

Ijtihadi Models in Fiqh Studies

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Abstract

This study was conducted to find models of ijtihad in the study of fiqh. The active role of Islamic scholars in providing legal answers to actual problems is a necessity and cannot be avoided. Various legal references have been contained in various fiqh books by previous scholars, but from another point of view it must also be realized that the formulation of Islamic law contained in the fiqh books left by the fuqaha has in some aspects lost its transformational ability. From that, the actualization of the texts of the fiqh books is one of the efforts to solve problems for those who do not leave the fiqh books. This research is in the form of literature research with qualitative research type, which emphasizes inductive analysis of thought processes related to the dynamics of the relationship between observed phenomena and uses scientific logic. A content analysis approach can involve a type of analysis, in which communications are categorized and classified. The stage of interpreting the data that has been found in accordance with the focus of the object of study to find relevance, correlation, sometimes even being able to offer and reconstruct new thoughts from the data that has been found. The results of the study found Islamic law consists of two parts, Islamic law in the form of teachings contained in the Qur'an and mutawatir hadith produced through qath'i al-dilalah. Legal construction is carried out by a person who has the capacity of a mujtahid by using al-qawaid al-ushuliyah in interpreting the text of the Qur'an and hadith to find laws for new problems. The models or patterns of ijtihad used by previous and contemporary scholars include; Ijtihad Intiq'a'i, Insha'i and Qiyas.

Keywords

model; ijtihad; fiqh



I. Introduction

Islam as a divine religion not only regulates the order of the servant with his god, Islam also regulates the order of life and even the order of interaction with nature is also regulated in this noble religion. All of these aspects are stated in the holy book of Al-Qur'an and some are also translated in the hadith of the prophet, these two elements become the substance of Islam with the meaning of rahmatan lil 'alamin. Al-Qur'an and hadith are proof that Islam is a religion that guides its adherents to gain knowledge and reconstruct faith based on true knowledge, not just fanaticism. In terms of the Qur'an and hadith as sources of Islamic law, most of the content is still general in nature, has a multi-interpretive structure, contains basic principles, and ethical messages. The conditions that describe the characteristics of the Qur'an thus indicate that humans are given the authority to interpret and explain the meaning that should be understood in the Qur'an and hadith, the realization of this authority is later known as ijtihad.

In the history of the development of Islamic law, the scholars have different perspectives and methods in interpreting the texts of the Qur'an and hadith or determining the law of new problems that arise, these differences in methods will certainly give birth to

different legal products. Among the aspects that influence the ijthad method, one of them is the local community-social environment, besides the influence of scientific sanad and scientific developments also color the differences in ijthad methods. Thus Islamic law is not a system that only has one standard of truth for one legal product that applies throughout time. Islamic law grew and developed through a very long evolutionary process from the time the prophet accepted the Shari'a until now. This means that what is understood by various cultures of society with Islamic law at this time is actually the result of the thoughts of mujtahid scholars and their implementation which has previously undergone a process of criticism and socio-cultural dynamics of its own.

Ulama have the quality in carrying out fatwas. Muntasir (2021) stated that Ulama as fiqh experts are required to play an active role in anticipating any religious problems that arise in society and seek legal solutions, this role is a form of responsiveness in maintaining the actualization and dynamics of Islamic law. If Islamic law loses its actuality in providing answers to actual problems that arise in society, it is feared that one day Muslims will doubt the existence of Islam itself and lead to a loss of belief in sacred values and guidelines contained in the Qur'an and hadith. This concern is clearly seen in the historical pages of secularist Muslims who have adopted the western legal system raw to apply to Muslims. or for those with tolerant claims that have led to a dichotomy between the ukrawi aspect and the worldly aspect. This condition will certainly harm the Muslims themselves, Islamic law will be considered foreign and strange and form a paradigm that Islamic law does not come from its own tradition (Imam, 2006).

The active role of Islamic scholars in providing legal answers to actual problems becomes a necessity and cannot be avoided, therefore a method is needed in formulating answers which of course really depends on the capacity and capability of Islamic scholars themselves. Actually, various legal references have been contained in various fiqh books by previous scholars, but from another point of view it must also be realized that the formulation of Islamic law contained in the fiqh books left by the fuqaha has in some aspects lost its transformational ability. From that, the actualization of the texts of the fiqh books is one of the efforts to solve problems for those who do not leave the fiqh books. While those who completely abandon the fiqh book, usually echo the urgency of ijthad even though sometimes their capacity as a mujtahid is still questioned and the method of reasoning used is still muqallid, not muqallad.

II. Review of Literature

Islam as a religion that brings mercy to all nature has teachings and rules of law which are always oriented to the benefit of humans. Every law that is prescribed must contain the value of benefits returned to humans, it's just that the value of benefits is sometimes not found after reasoning. But generally, in the applied laws can be found the value of benefits which is also called the wisdom of the law or the philosophical basis of law (Helmi, 2019). Al-Quran is a rule that determines the basic attitude of human life, and requires more detailed explanations, because today there are many complex problems, and certainly not the same as the problems that existed at the time of the Prophet Muhammad (Hasbullah, 2019).

Many studies discuss the scope of ijthad, but all of these have their own differences and points of view. Among the studies that discuss ijthada is the first research with the title TM Hasbi Ash-Shiddieqy ijthad method as a product of Islamic legal thought. This research conducted by Muhammad Hasbi discusses the thoughts of the character in this case Hasbi Ash-Siddiqy as an Islamic intellectual figure. This study finds that Hasbi Ash-

Shiddieqy offers opinions regarding ijma', qiyas, istihsan, maslahah al-mursalah, and 'urf as a method or means of producing law as a product of Islamic legal thought. The five principles that allow Islamic law to develop in keeping with the times, namely; the principle of ijma', the principle of qiyas, maslahah al-mursalah, the maintenance of 'urf, and the changing of the law with changing times. Thus, it is very different from the author's research in terms of not the character's thoughts and only discussing the presumptive realm which is the field of ijihad.

The second research with the title ijihad method Institute for Islamic Religious Council Pattani Province, Southern Thailand. In the study conducted by Muhammadrodee and Hamzah, it was found that the ijihad method used by this majlis institution was in the form of the Istislahi and Bayani methods. This means that the scholars in the institution when solving actual problems and public problems for which there is no evidence from an agreed source, these scholars use the media of ijihad for the resolution. With the istislahi method approach and the bayani ijihad method which are carried out collectively, they are able to make the Institute of the Islamic Religious Council of the Province of Pattani Southern Thailand as an institution that provides legal solutions to the local community. This explanation clearly positions the research that will be studied by the author is different from this research in terms of the study of the institution-specific ijihad method with the ijihad model used by various parties.

Islamic Law Construction

The classification of Islamic law referring to its essential value can be divided into two parts, Islamic law which is absolute and permanent (permanent), and Islamic law which is relative and not permanent. Islamic law which is absolute and permanent is the teachings contained in the Qur'an and mutawatir hadiths produced through qath'i al-dilalah, while Islamic law which is relative is the teachings produced through the process of ijihad in the presumptive realm of the Qur'an, `an and hadith. The second part is more numerous than the first part, it is clearly seen from the development of science with its various treasures from this relative part of Islamic law. The field of science that has the most dhanni (presumptive) realm is fiqh, fiqh is a product that is produced through a process of ijihad against arguments with various methods which are certainly legal in the view of syara'. Fiqh is required to be dynamic and elastic according to the space of time and place where fiqh is located, this demand requires that people who understand fiqh in answering various problems must be sensitive and able to make fiqh not rigid and solution in various arrangements of human life. Thus it can be understood that the construction of Islamic law is built in two forms, built through sources that are qath'i rehearsed so as to produce permanent laws and built through sources that are not qath'i rehearsed by means of ijihad so as to give birth to laws that are relative and not permanent.

Regarding the construction of Islamic law in the realm of fiqh, one of them is through the ijihad process, in this case Imam al-Syairazi said that;

والفقه معرفة الأحكام الشرعية التي طريقها الاجتهاد

Meaning: Fiqh is knowing the laws of syara' through the process of ijihad

The definition of fiqh as above places fiqh as a product of ijihad with al-qawaid al-ushuliyah media, basically between fiqh and ushul fiqh are closely related, but on the other hand there are very substantial differences. In terms of objects, fiqh is the domain of mukallaf actions while ushul fiqh is the realm of arguments, thus the discussion in fiqh is

related to the application of *juz`i* arguments to certain special events or actions. Meanwhile, *ushul fiqh* discusses general arguments. The presence of the science of *ushul fiqh* aims to find out the arguments of the *Shari'a* and become a means to find out the laws of Allah SWT for an event that requires legal answers. Regarding the meaning of *ushul fiqh*, Imam al-Syairazi in his book *al-Luma' fi Ushul al-Fiqh* says that;

وأما أصول الفقه فهي الأدلة التي يبني عليها الفقه وما يتوصل بها إلى الأدلة على سبيل الإجمال

It means: *Ushul fiqh* is a global proposition and the elements that become the media of argument where its function is to become the basis and basic reference for building *fiqh*.

Islamic law in the sense of *fiqh*, namely understanding the text of the *Qur'an* and *hadith* is very likely to change, because an understanding or settlement of legal problems that are considered most appropriate for a place or time may not necessarily remain relevant for another place or a different time. Before the construction of *fiqh* was built in such a way, Islamic scholars first discussed the study of *ushul al-fiqh* which became the center of renewal. In *ushul al-fiqh*, the discussion is about the scientific paradigm and the rules that are indispensable as the basis for building a formulation of Islamic law that is desired to be thoroughly discussed. This means that *ushul al-fiqh* is the most urgent discipline in the form of the most significant methodology for formulating, determining and developing Islamic law that is appropriate to the time and conditional to a particular area.

The science of *ushul fiqh* is also a science that describes the methods used by *mujtahids* in exploring and establishing laws. Moving on from the argument they take '*illat* which is the legal basis and seek benefit which is the goal of *syara' law*'. This condition places *ushul fiqh* as a set of methodological rules that explain how to take the law from the *syara'* arguments. The rules in question consist of rules that are *lafdh* and meaning *wiyyah*, examples of *lafdh* rules such as the appointment of a *lafadh* to a certain meaning and how to memorize (compromise) *lafadh* which at first glance contradicts or has a different context. Examples of the meaning of the rule such as taking and formulating an '*illat* from the proposition and the most appropriate way to determine it. This is an example of the content of *ushul fiqh* which explains the basic aspects as well as the practical procedures for judging *taklif* law which will serve as guidelines for Islamic law experts.

This provision is an absolute necessity so that in giving a *fatwa* or formulating a legal answer in accordance with the will of *syara'*. Therefore, *ushul fiqh* is an important aspect that has the greatest influence in the formation of *fiqh* formulations and their application. This study of science will be able to lead someone to know the various methods used by *mujtahids* in taking the law from the *syara'* arguments. Thus, *ushul fiqh* is the basic capital that must be known by people who only want to recognize *fiqh* as a result of the previous *ijtihad* scholars, as well as for people who want to seek answers to *syara'* law to various problems that arise at any time. Even more than that, *ushul fiqh* is also the main principle for someone who wants to construct law as has been done by previous *mujtahids*.

III. Research Methods

To get a study that can be scientifically justified, in tracking data, explaining and concluding the object of discussion of the problem in this scientific work, it is necessary to use research methods. This research is in the form of literature research with qualitative research type, which emphasizes inductive analysis of thought processes related to the dynamics of the relationship between observed phenomena and uses scientific logic. Library research is research that aims to collect data and information with the help of various kinds of materials contained in the library. This research was conducted by collecting primary sources related to the problems discussed and also to find out and get the concepts of scientists as the theoretical basis of this scientific work. Qualitative research referred to here is a type of research that tends to address research problems that require an in-depth exploration of what is little known or understood about the problem and a detailed understanding of a central phenomenon. A content analysis approach can involve a type of analysis, in which communications (conversations, written texts, photography, etc.) are categorized and classified. The next stage is interpreting the data that has been found in accordance with the focus of the object of study to find relevance, correlation, and sometimes even being able to offer and reconstruct new thoughts from the data that has been found.

IV. Results and Discussion

4.1 Models of Ijtihad

Imam Shafi'i is one of the scholars who contributed greatly in building the epistemology of Islamic law. Since he appeared, mastery of legal theory or *ushul fiqh* is a mandatory requirement for everyone who aspires to become a *faqih*, in which legal theory determines the methodology that must be used in *ijtihad*. The authority of revelation as a source of law in the Shafi'i school was emphasized by himself first by explaining his juridical position. Broadly speaking, the sources of law sequentially according to Imam Shafi'i and agreed upon by all priests of the *madhhab* are the Qur'an, *hadith*, *ijma'*, and *qiyas*. In addition, there are also arguments used by the priests of the schools but are still disputed about their authenticity, these arguments are *istihsan*, *istishab*, *maslahah mursalah*, *sadd al-dzara'i*, *al-'urf*, *syar'u man qablana*, and *mazhab shahabi*.

All of these arguments are used by each *mujtahid* in accordance with the portion he admits, the legal differences that arise later are caused by differences in the recognition of these arguments. Judging from the shape and form, the arguments as described above can be classified into three parts, namely;

1. The normative arguments are derived from revelation, broadly covering the theological basis based on belief in the existence, power, and will of Allah, the philosophical basis based on *al-maqashid al-syar'iyah*, and the juridical basis based on the scope and strength of the proposition. Included in this category are the arguments of the Qur'an and *hadith*.
2. Empirical postulates come from human life entities which in the process of their formulation relate reciprocally with normative postulates. Entities of human life will eventually form a life system that includes the structure and culture of cultural values. Included in this category are the arguments of *al-'urf*, *syar'u man qablana* and *maslahah mursalah*.
3. Methodological arguments that stem from the power of thinking are then arranged through the way of thinking used. The argument is a way of extracting and discovering

the law from the first proposition by taking into account the second proposition. Included in this category are the arguments of qiyas and istihsan.

Qiyas as a proof, there are still controversial scholars, where some admit it as a proposition and some consider it as a method of *ijtihad* not as a proposition. Even worse, there are also those who think that *qiyas* cannot be used as a proposition and cannot be used as a method of *ijtihad*, but the arguments of this minority group have been refuted by *naqli*, scientific, and logical arguments. Those who say that *qiyas* is a method are actually not at odds with those who say that *qiyas* is a proposition, because the above classification clearly places *qiyas* as a normative proposition, meaning that *qiyas* is a proposition and at the same time *qiyas* also functions as a methodology of *ijtihad*.

The following are some of the models and patterns of *ijtihad* used by previous and contemporary scholars.

1. *Ijtihad Intiqa'i*, *Insha'i* and a combination of both

This *ijtihad* model was formed and popularized by a Muslim scholar from Egypt named Yusuf al-Qaradawi, this contemporary cleric divides the *ijtihad* model or pattern into 3 forms, namely;

a. *Ijtihad Intiqa'i*

The *Intiqa'i* *ijtihad* model is an *ijtihad* model with the determination of *fiqh* law which is carried out by revealing the opinions of previous scholars and the arguments used by them then comparing and choosing opinions that have stronger arguments and are more in line with current conditions. The *Intiqa'i* method is substantially the realization of the *tarjih* concept, in which the role of the performer of this *ijtihad* model is more dominant in making comparisons among the various opinions of previous scholars by re-examining the arguments that serve as the basis for footing. This performance leads to choosing an opinion that is considered stronger in terms of argument and evidence in accordance with the measuring instrument used in *tarjih*. In taking this *Intiqa'i* *ijtihad* model, Al-Qaradhawi gave the following guidelines;

- 1) The opinion that is most relevant to be applied to the conditions of today's society.
- 2) The opinion that is the most comfortable and brings mercy to humans.
- 3) The easiest opinion with the legality of *syara'*.
- 4) The opinion that is more important in realizing the purposes of *syara'*, brings *maslahah*, and does not cause damage in life.

Ijtihad Intiqa'i is often used when there are several paradoxical opinions from various schools of thought in determining the law on certain issues, either within the scope of one school or in several schools. Scholars who agree with this *ijtihad* model tend to limit it to issues that are not contaminated with the *talfiq madhhab* if the status of implementing this method is still *muqallid*. This *ijtihad* model is very appropriate to be used in solving various actual problems compared to carrying out *ijtihad* directly from the arguments which of course must be carried out by someone whose capacity as a *mujtahid* or *muqallad*.

b. *Ijtihad insha'i*

The *ijtihad* model *insya'i* is an *ijtihad* model with the determination of *fiqh* law to draw new legal conclusions in a problem that has never been raised by previous scholars. The issue may not have been discussed at all or it has been discussed but has a different legal decision from the previous *ulama's* decision. This is as conveyed by Al-Qaradawi as follows;

استنباط حكم جديد في مسألة من المسائل لم يقل به احد من السابقين سواء كانت المسألة قديمة أم جديدة

Meaning: Taking a new legal conclusion in a problem, the problem of which has never been raised by previous fiqh scholars, whether the problem is new or old.

This understanding explains the substance of the meaning of *ijtihad insya'i* and its scope which is the object of *ijtihad*. According to Al-Qaradawi, *Ijtihad insya'i* is expected to be able to fill the legal vacuum of various phenomena which are of course always changing and developing, this implication of course has an impact on legal shifts. This kind of legal change is very natural considering the times that always require solving legal problems by considering the existing situation and conditions. From that, it could be that the problems that arise now have never existed in the past or the problem has existed but the results of existing legal decisions cannot be fully implemented.

c. Combination of *Intiqa'i* and *Insha'i* *ijtihad*

This model of combined *Intiqa'i* and *Insya'i* *ijtihad* is an *ijtihad* that is carried out by selecting the opinions of previous scholars who are deemed more suitable and stronger, then adding new elements of *ijtihad* to that opinion. This combined *ijtihad* is also known as a form of contemporary *ijtihad* initiated by Al-Qaradhawi, where this form of *ijtihad* is considered capable of making fiqh dynamic and elegant according to the times. Mechanistically, this model of *ijtihad* is a process to produce laws that are determined based on the results of the selection and sorting of several previous scholars' opinions which are more specific to the actual problem and then *ijtihad* is added to complete it. Likewise, the pattern of *ijtihad* carried out is a form of interpretation of the results of the old *ijtihad* which is still predictive, this condition places the new *ijtihad* as a form of presenting arguments that are more argumentative and factual.

2. *Istinbathi* and *tathbiqi*

Ijtihad istimbathi and *tathbiqi* were introduced by a previous scholar who was proficient in the field of *ushul fiqh*, he was known as al-Syathibi. The classification of these two models of *ijtihad* is built from the meaning of the meaning of *ijtihad* itself, in interpreting and classifying *ijtihad* he says that:

الاجتهاد هو استقراغ الجهد وبذل غاية الوسع، إما في درك الأحكام الشرعية، وإما في تطبيقها

Meaning: *Ijtihad* is the exertion of sincerity with optimal effort, either in the form of exploring sharia law or in the form of applying sharia law.

The above understanding explains the working process of *ijtihad* which can be divided into two forms, first, *ijtihad* in the form of an effort to examine 'illat in the texts known as *ijtihad istinbathi*. While the second is *ijtihad* in the form of an effort to examine a problem in which the law is to be identified and applied, of course it must be in accordance with the main intent contained in the texts, the second is known as *ijtihad tathbiqi* or some scholars of *ushul* call it *tahqiq al-manat*. The classification of this *ijtihad* model clarifies the focus of each *mujtahid*, where in *istinbathi* *ijtihad* a *mujtahid* focuses on extracting ideas contained in abstract texts, while in *tathbiqi* *ijtihad* a *mujtahid* focuses on efforts to apply these abstract ideas to concrete problems.

The mechanism of *ijtihad* with these two different forms has a strong relationship that is interrelated with one another. In *tathbiqi* *ijtihad*, *istinbathi* *ijtihad* plays an important role because the essential and general idea of a text remains a benchmark in the application of law in various new cases. Errors in determining the meaning and content of the texts

have resulted in errors in defining new problems and the application of the law, meaning that *takhrij al-manat* and *tanqih al-manat* as *ijtihad istinbathi* cannot be separated from the *ijtihad tathbiqi* process. From this it is also understood that the object of the study of *ijtihad istinbathi* is text, while the object of the study of *ijtihad tathbiqi* is the *mukallaf* with various contemporary problems. Since *ijtihad tathbiqi* is in the form of the realization of the *fiqh* formulation on cultural change and social change in society, it is very natural for Imam al-Syathibi to say that *ijtihad* will not stop until the end of time.

The understanding of *ijtihad* with the above mechanism explains the urgency of *maqashid al-syar'iyah* which cannot be separated, both in the order of *ijtihad istinbathi* and *ijtihad tathbiqi*. Furthermore, in the operational sense of *ijtihad* itself, it also places *maqashid al-syar'iyah* in the basic axis which is the reference and foundation in every law that is *ijtihad*, meaning that the legal product resulting from *ijtihad* must be narrowed down to the achievement of one of the five elements of *maqashid al-syar'*. yes. Knowledge and understanding of *maqashid al-syar'iyah* is an important aspect in conducting *ijtihad*. People who stop at the *dhahir* verse or the *lafdhiah* approach and are bound by the texts and ignore the purposes of the law will be faced with mistakes in *ijtihad*.

3. *Qiyas*

Qiyas Etymologically it is an estimate (hypothesis) and is logically used as an expression of equating or returning something to another case that is equivalent to it. Meanwhile, according to the terminology, *qiyas* is to determine the law of a religious case for which there is no legal stipulation, with another case where there is already a legal stipulation from the texts of both the Qur'an and hadith, due to the similarity between the two in terms of '*illat* which is used as a guide. in the determination of the law. Regarding the terminological definition of *qiyas*, there are many differences between *ushul* scholars, but the differences are only about the style of language they use, but if you look at the basis and essence of all of them, it will appear that the substance is the same. *Qiyas* is one of the popular models of legal *istinbath* among the Shafi'i schools, this can be seen in the order that places *qiyas* in fourth place after the Qur'an, hadith, and *ijma'*. In terms of the portion of its use, Imam Shafi'i is on the middle axis, where Imam Hanafi is too wide to use it and Imam Malik is too narrow to give legality.

Even though he is on the middle axis in the use of *qiyas* as a model of *ijtihad*, Imam Shafi'i is known as a *mujtahid* who pioneered *qiyas* as the only way to explore the law. Even he himself said that *ijtihad* is *qiyas*, meaning that by doing *qiyas*, it means that the *mujtahids* have returned the legal provisions according to their sources, namely the Qur'an and hadith. *Qiyas* is actually a medium to examine and know in depth about the meanings contained in the Qur'an and hadith, with the meanings obtained implicitly or explicitly this will lead to a common value that unites the problems mentioned in the Qur'an. and hadith with actual religious issues. This position explains that on the one hand *qiyas* is a model of *ijtihad* but on the other hand *qiyas* is classified in a proposition, this is like the opinion of some legal experts that *qiyas* is included in a methodological argument and these two opinions are not contradictory to each other.

From the definition and brief description above, it can be drawn 3 (three) important points in the *qiyas* problem, namely;

- a. *Qiyas* serves to explain the law of an actual problem for which there is no legal clarity from both texts and *ijma'*.
- b. '*Illat* (element of similarity between problems with existing legal clarity and new problems) is the basic guideline for establishing law.
- c. *Mujtahid* is in a position to explain the law in new problems, of course with '*illat* that

equates old problems (ashal) with new problems (far'u).

The substance that can be seen from the three important points in the element of qiyas is that qiyas has the power to justify the law on new problems. This means that in one position qiyas is a proposition but on the other hand qiyas is a method used as a framework of logic and reasoning in accordance with the provisions of Islamic legal philosophy which is the seed of the birth of the epistemology of Islamic law. Qiyas is considered the most adaptive method or proposition, and is capable of producing dynamic laws, but qiyas is also very difficult to apply because the conditions are so strict.

4. *Ilhaq al-masail bi nadhairiha*

Ilhaqis a synthesis effort (equalization and integration) between problems that do not yet have legal answers and problems that already have legal provisions. This model of *ijtihad ilhaq al-masail bin nadhairiha* is here to answer the need for dynamic and fixed law within the scope of *maslahah ammah* based on the *thurats* book, this is part of the revolution from previous legal experts who were too textual towards contextual patterns. The *ilhaq al-masail bin nadhairiha* method used by legal experts is included in the part of the *manhaji* method that is currently popular, even media framing in the realm of Islamic jurisprudence is a little more fantasy with this *manhaji* method. This method is a way of solving religious problems that are discussed and studied in depth in the *bahtsul masail* by following the way of thinking and the rules of law that have been compiled by the *madhhab* priest. The name *ilhaq al-masail bi nadhairiha* appeared in the decision of the NU ulema's *bahtsul masail* congress in 1992 in Bandar Lampung, while its implementation had already been carried out by various scholars, especially among NU scholars. Basically the method of *ilhaq al-masail bi nadhairiha* or *manhaji* is still in the axis of *al-maqasid al-syariyyah* with three kinds of variants as formulated by *al-Syathibi*, the three types are *dharuriyah* (religion, soul, lineage, property, and reason).), *hajiyah*, and *tahsiniyah*. The name *ilhaq al-masail bi nadhairiha* appeared in the decision of the NU ulema's *bahtsul masail* congress in 1992 in Bandar Lampung, while its implementation had already been carried out by various scholars, especially among NU scholars. Basically the method of *ilhaq al-masail bi nadhairiha* or *manhaji* is still in the axis of *al-maqasid al-syariyyah* with three kinds of variants as formulated by *al-Syathibi*, the three types are *dharuriyah* (religion, soul, lineage, property, and reason).), *hajiyah*, and *tahsiniyah*. The name *ilhaq al-masail bi nadhairiha* appeared in the decision of the NU ulema's *bahtsul masail* congress in 1992 in Bandar Lampung, while its implementation had already been carried out by various scholars, especially among NU scholars. Basically the method of *ilhaq al-masail bi nadhairiha* or *manhaji* is still in the axis of *al-maqasid al-syariyyah* with three kinds of variants as formulated by *al-Syathibi*, the three types are *dharuriyah* (religion, soul, lineage, property, and reason).), *hajiyah*, and *tahsiniyah*.

The domain of reasoning's greatest role in realizing the *manhaji* method is in the *hajiyah* and *tahsiniyah*, both of which are the entrances of the *fuqaha*'s perspective in the context of developing and expanding the variants of *hajiyah* and *tahsiniyah* within the scope of *dharuriyah*. The jurists who underlie each law of study with *maqasid al-syariyyah* tend to strive for religious problems to be discussed and resolved by developing the theory of *masalik al-illat*. While the jurists who underlie each law of study with the text of the yellow book on similar laws tend to strive for religious problems to be discussed and resolved by contextualizing the yellow book and the application of *fiqhiyyah* rules or known as *fiqh qauli* in the first stage and *ilhaq al-masail bi nadhairiha* at a later stage.

The explanation above about the method of *manhaji* which is based on the rules of the imam of the school and the development of the concept of *masalik al-ilah*, it can be

concluded that the *ilhaq al-masail bin nadhairiha* carried out by several legal experts is part of the *manhaji*, where the conception of *ilhaq* is a problem solving new law by using *al-qawa'id al-fiqhiyah* formulated by the priests of the school or their students. Moreover, *ilhaq al-masail bin nadhairiha* is not merely an attempt to synthesize one *furū'iyah* issue with another, but more importantly is a synthesis between the *furū'iyah* issue and *al-qawa'id al-fiqhiyah*.

The naming of the *manhaji* method for some people considers it will have an effect on the mindset of Islamic scholars who basically use *fiqhiyyah* rules in formulating the law of contemporary problems and will ultimately use *ushul fiqh* rules in formulating laws on these problems. There are also many NU scholars who do not agree with the existence of the *manhaji* method if the *istinbath* media uses the rules of *ushul fiqh*, this concern is based on the attitude of some people who want to abstract and make pluralism between the mindset of the school of thought in exploring the law and the mindset of the student of the school of thought. On the other hand, these circles accuse NU clerics who are reluctant to the *manhaji* method that these clerics regard the yellow book as sacred and do not dare to innovate with *ijtihad*.

4.2 Analysis

The Axis In applying the *Intiqā'i*, *Insyā'i Tathbiqi*, and *Istinbathi* methods, it is *maqashid al-syar'iyyah* which is the key to the success of a *mujtahid* in his *ijtihad*, because it is on the basis of the objectives of Islamic law that every problem in human life is returned to new problems. which does not exist literally in revelation or in the interest of knowing whether a case can still be applied to a legal provision or not due to value shifts due to social changes. *Maqashid al-syar'iyyah* guides the process of *ijtihad* to produce dynamic *fiqh*, of course it also requires a professional *mujtahid* to provide a portion of the role of *maqashid al-syar'iyyah* itself. From that, leaving or ignoring the *maqashid al-syar'iyyah* aspect will have an impact on legal products which are sometimes influenced by the environment, politics and even the influence of the philosophical paradigm that leads to the cult of science.

The application of this *ijtihad qiyas* model requires a concrete and measurable stage, this shows that in the legal study process or known as *ijtihad*, it really requires foresight, thoroughness and prudence. In addition, if we look at the background of the development of *qiyas* and it can be accepted by various groups, it is found that through this *qiyas* method, Imam Shafi'i tries to mediate the conflict between the *ulama* who tend to be textual and the *ulama* who tend to be logical. *Qiyas* offered by Imam Shafi'i gives equal portions to both reason and text, reason is used to reason *'illat* and text as the basis and support. It should be underlined that this *qiyas* is carried out by people who already have the capacity of *mujtahid* by using *al-qawaid al-ushuliyah* in searching for *'illat* in the text of the *Qur'an* and *hadith*. As for other than *mujtahid*, the legal equating of new problems with old problems is not called *qiyas*, but is better known as *ilhaq al-masail bi nadhairiha* by using the *al-qawaid al-fiqhiyyah* device. This position needs to be emphasized considering that errors in the use of legal study methods will certainly have an impact on legal errors that are produced, of course.

Regarding the use of *ilhaq al-masail bin nadhairiha* as a model or method of *ijtihad*, it can be understood that substantially the model of *ilhaq al-masail bi nadhairiha* or *manhaji* is almost synonymous with the method some people call the contemporary *manhaj*, the mistake of contemporary circles is that it is only one thing. the only solution to solve actual religious problems. The contemporary *manhaj* methodology they use is only formulated with a more modern language even though the level does not exceed what has

been formulated by the previous fuqaha. From this point of view, it is very clear how close their eyes are to the objectivity of fiqh thurats. The reasoning of the arguments and the divine logic used is not as sharp as what was done by previous scholars in their classic books, but they believe that exploring the law using contemporary manhaj is true ijihad.

V. Conclusion

Based on the above explanation of the ijihadi models, the following conclusions can be drawn:

1. Islamic law consists of two parts, Islamic law in the form of teachings contained in the Qur'an and mutawatir hadiths produced through qath'i al-dilalah, this part is absolute and permanent (permanent), and Islamic law in the form of teachings that produced through the process of ijihad in the presumptive realm of the Qur'an and hadith, this section is relative and not permanent.
2. Legal construction is carried out by a person who has the capacity of a mujtahid by using al-qawaid al-ushuliyah in interpreting the text of the Qur'an and hadith to find laws for new problems. Meanwhile, for those who do not have mujtahid capacity, legal construction is built using al-qawaid al-fiqhiyyah tools to answer various actual religious problems.
3. The models or patterns of ijihad used by previous and contemporary scholars include; Ijtihad Intiqa'i, Insha'i and a combination of the two introduced by Yusuf al-Qaradhawi, Istinbathi and Tathbiqi introduced by al-Syathibi, Qiyas agreed upon by 4 (four) school of thought, and Ilhaq al-masail bi nadhairiha introduced by scholars Nahdlatul Ulama (NU) scholars.

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