

The Renewing of Usul al-Fiqh: Challenges, Limitations and Future Directions

Alyasa Abu Bakar¹, Sahman²

¹ Universitas Islam Negeri Ar-Raniry Banda Aceh-Indonesia

² Universitas Muhammadiyah Mataram-Indonesia

Corresponding Author: yasa.abubakar@gmail.com ¹
zsahman01@ummat.ac.id ²

Abstract:

This research aims to explore and analyse the renewing of the usul fiqh method in Indonesia, which expands the sources of law and aligns the methods of interpretation of Islamic law. The research method used is a qualitative approach involving data collection techniques through literature studies and analysis of classical and contemporary texts. The data analysis included descriptive and critical analyses of the legal sources of the Qur'an, Hadith and the practices of companions and istinbath methods. The findings of this research are that the classical usul fiqh method requires revision, especially in terms of the criteria for determining legal verses and the much-debated concept of nasikh-mansukh, so that the application of maqashid sharia and Hadith matan criticism is essential to ensure the relevance and validity of Islamic law in the contemporary context. In addition, this research highlights the dilemmas of legal istinbath authority, including the challenges of implementing just and humane laws in a country with a diverse Muslim population. The contribution of this research is the recommendation of an integrative and holistic approach to the renewal of usul fiqh through the selective acceptance of new methods of thinking, such as hermeneutics and statistics, as a basis for formulating legal facts so that the validity of Islamic law and its application not only remain rooted in originality but also relevant to contemporary life.

Keywords: *Renewing; Islamic Law Interpretation; Maqasid al-Shariah; Future directions*

1 Introduction

Renewal (tajdid) in ushul fiqh becomes very important considering the many contemporary challenges that can no longer be overcome by classical methods. Traditional approaches in ushul fiqh often fall into the trap of literal interpretation and do not take into account the dynamic developments of modern times.

For example, the need to integrate new concepts relevant to the modern context is one way to ensure that Islamic law remains relevant and applicable.^{1 2}

One important aspect of this reform is the method of *istinbath*, or the method of deriving the law. The classical method, which is largely based on the rules of the Arabic language and the customs of the Arab community, is now considered inadequate to meet current challenges. In this context, there is a need to adopt new approaches such as hermeneutics and modern statistics. These approaches will not only enrich the methods of deriving the law but also enable the derivation of laws that are more contextualised and in accordance with the needs of Muslims today.³⁴

This paper attempts to offer a comprehensive perspective on the redefinition and recategorisation of sharia's law and the recognition of legal entities as legal subjects. Previous research has generally highlighted the urgency of reform in certain aspects of *ushul fiqh*, but this paper specifically emphasises the integration of new methods of thought, such as hermeneutics and statistics, as well as the application of the concept of three levels of legal norms: *al-qiyam al-asas-iyah*, *al-ushul al-kulliyyah*, and *al-ahkam al-furu'iyah*.^{5 6 7}

2 Literature Review

The findings relevant to the reform of *ushul fiqh* that have been found in this article include some of the core ideas proposed by authors such as Abdessamad al-Marzāqi, Muḥammad Sa'd Ramadan al-Buti, and Bin Bayyah.⁸

Abdessamad al-Marzāqi highlighted the importance of continuous *ijtihad* and adaptation to the realities of the times. He emphasised the need to distance

¹ Niki Alma Febriana Fauzi, "Muhammadiyah's New Fiqh Reasoning: Constructing a Holistic Islamic Law Paradigm," *Afkaruna* 15, no. 1 (2019).

² Isman Isman, "Empirical Legal Research Based on Jasser Auda's Maqashid Syariah Theory," *Al Afkar Journal* 6, no. 4 (2023): 14-29.

³ Fajar Rachmadhani, Mualimin Mochammad Sahid, and Ahmad Wifaq Mokhtar, "Implementation Of The Change In Islamic Law (Taghayyur Al-Ahkām) During Covid-19 Pandemic In The Perspective Of Majelis Tarjih Muhammadiyah In Indonesia," *Malaysian Journal of Syariah and Law* 10, no. 1 (2022).

⁴ Isman and Yahya, "Al-Ma'nāwī's Istiqra': A Multicultural Judicial Reasoning," *Ijtihad: Journal of Islamic Law and Humanity Discourse* 22, no. 1 (2022).

⁵ Syamsul Anwar, "Fatwā, Purification and Dynamisation: A Study of Tarjih in Muhammadiyah," *Islamic Law and Society* 12, no. 1 (2005).

⁶ Isman, Isman, "Prophetic Reasoning from Ibn Taymiyyah's Perspective (Ibn Taymiyyah's Criticism of Greek Syllogism)," *Tsqafah* 15, no. 2 (2019).

⁷ Isman Isman and Ahmad Zainul Muttaqin, "Innovative Legal Modeling for Interdisciplinary Studies on Law and Economic Behaviour," *Indonesian Journal of Islamic Economic Law* 1, no. 1 (December 7, 2023): 60-71, <https://journals2.ums.ac.id/index.php/ijoe/article/view/3437>.

⁸ H. Y. Sonafist et al., "Ibn Al-Muqaffa's Proposal for Taqni'n and Its Synchronisation with Islamic Law Codification in Indonesia," *Samarah*, 2020.

oneself from the influence of Mutazila theology and Khawarij extremism in Islamic legal thought. Instead, he proposed a more open approach to critical thinking and adjustment to social change.⁹¹⁰

Muhammad Sai'd Ramadan al-Buti proposed the need to maintain the existing tradition of the Usul al-Fiqh methodology while rejecting the idea of radical reform. He emphasises the importance of maintaining the basic principles of Islamic law in interpreting religious texts, especially in the context of the Arabic language, which is considered an essential prerequisite.¹¹¹²

Bin Bayyah, in his writings, emphasises the role of Maqāsid Shariah in the reform of Usul Fiqh. He stated that the Maqāsid of Shariah should be the main focus in establishing Islamic legal judgments. He proposed restructuring Islamic legal theory to play a more important role in Maqāsid in the process of legal reasoning.¹³

The description of the above usul fiqh reform model is known to include the prescriptions or recommendations initiated by contemporary fuqaha, namely, sustainable jthad and orientation towards social change, with an emphasis on the flexibility of the interpretation of Islamic law. Second, the sources and structure of Usul Fiqh should be reassessed to answer the challenges of the new era. Third, the principles of reason and human rights should be integrated into the interpretation of Islamic law to ensure justice and humanity. Fourth, strengthening the role of maqāsid sharia in the reform of Usul Fiqh to address changing social realities.¹⁴

The final form or model of the proposed reform of Usul Fiqh is a more inclusive and dynamic framework that allows Fuqaha to independently evaluate existing methods of interpretation and make legal decisions that are responsive to the current challenges. This involves recognising the fundamental principles of Islamic law while expanding the scope of interpretation to take into account the social context and needs of contemporary Muslim societies.¹⁵

⁹ Darul Faizin, "Muhammad Aṭ-Ṭāhir Ibn 'Āshūr's Contribution to Maqāsid Ash-Sharī'ah," *El-Mashlahah* 11, no. 1 (June 28, 2021): 1-12, <http://e-journal.iainpalangkaraya.ac.id/index.php/maslahah/article/view/2067>.

¹⁰ Moath Alnaief and Kotb Rissouni, "A Critical Analysis of the Claim That Absolute Juristic Interpretation (Ijtihād) Has Ended," *Journal of Islamic Thought and Civilization* 12, no. 2 (October 11, 2022): 28-40, <https://journals.umt.edu.pk/index.php/JITC/article/view/2593>.

¹¹ Reza Hajatpour, "Reflections and Legal Analysis of the Relationship between 'Religious Government and Human Rights' from the Perspective of Grand Ayatullāh Muntazirī," *Die Welt des Islam* 51, no. 3-4 (2011): 382-408, https://brill.com/view/journals/wdi/51/3-4/article-p382_5.xml.

¹² Abdessamad Belhaj, "The Reform Debate: Al-Marzūqī and Al-Būṭī on the Renewal of Uṣūl Al-Fiqh," *Ilahiyat studies* 4, no. 1 (June 2013): 9-24, <http://www.ilahiyatstudies.org/index.php/journal/article/view/164>.

¹³ Ibid.

¹⁴ Fatih İPEK, "Muhammed Âbid El-Câbirî'nin Üç Bilgi Sistemi Teorisi Üzerine Eğitimsel Bir Analiz," *Eskiyeşi*, no. 47 (2022).

¹⁵ Mohd Din and Al Yasa' Abubakar, "The Position of the Qanun Jinayat as a Forum for the Implementation of Sharia in Aceh in the Indonesian Constitution," *Samarah: Journal of*

3 Research Method

This research is a type of explanatory research that aims to identify the factors that influence the compatibility between traditional methods and contemporary dynamics. This research explores the theoretical and practical aspects of *usul fiqh* reform by considering the challenges and needs faced by Muslims today.¹⁶ The approach used in this research is a legal actualisation approach that emphasises the application of *usul fiqh* actualised in the context of modern times. The aim of this approach is to find a way for Islamic law to remain relevant and applicable in the face of social, cultural and political changes occurring in Muslim societies today.¹⁷

The data collection technique used in this research was a literature review. This literature study includes data triangulation based on the topic "Renewing *Usul al-Fiqh*: Integrating Modern Methodology and Redefining Islamic Law for the Contemporary Era". This study involved analysing classical texts from the Islamic legal literature, contemporary studies dealing with the renewal of *usul fiqh*, and recent research that addresses the challenges and opportunities in the application of modern *usul fiqh*. Data triangulation was conducted to ensure the validity and reliability of the research findings by comparing data from various diverse sources.¹⁸

Checking the validity of the data in this study was carried out using the source triangulation technique. This technique involves comparing data obtained from various sources, including classic texts, contemporary studies, and recent scientific articles. By comparing data from these various sources, researchers can ensure that the findings obtained are valid and reliable. This source triangulation also helps identify gaps in previous research and offers a more comprehensive perspective on the renewal of *usul fiqh*.¹⁹

4 Results and Discussion

Renewal in the field of *usul fiqh* in Indonesia requires adjustments to both the source of law and the method of *usul fiqh* itself. At the level of legal sources, challenges arise in the interpretation of Qur'anic verses and hadiths that require new approaches such as *maqashid sharia* and *matan* criticism. Moreover, in the

Family Law and Islamic Law 5, no. 2 (December 26, 2021): 689, <https://www.jurnal.ar-raniry.ac.id/index.php/samarah/article/view/10881>.

¹⁶ Isman and Muttaqin, "Innovative Legal Modeling for Interdisciplinary Studies on Law and Economic Behaviour."

¹⁷ Isman and Ahmad Zainul Muttaqin, "Innovative Legal Modeling for Interdisciplinary Studies on Law and Economic Behaviour," *Indonesiaon Journal of Islamic Economic Law* 1, no. 1 (January 2024): 50-65.

¹⁸ Kamarudin Zaelani, "Philosophy of Science Actualisation for Islamic Science Development," *Pacific Science Review B: Humanities and Social Sciences* 1, no. 3 (2015).

¹⁹ Mark Van Hoecke, "Methodology of Comparative Legal Research," *Law and Method* (2016).

method of *usul fiqh*, an in-depth investigation is needed into the possibility of assisting the main rules to overcome the shortcomings of the classical method so that the resulting *fiqh* style is more relevant and applicable to Muslims today while still adhering to the basic principles of *sharia*.²⁰

4.1 Classical Usul Fiqh: Limitations and Future Directions

The achievement of classical *usul fiqh* has explained the categorisation of Qur'anic verses on the criteria of legal verses and not legal verses. However, clear criteria for distinguishing between the two have not been formulated adequately, so many scholars refer to certain verses as legal verses or not legal verses without rational explanation, and methodologically, they must be tested scientifically.

An example is whether verses about *sulh* (reconciliation) fall under the criteria of legal verses. The mufasssirs conclude *sulh* (reconciliation) in various social and historical contexts, such as in the events of *sulh Hdaybia*. In this context, the criteria for relevant legal verses are often linked to significant events in Islamic history that emphasise the importance of peace and reconciliation.^{21,22}

The legal verses related to *sulh* are connected to ethical values such as *ihsān* (kindness), forgiveness, and anger control. This shows that legal verses not only function legally but also have strong moral and ethical dimensions. Furthermore, legal verses related to *sulh* are often oriented towards the *maqāsid* of *sharia* (an objective of *sharia*), such as maintaining social harmony, preventing conflicts, and promoting justice and goodness in society.²³

The legal verse on *sulh* also highlights the important role of the *muṣliḥ* (mediating party), who has the authority to make binding decisions. This emphasises the importance of justice and knowledge of laws and customs in the reconciliation process.²⁴

This means that according to the linguistic analysis of identifying the various meanings of *sulh* and *ṣalāḥ* in the Qur'ān, the use of these words often varies depending on the context of the verse. If the criteria of a legal verse are related to norms, then *sulh* is found in a variety of social contexts, ranging from marital relations to relations between states. This shows that the concept of reconciliation in Islam has wide and varied applications.²⁵

²⁰ Isman, Ahmad Imam Hambali, and Aisha Baha Eldeen, "Transcendental Law and Legal Reform in the Digital Era," 2024, 485-493, https://link.springer.com/10.1007/978-3-031-49544-1_44.

²¹ Belhaj, "The Reform Debate: Al-Marzūqī and Al-Būṭī on the Renewal of Uṣūl Al-Fiqh."

²² Shafi Fazaluddin, "Conciliation Ethics in the Qur'an," *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique* 29, no. 2 (June 9, 2016): 333–358, <http://link.springer.com/10.1007/s11196-016-9455-z>.

²³ A Bewley, *Tafsīr Al-Qurṭubī, Vol. 1, Tafsīr Al-Qurṭubī, Vol. 1*, 2003.

²⁴ Fakhr al-Dīn Al-Rāzī, *Maḥāṭib Al-Ghayb*, 15th ed. (Beirut: Dār al-Fikr, 1981).

²⁵ Fazaluddin, "Conciliation Ethics in the Qur'an."

Thus, the criteria for legal verses in the Quran are likely to include social and historical context, ethical values, sharia objectives, the role of intermediaries, linguistic context, diversity of contexts, and a comprehensive approach in creating solutions to complex and dynamic social structures.²⁶²⁷

The rules of nasikh (verse that replaces) and mansukh (verse that is replaced) in the Qur'an in the modern era began to obtain a method of determination with the new rule of classifying verses into maqashid (purpose) and wasa'il (means) verses or using the concept of tadarruj (gradual enactment). Another source problem to be resolved is the relationship between the Qur'an and Hadith, namely, the topic of whether a Hadith spoken by the Prophet before the revelation of a verse can be declared a nasikh by the verse without explicit explanation from the Prophet. This theory, proposed by Imam al-Shafi'i, is still widely used but needs to be critically rethought.²⁸

In the Indonesian context, research by Barkah et al. (2023) shows how Qur'anic and Hadith texts can be used to support the practice of underage marriage. This shows that a partial and textual-only exegesis approach can be used to promote certain views that may not consider the health and well-being interests of the marrying couple. This research recommends an integrated approach that continuously seeks to prevent underage marriage, with a comprehensive understanding that recognises the interests of all parties involved.²⁹

One of the main dilemmas is determining the validity of the naskh itself. Not all scholars agree on the acceptability of naskh verses and the methods used to identify mansukh (cancelled) and nasikh (cancelling) verses. This can lead to significant differences in the interpretation and application of the law. Thus, the naskh dilemma in Islamic law not only affects legal interpretation but also has far-reaching practical implications, including for social issues such as underage marriage. A holistic and integrated approach is needed to ensure that Islamic law is applied in a just and humane manner.³⁰

Ebû Ubeyd al-Qâsim ibn Sallâm al-Khurâsânî al-Harawî is one of the scholars who has a deep understanding of naskh. Ebû Ubeyd discussed naskh in a broader sense. He argues that naskh includes not only the abrogation of laws but also the explanation and specification of more general laws. He also argued that the Qur'anic verses can cancel each other out and that the sunnah can cancel out other sunnahs. Ebû Ubeyd's approach shows that the understanding of naskh verses is not monolithic and can vary among scholars. This approach

²⁶ R Al-Ba' albakî, *Al-Mawrid, Al-Mawrid*, 2000.

²⁷ A Muştafâ, *Al-Şulh Fî Al-Lugha Wa Qur'an Wa Al-Sunna Wa Aqwâl Al-'ulamâ' Fî Dhâlik*, 2007.

²⁸ Mehmet Aziz Yaşar and Taha Nas, "Ebû Ubeyd'in Nesih Anlayışı," *Hitit İlahiyat Dergisi* 21, no. 1 (June 30, 2022): 689–716, <http://dergipark.org.tr/tr/doi/10.14395/hid.1064547>.

²⁹ Qodariah Barkah et al., "The Manipulation of Religion and the Legalisation of Underage Marriages in Indonesia," *Samarah: Journal of Family Law and Islamic Law* 7, no. 1 (March 31, 2023): 1, <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/13316>.

³⁰ YAŞAR and NAS, "Ebû Ubeyd'in Nesih Anlayışı."

reflects flexibility in the interpretation of Islamic law but also poses challenges in determining the validity and application of the law.³¹

In a more in-depth look at naskh or abrogation, there are important points that can be related to the naskh dilemma and its implications for Islamic law. First, the contribution of the practices of the Companions to the formation of Hanafi ushul thinking. Companion practice includes the verbal and practical stances of all the Companions or some of them on a particular topic in ushul al-fiqh. This concept is different from qawl al-ṣaḥābī (the opinion of a companion), 'amal ahl al-Madīnah (the practice of the people of Medina), and ijma' al-ṣaḥābah (consensus of the companions).³²

Companions are regarded as the first actors of revelation and central figures in the fiqh tradition, so their methods of interpreting divine texts and techniques for issuing fatwas are crucial in determining theoretical principles. The practices of the Companions are used as evidence for many principles of ushul al-fiqh in the Hanafi tradition. Among them is Al-Sarakhsī's contribution to Hanafi usul fiqh theory. Al-Sarakhsī, in his work "al-Uṣūl", shows how Hanafi's legal theory is built on the practices of companions. Al-Sarakhsī explores the impact of Companion practice on legal theory, including issues related to the Kitāb (Qur'ān), Sunnah, qiyās (analogy), naskh (abrogation), and alfāz (words).

For naskh, from the perspective of the practices of the companions (the companions of the Prophet Muhammad), the practices of the companions help to understand how certain laws may be cancelled or changed by laws that come later. This means that the practice of the companions is often used to prove the principles of ushul al-fiqh, including naskh, which reflects their acceptance of the concept of abrogation as a pillar of legal certainty and helps reduce uncertainty and provide clearer guidance on which laws apply. The practice of the Companions can be said to be the jurisprudence of abrogation, as it allows for the adaptation of laws based on changing historical and social contexts. This is important for maintaining the relevance of Islamic law at different times and places. In the literature, many of the principles of ushul fiqh on the practice of companions developed in the Hanafi tradition strengthen the contribution of the authority and validity of Islamic law so that it becomes an additional legitimisation for legal interpretation.³³

The study of the role of Companion practice in the formation of Hanafi ushul thought, as analysed by Al-Sarakhsī, shows that Companion practice provides a strong framework for understanding and applying the concept of naskh. It helps reduce legal uncertainty, provides adaptive flexibility, and strengthens the authority of the Islamic legal tradition, particularly in the Hanafi School.³⁴

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ahmet Numan Ünver, "Hanefî Usul Düşüncesinin Temellendirilmesinde Sahâbe Uygulamasın Rolü: Serahsî Örneği," *Cumhuriyet İlahiyat Dergisi* 25, no. 3 (December 15, 2021): 1359–1379, <http://dergipark.org.tr/doi/10.18505/cuid.880702>.

Louay Fatoohi's study, "Abrogation in the Qur'an and Islamic Law: A Critical Study of the Concept of 'Naskh' and Its Impact", explores the concept of naskh (abrogation) in the Qur'an and its implications for Islamic law and the integrity of the Qur'anic text. Louay Fatoohi recognises that naskh, as a legal doctrine, has gone through a long phase from its most basic form to a complex and multifaceted doctrine. The concept of a naskh was initially used to resolve certain problems in Islamic law and textual interpretation.

However, his finding that is relevant to the discussion of renewal of *usul fiqh* is that the application of naskh by scholars is often used to explain the view that not all of the Qur'anic revelation survives in the mushaf (written record of the Qur'ān). Therefore, the claim that verses on tolerance in the Qur'ān have been cancelled by verses calling for resistance against the enemy is a controversial legal interpretation, as the implications of the concept of naskh often contradict basic principles in the Qur'ān, such as justice, compassion and tolerance.³⁵

The data collected by Louay Fatoohi tend to prove that there are a number of inconsistencies among scholars in applying naskh, resulting in legal doctrines that do not converge with one another. This has led to confusion and uncertainty in Islamic law and has affected the authority and validity of the Qur'anic text.³⁶

Therefore, Louay Fatoohi recommends that the method of interpreting naskh in Islamic law be juxtaposed with a deeper and more consistent understanding of Qur'anic principles. Fatoohi's critique of the concept of naskh shows the perspective adopted by Muhammadiyah through its Tarjih Council by introducing *qiyam al-asasiyah* or the exploration of universal values as an umbrella for interpreting practical *fiqh* norms. A deep understanding of this dilemma is important for learning and developing Islamic law that is more inclusive and contextualised, as well as ensuring that legal interpretations do not contradict the moral and ethical principles taught by the Qur'an.³⁷

Another issue that arises related to the source of law is the position of criticism of the *hadith matan* as a source of law. *Hadith matan* criticism has not been adequately addressed and discussed, even though it is important to determine the validity and relevance of *hadith* in a dynamic legal context. For example, the study on "Re-evaluating the Authenticity of *Hadith* on the Shariah Ruling of Female Circumcision in Malaysia" by Ithnin Suliaman and Ibrahim explores the criticism of the *hadith matan* and how its validity and relevance are considered in the dynamic context of Islamic law.³⁸

³⁵ Louay Fatoohi, *Abrogation in the Qur'an and Islamic Law* (Routledge, 2012), <https://www.taylorfrancis.com/books/9781136217289>.

³⁶ ÜNVER, "Hanefî Usul Düşüncesinin Temellendirilmesinde Sahâbe Uygulamasının Rolü: Serahsî Örneği.", p. 1359-1379

³⁷ Ibid.

³⁸ Zainudin Zainudin, "Ailal Rashid's Critical Contribution to Sahih Al-Bukhari in the Book of Sahih Al-Bukhari Nihayah Usturah," *Journal of Qur'anic and Hadith Studies* 23, no. 1 (January 31, 2022): 01, <https://ejournal.uin-suka.ac.id/ushuluddin/alquran/article/view/3034>.

This research highlights the criticism of international forums such as the CEDAW of hadith, which is used as the legal basis for female circumcision in Malaysia. The main criticism is that the practice of female circumcision is considered more of a tradition than a religious requirement, and the underlying hadith is considered weak and lacking in authoritativeness.³⁹ Using qualitative methods and textual-historical analysis when evaluating the opinions of hadith scholars regarding the sanad (chain of transmission) and matan (text) of the hadith, it was found that the hadith on female circumcision has various transmission lines that can support each other; thus, it can be upgraded to hasan li ghayrihi (good because of support from other lines). This finding confirms that the practice of female circumcision is part of Islamic law.⁴⁰

However, if the empirical implementation of hadith is found to be harmful, then the criticism of hadith text becomes an internal mechanism with relatively available rules and procedures for investigating the criticism and scientific analysis of hadith texts. The method of critiquing hadith texts poses a dilemma between maintaining tradition and reforming the law because, on the one hand, there is the authority and authenticity of the law, while on the other hand, there is the need to ensure that legal practices are not only religiously valid but also just and humane.⁴¹

Hadith matan criticism reflects the challenges faced by Islamic law in maintaining its religious authority while adapting to contemporary values. This study shows that through critical analysis and reassessment of hadith, Islamic law can continue to evolve and be relevant to the modern context.⁴² Proper matan criticism can strengthen the validity of hadith and ensure that the application of Islamic law remains rooted in the principles of justice and humanity taught in Islam.⁴³

4.1 Renewing and Redefining the Usul Fiqh Methodology

Problems at the scientific end as a practical side that can be identified are methodology and science tools. Usul fiqh, as a knowledge of method, not only questioned the method of istinbath (legal interpretation) but also included all

³⁹ F. Harrag, E. El-Qawasmeh, and A.M. Salman Al-Salman, *Extracting Named Entities from Prophetic Narration Texts (Hadith)*, *Communications in Computer and Information Science*, vol. 180 CCIS, 2011.

⁴⁰ H. Maraoui, K. Haddar, and L. Romary, *Encoding Prototype of Al-Hadith Al-Shareef in TEI*, *Communications in Computer and Information Science*, vol. 782, 2018.

⁴¹ M.Z.M.Z. Amin et al., "Religio-Scientific Integration of Knowledge: A Study of Islam's Prophetic Traditions Related to the Medical Sciences," *Advanced Science Letters* 23, no. 5 (2017): 4605-4607.

⁴² Harrag, El-Qawasmeh, and Salman Al-Salman, *Extracting Named Entities from Prophetic Narration Texts (Hadith)*, vol. 180 CCIS, p. 289-297.

⁴³ I.H. Jamal et al., "Classification of Hadith Fi'li in Sahih Al-Bukhari Based on Contextual Understanding on the Pillars of Islam," *Advanced Science Letters* 23, no. 5 (2017): 4681-4685.

the rules that are the content of *usul fiqh*. This includes the rules of *shara'i* arguments, the method of *istinbath*, *shara'i* law, *maqashid sharia*, and the person authorised to do *istinbath*.

The issue of Islamic legal *istinbath* authority is significant, as evidenced by research on maritime security and terrorism (Islam and Maritime Security Cooperation Zone for Combating Terrorism).⁴⁴ The dilemma of the *fuqaha* arises due to the tension between the principles of Islamic law, international law, and contemporary reality. At present, Islamic law lacks an explicit definition of terrorism. In general, terrorism is defined as *hirabah* (acts of dividing security) and *bugha* (rebellion). The difficulty arises from the fact that these definitions may be political in nature, which means that each country does not fully conform to the definition of terrorism in international law.

The practice of divorce in Indonesia (between State Law and Islamic Law) and the determination of marriage guardians (negotiations between Positive Law and Islamic Law) are two examples of how religious authorities have not been able to fully control people's religious behaviour. The most dominant dilemma related to the authority of Islamic law *istinbath*: the role of religious courts in the divorce process is that the husbands in these cases assume that they have been officially divorced after leaving home and not being picked up by their wives or their wives' families for a week. Meanwhile, Islamic law regulated by the state requires divorce through a process in a religious court.⁴⁵

A number of factors must be considered when analysing the relationship between the state and Islamic law. These include differences in context and interpretation. The modern state has a complex legal system that developed based on secular principles, while Islamic law has been derived from revelation interpreted by various methods by *Fuqaha* over the centuries. The divergence of context and interpretation gives rise to discrepancies between state law and Islamic law, particularly in the domains of religious practice, personal status, and family law.⁴⁶

The diversity of *madhhabs* and Islamic legal traditions that employ different *istinbath* methodologies necessitates the use of the *usul fiqh* method, which facilitates consensus in the modern context, particularly in countries with diverse Muslim populations. The third factor is the role of the state in religious affairs.

⁴⁴ Satria Unggul Wicaksana Prakasa, Sholahuddin Al-Fatih, and Hasnan Bachtiar, "Islam and Maritime Security Cooperation Zone for Combating Terrorism: An Overview of Islamic Legal Thought," *Mazahib* 22, no. 1 (June 7, 2023): 65–88, <https://journal.uinsi.ac.id/index.php/mazahib/article/view/6134>.

⁴⁵ Abd. Karim Faiz, Zulfahmi AR, and Ahmad Izzuddin, "Between State Law and Islamic Law: The Practice of Divorce Outside the Situbondo Religious Courts, Indonesia," *JIL: Journal of Islamic Law* 3, no. 2 (August 31, 2022): 176–192, <http://e-journal.iainptk.ac.id/index.php/jil/article/view/848>.

⁴⁶ Fadli Fadli and Budi Juliandi, "Negosiasi Antara Hukum Positif Dengan Hukum Islam: Penetapan Wali Nikah Di Kantor Urusan Agama Idi Rayeuk, Aceh, Indonesia," *JIL: Journal of Islamic Law* 2, no. 2 (August 26, 2021): 268–283, <https://e-journal.iainptk.ac.id/index.php/jil/article/view/329>.

In some countries, the government has the authority to regulate and oversee religious affairs. In other countries, however, religion is separated from the state and has no role in the interpretation of Islamic law. This difference in role often gives rise to tension between state authorities and fuqaha.⁴⁷

Suryani's research (2023) demonstrates that the diverse application of Islamic law in the regional development framework has a detrimental impact on program implementation. The differing interpretations of Islamic law may result in inconsistencies in the design and implementation of the programme. The failure to reconcile state law with Islamic law can result in the ineffectiveness of the programme and its beneficiaries. Therefore, *usul fiqh* can address the challenge of integrating Islamic values with sustainable regional development programmes by employing a holistic approach, including the selective acceptance of empirical statistical evidence as a basis for determining legal facts that form major premises in the method of *istinbath* Islamic law.⁴⁸

One example of the outcome of the reconciliation between local traditions and *usul fiqh* is the legal determination of substitute heirs in the Islamic inheritance system, which was successfully adopted from the local inheritance system. The success of this reconciliation in Aceh serves to illustrate the flexibility and adaptability of *Ushul Fiqh*. By engaging in *maqāṣid al-syariah* *ijtihad*, which acknowledges *urf*, *fuqaha* facilitates the reconciliation between local practices and Islamic law. This approach ensures a more inclusive and contextually relevant application of Islamic principles.⁴⁹

Although not explicitly mentioned in the classical *fiqh* literature, the practice of successor heirs is considered acceptable by some scholars through *ijtihad*. *Ijtihad* enables the application of Islamic legal principles to contemporary situations.⁵⁰ It is also necessary to consider the integration of new methods of thinking from Western civilisation, such as hermeneutics, although with extra caution.⁵¹ Successor heirs are perceived to align with the objectives of Islamic law (*maqāṣid al-syariah*), particularly the pursuit of justice and the safeguarding

⁴⁷ Irma Suryani et al., "Integration of Islamic Law in Regional Development in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 1 (April 30, 2023): 1, <https://ojs.iainbatusangkar.ac.id/ojs/index.php/Juris/article/view/8770>.

⁴⁸ *Ibid.*

⁴⁹ K. Hasballah et al., "Patah Titi and Substitute Heirs: A Study of Legal Pluralism on the Inheritance System in Aceh Community," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021): 299–324.

⁵⁰ M Kalam Daud and R Akbar, "Hareuta Peunulang: Protection of Women in Aceh According to Customary and Islamic Law," *Samarah* 4, no. 1 (2020): 259–281, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85106313702&doi=10.22373%2Fsjhk.v4i1.5921&partnerID=40&md5=763584f32eaa1b08f8686a4f3885ba44>.

⁵¹ M Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law," *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 207–219, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85149652629&doi=10.31958%2Fjuris.v21i2.7495&partnerID=40&md5=c9d55a35bef7e12a463048a365d8c40f>.

of the interests of the descendants of deceased heirs. The concept of ‘patah titi’ is a local custom (adat) that is recognised in Acehese inheritance practices. Ushul Fiqh acknowledges the legitimacy of urfs (local customs) provided that they do not contravene the fundamental tenets of Islam. In this instance, some scholars have identified no incompatibility between ‘patah titi’ and Islamic principles.⁵²

This is evidenced by the selective and strict acceptance of Greek logic by Muslim scholars. For instance, the strategy of accepting the concept of Greek logic (that everything has a purpose) is consistent with Islamic beliefs about destiny.

Muslim scholars reconciled the Greek concept of natural law (the idea that there are universal moral principles inherent in nature) with the Islamic belief in divine revelation. The argument is that natural law reflects God's wisdom and is in accordance with Islamic teachings. Muslim scholars have engaged in discourse pertaining to the relationship between rationality and revelation, underscoring the interdependent nature of these two sources of knowledge. The argument is put forth that reason is a valuable tool for understanding revelation but that it should not be used to contradict or replace it. The establishment of Islamic law (sharia) is a complex process involving various disciplines, including theology, fiqh (Islamic law), and usul fiqh (principles of Islamic law). In the modern context, statistics play an important role in supporting the determination of Islamic law, particularly in areas such as Islamic banking, public policy, and socioeconomic practice. Descriptive statistics were used to describe the demographic characteristics of the respondents and their level of satisfaction. Factor analysis can be employed to identify the principal factors that influence the perception and utilisation of Islamic banking. Regression analysis permits the testing of cause-and-effect relationships between variables, such as the impact of individuals' comprehension of Shariah principles on their decision to utilise Islamic banking services.

Statistical data can be employed to assess the economic well-being of communities that adhere to sharia principles, including zakat, waqf, and usury-free banking systems. Statistical data can be employed to ascertain the socioeconomic impact of sharia policies, such as the effect of sharia microfinance on poverty reduction and increased access to financial services. The intellectual endeavour of ijtihad, which involves the solution of legal problems that are not explicitly mentioned in the Qur'an or Hadith, can be strengthened by the incorporation of statistical data. The utilisation of statistical data enables mujtahids (scholars engaged in the process of ijtihad) to gain insight into pertinent social trends and patterns within the context of contemporary society. Empirical data from statistical studies can be employed as evidence to substantiate legal

⁵² F M Kasim and A Nurdin, “Study of Sociological Law on Conflict Resolution through Adat in Aceh Community According to Islamic Law,” *Samarah* 4, no. 2 (2020): 375–397, <https://www.scopus.com/inward/record.uri?eid=2-s2.0-85106683577&doi=10.22373%2Fsjhk.v4i2.8231&partnerID=40&md5=f6732daf534e4e71a2a8295dab0740c5>.

arguments in fatwas and sharia judgments. The utilisation of statistics in evidence-based policy development is of particular significance in the context of contemporary Islamic law. Statistical data are instrumental in the planning and evaluation of sharia-compliant public policies, including financial, educational, and health policies. Statistical analysis provides a means of monitoring and evaluating the implementation of sharia policies, thereby ensuring their effectiveness and alignment with the objectives of sharia (maqasid al-shariah).⁵³

Statistics play a pivotal role in the establishment of Islamic law by furnishing empirical data essential for evaluation and decision-making. The utilisation of statistics enables scholars and policymakers to gain a deeper understanding of the needs and circumstances of society, thereby facilitating the formulation of more efficacious and equitable policies that align with the tenets of Sharia. Consequently, statistics serve as a crucial instrument for maintaining the vitality and applicability of Islamic law in the contemporary era.⁵⁴

Statistics play a pivotal role in Islamic law-making, particularly in the contemporary context where empirical data serve as the foundation for more informed decision-making. This study, entitled 'Islam and Entrepreneurship', entitled 'The Role of Islamic Banking' by Mohammad Reza Farzanegan and Ahmed M. Badreldin, employs a multivariate regression analysis of 69 countries. The findings indicate that the presence of Islam as a state religion has a negative effect on entrepreneurship, unless it is supported by access to Islamic finance. In the context of Islamic banking, the aforementioned negative impact is negated, thereby underscoring the pivotal role of Islamic finance in fostering economic activity.⁵⁵

The statistics demonstrate that Islamic banking can overcome the limitations of conventional finance that are not in line with Shariah principles, thereby supporting the formation of policies that are inclusive and in line with Islamic values. The empirical data provide evidence of the necessity for the implementation of Islamic banking to encourage entrepreneurship, thereby providing a basis for policymakers to support the development of Islamic banking. Furthermore, statistics permit policymakers to devise and adapt policies that facilitate financial inclusion and Shariah-based economic growth. Furthermore, statistics indicate that in the absence of state support, Islamic banking may be unable to compete with conventional banking. Consequently, statistics play a pivotal role in Islamic law-making by furnishing empirical data that facilitates more efficacious and inclusive evaluation and decision-making.⁵⁶

⁵³ Canh Phuc Nguyen et al., "The Effects of the Global Economic Policy Uncertainty on Fiscal Cyclicity: An Institutional Perspective" (Elsevier, 2023).

⁵⁴ Orhan Cengiz and Muge B T - Reference Module in Social Sciences Manga, "Analyzing the Dynamic Relationship between Financial Development, Financial Inclusion, and Institutional Quality in Developing Countries" (Elsevier, 2023).

⁵⁵ Mohammad Reza Farzanegan and Ahmed M B T - Reference Module in Social Sciences Badreldin, "Islam and Entrepreneurship: The Role of Islamic Banking" (Elsevier, 2024).

⁵⁶ Farzanegan and Badreldin, "Islam and Entrepreneurship: The Role of Islamic Banking."

Historical evidence indicates that previous scholars have embraced Greek logical methods (*mantiq*) on a selective basis. Consequently, contemporary methodologies such as hermeneutics can be accepted in a similar manner, namely, in a selective manner, and adjusted to the needs of Muslims in the present era. The development of *maqashid sharia* as a new method, introduced by Syamsul Anwar, represents an attempt to address a range of contemporary issues. This indicates that the revitalisation of *usul fiqh* must also encompass the overarching objectives of *sharia* and be more pertinent to the circumstances of the present era.⁵⁷

The debate surrounding the question of who is entitled to perform *ijtihad* has not yet been adequately addressed. The question arises as to whether the *mujtahid* must always be an individual or whether an institution such as the DPR or the government could also fulfil this role. This issue remains unresolved and requires further discussion. Syamsul Anwar proposed that the norm of *shari'a* law is insufficient if it is only one level and that it should be divided into three levels: basic values (*al-qiyam al-asasiyyah*), general principles (*al-ushul al-kulliyah*), and concrete norms (*al-ahkam al-furu'iyah*). This approach broadens the scope and substance of *fiqh*, rendering it more responsive to contemporary demands.⁵⁸

In traditional *usul fiqh* books, individuals are typically discussed as legal subjects, whereas legal entities are not adequately recognised. In fact, in community practice, legal entities such as mosque administrators and *waqf nazirs* have long been recognised. The author proposes that by updating two aspects of *usul fiqh*, namely, the expansion of legal sources and the interconnection of methodologies, *usul fiqh* can become more relevant and able to answer the challenges of modern times. This reform will not only enhance the quality and precision of Islamic law but also guarantee that the legislation produced remains consistent with the objectives of *Sharia* and the requirements of contemporary society.⁵⁹

5 Conclusion

The renewal and redefinition of *usul fiqh* can be pursued through the strict integration of hermeneutics and statistical methods to support the application of three levels of Islamic legal norms, which include *al-qiyam al-asasiyyah*, *al-ushul al-kulliyah* and *al-ahkam al-furu'iyah*. Integration is predicted to have the ability to create a more relevant and contextual approach to law because it not only combines textual understanding with contextual analysis but also

⁵⁷ Arif Maftuhin, "Islamic Law, Disability, and Women in Indonesia: The Cases of Nahdlatul Ulama and Muhammadiyah," *Journal of Disability & Religion* 28, no. 1 (January 2, 2024): 13–27, <https://www.tandfonline.com/doi/full/10.1080/23312521.2023.2255860>.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

strengthens the legitimacy of law through empirical data that reinforce fiqh products and fatwas of sharia law.

Theoretically, this approach allows for a more relevant and contextualised reinterpretation of Qur'anic verses and hadith. Hermeneutics provides tools for in-depth and contextual analysis of texts, while statistics provides empirical data that can strengthen the legitimacy of fiqh products and sharia fatwas. This approach also supports the three levels of Islamic legal norms (al-qiyam al-asasiyyah, al-ushul al-kulliyah and al-ahkam al-furu'iyah) by strengthening the relationship between legal norms and the goals of sharia (maqashid sharia) so that the interpretation of Islamic law can further emphasise social justice, harmony and the welfare of the people. In practical terms, the integration of hermeneutics and statistics can enhance the relevance of Islamic law in addressing contemporary challenges. The use of empirical data can also support Shariah-based public policies, such as Islamic microfinance, which has proven effective in reducing poverty and fulfilling the maqashid objectives of Shariah in addressing socioeconomic problems more effectively.

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