

Volume 9 Number 1 (June 2025) | Pages 59 – 71

Doi: <https://doi.org/10.33650/jhi.v9i1.11152>

Submitted: April 23, 2025 | Revised: May 20, 2025 | Accepted: June 15, 2025 | Published: June 30, 2025

THE RULES OF IJTIHAD AND ITS URGENCY IN ISLAMIC JUSTICE IN INDONESIA

(An Analysis of The Book *al-Qawā'id al-fiqhiyyah bayna al-aṣṣālah wa al-tawjīh* by muhammad bakr ismail)

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ABSTRACT

This research discusses the rules of fiqh related to ijtihad in the context of Islamic justice, with reference to the paper entitled *al-Qawā'id al-Fiqhiyyah Bayna al-Aṣṣālah wa al-Tawjīh* by Muhammad Bakr Ismail. Rules of Fiqh are a basic principle in Islamic law that serves as a methodological guideline in understanding and applying law contextually. In judicial practice, ijtihad plays an important role in resolving cases that are not explicitly regulated in the nash, including in the process of evaluating evidence and making legal decisions. This study uses a literature study method with a descriptive-analytical approach to identify and analyze the relevance of fiqh principles to the ijtihad process in Islamic courts. The results of the study show that principles such as *al-ijtihādū lā yunqadhu bi al-ijtihād*, *al-tarjih lā yaqū bikasrat al-'ilal*, *lā hujjata ma'a al-ihtimāl al-nāshi* 'an dalil, *al-waṣfu fī al-ḥaḍir laghwun wa fī al-ghā'ib mu'tabar*, and *al-ṣulḥu jā'izun bayna al-muslimin illā ṣulḥan ḥarrama ḥalālan aw aḥalla ḥarāman* play a role in maintaining objectivity, rigor, and fairness in decision-making. Thus, a deep understanding of the rules of fiqh becomes an important foundation in directing the practice of ijtihad that is not only valid according to sharia, but also relevant to the dynamics of the law and the need for justice in contemporary society.

Keywords: Rules of Fiqh, ijtihad, Islamic justice

ABSTRAK

Penelitian ini membahas kaidah-kaidah fikih yang berkaitan dengan ijtihad dalam konteks peradilan Islam, dengan merujuk pada karya tulis berjudul *al-Qawā'id al-Fiqhiyyah Bayna al-Aṣṣālah wa al-Tawjīh* oleh Muhammad Bakr Ismail. Kaidah fikih merupakan prinsip dasar dalam hukum Islam yang menjadi pedoman metodologis dalam memahami dan menerapkan hukum secara kontekstual. Dalam praktik peradilan, ijtihad berperan penting dalam menyelesaikan kasus-kasus yang tidak secara eksplisit diatur dalam nash, termasuk dalam proses evaluasi alat bukti dan pengambilan keputusan hukum. Penelitian ini menggunakan metode studi kepustakaan dengan pendekatan deskriptif-analitis untuk mengidentifikasi dan menganalisis relevansi kaidah fikih terhadap proses ijtihad dalam peradilan Islam. Hasil penelitian menunjukkan bahwa kaidah-kaidah seperti *al-ijtihādū lā yunqadhu bi al-ijtihād*, *al-tarjih lā yaqū bikasrat al-'ilal*, *lā hujjata ma'a al-ihtimāl al-nāshi* 'an dalil, *al-waṣfu fī al-ḥaḍir laghwun wa fī al-ghā'ib mu'tabar*, dan *al-ṣulḥu jā'izun bayna al-muslimin illā ṣulḥan ḥarrama ḥalālan aw aḥalla ḥarāman* berperan dalam menjaga objektivitas, ketelitian, dan keadilan dalam pengambilan putusan. Dengan demikian, pemahaman mendalam terhadap kaidah-kaidah fikih tersebut menjadi landasan penting dalam mengarahkan praktik ijtihad yang tidak hanya sah secara syar'i, tetapi juga relevan dengan dinamika hukum dan kebutuhan keadilan dalam masyarakat kontemporer.

Kata Kunci: kaidah fikih, ijtihad, peradilan Islam

INTRODUCTION

Islamic jurisprudence is a branch of science that has a central role in the lives of Muslims. The Rules of Fiqh (*Al-Qawā'id al-Fiqhiyyah*) are universal principles used to understand, interpret, and apply Islamic law in various aspects of life, including in the judiciary. Word *Al-Qawaid* in Arabic is the plural form of *al-qā'idah* which is defined as *Al-Asas* which means the base, foundation, or foundation of what is built on it. (Ibn al-Manzhur, 1994) Adapaun in terms *Al-Qawā'id al-Fiqhiyyah* is defined as a comprehensive legal provision/principle, covering all or most of its branches and useful to know the law of the branch based on such comprehensive provisions/principles. (Ibn Nujaim, 1999). Fiqh legal rules or principles can help judges and witnesses in determining the validity of evidence and the validity of a legal decision based on sharia principles. Therefore, an in-depth study of the rules of fiqh related to ijtihad in the judiciary is very important to ensure that Islamic law remains relevant and applicable.

In the Islamic judicial system, ijtihad plays a crucial role in interpreting and applying the law to cases that are complex and do not have precedents in classical texts. Judges are often faced with situations where they have to study the sharia postulates and use the rules of fiqh to ensure justice in their decisions. (Lubis, 2020) In addition, the principles of testimony in Islam also require a deep understanding of the rules of fiqh, especially in assessing the validity and weight of a testimony. The complexity of the application of Islamic law in the judiciary requires an academic study that can explain how the rules of fiqh can be a guideline in the legal decision-making process.

Book *Al-Qawā'id al-Fiqhiyyah Bayna al-Aṣalāh wa al-Tanjīl* The work of Muhammad Bakr Ismail (d. 1426 H) is one of the important references in the study of Rules of Fiqh. This book not only systematically outlines the rules of fiqh but also highlights the relationship between the originality of the rules and the contextual approach in their application. (Ismail, 1996) The study of this book is relevant because it can provide a deeper insight into how the rules of fiqh can be applied to ijtihad activities in the context of Islamic justice in the modern era. Thus, the analysis of this book is important in understanding the development and application of Rules of Fiqh in the dynamic Islamic legal system.

The study of the rules of fiqh in the judiciary is something very important, considering that the dynamics of the law are developing day by day. The many new problems that have arisen in the judicial system encourage judges to always be ready to ijtihad in order to determine decisions that are in accordance with sharia principles. (Gunawan et al., 2024)

In addition, in the modern judicial system, there are challenges in harmonizing the principles of Islamic testimony with the prevailing positive law. In this context, a better understanding of how the rules of fiqh can be used as a guideline in Islamic justice are urgently needed. This is important so that the legal decision remains in line with the *Maqashid al-Syariah* and meet the aspects of justice expected by the community. (Ismail, 1996)

So far, research related to the application of fiqh principles in judicial ijtihad and testimony is still limited. Many studies focus more on the normative aspects of Islamic law without highlighting how the rules of fiqh can be used practically in the judicial and witness systems. Therefore, this study seeks to fill this gap by specifically analyzing the rules of fiqh in the book *Al-Qawā'id al-Fiqhiyyah Bayna al-Aṣālah wa al-Tanjih* (Ismail, 1996) and how relevant it is in the current Islamic legal rulings. By studying more deeply the concept and application of Rules of Fiqh in Islamic justice. This research is expected to make a significant contribution to the development of Islamic law, both in terms of theory and practice.

RESEARCH METHODS

This research uses a library research method that aims to analyze the concept of ijtihad in the judiciary and testimony based on the rules of fiqh in the book *Al-Qawā'id al-Fiqhiyyah Bayna al-Aṣālah wa al-Tanjih* by Muhammad Bakr Ismail. This study was carried out by examining various relevant literature sources, both from classical books and from contemporary studies that discuss the application of fiqh principles in the Islamic judicial system. (Hasanah, 2023) This approach allows researchers to explore in depth the rules or principles underlying ijtihad in the context of justice, as well as to examine their applicability in today's Islamic legal system. The data collected was in the form of texts from papers on *Al-Qawā'id al-Fiqhiyyah*, scientific journals, books, and other documents relevant to the research topic. The analysis technique used is content analysis (*content analysis*), where the texts are explored and interpreted to find patterns and principles that can be used as a foundation in Islamic judicial practice. (Murdiyanto, 2020)

DISCUSSION

Rules of Fiqh are a collection of general norms or principles in Islamic law that function as a guide in understanding and applying the rules in fiqh. (Abu Ashi, 2023) With the existence of fiqh principles, various problems of Islamic law that have similarities can be summarized in one principle, making it easier to understand and apply Islamic law in daily

life. (Zaidan, 2019) The history of the formulation of Rules of Fiqh itself has undergone gradual development, starting from the time of the Prophet PBUH to the modern era, this development requires the discussion of Rules of Fiqh to be increasingly systematic and comprehensively codified in special writings.

History of Rules of Fiqh

First, the Period of Emergence, which is from the Prophetic period to the 4th Century Hijri. Currently, the rules of fiqh are still in the form of basic principles derived from the Qur'an and hadith. The Prophet (saw) conveyed the teachings of Islam with simple rules but has a wide scope, such as the principle that Islam does not burden its people and the principle of ease of worship. These principles became the basis for Islamic law that later developed in various fields of jurisprudence. (Syibir, 2006)

In the period of the Companions and Tabi'in, the seeds of Rules of Fiqh began to appear more explicitly. The Companions often give fatwas based on a general understanding of Islamic law, which is then used as a guideline in formulating the rules of fiqh. One example of Rules of Fiqh that comes from the words of friends is *"Every thing depends on its intention"* which is sourced from the hadith of the Prophet PBUH regarding the urgency of intention in every charity. (Helim, 2024) (al-Bukhari, 2002)

In the 2nd century Hijri, some scholars of the madhhab began to formulate legal principles that resembled the rules of fiqh in their books. A concrete example of this is Imam Malik in his work entitled *al-Mudawwanah*. (al-Madani, 1994) He collected various legal opinions that have a thought pattern of Rules of Fiqh, one of which is the principle *"it is not a person who inherits another person on a doubtful basis"*. Similarly, Imam Abu Yusuf – one of Abu Hanifah's companions and disciples – in his book entitled *al-Kharraj*. (Abu Yusuf, 1979) He also wrote down the principles of Islamic law that are close to the rules of fiqh. However, at that time, the rules of fiqh had not been codified systematically. These rules are still scattered in fiqh books and often appear in the form of brief statements that are used as guidelines in making legal decisions. (al-Burnu, 1997)

Second, the period of preparation and codification began from the end of the 3rd century to the 10th century Hijri. During this period, scholars began to formulate and record the rules of fiqh systematically according to the methods of each sect. In the Hanafi madhhab, Abu Thahir al-Dibasi compiled 17 rules perfected by Abu al-Hasan al-Karkhi into 37 rules. Ibn Nujaym then compiled *Al-Asybah wa an-Nazair* which contains 25 rules,

including five basic rules such as intention, ease, elimination of harm, belief, and customs. (Ibn Nujaim, 1999) In the Shafi'i madhhab, Imam Izz ad-Din ibn Abd as-Salam wrote the book *Qawa'id al-Ahkam* (Ibn Abd Al-Salam, 2020) which emphasizes the concept of maslahat, and Al-Suyuthi compiles *Al-Asybah wa al-Nazhair* Shafi'iyah version. (al-Suyuthi, 1983) In the Maliki madhhab, al-Qara'fi wrote *Anwar al-Buruq/ Al-Furuq* (al-Qara'fi, t.t.), and in the Hanbali madhhab, Ibn Rajab wrote *Taqrir al-Qawaid wa Tabrir al-Fawaid* which contains more than 160 rules. (Ibn Rajab al-Hanbali, 2019)

In modern times (19th century to the present), the rules of fiqh are increasingly developed as a systematic tool for analyzing Islamic law. The Ottoman Empire's majallah al-Ahkam al-'Adliyah is an important example of a codification containing 99 main rules of fiqh. Modern scholars such as Mustafa Az-Zarqa, Sayyid Mahmoud Hamzah, and Muhammad Bakr Ismail have formulated the rules with a contextual approach. In Indonesia, the rules of fiqh are taught in various Islamic universities and continue to develop in academic discourse. This historical journey shows that the rules of fiqh developed gradually, from basic principles to a discipline that was able to respond to the problems of contemporary Islamic law. (Helim, 2024)

The history of Rules of Fiqh shows that this science developed from the basic principles in the Quran and Sunnah, then codified by scholars from various sects, until finally it became a systematic science that can be applied in various problems of Islamic law. This shows that the development of fiqh is a gradual development. (Djazuli, 2007) The development of Rules of Fiqh in the modern era indicates that the science remains relevant and should be discussed and developed in order to become a general principle for the process of determining a law.

Ijtihad and Hakim

Ijtihad is a very vital methodological instrument in the development of Islamic law, especially in dealing with contemporary problems that are not explicitly found in the Qur'an or hadith. Terminologically, Al-Amidi defines ijtihad as devoting all one's abilities to exploring the laws of sharia *Dẓanni*, that is, the law whose postulates are uncertain and open to interpretation. (al-Amidi, 1967) Thus, the results of ijtihad are relative, meaning that they are not absolutely right or wrong, but still have value in the scientific space and the benefit of the people. This view is in line with Al-Ghazali's thought which states that ijtihad is a sincere effort by a mujtahid to understand and establish sharia law through the analysis of

the available evidence. (al-Ghazali, 1997) Ijtihad is a form of actualization of reason in understanding revelation, which in Islam is highly emphasized as a means of approaching the truth. The Qur'an itself repeatedly mentions the importance of using reason and encourages Muslims to think critically in capturing divine messages. One of the important verses that is the foundation of ijtiḥād is QS. al-Nisa' (4:59), which commands obedience to Allah, the Messenger, and *ulil amri*, and to return disputed matters to revelation. In the modern context, *ulil amri* also includes state institutions and legal apparatus, including judges who are given the authority to establish laws based on sharia principles and applicable laws.

Ijtihad in the treasures of Islamic law has various forms and methods. Judging from its form or approach, ijtiḥād is divided into three main types. *First, A Heroic Sacrifice*, That is, ijtiḥād which is carried out by analyzing the nash textually and linguistically to understand the implicit and explicit meanings in the Qur'an and ḥadīth. *Second, And then there's the fact that we're going to have to wait*, i.e. ijtiḥād based on legal analogy, where the mujtahid uses the rule of *qiyas* to equate the law of a new case with the old case that has '*illah*' (legal reasons) the same. *Third Ijtihad Istislahiy*, namely the determination of the law based on considerations of benefits or public benefits, which prioritizes the public interest as long as it does not conflict with the basic principles of sharia. (al-Khadimi, 1998) Apart from its form, ijtiḥād can also be classified based on the way it is implemented. In this case, three other forms are known. First, *ijtiḥād intiqā'i*, namely the selection of various scholars' opinions to choose the most powerful and relevant to the context. Second *Ijtihad insba'i*, namely the creation of new laws that have no direct precedent, but are still based on the principles of maqashid sharia and the valid method of *ushul fiqh*. Third, *comparative ijtiḥād*, which is a combination of the *Conclusion* and *Inshallah*. by comparing and formulating new laws based on several different sources and approaches. (Hasunah, 2005)

In the modern Islamic legal system, especially in Indonesia, the position of judges is very important as an ijtiḥād perpetrator in the courtroom. Based on the Republic of Indonesia Law Number 3 of 2006 concerning Religious Courts, judges are officials who exercise judicial power and have the obligation to give rulings on every case submitted to them, especially in cases related to Islamic law, such as marriage, inheritance, waqf, and so on. In carrying out their duties, judges are required not to postpone or reject a case, even though there is no written rule that explicitly governs the case. In such a situation, the judge is required to perform ijtiḥād as a form of his scientific and professional responsibility.

In practice, a sharia judge in Indonesia is considered qualified as a mujtahid within the scope of his authority if he or she has a sharia scientific background and a deep understanding of Islamic law. Therefore, in cases that are complex or not answered by positive regulations, judges can use ijihad methods—both *bayaniy*, *qiyasiy*, and *istislahiy*—to formulate a fair and proportionate legal solution.

Furthermore, the role of judges is not only as an implementer of rules, but also as an active interpreter of legal texts and social realities that continue to develop. Creativity and ability *Istinbath Law* It is an important capital that a judge must have in determining a decision that is not only legally valid, but also has the power of moral and social legitimacy. This principle is strengthened by the hadith of the Prophet Muhammad PBUH which states that a judge who is ijihad and correct will get two rewards, while if he is wrong, he will still get one reward. (Fouda, 2014) This hadith shows that ijihad is a scientific activity that has the value of worship and has a big role in the dynamics of Islamic law. Thus, the synergy between the concept of ijihad and the role of judges in the judiciary is a very important framework to understand how Islamic law can be applied contextually, rationally, and still based on the values of justice and the benefit of the ummah.

Analysis of Rules of Fiqh Related to Ijihad

The first rule of fiqh that is closely related to the judicial system is the rule of *lawal-ijtibādu lā yunqadhu bi al-ijtibādu* that means *Ijihad cannot be cancelled with other ijihad*. (Ismail, 1996) This rule is a fundamental principle in Islamic law which emphasizes that the results of ijihad that have been legally applied cannot be canceled just because other different ijihad opinions appear. This rule is based on the understanding that ijihad is within the jurisdiction of the jurisdiction *Zannī*, that is, things that do not have evidence *qath'ī* and therefore open to differences of opinion. Although ijihad is a flexible and developmental intellectual product, when a decision has been produced through a legal ijihad process and officially enforced in the judicial system, the decision has legal force that must be respected in order to maintain legal stability and certainty. This rule also has a strong rational basis, if every result of ijihad can be dropped by other ijihad freely, then the legal system will become inconsistent and vulnerable to uncertainty that disturbs social order.

In the context of Islamic justice in Indonesia, this rule has significant practical implications, especially in ensuring the sustainability of a fair and stable legal system. A judge's decision resulting from the ijihad process cannot be immediately canceled just because there is a different opinion or decision of another judge, especially in the appeal or

cassation process. This is a guarantee of judicial independence, that every judge has the authority to explore and establish the law according to his competence through the legal *ijtihad* method.

Thus, the difference in the results of the verdict between one judge and another judge in a similar case is still acceptable as long as it is rooted in the method of *ijtihad* that can be accounted for. This rule also serves to ensure that the possibility of legal reform in the future is not closed, especially if different social realities arise or things are found that are considered more relevant and beneficial. Therefore, this rule is an important foundation in maintaining a balance between the flexibility of Islamic law through *ijtihad* and the need for legal certainty in the judicial system, while affirming that Islamic law is dynamic, but still upholds stability, justice, and legitimate legal authority.

The next rule of *fiqh* is the rule of *al-Tarjih la yaqa'u bikatsrat al'ilal* Meaning *An opinion does not become stronger just because it has many reasons*. (Ismail, 1996) This rule is an important principle in *ijtihad* activities that emphasize that the strength of a legal opinion is not measured by the number of reasons stated, but seen from the quality, relevance, and validity of the opinion itself. In *ijtihad* discourse, opinions often appear that seem strong because they are supported by various arguments, both textual and rational. However, if the opinion is not substantially solid or out of context, then the conclusions built on it are still considered weak. Therefore, the number of reasons or references is not a guarantee for the strength of an opinion, because the more important thing is the accuracy of the methodology and the depth of analysis of the postulate used.

In the context of Islamic justice in Indonesia, this rule has direct implications in the process of assessing and determining the law by judges. A judge should not be influenced by the many arguments or quotes of opinions from various sources if it turns out that the opinion is not strong or irrelevant to the case being handled. Legal decisions should be born from careful consideration of the quality of the evidence and its conformity with existing social conditions and legal facts, not based on scientific impressions alone. This rule is also a reminder that the legal reasoning process is not trapped in the quantity of arguments, but remains based on the principles of prudence and accuracy in making decisions. Thus, the application of this rule in the Islamic judicial system not only strengthens the quality of decisions, but also maintains the integrity of Islamic law so that it is always relevant, fair, and unbiased against forms of argument that appear to be outwardly convincing but methodologically weak.

Then the third one is the rule *Al Qaeda in Al Qaeda* Meaning *No opinion is considered strong if there are still other possibilities supported by postulates/evidence*. (Ismail, 1996) This rule is an important principle in *ijtihad* discourse which emphasizes prudence in establishing the law when a proposition contains a non-singular meaning. This rule shows that if a proposition has more than one possible interpretation, then it cannot be used as a strong legal basis unless the other possibilities have been eliminated or ruled out by more definite evidence. In the epistemological framework of Islamic law, certainty is the main factor in determining *Stuttgart*, therefore, as long as there is still a potential for other meanings that are feasible and supported by stronger postulates, then the arguments built on these postulates become weak or invalid to be used as the main foothold in the process of giving birth to law.

In the context of the Islamic justice system in Indonesia, this rule has great relevance, especially in the decision-making process by judges. When the judge is faced with a postulate or argument that still leaves room for double interpretation, he must be careful and not immediately take one of the meanings as the basis of the law, unless a thorough clarification of the possibilities has been made. This aims to avoid mistakes in determining the verdict, as well as to maintain the principle of justice which is the spirit of the sharia court. This rule also emphasizes the importance of prudence in issuing fatwas and imposing legal verdicts, so as not to be hasty in using ambiguous or multi-interpretation postulates as the basis for final law. Therefore, the application of these rules in the Islamic judicial system functions as a guardian of methodological integrity, as well as a preventive principle so that the established law truly stands on clear, strong, and undoubted evidence.

The next rule is the rule *Al-Waṣfu fī al-hadīr lagħwun wa fī al-ghaib mu'tabar*. The rule states that a description or explanation of an object is not considered relevant if the object can be seen or presented directly, but the description becomes important when the object is invisible or cannot be presented. (Ismail, 1996) This rule is rooted in the principle that direct observation (*musyabadah*) has a higher level of validity than mere verbal or narrative information. When something can be seen in real terms, then a description of it or a verbal claim cannot change that objective reality. However, in situations where an object cannot be presented—for example, because it is missing, lost, or physically inaccessible—description becomes an important tool for understanding and assessing the veracity of a claim, especially in the context of legal proof.

In the Islamic judicial system, this rule has real implementation in the evidentiary process in court, especially in cases involving objects, people, or events. If evidence can be

presented directly before the judge, then the oral evidence or description of the disputing party cannot invalidate the existing physical reality. However, if the object in dispute is not present in court, then descriptive testimony from witnesses, relevant parties, or supporting documents becomes an important tool in legal consideration. In this context, the judge needs to assess the credibility and consistency of the description in order to arrive at a fair conclusion. This rule also teaches the importance of objectivity in making decisions, as well as placing direct evidence as the main basis in the judicial process. Thus, this rule reinforces the principle of prudence in deciding cases and emphasizes that legal judgment must be based on solid facts, either through direct observation or valid testimony when observation is not possible.

The last rule is *Al-sulhu jā'izun bayna al-muslimin illā sulhan barrama halālan aw aballa haraman*. This rule is an important principle in Islamic law that regulates the limits of one's ability to make peace (sulh). This rule emphasizes that all forms of peace between fellow Muslims are basically permissible and even encouraged in order to maintain social harmony and reduce conflicts, as long as the peace does not deviate from the provisions of sharia law. (Ismail, 1996) That is, if in a peace agreement there is an attempt to legalize something that is legally clearly haram, or on the contrary prohibits something that has been determined to be halal, then the agreement becomes null and void. This shows that the principles of deliberation and compromise in Islam must still be based on non-negotiable signs of sharia.

In the context of the Islamic justice system in Indonesia, this rule has strong practical relevance, especially in dispute resolution through non-litigation channels such as mediation or out-of-court peace. The judge, mediator, or the parties involved in the settlement of the case must ensure that the content of the agreement does not conflict with the basic principles of Islamic law. For example, in the case of inheritance, peace is allowed as long as no party consciously removes the rights of the heirs that have been specified in the Qur'an, because that would mean forbidding what is halal. Similarly, in cases of *mu'amalah* or other civil cases, a peace agreement must not legitimize the practice of usury, fraud, or any form of transaction that is prohibited by sharia. Thus, this rule provides a clear boundary that the spirit of reconciliation and social justice must not sacrifice the principles of sharia that are permanent, and ensure that the peace achieved is truly legally and religiously valid.

From the various analyses of the rules of fiqh that have been described, it is clear that a deep understanding of these rules has a very high urgency. The rules of fiqh are not just a tool in legal *istinbath*, but are a methodological foundation that keeps the legal reasoning

process within the framework of *maqashid al-shari'ah*—that is, realizing justice, benefits, and social order. For judges, mastery of these rules allows them to make decisions that are not only procedurally valid, but also substantially and contextually appropriate. This is very important in the dynamics of the judiciary that demands a balance between text, context, and the needs of society.

Meanwhile, for mujtahids, understanding the rules of fiqh helps in filtering evidence, sorting out opinions, and compiling solid and accountable legal arguments. In the midst of the complexity of contemporary problems whose answers are often not found explicitly in the *nash*, the rules of fiqh are present as a rational-theological instrument that bridges text and reality. Therefore, strengthening competence in understanding and implementing the rules of fiqh is an absolute requirement for anyone involved in the process of enforcing Islamic law, so that the resulting law is not only based on normative truth, but also on analytical maturity and applicative justice.

CONCLUSION

This study emphasizes that the rules of fiqh have a very crucial role in framing the implementation of *ijtihad*, especially in the context of Islamic justice. Principles such as *al-ijtihadu la yunqadhu bil ijtihad; al-tarjih la yaqa'u bi kasrat al-ilal; la hujjata ma'a al-ibtimal al-nashi 'an dalil; al-wasfu fi al-hadir lagqun wa fi al-ghaib mu'tabar; and al-sulbu ja'izun bayna al-muslimin illa sulhan harrama halalan* not only serve as a theoretical guide, but also provide clear and ethical direction in legal decision-making.

In this context, the urgency of the role of judges becomes very prominent. Judges not only serve as executors of the law, but also as mujtahids who must be able to explore, interpret, and apply Islamic law in a contextual and fair manner. *Ijtihad* carried out by judges must be based on the rules of fiqh so that the decisions taken do not deviate from the principles of sharia and remain relevant to the social reality at hand. By paying attention to these rules, judges can carry out *ijtihad* responsibly and measurably, while preventing subjectivity and potential deviations in legal reasoning. Therefore, strengthening the capacity of *ijtihad* for judges and a deep understanding of the rules of fiqh is an urgent need in the development of an Islamic justice system that is fair and responsive to the challenges of the times.

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