or pondok

and promote the traditional understanding of Islam as held by the majority of Indonesian *‘ulama*. As such, their religious views and juristic interpretations in particular are found to be mostly based on the legal theory drawn from the Shāfi‘ī School of law. In the field of theology, however, the NU draws their views and practices primarily from the works of Abū al-Ḥasan al-Ash‘arī (d. 324AH/936 AD) and Abū Maṣṣūr al-Mātūrīdī (d. 333 AH/944 AD). In the sphere of *taṣawwuf*, however, the NU adheres to the views of Abū Ḥāmid al-Ghazālī (d. 505 AH/1111 AD) and Abū al-Ḥasan al-Shādhilī (d. 656 AH/1258 AD) which had been taught by Abū al-Qāsim al-Junayd al-Baghdādī (297 AH/910 AD).²

The Nahdlatul Ulama organization is developed among Indonesian Muslims and represents one of the largest socio-religious organizations in Indonesia with a membership of more than thirty million people, mostly *kyai*, *santri* and villagers who are generally viewed as traditionalists. Since its inception however, the NU adheres to religious views and interpretations opposed to modernist organizations like Muhammadiyah and Persatuan Islam. One of the primary motives of its establishment is to preserve the belief and practice of the school of *Ahl al-sunnah wa al-Jamā‘ah* from

pesantren is one of three kinds of the National Educational System in Indonesia with different system and curriculum from school and madrasah. Madrasah is the only place for studying some religious subjects from morning to day without any additional subjects. Pesantren, however, is a place for studying almost all religious subjects because students of pesantren live in dormitories with many disciplines. Pesantren has been identified with Islamic and indigenous originality because it was the only formal educational institution in Java prior to the 20th century even in the Malay Peninsula before the advent of Europeans. Historically, pesantren taught an almost exclusively religious curriculum, but since the 1930s, many pesantren have added government curriculum. Hence, Pesantren plays a critical role in Indonesian society. Many of its graduates became religious teachers, *dā‘īs*, and traders and leaders of various organizations and political parties. See Abdul Hafizh Dasuki: *The Pondok Pesantren: An Account of its Development in Independent Indonesia 1965-1973*, (MA Thesis, McGill University, Montreal, 1974), x; Lathiful Khuluq, *Kyai Haji Hasyim Asy‘ari’s Religious Thought and Political Activities (1871-1947)*, (MA. Thesis, McGill University, Montreal, 1997), 4; *Dinamika Pondok Pesantren di Indonesia*, (Jakarta: Departemen Agama Republik Indonesia, 2003), 6; Ronald Lukens-Bull in “Pesantren Education and Religious Harmony: Background, Visits, and Impressions” in *Religious Harmony: Problems Practice, and Education: Proceeding of the regional conference of the International Association for the History of Religions, Yogyakarta and Semarang, Indonesia, September 27th-October 3rd, 2004*, edited by Michael Pye, (Berlin: Walter De Gruyter, 2006), 315.

² Masyhudi Muchtar, ed, *Aswaja An-Nahdliyah: Ajaran Ahlussunnah wa al-Jamaah yang berlaku di Lingkungan Nahdlatul Ulama*, (Lajnah Ta’lif Wan Nasyr (LTN) NU Jawa-Timur, 2007), 3.

the influence of Wahhabis, particularly in their effort to purify religion from innovations and to resist traditionalist groups.

Persatuan Islam (abbreviated as PERSIS) means Islamic Unity. It is considered one of the most influential socio-religious organizations in Indonesia. Established on the 12th of September, 1923 in Bandung by a group of Muslims interested mainly in education and religious activities, PERSIS essentially aims to provide Muslims with a religious understanding set in accordance with the Qur'ān and the *Sunnah* while conveying an original and pure form of understanding and practice of Islam. PERSIS gives priority to issues of purification of Muslim beliefs (*iṣlāḥ al- 'Aqīdah*) and reform of worship (*iṣlāḥ al- 'Ibādah*). It is also known as a movement of reform (*ḥarakat al-tajdīd*) amongst Indonesian Muslims.³

The idea of PERSIS appeared first in the efforts of H. Zamzam and H. Muhammad Junus who organized some religious discussions on a number of issues pertaining to religious movements and other issues in *al-Munīr* and *al-Manār* magazines which are published in Padang and Egypt respectively. Their modest yet profound early discussions continued to grow among twelve people. Their works involved reviews, analysis and examination of a number of critical issues pertaining mostly to the dichotomy between traditionalist and modernist Islam as well as the infiltration of communism into the Islamic Union (*Sarekat Islam*) which is considered as the first national political party in Indonesia.⁴

Some of the basic different views mentioned above have caused several disagreements between NU and PERSIS including the use of reason in religious

³ Syahrudin El-Fikry, "Persis dan Gerakan Tajdid" <<http://abdaz.wordpress.com/ormas-islam/persatuan-islam-persis>> (accessed April, 4th, 2013).

⁴ Howard M. Federspiel, *Persatuan Islam, Islamic Reform in Twentieth Century Indonesia*, (New York: Cornell University, 1970), 11-13.

interpretations. As a traditionalist movement, the NU holds that the four *madhāhib* (Sunni Schools of Islamic law and jurisprudence) provide a reliable and systematic framework. Therefore, no further amendment is required and as such Muslims should simply follow and adhere to the rulings of a particular *madhhab*. On the other hand, PERSIS, being a modernist movement, holds that the Qur'ān and the *Sunnah* are the only fundamental truths for Muslims and that adherence to any *madhhab* is not necessary.

1.2 STATEMENT OF THE PROBLEM

Currently a significant degree of juristic differences exists among socio-religious organizations in Indonesia, specially between NU and PERSIS. Those legal differences may, on the one hand, reflect their use of different legal methodologies but may also speak of sharp political differences as shown in many negative perceptions and even worse labeling of one another. For instance, NU describes PERSIS as neo-Wahabism, while PERSIS levels sharp criticisms of NU on some of their religious views like *bid'ah*, *ijtihād* and *taqlīd*.

The ongoing tension concerning the religious interpretation between these two organizations is clearer than any other organizations including Muhammadiyah and al-Irsyad and often raises disharmony among some communities in Indonesia. Therefore, this study seeks to explore the legal methodology used by both organizations and to further examine the very background underlying much of their legal debate in addition to shedding light on the possible contact points of legal convergences and divergences among these two major religious organizations.

1.3 RESEARCH QUESTIONS

1. What defines and characterizes the organizations of Nahdlatul Ulama and Persatuan Islam?
2. What are the primary legal cases showing the juristic divergences between Nahdlatul Ulama and Persatuan Islam?
3. What legal methodologies do Nahdlatul Ulama and Persatuan Islam apply to draw their juristic inferences, views and preferences?
4. What are some of the implications of the legal debate between these two religious organizations in the political arena?

1.4 RESEARCH OBJECTIVES

1. To understand the characteristics and nature of both Nahdlatul Ulama and Persatuan Islam.
2. To examine the primary legal cases and examples showing the juristic divergences between Nahdlatul Ulama and Persatuan Islam.
3. To discuss the legal methods underlying the juristic reasoning adopted by both Nahdlatul Ulama and Persatuan Islam.
4. To explore some of the implications of the legal debate between these two religious organizations in the political arena.

1.5 RESEARCH SCOPE

This study seeks to highlight the juristic views on some issues shown in the legal discourse of Nahdlatul Ulama and Persatuan Islam and to explore the similarities and differences between the views of these two organizations.

1.6 RESEARCH METHODOLOGY

In most part, the current research is analytical. This study is based on library research and textual analysis of relevant materials drawn from both primary and secondary sources on the history, development, changes and transformation and most importantly, the legal discourses of Nahdlatul Ulama and Persatuan Islam. Data and information are collected from academic sources including books, articles, conferences, seminar papers, journals, theses and dissertations, magazines and websites. The primary sources of this inquiry first include survey of works produced by scholars of Nahdlatul Ulama and Persatuan Islam, respectively. Secondary sources include various works of contemporary scholars dealing with the ideas, ideologies, verdicts, vision and plans of Nahdlatul Ulama and Persatuan Islam. In addition, the current research compares the writings of past and contemporary scholars and jurists in an attempt to highlight all possible legal similarities and differences between them.

The research uses the following methods of inquiry:

- a) descriptive method to describe the genesis, characteristics and development of Nahdlatul Ulama and Persatuan Islam since the 1920s.
- b) analytical method to analyze the views and interpretations of Islam as held by these two organizations in order to show the influences on the socio-political context of Muslim life in Indonesia.
- c) deductive method to examine the information obtained regarding the legal views of Nahdlatul Ulama and Persatuan Islam on a number of move legal contemporary problems and issues; and
- d) inductive method to observe the legal theories and methodologies of Nahdlatul Ulama and Persatuan Islam through their *fatāwā* in order to explore convergences and divergences existing between both organizations.

1.7 LITERATURE REVIEW

Numerous intellectual works have been written in regards to the thought, methodology of reform and characteristics of Nahdlatul Ulama and Persatuan Islam in Indonesia. Most studies, however, appear to be primarily concerned with the socio-political implications of these organizations among Indonesian Muslims today. The comparative analysis of their legal verdicts and contributions, however, are infrequent in Indonesia. This study therefore attempts to analytically probe into these matters move.

Several interesting works on the characteristics of both organizations can be found in works written by both Indonesian and Western scholars. These works discuss some of the basic characteristics of these organizations and other organizations which have had critical role in the Indonesian society. In this literature review, I draw on the following sources related to the background of Nahdlatul Ulama and Persatuan Islam.

a. Literature on Nahdlatul Ulama (NU)

An interesting research dealing with the legal methodologies of NU is found in Ahmad Zahro's work entitled *Tradisi Intelektual NU: Lajnah Bahtsul Masa'il 1926-1999* (Intellectual Tradition of NU: Committee of the Debate of Religious Problems 1926-1999). In essence, Zahro's work seeks to analyze the thought of the Committee of the Debate of Religious Problem (LBM) as the *fatwā*-issuing body of NU set to discern the dynamic changes of NU in its treatment of future challenges in society. Zahro discusses the LBM as the higher authority for deriving Islamic law within NU and a critical study of the sources, methods and legal verdicts used by LBM. NU expects LBM to be the appropriate forum for its scholars to undertake the collective process of legal inference prior to *fatāwā* issuance. The author argues that NU rejects direct reference to the Qur'ān and the *Sunnah* in responding to religious issues in view of the fact that the

transfer of religious knowledge has already been developed throughout generations. As a result, in the process of issuing *fatāwā*, NU mostly follows the views and opinions of the jurists' schools of law. The author, however, does not deeply elaborate on some changes affecting the legal methodologies of LBM following the national congress of NU in 1992.⁵

Another work on the subject is entitled “*Nahdlatul Ulama and Collective Ijtihād*” written by Nadirsyah Hosen. Hosen argues that through *Lajnah Bahtsul Masa'il*, NU practiced collective *ijtihād* for a period of thirty years prior to the establishment of *Majma' al-Buḥūth al-Islāmiyyah* (Academy of Islamic Research). The process began with the analysis of Islamic books according to their very backgrounds and socio-cultural contexts. In other words, NU tried to see the text contextually, rather than textually. Furthermore, *fatāwā* pertaining to social problems according to NU, should have been based on their social, economic and political conditions. The author believes that NU does not draw on all of the works of Islamic jurisprudence because of their selection of several particular works of *fiqh* under what they term as *al-kutub al-mu'tabarah fī al-masā'il al-dīniyyah 'indanā* (authoritative books recognized for religious cases). Hosen, however, describes a number of conditions required for collective *ijtihād* without any in-depth discussion of the legal methodology of NU.⁶

Works on *fatwā* and *ijtihād* are used in this research to analyze the legal methodology of NU. One such interesting work is “*Solusi Problematika Aktual Hukum Islam: Keputusan Mukhtar, Munas, dan Konbes Nahdlatul Ulama 1926-1999 M*” (Solutions to Contemporary Problems of Islamic Law: Results of National Congress of

⁵ Ahmad Zahro, *Tradisi Intelektual NU: Lajnah Bahtsul Masa'il, 1926-1999*, (Yogyakarta: LKis, 2004).

⁶ Nadirsyah Hosen, “*Nahdlatul Ulama and Collective Ijtihad*,” *New Zealand Journal of Asian Studies*, vol. 6, no. 1 (June, 2004): 5-26. Via Google Scholar <www.nzasia.org.nz/downloads/NZJAS-June04/6_1_2.pdf> (accessed April, 14, 2013).

Nahdlatul Ulama 1926-199). This work provides *fatāwā* on a number of social and religious issues faced mostly by members of NU and compiled according to sequence of the national congress. Since 1926, NU has produced 427 *fatāwā* on a variety of issues such as Muslim creed, marriage, fasting, *zakāt*, *madhhab*, religious sects, women, politics, economics and medicine. The number of *fatāwā* dealing with current social issues exceeds those pertaining to Muslim creed and worship. NU has also produced 67 legal verdicts on a number of economic issues and 31 *fatāwā* on gender, politics and medicine. *Fatāwā* produced by LBM are mostly drawn from medieval *Shafi'ī* legal sources such as *I'ānat al-Ṭālibīn* by Abū Bakr 'Uthmān bin Muḥammad Shaṭā al-Dimyāṭī (d. 1300 AH/1882 AD) and *Fath al-Mu'īn* by Aḥmad Zayn al-Dīn al-Malībārī (d. 1310 AH/1893 AD). The *fatwā* methodology in this work is simple and is made in the form of short answers to questions followed by cited references and sources and other quotations from these references. This book, however, does not deeply elaborate legal methodologies used by LBM in the issuance of *fatāwā*.⁷

Robin Bush's interesting work entitled "*Nahdlatul Ulama and the Struggle for Power within Islam and Politics in Indonesia*" addresses the dynamic role of NU in Indonesia's socio-political context. Bush describes the origin of NU and the political and religious motivation driving its formulation and argues that the motivation for its establishment was primarily political rather than religious, revolving around the conflict between traditionalist and modernist movements. For him, the modernists, for instance, have sharpened their criticisms of the *kyai* (religious leaders of NU), challenging the culture of *kyai* infallibility and undermining their authority. The traditionalists accuse the modernists of sacrilege in view of their failure to practise some spiritual acts such

⁷ Imam Ghazali Said (ed.), *Solusi Problematika Aktual Hukum Islam; Keputusan Mukhtar, Munas, dan Konbes Nahdlatul Ulama (1926-1999 M)*, (Surabaya: Lajnah Ta'lim Wan Nasyr NU Jawa Timur, 2005).

as *tahlilan* (ritualized prayers for the dead) and *ziyārah* (the practice of visiting and praying at the grave of a parent or holy person). Bush also examines the internal developments and the external political relations between NU and the government that led to the formulation of “*Kembali ke Khittah 1926*” (Return to the Guidelines of 1926). Bush, however, only explains the role of NU in Indonesian politics drawing on a few events without any in-depth analysis and does not elaborate on the continuous role of NU within Indonesian Muslims. More importantly, the flexibility of NU in accommodating socio-political transformation in Indonesia.⁸

b. Literature on Persatuan Islam

In this research, attention is also given to primary sources related to Persatuan Islam. These works are instrumental in the illustration of some of the salient characteristics of PERSIS and the legal perspectives adopted by some of their scholars.

One influential work pertaining to the characteristics of PERSIS is “*Persatuan Islam, Islamic Reform in Twentieth Century Indonesia*” written by Howard M. Federspiel. His work describes the founding of PERSIS and its influences on Muslims in Indonesia. Federspiel argues that the founding of PERSIS in 1923 was the idea of Haji Zamzam and Haji Muhammad Yunus to expand discussion on religious topics that had been undertaken on informal basis for several months. According to the author, it was since 1926 that PERSIS declared itself as a modernist Islamic movement with its motto “Furthering Islam on the basis of the Qur’ān and the *Sunnah*”. According to him, PERSIS was clearly committed to a modernist view of Islam and played a critical role in the debate with the traditionalists in the religious field. The debate was held by

⁸ Robin Bush, *Nahdlatul Ulama and the Struggle for Power within Islam and Politics in Indonesia*, (Singapore: Institute of Southeast Asian Studies, 2009).

PERSIS as an important activity to defend the purity of Islam from the threats leveled at its very existence. Therefore, some prominent figures of PERSIS such as Ahmad Hassan (d. 1958) challenged some individuals or groups who had misunderstood or misinterpreted the modern view of Islam like Sukarno and the NU which was committed to maintaining traditional Islamic views. The author, however, only briefly describes some basic religious understanding of PERSIS without any discussion of its legal methodology.⁹

Another work pertaining to the thoughts of one of most influential figures of PERSIS is Akh Minhaji whose work entitled “*Ahmad Hassan and Islamic Legal Reform in Indonesia (1887-1958)*” contends that Ahmad Hassan is the architect of the Islamic orientation of PERSIS which has sought to ensure that religious beliefs and practices be restored and brought into harmony with the original sources of Islam. For him, the main view of Hassan was to emphasize the original sources of Islamic law, namely the Qur’ān and the *Sunnah*. For Hassan, for cases that are not explicitly stated in the Qur’ān and the *Sunnah*, consensus (*ijmā’*) and analogy (*qiyās*) play their role. Hassan’s basic education in Singapore as well as his acquaintance with some current reformist ideas however, appeared to have deeply affected his religious views. When Hassan got involved in PERSIS, he issued *fatāwā* on various issues of Islamic law embracing most ordinary problems Muslims often encountered in their life. Minhaji, however, only explains Hassan’s role in the sphere of Islamic legal reform in Indonesia ignoring his impact on the shaping of PERSIS’s methods of *da’wah*.¹⁰

Aceng Zakaria’s *Thuruq al-Istinbath Dewan Hisbah Persatuan Islam*” (Legal Methodologies of Hisbah Council of Persatuan Islam) is another work on the

⁹ Howard M. Federspiel, *Persatuan Islam, Islamic Reform in Twentieth Century Indonesia*.

¹⁰ Akh Minhaji, *Ahmad Hassan and Islamic Legal Reform in Indonesia (1887-1958)*, (Ph.D. Dissertation, McGill University, Montreal, 1997).

methodology of *fatāwā*. Zakaria explains in general terms some issues related to *ijtihād* (independent legal reasoning), such as legal rulings, derivation and inference of legal rules and legal disagreements. He only draws upon the legal opinions of Imam Mālik, Muhammad ‘Abduh and some logicians but ignores the opinions of many other jurists. In his work the author analyzes the legal methodologies of *fatāwā* used by Hisbah Council (*fatwā*-issuing body of PERSIS), highlighting their primary sources of the law, namely the Qur’ān and the *Sunnah*. In case of contradiction, however, where legal reconciliation seems difficult, the Qur’ān takes precedence over the *ḥadīth* even if it is agreed upon (*muttafaq ‘alayhi*) by jurists. In the reasoning through *ḥadīth*, the Hisbah Council relies on the use of *ḥadīth ṣahīh* and *ḥasan* and as such rejects the application of weak narrations in the field of virtues of deeds (*faḍā’il al-A’māl*). According to Zakaria, Hisbah Council does not adhere to one single *madhhab* because the opinion of a *madhhab* is authoritative only when it complies and conforms to the Qur’ān and the *Sunnah*.¹¹

Kamiluddin’s work entitled “*Menyorot Ijtihad PERSIS: Fungsi dan Peranan dalam Pembinaan Hukum Islam di Indonesia*” (Observation of PERSIS’s *Ijtihād*: Its Purpose and Role in the Development of Islamic Law in Indonesia) provides us with a discussion of PERSIS’s legal methodology and its role among Indonesian Muslims. Kamiluddin discusses the main principles of *ijtihād* according to Hisbah Council sequentially. According to Hisbah Council, the Qur’ān is the first source of Islamic law alongside the use of exegesis based on reports and narrations (*tafsīr bi al-ma’tūr*) or reason (*al-ma’qūl*). The *Sunnah* as well as the traditions of the companions are collectively considered another source for the law. Hisbah Council also employs *qiyās*

¹¹ Aceng Zakaria (ed.). *Thuruq Al-Istinbath Dewan Hisbah Persatuan Islam*, (Bandung: Persis Pers, n.d.).