Samarah: Jurnal Hukum Keluarga dan Hukum Islam
Volume 9. No. 1. March 2025
ISSN: 2549 – 3132; E-ISSN: 2549 – 3167
DOI: 10.22373/sjhk.v9i1.25355

History of the Development of *Mażhab, Fiqh and Uṣūl Al-Fiqh*: Reasoning Methodology in Islamic Law

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Abstract: This research explores the historical evolution and significance of Uṣūl Al-Fiqh (the principles of Islamic jurisprudence) and its continued relevance in contemporary Islamic scholarship. Beginning in the second century A.H. (8th century CE), jurists developed legal rulings from the Qur'an and Sunnah using methods such as analogy (*qiyās*) and juristic preference (*istiḥsān*), ensuring flexibility and justice within Islamic law. The formalization of Uṣūl Al-Fiqh as a distinct science commenced with Imam al-Shafi'i in the early 9th century CE, whose systematic documentation in al-Risalah profoundly influenced subsequent Islamic legal theory. The methodologies developed within *Uṣūl Al-Fiqh*, including *qiyās* and *ijmā'*, remain vital for interpreting and applying Sharia principles today. This research employs a historical approach, analyzing primary sources and scholarly works both theoretically and empirically, to trace the development and application of *Uṣūl Al-Fiqh* across various Islamic legal schools. The findings highlight the crucial role of *Uṣūl Al-Fiqh* in maintaining the continuity and adaptability of Islamic law, emphasizing that its methodologies continue to offer valuable solutions to contemporary legal, ethical, and social challenges. Furthermore, this study reveals how the dynamic and evolving nature of Islamic legal reasoning ensures the continued relevance of Islamic law in addressing modern issues. Future research should focus on finding solutions to emerging challenges in Islamic jurisprudence and developing innovative methodologies to address the ongoing evolution of Islamic legal thought.

Keywords: Historical Evolution, *Mażhab*, *Fiqh*, *Uṣul Al-Fiqh Uṣūl Al-Fiqh*

‖ Submitted: July 31, 2024 ‖ Accepted: March 23, 2025 ‖Published: March 23, 2025

DOI: 10.22373/sjhk.v9i1.25355

Abstrak**:** *Penelitian ini mengeksplorasi evolusi historis dan signifikansi Uṣūl Al-Fiqh serta relevansinya yang terus berlanjut dalam kajian Islam kontemporer. Dimulai pada abad kedua hijriyyah (abad ke-8 M), para ahli fiqh mengembangkan ketentuan hukum dari Al-Qur'an dan Sunnah dengan menggunakan metode seperti analogi (qiyās) dan preferensi yurisprudensial (istiḥsān), yang menjamin fleksibilitas dan keadilan dalam hukum Islam. Formalisasi Uṣūl Al-Fiqh sebagai ilmu yang terpisah dimulai dengan Imam al-Shafi'i pada awal abad ke-9 M, yang dokumentasi sistematisnya dalam al-Risalah memberikan pengaruh mendalam terhadap teori hukum Islam selanjutnya. Metode-metode yang dikembangkan dalam Uṣūl Al-Fiqh, termasuk qiyās dan ijmā', tetap penting untuk menafsirkan dan menerapkan prinsip-prinsip syariat hingga saat ini. Penelitian ini menggunakan pendekatan historis yang secara teoretis dan empiris menganalisis sumber-sumber primer dan karya-karya ilmiah untuk melacak perkembangan dan penerapan Uṣūl Al-Fiqh di berbagai mazhab hukum Islam. Hasil penelitian ini menyoroti peran penting Uṣūl Al-Fiqh dalam menjaga kelangsungan dan fleksibilitas hukum Islam, dengan menekankan bahwa metodologi yang dikembangkannya tetap memberikan solusi yang relevan bagi tantangan hukum, etika, dan sosial masa kini. Selain itu, penelitian ini juga mengungkapkan bagaimana penalaran hukum Islam yang dinamis dan terus berkembang memastikan bahwa hukum Islam tetap relevan dalam menghadapi isu-isu kontemporer. Penelitian selanjutnya perlu fokus pada pencarian solusi atas tantangan-tantangan baru dalam fiqh Islam serta pengembangan metodologi inovatif untuk menyikapi perubahan-perubahan hukum Islam yang terus berkembang.*
Kata Kunci: *Sejarah Evolusi, Mażhab, Fikih, Uṣūl Al-Fiqh*

Introduction

Islamic law encompasses key terms such as al-Qur'an, Sunnah, *Sharia*, *fiqh*, and *ijtihad*. Chronologically, al-Qur'an and Sunnah divinely contain *Sharia*. When *Sharia* encountered persistent issues in the Muslim community, there was a growing emphasis on understanding *Sharia* to resolve these issues.[1] However, the conclusions drawn from this understanding were no longer flawless or immutable. Consequently, Sharia transformed into human interpretations, known as Fiqh, and the effort to derive Fiqh is termed *Ijtihad*. Discussions on Islamic law often highlight the importance of understanding the history of *fiqh* and its develompement from the beginning to the era of the modern nation-states.[2]

[1] Landy Trisna Abdurrahman, "Conflict in Islamic Jurisprudence: Noel J. Coulson's Historical Approach and His Contribution to the Study of Islamic Law," *JIL: Journal of Islamic Law* 3, no. 1 (2022). p. 74–93.

[2] Ahmad Yani Anshori and Landy Trisna Abdurrahman, "Constitutional Contestation of the Islamic State Concept in the Indonesian Parliament 1956-1959," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 2 (2024), p. 278–316.

DOI: 10.22373/sjhk.v9i1.25355

Kemal A. Faruki, a prominent Muslim scholar, divides the history of Islamic law into seven periods. The first, the Revelation and Personal Implementation Period (B.H. 13 to A.H. 1), corresponds to the Prophet Muhammad's early revelations in Mecca, where he personally applied divine teachings. The Revelation and Social Implementation Period (A.H. 1 to A.H. 10) began with the Prophet's migration to Medina, transforming *al-wahyu* into a system that governed personal, social, political, and economic life. After the Prophet's death, the Emulation Period (A.H. 10 to A.H. 40), also called the Khulafa al-Rashidin period, saw the Prophet's companions interpreting Islamic law using the Qur'an and Sunnah, adapting it to new challenges. The Living Tradition and Ra'y Period (A.H. 41 to A.H. 200) marked the development of systematic Islamic law, with Medina's fuqaha introducing principles like *ijmā' ahl al-Madinah* and al-istislah, while Iraqi fuqaha promoted al-istiḥsān. The Ijtihad Period (A.H. 201 to A.H. 400) was characterized by the emergence of legal controversies and the growth of different legal schools, leading to intense scholarly debates. The Taqlid Period (A.H. 401 to A.H. 1200) saw the dominance of established legal precedents, limiting ijtihad. The final period, the Qanun Law and Disintegration Period (A.H. 1201 to present), witnessed the integration of Islamic law with state law and the decline of classical Islamic jurisprudence due to political and social changes.[3]

The Mecca period, occurring thirteen years before the Prophet's Hijrah to Medina, marks the time when he began receiving divine revelations (*al-wahyu*) and implemented them personally with his followers.[4] Following this, the period of revelation and social implementation spanned from the Hijrah to the Prophet's death in A.H. 10. During this time, the revelations evolved into comprehensive laws that governed personal, social, political, and economic life in Medina.[5] The *Khulafa al-Rashidin* period, also known as the emulation period, involved the Prophet's companions (*Sahabah*) interpreting and developing Islamic law to suit new circumstances faced by the 'ummah. They relied on the al-Qur'an and the Prophet's traditions (Sunnah), striving to uphold the true spirit of Islam.

Faruki's periodization, while insightful, overlooks significant developments that occurred after the emulation period. One notable shift was that scholars began to delve deeper into interpretations that extended beyond the explicit meanings of texts (*naṣ*). This marked a broader trend of more nuanced and intricate legal reasoning. Additionally, the approaches to the Sunnah underwent significant changes, largely due to the political differences and the rise of sectarian and philosophical factions, such as the Shi'ah and Khawarij. The Shi'ah, for example,

[3] K.A. Faruki, *Islamic Jurisprudence* (Pakistan: Pakistan Publishing House, 1962), p. 20-29.

[4] K.A. Faruki, *Islamic Jurisprudence*.

[5] Mark Gould, "Kemal A. Faruki's Reconstruction of Islamic Law: A Modernist Position in Islamic Jurisprudence," *The Muslim World* 98, no. 4 (2008), p. 423–42.

DOI: 10.22373/sjhk.v9i1.25355

accepted only Hadith narrated by their own followers, while the Khawarij rejected any Hadith that was not directly supported by the Qur'an or narrated by a single individual (*Khabar al-Wāhid*). This division had a profound impact on the ways in which Hadith were understood and applied. Furthermore, the principle of *Ijmā'* (consensus) became less universally accepted, as divisions grew and the Sahabah were dispersed, making it increasingly difficult to achieve collective agreement on legal matters. Another significant development was the growing popularity of the narration of Hadith (*riwayat al-hadith*), a practice that had not been as widespread in earlier periods. This shift to a greater emphasis on Hadith narration marked an important change in Islamic legal and theological scholarship, as it became central to the development of later Islamic jurisprudence.

Furthermore, the period of living traditions and al-ra'y was marked by the development of systematic Islamic law and its principles by the fuqaha. On one hand, the *fuqaha* of Medina introduced *ijmā' ahl al-Madinah* (consensus of the people of Medina) and *al-Istiṣlaḥ* (public interest) as foundational principles of Islamic law. On the other hand, the fuqaha of Iraq promoted *al-Istiḥsān* (juristic preference) as a key principle for developing Islamic law.

The period of ijtihad commenced with the emergence of *al-khilafiyyah* (controversies) among the various schools of law (*Mażhab al-hukm*). This period was characterized by intense scholarly efforts to interpret and apply Islamic law to new and evolving circumstances, leading to the establishment and consolidation of different legal schools of thought.

Scholars have continuously debated and refined legal methods, challenging existing opinions and proposing alternative interpretations, reflecting a dynamic academic landscape.[6] The integration of Islamic economics, banking, and finance emphasizes the need to revisit historical perspectives on *Uṣūl al-Fiqh* and *Ijtihad* to align with modern socio-economic realities.[7] This integration highlights the importance of dialogue between traditional texts and current contexts, underscoring the relevance of historical studies in shaping contemporary practices.

The significance of *al-Maqāṣid al-Sharī'ah* in Ijtihad stresses how the objectives of Islamic law can guide legal reasoning and interpretation.[8] The

[6] Tholkhatul Khoir, "Pros and Cons of Separation between Maqāṣid and Uṣūl Al-Fiqh (A Study of The Periodization of Maqāṣid History and Responses to Its Independence)," *International Journal Ihya' 'Ulum al-Din* 25, no. 2 (2023), p. 124–43.

[7] Landy Trisna Abdurrahman et al., "SDGs and Islamic Studies: Fiqh Muamalat, Sustainable Development, and Maqashid Asy-Syari'ah," *Az-Zarqa': Jurnal Hukum Bisnis Islam* 14, no. 2 (2022), p. 175; Jasmin Omercic, "The Integration of Knowledge (IoK) Methodological Approach to Reforming the Development of Islamic Economics, Banking, and Finance (IEBF) in Light of Maqasid (Objectives) and Sustainable Development Goals (SDGs)," *Global Review of Islamic Economics and Business* 9, no. 2 (2022), p. 039.

[8] Zaenuddin Mansyur, "Pembaruan Maslaḥah Dalam Maqāṣid Al- Sharī'ah: Telaah Humanistis Tentang Al-Kulliyyāt Al-Khamsah," *Ulumuna* 16, no. 1 (2012), p. 71-102; Ildus

DOI: 10.22373/sjhk.v9i1.25355

growing interest in the pluralistic nature of Fiqh, as seen in scholars like Imam al-Sya'rani, reflects a shift toward a more inclusive approach to legal thinking, accommodating varying viewpoints within the Islamic tradition.[9] The critique of Uṣūl Al-Fiqh literacy from 1890 to the present demonstrates the evolving nature of legal scholarship and the continuous need to enhance the understanding of foundational principles.[10]

Amid these academic challenges, *Uṣūl al-Fiqh* and *Ijtihad* remain central to understanding Islamic legal theory. The application of scientific-historical methods and interdisciplinary approaches in contemporary Islamic legal theory highlights the necessity of a comprehensive understanding of historical foundations By incorporating diverse academic disciplines and contemporary methodologies, scholars can enrich their interpretations and contribute to the advancement of legal thought.[11] Additionally, examining the evolution of terms within specific schools of thought, such as the Shafi'i school, provides valuable insights into the adaptation of legal principles over time.[12]

Similarly, the study of *al-Ashbah wan-Nazair* as a source in the Hanafi school emphasizes the practical applications of *Uṣūl Al-Fiqh*, highlighting the relevance of historical texts in informing legal reasoning.[13] The exploration of Uṣūl Al-Fiqh and Ijtihad in Shi'ism highlights the diversity of legal methodologies within different Islamic traditions.[14] By exploring epistemological categories like certainty, speculation, and doubt, scholars can deepen their understanding and contribute to ongoing debates. Furthermore, Muḥammad Shaḥrur's scientific-historical method exemplifies the fusion of traditional and contemporary academic approaches, ensuring the adaptability of Islamic law in addressing

Rafikov and Elmira Akhmetova, "Methodology of Integrated Knowledge in Islamic Economics and Finance: Collective *Ijtihād*," *ISRA International Journal of Islamic Finance* 12, no. 1 (2020), p. 115–29.

[9] Ahmad Taufik Hidayat and Alfurqan Alfurqan, "Pluralistic Fiqh Based on Perspective Of Imam Al-Sya'rani In The Book Of Al-Mizan Al-Kubra," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 7, no. 2 (2020), p. 83.

[10] Khoir, "Pros and Cons of Separation between Maqāṣid and Uṣūl Al-Fiqh (A Study of The Periodization of Maqāṣid History and Responses to Its Independence)."

[11] Nik Airin Aqmar Nik Azhar et al., "Analysis of The Evolution of The Qawl Muktamad (Definitive Qawl) Term and The Kitab Muktamad (Definite Book) in The Syafie School," *International Journal of Academic Research in Business and Social Sciences* 13, no. 3 (2023), p. 235-248.

[12] Anjar Nugroho, "Rekonstruksi Pemikiran Fikih: Mengembangkan Fikih Progresif-Revolusioner," *Al-Manahij: Jurnal Kajian Hukum Islam* 9, no. 1 (2015), p. 1–20.

[13] Muslim S. Baymirov, "Al-Ashbah van-Nazair as a Source in the School of Hanafites," *International Journal of Culture and Modernity* 4, no. 2 (2024), p. 1–5.

[14] Liyakat Takim, "*Uṣūl Al-Fiqh* and *Ijtihad* in Shi'ism," in *Shi'ism Revisited*, by Liyakat Takim, 1st ed. (Oxford University PressNew York, 2021), p. 57–107.

DOI: 10.22373/sjhk.v9i1.25355

evolving challenges.[15] Recent developments in Usul Fiqh and Ijtihad have highlighted the need to reevaluate historical studies, incorporating interdisciplinary methodologies and diverse perspectives to advance legal thought and practice, ensuring the continued relevance and adaptability of Islamic law in contemporary challenges.

Understanding *Ijtihad*

Ijtihad is the rigorous effort to derive legal rulings from Islamic texts through all valid interpretative means, as described by Al-Āmidi, a scholar of *Uṣūl Al-Fiqh*. He defines *ijtihad* as the maximal mental effort a jurist exerts in mastering and applying the principles of *Uṣūl Al-Fiqh* to discover God's law. This process requires the jurist to apply all available reasoning methods until they can exert no more effort.[16]

The continued validity and relevance of ijtihad in contemporary contexts is affirmed by the example set by Prophet Muhammad. When sending Muadh ibn Jabal to Yemen as a judge, the Prophet emphasized the importance of ijtihad when explicit guidance from the Qur'an or Sunnah was absent. Muadh was instructed to first refer to the Qur'an, then to the Sunnah, and if neither provided an answer, he was to use his reasoning to make a judgment. The Prophet endorsed this approach, confirming the ongoing applicability of ijtihad in addressing legal matters not directly covered in the primary sources, highlighting its essential role in Islamic jurisprudence.[17]

Ijtihad, the process of exerting effort to derive legal rulings from Islamic texts, was practiced by the Prophet Muhammad and his legally adept companions. The Prophet's *ijtihad* was sometimes confirmed by the Qur'an and sometimes corrected, indicating that a better solution existed. This practice continued among the *Sahabah*, who would discuss their decisions with the Prophet. If he approved, their rulings became part of the Sunnah; if not, his corrections were incorporated into the Sunnah. This established a clear precedent for the legitimacy of ijtihad for future generations, guiding them to make judgments based on *ijtihad* when explicit legal rulings from the Qur'an or Sunnah were unavailable.

Among the *Sahabah*, notable figures who issued fatwas included Abu Bakr, 'Umar ibn Khattab, 'Uthman ibn 'Affan, 'Ali ibn Abi Talib, 'Abdurrahman ibn

[15] Muhyar Fanani and Tri Wahyu Hidayati, "The Significance of Muḥammad Shaḥrur's Scientific-Historical Method in Contemporary Islamic Legal Theory (Uṣūl al-Fiqh)," *Ilahiyat Studies* 13, no. 1 (2022): 47–81.

[16] 'Alī ibn Abī 'Alī Al-Āmidī, *Al-Iḥkām Fī Uṣūl Al-Aḥkām*, vol. III (Cairo: Muhammad 'Alī Syubayh, 1968), p. 204. Tajuddin al-Subki, *Jam'u al-Jawami'*, with the *syarh* of Jalal al-Din al-Mahalli, 2 vols. (Bandung: Dahlan Ofset,1976), II, p.379; See also Muhammad ibn Ali al-Syaukani, *Irsyad al-Fuhul ila Tahqiq al-Haq min 'Ilmi al-Usul* (Cairo: Np., 1909).

[17] Sulayman Abī Dāwūd, *Sunan Abī Dāwūd*, vol. III (Beirut: Dār Al-Kutub Al-'Ilmiyyah, n.d.), p. 68-69.

DOI: 10.22373/sjhk.v9i1.25355

'Auf, 'Abdullah ibn Mas'ud, Ubay ibn Ka'ab, Muadh ibn Jabal, 'Ammar ibn Yasir, Huzhaifah ibn Yaman, Zaid ibn Tsabit, Abu al-Darda', Abu Musa al-Ash'ari, and Salman al-Farisi, among others. Some issued more fatwas than others, with the most prolific being 'Aisha, 'Umar ibn Khattab, 'Ali ibn Abi Talib, Ibn 'Abbas, and Zaid ibn Thabit.

When Abu Bakr became Khalifah, he followed a systematic methodology for *ijtihad*, as narrated by Maimun ibn Mahran. He would first consult the Qur'an for guidance. If no solution was found, he would refer to the Prophet's Sunnah. If the Sunnah did not provide an answer, he would seek the advice of knowledgeable Muslims, asking if anyone remembered a relevant aspect of the Prophet's Sunnah. If someone provided information, Abu Bakr would thank Allah for this guidance. If no solution was found, he would consult the leaders and elite, and if they reached a consensus, he would pass judgment accordingly.[18]

Abu Bakr's ijtihad extended to his method of appointing his successor, choosing 'Umar based on *bay'ah*, where leaders nominate a Khalifah, and the community endorses it. This decision was widely accepted by the Sahabah. When Khalid ibn Walid reported homosexual practices in the Arabian Peninsula, Abu Bakr consulted the Sahabah. 'Ali recommended burning the offenders, citing Allah's punishment of past nations, and Abu Bakr accepted this judgment, instructing Khalid accordingly.[19]

'Umar ibn Khattab, known for his deep understanding of Islamic law, applied broader principles to specific legal issues. He emphasized the underlying purposes of Sharia, both explicit and implied, and believed scholars should uncover these purposes to address new issues. His ijtihad focused on public interest (*al-maṣlaḥa*). For example, 'Umar invalidated certain judgments when their reasons no longer applied. He suggested executing prisoners from the Battle of Badr and proposed guidelines for the Hijab. He also advised the Prophet not to proclaim that all who professed faith would enter paradise, to encourage continued striving in faith. Additionally, 'Umar recommended stopping extra shares for recent converts and opposed distributing conquered land among the army.

'Uthman's approach to *ijtihad* was guided by adherence to the al-Qur'an, Sunnah, and the precedents set by Abu Bakr and 'Umar, the first two Khalifahs before him. He issued relatively few fatwas, as many matters had already been addressed by his predecessors, whose opinions he often adopted. However, in some instances, he had to exercise ijtihad, as Abu Bakr and 'Umar had done before him. Before becoming Khalifah, 'Umar consulted 'Usman on legal

[18] Waliyullah al-Dihlawi, *Hujjat Allah al-Balighah,* 1st ed., vol. 1 (Beirut: Dar Al-Jayl, 2005), p. 315.

[19] Ibn al-Qayyim Al-Jawziyyah, *I'lāmul Muwaqi'īn 'an Rabbil 'Ālamīn* (Beirut: Dār Al-Fikr, n.d.), vol. III, p. 34-35.

DOI: 10.22373/sjhk.v9i1.25355

matters. 'Usman advised, "Your opinion may be right, but following Abu Bakr's opinion would be better, as he was highly skilled in judgment."[20]

In Western scholarship, *ijtihad* originally denotes "exerting oneself" and is a key term in Islamic law. Initially, it refers to personal reasoning and later specifically to reasoning by analogy (*al-qiyās*). Various ancient schools of law, such as those of Madina, Iraq, and Syria, freely employed individual reasoning (*al-ra'yu*). The narrower technical meaning of *ijtihad*, as preserved in the Mażhab of Madina, is "the technical estimation and discretion of the expert." Shafi'i rejected discretionary reasoning in religious law, emphasizing the use of *al-qiyās* to derive conclusions systematically from the al-Qur'an and Sunnah. This innovation significantly influenced Islamic legal theory.[21]

Some scholars mistakenly interpret *ijtihad* as complete independence in opinion. However, within Islamic law, independence must be grounded in the al-Qur'an and Sunnah or fall within their prescribed limits for discretion. Thus, *ijtihad* ensures Islamic law remains dynamic and adaptable to changing circumstances, guided by Sharia.[22]

The development of *ijtihad* was influenced by political and social contexts. After the era of the *Khulafa al-Rashidin*, the Umayyad dynasty (661-750) imposed a legal system promoting uniformity in public law. Jurists (*Fuqaha*) organized regionally, with centers in Medina, Basra, Kufa, Syria, and Egypt. Dissatisfied with central government performance, devout scholars formed loose associations, marking the early schools of Islamic jurisprudence.

During the Umayyad era, fuqaha began using *ijtihad* to counter political policies, reflecting regional intellectual diversity. For instance, the Medinasse (*Ahl Madina*), led by Malik ibn Anas, adhered to Medina's norms as Islamic, while the Iraqians, led by Abu Hanifah, preferred their local norms, initiating independent *ijtihad* (*al-ijtihad bi al-ra'y*). In the Abbasid period, two models of *ijtihad* emerged. One supported the liberal use of human reasoning to develop law (*ahl al-ra'y*), leading to the Hanafi and Shafi'i schools. The other upheld the exclusive authority of Sunnah (*ahl al-Hadith*), represented by the Maliki and Hanbali schools.[23]

In ancient Islamic law, Abu Hanifah Nu'man ibn Tsabit (699-767), based in Kufa, Iraq, was a leading figure of *ahl al-ra'yi*. His analogical reasoning (*al-qiyās*) relied on the al-Qur'an, and he accepted al-Hadith only when satisfied with

[20] Taha Jabir al-Alwani, *Source Methodology in Islamic Jurisprudence* (USA: Herndon,1994), p.5-7

[21] Joseph Schacht, "Ijtihad," in *The Encyclopedia of Islam New Edition*, vol. III (Leiden: EJ Brill, n.d.), p. 1026; Joseph Schacht, *An Introduction to Islamic Law* (Oxford [Oxfordshire] ; New York: Clarendon Press, 1982), p. 37.

[22] Abu-'l-Aʿlā al-Maudūdī, *Islamic Law and Constitution*, trans. Khurshid Ahmad, 1. ed (Lahore: Islamic Publications Ltd., 1977), p. 72.

[23] Faruki, *Islamic Jurisprudence*, p. 79-80.

DOI: 10.22373/sjhk.v9i1.25355

authenticity, occasionally deviating based on *al-istiḥsān* (juristic preference). Malik ibn Anas (713-795) led *ahl al-Hadith*, founding the Maliki school on Prophet traditions, al-Hadith, *al-'urf* (custom), and *al-istiṣlaḥ* (public interest).

In response to the divergent approaches of Abu Hanifah and Malik, efforts were made to reconcile these methods through internal legal processes (*istinbāt al-ahkām*). Muhammad ibn Idris al-Shafi'i (767-821) successfully undertook this task. While emphasizing adherence to the Sunnah, he also recognized *al-ijmā'* (consensus) and *al-qiyās* (analogy) as sources of law, though he was cautious about methods such as *al-istiḥsān*. Shafi'i restricted ijtihad to scholarly experts using analogy, discouraging unrestricted personal opinion unless supported by precedent (*al-dalīl*).

Shafi'i aimed to harmonize Quranic texts (*naṣ*) with human reason (*al-'aql*), seeking uniformity in Islamic jurisprudence. Ironically, opponents of *ahl al-ra'yi* like Ahmad ibn Hanbal (d. 855) and Dawud ibn Ali (d. 883) rejected human reason entirely as a source of law, insisting on strict adherence to divine revelation in the al-Qur'an and Sunnah. Consequently, Shafi'i is sometimes referred to as a neo-*ahl al-ra'yi*, while Ahmad ibn Hanbal and Dawud ibn Khallaf are seen as neo-*ahl al-hadith*.

By the early 10th century CE (900 CE), a distinct discipline emerged known as the science of traditions, in which many jurists focused on collecting, documenting, and classifying traditions. This marked a shift from personal opinion-based reasoning in the early period to *ijtihad* within the framework of the established schools of law (*Ijtihad fi al-Madhahib al-'Arba'ah*). Absolute ijtihad was confined to disciplined reasoning within the accepted legal principles of a particular school.

By the 4th century AH (10th century CE), Muslim jurists generally agreed that the innovative capacity of Islamic law had been exhausted. This led to the doctrine known as "the closing of the door of *ijtihad*," replaced by the duty of *taqlid* (imitation). Thus, the era of *ijtihad* was deemed over, and the era of *taqlid* began. A *mujtahid* was recognized as someone capable of *ijtihad*, while a *muqallid* was someone bound to follow *taqlid*.[24]

According to al-Ghazali, a jurist aspiring to practice *ijtihad* must first be familiar with the 500 verses relevant to Islamic law, although memorization of these verses is not a strict requirement. Second, the jurist should possess knowledge of the methodologies and have access to reliable Hadith collections, such as those by Abu Dawud or Baihaqi, but again, memorization of their contents is not obligatory. Third, an understanding of branches *(furū')* of Islamic law and points established by consensus *(Ijmā')* is essential, ensuring that the jurist's reasoning aligns with established legal principles. If the jurist cannot meet this requirement, they must ensure that their opinions align with those of recognized

[24] Schacht, *An Introduction to Islamic Law*, p. 70-71.

DOI: 10.22373/sjhk.v9i1.25355

scholars. Fourth, proficiency in deriving legal evidence from texts using recognized methods is crucial. Fifth, while mastery of the Arabic language is not mandatory, a competent understanding of its principles is necessary. Sixth, a jurist must also comprehend the principles of abrogation *(nāsikh-mansūkh)* in Islamic doctrine, ensuring that the verses or Hadiths under consideration have not been repealed, though detailed expertise is not required. Finally, the jurist must be able to authenticate Hadiths by accepting those recognized as reliable by the Muslim community, without needing to possess deep knowledge of *al-ta'dīl wa al-tajrīh* (Hadith criticism).[25]

Al-Ghazali emphasizes that these qualifications are essential for jurists intending to engage in ijtihad across all domains of substantive law.[26] In contrast, Abul 'A'la Maududi outlines the prerequisites for a Mujtahid in contemporary times. First, a Mujtahid must have faith in the sharia, be convinced of its truth, and intend to follow it sincerely without acting independently. Second, a proper knowledge of Arabic, including grammar and literature, is necessary since both the Qur'an and Sunnah are revealed in Arabic. Third, the Mujtahid must have in-depth knowledge of the Qur'an and Sunnah, understanding their principles and the broader objectives of sharia in society. Fourth, Maududi emphasizes the need to be acquainted with the contributions of earlier jurists to ensure continuity in legal evolution. Fifth, a Mujtahid must understand contemporary issues and the evolving conditions in which sharia principles are applied. Lastly, Maududi stresses the importance of commendable character, as lack of moral integrity will diminish public trust in the law.[27]

Maududi argues that the qualifications outlined above are not intended to impose a formal certification requirement for those undertaking ijtihad. Instead, they highlight the necessity for a robust system of legal education that cultivates individuals of high caliber and expertise. Maududi contends that the proper development of Islamic law through ijtihad can only occur when scholars possess the requisite knowledge and qualifications.

According to Maududi, legislation undertaken without these qualifications would not align with the legal framework of Islam, nor would it gain acceptance within Muslim society. He emphasizes that adherence to these standards is crucial for ensuring that ijtihad contributes effectively to the evolution and application of Sharia law in a manner that is both authentic and relevant. This perspective underscores Maududi's belief in the importance of rigorous training and scholarly

[25] Wael Ibn Hallaq, "Was the Gate of Ijtihad Closed?," *International Journal of Middle East Studies* 16, no. 1 (1984), p. 3–41; Abū Ḥāmid Al-Ghazālī, *Al-Mustaṣfā min 'Ilmi Al-Uṣūl* (Cairo: Maṭba'ah Al-Amiriyyah, 1322), p. 350-354.

[26] Abū Ḥāmid Al-Ghazālī, *Al-Mustaṣfā min 'Ilmi Al-Uṣūl* (Cairo: Maṭba'ah Al-Amiriyyah, 1322).

[27] Abu-'l-Aʿlā al-Maudūdī, *Islamic Law and Constitution*, trans. Khurshid Ahmad (Lahore: Islamic Publications Ltd., 1977), p. 72-74.

DOI: 10.22373/sjhk.v9i1.25355

preparation as prerequisites for engaging in ijtihad, thereby ensuring the integrity and acceptance of legal interpretations within Islamic jurisprudence.[28]

A History of *Mażhab* (School of Law)

George Makdisi provides a nuanced distinction between what constitutes a school and a college of law within Islamic jurisprudence. The term "school" (*Mażhab al-fiqh*) refers to groups of jurists (*fuqahā'*) who coalesced around shared geographical or intellectual backgrounds. Initially, these were known as geographical schools, named after the regions where prominent jurists like Abu Hanifah in Kufa, Malik in Medina, and al-Auza'i in Syria taught their legal doctrines. These schools were characterized by the teachings and methodologies of their founding jurists and reflected regional influences.[29] Over time, these geographical Mażhabs evolved into what Makdisi terms as personal Mażhabs. This transformation occurred around the middle of the third Islamic century (9th century CE), shifting the focus from geographical location to the personal teachings and methods of individual jurists. For instance, the followers of Abu Hanifah continued to adhere to his legal interpretations and methodologies regardless of their physical location, thereby becoming part of the Hanafi Mażhab.[30]

Makdisi highlights the development of Mażhabs as a key aspect of Islamic legal history. The term "Mażhab" has been difficult to translate, initially seen as "sect," then as "rite" or "school." However, applying "sect" to Sunni Mażhabs is misleading, as it implies heretical divergence, which does not apply to the Sunni Mażhabs, all considered orthodox in Islam. Similarly, "rite" is not an adequate term, as it pertains to Christian divisions based on liturgy, which contrasts with the fluid transitions between Mażhabs in Islamic jurisprudence. Hence, "school" is a more suitable translation, reflecting the evolving nature of early Islamic legal institutions. According to Makdisi, these schools were not rigid institutions like those in Western legal systems; they lacked strict organizational structures, doctrinal conformity, formalized teaching methods, or a codified body of law. This view, supported by scholars like Joseph Schacht, emphasizes that early Islamic schools of law were dynamic entities shaped by the teachings and interpretations of jurists rather than by standardized practices, contributing to the diversity and complexity of Islamic jurisprudence over centuries.[31]

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[28] Abu-'l-Aʿlā al-Maudūdī, *Islamic Law and Constitution*, p. 74.

[29] George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), p. 1-2.

[30] George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West*, p. 3-4.

[31] Joseph Schacht, *An Introduction to Islamic Law* (Oxford [Oxfordshire]; New York: Clarendon Press, 1982), p. 28.

DOI: 10.22373/sjhk.v9i1.25355

A "school of law" in Islamic jurisprudence denotes a body of legal doctrines followed by its members. However, this idea doesn't fully capture the dynamic nature of ijtihad, practiced by *fuqahā* (jurists), who independently derive legal opinions after thorough reflection on Islamic sources, primarily the Qur'an and Sunnah. Ijtihad is a personal endeavor that allows jurists to interpret Islamic law in light of contemporary circumstances, resulting in fatwas, or legal opinions. Unlike decisions made by committees or schools, fatwas are the products of individual scholarly effort. Islamic tradition strongly encourages jurists to engage in ijtihad, rewarding them for sincere effort, even if their opinions are incorrect, and doubly rewarding them if correct. This practice emphasizes the importance of independent reasoning in Islamic legal interpretation.

Due to the personal nature of ijtihad, disagreements (*khilāf*) often arise among jurists, leading to disputes (*munaẓarah*) where scholars defend their opinions against others, whether within their own Mażhab or across different Mażhabs. These debates are not confined to one specific Mażhab but span all Sunni schools of law, beginning in the early Islamic period before Mażhabs were formally established and continuing as geographical schools evolved into personal Mażhabs. The central element of this process is not the institutional structure of schools but the individual jurists (*faqih*) who engage in ijtihad. Each faqih defends their intellectual framework and opinions, continuously refining them through scholarly debates, reflecting the fluid nature of Islamic legal thought.

George Makdisi notes that Shafi'i's statement exemplifies how jurists in major Muslim cities often rallied around a leading faqih whose opinions carried significant weight in legal discourse. Such jurists achieved prominence not through institutional hierarchy but through their ability to defend their legal interpretations, thus shaping the trajectory of legal thought in their regions. Schacht cites a key statement from Shafi'i, who observed that in every Muslim city, there existed a community of jurists who adhered to the opinions of a leading scholar from their region. This emphasizes the influential role of respected faqihs in shaping legal interpretations and underscores the concept of *ri'āsah* (leadership), where jurists earn leadership through intellectual prowess and successful defenses of their positions in debates.[32]

The concept of ri'asah played a crucial role in the proliferation of personal schools of law. By the 9th century, approximately 500 schools had emerged and eventually consolidated into the four well-known Sunni Mażhabs: Hanafi, Maliki, Shafi'i, and Hanbali. Each of these schools traces its roots to influential jurists such as Abu Hanifah, Malik, Shafi'i, and Ahmad ibn Hanbal. This concept of ri'asah was essential in the development of personal schools of law. As Islamic

[32] George Makdisi, "The Significance of the Sunni Schools of Law in Islamic Religious History," *International Journal of Middle East Studies* 10, no. 1 (February 1979), p. 1–8.

DOI: 10.22373/sjhk.v9i1.25355

legal thought evolved, jurists began to form geographical schools of law, which gradually shifted towards personal schools based on the influence of prominent jurists. Figures like Abu Hanifah (d. 150/767), Malik (d. 179/795), Shafi'i (d. 204/820), and Ahmad ibn Hanbal (d. 241/855), as well as figures like Al-Awza'i (d. 157/774) and Sufyan al-Thawri (d. 161/778), were central to this transformation. By the 9th century, these personal Mażhabs took shape, marking the shift from geographical schools to individual schools based on the teachings of influential jurists.[33]

Islamic schools of law are often classified based on their theological orientation into two broad categories: traditionist (ahl al-Hadith) and rationalist (*ahl al-ra'yi*). The traditionist camp emphasizes adherence to Hadith, while the rationalist camp, exemplified by Abu Hanifah, relies on independent legal reasoning (*al-ra'yu*). Scholars like Malik, Shafi'i, Ahmad ibn Hanbal, and Dawud al-Zahiri are associated with the traditionist camp, while Abu Hanifah is noted for his rationalist approach, known for his reliance on *qiyās* (analogy) and independent reasoning. This classification underscores the diversity within Islamic legal thought, as jurists from different theological orientations contributed to the rich history of Islamic jurisprudence.[34]

Mujtahids and their Works Before Fourth Century A.H.

Mujtahids in The Hanafi Mażhab

The Hanafi Mażhab, first of the four major Sunni schools of Islamic jurisprudence, has produced several mujtahids, whose works significantly shaped its development. The first and most important and prominent among them was Abu Hanifa Nu'man ibn Tsabit (80/699-150/767), born in Kufah and later passing away in Baghdad. His works include *Al-Fiqh al-Akbar* (in two versions, written by Abu Hanifah and Hammad), *Musnad Abi Hanifah*, *Al-Wasiyyah* (both by Abu Hanifah and Abu Yusuf), *Kitab al-'Alim wa al-Muta'allim*, and *Al-Qasidah al-Kafiyah al-Nu'maniyyah*, among others. Abu al-Huzail Zufar al-Anbari (110/728-158/775), a disciple of Abu Hanifah, and Abu Yusuf Ya'qub ibn Ibrahim ibn Habib al-Kufi (113/731-182/798), another disciple, are significant figures in this tradition. Abu Yusuf authored works like *Kitab al-Kharraj*, *Ikhtilaf Abi Hanifah wa Ibn Abi Laila*, and *Adabu al-Qadi*.[35]

Another key scholar in the Hanafi Mażhab, Muhammad al-Syaibani (132/749-189/804), was a student of both Abu Hanifah and Abu Yusuf. His contributions include *Kitab al-Asli fi al-Furu'*, *Al-Mabsut*, *Al-Jami' al-Kabir fi al-Furu'*, and *Fatawa Abi Hanifah wa Muhammad al-Syaibani*. Hisyam ibn

[33] George Makdisi, "The Significance of the Sunni Schools of Law in Islamic Religious History," *International Journal of Middle East Studies* 10, p. 2.
[34] Syahrastanī, *Al-Milal Wa An-Niḥal*, vol. 2 (Cairo: Al-Adabiyya Press, 1930), p. 45-46.
[35] 'Alī Jum'ah, *Aṭ-Ṭarīq ilā At-Turāṡ Al-Islamī*, 4th ed. (Nahḍat Miṣr, 2009), p. 73-75.

DOI: 10.22373/sjhk.v9i1.25355

'Ubaidillah al-Razi (d. 201/817), a disciple of both Abu Yusuf and Syaibani, is known for his work *Kitab al-Nawadir fi al-Furu'*. Other notable figures from this period include Abu al-Harits al-Lu'lu'i (116/734-204/819), Abu Sulaiman Musa ibn Sulaiman al-Guzgani, and Abu Ya'la al-Mu'alla (d. 211/826), all disciples of Abu Yusuf and Syaibani.[36]

In the following generations, Isa ibn Abban (d. 221/836), Yahya ibn Bukair al-Hanafi (d. 230/844), and Abu Shama' (130/747-233/847), who authored *Al-Iktisab fi al-Rizqi al-Mustatsab*, continued to expand Hanafi legal thought. Hilal ibn Yahya ibn Muslim al-Basri (d. 245/859) and Muhammad ibn Muqatil al-Razi (d. 248/862), disciples of Abu Yusuf and Syaibani, further contributed to this tradition. Ibn al-Talji (d. 266) and Abu Bakar Ahmad ibn 'Amr al-Syaibani al-Hasysyaf (d. 261/874) also made notable contributions, with works like *Kitab Ahkam al-Auqaf* and *Kitab al-Rida'*.[37]

The works of later Hanafi scholars, such as Abul Abbas al-Himmani (d. 302/914), Abul Balji al-Qalanisi (d. 314/926), and Abu Ja'far al-Tahawi (239/853-321/933), who authored *Ma'ani al-'Atsar* and *Ikhtilafu al-Fuqaha*, continue to define the Hanafi legal tradition. Abu al-Fadl al-Karabisyi al-Samarqandi (d. 322/934), Abu al-Fadl Hakim al-Syahid al-Marwazi (241/855-334/945), and Abu Ubaidillah al-Karkhi (260/873-340/952), whose works include *Al-Usul* and *Al-Muhtasar*, further codified Hanafi thought in the centuries that followed.[38]

The scholarly contributions of Abu Bakr al-Jassas al-Razi (305/917-370/981), who authored *Ahkam al-Qur'an* and *Uṣūl Al-Fiqh*, were pivotal in shaping the theoretical foundations of Hanafi jurisprudence. Other key scholars such as Abu Laits al-Samarqandi (d. 373/983), with his extensive works on fiqh and *Tafsir al-Qur'an*, and Abu al-Qasim al-Ghazi al-Baihaqi (d. 402/1011), author of *Kitab al-Syamil*, continued this legacy.[39]

By the time of Abu al-Husain Ahmad ibn Ja'far al-Qudduri (362/972-428/1037), whose works like *Al-Mukhtasar* and *Al-Tajrid* became central texts in the Mażhab, the Hanafi school had firmly established itself as one of the most influential legal traditions in Islam. Abu Zaid ibn Isa al-Dabusi (d. 430/1039) and Abd Rahman ibn Musa al-Sarahsi (d. 493/1047), with works such as *Taqwimu al-Adillah fi Uṣūl Al-Fiqh* and *Takmilat al-Tajrid*, ensured that the Hanafi Mażhab remained a central pillar of Islamic jurisprudence well into the later centuries.[40]

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[36] 'Alī Jum'ah, *Aṭ-Ṭarīq ilā At-Turāṡ Al-Islamī*, p. 77.

[37] Moh. Fauzi and Nazar Nurdin, "Inconsistencies in the Ḥanafī School's View of Children's Legal Competence," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (July 5, 2023), p. 1337.

[38] 'Alī Jum'ah, *Al-Madkhal ilā Dirāsati Al-Maẓāhib Al-Fiqhiyyah* (Cairo: Dārussalām, 2001), p. 146.

[39] 'Alī Jum'ah, *Aṭ-Ṭarīq ilā At-Turāṡ Al-Islamī*, p. 77.

[40] 'Alī Jum'ah, *Aṭ-Ṭarīq ilā At-Turāṡ Al-Islamī*, p. 86.

DOI: 10.22373/sjhk.v9i1.25355

Mujtahids in The Maliki Mażhab

The Maliki Mażhab, the second of the four main Sunni schools of Islamic jurisprudence, owes much of its development to key scholars whose works helped shape its legal tradition. Abu Malik ibn Anas ibn Malik ibn Amir al-Asybahi, known as Malik ibn Anas (d. 179/795), is the founder of the Maliki Mażhab. His seminal work, *Al-Muwatta'*, is regarded as one of the earliest and most influential texts in Islamic jurisprudence. Following him, several notable scholars helped expand the Maliki legal thought. Ibn Ziyad al-Tunisi (d. 184/800), a disciple of Malik, and Ibn al-Qasim ibn Halid al-Utaqi (132/749-191/806), also a prominent student, contributed significantly to the school. Ibn Wahab ibn Muslim al-Qurasyi al-Misri (125/743-197/812) from Egypt and Abu 'Amr Ashab ibn Dawud al-Qaisi (145/762-204/819) were also critical figures in the early period of Maliki jurisprudence.[41]

Abu Muhammad ibn Abd al-Hakam al-Laitsi al-Misri (155/772-214/829) is another key figure, with notable works such as *Al-Muhtasar al-Kabir fi al-Fiqh Imam Malik* and *Siratu Umar ibn Abdul 'Aziz*. Abu Zaid Ibn al-Qasim al-Utaqi (d. 234/848) wrote *Kitab al-Majalis fi al-Fiqh*, further developing Maliki thought. Abu Marwan Abd Malik al-Qurtubi (174/790-238/852), with works like *Kitab al-Wadiha fi al-Sunnah wa al-Fiqh*, contributed to the understanding of Malik's jurisprudence. Abd al-Salam al-Tanuki, known as Sahnun (160/776-240/854), wrote the pivotal *Al-Mudawwanah al-Kubra*, which became a central text in Maliki legal practice.[42]

As the tradition continued, scholars like Abu Mus'ab al-Qasim ibn al-Harits al-Zuhri (150/767-242/856) and Muhammad ibn Ahmad al-'Utbi (d. 255/869) further enriched the Mażhab with texts such as *Al-Muhtasar fi fiqhi Imam Malik*. Muhammad ibn Sahnun al-Tanuki (202/817-256/870), another important scholar, authored *Al-Nawazil* and *Al-Risalah al-Sahnuniyah*, which were integral to the development of Maliki jurisprudence in North Africa.[43] Other scholars, like Abu Zakariya Yahya ibn Zakariya al-Talji (d. 259/873), who wrote *Tafsir al-Muwatta'*, and Ibn Ibrahim ibn Basyir (202/817-260/874), who authored *Al-Majmu'ah* and *Syarh Masa'il min al-Mudawwanah*, expanded the school's influence. Ibn Abdul Hakam (182/799-268/882), with works focusing on the virtues of Umar ibn Abdul 'Aziz, also contributed significantly.

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[41] 'Alī Jum'ah, *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah* (Cairo: Dārussalām, 2001), p. 141.

[42] Jonathan Brockopp, "The Minor Compendium of Ibn 'Abd al-Hakam (d. 214/829) and Its Reception in the Early Mālikī School," *Islamic Law and Society* 12, no. 2 (2005), p. 149–81.

[43] 'Ali Jum'ah, *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah*; Abdurrohman Kasdi, "Menyelami Fiqih Madzhab Maliki (Karakteristik Pemikiran Imam Maliki Dalam Memadukan Hadits dan Fiqih)," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 8, no. 2 (2018): p. 315.

DOI: 10.22373/sjhk.v9i1.25355

Ibn Ziyad al-Iskandari al-Maliki (180/796-269/882), Muhammad ibn Waddah ibn Bazi al-Qurtubi (199/815-286/899), and Abu Zakariya Yahya ibn Amir al-Kinani (213/828-289/902) continued to refine Maliki thought with their respective contributions, including *Kitab al-Ahkam al-Suq* and critiques of Shafi'i jurisprudence. Later, scholars like Abu Ishaq Ismail ibn Hammad al-Jahdami al-Azdi (199/815-282/895), author of *Fadl al-Salat 'ala al-Nabi*, and Al-Haitsam ibn Sulaiman, who wrote *Adab al-Qadi wa al-Qada'*, solidified the tradition of judicial ethics in Maliki law.[44]

In the later period, scholars like Abu Bakr Muhammad ibn Jahm ibn Warraq al-Marwazi (d. 329/941), Abu Tahir Muhammad al-Duhli al-Basri (279/893-367/978), and Abu al-Qasim Ubaidullah al-Ghallab al-Basri (d. 378/988) further contributed to the expansion and refinement of Maliki jurisprudence. The works of Abu Muhammad ibn Abi Zaid al-Qairawan (310/922-386/996), with texts such as *Al-Risalah*, and Ibn Ahmad ibn al-Qassar al-Baghdadi (d. 398/1008), who authored *'Uyun al-Adillah baina al-Fuqaha al-Amsar*, solidified the foundations of Maliki thought for centuries to come.

Scholars like Abu Ja'far Ahmad ibn Nasr al-Dawudi (d. 402/1011) and Abul Harits Muhammad ibn Hallaf al-Ma'afiri al-Qairawani al-Qabisi (324/936-352/963) continued to contribute to the Maliki school with texts like *Kitab al-Amwal* and *Al-Mulahhas lima fi al-Muwatta' min al-Ahadits al-Musnad*. In the later years, scholars such as Abul Muttarif ibn Marwan al-Ansari al-Qanazi'i (341/952-413/1022) and Ibn al-Haddad (336/948-416/1025) made their mark with works like *Tafsir al-Muwatta' li al-Malik* and *Al-Ta'rif bi man Dhukira fi Muwatta' Malik*. Abu Sa'id Hallaf al-Azdi al-Qairawani al-Baradi'i (d. 430/1039) rounded out this era with his writings, including *Tahdhib fi al-Ihtisar al-Mudawwanah*. Through these scholars and their works, the Maliki Mażhab continues to be a foundational school in Islamic legal tradition.[45]

Mujtahids in The Shafi'i Mażhab

The Shafi'i Mażhab is another prominent Sunni school of Islamic jurisprudence, developed by the renowned scholar Muhammad ibn Idris ibn al-Abbas al-Shafi'i (150/767-204/820). A disciple of both Malik and Abu Hanifah, al-Shafi'i authored several foundational works, including *Kitab al-Umm, Al-Risalah, Musnad, Ikhtilaf al-Hadits, Al-Aqidah, Ahkam al-Qur'an*, and *Al-Fiqh al-Akbar*, among others. His contributions laid the groundwork for the Shafi'i school of thought, focusing on principles of jurisprudence and the use of evidence

[44] 'Ali Jum'ah, *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah*; Hiroyuki Yanagihashi, "The Judicial Functions of the SulṬān in Civil Cases According to the Mālikīs up to the Sixth/Twelfth Century," *Islamic Law and Society* 3, no. 1 (1996), p. 41–74.

[45] Joseph Lowry and Jonathan E. Brockopp, "Early Maliki Law: Ibn Abd al-Hakam and His Major Compendium of Jurisprudence," *Journal of the American Oriental Society* 122, no. 1 (January 2002), p. 91.

DOI: 10.22373/sjhk.v9i1.25355

from the Qur'an and Sunnah. Among his key disciples were Abu Ya'qub Yusuf al-Qurasyi al-Buwaiti (d. 231/845), known for his work *Al-Muhtasar*, and Abu Tsaur Ibrahim ibn Halid al-Yamani al-Kalbi (d. 240/854), who was also instrumental in developing the Shafi'i legal tradition.[46]

Another important figure in this tradition was Ibn Muhammad al-Sabbah al-Za'farani (d. 260/874), a scholar from Baghdad, and Abu Ibrahim Isma'il ibn Yahya ibn Isma'il al-Muzani (175/792-264/877), who wrote works such as *Al-Muhtasar* and *Al-Masa'il al-Mu'tabarah*. Muhammad ibn Nasr al-Marwazi (202/817-294/906), who was born in Baghdad and died in Samarqand, contributed significantly with works like *Musnad* and *Kitab al-Wara'*.[47]

Ibn Zainab Ibnti al-Shafi'i (d. 295/907) authored *Al-'Aqidah al-Manzumah*, further elaborating on Shafi'i doctrines. Abul Abbas al-Baz al-Ashab (d. 249/863-306/918), from Baghdad, wrote *Juz'u fi-hi Ajwibah Abi al-Abbas fi Usul al-Din*, and Abu al-Zubair al-Asadi al-Zubairi (d. 317/929) produced *Kitab al-Wasfu al-Iman wa Haqa'iqihi*, an important text on faith and the differences among jurists. Abu Bakr al-Munzir al-Naisaburi (d. 318/930) authored several key works, including *Kitab al-Sunan wa al-Ijmā'* and *Rihlah al-Imam al-Shafi'i ila al-Madinah al-Munawwarah*.

Other significant scholars included Abul Abbas Ahmad ibn Ahmad al-Tabari al-Bagdadi (d. 335/946), who wrote *Al-Talhis fi al-Fiqh*, and Abu Bakr Muhammad ibn Ja'far al-Kinani ibn al-Haddad (264/878-344/955), known for *Kitab al-Furu' fi al-Mażhab*. Abu Hamid ibn Amir al-Marwazi (d. 362/973) is known for *Risalah al-Tsaqifah wa Sya'nu al-Khilafah*, and Abu Bakr Muhammad al-Shashi al-Qaffal (291/904-365/976), a disciple of Muhammad ibn Jarir al-Tabari, authored *Jawami' al-Kalim fi al-Hadits*. Al-Qadi ibn al-Daqqaq (306/918-392/1002) wrote *Kitab al-Usul 'ala Mazahib al-Shafi'i*.

In later centuries, scholars such as Al-Harits ibn Harb al-Suhaili (d. 400/1010), Muhammad ibn Amar ibn Syakir al-Qattan (d. 407/1016), and Ibn al-Mahamili (d. 368/978-415/1024) continued to contribute to the development of the Mażhab. Abu Bakr al-Qaffal al-Sagir (327/938-417/1026) and Abu al-Qasim ibn Mansur al-Tabari al-Lalaka'i (d. 418/1027) were also critical in expanding the Shafi'i legal tradition. Abu al-Faraj al-Darimi al-Bagdadi (348/969-448/1056) and Abu al-Tayyib Tahir al-Tabari (348/959-450/1058) continued to expand and systematize the principles of Shafi'i jurisprudence with works like *Syarh al-Muhtasar li al-Muzani* and *Raudat al-Muntaha fi Maulidi Imam al-Shafi'i*. These scholars and their writings helped cement the Shafi'i Mażhab as a cornerstone of Islamic legal thought.[48]

[46] 'Ali Jum'ah, *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah,* p. 156.

[47] 'Ali Jum'ah, *Aṭ-Ṭarīq ilā At-Turāṡ Al-Islamī*, p. 21.

[48] Ahmed El Shamsy, "The First Shāfiī: The Traditionalist Legal Thought of Abū Ya Qūb al-Buwaytī (d. 231/846)," *Islamic Law and Society* 14, no. 3 (2007), p. 301–41.

DOI: 10.22373/sjhk.v9i1.25355

Mujtahids in The Hanbali Mażhab

The Hanbali Mażhab, founded by Ahmad ibn Hanbal (164/780-241/855), born and dying in Baghdad, Ahmad ibn Hanbal made significant contributions to Islamic law, with works including *Al-Musnad, Kitab al-Sunan, Kitab al-Zuhud, Kitab al-Salat,* and *Kitab al-Wara' wa al-Iman*. His works also include *Al-Mas'il, Fada'il al-Sahabah, Kitab al-Tarajjul, Jawab al-Imam Ahmad ibn Hanbal 'an su'alin fi Halq al-Qur'an,* and *Al-'Aqidah,* which became integral to the Hanbali legal framework. His influence shaped many scholars who followed him, such as Abu Muhammad ibn Malik al-'Attar (d. 250/864) and Abu Ya'qub Ishak ibn Mansur ibn Bahram al-Marwazi (d. 251/865).[49]

Abu Bakr Ahmad ibn Muhammad al-Ta'i al-Bagdadi al-Atram (d. 261/875) authored *Kitab Nasih al-Hadits wa Mansuhihi* and *Masa'il Ahmad ibn Hanbal*. Abu Fadl Salih (203/818-265/878), known for his works *Siratu Imam Ahmad ibn Hanbal* and *Mihnatu Ahmad ibn Hanbal*, further preserved Ahmad's teachings. Abu Ishaq ibn Hanbal al-Syaibani (193/809-273/886), Ahmad's son, contributed *Kitab al-Fitan* and *Mihnat Ibn Hanbal*. Gulam Khalil al-Basri (d. 275/888) and Ibn Abu Ishaq ibn Hanbal al-Syaibani (213/828-903) continued expanding the Mażhab, with works such as *Kitab al-Sunnah* and *Musnad al-Ansar*.

Prominent figures such as Abu Bakr ibn Harun al-Hallal (d. 311/923) wrote *Al-Jami' li 'Ulum,* and Abul Hallaf al-Barhahari (233/847-329/941), born in Baghdad, contributed significantly to Hanbali thought. Ibn Isra'il al-Baghdadi al-Najjad (253/867-348/959) wrote *Al-Raddu 'ala man Yaqulu an-na al-Qur'ana Mahluq* and other works on Hadith. Abdul 'Aziz Ghulam al-Hallal (285/989-363/974) and Abu Ubaidillah Ibn Hamdan ibn Batta al-Ukhbari (304/916-387/997) continued to refine the Mażhab with notable writings such as *Al-Syarhu wa al-Ibanah an Usuli al-Sunnah wa al-Diyanah*.[50]

The tradition was further enriched by Ibn Hamid ibn 'Abdillah ibn Marwan al-Baghdadi (d. 403/1012) and Abd al-Wahid ibn Abd al-'Aziz b Harits al-Tamimi (d. 410/1019), who focused on *Tahzib al-Ajwibah* and *Kitab al-I'tiqad al-Marwi 'an al-Imam Ahmad ibn Hanbal*. Lastly, Abu Abdillah Muhammad ibn Ahmad ibn Isa al-Hasyimi (245/957-428/1037) contributed with *Muqaddimah fi al-I'tiqadi al-Imam Ahmad ibn Hanbal*. These scholars solidified the Hanbali Mażhab's place in Islamic jurisprudence, preserving and expanding the teachings of Ahmad ibn Hanbal.[51]

[49] 'Ali Jum'ah *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah,* p. 170.

[50] 'Ali Jum'ah, 170; Usāma ʿArabī, David Stephan Powers, and Susan Ann Spectorsky, eds., *Islamic Legal Thought: A Compendium of Muslim Jurists,* Studies in Islamic Law and Society, v. 36 (Leiden: Brill, 2013), p. 155.

[51] 'Ali Jum'ah, *Al-Madkhal ilā Dirāsati Al-Mażāhib Al-Fiqhiyyah,* p. 191.

DOI: 10.22373/sjhk.v9i1.25355

A History of *Ushul al-Fiqh*

By the second century A.H. (8th century CE), Islamic jurists began to focus primarily on deriving legal rulings explicitly from the texts of the Qur'an and the Sunnah. These two sources provided the foundational principles and specific directives that governed various aspects of Islamic jurisprudence. Jurists developed rigorous methods of legal reasoning, including *qiyās* (analogy), to extend rulings from explicit texts to new cases not directly addressed. This ensured that Islamic law remained consistent and applicable across diverse and evolving legal scenarios. In addition to *qiyās*, jurists also utilized *istiḥsān*, a method that allowed for discretionary judgment in cases where a strict application of the law might lead to unjust outcomes. This flexibility was essential in maintaining a legal framework that could adapt to changing circumstances while still adhering to the core principles of Sharia.

However, the application of Islamic law extended beyond individual rulings based on textual evidence and legal reasoning. Governance and state affairs were also deeply tied to Islamic legal principles. The ruler, according to Islamic law, was expected to be a *mujtahid* a qualified jurist capable of independent legal reasoning and deriving rulings directly from the Islamic sources. This qualification ensured that governance remained grounded in Islamic jurisprudence, with decisions made by the ruler reflecting both religious and administrative responsibilities.[52] This integration of religious duties with governance structures was a unique feature of Islamic law, emphasizing that the interpretation and application of the law were not limited to individual cases but were also central to the broader political and social order.[53]

Prior to discussing *ijtihad* in *Uṣūl Al-Fiqh*, we will differentiate between the term *'fiqh'* and *'ushul al-fiqh'* as defined by jurists. *Fiqh* is the understanding of legal rulings *(al-ahkam al-shar'iyyah)* concerning human conduct, derived meticulously from their specific sources of evidence. *Uṣūl Al-Fiqh* are the principles through which a mujtahid derives legal rulings from specific sources of evidence. *Uṣūl Al-Fiqh*, or the principles of Islamic jurisprudence, encompasses the foundational framework through which legal rulings (*al-ahkam al-shar'iyyah*) are derived with certainty or reasoned assumption.[54] These principles delineate the methods by which legal rules are extracted from the primary sources of Islamic law—the Qur'an and Sunnah, which together constitute the Sharia. *Uṣūl*

[52] Yayan Sopyan and Syamsuddin, "SulūK al-Qāḍī: Muqāranah Bayna Mafhūm al-māwardī Fī Kitāb adab al-Qāḍī wa Qawā'id Sulūk al-Qaḍa Fī Indūnīsiyā," *AHKAM* 21, no. 2 (2021), p. 445–70.

[53] Imran Ahsan Khan Nyazee, *Theories of Islamic Law: The Methodology of Ijtihād*, Malaysian ed (Selangor: Other Press, 2002), p. 19.

[54] Muḥammad Ibn-ʿUmar Faḫr-ad-Dīn ar-Rāzī, *Al- Maḥṣūl fī ʿilm al-uṣūl*, ed. Muḥammad ʿAbd-al-Qādir ʿAṭā (Bairūt: Manšūrāt Muḥammad ʿAlī Baiḍūn, Dār al-Kutub al-ʿIlmīya), p. 94.

DOI: 10.22373/sjhk.v9i1.25355

Al-Fiqh is often described as the science that governs the sources and methodologies of Islamic law. While its primary focus is on the methods of interpretation and deduction, it extends beyond mere methodology to encompass the comprehensive study of legal sources.

The Qur'an and Sunnah, as the primary sources of Islamic law, provide foundational guidance rather than explicit methodologies. *Uṣūl Al-Fiqh*, therefore, develops methodologies such as analogy (qiyās), juristic preference (*istiḥsān*), presumption of continuity (*istishab*), and principles of interpretation to facilitate a deeper understanding and application of Sharia principles through ijtihad as independent juristic reasoning. These methodologies serve as tools to navigate and interpret the sources effectively.

According to George Makdisi, the formalization of *Uṣūl Al-Fiqh* as a distinct science within Islamic jurisprudence began around the early 9th century CE, prior to the death of Abdul al-Rahim Ibn al-Mahdi in 198 AH (813 CE).[55] Ibn al-Mahdi's request to Imam al-Shafi'i to compose a work on legal principles of the Qur'an, authentic hadith, and the significance of scholarly consensus marks a pivotal moment in the development of Uṣūl Al-Fiqh. Al-Shafi'i's *al-Risalah* (Epistle) on this subject was later transmitted to Abdul Rahman al-Harist ibn Suraij al-Naqqal, who conveyed it to Ibn al-Mahdi. Notably, al-Mahdi expressed a wish for the *al-Risalah* to be more concise for easier comprehension, underscoring the evolving scholarly discourse and systematic approach to Islamic legal theory during that era.[56]

Traditionally, particularly within the Shafi'i, Hanbali, and Maliki schools of law, it is widely believed that Imam Shafi'i is credited as the founder of the science of *Uṣūl Al-Fiqh*.[57] However, other jurists are also noted either for founding or writing extensively on this discipline. For instance, Ibn Lahi'a (d. 174/790), Abu Yusuf (d. 182/798), and Muhammad al-Shaybani (d. 189/805), disciples of Abu Hanifa and key figures in the Hanafi school of law, are mentioned in historical accounts. Al-Khatib al-Baghdadi (d. 463/1071) specifically cites Abu Yusuf as the first to compile books on *Uṣūl Al-Fiqh* within the framework of the Hanafi Mażhab (*awwalu man wadla'a al-kutub fi Uṣūl Al-Fiqh ala Mażhabi Abi Hanifah*).[58] Additionally, Ibn al-Nadim (d. 377/987) documents that Muhammad

[55] George Makdisi, "The Juridical Theology of Shafi'i: Origins and Significance of Uṣūl Al-Fiqh," *Studia Islamica*, no. 59 (1984), p. 6.

[56] Makdisi; ʿAbd-al-Wahhāb Ibn-ʿAlī Tāğ-ad-Dīn as-Subkī and ʿAbd-al-Fattāḥ Muḥammad al-Ḥulw, *Ṭabaqāt aš-Šāfiʿīya al-kubrā. 4/5: Taḥqīq ʿAbd-al-Fattāḥ Muḥammad al-Ḥulw* (Ğīza: Hağr li'ṭ-Ṭibāʿa wa'n-Našr wa't-Tauzīʿ wa'l-Iʿlān, 1992), p. 112-113.

[57] Wael IBN Hallaq, "Was Al-Shafii the Master Architect of Islamic Jurisprudence?," *International Journal of Middle East Studies* 25, no. 04 (November 1993), p. 587–605.

[58] al-Khaṭīb al-Baghdādī, *Tārīkh Al-Baghdād*, vol. 14 (Cairo: Al-Maktabah As-Sa'ādah, 1930), p. 245-246; Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (Oxford: Clarendon Press, 1950), p. 133. He said , "The statemen of Khatib al-Bagdadi ...(just above)... that

DOI: 10.22373/sjhk.v9i1.25355

al-Shaybani, also a disciple of Abu Hanifa and Abu Yusuf, authored a book on *Uṣūl Al-Fiqh* known as "*Kitab Uṣūl Al-Fiqh.*"[59]

The information provided underscores that the formal discipline of *Uṣūl Al-Fiqh*, representing legal theory in Islamic law, was not crystallized before the time of Imam al-Shafi'i. It is widely acknowledged that al-Shafi'i was the first jurist to systematically document the general principles of *Uṣūl Al-Fiqh* in his renowned work, *al-Risalah*. In addition to this seminal work, al-Shafi'i authored numerous other treatises where he expounded his juristic positions in meticulous detail, surpassing the founders of earlier legal schools in the depth and clarity of his methodological approach. Despite this, it is important to note that preceding jurists, whether associated with established schools or independent, did possess clear methodologies for interpreting legal texts and sources.

The significance attributed to al-Shafi'i's *al-Risalah* lies in how later Hanafi and Maliki jurists adopted a similar format to express the positions of their respective Mażhabs, thereby giving *Uṣūl Al-Fiqh* a more standardized appearance. Consequently, the perspectives of these jurists are often viewed as deviations from or variations of al-Shafi'i's original views, leading to the study of *Uṣūl Al-Fiqh* as a uniform theoretical framework. This approach in modern scholarship tends to present issues within *Uṣūl Al-Fiqh* by contrasting the opinion of one school against the majority view (*jumhur*), which aids in understanding specific issues but can obscure the broader diversity of opinions within the schools.

Another factor influencing the convergence of views in *Uṣūl Al-Fiqh* texts is the historical criticism leveled at earlier Hanafi jurists for allegedly relying on personal opinion (*al-ra'yu*) and juristic preference (*istiḥsān*) in their interpretations a method al-Shafi'i vehemently opposed and deemed illegitimate. In response, later Hanafi jurists felt compelled to structure their interpretive principles in a manner consistent with al-Shafi'i's approach, thus minimizing the development of distinct theoretical frameworks attributed to independent jurists.

In Sunni legal theory, there is a unanimous acceptance across all schools of four primary sources of Islamic law: the Qur'an, Sunnah, *Ijmā'*, and *al-Qiyās*. These sources are distinctly recognized from the legal theories of Shia Islam and the rejection of analogy (*al-qiyās*) by the Zahiri school, which precludes labeling this acceptance as a universally 'common' or 'classical' theory in Western literature on Islamic law. While other sources exist, their acceptance varies among different schools or their binding strength is differently assessed.

Abu Yusuf was the first to compose books on the theory of law on the basis of the doctrine of Abu Hanifah is not confirmed by the old sources and must therefore be regarded with suspicion".

[59] Makdisi, "*The Juridical Theology of Shafi'i*", p. 5-7; Muḥammad ibn Isḥāq Ibn al-Nadīm and Ayman Fu'ād Sayyid, *Kitāb Al-Fihrist* (London: Mu'assasat al-Furqān lil-Turāth al-Islāmī, 2009), p. 288.

DOI: 10.22373/sjhk.v9i1.25355

The assertion regarding the four sources was first articulated in a limited sense by Imam al-Shafi'i in his *al-Risalah*. Indeed, several principles that are sometimes viewed independently can be accommodated within a broader framework of al-qiyās, the fourth source of Islamic law. The Qur'an, considered by Muslims as the direct revelation (*Kalam Allah*) to Prophet Muhammad, and the Sunnah are the primary divine sources. The third source, *Ijmā'*, refers to the consensus of the Prophet's companions *(sahabah)*, the entire Muslim community, or the jurists of each era on legal rulings, and it is universally accepted by all Sunni schools. However, al-Shafi'i himself viewed *Ijmā'* skeptically, believing that achieving consensus among all jurists was challenging.

The fourth source, *al-qiyās*, involves analogical reasoning, previously mentioned, and was elaborated upon by al-Shafi'i in his *al-Risalah*. He detailed procedural methods for interpreting the meanings of revealed texts and extending them to address actions and situations not explicitly covered by revelation. Al-Shafi'i categorized knowledge derived from these procedures under *al-Bayan* (clarification) and *al-qiyās* (analogy), while also addressing areas of disagreement (*ikhtilaf*) and consensus (*Ijmā'*). With the establishment of a body of agreed-upon knowledge among jurists (*fuqaha*), al-Shafi'i consolidated the sources of Islamic law into the comprehensive framework of the Qur'an, Sunnah, *Ijmā'*, and *al-Qiyās*, emphasizing that legal judgments must be rooted in these scientific sources (*jihad al-'ilm*). The scientific source can be either *Khabar* in *al-Qur'an*, or *Sunnah*, or *Ijmā'*, or *al-Qiyās*.[60]

Conclusion

The development of Islamic jurisprudence emerged from the need to derive legal rulings from the Qur'an and Sunnah, using methods like analogy (qiyās) and juristic preference (istiḥsān) to address cases not explicitly mentioned in the texts. A qualified jurist, or mujtahid, played a vital role in governance by integrating religious and administrative duties. The distinction between Fiqh, which refers to the understanding and application of legal rulings, and Uṣūl Al-Fiqh, which provides the principles and methodologies for deriving these rulings, is essential. Uṣūl Al-Fiqh formalized as a discipline in the early 9th century CE, largely through Imam al-Shafi'i's work, al-Risalah, creating a standardized format for Islamic legal theory across different Mażhabs. While the evolution of Uṣūl Al-Fiqh led to a systematic framework under al-Shafi'i, this process was not linear, shaped by centuries of intellectual contributions. Islamic legal methodologies, particularly ijtihad (independent legal reasoning), have played a significant role in shaping the Islamic legal system. In modern times, the principles of Uṣūl Al-Fiqh continue to guide responses to emerging ethical and legal issues. This framework remains crucial in multicultural societies, offering

[60] Makdisi, "The Juridical Theology of Shafi'i"; 'Ali Jum'ah, *Tārīkh Uṣūl Al-Fiqh*, p. 40.

DOI: 10.22373/sjhk.v9i1.25355

valuable insights into integrating religious and secular governance. Although this research offers an in-depth overview, it acknowledges limitations such as the focus on key jurists, a lack of empirical research in modern contexts, and a reliance on classical sources, which future studies should address.

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