

THE IMPORTANCE OF THE *IJTIHAD JAMA'I* METHOD IN CONTEMPORARY FIQH FORMULATIONS

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DOI: 10.30631/alrisalah.v23i1.1322

Submitted: January 07, 2023; Revised: May 18, 2023; Accepted: May 21, 2023

Abstract: The rapid advancement of science, information technology, computers, and the internet has brought about significant changes that have greatly benefited human life. However, along with these advancements, new legal issues have emerged, particularly in the field of muamalah, specifically electronic commerce involving computer and internet technologies. This research explored the importance of collective (*jama'i*) *ijtihad* methods in the modern era. A normative legal approach was applied to ascertain the new legal arguments regarding the formulation of contemporary fiqh through the *ijtihad jama'i* method. This method plays a crucial role in shaping Islamic law to effectively address these emerging problems by involving experts in Islamic law, economics, information and communication technology, and other relevant fields. The results showed that *ijtihad jama'i* are more robust, closer to the truth, and help avoid conflicts than individual *ijtihad*.

Keywords: *Ijtihad Jama'i*, Fiqh, Contemporary

Abstrak: Kemajuan pesat ilmu pengetahuan, teknologi informasi, komputer, dan internet telah membawa perubahan signifikan yang sangat bermanfaat bagi kehidupan manusia. Namun seiring dengan kemajuan tersebut, muncul permasalahan hukum baru, khususnya di bidang muamalah, khususnya perdagangan elektronik yang melibatkan teknologi komputer dan internet. Penelitian ini mengeksplorasi pentingnya metode *ijtihad* kolektif (*jama'i*) di era modern. Pendekatan hukum normatif diterapkan untuk memastikan argumentasi hukum baru mengenai perumusan fikih kontemporer melalui metode *ijtihad jama'i*. Metode ini memainkan peran penting dalam membentuk hukum Islam untuk secara efektif mengatasi masalah yang muncul ini dengan melibatkan para ahli hukum Islam, ekonomi, teknologi informasi dan komunikasi, dan bidang terkait lainnya. Hasil penelitian menunjukkan bahwa *ijtihad jama'i* lebih kokoh, mendekati kebenaran, dan membantu menghindari konflik dibandingkan *ijtihad* individual.

Katakunci: *Ijtihad Jama'i*, Fiqh, Kontemporer

Introduction

The term globalization originated in the 1990s, as documented by various sources.¹ This century has been marked by notable transformations in the economic field,² leading to a multitude of opportunities and challenges,³ specifically in terms of social interactions within societies, which have brought about numerous prospects and agitations.⁴

Legal issues have arisen and progressed rapidly from various angles, particularly in the domain of muamalah, encompassing areas such as insurance, online trading, etc. With the conclusion of the revelation of the Qur'an and the passing of Prophet Muhammad, who served as the final Messenger, the Sunnah remains a significant source of guidance. Consequently, the significance of *ijtihad* as a method for formulating contemporary fiqh becomes paramount.⁵ This approach aligns with the dynamic and adaptable nature of fiqh, making it applicable to all circumstances, including time, location, and individuals, until the end of time.⁶

Intellectual jihad is an integral component in the formulation and continuous renewal of

contemporary fiqh.⁷ Experts in the field consistently endeavour to offer solutions and address legal issues in line with the progression of time and its associated developments.⁸

Ulemas advocate for the importance of taking collective steps to address the legal issues present in modern society, such as the current situation, through the method of *ijtihad* within a collective institution.⁹ This approach helps prevent divisions and disputes that may arise from individual fatwas. By employing *ijtihad jama'i*, a unified opinion can be reached, facilitating the achievement of Sharia objectives.

Relying solely on personal *ijtihad* is deemed insufficient in terms of its scope and effectiveness in generating robust legal arguments to address the intricate legal issues of modern society.

Ijtihad jama'i offers a viable and robust approach for formulating contemporary fiqh, effectively addressing and adapting to the changes and developments of the time. Through collective efforts and mutual consultation, this method allows for a closer approximation to the truth, particularly in dealing with legal issues pertaining to modern transactions, while still drawing guidance from the Qur'an and Sunnah as primary sources.¹⁰

¹ Johan Meuleman, "Islam in the Era of Globalization: Muslim Attitudes Towards Modernity and Identity," *Journal of Islamic Studies*, Vol. 15 No. 2 (2004): 280

² Jan Pronk, "Globalization: A Developmental Approach," in Jan Nederveen Pieterse, *Global Futures, Shaping Globalization*, London: Zed Books, 2001, p. 43

³ Walter Leimgruber, *Between Global and Local*, Aldershot (England): Ashgate Publishing Limited, 2004, p. 18-19.

⁴ KS Nathan and Mohammad Hashim Kamali, *Islam in Southeast Asia : Political, Social and Strategic Challenges for the 21st Century*, Singapore : Institute of Southeast Asia Studies, 2005, p. 231-255

⁵ Ridwan al-Sayyid, "Al-Tajdid al-Fiqhi wa al-Dini," in *Journal al Ijtihad*, Vol. 57 and 58 (2003): 13

⁶ For further explanation of the dynamics of Sharia in responding to contemporary muamalah problems, see Mohd. Daud Bakar, "Kedinamisan Shari'ah dalam Memenuhi Tuntutan Muamalah Perbankan Modern," *Jurnal Syariah*, Vol. 6 (1998): 59-72. See also Joni Tamkin bin Borhan, "Pernana dan Cabaran Ekonomi Islam dalam Era Globalisasi: Suatu Analisis," *Jurnal Afkar*, No. 2, (2001): 141-164

⁷ Rokhmadi, "Rekonstruksi Ijtihad dalam Ilmu Ushul Fiqh," *Jurnal al Ahkam*, Vol. 22, (2012): 162

⁸ Herdiansyah, "Ijtihad Kontemporer Perspektif Yusuf al Qardhawi (Studi Kitab al Ijtihad fi asy-Syariah al Islamiyyah)," *Jurnal Indragiri*, Vol. 2 No. 2 (2022): 98. See also Ihsan Yilmaz, "Pakistan Federal Shariat Court's Collective Ijtihad on Gender Equality, Women's Rights and the Right to Family Life," *Journal Islam and Christian-Muslim Relations*, (2014): 181

⁹ Ahmad Junaidi, "Tawaran Ijtihad Mohammad Iqbal: Telaah Konsep Ijtihad Kolektif untuk Merespon Dinamika Kehidupan Umat Islam," *Jurnal al Ahwal*, Vol. 6 (2014): 20

¹⁰ Ahmad Taufiqurrohman, "Ijma' Kolektif di Masa Modern," *Jurnal Al Fatih: Studi Islam*, Vol. 09 No. 1 (2021): 43. Felicitas Opwis, "Maslaha in Contemporary Islamic Legal Theory," *Journal Islamic Law and Society*, Vol. 12 (2005): 187.

Method

This is normative legal research with an approach based on the principles of Islamic law, namely *ijtihad jama'i*. The research was theoretical, conceptual, philosophical, and descriptive-analytical in nature, using primary legal sources such as books on *ushul al-fiqh*, as well as classical and contemporary *fiqh*. Secondary legal sources were obtained from journals, theses, and dissertations. Tertiary legal sources included encyclopedias, dictionaries, and cumulative indexes.

Results and Discussion

Concept of *Ijtihad Jama'i*

The concept of *ijtihad jama'i* is fundamentally similar to the general definition of *ijtihad*, with the key distinction lying in the collective aspect.¹¹ In *ijtihad jama'i*, consensus among Islamic jurists is sought and attained on a specific matter. The term "collective" is known in Arabic as "*jama'i*."¹²

Ijtihad jama'i is characterized by the joint endeavours of the majority of Islamic jurists, who engage in consultation and mutual deliberation to formulate laws and reach legal decisions collectively.¹³

Collective *ijtihad* entails the consensus among jurists in determining the legal rulings concerning a specific legal issue. It draws

upon classical *fiqh*, delving into the evidence presented by classical scholars, selecting the stronger evidence and opinions, and considering the contemporary benefits and context.¹⁴

There is a difference between *ijtihad jama'i* and *ijma'*, as *ijma'* necessitates the unanimous agreement of all ulemas at the same time, whereas *ijtihad jama'i* permits the agreement of the majority of ulemas, which fulfils the criteria for reaching a collective decision.¹⁵

Ijtihad jama'i is a methodology contemporary jurists employ to formulate contemporary *fiqh*, particularly when addressing current thematic issues. It involves a comprehensive review of past *fiqh* and meticulous analysis that prioritizes relevant, stronger opinions and evidence.¹⁶ *Ijtihad jama'i* is essential for making precise and beneficial legal decisions, particularly in areas such as *muamalah* (economic transactions).¹⁷

This research defines *ijtihad jama'i* as a method employed by jurists, accompanied by the participation of other experts such as economists, healthcare professionals, and technology experts, in formulating contemporary *fiqh* that is practiced by the Muslim community today. It involves a comprehensive exploration of evidence and opinions found in classical books or literature, with a focus on selecting the strongest and most relevant evidence and opinions in light of the present circumstances.

¹¹ Terminologically, *ijtihad* is maximizing all efforts. Ibn Manzhur, *Lisan al-'Arab*, Vol. 2 (Kairo: Dar al-Hadits, 2013), p. 240-241. Strive with all one's might and mind in a difficult matter. Al-Syaukani, *Irsyad al-Fuhul ila Tahqiq min Ilm al-Ushul* (Beirut: Dar Ibnu Hazam), 2018), p. 617. Al-Ghazali, *al-Mustasyfa min Ilm al-Ushul*, vol. 2 (Mesir: Dar al-Hadyi al-Nabawi, 2013), p. 1044.

¹² Afiful Huda, "Ijtihad Sebagai Model Pengembangan Hukum Islam," *Jurnal Hukum dan Ahwal al-Syakhsiyyah*, Vol. 1 No. 2 (2022): 19. Ali Hasballah, *Ushul al-Tasyri' al-Islami* (Mesir: Dar al-Ma'arif, 2007), p. 116.

¹³ Al-Syarafi, *al-Ijtihad al-Jama'i fi al-Tasyri' al-Islami* (Qatar: Wizarah al-Awqaf wa al-Syu'un al-Islamiyyah, 2017), p. 46.

¹⁴ Wahbah az Zuhaili, *Ushul Fiqh al-Islami*, Jilid. 1, Damaskus-Suriah : Daar al Fikr, 2009, p. 77.

¹⁵ Al-Syarafi, *al-Ijtihad al-Jama'i*, h. 46-47. Yusuf al-Qardhawi, *al-Ijtihad fi al-Syari'ah al-Islamiyyah* (Beirut: Dar al-Qalam, 2008), p. 151-152.

¹⁶ Faishal Agil Al Munawar, "Ijtihad Jama'i (Ijtihad Kolektif) Perspektif Ulama Kontemporer," *Istidlal: Jurnal Ekonomi dan Hukum Islam*, Volume 4, Nomor 2 (2020): 136.

¹⁷ Ildus Rafikov, "Methodology of Integrated Knowledge in Islamic Economics and Finance : Collective Ijtihad," *ISRA International Journal of Islamic Finance*, Vol. 12 No. 1 (2020): 124. Hasan, A, "An Introduction to Collective Ijtihad (ijtihad jama'i), Concept and Application," *The American Journal of Islamic Social Sciences*, Vol. 20 (2020): 26-46

The Urgency of Ijtihad Jama'i in Formulating Contemporary Fiqh

In the era of globalization, muamalah transactions undergo rapid changes in terms of models, types, methods, and approaches. Examples include insurance, mutual funds, and various forms of trade. It is essential to approach these changes wisely and with consensus, ensuring that modern society readily understands and accepts innovations. In this regard, the *ijtihad jama'i* method is important as a model for formulating contemporary fiqh, enabling scholars to address these evolving dynamics effectively.¹⁸

Indeed, the ummah (Muslim community) greatly benefits from *ijtihad jama'i* as its authenticity and effectiveness surpass *ijtihad fard* (individual *ijtihad*).¹⁹ *Ijtihad jama'i* is the suitable method for addressing legal issues in today's society, particularly considering the challenge of finding a *mujtahid muthlaq* (fully qualified jurist) in the present era.²⁰

Ijtihad jama'i can be considered as a level between *ijma'* (consensus) and *qiyas* (analogical reasoning), surpassing the individual results of personal *ijtihad*. Therefore, it holds a crucial position in the deduction of contemporary fiqh.²¹

In the realm of Islamic economic law, *ijtihad jama'i* is particularly crucial in two specific areas. Firstly, in economics, business, or finance, certain types of transactions and their characteristics were not addressed in classical fiqh literature, specifically before the 1990s, such as electronic commerce, electronic money, and others. Secondly, various practices and activities arise in applied sciences or medicine that necessitate legal determination.²² These two fields contribute to the progress and advancement of the world, yielding numerous economic and healthcare products that ideally align with the principles of *muamalah* in general.

The *ijtihad jama'i* method is absolute and utilizes proximity to truth and the collective achievement in formulating contemporary fiqh.²³

The urgency of *ijtihad jama'i* can be understood through various reasons, as highlighted in the following points:

1. The Achievement of Ijtihad Jama'i is Stronger than Individual Ijtihad.

The concept of having multiple ulemas enables a comprehensive perspective that surpasses the limitations of an individual's viewpoint. The collaborative work of experts in formulating a legal ruling strengthens its outcome as they complement each other and work collectively.²⁴

The principle of deliberation in *ijtihad* results in a shared perspective, prevents disputes and increases the trust of ummah in the determination of *ijtihad jama'i*.²⁵

¹⁸ Nur Kholis, "Urgensi Ijtihad Akademik dalam Menjawab Problematika Muamalah Kontemporer," *Jurnal al Mawarid*, Edisi XIV (2005): 185. See also Ildus Rafikov, "Methodology of Integrated Knowledge in Islamic Economics and Finance: Collective Ijtihad," *ISRA International Journal of Islamic Finance*, Vol. 12 No. 1 (2020): 115. Ahmed Gad Makhoul, "Evolution of Islamic Law in the 20th Century: The Conception of Collective Ijtihad in the Debate Between Muslim Scholars," *Oxford Journal of Law and Religion*, (2020): 1

¹⁹ Solehuddin Harahap, "Metode Istibat Fiqh Kontemporer Ijtihad Jama'i (Ijtihad Kolektif) dan Kehujjahannya," *Jurnal Hukum Islam*, Vol. 3 (2020): 134

²⁰ Afiful Huda, "Ijtihad Sebagai Model Pengembangan Hukum Islam," *Jurnal Hukum dan Ahwal al Syakhsyiyah*, Vol. 1 No. 2 (2022): 21

²¹ Faishal Agil Al Munawar, "Ijtihad Jama'i (Ijtihad Kolektif)...", 128

²² Yusuf al Qardhawi, *Ijtihad Kontemporer Kode Etik dan Berbagai Penyimpangan*, Surabaya: Risalah Gusti, 2000, p. 126

²³ Yosi Aryanti, Reformulasi Fiqh Muamalah terhadap Pengembangan Produk Perbankan Syariah, *Jurnal Ilmiah Syariah*, Vol. 16 (2017): 155.

²⁴ Yusuf al-Qardhawi, *al-Ijtihad fi al-Syari'ah al-Islamiyyah* (Beirut: Dar al-Qalam, 2013), p. 182.

²⁵ Al-Syarafi, *Al-Ijtihad al-Jama'i*, p. 79. Al-Anshari, *Al-Syura wa Itsaruha fi al-Dimuqradiyyah* (Beirut: Mansyurat al-Kutub al-'Ashriyyah, 2014), p. 5.

In public affairs, the position of *ijtihād jama'i* preserves the nation from fragmentation caused by differences in legal paradigms, specifically in matters of law.²⁶ Several verses in the Qur'an, including Surah Ash-Shura, verse 38, emphasize the significance of deliberation in resolving the issues of the ummah, underscoring its existence and urgency. Additionally, a hadith narrated by al-Thabrani highlights the importance for the ummah of Islam to avoid misguided actions and instead follow well-founded opinions, the consensus of the masses, personal integrity, and what is right.²⁷

Furthermore, the purpose of contemporary *ijtihād* is to understand the changing and complex characteristics of the current era. There is a significant emphasis on adapting to institutionalized approaches, collective gatherings, and contemporary sources of knowledge.²⁸

2. The Existence of Specialized Expertise

In the current era, Islamic jurists specialize in specific fields of knowledge, such as inheritance law, fiqh of worship, fiqh of transactions, etc. Unlike earlier scholars who possessed comprehensive mastery across various disciplines, contemporary jurists tend to have a narrower scope of specialization. For example, Al-Ghazali mastered fiqh, ushul al-fiqh, hadith, transactions, theology, philosophy, and Sufism.

At the same time, some experts specialize in general knowledge, such as health, information technology, economics, etc. Therefore, Islamic jurists and other experts

need to engage in deliberation to establish legal rulings together.²⁹

The process of achieving consensus among various fields of expertise and disciplines can be facilitated through *ijtihād jama'i*, deliberation, and complementarity.

3. Ijtihad Jama'i Represents Ijma'

The characteristic of the Muslim ummah is their aversion to gathering and agreeing upon deviation.³⁰ The concept of *ijma'* holds a significant place in Islamic legal evidence, as it represents the agreement of the majority of scholars on certain matters concerning the Muslim ummah after the passing of Prophet Muhammad.³¹

Ijtihad jama'i serves as the intermediary and platform for the formation of *ijma'*, as *ijma'* is the cause of *ijtihād jama'i*. Some contemporary Islamic jurists consider *ijtihād jama'i* as synonymous with *ijma'*, perceiving that whenever *ijma'* occurs, it is referred to as *ijtihād jama'i*. However, it is important to recognize that the intermediary process and the ultimate objective are distinct. *Ijma'* does not occur in the absence of *ijtihād jama'i* initiated by the jurists. The outcome of *ijtihād jama'i* does not necessarily lead to *ijma'*, as the collective decision may only reflect the majority opinion.³²

According to the aforementioned statements, *ijtihād jama'i* acts as a preliminary step leading to the emergence of *ijma'*. Every *ijma'* should be preceded by *ijtihād jama'i*. However, it should be noted that not all occurrences of *ijtihād jama'i* will necessarily culminate in *ijma'*.

²⁶ Hasan, "An Introduction to Collective Ijtihad (Ijtihad jama'i), Concept and Application", *The American Journal of Islamic Social Sciences*, Vol. 20, 2020, p. 30-31

²⁷ Al-Thabrani, *Mujma'ul Aushath*. Juz.5 (Beirut: Dar al-Kutub al-Ilmiyah, 2012), p. 218.

²⁸ Al-Khadimi, *al-Ijtihad al-Maqashid Hujjatuhu Dhawabithuhu Majalatuhu* (Riyadh: Maktabah al-Rasyd, 2015), p. 235.

²⁹ Al-Amidi, *al-Ihkam*, juz.2, p. 164.

³⁰ Ahmad Taufiqurrohman, *Ijma' Kolektif di Masa Modern*, *Jurnal Al Fatih : Studi Islam*, Vol. 09 No. 1, 2021, p. 48

³¹ Al-Syaukani, *Irsyad al-Fuhul*, juz.1, p. 286.

³² Siti Hanna, *Urgensi Ijtihad Kolektif dalam Permaslaahan Kontemporer*, *Jurnal Media Syaria'h*, Vol. XIV, 2012, p. 181

4. *Ijtihad Jama'i Preserves National Unity and Solidarity*

Abdul Karim al-Khatib disagrees with the method of individual *ijtihad*, even when an individual possesses extensive knowledge and expertise. This is because one of the causes of division among the Muslim ummah is due to individual *ijtihad*, leading to various schools of thought and groups.³³

Ijtihad jama'i is part of the approach to unite the Muslim ummah and serves as a solution to preserve their unity. Conversely, when Islamic jurists do not carry out *ijtihad jama'i* to address the issues of the ummah, it will result in division and discord.

5. *Ijtihad Jama'i Always Opens the Door for Ijtihad*

The ever-changing and evolving nature of life across different domains presents a range of legal issues that require the attention of Islamic jurists. In light of this, it is important to maintain an open door for *ijtihad*, the independent reasoning and interpretation of Islamic principles. Considering the complexity of contemporary challenges, it is more appropriate to adopt the approach of collective *ijtihad*, involving a majority of ulemas and experts specialized in their respective fields of knowledge. This ensures that Islamic law is suitable for all circumstances, including time, place, and the people themselves.

Ijtihad is the third source of Islamic law after the Qur'an and the Sunnah. It plays a vital role in the development and applicability of Islamic law in various situations, ensuring its relevance throughout time. This is evidenced from the time of Prophet Muhammad, the era of the companions, the *tabi'in*, the early ulemas, and the later generations until today.³⁴

Ijtihad jama'i serves to formulate contemporary fiqh by involving ulemas and experts from various fields of knowledge. Through this collaborative process, they come together to consult, exchange insights, and complement each other's expertise, leading to the establishment of legal rulings that address the complex legal issues of modern society.

The National Sharia Board of the Indonesian Ulema Council (DSN-MUI) is one of the institutions of *ijtihad jama'i* in Indonesia. It played a significant role in formulating fatwas (religious rulings) related to Islamic economic law, particularly in Islamic banking, Islamic insurance, Islamic pawn, Islamic leasing, online buying and selling, and other relevant aspects.

Conclusion

In conclusion, *ijtihad* is a pivotal keyword and solution for effectively addressing the issues and new challenges encountered by the ummah in society, which have not been addressed in classical literature. It is actualized within the current context as a dynamic driver of Islamic law. *Ijtihad jama'i*, with its extensive scope, has a strong reach and can address increasingly complex issues for the formulation of contemporary fiqh, such as in Islamic economics and finance, applied sciences or medicine, and other relevant fields.

Ijtihad jama'i is driven by the aspiration to uphold religious integrity and serves as a necessary approach to be embraced by contemporary jurists. It stands as a method and reference for fostering interaction, integration, and the progressive evolution of thoughts in addressing all the challenges the Muslim ummah faces today.

³³ Al-Khatib, *al-Ijtihad wa maa Tartib 'Alaih* (Beirut: Muassasah Dar al-Ashalah, 2014), p. 45.

³⁴ Muhammad al-Khudri, *Tarikh al-Tasyri' al-Islami* (Kairo: al-Maktabah al-Tijariyyah al-Kubra, 2015), p. 319. Al-Syarafi, *al-Ijtihad al-Jama'i*, p. 83-85.

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