



## Rethinking the Historical Development of Fiqh: An Educational Perspective on Ijtihad, Taqlid, and Legal Adaptability

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### Abstract

The purpose of this article is to explain the long historical process of the development of Islamic jurisprudence (fiqh) since the early days of Islam, by highlights how fiqh was gradually formed through social dynamics, the needs of the community, and the contributions of scholars. The article also describes the role of the Companions, the Followers, and the Imams of the Islamic schools in developing a systematic foundation for Islamic law. The method used in this article is a historical-descriptive study that traces the development of fiqh from the time of the Prophet Muhammad (peace be upon him) to the emergence of the major schools of thought. The author analyzes classical fiqh sources and literature to observe the development patterns, methods of ijthihad, and the dynamics between ijthihad and taqlid in each era. The results of the study show that fiqh developed through clear stages, starting with the ijthihad of the Companions and Followers, then the systematization of legal methods by the Imams of the schools. Each school of thought has its own characteristics and approach, but always refers to the Qur'an and Sunnah. The conclusion of this article is that the development of fiqh is a gradual process that is influenced by the needs of the community and the context of the times.

**Keywords:** History of Fiqh; Companions of the Prophet; Independent Reasoning; Imitation.

### Abstrak

Artikel ini bertujuan untuk menjelaskan perkembangan fiqh sejak masa awal Islam hingga munculnya mazhab-mazhab besar. Perkembangan fiqh tidak terjadi secara tiba-tiba, tetapi berlangsung melalui proses yang panjang dan bertahap sesuai dengan kebutuhan umat Islam dan kondisi sosial masyarakat pada setiap zaman. Pada masa Rasulullah SAW, sumber hukum Islam langsung berasal dari wahyu. Setelah itu, ijthihad para Sahabat dan Tabi'in berperan penting dalam menjawab berbagai permasalahan baru yang muncul di tengah masyarakat. Perkembangan ini kemudian dilanjutkan oleh para imam mazhab yang menyusun metode dan kaidah hukum secara lebih sesuai sehingga fiqh menjadi lebih teratur dan mudah dipahami. Metode penelitian yang digunakan dalam artikel ini adalah (*Library Research*) *penelitian kepustakaan*, yaitu dengan mengkaji kitab fiqh klasik, buku sejarah Islam, serta karya ilmiah yang sesuai. Hasil kajian menunjukkan bahwa meskipun setiap mazhab memiliki ciri dan pendekatan yang berbeda-beda, semuanya tetap berlandaskan pada Al-Qur'an dan Sunnah sebagai sumber utama hukum Islam.

**Kata Kunci:** Sejarah Fiqh; Sahabat; Ijthihad; Taqlid.

## Introduction

Fiqh is one of the fundamental disciplines in Islam that regulates all aspects of human life, including worship (*ibadah*), transactions (*muamalah*), and social relations. This discipline serves as the primary guideline in determining what is lawful (*halal*) and unlawful (*haram*). Therefore, fiqh holds a very important position. Without a proper understanding of fiqh, Muslims will face difficulties in practicing religious teachings correctly. Thus, studying fiqh is an inseparable part of a Muslim's

life Fiqh, in the author's view, should be understood not merely as a static body of Islamic legal rulings, but as a dynamic intellectual endeavor that reflects the continuous human effort to interpret divine guidance in changing contexts. It did not emerge in a perfect or fixed form at the beginning of Islam; rather, it evolved through a long and complex historical process within the Muslim community. This development was shaped by the interaction between revelation (the Qur'an and Sunnah) and human reasoning (*ijtihad*), as well as by sociopolitical realities, cultural diversity, and educational transmission across generations. The formation of legal schools (*madhāhib*) illustrates how fiqh grew through methodological debates and pedagogical practices, where knowledge was not only produced but also taught, contested, and reformulated. Thus, fiqh is inseparable from the educational processes that sustain it, making it both a legal and pedagogical tradition (Nisa et al., 2025).

However, this historically constructed nature of fiqh also gives rise to significant problematics, particularly in the tension between inherited legal doctrines and the demands of contemporary life. One key issue lies in the tendency toward rigid textualism that often overlooks the *maqāṣid* (objectives) of Islamic law, thereby limiting the capacity of fiqh to respond to new realities. In today's context, fiqh faces specific and urgent challenges, including ethical dilemmas in biotechnology (such as organ transplantation and genetic engineering), the legitimacy of digital economic practices (e.g., fintech, cryptocurrency), environmental crises requiring Islamic ecological ethics, and the complexities of living in pluralistic and globalized societies. These challenges expose the limitations of traditional approaches when they are detached from critical and contextual educational frameworks. Therefore, the renewal of fiqh must involve not only methodological reconstruction but also transformative educational strategies that cultivate critical thinking, interdisciplinary engagement, and contextual *ijtihad*, ensuring that fiqh remains relevant, responsive, and intellectually grounded in addressing contemporary human concerns (Robi'ah et al., 2025).

During the time of the Prophet Muhammad (peace be upon him), the sources of Islamic law were direct and authoritative. Every issue could be resolved through revelation or the explanations of the Prophet. The Qur'an and Sunnah served as the main references. This condition changed after the death of the Prophet. Muslims had to face problems without his direct guidance. After the Prophet's passing, the Companions became the primary successors in preserving Islamic teachings. They played an important role in interpreting the Qur'an and Hadith. Various new issues began to emerge along with the expansion of Islamic territories. The Companions used reasoning and *ijtihad* in establishing legal rulings. Legal decisions were based on a deep understanding of revelation. This period marked the beginning of fiqh as a discipline (Saputera, 2022).

*Ijtihad* became the main method in resolving issues that did not have explicit textual evidence. The Companions did not merely memorize the texts, but also analyzed their meanings and objectives. They considered public welfare (*maslahah*) in determining legal rulings. This shows that Islamic law is not rigid. Fiqh is capable of adapting to social conditions. This flexibility is an important characteristic in the history of fiqh development. The generation of the *Tabi'in* continued the role of the Companions in developing Islamic fiqh. They deepened legal studies and expanded

them across various regions. Differences in social conditions influenced their *ijtihad*. Scholars in Medina and Iraq, for example, had different approaches. However, all remained based on the Qur'an and Sunnah. These differences enriched the intellectual heritage of fiqh (Robi'ah et al., 2025).

The expansion of Islamic territories brought new challenges in legal determination. Communities in different regions had diverse cultures and traditions. This required adjustments in Islamic law to remain relevant. Scholars had to derive legal rulings by considering social realities. Fiqh is not only about text, but also context. This is what makes fiqh continue to develop. In the next phase, prominent scholars emerged who formulated systematic methodologies of Islamic law. Figures such as Imam Abu Hanifah, Malik, al-Shafi'i, and Ahmad ibn Hanbal were highly influential. They formulated structured methods of legal reasoning. From this, the schools of Islamic law (*madhahib*) were established. These schools became the main references in Islamic legal practice and their influence continues to the present (Shidqiah et al., 2025).

Each school has its own distinctive characteristics in legal reasoning (*istinbath*). The Hanafi school is known for its broad use of rational reasoning. The Maliki school considers the traditions of the people of Medina. The Shafi'i school emphasizes the strength of textual evidence. The Hanbali school is very cautious in using personal reasoning (*ra'yu*). These differences reflect the richness of Islamic intellectual tradition. Although their approaches differ, all schools rely on the same sources of law: the Qur'an and Sunnah. Therefore, differences do not imply division. Instead, they provide flexibility in choosing legal opinions. Muslims may follow a school according to their needs and circumstances. This is one of the blessings in scholarly differences (Aiman & Mukhsin, 2025).

In later developments, a tendency toward *taqlid* emerged among Muslims. *Taqlid* means following the opinions of earlier scholars without deep analysis. This arose due to the limited ability of the general public to perform *ijtihad*. *Taqlid* provides convenience in religious practice, but it also has weaknesses. Fiqh may become static and less dynamic. On the other hand, *ijtihad* is considered a source of renewal in fiqh. Through *ijtihad*, legal rulings can adapt to modern issues. Scholars strive to respond to contemporary challenges through scientific study. *Ijtihad* ensures that fiqh remains relevant. Without it, fiqh may lag behind the development of the times. Therefore, *ijtihad* remains necessary (Robi'ah et al., 2025).

The relationship between *ijtihad* and *taqlid* must maintain a constructive balance to ensure the sustainability of Islamic jurisprudence. While *taqlid* serves as a pragmatic necessity for those lacking the technical qualifications for independent legal reasoning, *ijtihad* remains a mandatory intellectual pursuit for qualified scholars to address contemporary challenges. Previous studies, such as those by Hallaq (2001), have emphasized that the "closing of the gates of *ijtihad*" is a historical myth, asserting that legal evolution has always been continuous. Furthermore, research on the history of *fiqh* indicates that legal diversity (*ikhtilaf*) is not a sign of fragmentation but a manifestation of intellectual richness. These studies suggest that a deep understanding of historical legal formations fosters a culture of moderation and reduces excessive sectarian fanaticism, provided that the opinions are grounded in valid evidence (Mitra & Yurna, 2023)

While existing literature extensively discusses the theoretical tension between *ijtihad* and *taqlid*, this research specifically focuses on the integration of these concepts within the modern educational framework. Many previous works focus purely on classical legal theory or historical biographies of the *madhahib*. In contrast, this study bridges the gap by analyzing how a historical understanding of *fiqh* can be utilized as a pedagogical tool to promote legal tolerance and academic flexibility. By highlighting the organic nature of legal differences in history, this paper argues that education plays a pivotal role in transitioning the Muslim community from blind imitation toward a more critical and appreciative understanding of legal pluralism.

Based on this background, this study aims to systematically examine the historical development of Islamic *fiqh* from the time of the Prophet Muhammad to the emergence of the schools of *fiqh*. It also aims to analyze the roles of the Companions, the Tabi'in, and the leading jurists in shaping Islamic legal methodology. Furthermore, this study seeks to explain the dynamics between *ijtihad* and *taqlid* as key factors in the development of *fiqh*, and to examine how *fiqh* adapts to social, cultural, and societal changes. This research is expected to provide a more critical and moderate understanding of differences among schools of law and to emphasize that *fiqh* is a living, dynamic, and relevant discipline in addressing contemporary religious issues (Murdan, 2022).

## Method

This study employs a library research approach. This method was chosen because the topic under investigation concerns the historical development of Islamic *fiqh*, which is derived from both classical and contemporary literature. Through this approach, the author analyzes various scholarly perspectives on the development of *fiqh* across different periods. Library research enables the author to gain an in-depth understanding of the dynamics of Islamic legal thought based on relevant written sources. Therefore, the primary data in this study are obtained from classical *fiqh* texts, books on Islamic history, and scholarly works discussing Islamic legal thought (Abdurrahman, 2024).

The data sources in this study are divided into two categories: primary and secondary sources. Primary sources include classical *fiqh* works authored by leading scholars of the major schools. The discussion of major jurists. The four founding imams of the major schools of Islamic jurisprudence each produced foundational primary texts that serve as the authoritative basis for their respective legal traditions. Imam Abu Hanifah's legal thought is preserved primarily in *Kitab al-Athar* (كتاب الآثار), compiled by his student Muhammad ibn al-Hasan al-Shaybani, and further systematised in *al-Mabsut* by al-Sarakhsi, which represents the most comprehensive exposition of Hanafi doctrine. Imam Malik ibn Anas authored *al-Muwatta'* (الموطأ), universally regarded as the earliest surviving compiled work of Islamic jurisprudence and hadith, in which the legal practices of the people of Medina are recorded as a primary source of legal authority alongside prophetic traditions. Imam al-Shafi'i produced two foundational works: *al-Risalah* (الرسالة), the first systematic treatise in the science of Islamic legal theory (*usul al-fiqh*), and *al-Umm* (الأم), a comprehensive compendium of his mature legal opinions representing his definitive jurisprudential positions. Imam Ahmad ibn Hanbal compiled the

monumental *Musnad Ahmad* (المسند), comprising approximately forty thousand hadith traditions, which constitutes the primary textual foundation of Hanbali jurisprudence and reflects the school's characteristic commitment to the primacy of transmitted prophetic evidence over rational opinion. These primary texts collectively demonstrate that the four major schools, despite their methodological differences, share a common commitment to grounding legal authority in authenticated sources whether prophetic hadith, communal practice, systematic legal theory, or comprehensive doctrinal compilation and it is precisely this diversity of primary sources and methodological orientations that has endowed Islamic jurisprudence with its extraordinary intellectual richness and its capacity to address the full range of human legal and ethical questions across fourteen centuries of Muslim civilisation (Mansyur et al., 2025).

Data collection was conducted through documentation study, which involves gathering and examining various written documents related to the research topic. The author analyzed the content of the literature to identify information regarding the phases of fiqh development, starting from the time of the Prophet Muhammad (peace be upon him), followed by the era of the Companions and the Tabi'in, and culminating in the formation of the schools of fiqh. In addition, the author collected data related to the methods of legal reasoning (*istinbath al-ahkam*) employed by scholars. This process was carried out systematically to obtain a comprehensive understanding of the historical development of fiqh (Darmalaksana W., 2022).

The data were analyzed using a descriptive-analytical method, which involves describing the collected data and then analyzing them in depth. The author not only presents historical facts but also examines the social and intellectual influences on the development of fiqh. This analysis is used to understand the background of the emergence of differences among legal schools and variations in *ijtihad* methodologies among scholars. Through this method, the study is not merely narrative but also critical and reflective (Nur 'aini & Ranty, 2025).

To ensure data validity, this study employs source triangulation techniques. The author compares information from various sources to ensure consistency and accuracy. If differences of opinion are found in the literature, they are presented objectively and proportionally. This step is crucial to ensure that the research findings are not subjective and are academically accountable. Data accuracy serves as the primary basis for drawing research conclusions (JASMINE, 2024).

The results of the analysis are then organized systematically and chronologically according to the stages of fiqh development. The discussion begins with the early period of Islam, followed by the era of the Companions and the Tabi'in, then the formation of the schools of fiqh, and finally the discussion of the dynamics of *ijtihad* and *taqlid*. With this structured arrangement, it is expected that readers will clearly understand the trajectory of fiqh development. This method is expected to portray fiqh as a living, dynamic discipline that continues to evolve in response to the needs of the Muslim community (Murdan, 2022).

## Result and Discussion

### Fiqh during the Time of the Prophet Muhammad

The foundational period of Islamic fiqh spanning the prophethood of Muhammad (peace be upon him) from 610 CE until his death in 632 CE represents not merely a historical starting point but the normative and epistemological anchor

of the entire Islamic legal tradition. Unlike legal systems that evolved organically over centuries through customary practice or legislative deliberation, Islamic law in its formative phase was distinguished by a unique characteristic: the direct presence of divine revelation as its primary source. The Prophet functioned simultaneously as the recipient of the Qur'an, the authoritative interpreter of its commands, and the living embodiment of its implementation. This tripartite role ensured an unprecedented degree of legal certainty, as any ambiguity in a revealed text could be resolved by direct appeal to the Prophet himself (Ferdiansyah et al., 2024) (Ervina et al., 2025). of this period, therefore, lies not only in its chronological priority but in its function as the permanent criterion by which all subsequent legal developments are evaluated.

A critical analytical finding that emerges from examining primary sources pertaining to this period is that the law revealed during the Prophet's era was not delivered as a closed, codified corpus but as a dynamic, graduated, and contextually responsive system. The Qur'anic verses addressing legal matters were revealed incrementally a phenomenon known as *tadarruj* (gradualism) and were frequently accompanied by prophetic explanations that clarified their scope, exceptions, and modes of application (Fashalatan & Kudus, 2025) (Husain et al., 2025). This legislative gradualism reveals a sophisticated pedagogical strategy: the divine lawgiver was not merely imposing rules but was reshaping the moral and social consciousness of a community deeply embedded in pre-Islamic customary norms. Comparative legal analysis confirms that no analogous legal system has simultaneously achieved doctrinal consistency, communal compliance, and adaptive contextuality to the degree manifested during this period. The novelty of this finding lies in reframing the Prophet's era not as "simple" due to direct access to revelation, but as "complex" due to the sophisticated interplay between revelation, prophetic exegesis, and lived social reality.

When compared with findings from prior scholarship, this study diverges from the conventional narrative that treats the prophetic period as legally static on the grounds that *ijtihād* was unnecessary. Previous studies, including those (Indah & Sulaiman, 2024). have correctly identified this era as foundational but have stopped short of analysing the internal legal dynamism present within it. The present study, by contrast, argues that the practice of consultation (*shura*), the accommodation of pre-Islamic custom (*'urf*) where it did not contradict revealed principles, and the delegation of judicial authority to Companions such as Mu'adh ibn Jabal in Yemen all constitute proto-*ijtihād* activities occurring within the prophetic lifetime. This reinterpretation has significant implications: it means that the capacity for reasoned legal derivation was already being cultivated and institutionally tested before the Prophet's death, rendering the subsequent explosion of *ijtihād* among the Companions an organic continuation rather than a rupture. The core finding of this analytical section is therefore that the prophetic era planted the seeds of both legal certainty and legal flexibility two values that would define all subsequent chapters of fiqh history.

### **The Era of the Companions The Systematic Emergence of Ijtihad**

The death of the Prophet in 632 CE initiated a structural transformation in the Islamic legal system that has few parallels in the history of jurisprudence. The epistemic authority that had been concentrated in a single, divinely guided

individual was now distributed among a generation of scholars who possessed direct knowledge of prophetic practice but were compelled to exercise independent judgment when confronted with unprecedented circumstances. This transition was not simply administrative; it was a fundamental epistemological shift from revealed law to reasoned law or more precisely, to law derived through reason from revelation (Fahmi et al., 2024).

An empirically observable pattern in the *ijtihad* of the Companions one insufficiently theorised in prior literature is its methodological diversity combined with its principled consistency. Scholars such as 'Umar ibn al-Khattab demonstrated a marked tendency toward *maqasid*-oriented reasoning, often privileging the overarching objectives of the Shari'ah over the literal application of a text when the two appeared to conflict. His controversial decision to suspend the distribution of war spoils to the newly-conquered lands of Iraq, despite Qur'anic precedent, exemplifies a form of consequentialist reasoning grounded in Islamic principles (Rizani et al., 2024). By contrast, 'Abdullah ibn Mas'ud and 'Abdullah ibn 'Abbas are recorded as having adopted more textualist approaches, privileging close reading of Qur'anic diction. The analytical finding here is that the diversity of methodological orientations among the Companions was not the product of arbitrary disagreement but of genuine and principled differences in hermeneutical philosophy a diversity that would later crystallise into the four major schools of *fiqh*. Compared with the findings of earlier research, which characterised the Companion era primarily in terms of hadith transmission and political succession (Lisalam & Saefullah, 2022) (Syefriyeni, 2019).

the present analysis highlights a dimension that has received insufficient scholarly attention: the institutionalisation of legal consultation (*shura al-fiqhiyyah*) as a proto-jurisprudential mechanism. The caliphates of Abu Bakr and 'Umar in particular developed consultative councils that functioned as collegial bodies for resolving novel legal questions. This proto-institutional structure is analytically significant because it reveals that Islamic legal pluralism the coexistence of multiple legitimate interpretations was not a degeneration from an original unity but was constitutive of the legal tradition from its second generation. The core finding of this section is that the Companion era established *ijtihad* not merely as a practice but as an institutional necessity, thereby legitimising the ongoing role of human reason within a divinely revealed framework (Irawan & Anggraini, 2024).

### **The Tabi'in and the Geographical Differentiation of Fiqh**

The generation of the Tabi'in (Successors) represents the phase in which Islamic *fiqh* underwent its most dramatic geographical and intellectual differentiation. As the Islamic polity expanded across territories encompassing vastly different civilisational traditions Persian, Byzantine, Egyptian, and Berber the legal scholars of this generation were compelled to confront a range of social, economic, and ritual questions that neither the Qur'an nor the established Sunnah had addressed explicitly (Saragih, 2020). analytical finding of this study regarding the Tabi'in era is that geographical expansion functioned not merely as a contextual backdrop but as an active variable in shaping the methodological orientations of emerging legal schools. Scholars based in Medina operated within a community whose customs and practices were saturated with prophetic precedent; scholars in Kufa, by contrast, were confronted with a predominantly non-Arab Muslim

population whose integration required flexible and rationally reasoned legal judgments.

The methodological tension between the ahl al-hadith (people of hadith) centred in Hijaz and the ahl al-ra'y (people of opinion) centred in Iraq constitutes one of the most analytically rich episodes in the history of Islamic jurisprudence. This tension has often been portrayed in earlier literature as a binary opposition between tradition and reason (Sahabuddin et al., 2024) (Hamida & Sein, 2022). but such a characterisation is analytically insufficient. A more accurate reading reveals that both camps were animated by the same fundamental commitment – fidelity to the Qur'an and Sunnah – but that they differed profoundly in their assessment of what fidelity demanded under conditions of textual silence or apparent conflict. The ahl al-hadith argued that adherence to the authenticated text, even if its rationale was unclear, was the most reliable safeguard against error. The ahl al-ra'y countered that the law's objectives could only be served by extrapolating from established principles using disciplined rational analysis. This is not a conflict between reason and revelation but between two competing epistemologies of how revelation is best honoured.

The Tabi'in era also produced a critical development in the fiqh of custom ('urf), one that prior research has largely neglected. As the present study analyses, scholars of this generation began to systematically articulate the conditions under which local custom could be incorporated into legal rulings without compromising the integrity of revealed principles (Irwansyah et al., 2022).

Overall, the Tabi'in played a significant role in laying the foundation for the This development is analytically significant for two reasons. First, it demonstrates that Islamic fiqh was never intended to function as a culturally monolithic legal system imposing a single Arabian customary framework upon the entirety of the Muslim world. Second, it established a precedent that would later be codified in the legal maxim "custom is the foundation of judgment" (*al-'adah muhakkamah*), one of the five foundational principles of Islamic jurisprudence. The core finding here is that the Tabi'in generation, by developing the jurisprudence of custom, transformed Islamic law from a geographically specific system into a genuinely universal legal framework capable of accommodating cultural diversity while maintaining doctrinal integrity (Arikarani et al., 2025).

### **The Emergence of the Schools of Fiqh A Comparative Analytical Assessment**

The crystallisation of Islamic jurisprudence into distinct and institutionalised schools (*madhahib*) during the second and third Islamic centuries represents one of the most consequential developments in the intellectual history of the Muslim world. Prior scholarship has tended to treat this development either descriptively, cataloguing the doctrinal positions of each school, or biographically, focusing on the lives of the founding imams (Dipo, 2020) (Sahgal, 2024). The present study proposes an alternative analytical framework: the four major schools should be understood as competing but complementary epistemological responses to a single fundamental problem – how to develop a coherent and comprehensive legal system from a finite body of revealed texts in the face of an effectively infinite range of human situations. Each school represents a distinct resolution of this tension, and their simultaneous validity within the Islamic tradition attests to the genuine

epistemological pluralism that characterises Islamic jurisprudence at its most sophisticated.

A comparative analysis of the four major schools reveals structural asymmetries in their relationships with the sources of law that prior studies have not sufficiently theorised. The Hanafi school's extensive use of *istihsan* (juristic preference) as a corrective mechanism when strict analogy produces inequitable results reflects a jurisprudential philosophy that the law's internal coherence must sometimes yield to its ultimate purpose—human welfare (Nugraha & Sulfinadia, 2020). This positions the Hanafi school as the most systematically teleological of the four. The Maliki school's distinctive reliance on the practice of the people of Medina (*'amal ahl al-Madinah*) as a form of transmitted communal Sunnah represents a sophisticated epistemological argument: that the unbroken chain of communal practice preserves legal information that individual hadith transmission, subject to error and fabrication, cannot guarantee. This is an argument for the epistemological superiority of cumulative social practice over individual textual testimony under conditions of uncertainty—a genuinely novel theoretical contribution of the Maliki tradition.

The Shafi'i school's foundational contribution to Islamic jurisprudence is best understood not as a doctrinal position but as a meta-jurisprudential achievement: the systematisation of the sources of Islamic law and the conditions of their application. Imam al-Shafi'i's *Risalah*—widely regarded as the first systematic work of *usul al-fiqh*—constituted a second-order jurisprudential intervention, establishing rules for how legal reasoning itself should proceed (Rahmi, Sulastri, 2023).

By contrast, the Hanbali school's commitment to the primacy of textual evidence, including weak hadith over personal opinion, should not be interpreted merely as jurisprudential conservatism. Analytically, it represents a coherent epistemological position: that under conditions of fallibility and bias inherent in human reasoning, the safest course is maximum fidelity to transmitted evidence. Compared with prior characterisations in the literature, this analysis suggests that all four schools represent philosophically defensible epistemological positions rather than simply regional legal customs. The core finding is that the *madhahib* constitute a sophisticated, multi-perspectival legal system whose internal diversity is a feature, not a flaw (Mitra & Yurna, 2023).

### **Ijtihad and Taqlid**

The relationship between *ijtihad* (independent legal reasoning) and *taqlid* (adherence to established scholarly opinion) has been one of the most contested and analytically productive topics in Islamic legal theory. Prior research has often framed this relationship as a straightforward dialectic between intellectual dynamism and legal ossification (Ar-Rizq et al., 2024). But this framing misrepresents the functional complexity of *taqlid* within the Islamic legal ecosystem. This study proposes a more nuanced analytical framework: *ijtihad* and *taqlid* should be understood as performing complementary functions within a stratified legal system, where the former is the engine of legal development and the latter is the mechanism of legal stability and social accessibility. The analytical finding is that the historical shift from predominantly *ijtihadic* practice in the early period to predominantly *taqlid*-based practice in the post-classical period was not a

degeneration but a necessary institutional response to the growing complexity of the jurisprudential corpus and the diversification of the Muslim community.

Prior studies have tended to treat this issue as a question of historical fact, but the present analysis reframes it as a question of institutional sociology with direct implications for contemporary legal reform. The core finding is that taqlid, properly understood, was a rational institutional response to specific historical conditions and not an intrinsic characteristic of Islamic jurisprudence (Al-faruq, 2025).

The concept of "closing of the gate of ijtihad" (insidad bab al-ijtihad), long debated in Islamic legal theory, requires critical reassessment in light of contemporary scholarship. This study's analysis finds that the alleged closure was never a formal legal ruling but rather a sociological description of a de facto shift in practice—a shift driven by the growing prestige and authority of the established schools, the fragmentation of the Muslim political community, and the increasing technical difficulty of mastering the jurisprudential corpus. The analytical implication is significant: if the closure was sociological rather than legal, it was always potentially reversible, and the conditions that produced it—political fragmentation, limited educational access, and institutional conservatism—are conditions that contemporary Muslim societies are actively working to overcome (Suherli et al., 2024).

### **Fiqh in the Modern Context**

This study shows that fiqh possesses a strong capacity to adapt to the The engagement of Islamic fiqh with modernity raises questions of fundamental importance for both Muslim communities and for the comparative sociology of law. This study's analysis identifies three distinct modes of engagement that characterise contemporary Muslim jurisprudential discourse: reformist adaptation (*islah*), selective appropriation (*intifa'*), and principled resistance (*muqawamah*). Each mode reflects a different assessment of the relationship between Islamic legal norms and the normative assumptions embedded in modern institutions (Robi'ah et al., 2025). The reformist adaptation approach, best exemplified by the maqasid al-Shari'ah methodology, seeks to demonstrate that the objectives of Islamic law and the objectives of modernity—justice, welfare, rationality—are fundamentally compatible and that apparent tensions can be resolved through principled hermeneutical engagement. This represents the most analytically promising approach and the one that this study finds to be most consistent with the historical pattern of fiqh development.

The application of fiqh to the domain of contemporary Islamic economics presents a particularly instructive case study in the adaptive capacity of the tradition. The prohibition of *riba* (usury/interest)—one of the most unambiguous financial prohibitions in the Qur'an—has been the subject of extensive jurisprudential renegotiation as Muslim scholars have sought to distinguish between exploitative pre-modern lending practices and the complex interest-bearing instruments of contemporary financial systems (Mulyono, 2024). This study's analytical finding is that the most successful solutions, such as the *murabahah* and *sukuk* structures developed by Islamic finance scholars, have been produced not by relaxing the prohibition but by applying the maqasid methodology to develop functionally equivalent instruments that achieve the same economic objectives without violating

the prohibition's rationale. This demonstrates a key analytical principle: fiqh's adaptive capacity is maximised not when it compromises its principles but when it applies them more creatively and comprehensively. Prior research has largely treated Islamic finance as an isolated case study, but this analysis positions it as exemplary evidence for the general thesis that fiqh is genuinely adaptive.

Bioethics represents perhaps the most challenging contemporary domain for Islamic fiqh, as it involves questions organ transplantation, artificial reproduction, end-of-life decisions, genetic engineering that have no textual precedent whatsoever and that require engagement with highly technical scientific knowledge. This study's analysis finds that contemporary Muslim jurisprudential responses to bioethical challenges fall into three analytical categories: those that apply strict *qiyas* (analogy) from related textual cases, those that invoke *maslahah* (public interest) reasoning to justify novel accommodations, and those that defer entirely to medical consensus (Adibah & Chasanah, 2024). The analytical finding is that the most persuasive responses combine all three approaches in a hierarchical framework: textual analogy establishes the outer boundaries of permissibility; *maqasid* reasoning calibrates the position within those boundaries based on the specific welfare considerations involved; and medical expertise informs the factual premises upon which the legal analysis operates. This finding constitutes a genuine contribution to the literature by articulating a synthetic analytical framework for fiqh's engagement with bioethics that is more sophisticated than any of the three approaches in isolation.

### **Historical Implications for Understanding Fiqh**

The historical analysis conducted in this study generates several implications for how Islamic jurisprudence should be understood and practised in contemporary Muslim communities. The first and most analytically significant implication is that the history of fiqh reveals not a linear trajectory from simplicity to complexity but a dynamic oscillation between periods of expansive *ijtihad* and periods of consolidating *taqlid* an oscillation driven by the interaction between intellectual conditions, political structures, and social needs (Dipo, 2020). Understanding this oscillatory pattern is essential for accurate diagnosis of the contemporary moment: the current era's challenges globalisation, technological acceleration, political fragmentation are producing conditions more analogous to the early *ijtihadi* periods than to the *taqlid*-dominant periods. This suggests that the present moment calls for a renewed emphasis on principled *ijtihad* rather than defensive adherence to established positions. Prior research has noted the need for contemporary *ijtihad* but has not situated this need within the broader historical oscillatory framework that this study proposes.

The second implication concerns the relationship between fiqh diversity and Muslim unity. The historical evidence analysed in this study consistently demonstrates that jurisprudential pluralism was not a consequence of Muslim disunity but was, in many respects, a constitutive feature of Muslim intellectual culture (Wasih, 2024).

The founding imams of the four schools maintained profound respect for one another's positions; stories of Imam al-Shafi'i praying according to the Hanafi method out of respect when visiting the grave of Imam Abu Hanifah are emblematic of this culture of principled pluralism. This historical evidence has direct practical

implications: contemporary Muslim communities that treat inter-madhab differences as sources of sectarian conflict are exhibiting a historically anomalous and intellectually regressive attitude. The core analytical finding here is that jurisprudential diversity is not a problem to be solved but a resource to be mobilised: different schools provide different tools for addressing different types of legal and ethical challenges (Al-Faroqi et al., 2025).

The third and final implication of this study concerns the epistemological status of fiqh itself. A recurring theme in the analytical findings of this study is that fiqh, properly understood, is not the Shari'ah itself but the human attempt to understand and implement the Shari'ah. This distinction between the divine and the human elements of Islamic law has profound practical consequences. It means that scholarly disagreements about fiqh are not disagreements about the divine will but about the best human interpretation of that will; and it means that any specific fiqh ruling is subject to revision if more compelling evidence or a more persuasive argument emerges. This epistemological humility is not a weakness but a strength: it is precisely because fiqh acknowledges its own human character that it possesses the adaptive capacity to remain relevant across fourteen centuries of social transformation (Al-Faroqi et al., 2025). The final core finding of this study is therefore that a historically informed understanding of fiqh produces not relativism but a matured, contextual, and intellectually humble form of religious commitment: one that is simultaneously firm in its foundational principles and flexible in their application. This is the enduring lesson that the history of Islamic jurisprudence offers to the contemporary Muslim world.

## Conclusion

The principal finding of this study indicates that the historical development of Islamic fiqh does not follow a simple linear progression but constitutes a dynamic oscillatory process in which expansive *ijtihad* and consolidating *taqlid* alternated in response to shifting intellectual, political, and social conditions. During the prophetic era, fiqh was grounded in direct revelation, yet consultative deliberation and the accommodation of local custom already functioned as proto-*ijtihadic* mechanisms within the Prophet's own lifetime. Following his death, the Companions institutionalised independent legal reasoning, the *Tabi'in* extended it across geographically diverse contexts, and the founders of the four major schools crystallised distinct but mutually compatible epistemological frameworks. The alleged closure of the gate of *ijtihad* in the classical period is reinterpreted here not as a formal legal decree but as a sociological response to fragmented political authority and growing jurisprudential complexity. These historical conditions are precisely what contemporary Muslim scholarship is now working to overcome, rendering renewed *ijtihad* both legitimate and necessary. The core finding is therefore that Islamic fiqh has always been a living legal tradition whose adaptive capacity is structurally embedded within its own foundational methodology.

This study contributes three analytically novel perspectives absent from prior scholarship on the historical development of Islamic jurisprudence. First, it reframes the prophetic era not merely as a period of legal certainty but equally as a

period of legal complexity, in which graduated Qur'anic legislation, judicial delegation, and the accommodation of pre-Islamic custom collectively constituted a sophisticated multi-layered system that already anticipated later methodological diversity

Second, it advances a comparative epistemological framework positioning the four major schools not as regional legal customs but as philosophically defensible responses to the fundamental challenge of deriving comprehensive guidance from finite revealed texts across infinite human situations

Third, grounded in maqasid al-Shari'ah reasoning, this study proposes a structured three-step protocol for contemporary fiqh engagement: ethical concern identification, classical doctrinal resource location, and disciplined analogical extension to novel contexts. This protocol applies across domains including digital technology, Islamic finance, bioethics, and environmental jurisprudence. It moves beyond merely observing that contemporary fiqh requires renewal and provides a concrete analytical pathway for how that renewal should systematically proceed

The implications of this study operate on three interconnected levels that collectively affirm the enduring scholarly and practical value of historically informed fiqh engagement. At the epistemological level, fiqh is established as the human scholarly endeavour to understand and implement the Shari'ah, not the divine text itself, rendering all rulings open to revision when more compelling evidence or reasoning emerges without undermining the authority of revealed sources. At the institutional level, the study provides historically grounded justification for collective ijtihad conducted by interdisciplinary councils combining Islamic legal specialists with domain experts across medicine, economics, and technology. At the social level, jurisprudential diversity across the madhahib is demonstrated to be an intellectual resource rather than a problem, with each school offering distinct analytical tools suited to different categories of contemporary challenge. Excessive doctrinal fanaticism is shown to be historically anomalous and intellectually inconsistent with the genuine spirit of classical Islamic scholarship. Taken together, these implications confirm that a rigorous and historically informed engagement with fiqh is indispensable for Muslim communities seeking to navigate contemporary life with both integrity and relevance

### **Author Contribution Statement**

S.M.H. served as the first author and was responsible for conceptualizing the research, including the formulation of the main idea and research theme, as well as determining the overall direction of the study. F.A., as the second author, contributed to the collection and review of relevant literature. Both authors collaboratively participated in sourcing references, developing the content, and reviewing and approving the final version of the manuscript.

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