

The Reconstruction of Islamic Law in Indonesia: From Classical Fiqh to Nusantara Fiqh

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Abstract

*The rapid development of modern civilization and the complex social dynamics in Indonesia call for a change in the application of Islamic law. Deeply ingrained in ancient fiqh literature, the ideas of Islamic law often expose flaws in handling the complexity of modern dynamics, especially in the multicultural setting of Indonesia. This study aims to clarify the relevance of reconstructing Islamic law in line with the setting of fiqh inside the archipelago since it answers the problems of the modern day. And to critically analyze the dynamics of Islamic legal thought in Indonesia in responding to contemporary reality challenges through a reconstructive approach to classical fiqh towards Nusantara fiqh. Specifically, this research focuses on how local scholars reformulate fiqh principles in the context of Indonesia's pluralistic and dynamic social, political, and cultural landscape. Examining a range of ancient fiqh studies, the viewpoints of Nusantara academics, and contemporary debates in the field of Islamic law, this paper uses a library research technique and a qualitative-descriptive method. The results of this discussion show that Nusantara fiqh is more than just local adaptation of classical fiqh; rather, it is a contextual ijtihad process combining local knowledge, social reality, and the basic values of *maqāhid al-syāri'i*ah. With the existence of Nusantara fiqh, it enables a more inclusive, adaptive, and relevant Islamic law in reconstructing Islamic law itself according to the needs of Indonesian society in the modern era without neglecting the principles of Islamic Shari'ah itself. Therefore, this article explains the importance of a reform in Islamic law that can adapt to contemporary dynamics while still being rooted in authoritative Islamic scholarly principles.*

Keywords: Reconstruction of Islamic law, fiqh Nusantara, contemporary reality

Abstrak

Perkembangan pesat peradaban modern dan dinamika sosial yang kompleks di Indonesia menuntut perubahan dalam penerapan hukum Islam. Ide-ide hukum Islam yang tertanam dalam literatur fiqh kuno seringkali menampakkan kelemahan dalam menangani kompleksitas dinamika modern, terutama dalam konteks multikultural Indonesia. Penelitian ini bertujuan untuk mengklarifikasi relevansi rekonstruksi hukum Islam sesuai dengan konteks fiqh di kepulauan Indonesia, karena hal ini menjawab permasalahan zaman modern. Dan untuk menganalisis secara kritis dinamika pemikiran hukum Islam di Indonesia dalam merespons tantangan realitas kontemporer melalui pendekatan rekonstruktif terhadap fiqh klasik menuju fiqh Nusantara. Secara spesifik, penelitian ini fokus pada bagaimana ulama lokal mereformulasi



prinsip-prinsip fiqh dalam konteks lanskap sosial, politik, dan budaya Indonesia yang pluralistik dan dinamis. Dengan mengkaji berbagai studi fiqh kuno, pandangan akademisi Nusantara, dan debat kontemporer di bidang hukum Islam, makalah ini menggunakan teknik penelitian perpustakaan dan metode kualitatif-deskriptif. Hasil pembahasan ini menunjukkan bahwa fiqh Nusantara bukan sekadar adaptasi lokal dari fiqh klasik; melainkan merupakan proses ijтиhad kontekstual yang menggabungkan pengetahuan lokal, realitas sosial, dan nilai-nilai dasar *maqāhid al-syarī‘ah*. Dengan adanya fiqh Nusantara, hal ini memungkinkan hukum Islam yang lebih inklusif, adaptif, dan relevan dalam merekonstruksi hukum Islam itu sendiri sesuai dengan kebutuhan masyarakat Indonesia di era modern tanpa mengabaikan prinsip-prinsip syariat Islam itu sendiri. Oleh karena itu, artikel ini menjelaskan pentingnya reformasi hukum Islam yang dapat beradaptasi dengan dinamika kontemporer sambil tetap berakar pada prinsip-prinsip keilmuan Islam yang otoritatif.

Kata kunci: Rekonstruksi hukum Islam, fiqh Nusantara, realitas kontemporer

Introduction

The various changes and developments in the modern era have a profound impact on the dynamics of human life, both in terms of behavior and lifestyle. Consequently, as human lifestyles evolve, they keep conflicting with legal concerns, both international and global law, and Islamic law (Aulia, 2023). Islamic law has evolved greatly from the time of the Prophet Muhammad SAW. Scholars have thoughtfully examined how the law has evolved throughout history to satisfy the needs of society and the environment at many stages in time. Using several ijтиhad techniques applied to fit political, social, and cultural needs in every era. Islamic law's evolution from classical fiqh, the idea of Middle Eastern scholars, to Nusantara fiqh is one of its fascinating aspects. Islamic law that can be changed to fit Indonesian society and culture by applying the idea of Nusantara fiqh (Harisudin, 2021).

Islamic law's dynamics in Indonesia itself still confront new difficulties and circumstances in conjunction with fast societal changes, particularly in light of modern realities such as globalization, democratization, legal pluralism, and technology and the economy that keep evolving (Badrudin, 2022). Therefore, the reconstruction of Islamic law is absolutely required so that it may remain relevant and keep offering answers to several issues evolving in society. The reading of ancient fiqh texts in the Indonesian setting and the *maqashid sharia* (objectives of Islamic law) approach will help to realize the reconstruction of the law (Darna, 2021). Fiqh Nusantara exists as an approach and unique features that fit local customs without forsaking the fundamental values of Islamic law. This will be a really good idea for Islamic law to keep growing and evolving and stay strong in its basic values (Harisudin, 2021). Realizing this reconstruction, however, will unavoidably present several obstacles, including group opposition to classical fiqh as an absolute and unchangeable source of law as well as other methodological questions on how to fit Islamic law to modern reality (Nawawi, 2007).

In the dynamics of Islamic law in Indonesia, the need to respond to increasingly complex contemporary realities has led to demands for the reconstruction of the fiqh system, which has traditionally been based on classical traditions. Modernity, globalization, legal pluralism, and the emergence of new social problems require a more adaptive and contextual approach to fiqh. In this context, the reconstruction of Islamic law becomes an important effort to address the diverse socio-political and cultural realities of Indonesia. Along with this, the emergence of the concept of Nusantara fiqh presents an alternative model offered to address the limitations of classical fiqh in responding to the current context. Some studies indicate a shift from a normative fiqh approach to one that is more responsive to local values and *maqāsid al-sharī‘ah*.

Previous studies have made initial contributions to the development of the idea of Nusantara fiqh. For example, Masbukin's research in 'Reconstruction of Islamic Fiqh: Towards 246



Nusantara Fiqh' emphasizes the importance of reforming Islamic law based on local wisdom with a sociohistorical approach, but does not delve deeply into the methodology of that reconstruction (Masbukin, 2018). Ansori, in 'Reconstruction of Contemporary Fiqh Methodology', focuses on renewing the methodology of ushul fiqh, but does not specifically relate it to the context of Indonesia and local fiqh (Ansori, 2018). Meanwhile, Maemun, through his work 'Nusantara Fiqh', highlights the thoughts of T.M. Hasbi ash-Shiddieqy and his efforts to contextualize fiqh through a cultural approach, but is limited to figures and has not developed an applicable reconstruction model (Maimun, 2016). Kasdi in the Reconstruction of Fiqh Nusantara emphasizes the development of a distinctive Indonesian ijtihad method; however, his approach is more descriptive-conceptual and has not directly linked the dynamics of the transition from classical fiqh to local fiqh (Kasdi, 2019).

From the results of this identification, it is evident that although various previous studies have provided important initial contributions, there are still several gaps that have not been comprehensively filled. These studies tend to highlight conceptual or biographical aspects, but have not systematically analyzed the dynamics of transition and reconstruction of fiqh from the classical framework to the local framework within the contemporary socio-political context of Indonesia. This is where the novelty of this research lies, which presents an analysis tracing the dynamics of Nusantara scholars' thinking in bridging classical fiqh with local realities, through a method that integrates historical, normative, and contextual approaches simultaneously.

Based on this context, this research aims to critically analyze the process of reconstructing Islamic law in facing contemporary realities in Indonesia, highlighting the dynamics of thought from classical jurisprudence to Nusantara fiqh. This study also seeks to identify how Indonesian Islamic scholars and thinkers reformulate fiqh principles through the approach of *maqāṣid al-sharī‘ah*, adaptation to local culture, and responses to the needs of the Indonesian Muslim community. By emphasizing thematic and comparative analysis, this study is expected to provide a significant contribution to the development of an Islamic legal model that is not only normative but also relevant and applicable in the context of modern Indonesian society.

In addition, there are still limited studies that specifically analyze the dynamics of Islamic legal thought from classical fiqh to Nusantara fiqh in dealing with contemporary issues. How can the reinterpretation of classical fiqh concepts be relevant to the context of modern Indonesian law? How far can Nusantara fiqh offer Islamic legal solutions in response to the changing times? These are questions that have not been explored much specifically in the study of contemporary Islamic law. This research offers novelty by examining historical, epistemological, and contextual approaches in analyzing the transformation of Islamic legal thought from classical fiqh to Nusantara fiqh. This research is expected to contribute to formulating a model of Islamic jurisprudence using the perspective of Islamic law reconstruction that can adapt to modern changes. In addition, this research helps us to learn how Nusantara jurisprudence is part of the development of global Islamic law that still upholds sharia principles, and can also be responsive to the legal needs of the modern Muslim community in Indonesia. Thus, this research is not only about ideas, but also provides a practical influence in the reconstruction of Islamic legal policies that are appropriate in the contemporary era.

Research Method

The methodology used in this research is an exploratory qualitative approach with a literature study design that focuses on normative and historical studies of the development of Islamic law, particularly in the process of reconstructing from classical fiqh to Nusantara fiqh. This approach was chosen because it is suitable for exploring the ideas, principles, and dynamics of scholars' thoughts in responding to the complex social, cultural, and political realities in Indonesia. This study is not oriented towards quantitative data, but rather towards a



deep understanding of the texts, contexts, and the dynamic constructs of the meaning of Islamic law.

The data in this research was collected through exploration and examination of various relevant sources including journal articles and contemporary scientific books that are related to the topic of contextual Islamic law. The data collection procedure follows academic documentation standards, which involves identifying relevant sources, assessing their authenticity, and organizing the content systematically for further analysis.

In the data analysis process, this research combines three main approaches: thematic analysis, comparative analysis, and content analysis. Thematic analysis is used to identify and group important themes in the narrative of Islamic legal thought, such as the contextualization of fiqh, *maqāṣid al-sharī‘ah*, and the integration between local values and universal Islamic principles. Comparative analysis is applied to compare the characteristics of classical fiqh and Nusantara fiqh, both in terms of methodology, *ijtihad* approaches, and legal substance. Meanwhile, content analysis is used to examine formal documents such as *ulama* fatwas, decisions of religious organizations, and outcomes of deliberations, in order to uncover discourse patterns and interpretative strategies used in the reconstruction of Islamic law.

Result and Discussion

A. The Evolution of Fiqh: From Classics to Nusantara

Allah revealed Islamic law with the intention of defending the welfare and interests of mankind while protecting humans from various diseases and damages, both on earth and in the hereafter. Fiqh includes many elaborations that discuss and analyze every aspect of Islamic law. Fiqh is a science that theoretically discusses various sharia issues (Khufaya et al., 2021). These issues are related to worldly things such as *mu'amalat*, *jinayat*, and other legal issues, or they are connected to things of the hereafter such as worship. Basically, there are several stages in the history of the development of fiqh: 1). The era of the Prophet Muhammad SAW; 2). The khulafau Rashidin era; 3). The Era of *Tabi'in* and 4). The Era of Codification. Thirteen years before the Hijrah, the Prophet Muhammad (SAW) was sent to Medina as the last Prophet and Messenger, marking the beginning of the Prophet's era. It ended when he died in the eleventh year after the Hijrah (Umar Al Faruq, 2024).

Fiqh plays an important role in Islamic law as a result of the ideas of scholars who analyzed the text and then modified it to suit the different demands of their time. Many schools of fiqh that show the seriousness of scholars in carrying out *ijtihad* can be found in traditional fiqh literature. It is influenced by various new problems that arise as a result of regional differences and the passage of time, using various strategies and techniques to apply *ijtihad* to achieve social benefits (Darna, 2021).

Fiqh, which is the result of scientific thinking, is always adjusted to changing circumstances and environments. Various variations in the environment, culture, and historical social circumstances of societies have a significant impact on how Islamic law is adapted to show unique features and their relationships to each other (Shidqiah et al., 2025). As a result, the evolution of fiqh in one region may differ from another with different cultures and customs. For example, the fiqh that emerged in Arabia could not be easily accepted and applied in other countries due to the fact that each aspect was different. Therefore, creating fiqh that is unique and consistent with the nature of the archipelago is an important consideration (Rosita et al., 2023).

1. Characteristics of Classical Fiqh and Its Methodological Approach

The characteristics of Islamic legal thought provide insight into how Islamic thought developed in historical reality. The dialectical process of interpretation in Islam,

the divine religion with the holy text of the Qur'an in its historical dynamics, is closely related to the temporal and spatial dimensions (Zuhdi, 2014). During the era of prophet Muhammad SAW, fiqh was redeveloped into a form of guidance and practical guidance that could be a driving force and pioneer of society towards physical and mental well-being. This is the next development documented by the history of Muslims: fiqh succeeded in regulating and directing man's spiritual deeds and social relations (Siregar, 2018).

Fiqh is not static in its growth; On the contrary, it has developed through the ijihad of the scholars, which in turn gave rise to several schools of fiqh. Muslim knowledge of religious rules is significantly shaped by these sects, each of which has its own unique istimbath (legal excavation). technique based on the beliefs and methods of their respective imams (Shidqiah et al., 2025). The Hanafi, Maliki, Shafi'i, and Hanbali Mazhab are the four main mazhab that have been widely accepted in the Sunni tradition. Each school has unique characteristics for interpreting and constructing Islamic law. For example, the Maliki Mazhab bases its rules primarily on the customs of the people of Medina during the time of the Prophet Muhammad, but the Hanafi mazhab is famous for its logical and adaptable application of qiyas. In contrast to the Hanbali mazhab, which is stricter in its adherence to the text of the Qur'an and Hadith, the Shafi'i mazhab places a higher priority on the methodical approach of ushul fiqh and achieves a balance between nash and qiyas. This variation in the way the law is set reflects Islamic intellectual property, which offers flexibility in dealing with a wide range of social circumstances (Nunung Susfita, 2024).

In the classical era, the social and political climate that emerged in each location had a significant impact on how fiqh was applied. From caliphate to sultanate, Islamic law is applied in different types of Islamic government, each with unique features based on regional customs and culture. In this situation, fiqh functions as a legal framework that regulates people's lives both in the field of muamalah and worship. However, a number of social developments have occurred over time, which necessitated modifications to how Islamic law is applied (Fuad & Dh, 2024).

2. Development of fiqh in Indonesia

The socio-cultural norms of society developed using the principles of fiqh have a significant impact on Islamic law as a result of its conception (ijihad). This is important to understand because, with the exception of those who already have sharia and qath'i, Islamic law is essentially the result of the interaction between scholars with the surrounding socio-cultural and socio-political context. Because of their common beliefs and symbols, religion and culture can impact each other as a historical fact (Muzakkir, 2019). Religion serves as a metaphor for the importance of following God. For people to live in a culture, it also incorporates symbols and ideals. A system of symbols is necessary for religion. In other words, culture is necessary for religion. But the two must be distinguished. Religion is a definite, universal, eternal, and immutable concept. Although culture is temporary, relative, and partial (Tanuri, 2024).

Along with the legal politics used by state authorities, the application of Indonesian Islamic law has experienced ups and downs. In fact, the socio-cultural factors that interact during the political decision-making process are the basis of all of that. Nonetheless, with the help of socio-cultural influences, Islamic law continued to evolve through the superstructure and infrastructure of the government. The characteristics of Indonesian Islamic law are mainly influenced by Arab personalities and are more closely related to the tradition of the Shafi'i mazhab. If we look at the history of the dynamics of Islamic law in Indonesia, you will see some unique problems. The reference books of the scholars, which mainly consist of the fiqh texts of Shafi'iyyah

show this (Nada & Dani, 2022). The compilation of Islamic Law, made by Indonesian scholars who were heavily influenced by Shafi'i, also points out this problem. Furthermore, in terms of methodology, scholars mostly consult the works of *ushūl al-fiqh* written by scholars of the Shafi'i madhhab. It is generally accepted that *ushūl al-fiqh*, especially those taught in most Islamic boarding schools, deals only with the topic of *qiyas*, while others are more general (Naim, 2018).

In general, Indonesian Islamic law reform goods are divided into four categories: laws and regulations, court products, fatwas, and fiqh. The main focus of the discussion on the revival of Islamic legal thought is the difference from the term "ijtihad", which in the Indonesian context refers to the existence of several approaches and trends in the ijihad movement (Badrudin, 2022). Thus, it can be concluded in this last section that Indonesian Islamic law has developed dynamically and sustainably through political infrastructure and superstructure channels in accordance with reality, support, and demands, as well as the desire to make Islamic law a national legal system. It is impossible to refute the historical evidence of Islamic legal products from the colonial era to the period of independence and reform (Amalina Zukhrufatul Bahriyah et al., 2023).

3. The contribution of Nusantara scholars in adapting classical fiqh

Since its inception, Islamic fiqh has been involved with the reality of the scholars who understood and defined it as well as the reality of the communities in which it was developed and applied. There are known as the fiqh of Iraq, Medina, Sham, and Maghrib throughout its growth history. Since Islam first arrived in Indonesia, other schools of fiqh thought that originated and developed there have also been introduced. Sheikh Abdurrauf Singkel (1643-1693 AD), Sheikh Arsyad al-Banjari, Sheikh Ahmad Khatib al-Minangkabau, Sheikh Nawawi Al-bantani (1230H/1813M-1314H/1897A), KH Hasyim Ash'ari (1871-1947A), KH Ahmad Dahlan, and others have contributed their ideas. The following modern legal thinkers are known to have significantly influenced Indonesian madzhab fiqh: Ibrahim Hosein, Munawir Syadzali, KH. Sahal Mahfudz, KH. Ali Yafie, Masdar F. Mas'udi, M.T. Hasbi ashShiddiqi (1905-1975),, and Hazairin (1906-1975) (Khalid, 2019).

The situation and conditions as mentioned above have greatly influenced the emergence of the concept of Indonesian Fiqh. Hasbi ash-Shiddieqy, an expert in various Islamic studies, first revealed it around the 1940s. In his first article, "Understanding the Meaning of Islam", Hasbi emphasized that the provisions of fiqh must be taken from the results of *ijtihâd* that are more in accordance with the needs of the Indonesian archipelago and nation, so that fiqh is not treated as something foreign and ancient (Iqbal, n.d.).

Muhammad Hasbi ash-Shiddieqy is one of the Indonesian scholars who is interested in the field of fiqh. Hasbi was a Muslim scholar who was an expert and expert in a number of religious disciplines, including Hadith, Fiqh, *Tafsîr*, and *Kalâm*. A famous mujaddid (reformer). who urged the ummah to return to the Qur'an and al-Sunnah, he was also a prolific writer. He wrote many works in the field of fiqh, such as Dynamics and Elasticity of Islamic Law, Islamic Fiqh Law, Introduction to Islamic Law, and many more. Hasbi's views in this area come from previous fiqh academics, and his most widespread belief is that Islamic fiqh should be structured with Indonesian characteristics (Nada & Dani, 2022).

The concept of "Indonesian fiqh" was originally introduced by Hasbi at the age of 36, before independence. However, other Muslim intellectuals at the time did not



respond to the proposal. To overcome this problem, Hasbi encouraged supporters of Islamic law to expand *ijtihad* activities and develop *fiqh* in the Indonesian style that is, *fiqh* that is carried out in accordance with Indonesian culture. Hasbi used a number of techniques when making laws, as evidenced by the results of his *ijtihâd* on the law, both those that previously had *nash* and those that did not (Nawawi, 2007).

Hasbi identifies three types of *ijtihâd* that should be promoted in relation to Islamic *fiqh* from an Indonesian perspective: (1) *ijtihâd* which classifies the previous madhhab scholars with the aim of choosing the viewpoint that is still valid in Indonesian society; (2) *ijtihâd* which classifies laws that are exclusively based on the customs and atmosphere of the society in which the law is developed; and (3) *ijtihâd* which seeks law on current issues that arise as a result of scientific and technological advances. Thus, Hasbi's concept of "Indonesian *Fiqh*" can be understood as an effort to liberate Indonesian culture from Arab culture and establish Indonesian customs as one of the sources of law in Indonesia, while trying to create Islamic law that is consistent with the customs and changes that are being developed in Indonesia (Harisuddin, 2018).

The above explanation makes it clear that the concept of Indonesian *Fiqh*, or "fiqh with Indonesian personality", which Hasbi has been putting forward since 1940, is based on the idea that Islamic law, or *fiqh*, imposed on Indonesian Muslims is a law that suits and meets their needs in particular, customary law that grows up in Indonesian society and does not conflict with *sharia* (Iqbal, n.d.). The process of internalization and incorporation of *fatwâ-fatwâ* from the laws of the previous scholars related to the social and cultural environment of Indonesia should fully support this effort and make it a fundamental component of the recently proposed concept of *fiqh*. As a result, there will be no conflict between *fiqh* and customary because of the double mindset of the community about the suitability of the chosen legal material *fiqh* or custom (Darna, 2021).

B. *Fiqh Nusantara: Adaptation and Innovation in a Socio-Cultural Context*

Long before the concept of Islam Nusantara emerged, the idea of formulating Nusantara *fiqh* was popular. Simply put, Indonesian *fiqh* is the term used at that time, not Nusantara *fiqh*. T.M. Hasbi Ash-Shiddieqy is one of the famous figures who coined the term Nusantara *fiqh*. According to Hasbi, the *fiqh* law embraced by Indonesian Muslims is not in accordance with the character of the state. They often impose the use of traditional *fiqh*, which has evolved and developed in various locations and eras (Harisudin, 2021).

Therefore, the formulation of Nusantara *fiqh* is in the embryonic stage and the next step needs to be determined. In order to develop a perfect and broad idea of Islam in the archipelago, the first step in doing so is to formulate *fiqh* in the region. Therefore, high awareness and wisdom are needed from various elements in forming a new *fiqh* in the style of the archipelago, as conveyed by Hasbi. This is especially true when they have to go through the initial step, which is to take a historical approach to Islamic legal thought in the early stages of its development (Harisuddin, 2018).

1. The influence of local culture on the formation of Nusantara *fiqh*

The phrase "Indonesian *Fiqh*" refers to *fiqh* that is consistent with Indonesian culture. Hasbi's concept of regeneration finds its significance with the state of Indonesian Muslims in this framework. Indonesian *fiqh* is its seminal concept, the construction of *fiqh* that is in harmony with the nature of Indonesian society. The only way to make *fiqh* in accordance with the current situation in Indonesia is to seek

flexibility in the evolving scenario (Masbukin, 2018). The Indonesian jurisprudence mentioned above represents a compromise between two current Muslim tendencies in Indonesia: those who want Islamic law to be applied as a formal rule of law based on the text and those who uphold Islamic law culturally, believing that the most important thing is that formal law does not conflict significantly with Islamic law (Masbukin, 2018).

If we consider the typical socio-cultural circumstances of Indonesian society, the significance of Indonesian jurisprudence becomes increasingly clear. Therefore, Indonesian jurisprudence assumes the existence of religious beliefs, or fiqh, derived from Indonesian traditions, practices, and social and political circumstances. Fiqh is not the same as replicating Arab law and its socio-political institutions in other contexts (Nawawi, 2007). For example, Abdurrahman Wahid's proposal on the privatization of Islam calls for the principles of the universal teachings of Islam to be modified to reflect the local cultural norms and values that emerge in society. He argued that local needs and the social environment should always be taken into account when making legal choices in Islam (Masbukin, 2018).

As a mujtahid interpretation, the task of fiqh is to respond to social realities in society by discussing every issue based on Islamic legal reasoning. The dynamic nature of fiqh entrusts the existence of peculiarities influenced by time, place, epoch, intentions, and customs; If, so far, fiqh tends to have a Middle Eastern flavor, then it is time for the Indonesian nation to have a fiqh model that is typical of the archipelago. Nusantara Fiqh is part of the development of Islam of the archipelago; if we talk about Nusantara Islam, then Islam as a normative teaching is practiced and istifadah in the "mother language" of Nusantara people (Kasdi, 2019). By requiring Islamic legal decisions to always take into account matters related to the needs of society, Nusantara Fiqh strongly opposes the process of Arabization, or identifying with Middle Eastern culture (Khalid, 2019).

The dynamic nature of Fiqh Nusantara and its consideration of social customs are its characteristics: (Misno, 2021).

- a. Using tradition (adat) as a guideline for the development of Islamic law;
- b. Adhering to the principle of maslahah mursalah, namely the benefits and justice for the community and the avoidance of all dangers;
- c. Applying the analogy-deductive method to problems whose legal provisions have not been found in the classical method of thinking, while in problems that already exist, the legal provisions use the comparative method.
- d. Using a socio-cultural-historical approach in the study and discovery of Islamic law.

2. The Difference Between Fiqh Nusantara and Classical Fiqh in Methodological Aspects

The words "fiqh" and "Nusantara" were combined to form Fiqh Nusantara. This offends conventional fiqh. The definition of fiqh has inevitably changed over time. Al-Ghazali shows how, in the early days of Islam, the meaning of fiqh was very broad. But since the Hijri in the fourth century, it has been restricted. Initially, the word "fiqh" referred to the general interpretation of Islam. Therefore, we call a person who fully understands Islam as a Fakih (Harisudin, 2021). Starting with the Walisongo era, colonialism, post-independence revival, a new order with rapid development, and the contemporary modern era, Nusantara Fiqh developed along with the arrival of Islam to the archipelago. It seems that followers of Islam in Indonesia have always been able to practice the teachings of Islam during all stages or eras of Islamic development in this country. At that time, the teachings of Fiqh were also moderate, allowing peaceful coexistence with the culture of the Nusantara (Kasdi, 2019).



Hasbi argues that to create fiqh that is in line with Indonesian culture, it is necessary to conduct independent, critical, and fanaticism-free investigations and studies rather than ignoring the findings of the ijтиhad of previous scholars. Therefore, we can use the views of scholars as long as they are relevant to Indonesian society. Therefore, we should not fixate on the opinions of a particular sect. It may not be based on any sect, but on a topic that has not been discussed by the scholars of the mazhab (Nada & Dani, 2022). The method contrasts with Hasbi's madhab, particularly when addressing issues that various existing approaches have resolved through ijтиhad. There are two distinct phases to the examination of this boundless Sunni tradition. Initially, choose from four Sunni sects. Second, choose from a wide variety of sects, which include those that do not have Sunni traditions. We carry out both actions to ensure the perspective most appropriate to the regional context and characteristics of the Indonesian nation. After comparing these schools, a thorough study of each school's ushul fiqh should be done to unify or combine these views (Maimun, 2016).

Hasbi highlighted that Indonesian fiqh will be very adaptable if supported by a careful comparison between fiqh, Indonesian customary law, the Indonesian legal system, other sharia (religions), and international law. If the mujtahid has not dealt with this issue before, it is recommended that the supporters of Indonesian fiqh use ijтиhad bi al-ra'yi, which means to find out the law based on what is beneficial (Nada & Dani, 2022). The methodological framework of Nusantara fiqh can be proven through four main postulates: istihsan, maslahah mursalah, 'urf, and sad-dzariah. Istihsan means to think carefully about what is considered good by most people in the Muslim community, while maslahah mursalah is about benefits that are not clearly required or prohibited by sharia but offer important and broad benefits. In addition, 'urf relates to traditions that have become established in the wider society. Similarly, many laws in Nusantara Fiqh use the principle of Sad Dzari'ah. These four main ideas strengthen the knowledge base of Nusantara Fiqh, making it a type of law that can be thoroughly supported in academic discussions (Harisuddin, 2018).

C. Challenges of Islamic Law in the Contemporary Era

1. Globalization and the influence of international law on Islamic law in Indonesia

Islamic fiqh has many new and complex issues in the modern world, especially when it comes to addressing issues such as globalization, gender equality, human rights, and religious freedom. In many Muslim countries, the social and cultural shifts caused by globalization necessitated a reinterpretation of Islamic law in order to be applied in the modern world (Kusnadi, 2014). Adapting Islamic law to the universal values that have emerged globally while maintaining the core ideas and principles of sharia is one of the most difficult problems in the application of fiqh in modern times. While some Muslim countries have retained Islamic law in its more conventional form, others have changed it by taking a more liberal stance (Abidin & Arfa, 2023).

Many Muslim countries began to implement more progressive ideas of fiqh as a result of industrialization and globalization. The application of Islamic concepts that are more adaptable to the times is the main goal of the rise of contemporary fiqh, or fiqh al-mu'ashir. This kind of thinking often tries to integrate the evolution of international law and human rights with classical fiqh. Recent developments in Tunisia and Turkey provide some specific examples of these reforms, as they have sought to strike a balance between Islamic and secular law (Muhammadong, 2023).

Along with the challenges posed by the globalization of law, the presence of Islamic law in Indonesia will encounter obstacles related to the evolution of the national legal framework. The presence of Islamic law in daily life illustrates its progressive evolution. The incorporation of Islamic sharia into national law often sparks widespread discourse and debate. Ideas in this realm have been communicated extensively by various groups, but it is evident that this perspective of authority is significantly shaped by political, sociological, ideological, and religious considerations (Bahrudin, 2018).

Azyumardi Azra, in discussing the potential integration of Islamic sharia into national law, emphasized the need to recognize the diverse nature of Indonesian Muslims. He points out that this community is not a single entity but a tapestry of diverse groups, interpretations of Islam, affiliations, and different levels of understanding. We understand that this sociological reality raises questions about its survival. Evidence suggests that Islamic law may struggle to survive and potentially produce adverse effects when different layers of Muslim society, each with their own interpretation of Islam, are not aligned as anticipated.¹

2. Legal pluralism: the relationship between Islamic law, customary law, and State law

The Islamic legal system often accommodates different sects in pluralistic countries such as India and Indonesia. As a result, there is legal pluralism, allowing Muslims to choose a fiqh perspective that is aligned with their values. However, this plurality also makes it difficult to apply fair and balanced law, especially when different schools of fiqh have different views (Rohmah, 2018). The transformation of Islamic law into a national legal framework requires the involvement of all relevant parties and institutions. In addition, it is important to consider the interaction between Islamic law and the governing body of state power, which is guided by established legal political policies. The realm of legal politics emerged from the dynamic interaction among political elites, formed by many socio-cultural groups. The presence of strong bargaining power among the Islamic political elite in political interactions significantly increases the potential for Islamic law transformation (Mardani, 2009).

The result of the interaction between the Islamic political elite (leaders of mass organizations, religious leaders, and Muslim scholars), and the power elite (politicians and state officials), is the transformation of Islamic law into law. Snouck Hurgronje coined the term "customary law" in his book *De Acheers* (Acehnese people) and Cornelis van Vollen Hoven followed it in his book "Het Adat Recht van Nederland Indie." At the end of 1929, the Dutch colonial government officially adopted the term in Dutch laws and regulations. While in Islam, the phrase "Islamic law" has been inaugurated and is a fundamental part of Islamic doctrine (Rohmah, 2018). The above approach of Islamic law serves to show the future trajectory of Islamic law after the implementation of the reform era in Indonesia, especially regarding legal reform. Apart from a scientific perspective, it is not clear that in Indonesia, the Islamic legal system can run side by side with other legal systems. The evolution of Islamic law does not depend on the political policies of the government regarding the laws or the intentions of politicians (Shulhan, 2012).

3. Social Changes and Challenges of Islamic law in The Field of Economics and Technology

The transformation of society witnessed in modern times requires a dynamic response from Islamic law. This concept recognizes that inclusive Islamic teachings

¹ (Darna, 2021).



must remain open to the evolution of contemporary society. The implementation of Islamic teachings must be carried out in harmony with the socio-cultural transformations of the modern era, ensuring they remain relevant to the principles outlined in the Qur'an and Al-Hadith (Badrudin, 2022). The rapid growth of the Muslim population in Indonesia has significant implications for socio-cultural dynamics, which require dynamic adaptations of Islamic law to address contemporary problems while preserving religious values. The Indonesian Ulema Council (MUI) stands as a basic entity, consistently ready to advance Islamic studies in line with contemporary developments. The MUI fatwa product is essential to the evolution of Islamic law, serving as a continuous reference for the guidance of the community that develops along with the changing times (Wahid, 2019).

Scientific and technological innovations, along with economic developments in a globally interconnected world, have profoundly influenced the way individuals view their lifestyles. The analytical disposition prevalent in contemporary society makes traditional jurisprudence inadequate in addressing the challenges that arise. If there is disagreement among scholars, it is very important to confirm one of their points of view. However, it is equally important for each authority to formulate a completely new perspective. Scientific disagreement illustrates that there are various alternative foundations for addressing certain problems (Latifah et al., 2023). In modern times, ijтиhad can be considered as an instrument used by the parliamentary body, in addition to being synonymous with the authority of the scholars. This means that ijтиhad can be used in politics by creating laws that define certain issues and reflect Islamic law. One of the benefits of legalizing Ijтиhad products is that they are products that unite space and time to create norms in people's lives (Miswanto, 2021).

The economic side also shows the reactualization of Islamic rules as a source of positive law. The historical practice of Bank Syariah Indonesia, which was initially more likely to be based on the MUI Fatwa, is one example. The majority of Muslims in Indonesia seek to change financial transactions with an Islamic perspective based on maslahah (benefits), justice, and balance. Initially, banking transactions were more traditional and were the socio-cultural foundation of Indonesian society. Modern Muslims are characterized by their desire to prevent usury, maisir, gharar, and other halal things rather than eradicate the banking industry (Miswanto, 2021).

D. Reconstruction of Islamic Law: Towards Responsive and Contextual Fiqh

1. The Principle of Maqashid Syariah as the Foundation for the Reconstruction of Islamic Law

The idea of mashlahah, one of the mashādir al-tasyri' in Islamic law, provides an ontological foundation for the contextualization of Islamic law. Ushul fiqh scholars often explain mashlahah, or maslahah mursalah (general welfare), as a type of mashlahah that is not specifically outlined by God's sharia to achieve welfare and has no supporting evidence, suggesting that it is invalid. The Fuqaha then used this concept of mashlahah to formulate the concept of sharia maqâsyid, which would be the basis for determining Islamic law (Badruzaman, 2014).

The main topic of discussion is wisdom and illat al-hukm because the concept of maqashid al-sharia is considered as the intention, purpose, or principle of shari'a law in Islam. This idea departs from the assumption that the determination of all tasks aims to fulfill the potential of humanity, both in this world and in the hereafter. Imam Al-

Syathiby emphasized that the purpose of Allah and His Messenger in creating Islamic law is the concept of *maqashid al-sharia*. The hadith and verses of the Qur'an both explain this purpose. He outlined the findings of an academic investigation into the verses of the Qur'an and the Sunnah of the Prophet, to the conclusion that these laws are *sharia* with the intention of achieving the good of mankind (Zumrotun, 2013).

According to historical records, the discipline of *fiqh* developed rapidly from the beginning of Islamic civilization to the middle of its existence. As a result, it has produced a large number of scientists who are experts in their fields. In turn, the science of *usul fiqh* also developed dynamically, which led to the reconstruction of many scientists' theories of *usul fiqh*. For example, scholars later developed and reconstructed the theory of *fiqh* proposed by Imam al-Shafi' (Naim, 2018). New legal provisions are needed as a result of the increasing diversity of issues to support the advancement of *ushul fiqh*. The topic of *sharia maqasid* has begun to emerge in discussions about *ushul fiqh*. Although they were still discussing it in relation to *ushul fiqh*, the scholars of that time took into account the *maqasid* of *sharia* when making legal decisions. The scholars began to use the term *maqashid* in their legal writings published around the beginning of the fourth century Hijrah (Yumni, 2019).

To maintain these advantages, three levels of benefits must be maintained. The first level consists of *dharuriyat* (essential) benefits, which are associated with five things: preserving the benefits of religion, preserving the welfare of the soul, preserving the intellect, preserving the offspring, and preserving the benefits of wealth. Second, maintaining the benefits of *hajjiyat*, if the benefits of *hajjiyat* such as the stories of various *mu'amalat* are not enforced, *mukallaf* may face difficulties and limitations in life. The third is to preserve the benefits of *tahsiniyyat*, which is related to efforts to uphold morality and customs (habits).. The three levels of *maslahat* mentioned above discuss the issues of worship, *muamalat*, *jinayat*, and other related matters (Najmah, 1979).

2. Hermeneutic and *ijtihad* approaches in understanding Islamic law in the modern era

The process of *ijtihad*, which arises from the contemplation of human revelation with social reality, illustrates the adaptability and dynamism inherent in *fiqh*. The application of the *ijtihad* method as a means of establishing law in Islam undeniably requires the handling of contemporary issues that did not exist in the time of the Prophet (Miswanto, 2021). *Fiqh* embodies and promotes the essence of critical thinking through *ijtihad* and scientific interpretations that address issues taking into account contextual realities. Examination of contemporary *fiqh* undoubtedly requires progress in order to effectively address the evolution of human civilization in the context of modern existence as it exists today (Ansori, 2018).

The current legal system is derived from *ijtihad*, which means looking to the *nash* to support the rules and moral obligations of *sharia* law. The result of contemplating Islamic values, norms, and morality culminates in legal decisions that oblige every Muslim to deal with contemporary issues through the lens of Islamic jurisprudence and law. *Mujtahid*'s efforts to engage in contemporary *ijtihad* must embrace the rich tapestry of diversity and plurality inherent in Indonesian society. Contemporary jurisprudence must increase the benefits of global existence by placing priority on human values and the humanities (Zumrotun, 2013).

From a historical perspective, the role of *ijtihad* in the evolution of *fiqh* formation has basically developed since the time of the Prophet Muhammad (SAW).. Then, after examining the ups and downs and unique features of each, it developed during the period



of the Companions and Tabi'in, to the next generation, and into the present modern era. In the time of the Companions, ijтиhad was very useful as a tool for establishing laws and was even considered necessary to settle various cases in Islamic societies whose laws were not clearly found in the Qur'an and Sunnah. As a result, famous companions such as Abu Bakr, Umar, Uthman, and Ali r.a. were pioneers in performing ijтиhad, and other companions such as Zaid bin Tsabit and Abdullah bin Mas'ud r.a. who followed him, performed ijтиhad and used qiyas, which involved comparing the illat of the law with other illat (Azhari, 2014).

Ijтиhad represents a broad domain for Islamic scholars to obtain legal solutions to the various challenges faced by Muslims. For Yusuf Al-Qaradawi, ijтиhad represents a domain of profound intellectual endeavor, where one must apply their maximum abilities to achieve legal clarity. The current situation requires Islamic scholars to engage in ijтиhad and refrain from remaining stagnant. Yusuf al-Qaradawi articulated the attributes of his contemporary ijтиhad through several key characteristics. First, he emphasized that true ijтиhad requires full dedication of one's abilities. Ijтиhad is understood as making full use of one's ability to understand sharia law through the process of istinbat. Secondly, a mujtahid can only engage in ijтиhad on zanni matters, because there is no room for ijтиhad in matters of qat'i. Third, it is inappropriate to consider the law of zanni (speculative), as the law of qat'i (Maulidi, 2014).

Yusuf Al-Qurdhawi uses a variety of approaches and presents contemporary ijтиhad methodologies to interpret and translate the nashhs, thus contributing to the development of new fiqh that is able to overcome contemporary challenges that arise in the context of globalization. Contemporary ijтиhad includes three methodologies: the first, ijтиhad al-intiqho'i, involves intellectual exercise to select the strongest opinions from a variety of perspectives. Second, ijтиhad al-insya'i requires drawing conclusions about new laws that have not been articulated or written by previous scholars. Third, it includes a synthesis of modern ijтиhad, combining ijтиhad intiqai and inshai. The idea of combining ijтиhad means finding out and choosing the opinions of the scholars of the past who are considered better and stronger, and then adding new aspects of ijтиhad to these established ideas (Rini Angreni Hasibuan, Azharia Khalida, Efendi, 2023).

E. Implications and Relevance of Islamic Law Reconstruction

1. Impact on Islamic legal policy in Indonesia

The Islamic legal framework, which is adhered to by the majority of Indonesia's population, is firmly embedded in societal norms and is an integral part of Islamic teachings and beliefs. This framework coexists with national law and plays an important role in its evolution and progress. The historical trajectory of the legal landscape in Indonesia reveals that the integration of Islamic law within the national legal framework is a profound existential effort. The theory of existence explains how Indonesian national law has evolved over time, suggesting that Islamic law is part of this legal system, including written and unwritten rules. He operates in a wide range of domains of existence and legal practice (Abdurrahman, 2022).

From an existential perspective, Islamic law is a subsystem of national law. As a result, Islamic law has the potential to assist in the development and modernization of national law, although its problems and challenges have never been resolved. In terms of sociology, the position of Islamic law in Indonesia requires recognition of the diversity of the population, which is somewhat related to the issue of legal consciousness. Both religious and legal norms always call for obedience at the same time. Over time, Indonesia's Islamic legal system began to be discussed under the

National Legislation Program (Prolegnas), which was once limited to material law (fiqh), which has evolved into formal law (Mardani, 2009).

2. Fiqh Nusantara prospects in the global Islamic legal debate

In the context of global civilization, the existence of Islam and Nusantara Fiqh has taken on its own "hypnotic" quality. Islam Nusantara will be the most prosperous region in the Islamic world, according to Prof. Abdul Karim. This optimism is due to the fact that violence and conflict are suppressing the lives of most Muslims in the Middle East, the Indian Subcontinent, North Africa, and Central Africa. Yusuf Kalla, the Vice President, refused to send Indonesian students to the Middle East in 2015, which is not surprising, since he would only learn about the war (Harisuddin, 2018).

Indonesia, a country where Islam and Nusantara Fiqh coexist, holds the distinction of being the largest Muslim country in the world. Indonesia's substantial population has a significant importance in the global political arena. It is not surprising that over the past ten years, Indonesia has played an important role on the global political stage. Over the past ten years, Indonesia has established itself as the most prominent Islamic democracy globally. Over the past fifteen years, Indonesia has undergone a leadership transition marked by commendable democratic practices. On the other hand, in many Middle Eastern countries where Islam is centralized, the political landscape is not as democratic as Indonesia's (Masbukin, 2018).

Nusantara Fiqh represents a jurisprudence framework that has been intricately woven into the order of Muslim life throughout the archipelago. This jurisprudence will survive in adapting to the ever-evolving demands of contemporary society, in line with the principles of jurisprudence: the change of judgment in response to changes in situation, time, and place, which is the idea of Ibn Qayyim al-Jauziyah in his book, *I'lām al-Muwaqi'i* in 'an Rabb al-Alamin. If reality evolves, the law will adapt accordingly to that transformation. It is not surprising that Islam and the concept of Nusantara Fiqh can be integrated outside the archipelago, serving as the embodiment of rahmatan lil alamin. Many believe that the center of Islamic civilization will transition from the Middle East to Indonesia. The world of Islamic civilization will represent the Islamic tradition and fiqh of the archipelago as it develops in the future (Harisuddin, 2018).

3. Comparative Analysis and Intellectual Contribution to the Reconstruction of Nusantara Fiqh

One of the key findings of this research is the significant methodological shift in the contemporary Islamic law discourse in Indonesia. While in classical fiqh the main focus was on legal deduction through *nash* and *qiyyas* within the framework of *ushul al-fiqh*, in Nusantara fiqh there is an expanded approach that integrates aspects of locality, cultural wisdom, and *maqāṣid al-sharī'ah* in a more explicit manner. This shift indicates not only a technical evolution of methodology but also an epistemological transformation that emphasizes contextuality and *maslahat* as the basis for legal considerations. Nusantara scholars such as KH. Hasyim Asy'ari, KH. Sahal Mahfudz, and contemporary thinkers like Quraish Shihab have consciously positioned fiqh as both a cultural outcome and a product of Islamic rationality in response to societal dynamics.

Compared to Masbukin's study (Reconstruction of Islamic Jurisprudence), this research goes further not only by emphasizing the importance of localized legal renewal but also by unraveling the transitional dimensions from classical fiqh to Nusantara fiqh through textual and historical analysis of the works of scholars and contemporary religious fatwas (Masbukin, 2018). While Ansori in Reconstruction of Contemporary Fiqh Methodology focuses on the development of *ijtihad* methodology, this research demonstrates how that methodology is practically implemented by Nusantara scholars



in responding to current issues such as democracy, gender, and pluralism. In that context, this approach is more applicable and grounded because it links theory with social practice (Ansori, 2018).

Maemun's study on Hasbi ash-Shiddieqy provides significant contributions in presenting reformist figures in Islamic jurisprudence with a cultural approach, yet it is limited in the systematic development of the Nusantara fiqh system. This research expands the analytical space by tracing the transformation of the structure of ijihad, including legal argumentation patterns, the use of *maqāṣid*, and reinterpretation of *nash* in the context of modern Indonesian society (Maimun, 2016). Meanwhile, Abdurrohman Kasdi's work suggests the development of Indonesian ijihad, but it remains descriptive in nature. In this study, this dynamics is elaborated by comparing classical ijihad styles (*taqlid*, *qiyyas*, *istihsan*), with contextual and participatory ijihad approaches that have evolved in Indonesia (Kasdi, 2019).

To clarify this difference, here is a comparative table between classical fiqh and Nusantara fiqh:

Aspect	Classical Fiqh	Nusantara Fiqh
Main source	Al-Qur'an, Hadith, <i>Ijma'</i> , <i>Qiyyas</i>	Al-Qur'an, Hadith, <i>Maqasid al-Shari'ah</i> , 'Urf, Social Reality
Methodological approach	Deductive-textual (normative).	Contextual-participatory
Legal orientation	Formulative, universal, and abstract	Solutive, local, and applicative
The role of scholars (Ulama).	Mufti as the sole authority	Scholars as social facilitators and contributors to law
Main purpose	Obedience to the <i>Nash</i> and <i>Ijma'</i>	Social welfare and community sustainability

The analysis above shows that the Nusantara fiqh is not merely a local adaptation of classical fiqh but rather a paradigmatic reconstruction that involves the adjustment of values, approaches, and structures of ijihad. The scientific contribution of this research lies in reinforcing the position of fiqh as an entity that is open to change, as well as presenting a model of fiqh that is more contextual, inclusive, and functional within the framework of a modern nation-state. By integrating dimensions of locality, *maqāṣid*, and social participation, Nusantara fiqh can serve as a reference model in formulating Islamic law that is capable of addressing contemporary issues productively and solutions-oriented.

Conclusion

This research concludes that the reconstruction of Islamic law in Indonesia is an epistemological and historical necessity driven by the need to adapt fiqh norms to the ever-evolving contemporary realities. Through an examination of classical fiqh and the contributions of scholars from Nusantara, it is found that there are continuous efforts to transform Islamic law from a textual and normative system into a legal framework that is adaptive and contextual. This transformation is not merely a modification of the law, but an effort to maintain the substance of *maqāṣid al-shari'ah* with a new approach that is more relevant to the local context.



The main findings of this study indicate that classical jurisprudence, although rich in methodological frameworks, does not always directly address the complexities of modern, pluralistic, and dynamic Indonesian society. Therefore, the scholars of the archipelago play an important role in reinterpreting and contextualizing the teachings of jurisprudence by considering local culture, social realities, and national legal structures. This strategy is reflected in the approach of social *ijtihad*, the integration of local customs into Islamic law, and the flexibility in the application of fatwas that are oriented towards the welfare of the community.

The main scientific contribution of this study is the formulation of a conceptual framework of Nusantara jurisprudence as a form of reconstruction of Islamic law that is responsive, inclusive, and contextual. Nusantara jurisprudence is not intended to replace classical jurisprudence, but rather as a model of creative adaptation that remains rooted in the universal principles of Islam, while being translated into the context of local needs. Thus, Nusantara jurisprudence emphasizes the importance of a legal approach that is not only legalistic, but also transformative and dialogical towards the realities faced by Indonesian Muslims today.

Furthermore, this research emphasizes that the Nusantara fiqh model has the potential to serve as a practical foundation for the development of Islamic law in the future, especially in contemporary issues such as the relationship between religion and state, legal pluralism, gender, environment, and technology. This model can also serve as a reference for formulating religious policies oriented towards social justice and sustainability. The strength of Nusantara fiqh lies in its ability to bridge the gap between text and context, between tradition and modernity, as well as between Islamic values and the needs of society.

In conclusion, the Nusantara fiqh model produced from this reconstruction process not only offers normative solutions to the challenges of the times but also provides methodological contributions to the development of contemporary Islamic legal studies. By strengthening an approach based on *maqāṣid*, local wisdom, and the participation of scholars in the scientific discourse, Nusantara fiqh can serve as a practical and strategic reference in formulating future Islamic law in Indonesia that is more inclusive, relevant, and contributive to national life and statehood.

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