

## Practice in Certain School and Fanatic Inclination to One School: A Study among Malaysian Shafi'i Mazhab Within Islamic Civilization Context

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**Abstract:** This study seeks to examine and evaluate the reality between madzhab and fanaticism in the context of Islamic society in Malaysia. What is the position of the Shafi'i-Muslim community to be regarded as a condition that is required and defended or it may be regarded as a sectarian fanatic society that must be rectified. With the development of the mind and the culture of life at this time the attachment to a sect will raise many questions. Among them is the practice of the Shafici sect by the Muslim community in Malaysia without referring to the views of the sects besides Shafi'i in accordance with current requirements and public interest? Is there any change in the education system and exposure to various schools that have no effect on the practice of madhab? This study looks at whether the Muslim community in Malaysia is strongly devoted to Shafici or simply fanatical to the sect. The study uses qualitative methods by referring historical documents to Islamic developments in Malaysia and Islamic classical books. By making in-depth analysis, the study found Shafii's practice of dominating among Muslim societies in Malaysia despite partly practicing a sect besides the Shafici sect. Shafici's practice in their circles does not indicate that they take blind or fanatical attitude toward the Shafici sect and even the stand is to celebrate the sectarian grip of the sect that has been adopted by the community. There are also some views of the Shafici sect that are not followed fully in the face of current fiqh issues due to fatwas adopt the outside view of the Shafici sect and clearly give the people the choice to adopt any four sect. The study also found that the authoritative parties in the affairs of Islamic religion in Malaysia such as the Mufti department in each state take cautiousness, openness and relaxation and give choice (takhayyur) and talfiq to the community in accordance with the elements of Islamic legal flexibility such as istislah, al -dhara'i' urf and so forth in line with the common interest and maqasid al-shari'ah. This also illustrates the fanatical attitude to the Shafii sect not so noticeable among the Muslim community in Malaysia.

**Key words:** Inclination to one school, fanaticism, Shafi'i, Malaysia, current fiqh, Islamic legal

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### INTRODUCTION

One of the generally accepted facts of the Shafi'i Mazhab is very dominant among the Malay community due to certain factors such as history, legislation, fatwa and community practice. This condition has certainly created a harmony of religious practices that can create the formation of a harmonious Malay society based on the teachings of Islam based on the Shafi'i sect.

In the 20th century the writing trend has changed, since, the previous century which has emerged in the form of khilafiyah in addition to the old trend that is not khilafiyah which focus only on the fiqh of the Shafi'i sect (Abdul Kadir b. Hj. This is because the explanation of the opinion in the form of khilafiyah is not confined to the Shafi'i sect only has even been expressed in other sects to solve current issues during that time because of the pros and cons of the issue being discussed.

The implication of this new phenomenon in fiqh in Malaysia has been the instability of Shafi'i's thinking in

the history of its development in Malaysia. This problem was raised by the youth in the early 20th century after there were some Malaysian and Indonesian students who had the opportunity to gain knowledge in Mecca, Egypt and India. Coincidentally, in these countries is influenced by the wave in religious thought. In Hijaz was influenced by the Wahabiyyah movement pioneered by Muhammad Abd al-Wahhab, since, the 18th century which supported Ibn Taymiyyah and Ibn al-Qayyim al-Jawziyyah (these two figures are in the 14M century). The two of them are Hanbali's sect. In Egypt it was influenced by the methodology of Muhammad 'Abduh (early 20th century) thinking of the al-Hanafi sect while in India it was influenced by the teachings of Wali al-Allah al-Dahlawi (in the late 18th century). In the movement there is a call to return to the original source in solving each legal problem by referring to the Qur'an and the Qur'an and inviting to ijtihad and not by means of bertaqlid.

This study aims to examine and evaluate the reality between madzhab and madzhab fanaticism in the context

of Islamic society in Malaysia. What is the position of the Shafi'i based Malay society can be regarded as a condition that is required and maintained or it can be regarded as a fanatic society that is criticized that must be harmonized. The main method used in field research and analysis of previous writing materials. Information obtained, processed and analyzed qualitatively.

**The concept of Shafii's sect:** Shafii's sect can be understood as the flow of fiqh thought reviewed by the Shafici sect whether Imam Shafici himself or a cleric who holds the sect ('ulama' al-Shaficiyyah) who are sources of books authored by Imam Shafici or 'ulama' al-Shaficiyyah. It encompasses several approaches that can be attributed to the Shafi'i sect's methodology referring to Imam Shafii only, references to the Shafici sect and the Shafii sect methodology framework.

The Shafii sect is the view of the majority of the mujtahidin clerics in the Shafi'i sect who are still bound by the legal methodology introduced by Imam Shafici even though it is a bit of a breach. However, every opinion obtained is regarded as an opinion in the Shafici sect if the opinion is not excluded from the basis set by him and does not contradict his opinion. Such a stand is not in the course of the al-Hanafi sect because most of Imam Abu Hanifah's opinion is contrary to his opinion (Ahmad Amin (1964M), 2: 233-234; Jad al-Haq 'Ali Jad al-Haq (1411H/1991M) 112-113).

Accordingly, there are those who can afford takhrij and istinbat law. From the point of their takhrij back to the Shafii sect can be categorized into two parts.

The view is considered to be excluded from the Shafii sect. It occurs when the views of the mujtahid violate Imam Shafici's law against the law in one case. Meanwhile, the view of the mujtahid is supposed to be excluded from the Shafici sect if it violates the methodology or policy set by Imam al-Shafi'i. Such actions are carried out by some of his students alone in some individualized problems.

A view that can be categorized from the Shafii school although there is no clear script from Imam Shafii. This is an observable view of the foundation that has been introduced by Imam Shafici. Furthermore such views do not violate Imam Shafici's opinion. However the mujtahidin cleric in the Shafici sect did not consider this view as Imam Shafii's opinion but they say "Wajhan min Wujud al-Madhhab". This is because Imam Shafii does not express such an opinion but it is derived from its basis or methodology. However, the views are listed in the Shafi'i sect.

In addition, there are some things that are disputed by the scholars whether it is included in the view of the

Shafii sect or not (al-Nawawi (1999M), 1: 110-111; Jalal al-Din al-Mahalli (1417H/1997M), 1: 18-19; Syam al-Din Muhammad b. Abu al-'Abbas al-Ramli (1414H/1993M), 1: 48-49; Ibn al-Subki, 1: 244; Muhammad Abu Zahrah (1987M), 479-480). First, the subjects of the mujtahidin scholars in the Shafii sect who did not violate the views of Imam Shafici but were not bound by the policies and methodology introduced by Imam Shafici, cited as wajh in the sect. But if the mujtahidin clerics freely express their views and whether their views are tied to Imam Shafii's policy or not, they are well-known among the strong mujtahidin clerics who hold fast to the methodology and basis of Imam al-Shafici like Abu Hamid al-Ghazali, al-Qaffal and so on, the views are considered as sectarian views.

Secondly, mujtahidin clerics chose the opinion that has been withdrawn by Imam Shafii. The majority of scholars believe that it can not be regarded as the Shafici sect and the third, the mujtahidin clerics found a valid hadith that contravened Imam Shafii's opinion, then they held the hadith and turned against the opinion of Imam Shafii. In this situation, they disagreed in determining whether they belong to the Shafii sect or not. Most of them think it is regarded as sectarian opinion while others hesitate to accept it as Shafici sect.

The sources of law according to Imam Shafii are: al-Quran, al-Sunnah, Ijma and al-Qiyas. The links between these resources need to be understood in depth and thorough. Similarly, the al-Bayan concept described in detail by Shafici. In addition, Shafii's fundamental thought should also be taken into account such as ihtiyat (reserve), Zahir al-nas (text is visible), Arabic, qawa'id fihiyyah (rules of fiqh), qawa'id usuliyyah (fundamental rules) and others. Dr. 'Abd al-Wahhab Ibrahim Abu Sulayman explains the methodological features in fiqh of Imam al-Shafi'i.

- Istiqra (induction) 'verses of the Qur'an
- Istiqra (induction) 'sunnah Nabi S.A.W. and athar Sahabat R.A
- Hold on to Arabic in understanding nas
- Application of al-qawa'id al-usuliyyah (fundamental rules)
- Istidlal bi al-Ma'qul wa Mazahirih (reasonable reasoning and phenomena)
- Linking issues and laws with qawa'id (rules) and dawabit fihiyyah (principles of fiqh)
- Motodology in fiqh al-muqarin (comparative jurisprudence)
- Ethic of dispute (khilaf)

From a source perspective, qawl mu'tamad in the Shafi'i sect can be categorized into two categories.

- Qawl Mu'tamad Imam Shafi'i (authorized pronunciation of Imam Shafi'i)
- Qawl mu'tamad that comes from Imam Shafi'i has two forms
- Qawl mu'tamad whose opinion is otherwise punished and it is known as al-Famous
- Qawl mu'tamad whose opinion is contrary to it is strongly convicted and is known as al-Azhar or the strongest opinion
- Qawl mu'tamad followers of the Shafi'i school
- Qawl mu'tamad from the followers of the Shafi'i sect also has two forms namely
- Qawl mu'tamad whose opinion is otherwise punished and is known as al-sahih (the correct)
- Qawl mu'tamad whose opinion is contrary to it is strongly convicted and is known as al-Asah or the strongest opinion

Both categories of qawl mu'tamad have the same position. The fatwa council and the court shall make it a reference when making a fatwa decision and imposing punishment. While weak qawls can only be practiced for themselves.

Imam Nawawi, a well-known scholar of the Shafi'i sect also holds the opposite opinion of the qawl of the Shafii sect in some of the fiqh questions. Among the books in the denominations referring to the author in this thesis is the book Minhaj al-Talibin and the book Rawdah al-Talibin masterpiece Imam Nawawi should be investigated by the parties involved in issuing a fatwa as the book was specifically for Mufti. The book contains not only the qawl of the Shafii sect but also the qawl of the non-Muslims and the personal opinions of Imam Nawawi.

**History of the Shafi'i school arrival and its predictability framework in Malaysia:** Among the most important elements of the practice of Shafi'i's practice in the life of the Malay community are the arrival of scholars and Islamic preachers to the Malay world. It also shows how Muslims in the archipelago or the Malay Archipelago embraced Islam. The date of Islam's arrival to the archipelago can not be ascertained accurately. However, some scholars have made estimates that the arrival of Islam to the archipelago around the 13th century. There is even an opinion suggesting that the arrival of Islam to the archipelago is expected to be far ahead of the date at the beginning of the first century Hijrah. This is based on the placement of Arab and Persian Muslim settlements in northern Sumatra as well as trade ties between Middle East and the Malay world.

In discussing the advent of Islam to Malaya, most scholars agree that the advent of Islam began, since, the conversion of Parameswara (who later changed his name

to Sultan Muhammad Shah) in 1414M or early 15th century. Since then, the teachings of Islam spread widely from Malacca to all Malaya or Malaysia.

In the Malay version there is a recording of the recitation of Parameswara or Sultan Muhammad Shah by saying that he dreamed of seeing the Prophet's face S.A.W, then he told him that tomorrow came a Jeddah prayer on the shore (Melaka) and he was ordered to follow his words. As dictated, the event really took place. Sayyid Abdul Aziz descended from his ship and prayed. When the king saw the incident then he embraced Islam and then followed by the people (Shellbear, 1967).

Islam has been based in Malaya or Malaysia since the year 1303M. This is based on the date on a stone found in Kuala Berang, Terengganu (Syed Muhammad Naguib al-Attas 1970). Other views say that Islam has been in Malaysia, since, the 3rd century CE again with the 10th century. Such a view is based on the discovery of the tombstone in Lembah Bujang which recorded the date. This shows that the arrival of Islam to Malaya took place, since, the reign of the Abbasid Kingdom again.

The conversion of Sultan Muhammad Shah makes Malacca as the first state to receive Muslim influence in Malaysia. This is because the established Islamic government made Malacca a Malay Islamic kingdom that had been influenced for a century before the arrival of the Portuguese troops to conquer Melaka in 1511M. The Islamic Kingdom of Melaka places Islam as the basis of government in determining policies including laws, education, society and politics. Even the Melaka Islamic government is regarded as the first Malaysian state to introduce neat and complete written law.

An interesting phenomenon on the recitation of Malacca is related to the spread of the Shafi'i sect. This is due to the arrival of a preacher named Sayyid Abdul Aziz to Malacca who has links and relations with Syeikh Ismail al-Siddiq who has been fond of Pasai which they both came from the Arabian Peninsula which was then an Islamic territory under the influence of the Shafi'i sect.

Historically, in the tradition of sailing and business, Arab and Persian merchants are actively involved in business involving the eastern world. Therefore Nusantara especially the Malay Archipelago is a very important trade route and stopover destination before they continue their voyage. In addition, to conducting trade activities, they also took the opportunity to preach and spread the teachings of Islam in the archipelago including the Malay realm.

What is interesting, the arrival of Islam to the archipelago including Malaysia is the acceptance of Islam which has been al-Shafi'i as seen in the law practiced in Malaya at that time (Crawford, 1877; Drewes, 1985).

Western historians discussing the advent of Islam to the archipelago including Malaysia also say that the Shafi'i sect is the single most dominant sect in the study of fiqh in the archipelago.

In addition, in Islamic recruitment cases most of the spreaders of Islam were not only composed of authoritative preachers and Sufi members of the Arab descent and even their influence was huge in the formation of the Islamic kingdom and the spread of the Shafi'i sect. Among the interesting phenomena in the missionary activities of the Arab land were the roles of the Sayyid Hadramaut who had Shafi'i (Mahyuddin bin Yahya, 1984).

According to the study, the spread of Shafi'i Islam in the Nusantara including in Malaysia, is a planned process. This is because of Syeikh Ismail al-Siddiq among preachers sent by Syarif of Mecca to Islamize the Pasai people who were then under the reign of the Turkish Mamluks (650-922H/1252-1517M). This is reinforced by the fact that Ibn Batutah (t.t) has ever stopped at Pasai around 1345M. He observed the Islamic sect that he taught that the sect which was the title of King al-Malik al-Zahir and the locals was the Shafi'i sect.

From the above description shows that the Malay community began accepting the Shafi'i sect of Islam after receiving da'wah from the Shafi'i scholar and was therefore regarded as a very dominant sect and found a place in the heart of the Malay community in Malaysia and was able to defeat the influence of sectarian influence Shia. Hence, if there are attempts by some who are trying to erode the dominant practice of the Shafi'i sect, it can create a bad mood that leads to division among the Malay public.

**Sharia text writing from local scholars:** Among the strong elements that can be attributed to the priorities of Shafi'i-based practices among Muslim societies in Malaysia are the works or writings produced by local scholars. Shari'ah texts or works are not only produced by Shafi'i-based local scholars, but also produced by scholars of other states in the archipelago such as Thailand in particular Pattani and Indonesia particularly Aceh and Kalimantan. The findings show that shari'a texts in states in the archipelago are also not influenced by Shafi'i's thinking.

In the 19th century, the writing of sharia texts was rapidly due to the contribution of writing from Pattani scholars who studied science in Mecca. In the beginning, the books were partly printed in Mecca and Egypt. Among the well-known Pattani clerics and they are Shafi'i is Sheikh Daud b. Abdullah al-Pattani who produced more than 14 legislative works including Furu 'al-Masa'il wa Usul al-Wasa'il, Bughyah al-Tullab

and others. So is Hj. Ahmad b. B. Mustafa b. Muhammad Pattani who wrote two books, namely Bahjah al-Mubtadi'in wa Farhah al-Mujtahidin and al-Fatawa al-Fataniyyah, Sheikh Muhammad b. Ismail b. Daud al-Pattani who produced two famous writings: Matla 'al-Badrayn wa Majma' al-Bahrayn and Washah al-Afra wa Asybah al-Falah and others. The books they authored were based on the books of fiqh of the Shafi'i schools such as al-Minhaj al-Nawawi, al-Ramli Nihayah, Tuhfah al-Haytami, al-Fatawa by Syams al-Din al-Ramli and others.

In the 17th century, there was a famous scholar Aceh named Shafi'i named Syeikh Abdul Rauf Singkel al-Fansuri wrote the Indonesian fiqh book titled Mir'at al-Tullab fi Tashil Ma'rifah Ahkam al-Syar'iyah li Malik al-Wahhab. His book is written on the basis of a book that is manifested in the Shafi'i sect such as Fath al-Wahhab by Zakariyya al-Ansari, Tuhfah al-Muhtaj by Ibn Hajar al-Haytami, Nihayah al-Muhtaj al-Ramli, Minhaj al-Nawawi other books in the Shafi'i school.

Besides him, there are also great ulama from Borneo, Muhammad Arsyad al-Banjari who wrote the book Sabil al-Muhtadin at the request of Sultan Banjar. This book is derived from the books of the muktabar in Shafi'i schools such as Minhaj al-Tullab by al-Ansari, Nihayah by al-Ramli, Tuhfah by al-Haytami and Mughni al-Muhtaj by Khatib al-Syurbini.

In general, the fiqh books composed by scholars in the archipelago including Malaysia are referring to the Shafi'i sect. This can be evidenced from its reference to the books of fiqh of the Shafi'i sect. Certainly, the writing of Malay-language fiqh books began in the early 17th century. Sirat al-Mustaqim's book Sheikh Nuruddin al-Raniri is the oldest and earliest sharia text not in the form of cannons ever found in Pahang, Malaysia. Although, he came from a foreign country, he was known as a well-known Malay scholar and the first scholar pioneered the writing of a fiqh masterpiece in the Malay World.

His research was written around the 17th century when he settled in Pahang. The book contains approximately 93,000 words divided into several titles in the chapter of worship. In detail he divides the contents of this book into the al-Taharah, al-Salah books, al-zakah books, kitab al-siyam and kitab al-hajj. Each of his books breaks into several chapters and every chapter he breaks down to the smaller parts he names with clauses.

Since, al-Raniri was a follower of the Shafi'i sect, he found that he had been referring to his writings to a number of books that were found in the Shafi'i sect. Among them the Minhaj al-Talibin book by Imam al-Nawawi, Minhaj al-Tullab and his sermon Fath

al-Wahhab by Syeikh Zakariyya al-Ansari, Mukhtasar al-Fatawa by Ibn Hajar al-Haytami, 'Umdah al-Salik wa' Uddah al-the writing of Syihab al-Din Ahmad ibn Lulu 'al-Naqib and also al-Anwar al-A'mal al-Bararah al-Ardabili's work. The list of references is expressed by al-Raniri in his book.

The book Sirat al-Mustaqim was printed in Istanbul, Turkey and Makkah in 1317 and 1319H in two volumes along with the book Sabil al-Muhtadin by Sheikh Muhammad Arsyad al-Banjari.

Apart from al-Raniri's work in Pahang, at the same time that in the mid-17th century until the early 18th century, it was found that there was writing from Sheikh Abdul Malik b. Abdullah or famous for Tok Pulau Manis in Terengganu. He has produced several Malay fiqh works such as Risalah al-Naql, Kayfiyyah al-Niyyah and Kitab al-Kifayah which these books are based on the thought of the Shafi'i sect.

In addition, to Terengganu, Kelantan also plays an important role in Syariah textual writing activities. It began to be detected in the late 19th century. Among the Kelantan clerics who are involved in this writing are Syeikh Abdul Sammad b. Muhammad Salleh al-Kelantani. His writings through his book Bidayah Ta'lim al-'Awam fi Tarf min Arkan al-Islam and Minhah al-Qarib al-Mujib wa Mughni al-Raghibin fi Taqrib clearly pointed out that it is derived from the fiqh books in the Shafi'i sect. The book of Bidayah Ta'lim al-'Awam fi Tarf min Arkan al-Islam refers to several famous fiqh books in Shafi'i sects such as Sharh al-Minhaj, al-Tuhfah and al-Zawajid by Ibn Hajar al-Haytami, Hasyiyah al-Bayjuri by Ibrahim b. Muhammad al-Bayjuri, Fath al-Qarib by al-Ghazi and other books (Abdul Kadir b. Hj.

While his book entitled Minhah al-Qarib al-Mujib wa Mughni al-Raghibin fi Taqrib also refers to several books of muktabar in the Shafi'i sect including Sharh Qurrah al-'Ayn, al-Majmu', Tuhfah and others. In addition he also refers to the views of al-Ghazali, Ibn Qasim and al-Qadi. He also included the opinion of other schools such as the al-Hanafi sect in his book (Abdul Kadir b. Hj.

In addition, to the writing of Sheikh Abdul Sammad b. Muhammad Salleh al-Kelantani, there are other clerics in Kelantan who are involved in the field of syariah writing, Tok Wan Ali Kutan. He had taught at the Masjid al-Haram, Mecca and had produced several works. Among his works is Jawhar al-Mawhub which contains some discussion on fiqh as well as discussions on morality and the advantages of worship. However, according to the author's study, his book is more likely to discuss targhibs and tarhibs containing the hadiths, most of which are quoted from the book Lubab al-Hadith by

Imam al-Suyuti. The methodology of his writing in this work is not much different from the book Ihya Ulum al-Din written by Imam al-Ghazali. His book was prepared in 1306H equivalent to 1889M (Ismail Che Daud. T.t).

In the 20th century the writing trend was seen to have changed over the previous centuries where there were those who were named as young people wanting to bring renewal in religious matters by introducing some new ideas on certain issues. However, their efforts are less successful because Shafi'i's thinking is still strong amongst scholars and societies and can be maintained through the institutions of study they establish through their scholarly writing.

At its very beginning, the discussion of the problem of khilafiyah only occurred through only verbal debates in villages around the 1920s to the late 1930s. The debate in the muzakarah was held to resolve the problems raised by the pros and cons.

There are several works in the form of khilafiyah whether in the form of manuscripts or already printed (Abdul Kadir b. Hj. Among the works is the Ma'na Niat's Legacy. This leaflet is produced by a Kelantan scholar, Hj. Wan Musa b. Wan Abdul Samad. The brochure is still in the form of an estimated manuscript written in the 1925s. It was written after a misunderstanding occurred in Kampung Laut, Kota Bharu, Kelantan in matters related to his intentions and muqaranahnya (obedience after obedience) in prayer. Understanding the intentions contained in this pamphlet is based on the notion of the famous scholar Ibn Hazm, a scholar in the al-Zahiri sect and other scholars. Among the references is Bughyah al-Murtarsyidin fi Talkhis Fatawa Ba'd al-A'immah min 'Ulama' al-Muta'akhirin by Mufti Hadramaut, Yemen al-Sayyid 'Abd al-Rahman b. Muhammad b. Husayn b. Umar, Ithaf al-Sadah al-Muttaqin by al-Sayyid al-Murtada al-Zabidi, Tarsyih al-Mustafidin by al-Sayyid 'Alwi b. al-Sayyid Ahmad al-Saqqaf. In addition, he also refers to the book Bughyah al-Tullab by Daud al-Pattani and so on.

In addition, in the state of Perak there are scholars such as Sheikh Jalaluddin who also missed producing some sharia writings that have elements of khilafiyah. This is because he is among the leaders who are moving the movement or young people. Among the works produced by him is This Declaration Which Burns the Hajj Writings on Declaring the Two Laws of Qabliyyah Friday. This work rejects the views of Haji Abu Bakar bin Hj. Hasan, former Kadi Muar, Johor who said the circumcision of the qabliyyah prayer Friday after the priest was on the pulpit for the sermon. In his writing, he referred to several books, among them Syarh Sahih Muslim by Imam al-Nawawi, Huda al-Sari by Ibn Hajar

al-'Asqalani. In addition, he also refers to the fiqh fiqh of the al-Syafii sect of which is Fath al-'Aziz Syarh al-Wajiz by Imam al-Rafii, Tuhfah al-Muhtaj by Ibn Hajar al-Haytami, al-Majmu 'by al -Nawawi, Bughyah al-Murtarsyidin fi Talkhis Fatawa Ba'd al-A'imma min 'Ulama al-Muta'akhirin by Mufti Hadramaut, Yemen al-Sayyid' Abd al-Rahman b. Muhammad b. Husayn b. Umar and others. In addition, he also refers to the opinion of other scholars of Ibn Hazm, Imam Malik and others.

There are also some other khilafiyah works that appear in Malay letters, among which are the Important Risks In Dog Trouble Problems in Four Mazhabs by Hj. Abbas b. Taha and Kitab al-Qawl al-Mufid li Ifadah al-Mustafid by Hj. Muhammad b. Idris and others. In the meantime, there was writing in this century, using a format in the form of comparisons between Sharia law and the prevailing legislation. While others discuss the views of the Shafi'i sect and compared to the opinions of other sects. Among them are the Criminal Law of Murad from Islamic Legal Corners and Islamic Legislation and Fiqh Mazhab al-Shafi'i and Opinions of Imam-Imam Four by Hj. Said b. Hj. Ibrahim. In both his books there is an explanation of the other sects as well as the al-Syafii sect.

There is another pattern of legal writing in the middle of this century to date, partly turning into a professional literary writing based on the writer's own expertise. Among the Concept of Worship According to Islam by Prof. Madya Dr. Mustafa b. Hj. David, Foundation for Islamic Family Construction by Prof. Madya Datin Dr. Paizah bt. Ismail, al-Nafaqah wa al-Syiqaq wa al-Ta'addud al-Zawjat wa Kayfa 'Alajaha al-Islam by Dato' Dr. Haron Din, Islamic Financial System and its Implementation in Malaysia by Prof. Madya Dr. Abdul Mumin b. Ab. Ghani, Islamic Crime-Criminal Qisas Act by Prof. Madya Dr. Mat Saad b. Abdul Rahman and others.

According to observations, some institutions have their own journals discussing Islamic and legal aspects such as Islamic Center Law Journal, UM Syariah Journal, UKM Syariah Issues Journal, IKIM Law Journal and Journal of al-Ahkam, DBP. Furthermore, in this century there also emerged a number of Islamic scholars in higher learning centers involved in writing and research by producing research in various fields according to their respective expertise. This is reflected in the writings of some academics of Islamic Studies at UM, UKM and other Islamic higher learning centers.

The references used by them above are not only taken from the books of muktabar in the Shafi'i sect, even the references from all the four sects such as Hanafi, Maliki, Shafi'i and Hanbali. In fact, sometimes they also highlight

the views of the al-Zahiri sect. In addition, the language used is the Malay language adapted to the level of understanding of the people who are no longer using the style of the previous era.

The developments in this new writing however have never succumbed to the dominance of the Shafi'i sect in terms of its practice in society. There are still works by scholars in Malaysia in the form of Shariah texts in the 20th century which are bound to Shafi'i sect. In Melaka there is a book titled Tahmid al-Musalli by Abdul Hamid b. Ahmad Melaka al-Rawwa. His book was written in 1340H equivalent to 1921M and edited by his own teacher, al-Sheikh Muhammad b. Abdul Rahman al-Pattani. The book is derived from the fiqh books of the al-Syafii sect, Hasyiah al-Bujayrimi 'ala al-Iqna' and Hasyiyah Sawi 'ala al-Jalalayn (Abdul Kadir b. Hj.)

In Selangor there is also a work of scholar in the field of shariah that remains with the flow of Shafi'i school. This is evident in their works, Among them is Kitab al-Jawahir al-Safiyah fi Mukhtasar Madhhab al-Shafi'iyyah by King Hj. Uthman b. Raja Yahya.

In Kelantan there are still scholarly figures who produce works that are bound by the jurisprudence of fiqh law Shafi'i. Among the earliest fiqh works of this century is the Divine Divination Lessons from Hj. Umar Ismail Nuruddin al-Kelantani from Sunagi Keladi, Kota Bharu, Kelantan. He was born at the end of the 19th century and died in 1946. His work began in May 1920 and was completed in November of the same year and had 353 pages. In general, this book deals specifically with the inheritance law referred to in the book of Shaykh Abd Allah al-Shansuri Shafi'i. According to Abdul Kadir b. Hj. Muhammad, perhaps what is meant by the work of Sheikh Abd Allah al-Shansuri is al-Fawaid al-Shansuriyyah fi Syrah Faraid al-Rahibah.

Likewise, with Harun bin Muhammad al-Samad al-Kelantani who has produced syariah writings namely Durus al-Tawhid wa al-Fiqh wa al-Tasawwuf which was printed in 1949M. In his writing, he referred to many Jawi-based books of Shafi'i such as Munyat al-Musalli and Sullam al-Muhtadi by Syekh Daud al-Pattani, Wushah al-Afra and Matla 'al-Badrayn by Muhammad bin Ismail al-Pattani and Kasyf al-Lithan by Zayn al-'Abidin bin Ahmad al-Pattani. He also refers to the books of scholars of the Shafi'i sect such as al-Bujayrimi 'ala al-Iqna' by Sulayman b. Muhammad al-Bujayrimi and Fath al-Wahhab by Zakariyya al-Ansari.

In addition, there are also fiqh pamphlets produced by Master Guru Hj. Abdul Rahman bin Hj. Che Wan is a clerical figure in Kelantan. His brochure is titled Guidelines for Prayer of 46 pages. This research is based on fiqh in the Shafi'i sect such as Fath al-Mu'in by Sheikh Zaynuddin b. 'Abd al-Aziz al-Malibari and his sermon I'anah al-Talibin by Abu Bakr b. Sayyid Muhammad Syata al-Dimyati.

Sheikh 'Uthman Jalaluddin is also among Kelantan scholars who produce many works of fiqh and law. Among his writings is *Majm al-'Ulum wa Manabi 'al-Fuhum* which is a translation and explanation of fiqh in the Shafi'i sect, *Fath al-Mu'in*, named Syarh *Fath al-Mu'in* in the Malay (Ismail Che Daud *et al.* tt).

*Kitab al-Fiqh al-Wadiah 'ala al-Madhab al-Imam al-Shafii* produced by Hj. Said b. Hj. Ibrahim also pointed out that there was a disagreement over the Shafi'i sect in discussing the fiqh problem in Malaysia.

In Pahang, there is a scripture entitled *al-Jam 'al-Raiq* which deals with the masculine law and *muwafiq*. This work is written by Hj. Muhammad Amin b, Hj. Muhammad Tahir Mengakabdu (Minangkabau) when he settled in the village of Kuantan, Pahang. His writings are quoted from the book of *Bahjah al-Radiyah* by Sheikh Daud al-Pattani and the views of some of Shafi'i scholars al-Ramli and Ibn Hajar. The book *al-Jam 'al-Raiq* was printed in 1934 and has 11 pages (Abdul Kadir b. Hj).

In literary writing there are also works based solely on Shafi'i's sects such as the *Jemaah solat* book by *Mazhab Syafei* by Prof. Madya Mohd Salleh b. Hj. Ahmad. Most of the references contained in this book are derived from the books of the Shafi'i sect of either the Jawi or Arab versions.

Based on the above description, it appears that the writings and works produced by Malaysian scholars in the early stages have strongly adhered to the opinion and flow of the Syafii sect. However, in the 20th century, local scholarly writing was not limited to the views of the Shafi'i sect of scholars, but also contained opinions from other sects as well as Shafi'i. Such development does not affect the influence of the Shafi'i sect because there are also many local scholarly works that are still tied to Shafi'i sect's scholars.

This illustrates that the Shafi'i sect remains the dominant sect in the development of sharia texts among Malaysians. Even the civilians are more aware of the books composed by scholars in the Shafi'i sect than the ulama from the Shafi'i sect. This symbolizes how strong they are to unity from the point of cultivation to becoming a culture in their lives.

Since, most Muslims in Malaysia are exposed to a sect of ideology only from the point of writing, it does not necessarily cause fanaticism to the sect and it is difficult to accept the views of other schools of thought. This is because the mainstream of the general public is more comfortable with Shafi'i's schooling than the students at the university level who are exposed to the diversity of schools in their studies. Hence, by looking at the developments described on the study of various sects to the general public are sometimes seen inadequate in their ability and habits as most likely to cause disunity among them.

## MATERIALS AND METHODS

**Legislation:** The implication of Shafi'i's schooling is not only affecting the general public through the fiqh and the fiqh fiqh produced by local scholars and the educational syllabus adopted and taught in institutions of study in Malaysia but it also affects the rulers in the political arena and systems law in Malaysia, since, the 15th century.

This can be evidenced by the formulation of the Law of Malacca Law which is one of the main aspects of the legal history in Malaysia. Each clause highlighted in the text of the Malacca Code of Law is compared to the sources of Islamic law namely the Quran and Hadith and the authoritative Islamic law texts in the Shafi'i sect (Abdul Kadir b).

The formation of the Law of the Melaka was made during the reign of Sultan Muzaffar Shah who ruled between 1446M and 1456M. The Melaka Code of Law contains five different texts-Malacca Law, Sea Law, Islamic Family Law, Sale and Purchase Law (*muamalat*) and state and legal laws of Johor.

According to Liaw Yock Fang, Islamic law found in Melaka Code of Law is the plaque of fiqh *fiery* Shafi'i schools. He considers that family law found in clause 25-28 is a translation of the fiqh books of the Shafi'i sect. While the clauses related to *muamalat* and the event are directly extracted from the *al-Taqrub* book of Abu Shuja, '*Fath al-Qarib* by Ibn al-Qasim al-Ghazi and *Hasyiyah*' *ala Fath al-Qarib* by Ibrahim al-Bajuri.

The influence of the Shafi'i sect in the legal system not only existed in the time of the Melaka government until its fall in 1511M into the hands of the Portuguese, even the influence of the flow was still in the legal system adopted by the Johor-Riau government which replaced the Melaka government which was defeated by the Portuguese (Hooker, 1970).

According to Mosye Yegar the adoption of the Islamic law of Shafi'i and local custom laws are also adopted in other states in Malaya such as Pahang, Perak, Kedah, Kelantan, Terengganu and so on. or not. The legislation was implemented not only in written form, but also in law not in written form also implemented in Malaya. What is interesting, Islamic law is not in the form of early writing introduced and it is more robust than the point of its implementation. This is because in implementing the law, the ruler at that time referred to many sources including the Qur'an, the hadith and the fiqh books of the ulama, especially, the scholars of the al-Syafii sect such as the *Minhaj al-Talibin* by al-Nawawi and *al-Taqrub* by Abu Syuja '*al-Isfahani*.

In the meantime, Mackeen said that the source of reference in Islamic law in Malaya in the 14th century was based on fiqh books in the Syafii sect. Among them the *al-Ghayah* book of Abu Syuja '*peeled* by Ibn Qasim

al-Ghazi and Khatib al-Syurbini. Also, the book of Minhaj al-Talibin by al-Nawawi was also used as a reference in the Islamic legislation at that time. This book is also processed and written by al-Rafii in his book al-Muharrar.

Among the examples of the influence of the al-Syafii sect in the law is in the case of Abdullah vs. Syarifah Munirah (Kedah Appeal No. 1/1970). In this case, the divorced wife demands mut'ah of RM1,000.00. While the claimant (husband) said that he had divorced his wife for some reason to escape the payment of mut'ah to the wife she had suffered. The court ruled that the wife (respondent) is entitled to claim mut'ah from the husband (claim) under section 125 of Law Number 9 of 1962. The court punishes shall on the claim (husband) give mut'ah to the answer (wife). This sentence is based on the book fiqh of the al-Syafi'i sect, I'alah al-Talibin by al-Sayyid al-Bakri (Ahmad Ibrahim, Nik Abdul Rashid, Mohd Zain Othman, Othman Ishak *et al.*).

There are also provisions in the state enactments that apply directly to the al-Shafi'i sect. Among them is the law on the guardian of mujbir. In the case of Syed Abdullah Syatiri v Sharifah Salmah (MLJ 137 (159), the Islamic law implemented in this case conforms to the flow of the sect of al-Syafii because according to the Shafii sect when a girl is married by her father is legitimate without the consent of that girl, her marriage in this case is valid.

From the above description, it clearly illustrates that there is influence of the Shafi'i sect in Islamic jurisprudence in Malaysia although there are some enactments in the administration of Islamic law in Malaysia which take into account the views of other schools.

**Fatwa expenditure:** The Malaysian constitution does not mention that the Shafi'i sect should be the follower of the sect and practice of the Muslim community in Malaysia. However, religious authorities in Malaysia, especially, JAKIM, adopted the National Council for Islamic Affairs suggesting that there would be uniformity in the practice of martial law in Malaysia to stem the ideals and sects contrary to the teachings of Islam. The recommendation states that legitimations and schools as well as al-Shafi'i schools need to be controlled in terms of their dissemination to the community, although such beliefs and sects are recognized by the syarak. However, if there is a society that wants to practice religion or school as well as the Shafii sect, it is necessary to enroll in any State Islamic Religious Department. The practice is only for your own use and not for dissemination to others. It is important to avoid the issue of discrepancies denoted by any irresponsible party (Federal Territories Fatwa (1975-1986) Minutes No. 55).

In the meantime, in Malaysia Islamic law is governed at state level and each state is empowered to enact Islamic administrative laws enactment. Hence in each state established the Islamic Religious Council and officials such as Mufti, Kadi Besar and Kadi. Mufti is usually the chairman of the Shariah Committee who is tasked with issuing a fatwa if required (Ahmad Mohamed Ibrahim in 1997).

In examining, the law of the mufti or the appointed fatwa committee in the states of Malaysia is generally seen based on the ultimate opinion in the Syafii sect either qawl qadim nor qawl jadid. This is because according to the provisions of the law, every state in Malaysia except Perlis should give priority to Shafi'i sect in the issue of fatwa. However, if the fatwa is contrary to the public interest, the mufti or the fatwa committee may follow the views of other schools of Maliki, Hanafi and Hanbali which are reasonably likely to be of general interest (Kelantan Enactment (Bil.4/1994), s.37 (1) (No.5/1991), s. 35 (1-3); Negeri Sembilan (No.1/1991), s.35 (1-3); Pahang (No.3/1991), s.41 (1-3); Perak (No.2/1992) s.39 (1-3); Pulau Pinang (bil.7/1993), s.41 (1-3); Sabah (No.13 / 1992) 26 (1) and the Federal Territory [Act 505], s.39 (1-3).

According to a study by Ahmad Hidayat, no fatwa was decided by the mufti and fatwas committee based on their own opinions and ijihad. It is based on the opinions of the sect as found in the scriptures. The majority of references and guides in issuing a fatwa are based on the Shafii sect although there are also references to the other sects and books in contemporary form and comparison of sects.

Among the examples that clearly illustrate the dominance of the Shafi'i sect is in fatwa decisions decided by the Kelantan Ulama clan. In the second volume of the Fatwa Himpunan Book, 85% of the total number of fatwas referenced was based on the fiqh of the Shafii sect. Among the books referred to are I'alah al-Talibin, Buhyah al-Murtarsyidin, Fath al-Mu'in, Hasyiyah Qalyubi, Tuh fah al-Muhtaj and others. For example fatwas on the position and legitimacy of the congregation prayers performed by a sect of the sect of al-Syafii with a priest who devised except the Shafi'i sect. According to the fatwa issued by the Kelantan Ulema cleric states that the lawful al-Syafii people are immigrants to the Hanafi people if the imam does not abandon the obligatory obligations of the solat and does not do the abolition of the solat according to the supreme school and the reading of the imam shall be correct. If there is such a thing, prayer with the Hanafi priest is better than solat alone. The above mentioned fatwa is taken from the view of Shafi'i sect as it appears in the book al-Majmu.

Based on the above elements it seems that Shafi'i-based practices are in line with the general public



environment in Malaysia. This is because in the history of the journey of Imam Shafi'i, the founder of the Shafi'i sect itself takes into account the diversity of situations and cultures, not on the basis of fanatics to a sect.

Relatively speaking in Malaysia, the holdings of the Shafi'i school are mostly focused on matters related to worship and marriage or in other words fardhu 'ain. However, in other areas such as mu'amalat, crime, judiciary and legislation as well as contemporary issues, the government and the Muslim community are not bound to the Shafi'i sect alone.

## RESULTS AND DISCUSSION

**Inclination in mazahib is not fanaticism:** Based on the above explanation and analysis, it can be concluded that the practice of Islam in Malaysia through Shafici's approach to the Shafici school had an impact and expressed the spirit of attachment to the Shafici sect against the society and the scholars. Furthermore, socio-historical factors have a significant impact on the practice of Shafici in all aspects of life as well as the factor of respecting the situation of local Malaysian practitioners who have been rooted for so long (Embong *et al.*, 2018). But it is not a measurement that the Muslim community in Malaysia is so fanatical to the Shafi'i sect in applying the lawfulness of the law, even such an attitude is to avoid the disruption of Muslims in Malaysia in practicing Islamic teachings.

It is said this is a context in Malaysia history has recorded that traditional Malay ulema with the strength of knowledge and da'wah commitment have been able to unite the Nusantara with the Shafi'i sect (Umar *et al.*, 2018). The disruption of sectarian practices in civil society sometimes leads to hostility and disunity among them as it is seen as disappointing by the efforts of the high traditional scholars to develop their united knowledge and ummah.

Understanding and appreciating this history and the fact that the Department of Islamic Development Malaysia (JAKIM) has made a stand that the teachings and sects besides the Shafi'i and Ahl al-Sunnah Wa al-Jama'ah schools should be controlled in terms of their dissemination society, even if such an understanding or sect is recognized by the Muslim community. This is because the main sect practiced in Malaysia is the Shafi'i sect and Ahl al-Sunnah Wa al-Jama'ah (Hassan *et al.*, 2019).

However, those who wish to practice the religion or sect other than the Shafi'i and Ahl al-Sunnah Wa al-Jama'ah schools must fulfill the rules and regulations set by any State Islamic Religious Department in Malaysia. The practice is only for your own use and not for disseminating to others. It is important to avoid the issue of sectarian discrepancies disseminated by any irresponsible party.

Holding the Shafi'i sect in the fardhu 'ain chapter as practiced today does not mean that the Islamic community is fanatical and rejects the views of other sects. This position is held solely based on the inability of a person to practice in his worship. Indeed, the original law adhering to the school is not obligatory but for other mujtahid, practicing with fatwa mujtahid (mazhab) is obligatory as there is no other way to know the law of syara but by following the sect (Hassan *et al.*, 2018).

The inability of it requires it to stick to the denominational school. This is because the mastery of high discipline is only capable of being performed by someone who has the expertise in making the choice of any of the most authentic and most correct scholars of the scholar recognized by Ahl al-Sunah wa al-Jamaah. But this is certainly somewhat confidential and possibly impossible for the public. This is not an illustration that Islam is an elite to a certain class but it is seen from the aspect of the limitations of one's own knowledge that requires him to have the guidance of others who know better in the field.

Thereafter, some legal provisions issued and resolved by the authoritative authorities are seen to have not shown an attachment to the Shafici sect if it is contrary to common interests and interests. They can use the method of "ijtihad intiqai" which is ijtihad based on the process of selection and filtering and exaggerating the earlier fiqh opinions, especially, the view of the outside scholar from the Shafici sect of three other major sects if it conforms with the general interest due to the difference in the atmosphere and condition which requires the settlement of the law based on the Sharia objective (maqasid al-shari'ah) and rejects allegations that the Muslim community in Malaysia is so fanatical to the Shafii sect (Hassan *et al.*, 2017).

## CONCLUSION

Based on the above discussion, the practice of Shafi'i's schooling can not be separated from the lives of Muslims in Malaysia since the beginning of Islamic acceptance. This school not only affects the practice of worship but it also has a strong place in the tradition of learning or education, writing, legal and religious practice. Furthermore, with the emergence of a number of clerics who have developed the influence of the Shafi'i sect in Malaysia. The background of the Shafi'i sect's influence has had a profound effect on the practice of fatwa based on the Shafi'i sect although the intellectual development and advancement of this day is certainly somewhat affecting the position of the Shafi'i sect in Malaysia. The practice is not based on sectarian fanatics but on the basis of ijtihad to the qualified mujtahid imam for ijtihad. The developments in terms of rules, fatwa and so forth are within that framework to maintain community unity and take into account the history that leads to

today's position. The non-existent flow of the framework as it is now can not be given space in this country as it will produce dozens of other sects. Disputes are an unavoidable but in the current framework of disputes can be minimized on condition that there is no fanatical element.

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