



USHUL FIQH AS LEGAL EPISTEMOLOGY: BETWEEN TEXTUALITY AND RATIONALITY

Putri Rahyu¹, Nasrullah²

STIS Al-Ittihad Bima, Indonesia¹

STIS Al-Ittihad Bim, Indonesia²

Email Corresponding Author: putrirahyu@gmail.com

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Abstract

Ushul fiqh is the foundation of legal knowledge that lies between text and reason. The main focus of this research is to explain how ushul fiqh functions as a method of istinbath to address various new issues that arise in society. This research uses a qualitative literature study. Furthermore, the secondary data collected were analyzed using descriptive analysis methods with a contextual approach. This study shows that the epistemology of ushul fiqh remains relevant and adaptive in facing various issues that develop over time due to the combination of revelation (textual) and reason (rational).

Keywords: *Ushul Fiqh, Legal Epistemology, Textuality, Rationality.*

المخلص

أصول الفقه هي أساس المعرفة القانونية التي تقع بين النص والعقل. يركز هذا البحث بشكل أساسي على شرح كيفية عمل أصول الفقه كوسيلة للاستنباط (التوفيق) لمعالجة مختلف المشكلات المستجدة في المجتمع. يعتمد هذا البحث على مراجعة نوعية للأدبيات، بالإضافة إلى تحليل البيانات الثانوية المجمعة باستخدام أساليب التحليل الوصفي التي تستخدم منهجًا سياقيًا. تُظهر هذه الدراسة أن نظرية المعرفة في أصول الفقه تظل وثيقة الصلة وقابلة للتكيف في معالجة مختلف القضايا التي تتطور بمرور الزمن، وذلك بفضل الجمع بين الوحي (النص) والعقل (المنطقي).

الكلمات المفتاحية: أصول الفقه، نظرية المعرفة القانونية، النصية، المنطق.

Abstrak

Ushul fiqh adalah dasar pengetahuan hukum yang berada di antara teks dan rasio. Fokus utama penelitian ini adalah untuk menjelaskan bagaimana ushul fiqh berfungsi sebagai cara *istinbath* untuk menangani berbagai masalah baru yang muncul dalam masyarakat.

Penelitian ini menggunakan studi pustaka kualitatif. Selanjutnya, data sekunder yang dikumpulkan dianalisis menggunakan metode analisis deskriptif yang menggunakan pendekatan kontekstual. Studi ini menunjukkan bahwa epistemologi ushul fiqh tetap relevan dan adaptif dalam menghadapi berbagai masalah yang berkembang seiring waktu karena kombinasi antara wahyu (tekstual) dan akal (rasional).

Kata kunci: *Ushul Fiqh, Epistemologi Hukum, Tekstualitas, Rasionalitas.*



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INTRODUCTION

Since the passing of Rasulullah SAW, the stream of revelation in the form of religious texts, including the Quran and hadith, has ceased. Meanwhile, societal issues have become increasingly complex and multifaceted. In this context, the epistemology of ushul fiqh plays a crucial role in interpreting these texts. As a method of legal *istinbāth* (deduction), ushul fiqh can serve as a vital bridge in addressing the problems that arise within society.¹

As a core element of textuality, Revelation is intrinsically linked to the establishment of Islamic law. Islamic shari'a comprises the doctrines and norms outlined in these texts, which serve as the primary reference points for legal determinations. Similarly, when researching a specific case to ascertain its legal status, one cannot overlook the importance of textual evidence. However, the understanding of textuality must be complemented by rationality, as it is essential to incorporate reason and logical analysis in interpreting these texts, ensuring they are relevant to the challenges faced in contemporary society.²

Then, as the basis for the validity of the research conducted, the researcher conducted a literature review to ensure that the research conducted was a novelty that criticised the paradigm of classical Islamic law, which was considered too textual and normative, so that it had implications for the resistance of a text (revelation) from all developments and dynamics of reality.³ According to⁴ In his book, there is an intersection between text and reality where the text appears and the context surrounding it. The

¹ Masyhadi, "Perkembangan Ushul Fiqh Di Era Modern," *SCHOLASTICA: Jurnal Pendidikan dan Kebudayaan* 3, no. 1 (2021): 22.

² Muhammad Husni Abdulah Pakarti, "Perkembangan Ushul Fiqh Di Dunia Kontemporer," *Al Syakhsyiyah Journal (Journal of Law and Family Studies)* 5, no. 1 (2023): 93–96.

³ (Asriaty, 2013, p. 1).

⁴ Jamaluddin Djunaid, *Dialektika Teks Dan Realitas: Pengaruh Realitas Dalam Pembentukan Hukum Islam* (Jakarta: LeKAS Publishing, 2012), vi.

existence of a method of digging up the law or *ijtihad* is carried out if the problem faced does not have provisions in the Qur'an and hadith by using various methods, starting from *ijma'*, *qiyas*, *istihsan*, and other methods.⁵

According to⁶ Explained that for the Qur'an to remain in its function (as a guide to human life), it is necessary to understand and interpret it using a scientific or interdisciplinary approach and interconnection so that it remains actual as the science of fiqh works in its epistemology. In reality, the sources of Islamic law, revelation and reason, should not experience conflict or tension because the two symbolic symbols of Islam have complementary roles according to the conditions and situations experienced.⁷

From the research that has been carried out previously, there are differences made by researchers, in this case, using the concept of contextuality, namely discussing ushul fiqh epistemologically as well as the dialectic of textuality and rationality in *the epistemology of ushul fiqh* itself, so that it can be known how the methodology used in reading a text/postulate rationally so that the text can *survive*, It has not faded by the times. There is no conflict between the two.

KAJIAN TEORI

Ushul Fiqh as a Legal Epistemology

Ushul fiqh is a science that discusses methods and rules in exploring Islamic law from sharia sources, namely the Qur'an and hadith. In the development of contemporary studies, ushul fiqh is understood not only as a methodological tool but also as an epistemology of Islamic law, which is a system of knowledge that explains how laws are formed, validated, and applied in social life.⁸ Through ushul fiqh, scholars establish a relationship between revelation as a normative source and reason as an instrument of legal interpretation.

From an epistemological perspective, ushul fiqh functions to determine the legitimacy of a law through linguistic approaches, logic, maqāṣid al-syarī'ah, and consideration of benefits. Thus, ushul fiqh becomes an intellectual foundation in

⁵ (Mun'im, 2017, p. 1).

⁶ Mahfudz Junaedi, "Epistemologi Hukum Islam Kontemporer," *Manarul Qur'an: Jurnal Ilmiah Studi Islam* 19, no. 1 (June 2019): p. 36.

⁷ Rusdin Muhalling, "Konflik Dan Ketegangan Dalam Hukum Islam (Antara Wahyu Dan Akal)," *Jurnal Al-Adl* 6, no. 1 (2013): p. 116.

⁸ Abdul Wahhab Khallaf, *Ilm Ushul Al-Fiqh* (Cairo: Dar al-Salam, 2021), p. 12.

maintaining the sustainability of Islamic law so that it remains relevant to the development of the times.

Textuality in Ushul Fiqh

Textuality in ushul fiqh refers to an approach that places the Qur'an and hadith as the primary and dominant sources in the determination of law. This approach emphasizes the importance of understanding the literal meaning of the text in order for the law to remain in harmony with the authority of revelation.⁹ Textualist groups think that excessive rational intervention can lead to deviations from the original purpose of the Shari'a.

The textual approach can be seen in the thought of Ibn Hazm, who rejected the widespread use of qiyas and prioritized the meaning of *zahir nash*. According to him, the law must be built based on clear and explicit evidence. In the context of legal epistemology, the textual approach has the function of maintaining the purity and authenticity of sharia from human subjectivity.

Nevertheless, textual approaches often face challenges when faced with modern problems that are not directly found in classical texts. This shows that the text needs interpretive instruments so that Islamic law is still able to respond to evolving social dynamics.

Rationality in Ushul Fiqh

In addition to textuality, ushul fiqh also places rationality as an important element in the formation of Islamic law. Rationality is manifested through the use of the methods of qiyas, istihsan, istislah, and *maqāṣid al-syarī'ah*. This approach aims to understand the substance and wisdom of the law, not just the literal meaning of the text.¹⁰

Jasser Auda explained that Islamic law must be understood systemically by considering the universal goals of sharia, such as justice, humanity, and social welfare. In this perspective, reason is not positioned as the opponent of revelation, but rather as a means to understand the meaning of sharia more contextually.

A rational approach allows Islamic law to adapt to contemporary issues such as digital technology, modern economics, bioethics, and public governance. Therefore, rationality is an important instrument in maintaining the flexibility of Islamic law without giving up its normative roots.

⁹ Ahmad Hasan, *The Principles of Islamic Jurisprudence* (Kuala Lumpur: Islamic Book Trust, 2020), p. 45.

¹⁰ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: The International Institute of Islamic Thought, 2021), p. 67.

Dialectics of Textuality and Rationality

The relationship between textuality and rationality in ushul fiqh is basically integrative. The two are not two approaches that contradict each other, but complement each other in developing the epistemology of Islamic law.¹¹ Textuality provides normative legitimacy, while rationality provides contextual relevance to the application of the law.

Wael B. Hallaq explained that the uniqueness of ushul fiqh lies in its ability to combine the authority of revelation and rational reasoning in one coherent methodological system. If the law only relies on textuality, then the law has the potential to become rigid and difficult to respond to social change. On the other hand, if the law rests solely on rationality, then the authority of revelation can be ignored.

Therefore, the moderate approach in ushul fiqh seeks to maintain a balance between text and reason. This approach is important in the context of a modern society that requires Islamic law that is adaptive, humanist, and still based on sharia principles.

METHODS

This research is *library research* with a normative-contextuality approach. The type of research is descriptive-analytical by describing *ushul fiqh* as a legal epistemology, then analysing in depth in terms of textual and contextual. The data sources used consist of primary and secondary data. Primary data includes verses of the Qur'an and Hadith relevant to *ushul fiqh*. Meanwhile, secondary data is used in books and scientific articles.

RESULTS AND DISCUSSION

Legal *Istinbath* Method

Every *istinbath* (law-making) in Islamic shari'a must be based on *the Qur'an*.¹² and *the Sunnah of the Prophet*.¹³ This means that there are two kinds of *evidence of syara'*, namely: *nash* and *ghairu nash* (not nash). Postulates that do not fall into the category of *nash*, such as *ijma'*,¹⁴ *qiyas*,¹⁵ *istihsan*,¹⁶ *istislah (maslahah mursalah)*,¹⁷ *urf*,¹⁸ and *saddudz dzari'ah*.¹⁹ In essence, it is excavated, sourced, and guided by *nash*.

¹¹ Wael B. Hallaq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2022), p. 33–40.

¹² Djunaid, *Dialektika Teks Dan Realitas: Pengaruh Realitas Dalam Pembentukan Hukum Islam*, p. 60.

¹³ Rachmat Syafe'i, *Ilmu Ushul Fiqh Untuk UIN, STAIN, PTAIN* (Bandung: Pustaka Setia, 2010), p. 60.

¹⁴ Ali Sodikin, *Fiqh Ushul Fiqh: Sejarah, Metodologi Dan Implementasinya Di Indonesia* (Yogyakarta: Beranda Publishing, 2012), p. 84.

¹⁵ *Ibid.*, p. 87-88.

The Qur'an and as-Sunnah are sources of Islamic law used by Muslims to understand Islamic law. The proposition of *naqli*, as a postulate derived from *nāsh* (al-Qur'an and Sunnah), is an absolute and textual revelation, in contrast to the postulates of *aqli*, which come from logic or human reason. *Naqli* plays a role in exploring the law in every problem that arises in society.²⁰ The two postulates complement each other, but it must be underlined that the postulates of *naqli* must always take precedence over the postulates of *aqli*. In *fiqh*, the postulates of *aqli* are not propositions that are completely detached from the Qur'an and hadith. However, the general principles are contained in the Qur'an and hadith, and the reference goes back to the two main sources of law.²¹

There are two approaches to exploring the law from *Nash*, namely the *lafazh* approach (*thuruq lafzhiyyah*) and the meaning approach (*thuruq ma'naviyyah*).²² The meaning approach involves drawing legal conclusions without directly referencing *nash*, such as in *qiyas*, *istihsan*, *maslahah mursalah*, *saddudz dżara'i*, and so on. Meanwhile, the *lafazh* approach requires several supporting factors in its application, such as understanding the meaning of the words in the text as well as their connotations in general and particular; identifying clues as to whether to use explicit meanings or use conceptual approaches obtained from the context of sentences; understanding the boundaries that govern the use of *nāsh*, as well as whether the meaning that can be derived from the word '*nāsh*' is based on an explicit explanation (*ibārat nāsh*) or an unspoken explanation (*isyarat nāsh*).²³

A jurist must master Arabic and master certain conditions so that, in carrying out *legal istinbath* can avoid mistakes.²⁴ Understand idioms (*ibārat*) well, master the style of language that relies on actual expressions, and understand the core meaning of each expression used. The rules of language (*lughawiy*) refer to four aspects: 1) the method of language refers to the clarity and strength of the expression of the meaning in question.

These requirements are the details of the idiom (*ibārat*) and its meaning, mastering the language style that uses essential expressions, and understanding the main meaning of

¹⁶ A. Djazuli, *Ilmu Fiqh: Penggalan, Perkembangan Dan Penerapan Hukum Islam Edisi Revisi* (Jakarta: Kencana, 2005), p, 83.

¹⁷ Sodikin, *Fiqh Ushul Fiqh: Sejarah, Metodologi Dan Implementasinya Di Indonesia*, p, 92.

¹⁸ Ibid., p, 95.

¹⁹ Sodikin, *Fiqh Ushul Fiqh: Sejarah, Metodologi Dan Implementasinya Di Indonesia*.

²⁰ Rian Hidayat, "Analisis Sumber Hukum Islam: Telaah Metode Dan Perdebatan," *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 12 (2024): p, 363.

²¹ Djunaid, *Dialektika Teks Dan Realitas: Pengaruh Realitas Dalam Pembentukan Hukum Islam*.

²² Nurul Mahmudah, "Relasi Antara Lafaz-Lafaz Dalam Ushul Fiqh Dengan Problematika Hukum Keluarga," *Syakhsbiyyah Jurnal Hukum Keluarga Islam* 2, no. 2 (2022): p, 223.

²³ Muhammad Abu Zahrah, *Ushul Fiqih, Terj.* (Jakarta: Pustaka Firdaus, 2013), p, 204-206.

²⁴ Zahrah, *Ushul Fiqih, Terj.*

each expression. The rules of language (*lughawiy*) refer to four aspects, namely: 1) *the words nāsh* in terms of clarity and the power of *the dalālah* to the meaning in question. 2) in terms of expression and connotation, whether to use *a sharīh ibārat* (clear expression), whether to use *an ishārat* that contains an implied meaning, and whether to use *mantbuq, mafhum*²⁵ 3) *in terms of the scope of the recitation and the target of the avenue, in the form of general or special recitation and muqayyad or mutlaq*, 4) in terms of the form of the demands of *his shigat taklif*.

Ushul Fiqh as Legal Epistemology

Epistemology in Arabic terminology is called *nadhāriyyah al-ma'rifa* or theory of science. The epistemology of ushul fiqh is a theory of law in Islam that was built to create fiqh dictums to organise the daily life of mankind. In the early days of the birth of Islam, the performance of ushul fiqh had not yet been formed into an epistemology because all legal issues at that time were directly held by the Prophet PBUH with the guidance of revelation. In the second century of Hijri, the epistemology of ushul fiqh was born, along with the emergence of major schools in Islamic jurisprudence. Initially, the science of ushul fiqh was born to respond to the increasingly escalating debate on fiqh thought, which then gave birth to the traditionalist camp (*abl al-hadith*) and the rationalist camp (*abl ar-ra'y*).²⁶ Then, to frame the material for the debate of the two camps academically, the presence of ushul fiqh epistemology needed to be used as a scientific reference in ushul fiqh until now.

In becoming an epistemology, ushul fiqh combines elements of normative texts in the form of verbal revelation and formal logic. The verbal revelation that is the basis of ushul fiqh science is in the form of Qur'an texts and hadiths that generally contain legal rules (*postulates of kulli-ijmali*). These postulates then gave birth to the legal *istinbath* method that is operational in the interests of humans. Meanwhile, the logical-empirical foothold of ushul fiqh is logical postulates to compile criteria for evaluating a correct argument. Logic, in this case, is to study the methods and principles used to distinguish between straight reasoning and distorted reasoning.²⁷

Ushul Fiqh and Bayani Tradition

As an epistemology, ushul fiqh was born and developed not in space. In addition to its contextual aspect of historicity, the birth of ushul fiqh has an intersection with traditions and cultures that have developed since the beginning of the birth of Islam itself. According

²⁵ Hasbi As-Siddiq, "Analisis Lafadz Ditinjau Dari Segi Dilalahnya (Mantuuq Dan Mafhum)," *Adabiyyah Islamic Journal: Jurnal Fakultas Agama Islam* 2, no. 2 (2024): p. 144.

²⁶ (Badruddin, 2022, p. 47).

²⁷ Abu Yasid, *Metodologi Penafsiran Teks: Memahami Ilmu Ushul Fiqh Sebagai Epistemologi Hukum* (Jakarta: Erlangga, 2012), p. 26.

to Abid Al-Jabri, an Islamic thinker from Morocco, the development of Islamic thought epistemologically includes three traditions, namely *bāyani*, *irfani*, and *burhani*. The *Bayani* tradition developed before the Islamic world experienced massive cultural contact with the outside world.

It is suspected that this tradition began to grow and develop from the time of the Prophet, or at least in the era of the companions. This can be marked by the emergence of the tradition of interpreting the text of revelation and the systematisation of Arabic literature in an anthology (*ḍiwan al-arāb*) initiated by Ibn Abbas (d. 68 AH). This tradition can be sorted into two phases. First is the phase of interpretation of the text as described above. At the same time, the second is the productive phase of Arabic literature, whose birth was accompanied by the emergence of political philosophies and schools of thought in the science of kalam after the *at-tabkīm incident between Ali bin Abi Talib and Mu'awiyah*.

The *bayāni tradition* found its momentum when it formed the epistemology of science within the framework of the *ushul* (tree) and *furu'* (branch) theory. In addition, this tradition has also created a more rational atmosphere of diversity and produced intellectual products of linguistic and religious science.²⁸ In this context, As-Shafi'i is considered one of the founders of the formulation theory of the Bayani tradition. An important contribution of As-Shafi'i in the process of formulating the epistemology of Bayani is the thought of Ushul Fiqh as a method of articulation, as outlined in his masterpiece *Ar-risālah*. As-Shafi'i has been instrumental in raising the reputation of *as-Sunnah* in the second position and functioning *as tasyri* after the Qur'an. In more detail, As-Shafi'i divides the bayani tradition into five categories, namely:

- 1) *Bayān (explanation)* does not require any other explanation, such as some texts of the Qur'an that are not completely interpreted.
- 2) *Bayān*, which has a *mujmal* (global) part and needs an explanation from *as-sunnah*.
- 3) *Bayān* is *mūjmal* and, therefore, requires an explanation from the *as-sunnah*.
- 4) *Bayān as-sunnah* is the substance of *as-sunnah*, which is an explanation of God's revelation and must be appreciated according to the instructions of the Qur'an.
- 5) *Bayān al-ijtihād*, which is summarised as a *qiyas* (analogy) activity.

In bayāni epistemology, the position of the text is so central that intellectual activity is always within its territory and circle and is oriented towards the reproduction of the text

²⁸ Muhammad Imam Asrofi, "Penerapan Epistemologi Bayani, Burhani, Dan Irfani Dalam Pembelajaran PAI," *MIDA: Jurnal Pendidikan Dasar Islam* 7, no. 1 (2024): p, 91.

more broadly.²⁹ The Islamic civilization that developed in this phase can be called the civilization of texts. The position of the text is so important that it is able to develop the basics of civilization and science. However, it is not the independence of the text that can make the framework for the birth of an epistemology. On the contrary, the cultural framework and reflection of knowledge usually arise only through the long struggle of humanity with its social reality. The text in this regard has a broad meaning regarding something that is integrated with the context of human historical experience.³⁰

Inductive and Deductive Logic of Ushul Fiqh

Inductive and deductive logic is a typical way of working in the world of ushul fiqh thought. Inductive logic is used to conclude individual cases with a very specific range into general conclusions, while deductive logic is the opposite; that is, it is used to conclude general things that are individual cases. In the tradition of ushul fiqh thought, inductive logic is often used by the madzhab Ahnaf, which Imam Abu Hanifah drives. In contrast, deductive logic is widely demonstrated by Mutakallimin jurisprudence, pioneered by Imam Shafii and followed by most Islamic jurists. In legal excavation, Ahnaf jurisprudence often induces specific legal cases into theories and principles of reasoning in general. On the other hand, Mutakallimin often deduce general rules about legal exploration for special legal cases. Thus, the fiqh paradigm of the Ahnaf school is derived from legal cases faced by society, then concluded into postulates in the form of legal *istinbāth* rules. On the contrary, the Mutakallimin deliberately build the rules of *ushulīyyah* independently and then apply them to the conclusion of special laws in the community.³¹

The Dialectic of Textuality and Rationality in Ushul Fiqh Epistemology

In textualist circles, it is known for the existence of a textual paradigm, which is a propensity of a set of Muslims, who, in defining Islamic law, rest on the meaning of the origin of the book (literally) without looking at the socio-historical factors where, when, and why the text was born. This group is also frequently called literalists and scripturalists.

The first basis of the textual thinking pattern is to adhere to the teachings of *the Qur'an*, *the sunnah of the Prophet*, and *ijma'*, especially the *ijma'* of the first generation of scholars. This characteristic is usually found in the followers of the ushul fiqh of the

²⁹ Dayan Fithoroini, "Epistemologi Bayani Dalam Kajian Ushul Fiqh," *OPINIA DE JOURNAL* 2, no. 2 (2022): p. 5.

³⁰ Yasid, *Metodologi Penafsiran Teks: Memahami Ilmu Ushul Fiqh Sebagai Epistemologi Hukum*.

³¹ Ibid.

Malikiyah and Hanabilah madhhab, who are described as the main proponents of textualism in academic literature. This feature was later found in other fiqh schools such as Shafi'iyah. Imam Shafi'i, for example, in his Treatise, wrote, "Thus, the Qur'an and the Sunnah are not only the source of truth but also the criteria for testing everything that man has achieved through his intellect".

On the other hand, there is a contextual paradigm, which is the tendency of a view that refers to the context. Abuddin Nata emphasized that what is meant by contextual understanding is an effort to understand the verses of the Qur'an by the context and historical aspects, so that the true idea or intention of everything put forward by the Qur'an appears. A group of Muslims known as the "contextual paradigm" tend to formulate Islamic law by considering the socio-historical context of the text's creation as well as its literal meaning. This group is frequently called substantialists, liberals, and realists. When associated with the existing schools of fiqh and the *ijtihad* method they hold, they can be classified as follows:

1. Schools that fall into the textual stream are madhhab Maliki, madhhab Shafi'i, madhhab Hanbali, and madhhab al-Zahiri.
2. The school that belongs to the realist school is the Hanafi school.

These two groups are trying to present a spirit of renewal in religious understanding. The first group tries to adhere to and strictly follow the Qur'an and Sunnah, while the second group emphasizes the meanings and substance of the teachings contained in the Qur'an and as-Sunnah.³²

However, talking about rationality in its history, in the era of the emergence of the great schools in the second century of Hijri, there was a dynamic of fiqh thought which then gave birth to the traditionalist *camp* (*al-hadith*) and the rationalist *camp* (*abl-ar-ra'y*). The traditionalists were spearheaded by Imam Malik bin Anas (d. 179 AH), based in the Hijaz, while the rationalists were represented by Imam Abu Hanifah (d. 150 AH) in Baghdad. Imam Malik, in *istinbāth*, his law is very tied to the fatwas of the companions and the traditions of the people of Medina. At the same time, Imam Abu Hanifah, who lived in the metropolitan city then, was very rational and careful in choosing and sorting hadith as a source of legal determination. Therefore, in his *istinbāth* activities, Imam Abu Hanifah often uses analogies (*qiyas*) rather than hadith texts, whose validity is still debated. In the case of the debate on the thinking of the two camps, the presence of ushul fiqh epistemology in

³² Asriaty, "Tekstualisme Pemikiran Hukum Islam (Sebuah Kritik)."

reading the text of revelation is necessary under the existing social conditions of the community.³³

Imam Abu Hanifah is known as the scholar of *Ahl-ar-ra'yi*. Although Abu Hanifah had lived in Mecca and studied the hadiths of the Prophet, as well as other sciences from the figures he met, his experience and knowledge gained from outside Kuffah were used to enrich his collection of hadiths, while his methodology of fiqh studies reflected the *Ahl-ar-ra'yi* school that he learned from Imam Hammad, with the Qur'an and as-Sunnah as the first and second sources. If he does not find a firm provision on the law of the issues he studies in the *Qur'an* or *as-Sunnah*, then he learns them from the words of the Companions, both in *ijma'* and *fatwa*. If the three do not explicitly state the matter, then he studies it through *qiyas* and *istihsan*. or see the traditions that develop in a society that are obeyed together. This is by the sound of the hadith:

"It is narrated from Mu'adz bin Jabal, that when the Prophet sent Mu'adz as a qadi (judge) in Yemen, he asked, "How will you punish (decide the sentence) even if you face the case? Mu'adz replied: I will judge (punish) with what is in the Book of Allah. The Prophet asked again, if it is not found in the book of Allah? Mu'adz replied: Then I decided with the Sunnah of the Prophet PBUH. The Prophet again asked: if there is no (you find) in the Sunnah of the Prophet? Mu'adz finally replied: I will ijtihad with my mind, I will not despair. Mu'adz said: Then the Messenger of Allah patted my chest and said tahmid: All praise be to Allah for giving taufiq to His Messenger who is pleased with Him".

Likewise, Caliph Abu Bakr RA, when faced with a case, sought a solution in the Qur'an. If it is in it, then he decides with it. If he could not find it in it, he searched in the Sunnah of the Prophet. And if the solution is found in it, it is decided accordingly. Then, if it is difficult to find it in the Sunnah of the Prophet, he gathers several scholars to be invited to deliberate. If there is a consensus on the case (problem), it is decided according to it. And it is said that Caliph Umar did the same. Caliph Umar (RA) said in his letter sent to Abu Musa al-Ash'ari: "Understand", understand according to what is in the turmoil of your heart (use the ratio) of what is not in the Book and the Sunnah. Recognize similar and similar things, and then connect and compare them with each other.³⁴

The above hadith explains that the existence of revelation (Al-Qur'an and as-Sunnah) as the main source of law with its textual form does not close the way for scholars to carry out their ijtihad/ratio in resolving cases in society. The intersection between textual

³³ Yasid, *Metodologi Penafsiran Teks: Memahami Ilmu Ushul Fiqh Sebagai Epistemologi Hukum*.

³⁴ Zahrah, *Ushul Fiqih, Terj*.

and contextual postulates cannot be separated from the complementary legal *ijtihad*. The cessation of the production of revelations/texts does not make the Qur'an and as-Sunnah a rigid source of law, but, on the contrary, it opens up another way to read the text rationally with the provisions set by Islamic shari'a in solving contemporary problems in the interests of the ummah.

CONCLUSION

Istinbāth (law-making) in Islamic shari'a must be based on *the Qur'an* and *the Sunnah of the Prophet* as textual evidence and *ijma'*, *qiyas*, *istisban*, *istislah (maslahah mursalah)*, *urf*, and *saddudz dzari'ah* as rational *istinbāth* methods while still being guided by *nash*. The rules of *ushul fiqh* are formulated based on the universal values of religious teachings and are in line with human reason and reason in appreciating the values of benefit. The combination of revelation and logic is what makes the epistemology of *ushul fiqh* timeless in responding to various problems that continue to develop. Therefore, the Qur'an and as-Sunnah, as the main sources of law with their textual form, do not close the way for scholars to carry out *ijtihad/ratio* in resolving cases in society. The intersection between textual and contextual postulates cannot be separated from the *istinbāth* of complementary laws. The cessation of the production of revelations/texts does not make the Qur'an and as-Sunnah a rigid source of law, but, on the contrary, it opens another way to read the text rationally with the provisions set by Islamic shari'a in solving contemporary problems in the interests of the ummah.

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