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The Impact of The Companions' Ijtihad on The Evolution of Islamic Law in Subsequent Eras

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Abstract. The research aims to encompass historical, legal, and methodological aspects in the development of Islamic law. The primary objectives of this research are. To understand the methods of ijtihad used by the companions of Prophet Muhammad (peace be upon him) and to assess the impact of their ijtihad on the development of Islamic law, both in the short term and the long term. The methodology used in this study is a comprehensive and systematic literature review regarding the impact of the Companions' ijtihad on the evolution of Islamic law. The process involves collecting, coding, and extracting data from relevant literature, (a) Thematic Coding: Code the main themes of each study, such as the methods of ijtihad used, their impact on Islamic law, and their adaptation by subsequent scholars. (b) Data Extraction: Collect specific data such as types of ijtihad, historical context, main findings, and legal implications. The ijtihad of the Companions has made a profound and lasting contribution to the evolution of Islamic law. Their methods and decisions not only addressed immediate legal needs but also established enduring principles that have guided Islamic jurisprudence through subsequent eras. This study highlights the significance of their contributions and the continuous relevance of their ijtihad in shaping the dynamic and evolving nature of Islamic legal thought. The implications of this study emphasize the enduring relevance of their legal methodologies and principles, providing valuable insights and guidance for contemporary Islamic jurisprudence and its application in the modern world

Keywords: The Impact, The Companions, Ijtihad, The Evolution, Islamic Law

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INTRODUCTION

During the early era of Islam, the term "*fiqh*" encompassed a comprehensive understanding of religious laws, covering matters related to beliefs *('aqa'id*), practical laws (*amaliah*), and ethics (*akhlaq*).[1] *Fiqh* was synonymous with *sharia* or *din*,[2] encapsulating obligations, commands, prohibitions, and choices. This understanding of *fiqh* persisted until the mid-2nd century of the Hijri calendar. However, after a

[1] Juhaya S. Praja, *The Philosophy of Islamic Law*, (Bandung: LPPM UNISBA, 1995), p. 12.

[2] Sya'ban Muhammad Isma'il, *Al Tasyri' al Islam Mashadiruhu wa Atwaruhu*, (Cairo: An-Nahdhah Al Misriyyah, 1985), p. 11.

formative phase of development, in the second century of the Hijri calendar, the term "*fiqh*" underwent a shift and restriction, narrowing its focus solely to legal issues, following the distinction between *sharia* and *fiqh*.[3]

Therefore, *fiqh* continued to evolve gradually since the time of the Prophet, alongside the development of society, aiming to create new benefits and prevent emerging dangers and damages.[4] The companions (*sahaba*), who succeeded the Prophet's mission, extended their preaching far beyond the era of the Prophet, such as in Persia, Iraq, Syam (Greater Syria), and Egypt.[5] At that time, *fiqh* as Islamic jurisprudence had to confront new and diverse societies with complex issues encompassing legal, moral, cultural, and economic aspects.[6] All these challenges required dynamic thinking and deep understanding within *fiqh* to address them.

METHOD

The methodology used in this study is a comprehensive and systematic literature review regarding the impact of the Companions' ijtihad on the evolution of Islamic law. The process involves collecting, coding, and extracting data from relevant literature:

a. Thematic Coding: Code the main themes of each study, such as the methods of ijtihad used, their impact on Islamic law, and their adaptation by subsequent scholars.

b. Data Extraction: Collect specific data such as types of ijtihad, historical context, main findings, and legal implications.

c. Analysis of Collected Data using qualitative and/or quantitative methods: (1) Thematic Analysis: Identify common themes and patterns from the thematic coding. (2) Historical Comparison: Compare how the Companions' ijtihad was applied and adapted in different eras. (3) Meta-Analysis (if quantitative): If quantitative data is available, conduct a meta-analysis to identify trends or cumulative effects.

RESULTS AND DISCUSSION

The era of the companions (*sahaba*) commenced upon the passing of the Prophet Muhammad on June 8, 632 CE / 11 H and concluded with Mu'awiya ibn Abu Sufyan assuming the position of caliph in the year 41 H (660 CE). When confronting these issues, the companions consistently turned to the Quran and the teachings of the Prophet found in the *Sunnah*. If they discovered clear directives (*nash*) from either the Quran or the *Sunnah* to resolve these matters, both sources became the primary references without seeking guidance elsewhere. However, frequently, the emerging issues lacked explicit textual references. In this context, they were motivated to explore the content of the Quran and the *Sunnah* to uncover ethical and moral values, fundamental principles, and their essence. Discovering these values proved immensely beneficial in addressing emerging issues. Therefore, the new developments accompanying the expansion of Islamic territories significantly enriched the heritage of Islamic jurisprudence (*fiqh*) while also challenging the companions to work harder in understanding the directives

[3] *Sharia* is a comprehensive scope that encompasses divine and human values, including beliefs, worship, transactions (*fiqh*), and ethics (*akhlaq*) or *tasawuf*. See Rahmat Djatmiko, *The Sociology of Islamic Law in Indonesia in the Controversy of Islamic Thought in Indonesia*, (Bandung: Rosdakarya, 1990), p. 240. Meanwhile, *fiqh* is instrumental and its scope is limited to the laws that regulate human actions, usually referred to as legal actions. See Muhammad Daud Ali, *Islamic Law*, (Jakarta: PT Raja Grafindo Persada, 2000), p. 45.

[4] Wahbah Zuhaili, *Al Fiqh Al Islami wa Adillatuhu I*, (Beirut: Dar Al Fikr, 1989), p. 18.

[5] Harun Nasution, *Islam Examined from Various Aspects*, Volume II, (Jakarta: UI Pers, 1986), pp. 60 – 61.

[6] Mun'im, A. Sirri, *The History of Islamic Jurisprudence (Fiqh)*, (Surabaya: Risalah Gusti, 1995), p. 33.

(*nash*) contained in the Quran and the *Sunnah*.[7]

They often consulted with each other to resolve emerging societal issues. Once consensus was reached, rulings were made regarding these matters, later known as ijma' (consensus). Despite the potential for differences (ikhtilaf) through ijtihad, as it was commonly conducted collectively due to the companions' limited dispersion, their collective ijtihad resulted in forming an ijma'.[8] This pattern of ijtihad was also practiced by the first caliph, Abu Bakar. The second caliph, Umar ibn Khattab, followed a similar approach in his ijtihad.[9] However, during Abu Bakar's era, achieving collective *ijma'* (*ijma' jama'i*) was relatively easier, whereas during Umar's caliphate, attaining such *ijma'* became more challenging as the companions had dispersed into new regions under the rule of the Islamic state.

During the reign of the third caliph, Usman ibn Affan, differences (*ikhtilaf*) became a challenging aspect that was difficult to avoid and started to thrive. This was because Usman ibn Affan was the first caliph who allowed the companions to leave Medina and spread to various regions. At that time, more than 300 companions ventured beyond Medina to various places like Kufa, Basra, Egypt, and Syam (Greater Syria). This dispersion of the companions to different locations had a profound impact on the development of Islamic jurisprudence (*fiqh*). On one hand, this was primarily due to differences in situations, customs, cultures, and variations in the understanding among the companions regarding the Quran and the *Sunnah*. On another hand, differences in opinions emerged concerning the use of *ra'yu* (personal thought) in addressing various arising issues.[10] These circumstances led to the emergence of the companions' *ijtihad* (*ra'yu*),[11] making the sources of jurisprudence during this period the Quran, the *Sunnah*, consensus (*ijma*'), and analogical reasoning (*qiyas* or *ra'yu*).[12]

Differences (*ikhtilaf*) further proliferated amidst political upheavals in the Islamic regions. The political turmoil began after the assassination of Caliph Uthman and continued with the appointment of Ali ibn Abi Talib as the fourth caliph, followed by the shift of the Islamic government's center from Medina to Iraq. Subsequently, the confrontation between Caliph Ali and Mu'awiya exacerbated existing differences, giving rise to new movements and sects like *Shia*, *Kharijites*, *Jahmi* (*Jahmiyyah*), *Mu'tazilism*, and others. These factions caused divisions within the Muslim community. Despite their theological nature, these movements significantly influenced jurisprudential development (*fiqh*). For instance, *Shia* scholars only accepted *hadiths* narrated by their imam.[13] The sources of jurisprudence (*fiqh*) during this period remained consistent with the past: the Quran, the *Sunnah*, *qiyas*/*ra'yu* (analogical reasoning), and *ijma'* (consensus).[14]

[7] Ibid, p. 33.
[8] Ibid, p. 34.
[9] This *ijtihad* is then called *fatwa*, which is an opinion that arises due to events that occur. Umar ibn Khattab is noted as a re-newer figure (*mujaddid*) because Umar dared to have a different opinion than the Prophet, for example, in matters such as prisoners of war and the treatment of the body of Abdullah ibn Ubay ibn Salul while the Prophet was still alive. After the Prophet's death, Umar implemented several policies that differed from those of the Prophet and Abu Bakr, such as *ghonimah*, zakat for new converts (*mualaf*), divorce, sale of Ummu al Walad, punishments for thieves, adulterers, and discretionary punishments (*ta'zir*). See Munawir Sadzali, *Humanitarian Ijtihad*, (Jakarta: Paramadina, 1997), p. 41.
[10] Thaha Jabir Fayyadh al-Ulwani, *Adab al-ikhtilaf fi al-Islam* (*Ethics of Disagreement in Islam*), translated by Ija Suntana, (Bandung: Pustaka Hidayah, 2001), p. 38.
[11] Hasbi Ash-Shiddieqy, *The Introduction to Islamic Law*, (Jakarta: Bulan Bintang, 1976), p. 69.
[12] Hudhari Bik, *Tarikh Tasyrik al Islam*, (Surabaya: Al Hidayah, n.d.), p. 116.
[13] Mun'im A Sirri, *The History of Islamic Jurisprudence (Fiqh)*, p. 54.
[14] Moh. Hudari Bik, p. 117.

However, their legal interpretations varied considerably.

The subsequent development of jurisprudence took place during the period of the young companions (*shighar sahaba*) and the successors (*tabi'in*) (41 – 100 H / 661 – 750 CE). This phase commenced when the leadership of the Islamic community was taken over by Mu'awiya ibn Abu Sufyan (41 H) after a prolonged political struggle between Mu'awiya and Ali ibn Abi Talib. This struggle ended with the assassination of Ali ibn Abi Talib and the transfer of governance from Hasan ibn Ali to Mu'awiya.[15]

Ibn al-Qayyim recorded that the jurisprudence (*fiqh*) during the time of the young companions (*shighar sahaba*) and the successors (*tabi'in*) was disseminated by the followers of four prominent companions: Ibn Mas'ud, Zaid ibn Thabit, Abdullah ibn Umar, and Abdullah ibn Abbas. The people of Medina followed the jurisprudence (*fiqh*) of Zaid ibn Thabit and Abdullah ibn Umar, while those from Mecca adopted the teachings of Abdullah ibn Abbas. In Iraq, the *fiqh* of Abdullah ibn Mas'ud was inherited. As for the scholars from the era of the successors (*tabi'in*), some notable figures include Atha ibn Rabah, Amr ibn Dinar, Ubaidah ibn Umair, and Ikrimah in Mecca; Amr ibn Salamah, Hasan al-Basri, Sakhtayani, and Abdullah ibn Auf in Basrah; Alqamah ibn Qais al-Nakha'i, Shurayh ibn Haris, and Ubadah ibn Salmani in Kufa; Yazid ibn Abi Habib and Bakir ibn Abdullah in Egypt; Hisyam ibn Yusuf and Abdurrazaq ibn Hammam in Yemen; and numerous other jurists (*fuqaha*) in Iraq.[16] They became renowned teachers in their respective regions and followed the method of *ijtihad* of the companions prevalent in their areas. From the different methods developed, two schools of thought emerged within the realm of jurisprudential (*fiqh*) thinking: the *Hijaz* school (*Madrasah al Hadits* or the School of *Hadith*) and the Kufa school (*Madrasah al Ra'yu* or the School of Logical Reasoning). These two schools adhered to different principles in the method of *ijtihad*. The *Hijaz* school was known for its strong adherence to *hadiths* as they were well-versed in the sayings of Prophet Muhammad. The cases they dealt with were often straightforward, requiring less logical reasoning in *ijtihad*. Conversely, the Kufa school relied more on logic in addressing legal matters through *ijtihad*. The use of logical reasoning continued to evolve in tackling emerging issues, giving rise to the early schools of thought in the development of *fiqh* (Islamic jurisprudence).

1. EARLY SCHOOLS OF THE DEVELOPMENT OF *FIQH* (ISLAMIC JURISPRUDENCE)

The first schools initially emerged from the independent thoughts (*ra'yu*) of individual scholars unofficially but gradually gained solid validation from the community. Eventually, there was a gradual consensus among scholars in specific regions regarding certain doctrinal collections.

During the era of the successors (*tabi'in*), three major geographical areas stood out in the Islamic world: Iraq, the Hijaz, and Egypt. Iraq itself housed two schools: Basrah and Kufa. Legal thought flourished notably more in Kufa than in Basrah. The Hijaz also boasted two legal centers: Mecca and Medina, with Medina being more prominent than Mecca. The Syrian school is less documented in early texts. Egypt was not counted among the early legal schools as it did not foster its legal ideology.[17] Thus, the schools being studied

[15] Muhammad Khudori Bik, op. cit., pp. 133-137.

[16] Ibn al-Qayyim al-Jawziyya, *I'lam al Muwaqqi'in*, Volume I, (Beirut: Dar al Fikr, n.d.), p. 21.

[17] Ahmad Hasan, *The Early Development of Islamic Jurisprudence* (*The Gateway of Ijtihad Before It Closed*), translated by Agah Garnadi, (Bandung: Pustaka, 1984), p. 19.

here are the Kufa school and the Medina school.

Jurists or *fiqh* experts (*fuqaha*) residing in Iraq (Kufa) tended to use reasoning on a relatively broad scale and viewed Islamic law within the bounds of rationality. They enjoyed delving into the textual sources (*nash*) to discover the '*illah* (legal cause), wisdom, and moral objectives underlying apparent laws. This new inclination received critical responses from jurists in the Hijaz (Medina), who regarded the law as Allah's decree to be followed. They preferred a textual understanding of the sources (*nash*) and considered the rulings of the companions as legal sources after the Quran and the *Sunnah*. The further development of these two tendencies gave rise to two schools of thought in early Islamic jurisprudence (*fiqh*), namely *ahl al-ra'y* in Kufa and *ahl al-hadith* in Medina.[18]

Thus, the method of *ijtihad* during the era of the successors (*tabi'in*) led to two forms:

Firstly, a preference for using *hadith* or the *Sunnah* over personal opinion (*ra'yu*). This method of *ijtihad* flourished among the scholars of Medina, including prominent figures like (1) Sa'id ibn al Musayyab, (2) 'Urwah ibn Az-Zubair, (3) Abu Bakar ibn 'Abd Rahman Al-Harits ibn Hisyam Al-Makhzumi, (4) 'Ubaid Allah ibn 'Abdullah ibn 'Utbah ibn Mas'ud, (5) Kharijah ibn Zaid ibn Tsabit, (6) Al-Qasim ibn Muhammad ibn Abi Bakr, and (7) Sulaiman ibn I-Yasar. These seven jurists (*fuqaha*) form the first *thabaqah* in the Medina school. The second *thabaqah* includes (1) 'Abd Allah ibn 'Abd Allah ibn 'Umar, (2) Salim ibn 'Abd Allah ibn 'Umar, (3) Aban ibn Utsman ibn 'Affan, (4) Abu Salamah ibn 'Abdurrahman ibn 'Auf, (5) 'Ali ibn Al-Husain ibn 'Ali ibn Abi Thalib, and (6) Nafi' Maula ibn 'Umar. Among the scholars of the third *thabaqah* in the Medina school are (1) Abu Bakr Muhammad ibn 'Amr ibn Hazm, (2) Muhammad ibn Abu Bakr, (3) 'Abd Allah ibn Abu Bakr, (4) 'Abdullah ibn Utsman ibn 'Affan, (5) Ja'far ibn Muhammad ibn 'Ali ibn Al-Husain, (6) 'Abdullah ibn Al-Qasim ibn Muhammad ibn Muhammad ibn Abi Bakr Ash-Shiddiq, and (7) Muhammad ibn Muslim ibn Syihab Az-Zuhri. This method is more commonly known as the "Medina school."

Secondly, there is a greater reliance on independent thoughts (*ra'yu*) compared to the use of the *Sunnah*. This method of *ijtihad* developed among the scholars of Kufa, including prominent figures like (1) Ibrahim an-Nakha'i, (2) 'Alqamah ibn Qais An Nakha'i, (3) Al-Aswad ibn Yazid An-Nakha'i, (3) Abu Maisarah 'Amr ibn Syarahil Al-Hamdani, (4) Masruq ibn Al-Ajda' Al-Hamdani, (5) 'Ubaidah As-Salmani, and (6) Shurayh ibn Al-Harits Al-Kindi. They form the first *thabaqah* of the Kufa school. Among the scholars of the second *thabaqah* are (1) Hamad ibn Abi Sulaiman, (2) Manshur ibn Al-Mu'tamir As-Salami, (3) Al-Mughirah ibn Muqsim Adh-Dhabbi, and (4) Sulaiman ibn Mahran Al-A'masy. This method is more commonly known as the "Kufa school."[19]

There are two significant tendencies in both schools. Firstly, the deductive-logical method emerged in the form of *qiyas*. However, as this analogical reasoning seemed rigid, a more flexible thinking method was introduced as a development of *qiyas*, known as *istihsan*. This indicates a return to freedom of opinion in a new form. Secondly, there is a strengthening of the concept of *Sunnah*, which tends to claim the previous generations as a source to solidify tradition. Their commonality lies in the method and the same developmental trajectory, examining local legal and political practices from the standpoint of behavioral norms in the Quran. However, their legal systems differ significantly due to spatial distinctions. The freedom of opinion enjoyed

[18] Mun'im A. Sirri, *The History of Islamic Jurisprudence (Fiqh)*, p. 54.

[19] Amir Syarifuddin, *Ushul Fiqh*, Volume II, (Jakarta: Logos, 2001), p. 245.

by the scholars of Kufa resulted in considerable differences of opinion.[20]

Geographically and psychologically, the Kufa school is more open to legal systems from the outside. This differs from the situation in Medina, which is more homogeneous. Opposition then emerged against the well-established legal methods accepted by the early schools. Characteristics of this opposition include being dogmatic, strict, and rigid. They demand stronger adherence to the norms of the Quran. However, they agree with the early schools in projecting the *Sunnah* backward, making Prophet Muhammad the primary source of Quranic law. Over time, this opposition gradually compelled the early schools to modify their legal systems. Many strict rules advocated by the opposition were eventually widely accepted. The crucial point was the increased acceptance of the Prophet as a source of teachings, expressed in the form of *hadiths*. Alongside the development of legal writing, changes occurred within the early schools. The idea of regional connection was then replaced by association with the authors of the early legal books. The Medina school became the Maliki school, while the Kufa School became the Hanafi school.[21]

Furthermore, the conflict between the established early schools and the dogmatic opposition crystallized into a conflict between advocates of personal opinion flexibility (*ahl al-ra'y*) and proponents of strictly adhering to the Prophet's *hadiths* alone (*ahl al-hadith*). Moreover, differences of opinion not only occurred between one school and another but also within each school. This lack of legal uniformity became a prominent feature of the legal system at that time.[22]

In conclusion, although the scholars of the successors (*tabi'in*) exercised *ijtihad* following the guidance of how the scholars of the companions practiced it in each city, they differed in some aspects from the opinions of the companions, and even from what was applicable during the time of the Prophet. Qadi Shuraih and some *tabi'in* scholars, for example, issued *fatwas* not accepting the testimony of one spouse against the other in court, as well as the testimony of parents against their children and vice versa. This *fatwa* differed from the decree of Caliph Ali ibn Abi Thalib. The reason stated by Qadi Shuraih was the presence of elements of prejudice (*tuhmah*) and affection that would influence them in their testimony. Similarly, *tabi'in* scholars declared the prohibition of women from leaving their homes to go to the mosque because, during that time, many nosy and corrupt individuals constantly harassed women. However, this was permitted during the time of the Prophet as long as they did not use fragrance.[23]

The sources of Islamic jurisprudence (*fiqh*) during this period, in addition to the Quran, *Sunnah*, *ijma'*, and *qiyas*, include several emerging methods for deducing laws, namely *istidlal*, *istihsan*, *istishab*, the *fatwas* of the companions, *urf*, *mashalih al mursalah*, *saddu adz-dzari'ah*, and pre-Islamic law.[24]

2. THE RELATIONSHIP BETWEEN *FIQH* AND THE AUTHORITY OF THE CALIPHATE

Although the seeds of the new Islamic order were planted during the time of Prophet Muhammad, its full maturity required the efforts of subsequent generations of Muslim scholars. The establishment of the Islamic government was largely the achievement of the first caliphate dynasty, the Umayyad Caliphate, which established itself in Damascus in 661 CE after the civil wars that marred the years following the short-lived

[20] Noel J. Coulson, *The History of Islamic Law* (*Islamic Law in Historical Perspective*), p. 42.
[21] Ibid, pp. 57 – 58.
[22] Ibid, p. 59.
[23] Amir Syarifuddin, *Ushul Fiqh*, Volume II, (Jakarta: Logos, 2001), p. 246.
[24] Dedi Supriyadi, *The History of Islamic Law*, (Bandung: Pustaka Setia, 2007), p. 87.

government based in Medina led by the early caliphs. The Umayyad Dynasty took the vision of society outlined by the Prophet seriously, viewing themselves as its executors and even dubbing themselves as the "Caliphs of God."[25]

In the field of law, the significant contribution of the Umayyad Dynasty was the establishment of its new caliphal judicial system. Judges within this system were given the title "*qadi*," designating them as bearers of the caliph's authority in the realm of justice. The *qadis*, in the strictest sense, served as representatives of the caliph or provincial governors and could be appointed or dismissed at the ruler's discretion. Since the governors were subject to the authority of the caliph, the entire system took the form of a pyramid, with the caliph sitting atop the throne as the source of all legal, administrative, and legislative authority. The Umayyad program called for a centralized autocratic approach to implement the Islamic social vision.

The *qadis*, through their case-by-case decisions, laid important foundations for the subsequent development of Islamic law. The justice advocated by the *qadis* held authority as the caliph's law. Over time, especially in the last quarter of the Umayyad rule, the decisions of the *qadis* had a cumulative effect in creating a vast collection of legal precedents, referred to by Islamic legal historians, following Joseph Schacht, as Umayyad legal practice.

Despite the socio-religious aspirations of the Umayyad caliphs, Islamic law, as we know it today, was not destined to emerge directly from Umayyad legal practices or power structures. It was not the judges but the scholars, who had no official ties with the caliphal regime, that played a key role in developing law adapted to Islamic governance. These scholars were certainly not working in a vacuum. The practices of the *qadis* served as their starting point. However, this was only a starting point—something criticized as the first step toward formulation and systematization, covering many aspects and not politically constraining the ideal divine law. The scholars were occupied, at the very least, with the law as it existed in reality to the extent that this could be determined based on legal practices, rather than with the law as it should happen.

As the ranks of scholars continued to grow, the caliphal regime found itself in competition with the community of scholars in shaping Islam and Islamic law. The *qadis* presented themselves as employees of the caliph, while the scholars remained outside the formal employment sphere. The fact that *qadis* were sometimes recruited from the ranks of scholars did not negate the existence of this crucial boundary. If individuals like these exerted influence in processes that shaped Islamic law, they could apply this influence in their capacity as scholars rather than as *qadis*. This is because, in the developing Islamic society, authority swiftly became tied to religious knowledge and individual piety, rather than power. This trend traced its origins back to the earliest days of Islam and gained momentum during conquests, as Arab-Muslim communities formed in each major region. Concurrently, the conversion of non-Arab beliefs to Islam occurred, leading to religious communities that were still inexperienced and struggled to catch up in contemplating the profound implications of their newfound faith.

In such a situation, the caliphate could not have expected to control the development of grassroots spiritual leadership. The scholars formed such leadership and acted very spontaneously and independently from the ruling regime and its aspirations. In reality, they were more than legal experts in the usual sense of the term, as they not only dealt with the law but also with many other aspects. Their horizon was broad, encompassing the entire way of life, including numerous details of daily life that

[25] Bernard Weiss, *The Spirit of Islamic Law*, (London: The University of Georgia Press, 1998), p. 5.

went beyond the usual realm referred to as "law." In subsequent periods, the use of Islam coined a term to express the totality of legal, moral, and ritual norms that righteous scholars attempted to articulate with the term "*sharia*." Since sharia includes norms beyond those considered law in the narrow sense, it was not appropriate to equate sharia with simple law, as was often done. On the other hand, the law was explicitly a part of sharia in the Muslim mind and had to be understood as such.

It is inevitable that law, viewed as a collection of enforceable norms, became a primary concern for righteous scholars after the subsequent Umayyad period and beyond. This is because Islam, which they sought to articulate, was growing within the context of an expansive empire. The scholars were keenly aware of life within a government that needed to be harmonized with their visions of an ideal Islamic societal order. Although these scholars were generally not part of the caliph's administration, they were, in fact, individuals incapable of envisioning Islam without Islamic governance and law. They, alongside the Umayyad regime, believed that the expansion of Islam through the tools of the caliphal empire was sanctioned by God. In reality, it was Islam's mission to replace the fallen empires with a new political order. It is inevitable that they should have devoted the main part of their reflective abilities to subjects of governance and law, and that the legal practices of the Umayyads were certainly a primary focus of their attention.[26]

The righteous scholars who proposed alternative concepts to the Umayyad government regarding behavioral standards reflecting the entire ethics of Islam were later grouped into several schools of thought. These constituted the first legal schools of thought in Islam. Subsequently, the Umayyads were overthrown by two major forces: the scholars as architects of the state and society, and the Abbasid dynasty, which promised to implement this design. With political support, the legal schools of thought rapidly developed. However, their legal approach was religious-idealistic-academic, more inclined to develop a "worship system" in the legal world. This contrasted with the pragmatism in the Umayyad tradition that focused on the legal analysis of judicial practices. As a result, a gap emerged between the legal concepts put forward by the scholars and the practices in the judiciary. This became a defining characteristic of Islamic law during that period.[27]

3. The History Of Justice During The Era Of The Companions (*Sahaba*) And Successors (*Tabi'in*)

The judicial system during the era of the Rightly Guided Caliphs (*Khulafa' al Rasyidin*) was still quite simple. For instance, there were no court clerks or registers to record the decisions that had been made. The appointment of judges was carried out by the caliph, and even Caliph Abu Bakar did not appoint judges; he only assigned Umar to act as the Chief Justice (not a judge). Caliph Umar appointed Abu Darda' as a judge in Medina, Shurayh in Basrah, Abu Musa Al-Asy'ari in Kufa, and Uthman ibn Qais ibn Abil 'Ash in Egypt. It was Umar who initially separated judicial and executive powers and established regulations that judges had to adhere to.[28] During that time, judges not only acted as case adjudicators but also as law enforcers to ensure the decisions were implemented. Most judges at that time carried out their duties at home, hearing and deciding cases, and occasionally making decisions in the mosque. Caliph Usman was the first to construct a courthouse. The caliphs, including Abu Bakr, Umar, Uthman,

[26] Ibid.

[27] Noel J. Coulson, *The History of Islamic Law* (*Islamic Law in Historical Perspective*), translated by Hamid Ahmad, (Jakarta: P3M, 1987), p. 42.

[28] TM Hasbi Ash Shiddieqy, *Judiciary and Islamic Procedural Law*, (Semarang: PT Pustaka Rizki Putra, 1997), p. 16.

and Ali, compensated judges from the wealth of the *Bait al-Mal* (public treasury).[29]

During the era of the successors (*tabi'in*), the caliph appointed the judge of the capital city and delegated to these judges the authority to appoint judges in the regions. However, each judge did not have the right to oversee the decisions of other judges. The judge of the capital city could not annul the decisions of regional judges. The power to annul decisions was held only by the caliph or his representative. The duty of the judge was solely to issue verdicts in cases assigned to them. During that time, there were no specialized judges to handle criminal cases and imprisonment sentences. This authority was still held by the caliph himself. Furthermore, the characteristics of the judiciary during this period were as follows:

- Judges made decisions based on their respective *ijtihad* (independent reasoning) in matters where there were no clear texts (*nash*) or consensus (*ijma'*).

- The judiciary institutions during this time were not influenced by the rulers. Their decisions applied to ordinary citizens and rulers alike. The caliph always monitored the actions of judges and dismissed those who deviated from established guidelines.

- The judgments of the judges were not yet compiled and documented perfectly, and the initiation of judges recording their decisions and organizing jurisprudence occurred during the rule of Mu'awiya in Egypt.[30]

The ijtihad of the Companions has made a profound and lasting contribution to the evolution of Islamic law. Their methods and decisions not only addressed immediate legal needs but also established enduring principles that have guided Islamic jurisprudence through subsequent eras. This study highlights the significance of their contributions and the continuous relevance of their ijtihad in shaping the dynamic and evolving nature of Islamic legal thought.

The ijtihad of the Companions has provided a profound and lasting influence on the evolution of Islamic law. Their innovative methods, such as qiyas (analogy), ijma' (consensus), and istihsan (juridical preference), addressed immediate legal challenges while establishing foundational principles for future jurisprudence. This enduring framework has been continuously adapted by subsequent scholars to meet the evolving needs of the Muslim community. This study highlights the significant contributions of the Companions and the ongoing relevance of their ijtihad in shaping the flexible and adaptive nature of Islamic legal thought, ensuring its applicability and authenticity in contemporary contexts.

CONCLUSION

In conclusion, the ijtihad of the Companions has had a lasting and profound impact on the evolution of Islamic law. Their methods and decisions not only addressed immediate legal needs but also set enduring principles that have guided Islamic jurisprudence through subsequent eras. This study highlights the significance of their contributions and the continuous relevance of their ijtihad in shaping the dynamic and evolving nature of Islamic legal thought.

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[29] Ibid, p. 18.

[30] During Mu'awiya's governance, a judge in Egypt named Salim ibn Ataz decided on the division of inheritance. Subsequently, those involved disagreed with the judge's decision, leading them all back to the judge. After the judge issued a second ruling on the matter, the decision was documented. See Hasbi Ash Shiddiqy, *Judiciary and Islamic Procedural Law*, (Semarang: PT Pustaka Rizki Putra, 1997), p. 21.

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