Ibn Rushd's Epistemology of *Ijtihad* in the Completion of Fiqh *Ikhtilaf*
(Study of the Book of Bidayah Al-Mujtahid, Chapter of Worship)

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Abstract: This study analyzes the nature and concept of Ibn Rushd's *ijtihad* in completing fiqh *ikhtilaf* among the ulama. He is known for his expertise in philosophy, logic, medical, and the fields of jurisprudence and jurisprudence (Islamic law). It can be proven in his monumental work "*Bidayah al-Mujtahid wa Nihayah al-Muqtasid.*" This study conducted descriptive library research based on a normative theological approach. This study collected data from the primary source of the book "*Bidayah al-Mujtahid wa Nihayah al-Muqtasid*" and other relevant and related secondary sources and then analyzed it using content analysis techniques. The study results showed that: 1) Ibn Rushd has a rich experience and scientific background. He referred to many sources in his *ijtihad* that mostly came from the book *al-Istiz\kar* by Ibn Abd al-Bar, so those books influenced some of Ibn Rushd's ijtihad decisions. Thus, Ibn Rushd cannot be considered an absolute mujtahid. 2) Generally, he is still guided by the *ijtihad* methodology outlined critically by the Ulama. Meanwhile, there are some approaches to solve the problem of i*khtilaf*, such as first, the *al-jam'u* approach (compromise); second, *al-tarjih* (selecting among the most substantial arguments); third, *al-jam'u baina al-jam'i wa al -tarjih* (a combination of the *al-jam'u* and *al-tarjih* approaches); fourth, *tawaqquf* (silence); fifth, *al-takhyir* (optional).

Keywords: Ijtihad; Ibn Rusyd; Fiqh Ikhtilaf

INTRODUCTION

Islamic teachings are the last sharia revealed by Allah the Almighty to His chosen messenger, the Prophet Muhammad, as the last of the prophets and apostles. Allah

the Almighty confirms this in His words, QS. Al-Ahzab/33:40

مَّا كَانَ مُحَمَّدٌ أَبَآ أَحَدٍ مِّن رِّجَالِكُمْ وَلَٰكِن رَّسُولَ ٱللَّهِ وَخَاتَمَ ٱلنَّبِيِّنَّ وَكَانَ ٱللَّهُ بِكُلِّ شَيْءٍ عَلِيمًا ٤٠.

Meaning:

"Muhammad is not the father of [any] one of your men, but [he is] the Messenger of Allah and last of the prophets. Furthermore, ever is Allah, of all things, Knowing."[1]

When Prophet Muhammad was still alive, he had the competence to determine and decide on laws. Through the guidance of revelation, Prophet Muhammad becomes the sole reference when Muslims face legal problems. In the history of Islamic legal jurisprudence, this period is known as the *tasyri'* period or the laying and forming of the foundations of Islamic law. However, after Rasulullah passed away, the revelation automatically stopped, and the sunnah could not emerge. Muhammad is the last Prophet and Apostle, meaning the *tasyri'* period has ended[2]. It is following the word of Allah the Almighty in QS. Al-Maidah/5:3 as follows:

ٱلْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتْمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيتُ لَكُمُ ٱلْإِسْلَٰمَ دِينًا فَمَنِ ٱضْطُرَّ فِي مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِّإِثْمٍ فَإِنَّ ٱللَّهَ غَفُورٌ رَّحِيمٌ ٣

Meaning:

"...This day I have perfected for you your religion and completed My favor upon you and have approved for you Islam as religion. But whoever is forced by severe hunger with no inclination to sin – then indeed, Allah is Forgiving and Merciful".[3]

Islamic Sharia was brought by the Prophet Muhammad as the central figure of the Muslims with patent and permanent principles. The Al-Qur'an and Sunnah as the primary sources are authentic, universal, and eternal and cover all areas of life that can meet the needs of human life throughout the ages and places, despite shifts in human conditions or culture. It happened because the two sources carry great messages indicating that Islam is a Shari'a appropriate to human nature. It follows the conditions of the time and place, does not cause trouble for humans, and is in line with the development of science and technology. It is based on a study oriented to the future, equality, justice, deliberation, brotherhood, and openness.[4]

After the Qur'an and sunnah stopped, human behavior, culture, and civilization grew and developed dynamically simultaneously. It means there will be an imbalance between the limited verses of the Qur'an and the Sunnah and unlimited social and religious problems. Consequently, Muslims will face the problem of determining and establishing laws regarding problems in which the legal basis is

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[1]Kementrian Agama RI, *Al-Qur'an dan Terjemahnya* (Jakarta: Alfatih, 2012), p. 423

[2]Moh. Bahrudin, *Ilmu Ushul Fiqh*, (Ed. I; Lampung: Aura, 2019), p. 157.

[3]Kementrian Agama RI, *Al-Qur'an dan Terjemahnya*, p. 107.

[4]Abuddin Nata, *Studi Islam Komprehensif* (Ed. I; Jakarta: Kencana, 2011), p. 82.

not written directly in the Al-Qur'an and hadith. In such conditions, the ulama as heirs of the Prophets (*waras\at al-anbiya'*) are permitted by the sharia to perform *ijtihad* to determine and establish Islamic law.[5]

Based on renewing Islamic law, *ijtihad* can establish laws on new issues with no legal provisions or new laws to replace old laws that are no longer appropriate to the current situation and benefit humanity. The dynamics of Islamic law are formed due to the interaction of revelation and mind; then it develops into *ijtihad*.[6]

Mind is the second fundamental source when the Qur'an and Sunnah cannot solve existing problems. When a principle or rule of sharia is based on the general meaning or broad implications of the Qur'an and Sunnah and is different from the direct rules from the clear and detailed texts, then the text and sharia must be connected through legal reasoning (*ijtihad*). It seems that it is not strange for the companion after the death of the Prophet Muhammad to solve various significant problems through *ijtihad*, because *ijtihad* is the methodology available for humans to understand religious teachings. Imam al-Syahrastani, in his book *al-milal wa al-nihal*, revealed that there had been *ijma'* companions who received sharia legal cases, whether the status was haram or halal. Then, they always carried out *ijtihad* when there was no answer in the *nas* of al-Qur'an and sunnah.[7] The *ijtihad* legitimacy of these companions as explained by the Prophet Muhammad in his hadith during a dialogue with his friend Mu'az\ bin Jabal when he was about to send him to Yemen, and a hadith regarding the *ijtihad* of a judge who still received a reward for his inaccurate decision.

The conventional ulama carries out *ijtihad* to establish a law for problems that arise, either in direct interpretation to the *nas* or through other legal *istinbat* methods that the *fuqaha* have outlined. In compiling legal products, ulama must be distinct from their diverse methodologies, thought patterns, and life backgrounds. This phenomenon causes each scholar to have different views and opinions regarding a decision on a problem.[8] One of the Islamic scientists who accommodated and compiled the different opinions (*ikhtilaf fiqh*) among the ulama was Ibn Rushd in his phenomenal work *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*.

Ibn Rushd was born in Cordoba in 520 AH/1126 AD and died in 595 AH/1198 AD. He was raised in a respectable family that paid great attention to science, especially fiqh. He had extraordinary abilities towards fiqhiyah thinking patterns. Like his predecessor, Ibn Rushd also devoted his attention and time to the world of science and law. He taught legal science in Cordoba in 565 AH/1169 AD; he was appointed a judge in Ishbiliyah for two years and then became a judge in Cordoba. He served as a judge until 578 AH/1182 AD, and finally, he was summoned by

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[5]Moh. Bahrudin, *Ilmu Ushul Fiqh*, p. 157-158.

[6]Fahruddin Ali Sabri, "Ibn Rusyd dan Metode Ijtihadnya dalam Kitab Bidayat

al-Mujtahid". *Jurnal al-Ihkam 5*, no. 2 (2010): p. 184

[7]Al-Syahrastani, *al-Milal wa al-Nihal*, (Ed. I; Syria: Resalah Publishers, 2015), p. 217.

[8]Anwar Soleh Azarkoni, "Pemikiran Ushul Fiqh Ibnu Rusyd". *Jurnal An-Nuha 2*, no. 1 (2015): p. 57-58.

Caliph Abu Ya'qub Yusuf to Marrakech through Ibn Thufail.[9]

Ibn Rushd's expertise in law is more prominent than in other fields because he was educated in a family that mastered fiqh, especially *Malikiyah* fiqh. Besides, his father and grandfather were charismatic former judges in Andalusia. His monumental work proves Ibn Rushd's expertise in fiqh, *Bidayah al-Mujtahid*.[10] He started writing this book at a very mature age. In scientific terms, it was around 563 H/564 H or when he was 44. Ibn Rushd was rich in experience and had a scientific background in various disciplines, such as philosophy and *mantik*. Then, he also made efforts in the book *Fasl al-Maqal* to reconcile revelation and mind, sharia and philosophy that were quite controversial, so that he viewed the relationship between benefit (philosophy) and sharia as like brothers who do not conflict with each other.[11] Ibn Rushd's scientific history which intersects with the general knowledge that developed in his time, this leaves questions for the authors to look more deeply into its influence on the *ijtihad* activities implemented in the book of *Bidayah al-Mujtahid*, and also how often the *naqli* and *akli* approaches are implemented in solving legal cases.

THEORETICAL REVIEW

The Definition and Scope of Ijtihad

In terms of language, *ijtihad* (اجتهاد) is taken from the Arabic words: *jahada, yajhadu*, and the *mashdar* form by pronouncing the letters "*jim*" (جَهْدُ) as *fathah,* which means: "*al-masyaqqah*. It is something difficult and heavy, or "*al-mubalagah wa al-gayah*" that contains the meaning of the ultimate and final limit. Then, (جُهْدُ) by reading the letter "*jim*" as *dammah,* which means: "*al-taqah*". It refers to energy or power.[12] *Al-ijtihad* (الاجْتِهادُ) has the same meaning as *al-tajahud* (التَّجاهد) which means mobilizing all one's strength and abilities.[13]

If the meaning of this word (*etymological*) is connected with the meaning of the term (definitive) regarding *ijtihad*, the harmonious can be seen because the word *ijtihad* indeed contains the meaning of maximum ability and must be carried out with sincerity.[14]

Therefore, the word *ijtihad* is only used by the ulama to do things that require much energy; it is in line with the sentence اِجْتَهَدَ فِي حَمْلِ الرَّحَى (He tried to carry a grinding stone). So, the word *ijtihad* is not appropriate to use in the sentence اِجْتَهَدَ فِي

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[9]Aksin Wijaya, *Teori Interpretasi Al-Qur'an Ibnu Rusyd*: Kritik Ideologis Hermeneutis (Ed. I; Yogyakarta: Lkis, 2009), p. 256.

[10]Aksin Wijaya, *Teori Interpretasi Al-Qur'an Ibnu Rusyd*: Kritik Ideologis Hermeneutis (Ed. I; Yogyakarta: Lkis, 2009), p. 257.

[11]Ibnu Rusyd, *Fasl al-Maqal fima baina al-Hikmah wa al-Syari'ah min al-Ittisal* (Ed. II; Kairo: Dar al-Ma'rif, 1431 H), p. 125.

[12]Ibnu Manzur, *Lisan al-'Arab*, Juz 2 (Beirut: Dar al-Kutub al-Ilmiyah), p. 530-531.

[13]Alfairuzabadi, *al-Qamus al-Muhit* (Ed. IV; Syria: Resalah Publishers, 2015), p. 275.

[14]Amir Syarifuddin, *Ushul Fiqh*, Juz 2 (Ed VII; Jakarta: Kencana, 2014), p. 257-258.

حَمْلِ خَرْدَلَة (He exerted his ability to lift the mustard seeds).[15] In terms of etymology or linguistic meaning, the word *ijtihad* can be formulated as a heavy and challenging job, where the work requires maximum effort and strength.

As the wide use of the term *ijithad*, it was then used as a term in the study of fiqh, which means "the maximum effort of fiqh scholars in carrying out studies to obtain *zanni* legal provisions." Thus, it is the maximum efforts made by fiqh scholars to formulate jurisprudential thoughts, both in the form of understanding the texts of the Qur'an and Sunnah, as well as the results of analysis of the actual problems they face. However, the strength of the results of *ijtihad* is *zanni*; it has the opportunity to be correct and wrong, with the strongest suspicion being on the right side, not the wrong one.[16]

Imam al-Gazali (w. 505^ H) in his book *al-Mustasfa* explains the term ijtihad as follows:

الاجتهاد هُوَ عِبَارَةٌ عَنْ بَذْلِ الْمَجْهُودِ وَاسْتِفْرَاغِ الْوُسْعِ فِي فِعْلٍ مِنْ الْأَفْعَالِ، وَلَا يُسْتَعْمَلُ إلَّا فِيمَا فِيهِ كُلْفَةٌ وَجَهْدٌ، فَيُقَالُ: اجْتَهَدَ فِي حَمْلِ حَجَرِ الرَّحَا، وَلَا يُقَالُ: اجْتَهَدَ فِي حَمْلِ خَرْدَلَةٍ، لَكِنْ صَارَ اللَّفْظُ فِي عُرْفِ الْعُلَمَاءِ مَخْصُوصًا بِبَذْلِ الْمُجْتَهِدِ وُسْعَهُ فِي طَلَبِ الْعِلْمِ بِأَحْكَامِ الشَّرِيعَةِ.[17]

Meaning:

"Ijtihad is the mobilization of abilities and the outpouring of energy in acting, and ijtihad is not carried out unless toward something difficult and heavy. So it is said: he exerted his ability in carrying the millstone, and it is not said: he exerted his ability in carrying the mustard seeds. However, the term ijithad in the view of the ulama shifted to a narrower meaning, namely mobilizing all the abilities of a mujtahid to gain knowledge of syar'i laws".

Then this definition was also quoted by Imam Ibn Qudamah al-Maqdisi al-hanbali (w. 620 AH) in his book *Raudah al-Nazir wa junnah al-Munazir*.

Meanwhile, al-A<midi (w. 631 H) in his book a*l-Ihkam fi Usul al-Ahkam* formulates *ijtihad* as follows :

اسْتِفْرَاغِ الْوُسْعِ فِي طَلَبِ الظَّنِّ بِشَيْءٍ مِنَ الْأَحْكَامِ الشَّرْعِيَّةِ عَلَى وَجْهٍ يُحَسُّ مِنَ النَّفْسِ الْعَجْزُ عَنِ الْمَزِيدِ فِيهِ.[18]

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[15]Huzaemah Tahido Yanggo, *Pengantar Perbandingan Mazhab* (Ed. I; Jakarta: Logos, 1997), p. 1-2.

[16]Muhammad Shuhufi, *Ijtihad dan Fleksibilitas Hukum Islam* (Ed. I; Makassar: Alauddin University Press, 2012), p. 12.

[17]Al-Gazali, *Al-Mustasfa min Ilm al-Usul*, Juz 2 (Ed. I; Resalah Publishers: Syiria, 2015), p. 382.

[18]Al-Amidi, *Al-Ihkam fi Usul al-Ahkam*, Juz 4 (Ed. I; Dar al-Somaie: Riyadh: 2003), p. 197.

Meaning:

"Devoting all his abilities to search for sharia laws which are conjectural (zanni), at the limit he feels that he is no longer able to do more than that".

Al-Amidi explains that the targets and objects of *ijtihad* only prevail to *zanni* sharia laws and do not include indefinite (*qat'i*) issues of Islamic law. The meaning of ijtihad formulated by contemporary scholars is slightly different from their predecessors, such as the meaning of *ijtihad* described by Abd al-Wahhab Khallaf in his book as follows:

بَذلُ الجهْدِ لِلوُصُوْلِ إِلَى الحُكْمِ الشَّرعِيّ مِنْ دَلِيْلٍ تَفْصِيلِيّ مِن الأَدِلَّةِ الشَّرعِيَّةِ.¹⁹

Meaning:

"Exerting all abilities with efforts to find syar'i law obtained from detailed sharia postulates".

From several definitions stated above, it can be concluded that *ijtihad* is mobilizing a mujtahid's abilities to solve sharia legal problems. The substance of *ijtihad* contains several things. There is a maximum effort to mobilize abilities in formulating *syara'* law. *The experts carry out Ijtihad* and have the ability to perform *ijtihad*. The domain of ijtihad is *syara'* law, which is *zann*i (assumptive). *Ijtihad* is not a matter of mind (*al-aqliyah*) and theology (*masail al-kalam*).

Overview of *Ikhtilaf*

Ikhtilaf (اختلاف) has several meanings in terms of etymology and terminology. Etymologically, the word *ikhtilaf* originates from Arabic, which is the *masdar* form of the verb *ikhtalafa-yakhtalifu-ikhtilafan* which stems from the three letters خ, ل, and ف or (خلف) which have three meanings; firstly *al-khalfu*, means the approach of something to replace another thing. Second, *khalfun,* which means the opposite of front (قُدَّام), and third, change (النَّغَيُّر). Meanwhile, according to linguists, *ikhtilaf* is an antonym for agreement *(ittifaq)*, and *khilaf* means to dispute and conflict.²⁰ On the other hand, in the Big Indonesian Dictionary (KBBI), the word *ikhtilaf* is defined as a difference of opinion or thought.²¹

In terminology, *ikhtilaf* is a different opinion between two or several people regarding a particular object (problem), whether the difference is unequal or opposed. In other words, *ikhtilaf* is a difference or conflict in legal assessments (provisions) regarding one object law. Then, *ikhtilaf* referred to in the study of fiqh is a difference of opinion between Islamic legal experts (*fukaha*) in determining parts of the Islamic law that are *furu'iyah*, not on the issues of Islamic law that are *usuliyah* (principles) due to differences in understanding or methods in

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¹⁹Abd al-Wahhab Khallaf, *Ilmu Usul al-Fiqh* (Ed. VIII Maktabah al-Dakwah al-Islamiyah: Kairo, t.th.), p. 216.

²⁰Khalid Ibn Sa'ad al-Khasyalan, *Ikhtilaf al-Tanawwu' Haqiqatuhu wa Manahij al-Ulama<<' fihi* (Ed. II; Riyadh: Dar Kunuz Isybliya, 2008), p. 14-15. Also look at: Ibnu Faris, *Mu'jam Maqayis al-Lugah*, Juz 2 (t.t. Dar al-Fikr, 1979), p. 210.

²¹Departemen Pendididkan Dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, p. 369.

determining the law of a problem.[22] Furthermore, according to Khalid Ibn Sa'ad al-Khasyalan, *ikhtilaf* fiqh is the opinions of *mujtahids* in matters of *amaliah* and *furu'iyah* where there is no definite argument regarding the law.[23]

Differences of opinion (*ikhtilaf*) in fiqh law have arisen since the existence of *ijtihad* in Islamic law. This *ijtihad* had been around since the period of Prophet Muhammad. It was rarely implemented because people can solve problems by waiting for revelation. Nevertheless, after the Prophet Muhammad passed away, the scope of *ijtihad* expanded widely, especially after the companions dispersed to various regions. The essence of *ikhtilaf* comes from two main problems: the existence of *nas-nas syara'*, which has more than one meaning, and the differences in *ijtihad* or the understanding of these *nas-nas*.[24]

Muhammad al-Bayanuni explained that the illustration of the nature of different opinions among scholars regarding the issue of *furu'* in Islamic law is like much fruit from one tree, namely the tree of the al-Qur'an and sunnah; not a lot of fruit that comes from various kinds of trees. The roots and trunk of the tree are the Qur'an and sunnah, the branches are various propositions of *naqli* and *akli* (mind), while the fruit is Islamic laws (fiqh), although they are different and numerous.[25]

RESEARCH METHODOLOGY

The type of research used was descriptive library research. The basis of this type of research was descriptive; it focused on describing the phenomena in detail and in-depth. This study explored the data relating to Ibn Rushd's *ijtihad* in various literature through careful and critical literature study. Then, a series of library data was processed descriptively to produce a complete research conclusion. The authors used one normative theological (*syar'i*) approach in this study. This approach viewed Islamic teachings as originating from the holy book Al-Qur'an and the Sunnah of the Prophet Muhammad, which become a source of inspiration and motivation in Islamic teachings.

DISCUSSION

Source of Ibn Rushd's Ijtihad in the Chapter of Worship

Every scientific work a scholar writes is never free from previous writers' influence. The knowledge and insight that reaches them is a form of development of existing scientific disciplines. Likewise, Ibn Rushd does the same thing when

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[22]Huzaemah Tahido Yanggo, *Pengantar Pebandingan Mazhab* (Ed I; Jakarta: Logos, 1997), p. 48-49.

[23]Khalid Ibn Sa'ad al-Khasyalan, *Ikhtilaf al-Tanawwu' Haqiqatuhu wa Manahij al-Ulama<<' fihi* (Ed. II; Riyadh: Dar Kunuz Isybliya, 2008), p. 19.

[24]Minhajuddin, *Ikhtilaf Ulama Suni dan Pengaruhnya terhaap Perkembangan Fikih Islam; Abad Dua dan Tiga Hijriah),* (Ed. I; Makassar: Alauddin University Press, 2012), p. 13.

[25]Muhammad Abu al-Fath al-Bayanuni, *Dirasat fi al-Ikhtilafat al-'Ilmiyah* (Ed. IV; Kairo: Dar al-Salam, 2013), p. 15.

concocting his *ijtihad* in resolving the issue of *ikhtilaf* fiqh in the book *Bidayah al-Mujtahid*. Several sources guided his efforts, as it has become a *fukaha* tradition passed down from generation to generation and from time to time.

Ibn Rushd's primary reference in constructing his *ijtihad* was the book of *al-Istiz\kar syarah* and *al-Muwatta'* Imam Malik, compiled by Ibn Abd al-Bar. It can be clearly seen in the many quotes attributed directly to Abu Umar Ibn Abd al-Bar, especially in assessing the hadith status and its narrators. Apart from that, Ibn Rushd also stated explicitly at the end of the *taharah* chapter before discussing prayer regarding the position of *al-Istiz\kar* as an essential reference, as follows:

قَالَ الْقَاضِي: ... وَأَكْثَرُ مَا عَوَّلْتُ فِيمَا نَقَلْتُهُ مِنْ نِسْبَةِ هَذِهِ الْمَذَاهِبِ إِلَى أَرْبَابِهَا هُوَ كِتَابُ الِاسْتِذْكَارِ...²⁶

Meaning:

"Ibn Rushd (qadi) said: …All the problems and way of thought that I put forward, and most of the opinions attributed to the ulama, I quoted from the book al-Istiz\kar."²⁷

In this case, there is disagreement (*ikhtilaf*) regarding the time limit for someone to wipe the *khuf*. The first opinion from mazhab of Maliki stated that there is no time limit for carrying out the *khuf*, while the second opinion from Imam Abu Hanifah and Syafi'i who viewed that carrying out the *khuf* is based on the time bound; one day for *mukim* and three days for travelers. In this case, Ibn Rushd did not support Maliki's opinion because the hadith is weak, as assessed by Ibn Abd Al-Bar.

It can be seen that Abu Umar's assessment of the hadith history had quite a strong influence on Ibn Rushd's *ijtihad* decision in resolving the disputed case. Ibn Rushd explained several hadiths as a basis and detected their validity status as a step in deciding the results of *ijtihad*.

Another source that Ibn Rushd cited in determining the results of his *ijtihad* was the book *al-Mudawwanah al-Kubra*.²⁸ An example of this case can be seen in the chapter of Worship when Ibn Rushd talks about the signs that a woman is already at the end of her menstruation period. In this matter, Ibn Rushd only presented the views of the Malikiyah ulama taken from *al-Mudawwanah* without mentioning the views of other ulama.²⁹

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²⁶Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid,* (Ed. 1; Syria: Resalah Publishers, 2015), p. 88

²⁷Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, terj. Al-Mas'udah, Referensi Lengkap Fikih Perbandingan Madzhab, Juz 1 (Ed. I; Jakarta: Pustaka al-Kautsar, 2016), p. 143.

²⁸The book of *al-Mudawwanah* has been named as the primary and most comprehensive book in the mazhab of Maliki because apart from having a high validity, its contents also include the thoughts of four Mujtahids in mazhab of Maliki, namely Imam Malik (the founder of the mazhab), Ibn al-Qasim, Asad Ibn al-Furat, dan Sahnun Ibn Sa'id. Look at: Tim Pembukuan Purna Siswa, *Jendela Madzhab* (Ed. 3; Kediri: Lirboyo Press, 2013), p. 150.

²⁹Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 57.

Ibn Rushd also referred to several s*yarah* books of *al-Mudawwanah* such as the book *al-Muntakhab* by Muhammad Ibn Yahya Ibn Lubabah which is well known as *al-Barbari* (336 AH).[30] He cited the history of Ibn al-Qasim from Malik which Ibn Lubabah expressed in *al-Muntakhab* regarding the condition that someone who wants to wipe the *khuf* of both feet must have been washed during ablution.[31]

The book of his grandfather, Abu al-Walid Ibn Rushd al-Jad, also did not spare to be used as a basis for him because Ibn Rushd *al-hafid* knew exactly about his grandfather's capacity as a *fakih* from the mazhab of Maliki who expressed many of his thoughts in monumental works. The book *Al-Muqaddimat al-Mumahhidat* was chosen as a source by Ibn Rushd when detecting logical reasons (*'illat*) from the hadith of the Prophet Muhammad regarding the law of water left over from dog licks.[32]

Ibn Rushd's Ijtihad Method in Completing the Ikhtilaf Fiqh Chapter of Worship

A method is a way or steps for a person to do something. In the chapter on worship in the book Bidayah al-Mujtahid, Ibn Rushd applies many methods of *ijtihad* as outlined by classical Islamic scholars. However, due to various scientific background factors and environmental influences, Ibn Rushd has developed many effective methods that previous jurists had firmly implemented, especially in solving the emerging fiqh *ikhtilaf*.

Among the several methods used by Ibn Rushd in the chapter on Worship, there are included to *muttafaq 'alaihi* (agreed upon) and *mukhtalaf fiha* (disputed), while those that are *muttafaq 'alaihi* are

Nas of al-Quran

There is no doubt that the *nas* of the Qur'an is related to the knowledge of previous people, such as logic and philosophy. It did not make Ibn Rushd ignore the text of the Qur'an in the process of *istinbat* when completing the fiqh *ikhtilaf* because, in reality, the Qur'an is a primary source that cannot be separated. One of the problems in the chapter on worship that is alluded to is when explaining the initial time limit for refraining from fasting. The time limit used as the basis is the word of Allah the Almighty in QS. Al-Baqarah: 187. *Al-Khait al-Abyad* in this verse means the white second dawn (*sadiq*) that stretches on as a marker of the initial time for *imsak* when fasting.[33]

Nas of *sunnah*

Nas of *sunnah* is the second source that cannot be separated in determining contradictory cases of fiqh. In the previous discussion, Ibn Rushd explicitly referred to various hadith books, both from the *al-sittah* and outside of these books. When *ikhtilaf* occurs, the sunnah acts as *hujjah* to strengthen the position of

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[30]Muhammad Usyrif Buluz, *Tarbiyah Malakah al-Ijtihad min Khilali Kitab Bidayah al-Mujtahid wa Kifayah al-Muqtasid* (Ed.1; Riyadh: Dar Kunuz Isybiliya, 2012), p. 183.

[31]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 27.

[32]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 35.

[33]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 244.

the *nas* of the Qur'an. The case was related to the law regarding witr prayers on vehicles. The *nas* of hadith quoted by Ibn Rushd contains the meaning that the Messenger of Allah once performed the witr prayer on a vehicle. Ibn Rushd strengthens the *jumhur* opinion with the *nas* of hadith and refutes the opinion that the witr prayer is fardu. The history of the Prophet Muhammad explains that he never performed obligatory prayers on a vehicle.[34] If the witr prayer were obligatory, he would not have done it on a vehicle.

Ijma'

Ijma', commonly called consensus and agreement, is one of the methods used by Ibn Rushd to track and detect disputed *furu'* issues; it is visible when starting the topic of the problem. Other pronunciations among many indicate agreement (*ijma'*), such as: اتفق المسلمون (Muslims agreed), اتفق العلماء (ulama' agreed), اتفق الجميع (all agreed), فلا خلاف (no difference), أجمع العلماء) ulama' have come to a consensus), جميع فقهاء الأمصار (all *fukaha'* of a country), الإجماع (consensus), and so on. So that, the determination of agreement (*ijma'*) could come from Muslims, ulama', *fukaha'*, or companions.[35] It is done so that a *mujtahid* does not get caught up in discussing the *qat'i* (certain) legal issues.

Qiyas

Qiyas or analogy is one of Ibn Rushd's *ijtihad* methods, which is popular and widely used in solving the legal problems of *maskut 'anhu* (silenced/no *nas*), as expressed in the preamble to his book of *Bidayah al-Mujtahid*. Ibn Rushd notes that there are two qiyas models: *qiyas al-syabah* and *qiyas al-'illah*. The first one is related to the legal inclusion of something which has no law into something with legal provisions in the sharia, because of the similar nature of the two. Meanwhile, the second model is related to the legal inclusion of something that has no legal provision into something with legal provision because of the similarity of *'illat*.[36] An example of the case raised is the issue of implementing *haul* requirements when issuing zakat on mining goods (*ma'dan*). Are mining goods analogous to goods from the earth, such as grain and fruit, or are they similar to gold and silver? In this case, Ibn Rushd views the similarity of gold and silver as more transparent, so that zakat on mining goods must be issued when the *haul* period (one year) has passed.[37]

The *ijtihad* arranged by Ibn Rushd is not static and *jumud*; he tries to be objective and provide solutions in dealing with differences. An example is when he discussed sitting positions in prayer and strengthened the opinion of Imam al-Tabari, who chose the *al-takhyir* (optional) approach. According to al-Tabari, all of these sitting positions are permissible and proper. Based on the history of the Prophet

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[34]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, p. 197.

[35]Muhammad Usyrif Buluz, *Tarbiyah Malakah al-Ijtihad min Khilali Kitab Bidayah al-Mujtahid wa Kifayah al-Muqtasid*, p. 844-847.

[36]Anwar Soleh Azarkoni, "Pemikiran Ushul Fiqh Ibnu Rusyd", *Jurnal An-Nuha* 2, no. 1 (2015): p. 67.

[37]Muhammad Ibn Hamud al-Waili, *Bugyah al-Mujtahid Syarhu Bidayah al-Mujtahid*, Juz 6 (Cet. 1; Beirut: Dar Ibn Hazm, 2019), p. 3455.

Muhammad, Ibn Rushd commented then saying: "al-Tabari's opinion is reasonable because various procedures are better interpreted as permissible things rather than interpreted as contradictory.[38]

Likewise, the attitude of not burdening (*taisir*), in *ijtihad,* the difficulties found exceed the limits of a *mujtahid*'s abilities. Ibn Rushd was critical of irrational issues, and the law was complex to determine with certainty. It was explained when commenting on the opinion that facing the Kaaba building when praying is mandatory even though it is not within reach of the eye.

Facing the Kaaba itself cannot be achieved except with the help of measuring science and binoculars; it is impossible only by using *ijtihad*, even though we are not charged with using measuring science or binoculars if we make *ijtihad* as the measurement of the length and width of a country.[39] Thus, some Ibn Rushd's ijtihad formulations in completing fiqh *ikhtilaf*, especially on issues involving matters of worship. Concretely, Ibn Rushd was not an absolute *mustaqil mujtahid* who possessed and consistently applied the theory of fiqh. He was a *mujtahid* of *muqarin murajjih* who tried to conduct comparative studies of various views, provide comments, or criticize if necessary to strengthen his *ijtihad* objectively. Likewise, the legal conclusions are born from various approaches and considerations based on sharia principles in the form of *naqli* and *akli* (rational) arguments and pre-existing fiqh theories.

CONCLUSIONS AND IMPLICATIONS

Conclusions

Ibn Rushd is a Muslim intellectual who lived in two dynasties, the *Murabithun* and *Muwahhidun.* He has explored various branches of science, ranging from fiqh, justice, philosophy, and medical. In the field of fiqh, he was able to compile a book, *Bidayah al-Mujtahid,* which contains fiqh *ikhtilaf* from various mazhabs. The *Bidayah al-Mujtahid* book is a work that integrates the theory of the origins of fiqh and legal products (fiqh). Ibn Rushd did not have an independent proposal theory in solving *ikhtilaf* cases, although in general, he was still guided by the methodology outlined by *usul* scholars. Ibn Rushd's formulation of *ijtihad* in completing the fiqh *ikhtilaf* chapter on worship always refers to the propositions of *naqli* and *akli* (reason) because, based on his view, reason and revelation work in harmony.

Implication

It is essential to visualize problems and track and detect the roots of fiqh disputes among Muslims to resolve legal problems objectively. Various fiqh issues, which are *zanni* (assumptive) or are still in the realm of *ijtihad*, always trigger differences that can potentially raise disagreements. So, Islamic law activists from academics and researchers still try to respect other's opinions.

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[38]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, terj. Abu Usamah Fakhtur Rokhman, *Bidayatul Mujtahid*, p. 284.

[39]Ibnu Rusyd, *Bidayah al-Mujtahid wa Nihayah al-Muqtasid*, terj. Abu Usamah Fakhtur Rokhman, *Bidayatul Mujtahid*, Juz 1, p. 229.

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