

Streams of Law in Islam, the History of the Emergence of Legal Schools, and Differences of Opinion Regarding the Position of Legal Sources

Ade Daharis¹, Salma², Muchlis Bahar³

¹Universitas Islam Negeri Imam Bonjol Padang, Email : adedaharis20@gmail.com

²Universitas Islam Negeri Imam Bonjol Padang, Email : salma@uinib.ac.id

³Universitas Islam Negeri Imam Bonjol Padang, Email : muchlisbahar@uinib.ac.id

Article Info

Article history:

Received 19 Nov, 2024

Revised 10 Jan, 2025

Accepted 20 Jan, 2025

Keywords:

Legal Schools, Schools, Legal Sources

ABSTRACT

Differences of opinion among scholars in the fields of Islamic law actually occurred during the time of the Companions of the Prophet. However, these differences can still be overcome with political policies and the legality of *ijmak*. However, at the end of the Companion period, known as the *Tabi'in* period (approximately starting in 41 AH), differences of opinion could not be resolved like they were resolved during the Companion period. This is where the process of transitioning Islamic law began from a form of *ijtihad* which was based on the greatness of friends to a scientific and measurable process until the birth of school imams who codified the results of their legal thinking in the form of *fiqh* books. *Ahl al-Hadith* and *Ahl al-ra'y* are two forms of legal thought that ushered in this transition process. That period was the time when efforts to shape Islamic law began to suit societal conditions and rationality. The school of thought is the main idea or basis used by the *mujtahid* Imam in solving problems; or adhere to Islamic law. The emergence of the school of thought, as part of the historical process of establishing Islamic law, was neatly arranged from generations of friends, *tabi'in*, until it reached its golden age in the Abbasid Caliphate, but it must be acknowledged that the school of thought has made a major contribution to thinking in establishing Islamic jurisprudence law. The reasons for the differences opinion/school of thought due to differences in perception in *ushul fiqh* and *fiqh* as well as differences in interpretation or interpretation of *mujtahids*. Adhering to the understanding of *bermahzab*, due to factors Our "inability" to explore Sharia law itself directly from its sources (the Koran and Sunnah). The source of Islamic law is the most basic thing in the process of establishing a law. In Islam, the main sources of law are the Al-Quran and Sunnah.

Corresponding Author:

Ade Daharis

Universitas Islam Negeri Imam Bonjol Padang

Email : adedaharis20@gmail.com

INTRODUCTION

A thought and legal school that developed in one period cannot be said to stand alone without being connected to previous periods. Overall, legal thought, which always gives birth to various schools, can exist and is able to actualize itself, which is very closely related to historical processes and socio-cultural

conditions in the places where these schools are born. In a systematic sense, the results of thought that develop in a school are always a continuation and have a close relationship to the socio-historical process of actions or results or products of previous legal thought.

The various schools of Islamic law that developed which formed systematized schools of thought have close relations with the schools that developed previously. It could even be said that these schools of thought are the crystallization of legal thought which is still looking for form and developing previously. At this point, Ahl al-Hadith and Ahl al-ra'y have played a major role in the growth of schools of Islamic law. These two schools are part of the process of forming many schools of Islamic law. The following article will highlight the dynamics of these two schools in the history of the formation of Islamic law and their contribution to the growth of Islamic legal schools.

Muslims, especially those with religious knowledge, are not surprised to read this because the Prophet Muhammad SAW also preached it during his lifetime. In classical Islam, there was a war between the people of Ali bin Abi Talib and Muawiyah, where this war was motivated by the election of the caliphate and the slander of Ali's friend for killing Usman bin Affan's friend. The battle was so fierce that finally Ali bin Abi Talib and his people almost won the war. However, in the midst of the war, one of the Muawiyah people brought up the Koran, invited Ali bin Abi Talib to resolve the war by means of tahkim, and Ali accepted.

This is where the sects in Islam began to emerge, where at the beginning they discussed politics, until finally they discussed who was a disbeliever and who was a believer. From the incident above, several sects emerged in Islam and each sect has its own thoughts (Tauhid, 2022).

The development of Islamic law as we all understand it has experienced several phases. Starting from the time of the Prophet until now. The Prophet had laid the foundation of law which was adhered to firmly by the companions. When he died, the scientific tradition relating to Islamic law was continued by his friends. Of course, as a consequence, the field of ijtihad is expanding along with the expansion of Islamic territory (Halimah & Mahmudah, 2023)

In the history of the study of Islamic law, there are several schools of jurisprudence which are generally divided into two, namely the Sunni school of thought and the Shi'i school of thought. The occurrence of differences in madhhabs was caused by differences of opinion among ulama, these differences of opinion then gave birth to Islamic madhhabs which are still adhered to by people to this day. The basis of the differences between scholars is the different levels of human understanding in capturing messages and meanings, drawing legal conclusions, capturing the secrets of the Shari'a and understanding legal illat. All this does not conflict with the unity of the source of the Shari'a. Because Islamic law does not conflict with each other (Halimah & Mahmudah, 2023)

RESEARCH METHODS

This research is included in library research using qualitative methods which produce descriptive data. Data sources are primary data and secondary data sources obtained by searching literature related to the problem studied in this research which comes from books that study schools of Islamic law, schools of thought and sources of Islamic law. The nature of this research is included in research that uses analytical descriptive methods, namely describing, then analyzing logically so as to obtain conclusions regarding the concept of Islamic legal schools, schools and sources of Islamic law. The data collection technique is by conducting a review study of books and literature that are related to the problem to be solved in this research.

RESULT AND DISCUSSION

Islamic law has two characteristics, namely al-tsabat (fixed) and al-tathawwur (developing). The first characteristic, namely Islamic Law as a revelation from Allah which is constant and does not change throughout time, while the second characteristic, namely Islamic Law which develops, is not rigid in various situations and social conditions. It is in the integration of these two characteristics that Islamic Law can survive throughout time. The first characteristic is called sharia. Meanwhile, the second characteristic is called fiqh, namely understanding sharia (Farhan Subhi et al., 2023)

In its development, there were two schools of emphasis on Islamic law, namely Ahl al-Hadith and Ahl al-Ra'yi. This is influenced by teachers, socio-culture, geography and so on. Ahlul hadith themselves are a group of friends who are very guided by the Sunnah of the Prophet (ahl al-hadith). Then the second group is more based on problems that will come later and is also based on thought and ijtihad known as ahl al-ra'yi (Farhan Subhi et al., 2023)

The division of ulama into two major sects, Ahl al-Hadith and Ahl al-Ra'yi, has given rise to various kinds of legal issues and the results of ijtihad. From here, it is deemed necessary to have a method or legal epistemology that functions to answer the challenges of current developments and social dynamics. It is this influence that makes researchers interested in discussing the thought patterns of Ahl al-Hadith and Ahl al-Ra'yi in determining Islamic law during the tabi'in period in terms of the reasons for each school in deciding a law through the background reasons and other things. other things.

A. Legal Schools in Islam

The various schools of Islamic law that developed which formed systematized schools of thought have close relations with the schools that developed previously. It could even be said that these schools of thought are the crystallization of legal thought which is still looking for form and developing previously. At this point, Ahl al-Hadith and Ahl al-ra'y have played a major role in the growth of schools of Islamic law. These two schools are part of the process of forming many schools of Islamic law. The following article will explain the dynamics of the two schools in the history of the formation of Islamic law and their contribution to the growth of Islamic legal schools (Ichwan, 1968)

1. History of the Development of Ahl al-Ra'y and Ahl al-Hadith

Ahl-al-ra'y and ahl al-Hadith grew and developed rapidly along with the development of the Islamic world which experienced its first period of progress, especially in the fields of knowledge and philosophy, precisely during the time when the Caliphate was held by the Abbasid dynasty. It was during this period that efforts to translate and develop various Greek sciences and philosophies began to emerge. This movement began at the beginning of the Abasiyyah reign during the time of Caliph al-Mansur (d. 775 AD) but reached its peak during the reign of the caliphs Harun al-Rasyid (d. 809 AD) and al-Makmun (d. 833 AD).

Efforts to translate philosophical and scientific texts have succeeded in encouraging progress in all fields. The Abasiyyah caliphs employed many Persians who had just converted to Islam for the mission of developing science and philosophy themselves. Books on science and philosophy were also imported from Byzantium and several other places and then translated into Arabic. The translation activity of foreign books has been going on for quite a long time, namely for approximately a century. In 815 AD, after the success of this giant project, Caliph Al-Ma'mun established the Bait al-Hikmah institution which functions as an academy which functions as an academy equipped with a library which stores ancient books obtained from Persia, Byzantium, Ethiopia, and India. Among the branches of science prioritized in Bait al Hikmah are medicine, mathematics, optics, geography, physics, astronomy, history and philosophy.

As a result of the advances in science and philosophy experienced during the Abbasid reign, they have succeeded in having a major influence on advances in other fields, including the field of Islamic legal thought. The crystallization that developed at that time took the form of the two most popular schools of thought, namely the ahl al-Ra'y school and the ahl al-Hadith school. 10 The ahl al-hadis school of thought grew and developed in the Madina area. Al-Syafi'iy named the two groups as ahl al-hadith and ahl al-Qiyas (Farhan Subhi et al., 2023).

These two schools of thought emerged to the surface according to Ahmad Amin's statement at the end of the Umayyad era and at the beginning of the Abbasid government. (d. 795 H/179 H.), while the Mazha Ahl alRa'yi was introduced by Iraqis. This school of thought especially developed rapidly in the Kufa area with its most famous leader, Abi Hanifah (d. 767 AD/150 AH).

The seeds of legal thought by differentiating the intensity of the use of Hadith and ra'yu which gave rise to two major schools of ahl al-Ra'y and ahl al-Hadith cannot be denied during the time of the Companions. 13 Because it is known that there was a group of Companions who used Hadith very intensely in their Ijtihad. and feel hesitant about using ijthihad, but there are also those who are intense in carrying out ijthihad with ra'yu on various issues for which there is no text.

Of all the groups or schools of fiqh that developed, only the ahl al-Madinah and ahl al Kufah schools or what were then commonly called the ahl al-hadith and ahl al-ra'yi schools were the most prominent. There are several statements that expand the area where the ahl al-hadith group is located, namely to two places in the Hijaz, namely Makkah and Medina, while the ahl al-ra'yi group is sometimes attributed to the people of Iraq and sometimes to the residents of Kufa.

The focus of attention on these two regions compared to other regions, as stated by Schacht, is because information on the development of Islamic legal thought in these two regions is received more by researchers than in other regions or areas. 14 Meanwhile, according to Abdullah Mahmud, discussions are focused on these two regions, Medina and Kufa. Medina is known as the gathering place and residence of the Prophet and many of his companions and was the center of Islamic government until the time of Caliph Uthman Ibn Affan, while Kufa was the first place where Islam developed outside the area of Islamic government, the center of knowledge and the residence of Ali ibn Abi Talib (d. 661 AD/440 H).

2. The influence of Ahl Ra'yi and Ahl Hadith on Islamic Law

The differences in legal istinbath between Ahl Ra'yi and Ahl Hadith certainly influence the legal determination of a problem. As for the influence of Ahl Ra'yi on Islamic law, in this case Ushul fiqh and jurisprudence, for example in the use of istihsan. Abu Hanifah was too far ahead in establishing Islamic law. Examples of cases as below.

a). In the Hanafi school of thought, if someone donates a plot of agricultural land, then the person donated

includes irrigation rights and the right to make water channels on that land. This is determined based on Istihsan. Based on qiyas jali (clear illat), these rights are not obtained, because they are qiyased to buying and selling.

b). Hanafiyyah Fuqaha states that the remaining drink from wild birds, such as vultures, crows, eagles, eagles, is pure based on istihsan, and unclean based on qiyas. The aspect of its qiyasan is that it is the remains of the drink of animals whose flesh is forbidden to eat, such as the remains of the drink of wild animals such as tigers, leopards, lions and wolves. The law of animal waste follows the law of its flesh. Meanwhile, in terms of istihsan, it is a type of wild bird, even though its meat is forbidden, only its saliva comes out and its meat is not mixed with the remains of its tongue which is mixed with its saliva. Because of this, the remaining drink from the animal is considered unclean so it is haram and cannot be eaten. because he drinks with his beak even though he is a sacred bone. If the animal is wild, then it drinks

The hadith scholars strictly adhered to the traditions that existed and developed in Medina society. This is illustrated by the attitude that rejects the transmission of hadith attributed to the Prophet Muhammad. What he considered was not valid, because it was contrary to the traditional customs of the people of Madinah. He also criticized the transmission of hadith which contradicts the text of the Koran. For example, he rejects the hadiths which explain about washing seven times dog lick marks, the existence of khiyar majlis, in carrying out ijtiḥad, Imam Malik uses hadiths more often than Imam Hanafi. This is because the city of Medina is the residence of Imam Malik, which is also the residence of the Prophet Muhammad. So it is not surprising that in Medina society there are many hadiths circulating. Imam Malik himself has a famous hadith book called the al-Muwatta book.

The difference between Ahlul Ra'yi and Ahlul Hadith is the way of accepting and responding to a hadith. There are some who hujjah with a hadith, others do not hujja. Some consider the hadith to be of strong and good quality, while others consider it weak. Differences like this cause the laws they set to also vary.

The way Hijaz fiqh experts determine Islamic law is by understanding the hadiths according to their textual content without analyzing the legal illat and its principles. If they find that what they understand from the text is not in accordance with the wishes of their minds, then they do not care about it and they say it is a text. They do not use rational analysis except in times of emergency. In this way they have narrowed the field of ijtiḥad and indirectly closed the door to ijtiḥad among Muslims.

3. Meeting Points and Differences Between the Ahl Al-Ra'yi and Ahl Al-Hadith Groups

Each of the two schools of jurisprudence has a different view on the method of extracting law. However, both parties agree that the main sources of law are the Bible and the Sunnah. All laws that conflict with these two sources must be rejected and not implemented.

There are no differences between the two schools of jurisprudence regarding the Qur'an and Sunnah, except in some issues outside the framework of using the Qur'an and Sunnah as evidence, such as in the way of interpreting or interpreting the Qur'an and expressing opinions about it. . The Sunnah has also been agreed upon by both schools of jurisprudence as evidence, whether it is a mutawattir, famous or ahad sunnah. The difference between the two lies in the use of ra'yu, the Ahl Al-Hadith school uses it little and considers it as one of the bases for establishing Islamic law, in contrast to the Ahl Al-Ra'yi.

4. A Glance at the Thoughts of Two Imams of the School of thought (Maliki and Hanafi)

a) Imam Malik

Malik bin Anas bin Malik bin Abu Amir studied in Medina, including Rabi'ah Al-Ra'yi, Nafi'Maula Ibnu Umar and Ibnu Syihab al-Zuhri. He was an Ahl of Al-Hadith and an expert in jurisprudence in his time. Some of the scholars said: "The most authentic hadith is the hadith narrated by Malik from Nafi' from Ibn Umar, then Malik from Ibn Zinad from A'raj from Abu Hurairah".

The Imam of the Hijaz country, the Professor of the city of Medina, was later known as the tabi'in al-tabi'in generation whose style of jurisprudence was dominated by the Ahl al-hadith mindset. Even though it is said that, Imam Malik in performing Istidlal also uses various methods that are affiliated with ra'yu. The istidlal methods used by Imam Malik are adhering to the Bible, sunnah, ijmak Ahli Madinah, fatwa of friends, qiyas, al-istihsan, maslahah murlahah, sadd al-zara'i, istishab, and syar'u man qablana.

b) Imam Abu Hanifah

Imam Abu Hanifah (Imam Hanafi) whose real name is Abu Hanifah Nu'man bin Thabit bin Zauti al-Kufi, was born in Iraq in 80 Hijriah (699 AD). The school of jurisprudence is called the Hanafi School. One day his father (Tsabit) was invited by his grandfather (Zauti) to make a pilgrimage to the residence of Ali's friend RA. who at that time was living in Kufa due to the political disputes that rocked the Muslim community at that time, Ali r.a. prayed that Thabit's descendants would one day become the main people of their time, and that prayer was answered with the presence of Imam Hanafi

At the beginning of the second century Abu Hanifah studied a lot with Atha' bin Abi Rabah and Nafi' Maula ibn Umar. In his time, Abu Hanifah was the head of the Ahl Al-Ra'yi group. Imam Hanafi's basics in exploring the law can be seen from his own expression, namely: "I hold onto the book of Allah. If I don't

find it in it then it is according to the sunnah of Rasulullah SAW. If it is not in the Book of Allah and the Sunnah of Rasulullah SAW., I will take the opinion of the companions of Rasulullah SAW., I will take the opinion of whoever of them I want, I will leave the opinion of whoever of them I want, and I will not deviate from their opinion to the opinion of anyone other than them."

Still from the same reference, it is emphasized that the last part of Imam Abu Hanifah's words is the first step in using ra'yu and giving the right to ra'yu in comparing opinions and choosing some over others. Dr. Muhammad Syak'ah said that Abu Hanifah in the field of ra'yu emphasized that when the tabi'in's opinion came to him, he would put forward his own opinion as they each put forward their own opinions.

B. History of the emergence of the School of Law

1. Understanding Schools

The word Madhab in Arabic is مذهب which comes from the adjective (masdar) from Fi'il madhy ذهب, which according to the language means to walk or go. Meanwhile, according to the terms of Islamic jurisprudence, the school of thought formulates, among other things:

- 1) According to Muslim Ibrahim, "Mazhab" is an understanding or school of thought which is the result of a mujtahid's ijtihad regarding Islamic law extracted from verses of the Koran or Al-hadith which can be ijtihad.
- 2) According to Abdur Rahman, "Mazhab" is the opinion, understanding or school of a great scholar in Islam who is called an Imam like the four great Imams: Hanafi, Maliki, Shafi'i and Hanbali which are spread by the Imam's students to various countries.
- 3) According to Wahbah Az-zuhailiy, "Mazhab" is any law that contains various problems, both in terms of the aspect of the method that leads to life as a whole and the aspect of the law as a guide to life.
- 4) According to Huzaemah Tahido Yanggo, "Mazhab" is the main idea or basis used by mujtahid Imams in solving problems or implementing Islamic law. Furthermore, the definition of a madhhab developed into a group of Muslims who follow the istidlal method of a particular madhhab Imam regarding matters of Islamic law.
- 5) According to Said Ramadhan, "Mazhab" is the path of thought (understanding/opinion) followed by a mujtahid in establishing Islamic law from the Koran and Hadith.
- 6) According to A. Djazuli, "schools" are schools of jurisprudence that started with differences in the use of methods, resulting in differences of opinion which eventually formed a support group (the Imam's students) as successors to the Imam and then developed into a particular school of thought.
- 7) According to Qodri Azizi "Mazhab" is following a certain school in the system of adopting Islamic law/Fiqh from the Fi aqwal School (opinion) towards the development of the Fi al-manhaj School (methodology).

Based on the description above, "Mazhab" can be understood as a way of thinking or basis used by mujtahid Imams in solving problems or applying Islamic law based on the Koran and al-Hadith (Halimah & Mahmudah, 2023)

2. Birth of the School of thought

If we trace it backwards, this school of jurisprudence has existed since the time of our friends. For example, the Aisyah ra school, the Ibn Mas'ud ra school, the Ibn Umar school. Each of them has their own rules for understanding the text of the Qur'an Al-Karim and the sunnah, so that sometimes Ibn Umar's opinions are not always in line with the opinions of Ibn Mas'ud or Ibn Abbas. But all of that still cannot be blamed because each of them has carried out ijtihad.

In the tabi'in era, we also knew the term fuqaha al-Madinah which consisted of seven people, namely; Said ibn Musayyib, Urwah ibn Zubair, Al-Qasim ibn Muhammad, Kharijah ibn Zaid, Ibn Hisham, Sulaiman ibn Yasan and Ubaidillah. Also included was Nafi' Maula Abdullah ibn Umar. In the city of Kufah we know Al-Qamah ibn Mas'ud, Ibrahim An-Nakha'i, teacher of al-Imam Abu Hanifah. Meanwhile in the city of Basrah there is al-Hasan Al-Bashri. Among the tabi'in there are fiqh experts who are also quite famous; Ikrimah Maula Ibn Abbas and Atha' ibn Abu Rabbah, Thawus ibn Kiisan, Muhammad ibn Sirin, Al-Aswad ibn Yazid, Masruq ibn al-A'raj, Alqamah an Nakha'i, Sya'by, Syuraih, Said ibn Jubair, Makhul ad Dimasyqy, Abu Idris al-Khawlani.

At the beginning of the second century until the middle of the fourth century of the Hijriyah, which was the golden phase for itijihad fiqh, namely in the 250 year period under the Abbasid Caliphate which was in power since 132 AH. 9 During this time, 13 mujtahids appeared whose schools of thought were recorded and their opinions were followed. They were Sufyan ibn Uyainah (d.198H) from Mecca, Malik ibn Anas (d.179H) in Medina, Hasan Al Basri (d.110H) in Basrah, Abu Hanifah (d.150H) and Sufyan Ats Tsauriy (d.160H) in Kufa, Al-Auza'i (157 AH) in Sham, ash-Shafi'i(d.204H), Laits ibn Sa'ad(d.175H) in Egypt, Ishaq ibn Rahawaih (d.238H) in Naisabur, Abu Tsaur (d.240H), Ahmad ibn Hanbal (d.241H), Daud Adz Dzhahiri (d. 270H) and Ibn Jarir At Thabary (d. 310 H)10, all four in Baghdad. (Abdillah & Nanang, 2014)

3. Reasons for Differences in Schools

The existence of differences in schools of thought cannot be separated from history, meaning that there is

space and time which are factors in the existence of these differences. Therefore, we will review the politics that occurred at the time when the madzhab began to emerge.

The emergence of madhhabs is closely related to the implementation of *ijtihad*. In carrying out *ijtihad* to find law on specific issues that have not been specifically determined in the text, differences of opinion (*khilafiyah*) between mujtahids are very likely to occur. Looking at historical reality, there are indeed differences of opinion which give rise to various schools of thought. The reasons for the emergence of these differences of opinion include:

- 1) Legitimacy of the ability to perform *ijtihad*, namely legitimacy from Allah SWT. and the Prophet regarding *ijtihad* activities. This provides a stimulus to mujtahids to search for the ultimate truth about legal issues for which the law has not yet been discovered;
- 2) Differences in understanding the *zanniyyat* verses, *zanniyyat* verses are verses that allow each mujtahid to understand and draw different legal conclusions from the verse.
- 3) Differences in assessing hadith;
- 4) Differences in assessing the position of Muhammad saw. Mujtahids sometimes differ in seeing the values that came out (words, actions and decisions) of the Prophet Muhammad saw. When the Prophet spoke, acted or determined his position as an ordinary human being or the Messenger of Allah;
- 5) Differences in applying *usuliyyah qa'idah*, ulama sometimes differ in applying *usuliyyah qa'idah*, namely the rules that apply and are adhered to and used as a basis by mujtahids in establishing laws;
- 6) Mujtahid's personal factors and their environment, differences of opinion can arise due to differences in the mujtahid's personal condition, both regarding educational background, life background, character, experience and intelligence (Halimah & Mahmudah, 2023)

According to Abu Ameenah Bilal Philips, the main reasons for differences in legal provisions among Imam Mazhab include; (1) interpretation of word meaning and grammatical structure; (2) History of hadith, (its existence, validity, conditions for acceptance, and interpretation of different hadith texts); (3) The use of certain principles (*ijma'*, tradition, *istihsan*, and friends' opinions) is acknowledged; and (4) *Qiyas* methods. Meanwhile, according to Abdul Wahab Khallaf, the differences in legal determination stem from three issues; (1) Differences regarding the determination of some sources of law (attitudes and ways of adhering to the *sunnah*, standards of narration, *fatwas* of friends, and *qiyas*); (2) Differences regarding conflicting legal determinations from *tasyri'* (use of hadith and *ra'yu*) and; (3) Differences regarding language principles in understanding sharia texts (language *ushlub*).

As for Muhammad Zuhri, he divided into three reasons the causes of sectarian *ikhtilaf*; (1) Relating to legal sources; (2) Relating to the *ijtihad* method (*tahsin wa taqbih* theory, linguistic themes) and; (3) Customs (Halimah & Mahmudah, 2023)

4. Inter-School Approach

Inter-School Approach (*Taqrib*) in the view of the International Forum Approach to Islamic Schools (FIPMI) means an approach between followers of Islamic schools of thought with the aim of getting to know each other. The main aim is to look for opportunities to strengthen the ties of brotherhood among Muslims based on Islamic beliefs, because actually all schools of thought in Islam have the same beliefs.

The schools of jurisprudence in Islam are not limited to four schools of thought (Hanafi, Maliki, Syafi'i and Hanbali). But there are still other schools of thought, whether still known or not, such as Imam al-Laits bin Sa'd, Imam al-Auza'i, Ibn Jarir al-Thabari, Dawud al-Zahiri, Imam al-Tsauri, Syi'ah Imamiyah, Shi'ah Zaidiyah, and so on. The basis of each *istinbath* is based on the Al-Qur'an and the Sunnah of His Messenger. Coupled with *ijtihad* according to their respective minds, whether created jointly or individually, the determination of which then causes many differences of opinion. These differences can give rise to a fanatical attitude among the supporters of the sect which often results in mutual attacks between each other and ridicule which almost divides them.

The approach movement between Islamic schools of thought has a strong basis. The most important postulates are as follows:

- 1) The Al-Qur'an and the Nabawiyah Sunnah are the two basic sources of Islamic law and all Islamic schools of thought do not differ in their opinions regarding these two sources. All Islamic sources come from these two sources.
- 2) Faith in the foundations and pillars which are the standards of Islam.
 - a. Faith in Almighty Allah (*tawhid*)
 - b. Belief in the final prophethood and apostolate of Rasulullah SAW and the Sunnah of Rasulullah as one of the first sources of Islam.
 - c. Faith in the Koran and its understanding and laws as the initial source in Islam.
 - d. Belief in the Day of Judgment
 - e. Not denying basic religious issues and accepting the pillars of Islam, such as prayer, zakat, fasting, hajj, jihad, etc.
- 3) Legitimacy of *ijtihad* and freedom of thought. In Islam, the method of *ijtihad* is officially known in a corridor that does not deviate from the original sources of Islam. Muslims treat differences in *ijtihad* as a

natural (ordinary) problem and respect other people's choices.

4) Islamic unity is one of the characteristics of Muslims taught by the Koran and includes important knowledge related to it. This principle must be prioritized over other things whose level of importance is below it.

5) The foundation of brotherhood in Islam is the general foundation for behavior among fellow Muslims. Responding to differences in schools of thought that lead to "divisions". So a body was founded called "Darut Taqrib Baina al-Mazahib al-Islamiyah". This institution was founded in Cairo Egypt in 1947 AD/1368 AH on the basis of efforts to approach between schools of thought. This institution was initiated by religious leaders consisting of approximately 20 major scholars from various schools of thought. The founding of this institution began with a meeting between Muhammad al-Qurni (a Shia imamiyah figure) and Sheikh al-Maraghi (Sheikh Azhar at that time who belonged to the Sunni sect). In the meeting which was also attended by ulama, literary experts and intellectuals discussed the anxiety of the people, sectarian problems and sectarian problems. From there, the idea emerged to form this institution. As an appreciation, al-Maraghi then asked Sheikh al-Qurni to teach at al-Azhar, starting with material on philosophy. On the other hand, the idea of establishing taqrib is also inseparable from efforts to unite the Ummah as once dreamed of by reformer Jamaluddin al-Afghani. According to this figure, the fate of the Islamic world, its future and progress will not be realized without an inter-school approach. The establishment of this institution was also strengthened by Sheikh Hasan al-Bana who said that "Sunni and Shia Muslims are one, so differences in sects should not divide the people, the brotherhood of fellow Muslims is working together based on the fact that Islam is one, God is one, Al- The Qur'an is one, the Messenger is one."

The main mission of this institution is to hold discussions regarding the compatibility of conflicting Islamic schools of thought so that they can be united in order to distance the divisions that have hitherto occurred among Muslims, increase knowledge and strengthen mutual understanding among followers of Islamic schools of thought and strengthen mutual respect. All this was done in order to achieve Islamic unity. The vision of this institution is to build a modern Islamic society by reflecting on the conditions that occurred during the time of the Prophet as a benchmark for brotherhood in Islam and eradicating all forms of narrow sectarian bigotry, making Muslims accept or act maturely in responding to differences in sects that arise due to their respective ijtiḥad-each sect.

The principles for this inter-school approach, as conceptualized by the "World Forum for Inter-school Approaches" are:

1. Acknowledge the Al-Qur'an and Sunnah as the main sources for Islamic teachings.
2. Belief in the principles and pillars of Islam includes points, belief in the oneness of Allah, belief in the prophethood of Muhammad as the last apostle of Allah, belief in the Last Day.
3. Do not deny religious dharuriyat (things that are axiomatically recognized in Islam), and submit to the pillars of Islam such as the obligation to perform prayers, zakat, fasting, hajj, jihad, and others.
4. Recognize the validity of ijtiḥad (Halimah & Mahmudah, 2023).

C. Differences of opinion regarding the position of legal sources

1. Definition of Ikhtilaf (difference of opinion)

Ikhtilaf according to language is a difference of understanding (opinion). Ikhtilaf comes from Arabic, the origin of which is: khalafa-yakhlifu, khilafan. Its meaning is more general than al-dhiddu, because every thing that is opposite: al-Dhiddain, will definitely contradict each other.

Ikhtilaf according to the term is: a difference of opinion between two or several people regarding a certain object (problem), whether the difference is in the form of "not the same" or "diametrically opposed".

Meanwhile, what is meant by ikhtilaf in this discussion is differences of opinion between Islamic legal experts (fuqaha) in determining parts of Islamic law that are furu'iyah, not ushuliyah, due to differences in understanding or differences in methods in determining the law on a problem, etc.

Differences of opinion in Islamic law (Ikhtilafatu al-fiqhiyah) are like many fruits coming from one tree, namely the tree of the Qur'an and Sunnah, not as many fruits coming from various kinds of trees. The roots and trunk of the tree are the Qur'an and Sunnah, the branches are the propositions of Naqli and 'aqli, while the fruit is Islamic law (fiqh) even though they are different or in large numbers.

From the description above, it is clear that there are differences between lay people of the Muslims and the people of the book who follow their opinions. The lay people of the Muslims who follow the opinions of their imams, their opinions are confirmed from the Koran and Sunnah, as commanded by Allah SWT. in His word

فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ.....

Which means: "So ask people who have knowledge, if you do not know" (Q.S Al-Nahl verse 43)

Meanwhile, the people of the Book who in their religion follow the opinions of their priests, the source is from the priests themselves, which according to the Qur'an is in many ways contrary to the commands of

their God. This is explained by Allah SWT. in his words:

اتَّخَذُوا آخْبَارَهُمْ وَرُهْبَانَهُمْ أَرْبَابًا مِنْ دُونِ اللَّهِ وَاللَّهُ

Meaning: "They made their pious people and their monks as gods other than Allah SWT (QS. al-Taubah, verse 31)

2. Legal Sources

According to the General Indonesian Dictionary, a source is the origin of something. In essence, what is meant by a legal source is a place where we can find or explore the law. The source of Islamic law is the origin (place of collection) of Islamic law. Sources of Islamic law are also called propositions of Islamic law or principles of Islamic law or basics of Islamic law (Sulistiani, 2018).

Etymologically (language) source means the origin of something or the place where something refers. As for terminology (terms) in ushul science, sources are defined as the main or main references in determining Islamic law, namely in the form of the Koran and Al-Sunnah (Rosidin, 2011)

Ushul experts interpret the law by:

"Orders/words of Allah SWT relating to the actions of mukallaf, whether in the form of demands (commands and prohibitions), or choices (permissibility) or wadh'i (making something a cause, condition and barrier to a legal thing)"

According to the General Indonesian Dictionary, a source is the origin of something. In essence, what is meant by a legal source is a place where we can find or explore the law. The source of Islamic law is the origin (place of collection) of Islamic law. Sources of Islamic law are also called propositions of Islamic law or principles of Islamic law or basics of Islamic law.

From the definition above, it shows that the one who establishes the law is Allah SWT. Only Allah is the most high and all powerful judge. The Messenger of Allah conveyed God's laws to humans. Because Allah determines the law, the first and foremost source of law is Allah's revelation, namely the Koran, then the Sunnah of the Prophet as the second source of law, and the third source of law is Ijtihad (Rosidin, 2011)

3. Understanding Islamic Law

Islamic law is a series of the words "law" and the word "Islam". These two, separately, are words used in Arabic and found in the Koran, and also apply in Indonesian. "Islamic law" as a series of words has become a living and used Indonesian language. In Indonesian, the word 'law' according to Amir Syarifuddin is a set of rules regarding human behavior that are recognized by a group of people, drawn up by people authorized by that community, valid and binding on all its members. If the word 'law' according to the definition above is connected to 'Islam' or 'syara', then 'Islamic law' will mean: "a set of regulations based on the revelation of Allah and the Sunnah of the Prophet regarding the behavior of human beings who are recognized and believed to be binding on all religious believers. Islam (Sulistiani, 2018).

Meanwhile, law in the sense of sharia law according to the terms of ushul scholars is sharia khitob (doctrine) which relates to the actions of mukallaf, whether in the form of demands, choices or decrees.

"The law is the scriptures of Allah which relate to the actions of the mukallaf, whether in the form of commands or choices or wadh'i"

Ushul experts term the law relating to the actions of mukallaf in the form of demands or choices the law of taklifi, and the law relating to the actions of the mukallaf in the form of demands or choices the law of taklifi, and the law relating to the actions of the mukallaf in the form of decrees the law of wadh'i.

According to fiqh experts, Sharia law is the influence caused by Sharia doctrine in actions (mukallaf), such as obligations, prohibitions and permissibility.

4. Sources of Islamic law

The sources of Islamic law are the basis for Muslims in determining the laws or norms that regulate the order of life. Basically, Islamic law comes from the Koran, which is then explained in more detail through the sunnah or hadith of the Prophet Muhammad. The revelations contained in the Qur'an establish the norms and basic concepts of Islamic law which at the same time overhaul norms or rules that have become traditions in society if they are not appropriate. However, Islamic law also accommodates various traditions that do not conflict with the norms stipulated in the Divine revelation.

Below we will explain in basic terms the sources of Islamic law, namely the Koran, Hadith and Ijma'.

a. Al-Qur'an

1) Understanding the Koran

Linguistically, the Qur'an is Arabic for "recitation" or "something that is read repeatedly". The term al-Qur'an is the noun form of the verb qara'a which means reading. This is in line with Subhi Al-Salih's opinion that the Qur'an means "reading", the origin of the word "qara'a". The word al-Qur'an is in the form of masdar with the meaning of the term maf'ul, namely maqr'u'

The concept of using this word can also be found in one of the letters of the Qur'an itself, namely in verses 17 and 18 of Surah Al Qiyamah which explains that Allah had collected the Qur'an in Muhammad's chest and made the Prophet clever at reading it.

In terms of terminology, the Qur'an is defined as the word of Allah revealed to Muhammad SAW, from the

letter al-Fatihah and ending with an-Nas. In line with this, Soenarjo, et al (1971), explained that the Al-Qur'an is the word of Allah received by the Prophet Muhammad, written in a mushaf and narrated mutawatir and reading it is worship. Based on the explanation of the definition above, it can be stated that only the words of Allah SWT. which was revealed to the Prophet Muhammad SAW. only what is called the Koran. Words of Allah SWT. which was revealed to other Messengers is not the Koran, but it has its own name, including the book of the Torah which was revealed to the Prophet Musa AS. or the Bible that was revealed to the Prophet Isa AS.

2) Al-Qur'an as a source of law

The Qur'an was revealed to be a guide for those who want to achieve happiness in this world and the afterlife. It was not revealed to just one people in one century, but to all people and for all time, therefore the breadth of its teachings covers all of humanity.

The Qur'an is used as a source of Islamic law, indicating that the Islamic religion requires that the characteristics contained in the teachings and provisions governing human behavior in the Qur'an be applied at the right time and under the right conditions. For example, it is desirable to prioritize the nature of obedience, but also at certain times it is desired that legal provisions be implemented strictly. The nature of forgiveness does not make it easy for crimes to be committed but requires people to be honest and brave enough to explain the truth. The Qur'an requires humans to always do good, even towards people who have done evil to them. The Koran teaches humans to remain pure, but not castrated. Humans must be devoted to Allah Ta'ala, but not become monks or ascetics. People must be humble, but don't forget self-respect. Humans can exercise their rights without disturbing the rights of others. Humans are obliged to preach religion through wisdom and wisdom.

Al-Jurjani defines the Qur'an: The Qur'an is (Kalamullah) which was revealed to Rasulullah written in mushhaf, recited from Rasulullah mutawatir without any doubt. The laws contained in the Koran include:

a) I'tiqadiyyah laws, namely laws relating to belief in Allah SWT, in Angels, in the Books, in the Messengers of Allah and in the Hereafter.

b) Khuluqiyyah laws, namely laws relating to morals. Humans are obliged to have good morals and avoid bad behavior.

c) Amaliyah laws, namely laws relating to human actions.

There are two laws of amaliyah; regarding worship and regarding muamalah in a broad sense. Laws in the Qur'an relating to the field of worship and the field of al-Ahwal al-Syakhsyiyah / individual or family matters. is said to be more detailed than other areas of law.

This shows that humans need more guidance from Allah SWT in matters of worship and family development. Many people associate partners with Allah, this needs to be straightened out and reprimanded, while the family is the smallest element in society and will give color to the others. As for other fields where the regulations are general in nature, giving people the opportunity to think, of course this is very useful, because with these general regulations the Qur'an can be used in various levels of society, and in various cases throughout the ages. Islamic law provides opportunities for society and humans to change, progress and be dynamic. However, progress and dynamism must remain within the limits of the general principles of the Koran. The general principles are Tauhidullah, brotherhood, unity and justice (Sulistiani, 2018).

b. Hadith

1) Understanding Hadith

Hadith is a saying or news. Hadith is a saying, information from Rasulullah SAW. Meanwhile al-Sunnah is a way of life that is passed or lived or something that has been used to. The Sunnah of the Prophet is what is usually carried out in the life habits of the Prophet in the form of words and actions as well as the approval of the Prophet. This is in line with Musthafa ash-Shiba'i's opinion that the word sunnah means the praiseworthy path. Sunnah is all the words, deeds, taqir, physical characteristics, or morals left behind by the Apostle, as well as life behavior both before being appointed as an Apostle (such as the self-isolation he did in the Cave of Hira') or after his apostolate. (Ridwan et al., 2021).

2) Hadith as a Source of Law

Hadith or Sunnah is the second source of Islamic law that has an important role after the Koran. The hadith details the general exposition of the verses of the Qur'an, because the Qur'an as a holy book and guide to life for Muslims is generally revealed in words that need to be detailed and explained further, so that they can be understood and put into practice. Hadith also functions, among other things, as an explanation of unclear verses of the Qur'an or as a determinant of laws that are not in the Qur'an.

The Sunnah is divided into four types, namely:

a. Sunnah Qauliyah are all the words of the Prophet

b. Sunnah Fi'liyah is all the actions of the Prophet

c. Sunnah Taqririyah is the Prophet's determination and recognition of the statements and actions of other people.

d. Sunnah Hammiyah is something that has been planned to be done but not done.

Hadith as a source of Islamic law has the following functions:

- a. Confirm or explain further the provisions explained in the Koran. For example, the Qur'an explains verses relating to prayer, but the procedures for carrying it out are outlined in the Sunnah.
- b. As an explanation of the contents of the Koran. In the Qur'an, humans are commanded by Allah to perform prayers. However, it does not explain the number of rak'ahs, how to perform them, the pillars, and the conditions for performing prayers. So the function of the Sunnah is to explain and give examples of the number of rak'ahs in each prayer, the method and pillars of the prayer.
- c. Adding or developing something that does not exist or is still vague regarding the provisions in the Qur'an. For example, the Prophet prohibited a woman from marrying her aunt. This partial prohibition is not in the Qur'an. However, if you look at the wisdom of the prohibition, it is clear that it prevents the destruction or even termination of close family ties, which is an act that is frowned upon in the Islamic religion.

In principle, the position of hadith in the Qur'an functions as an explanation, interpretation and detail of things that are still global in nature. However, hadiths can also form their own laws regarding matters that are not in the Koran (Ridwan et al., 2021)

c. Ijtihad as an Effort to Understand the Al-Qur'an and Hadith

1. Definition of Ijtihad.

The word *ijtihad* comes from the Arabic *ijtihad* - *yajtahidu* - *ijtihadan* which means exerting all one's abilities, seriously devoting one's energy, or working optimally. In terms of terms, *ijtihad* is devoting all one's energy and thoughts seriously in establishing a law. People who carry out *ijtihad* are called *mujtahid*.

2. Conditions for *ijtihad*

Because *ijtihad* is very dependent on the skills and expertise of the *mujtahid*, it is possible that the results of *ijtihad* between one cleric and another cleric differ in the resulting law. Therefore, not everyone can carry out *ijtihad* and produce appropriate laws. The following are several conditions that a person must have to carry out *ijtihad*.

- a. Have broad and in-depth knowledge.
- b. Have a deep understanding of Arabic, tafsir, jurisprudence, and dates (history).
- c. Understand how to formulate law (*istinbat*).
- d. Have noble morals.

3. Position of Ijtihad

Ijtihad has a position as a source of Islamic law after the Koran and Hadith. *Ijtihad* is carried out if a problem is not legally found in the Qur'an and hadith. However, the law resulting from *ijtihad* must not conflict with the Koran or hadith. This is in accordance with the words of the Prophet Muhammad:

"From Mu'az, that the Prophet Muhammad saw. when sending him to Yemen, he said, "How will you decide a matter that people bring to you?" Muaz said, "I will decide according to the Book of Allah (al Qur'an)." Then the Prophet said, "And if in the Book of Allah you do not find anything regarding that matter?" Muaz replied, "Then I will decide according to the Sunnah of the Prophet Muhammad." Then, the Prophet asked again, "And if you don't find something like that in the Sunnah?" Muaz answered, "I will use my own rational judgment (*ijtihadu bi ra'yi*) without the slightest hesitation." Then, the Prophet said, "Glory be to Allah SWT. who provided guidance to the messengers of His Messenger in an attitude approved by His Messenger."

Rasulullah saw. It also says that a person who makes *ijtihad* according to his ability and knowledge, then his *ijtihad* is correct, then he gets two rewards. If his *ijtihad* is wrong then he gets one reward. This is confirmed through a hadith:

"From Amr bin As, indeed the Messenger of Allah. Said, "If a judge makes *ijtihad* in deciding a matter, and it turns out his *ijtihad* is correct, then he gets two rewards, and if he makes *ijtihad* and then his *ijtihad* is wrong, then he gets one reward." (H.R. Bukhari and Muslim).

4. Forms of Ijtihad

Ijtihad as a method or way of producing a law is divided into several parts, namely as follows:

a. Consent

Ijma' is the agreement of *ijtihad* expert scholars in deciding a case or law. An example of *ijma'* in the time of the Companions was the agreement to compile Divine revelation in the form of separate pages into a Mushaf of the Qur'an as we see today.

b. Qiyas

Qiyas is equating/analogizing new problems that are not found in the Qur'an or hadith with laws that already exist in the Qur'an and hadith because of their similar nature or character. An example of *qiyas* is that the law forbids liquor other than wine such as brandy, whiskey, tilted hat, vodka and drugs because they have similar properties and characteristics to wine, namely intoxicating. *Khamar* in the Qur'an is forbidden, as Allah SWT says: "O you who believe! Indeed, drinking alcohol, gambling, (sacrificing to) idols, and drawing lots of fortunes with arrows are heinous acts and are among the acts of Satan. So stay

away from that (action) so that you will be lucky." (Q.S. al-Maidah/5:90)

5. Masalah mursalah

Maslahah mursalah means the establishment of laws that focus on the benefits of an action and the essential and universal goals of Islamic law. For example, someone is obliged to replace or pay damages for losses to the owner of goods due to damage outside the agreed agreement (Urip, 2021).

CONCLUSION

The determination of fiqh after the Companion era using the sunnah and ra'yu increasingly developed and expanded. In the level of acceptance of the two sources, a tendency is seen towards two forms; Firstly, there are fukaha which in enacting laws use the Prophet's hadith more than they use ra'yu. This group is called Ahl Al-Hadith, this sect lives more in the Hijaz region, especially Medina. Second, there are ulama who in determining law use ra'yu or ijtihad sources more than hadith. This group is called ahl ra'yi, most of which are in Iraq, especially Kufa and Basrah.

The thought pattern of ahlul ra'yi during the tabi'in period was because the tabi'in followed the thoughts of Abdullah bin Mas'ud and their geographical environment mostly determined laws through rational reasoning by interpreting laws guided by the Qur'an and al-Hadith. Meanwhile, the thought pattern of the ahlul hadith during the tabi'in period was due to the initial conditions of the development of Islam, when they were asked to give a fatwa on a problem, they first examined the Book of Allah, then the Sunnah of the Prophet, then the Fatwa of the Companions on the same basis, namely following their teacher. As for the development of the hadith ahlul, they instilled the law through Nash, (Kitabullah and sunnah mutawatir), Zahir nash, Dalil nash (understanding mukhalafah), Amalan (deeds of Ahlul Madinah), Khabar ahad, Ijma', Fatwa of one of the companions, Qiyas, Istihsan, Saddu Zara'i, Mura'ah Al Khilaf (respecting differences opinion), Istishab, Masalib murlah, and Sharia before Islam.

These two forms of legal thought, Ahl al-Ra'yi and Ahl al-hadith have succeeded in making many contributions to the creation of legal foundations in the famous schools of Islamic law which were built by their respective school imams. Most of the differences of opinion between the Imams of the School in determining the law are based on differences in viewing the basics that exist in Islamic law.

Differences in madhhabs in Islam refer to differences in opinions or interpretations of Islamic laws among different Islamic scholars and thinkers. These differences arise due to differences in the methodology of interpreting the Koran and hadith, as well as the influence of social, cultural and geographical contexts on the development of Islamic thought and traditions in various regions. Although differences within madhhabs have existed since the beginning of Islamic history, it is important to remember that the basic principles of Islam remain the same across all madhhabs, and these differences more often relate to practical and detailed issues in the practice of worship and Islamic law.

REFERENCES

- Abdillah, & Nanang. (2014). Madzhab Dan Faktor Penyebab Terjadinya Perbedaan. *Fikroh: Jurnal Pemikiran Dan Pendidikan Islam*, 8(1)(1), 21–38. <https://jurnal.stai-alazharmenganti.ac.id/index.php/fikroh/article/view/20/18>
- Farhan Subhi, A., Hasbi Umar, M., & Studi Doktor Ilmu Syariah Pascasarjana UIN Sulthan Thaha Saifuddin Jambi, P. (2023). DINAMIKA HUKUM ISLAM (Studi Pemikiran Ahl Al-Hadis dan Ahl Al-Ra'yi). *Jurnal Indragiri Penelitian Multidisiplin*, 3(1), 37–43.
- Halimah, N., & Mahmudah, Y. L. (2023). Mazhab Fiqih Di Indonesia: Perbedaan Pendapat Konstruksi Hukum Islam. *Islamic Education*, 1, 94–109.
- Ichwan, M. (1968). Ijtihad ulama.
- Ridwan, M., Umar, M. H., & Ghafar, A. (2021). SUMBER-SUMBER HUKUM ISLAM DAN IMPLEMENTASINYA (Kajian Deskriptif Kualitatif Tentang Al-Qur'an, Sunnah, dan Ijma'). *BORNEO: Journal of Islamic Studies*, Vol. 1 No.(2), 28–41.
- Rosidin, D. (2011). Hukum, Sumber Dan Dalil. *Hukum Sumber Islam*, 12, 1–129.
- Sulistiani, S. L. (2018). Perbandingan Sumber Hukum Islam. *Tahkim (Jurnal Peradaban Dan Hukum Islam)*, 1(1), 102–116. <https://doi.org/10.29313/tahkim.v1i1.3174>
- Tauhid, I. (2022). ALIRAN-ALIRAN DALAM ISLAM.
- Urip. (2021). Sumber-Sumber Hukum Islam Program Studi Hukum Ekonomi Syari ' Ah (Hes) Sekolah Tinggi Agama Islam (Stai) Nida El Adabi Parung Panjang-Bogor 2021 M / 1442 H. *Hukum Ekonomi Syariah*, 2(1), 1–12.