# Renewal of Islamic Law According to *Jaringan Islam Liberal* of Indonesia: A Reflection from *Qawaidu 'Uquli Al-ijtima'iyah*

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**Abstract:** The movement of thought in Islamic Law is continuously developing in line with the development of human reason. That is why there is no space to authorize and legitimate the classical ideas and traditional of Islamic schools of law that some times covered by syncretic traditions while the ideas starting intermingled with the existed local cultures of a nation. The danger is while the traditional Islam forces the authoritarianism of the application of the ideas in the contemporary time. *Jaringan Islam Liberal* (Islam Liberal Network), in Indonesia, tries to promote a new paradigm of understanding of Islamic sources purely based on rational and sociological perspectives. Though they are dreaming of making liberal Islam as a school for Muslims, in its development, *Jaringan Islam Liberal* is only a discourse in which its function does not have any significant influence on the majority of the Indonesian Muslims. Instead, it has caused rejection and hatred. Actually, the case is not because *Jaringan Islam Liberal* is free to use their logic while interpreting Islamic sources but it is because *Jaringan Islam Liberal* totally disregards classical *fuqoha's* views which for traditionalists have turned into Islamic law itself.

**Key words:** Islamic law · Traditional Islam · Liberal Islam · Jaringan Islam Liberal · Qawaidu 'uquli al-ijtima'iyah · Futuristic law

## INTRODUCTION

*"We need not bother about nomenclature, but if some name has be given to it, let us call it liberal Islam"* [1]. Essentially, both revealed religions and religions stemming from human thought (earth religions) aim to give a good way and regularity for humans in performing their functions as caliph. However, instead of becoming a way of life, some people sometimes deem religions as one of inhibiting factors of development both individually and communally. This view is not a result of a priori attitude towards the existence of religions and its implication on life dynamics, but they empirically perceive that religions are often used as a tool to prevent innovation and improvement of human reason.

This reality results from resistance against a perception which perceives religions (revelations) as the only source of inspiration and rationale in various aspects and structures of life. This view sometimes traps them in the circle of critical thinking and cultural creativity obstruction. This can be clearly seen in primitive traditionalist's way of thinking which stems from syncretic traditions. As a result, they are trapped in a fear to get out of "occult circle" of revelations. In turn, this group is forcibly and even forces other groups to live in a blind faith and ignores their rationale as human nature which should fuel civilization.

In the road map of Islamic thought (law), the group is called traditional Islam (Islam *adat*/customary Islam) [2] which is characterized by a combination of local habits and religious understandings both in daily life and religious rituals [3]. In the angle of Abdullah Ahmed an-Naim, they are the Muslims who do not use social reason and shackles themselves with the classical *fuqoha* which they force to be applicable in the contemporary time [4].

Other group, as the most important alternative to traditional Islam is Islamic revivalist or usually known as Islamism, fundamentalism and also wahabism. In its quite long history, the presence of Islamic revivalist, on one hand, is closely related to political condition of some great Islamic dynasties in the valley of Mediterranean river (The Ottoman Empire), West Asia (Safawi Empire) and

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South Asia (Mongol Empire) which are in the end of their downfall. Meanwhile, on the other hand, theological condition where is scientific knowledge transfer in all Islamic worlds starts to accelerate and creates the community of *ulama* (religious scholars) internationally, including those who have studied in the centers of science in the Middle East and those who study under the guidance of someone who has studied there. This has, in turn, reached Indonesia with the presence of Indonesian students such as Haji Miskin from West Sumatra and other students who have studied in the Middle East such as Saudi Arabia [3,5].

This group challenges customary interpretation which is lack of attention to the core doctrines of Islamic teaching. To deal with deviations by traditional Islam, Islamic revivalist wants the stressing of the importance of Arabic re-mastery as a divine language, claim the counterfeit of local political institutions that have taken over the sovereignty of God and clean Muslim from fictitious practices and all non-Islamic practices which have been developing in few centuries after the presence of Islam. They also claim that they are the only Islamic interpreter group which can best meet requirements to revert the purity of Islam as its original [3, 6].

As an antithesis of the presence of traditional Islamic movement and Islamic revivalist, a new group called Liberal Islam emerged in the 18th century. This group stems from the thought of Syah Waliyullah ad-Dahlawy (1703-1762) who perceives that Islam and Muslim are in the danger of a contradictive pragmatic theological-legal debate between traditionalist Islam and revivalist Islam. According to Syah Waliyullah, there is a need to take an effort to revitalize Muslim community by combining the renewal of theological-legal pragmatism and political-social organization. Although he asserts that traditions of traditional Islam (customary Islam) as the main source of all problems in Islam, he is more humanist and tolerant to the traditions of traditional Islam because he thinks that revival must be done and introduced properly so that social reason can accept and does not refuse it [7].

Therefore, Syah Waliyullah argues that is the time for Islamic law to be revealed in thought and argument openly without stopping at schools of classical and medieval Islamic laws, free from customary noncritical obedience and escapes from theological inflexibility as shown by revivalist group such as Muhammad bin Abdul Wahab with his Wahabi movement (in the 18th century). It is Syah Waliyullah's open thought which has inspired the emergence of liberal figures in the 19th century such as Jamaluddin al-Afghani (born in Iran 1838-1897), Sayyid Ahmad Khan (India 1817-1898) and Muhammad Abduh

(Egypt 1849-1905) who started to distinguish between *ijtihad* and *taklid* as well as logic and the authority God [3].

**Definition of Liberal Islam:** The term "liberal Islam" is a combination of two words: liberal and Islam with their different lexical meaning. Kurzman alone has borrowed the term from Asaf 'Ali Asghar Fyzee, a Muslim intellectual from India who first used the term "liberal Islam" to refer to certain tendency in Islam, that is, Islam which is non-orthodox; Islam which is compatible with time change; and Islam which is future-oriented, not past-oriented. Nevertheless, the term liberal Islam has a negative connotation for some people because it is often associated with foreign domination, unlimited capitalism, hypocrisy which worship materialism and hostility against Islam [3, 8].

Meanwhile, Nurcholis Madjid asserts that liberal Islam is Islam which escapes from traditionalism and sectarianism chain as this only freezes reason and weakens psychological striking force [9]. On the other point, according to Albert Hourani (1983), liberal Islam in Islamic liberalization movement which he calls "liberal age" (1798-1939) is ambiguous. On one side, it means that liberalization of Muslims from colonialism which at that time dominated most Islamic world and on the other side, it means to free Muslim from religious thought and attitude which inhibit development [3].

Under the perspective of *Jaringan Islam Liberal* alone, as explained by Luthfi Assyaukani, "liberal" refers to critical and modern Islamic thought, progressive and dynamic. Furthermore, in its website it is stated that "The name of liberal Islam we believe in represents the Islamic principles that stress individual freedom and the liberation from all forms of oppressive structures of politics and society. Liberal here means two things: freedom and liberation. We believe that Islam is always tied to an adjective, because in its reality Islam is always differently interpreted depending on the needs of its readers. We choose one specific exegesis so that there is only an adjective of Islam what we call "liberal". In order to promote our liberal reading, we set up *Jaringan Islam Liberal* - JIL [10].

From the above discussions, it can be said that liberal Islam means a school of thought trying to free Muslims from religious conservatisms and fundamentalism which thwart the striking force of human reason. It is hoped that the presence of liberal Islam will soon free *ulama* (intellectuals) from psychological academic fear that may thwart the creativity of "move" in Islam [11].

**History of Liberal Islam in Indonesia:** The term "Liberal Islam" has been widely used in Indonesia since the publication of book *Islamic Liberalism* (Chicago: 1988) written by Leonard Binder and *Liberal Islam: A Sourcebook* (Oxford: 1998) edited by Charles Kurzman which was then translated into Indonesian with the title *Wacana Islam Liberal: Pemikiran Islam Kontemporer Tentang Isu-Isu Global (Liberal Islam Discourse: Contemporary Islamic Thought about Global Issues)*published by Paramadina Jakarta in June 2001. Meanwhile, the Indonesian version of Leonard Binder's book is published by Pustaka Pelajar Yogyakarta in the same year.

Prior to 2001, Paramadina Press, in collaboration with Adikarya Ikapi Foundation and The Ford Foundation, also translated Greg Barton's dissertation of Monash University entitled *Gagasan Islam Liberal di Indonesia (Ideas for Liberal Islam in Indonesia)* in 1999 [3]. However, of the three books, it seems that it is Kurzman's book that is most serious to search for the root, make a map and develop indicators of liberal Islam. *Jaringan Islam Liberal* (*Jaringan Islam Liberal* – JIL) activists also more often refer to Kurzman's book than that of others.

In its website, it is stated that *Jaringan Islam Liberal* was established to respond religious "extremism" and "fundamentalism" in Indonesia such as the emergence of Islamic militant groups, church destruction, the presence of a number of media to voice aspirations of "Islamic militant" and the use of the term "*jihad*" or holy war as a means to justify violence [10].

The establishment of this *Jaringan Islam Liberal* started from a discussion group of some Muslim youth intellectuals who previously had built a network with one of its initiators namely Goenawan Mohammad, a senior journalist. Then, this group developed into a mailing group. In March 2001, it was changed into *Jaringan Islam Liberal* which at its first establishment received support and contribution from some Indonesian contemporary Muslim intellectuals such as Nurcholish Madjid, Azyumardi Azra, Komaruddin Hidayat, Ahmad Sahal, Budhy Munawar-Rachman, Hamid Basyaib, Luthfi Assyaukanie, Rizal Mallarangeng, Denny J. A. Ihsan Ali-Fauzi, A.E. Priyono, Samsurizal Panggabean, Saiful Mujani, Hadimulyo and Ulil Abshar Abdalla whom then led *Jaringan Islam Liberal*. After Ulil Abshar-Abdalla and Hamid Basyaib, *Jaringan Islam Liberal* is currently being coordinated by Luthfi Assyaukanie, a young liberal Islam figure and an alumnus of Jordan, ISTAC Malaysia and Melbourne University, Australia [10].

Since its establishment, *Jaringan Islam Liberal* has been cooperating with The Asia Foundation, an organization concerned in secularism, pluralism, liberalism and gender balance (feminism). Currently, there are some donor agencies which are cooperating with *Jaringan Islam Liberal* in addition to personal donations. However, in its community network, *Jaringan Islam Liberal* does not have any special membership system. This aims to give loosening and inclusivism which is open to all [10].

**Legal Interpretation Basis of *Jaringan islam liberal*:** On its official website, it is stated that *Jaringan Islam Liberal* has its own legal interpretation method of Islamic teachings [10,12]:

**Open to All Forms of Intellectual Exploration on All Dimensions of Islam:** *Jaringan Islam Liberal* believes that Islam susceptible to critical thinking on itself is a chief principle that should be adhered to in order to keep Islam relevant from time to time. Closing the door of *ijtihad* (interpretation of Islamic Law), partly or wholly, is a threat on Islam itself, because by being so Islam will rot. This group believes that *ijtihad* and other forms of critical thinking can be done from many points of view, not only ones that relates to *ibadah* (rituals) and *mu'amalah* (social interaction) but also *ilahiyah* (theological issues). Here, it seems that *Jaringan Islam Liberal* is braver to expand the sphere of *ijtihad* to the issues which have never been discussed by classical *fuqoha*.

On the other side, *Jaringan Islam Liberal* also believes that all people have the rights to conduct the *ijtihad* because *ijtihad*, as asserted by Arkoun, is not a privilege of and therefore should not be monopolized by law experts (*al-a'immatu al-mujtahidun*) which has specified various legal corpus in the centuries ago [13] and it is more dangerous as an effort has been taken to force their enforcement for an unknown period of time.

**Prioritizing Religio-ethics, Not Literal Texts:** The *ijtihad* developed by *Jaringan Islam Liberal* is trying to interpret Islam based on the spirit of "protestant", not on literal and narrow-minded readings of the Qur'an and Sunnah that will only cripple Islam. On the contrary, by using religio-ethics based interpretation will allow Islam to flourish creatively and be a part of humanitarian global civilization.

**Believing in Relative, Open and Plural Truth:** *Jaringan Islam Liberal* cling to the idea of truth (in the interpretation of religion) is some thing relative on the grounds that interpretation is human activity that is wrapped under certain circumstances or contexts; it is also open in the sense that the interpretations could be wrong or right; it is plural in the sense that one way or another it reflects the needs of the interpreters which change depending on time and space. This thinking shows that in the view of *Jaringan Islam Liberal* an absolute truth is in the God's revelation, not in its understanding.

**Siding with Oppressed Minorities:** *Jaringan Islam Liberal* stands on the interpretation of Islam that side with the oppressed minorities and those who are marginalized in the context of Indonesia. Each social-political structure that perpetuates injustice to the minority groups is contradictive with the spirit of Islam that declares plurality. In this context, minority should be understood in its wide interpretation, including religious, ethnic, racial, gender, cultural, political and economic minorities. It can be clearly seen that *Jaringan Islam Liberal* prioritizes and promotes the spirit of human universality, that is, all humans are equal in the eyes of God. One thing that differentiates them is their quality.

**Believing in Religious Freedom:** *Jaringan Islam Liberal* embrace that it is the freedom of every one whether or not to believe in religions that must be protected. There should not be any persecution against whosoever based on his or her opinions or religions. Belief in God which is personal nature cannot be forced because it is a choice that develops based on truth received by someone. In the context of social interaction among followers of a religion, this group does not justify the practice of human relationship based on theological doctrine (Muslim and non Muslim, the faithful and the disbeliever, right and wrong, black and white) because this will create the breaking-up relationship within community and state.

**Separation of World and Heavenly Authorities, Religious Authorities and Politics:** *Jaringan Islam Liberal* believes the authorities of the religion and the politics must be separated. The reason is because only a state that separates the two authorities that can accommodate religious and political life elegantly, not trapped in value and principle difficulties between world and heaven (transcendent and profane).

On the contrary, this group believes that religion is the source of inspiration that can influence public policies, but religion does not have a holly right to determine all kinds of public policy making [13]. That is why religion should be of the private domain, whereas public affairs should be administered through consensual process.

It is stated in *Fiqh Lintas Agama* (Inter-Religious Jurisprudence) book that some interpretations of *Jaringan Islam Liberal* both related to worship jurisprudence (*fiqh al-ibadah*), social jurisprudence (*fiqh al-ijtima'i*), political jurisprudence (*fiqh al-syiasi*) and to the relationship among followers of a religion have emerged a new discourse in the life of Muslims in Indonesia [14].

From the six legal interpretations above, the writer sees that *Jaringan Islam Liberal* has tried to give a middle way (solution) to break the ice and bridge the sharp differences between the traditionalist and the revivalist groups in understanding and practicing Islamic teachings. However, the writer thinks that what has been done by *Jaringan Islam Liberal* seems too minimize the central role of *fuqoha* (jurists) or classical interpreters. As a result, the groups that support the status quo of Islamic law feel disturbed by the presence of *Jaringan Islam Liberal*.

Actually, what has been done by *Jaringan Islam Liberal* is an effort to reconstruct methodological structure of *istinbat al-ahkam* which has been established by previous *ulama*. Unfortunately, *Jaringan Islam Liberal* has failed to receive sympathy from and accommodate two main streams of Islamic thought of traditionalist and revivalist. Even, liberal Muslims, including *Jaringan Islam Liberal*, are accused of becoming the apostates who have been influenced by Western thought so that they sacrifice Islam on their own altar. This, of course, is a fatal accusation [15, 3].

For further attention, *Jaringan Islam Liberal* actually is trying to return to original Islam which is originated only from the Qur'an and Sunnah as its interpretation. They do not adhere themselves to the system of classical legal thought (methodology) as agreed by the later *ulama* that include *ijma'* (consensus) and *qias* (analogy) as the source of Islamic law in addition to the Qur'an and Sunnah.

In the view of the writer, *Jaringan Islam Liberal* actually intends to create a contemporary *istinbat al-ahkam* methodology what the writer calls *qawa'idu 'uqul*

*al-ijtima'iyah* (social logic principles) which in turn can be used as source of Islamic law in addition to the Qur'an, Sunnah and *Ijma'*.

**Qawaidu 'Uqul Al-ijtima'iyah as Source of Islamic Law:** Although it is not a new thing, social, political and cultural roles in the study of contemporary law have started to become a methodology in understanding, constructing and engineering a legal provision. This is because law which stems from both *Syari'* (Allah) and *ulama*'s logic cannot be separated from and for the social interest of community.

Methodologically, as stated by Kuntowijoyo, social and political roles in legal understanding have three approaches: the approach for textual study, historical contextual study as well as textual and social relationship study. In the textual study, its core is the genesis of thought, consistency of thought, evolution of thought, systematics of thought, development and change, communication of thought, internal dialectic and sustainability of thought as well as intertextuality which are studied. In the contextual study, the core is historical context, political context, cultural context and social context which are studied. Meanwhile, in the textual and social relationship study, it tries to see the influence of thought, thought implementation, thought dimension and thought socialization [16] on legal understanding and provisions as can be clearly seen in a principle that states *al-'adatu muhakkamah* (tradition becomes legal dictum). It means that community problem with its different dimensions has a significant influence on legal development process, especially the development of Islamic law in contemporary world.

On the other side, the question of why the Qur'an was revealed in stages (*tadarruj*) can answer the importance of social context (social rationale principle) in understanding the making of Islamic law. If God had wished, He would have revealed the Qur'an at once. It is *tadarruj al-ahkam* which indicates that the Qur'an was revealed based on community development so that it gives an intermingle influence on contextual understanding capability and law enforcement that emerges based on events occurred within community, including social context when the Qur'an was revealed. However, to keep the Qur'an alive actually in various contexts of community life, *salih li kulli az-azman wa al-amkinah*, Muslims should not force themselves being trapped in an understanding drive based on events occurred when the Qur'an was revealed, but it is today's

historical events which should serve as *legal reasoning istinbat al-ahkam*.

Meanwhile, study of legal philosophy (including Islamic law) or jurisprudence is closely related to the social role when we are interpreting and formulating a legal provision. Due to the significant social role in the jurisprudence, Nur Ahmad Fadhil Lubis has classified jurisprudence into four based on its role and function: first, historical jurisprudence which is related to development of legal principles in time span and reason for the emergence of law as a result of tradition or historical fact developed within society which institutionalizes to become a regulation or law. Second, sociological jurisprudence which studies relationship between legal provisions stemming from individual, group or institutional behaviors. Third, functional jurisprudence which is a study of legal norm, interest and social need that serves as its basis. Fourth, analytical jurisprudence which is a study of the meanings of legal concepts and its conceptual relationship, including their relation to morality [17] and the purpose of the law itself.

By the existence of social role in understanding and formulating Islamic law gives an implication that model and style of classical interpretation, which are very strict with *nas* understanding and tends to accept whatever written in the Qur'an and Sunnah, cannot be finalized, let alone be blindly forced in answering contemporary legal problems. Therefore, a new formula which is more universal and comprehensive is needed to enable us to open a new paradigm of thought of formulation of temporary Islamic law which is able to give an effective solution and is more futuristic. This is because the format Islamic law which grows and develops in Arab land *an sich* must find contemporary forms which are different conditionally and contextually.

Although intellectual *"jihad"* being performed by *ulama* (contemporary Moslem scholars) to reinterpret the Qur'an and Sunnah and reconstruct classical *ulama*'s understanding as an effort to reform Islamic law thought has not yet resulted in any satisfying "thing", but the intellectual *jihad* effort, like that of taken by *Jaringan Islam Liberal*, should not be regarded as an effort to "liberalize" Islam, instead of being support, moreover it is claimed as a conversion.

Answering this anxiety, together with conservative *ulama*'s massive strength which tends to disregard intellectualism, intellectuals (*ulama*) are trying to offer a theory to fill in the absence of epistemology and axiology of Islamic study, especially Islamic law with modernism

approach, as called by Fazlur Rahman as a secularization effort resulting from unsatisfaction of Islamic conservatism which tends to get stronger in most Muslim countries. Thus, when we are talking about social role in perspective of legal understanding, according to Rahman, one thing that must be done by a *fuqoha* is to fully understand an important meaning stated by *nas* by studying situation of social reality development which is related to the problem that needs its solution and which is related to universal *nas* must be correlated with contemporary social and historical context concretely [18].

What has been described by Rahman indicates that there is a need to reactualize *nas* understanding and interpretation by seeing social and historical situation when it emerged to be brought to contemporary domain which is adjusted to its concrete social and historical situation.

There is no other way to synchronize *nas* interpretation with contemporary concrete condition but by using *qawaidu 'uquli al-ijtima'iyah* which is not only a generic collection of *ulama's* maximum logic when they are doing *istinbat al-ahkam* as embodied in *qias, istihsan*, *maslaha mursalah*, etc. but also a collection of social engineering which is applied in the form of culture and civilization with contemporary and future dimension.

To answer the question of why *qawa'idu 'uqul al-ijtima'iyah* becomes one of sources of Islamic law and what its methodology is, the writer will try to describe it like the following:

According to the writer, *qawa'idu 'uqul al-ijtima'iyah* is a collection or provision of social reason, which is called public reason by an-Naim, which is threaded with the dynamics of social reality so that it creates a legal structure in the formation of life which runs based on community necessity and need (supply and demand of law) in order to build a *rahmatan li al-'alamin* civilization.

As a source of Islamic law, *qawa'idu 'uqul al-ijtima'iyah* has its own elements, methods, characters and conditions (*quyud*).

**Elements of *Qawa'idu 'Uqul Al-ijtima'iyah:*** *Qawa'idu 'uqul al-ijtima'iyah* consists of some elements such as divine reason, human reason and social reason. Divine reason is divine guidance in the form of divine revelation, divine inspiration or intuition as source of truth. Human reason consists of move reason [13] (generic/pragmatical logic, (*la dinan liman la 'aqla lahu*) and moral reason (philosophical logic, *lahum qulubun la yafqohuna biha*

*walahum 'a'yunun la yubsiruna biha walahum azanun la yasma'una biha*). Meanwhile, social reason consists of ethics/value/norm/culture and social reality view (*waja'alna likulli ummatin syir'atan wa minhaja*). In Tafsir Ahmadiyah it is stated if *syir'ah* is understood as a way given by God to human beings in the context of relation with God and other human beings, the word *minhaj* can be understood as a finding of regulation (law) stemming from social engineering which is related to regularity of world life [19].

**Istinbat Al-Ahkam Method:** Legal formulation which is used in *qawa'idu 'uquli al-ijtima'iyah* applies reconstructive-futuristic thinking method stemming from reality of community's thought and intelligence development which the writer calls *'aqlu al-ijtima'iyah* (social reason), including the formulations of legal methodology which have been established by classical *ulama* such as *qiyas, mashlahah mursalah, istihsan, istishab, 'urf,* etc. but in a dimension of contemporary paradigm. For example, in their application, the methods of legal formulation must be adjusted to the reality of the problem and legal need as a *legal reasoning istinbat al-ahkam* and not on the other way around; contemporary social reality is forced to be adjusted to methods of classical legal formulation. This is because contemporary problems of social reality must be seen from perspective of contemporary interest and benefit which continues to change depending on time and place. Only through this way, Islam will always become *rahmatan lil 'alamin* (blessing upon the universe) and *salih li kulli az-zaman wal amkinah* (valid for every place and time).

**Legal Characteristics:** *Qawa'idu 'uqul al-ijtima'iyah* has its legal characteristics that cover contemporary and future dimension (futuristic law) which continues to prioritize *maslahat*/*maqasidu as-syar'iyah*, is open and applicable locally; it means that decision made related to law must be able to be reviewed depending on time and place (in Syafi'i *fiqh* it is called *qaul qadim* and *qaul jadid*) and there is no need to be applicable universally.

**Quyud/conditions:** The implementation of *qawa'idu 'uqul al-ijtima'iyah* as source of law has its own *quyuds* or conditions: it shall not against *dilalah nas* which is *qoth'i* (absolute indication) and shall not against *ijma'* as well as social and logical principles which are applicable universally.

**CONCLUSION**

Liberal Islam which is popularized by *Jaringan Islam Liberal* in Indonesia prioritizes Islamic principle which stresses on individual freedom and liberation from all forms of oppressive structures of politics and society, including liberation from classical *fuqoha's* legal understanding. Therefore, they are open to all forms of intellectual exploration on all dimensions of Islam; prioritize religio-ethics, not literal textual readings; believe that there is a relativity of truth, open for interpretation and plural; side with oppressed minorities; believe in the freedom to practice religious beliefs; separate world and heavenly authorities, religious and political authorities.

Though they are dreaming of making liberal Islam as school for Muslims, in its development, *Jaringan Islam Liberal* is only a discourse so that its function does not have a significant influence on the majority of Indonesian Muslims. Instead, it has caused rejection and hatred. Actually, this is not because *Jaringan Islam Liberal* is free to use their logic when they are interpreting a law but because it Liberal totally disregards classical *fuqoha's* views which for traditionalists have turned into Islamic law itself.

*Qawa'idu 'uqul al-ijtima'iyah* is an offer as source of Islamic law with a clearer basis because it stems from social logic with its various dimensions. It is obvious that *qawa'idu 'uqul al-ijtima'iyah* has a significant role in the design of contemporary Islamic Law which has a direct relationship with globalization so that it creates a more *tasamuh* Islamic law and is open to law engineering with a futuristic dimension. In line with functional sociology theory as stated by Thomas T. O'dea, values and practices within community have an impact on legal formulation [20].

Contrary to pragmatic legal realism theory as stated by Resco Pound, law as a tool of social engineering [21], social reality which the writer calls the principles of social reason (*qawa'idu 'uqul al-ijtima'iyah*) serves as not only a tool of law engineering but also as a source of law.

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