

# Ijtihad From Friends Of The Prophet Muhammad In Making Justice Law

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## Abstract.

*This study explains that ijtihad existed when the companions of the Prophet Muhammad were still alive and continued to develop along with the development of Islam. Ijtihad was born because it is a logical reflection of the struggles of various situations in society that require solutions to be found. However, it should be noted that not everyone can perform ijtihad because ijtihad must use the science of ushul fiqh. Ijtihad, which is carried out carelessly can produce a perverted legal product, as is the case today. Therefore, through this study, the author discusses the ijtihad practised by the companions of the Prophet Muhammad before the emergence of the science of ushul fiqh. The purpose of this discussion is to find out whether the licensed products that were born before the emergence of ushul fiqh science are legally flawed or not. After conducting an in-depth study, it was found that even though at that time the science of ushul fiqh had not been recorded in one book, the companions of the Prophet Muhammad were able to formulate and produce Islamic law products precisely. This happens because they master the science of ushul fiqh and keep it well in their memory.*

**Keywords:** *Ijtihad, Friends Of The Prophet Muhammad, Justice Law*

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## I. INTRODUCTION

Ijtihad has been started since the time of the Prophet because not all religious and humanitarian problems were faced by the Prophet. Find revelation references. It is possible that Allah deliberately did not send down his revelation for the Prophet. Do their intellectual creations to describe universal values that have been passed down previously. When the Messenger of Allah faced urgent questions that required immediate resolution, while the revelation that had been awaited had not yet come down, the Messenger of Allah mobilized all his intellectual and spiritual abilities to provide solutions. With the cleanliness of the heart and attitude of the Prophet. who always prioritizes the interests of his community - not the interests of his desires, *wamâ yanthiqu 'ani al-hawâ -*, the Prophet was able to translate the values of revelation into the real life of his community.<sup>1</sup>

When the Prophet was still alive, the validity of the formulation of fiqh was not a problem because he had indeed been given the right by Allah SWT. To make a law. However, when the Prophet died, questions would arise regarding the validity of the Ijtihad that was carried out by the Prophet's companions. This is based on the fact that the formation of the science of ushul fiqh was in the 2<sup>nd</sup> hijrah. Islamic laws that were born from Ijtihad at that time (before the 2<sup>nd</sup> hijrah) did not use Ushul Fiqh Science as we know it today. Ijtihad should be based on ushul fiqh. Ijtihad that was born without the knowledge of ushul fiqh is very worried about causing irregularities like what is happening today. This is what attracts the author to conduct deeper research on the legal position of the ijtihad results of the Prophet's companions.

## II. METHOD

This type of research is a research library<sup>2</sup>. In this research, there are several data sources used by researchers as reference materials, including: first, the primary data source in this research is scientific journals or books that are directly related to the object that the researcher is studying, namely scientific journals or books related to the research. Ijtihad performed by the companions of the Prophet Muhammad. Second, secondary data sources, namely sources that are indirectly related to the object of this research and are considered very supportive.

In this study, the authors used the documentation of data collection techniques. The point is that the author in collecting data does so by examining scientific journals, books, records, archives related to *ijtihad* carried out by the companions of the Prophet Muhammad.

The analysis technique used in this research is content analysis. Furthermore, in analyzing the data, the authors carry out four stages, as follows: First, the data that has been classified is filtered again by referring to the data collection technique (documentation). Second, understanding each data class and sub-class through data interpretation based on a logical approach (deductive-inductive combination by following the data). Third, connecting between classes and sub-classes of data that have been understood. Fourth, describe what is obtained from the third stage while still referring to the analytical framework, so that the research results can be described and internal conclusions can be drawn to answer the research questions.<sup>3</sup>

### III. RESULT AND DISCUSSION

#### Definition of *Ijtihad*

*Ijtihad* is taken from the root word in Arabic "jahada". the form of the noun has two different meanings, namely<sup>4</sup> :

*jahdun* with the meaning of wholeheartedness or seriousness. An example can be found in Sura al-An'am verse 109

واقسموا بالله جهد أيمانهم

"They swear by Allah is truly an oath."<sup>5</sup>

*Juhdun* with the meaning of ability or ability which contains the meaning of difficult, heavy and difficult. For example, the word of Allah surah at-Taubah verse 79

والذين لا يجدون إلا جهدهم فيسخرون منهم

" And those who do not get anything other than abilities, the hypocrites insult them".<sup>6</sup>

So, in the language of *ijtihad* is trying or striving for real. In the Qur'an, the word "jahdu" can be found in three exact terms. In these three places, the word implies devoting one's ability or effort.<sup>7</sup>

Meanwhile, the meaning of *ijtihad* in terms of terms has been put forward by many *ushul fiqh* scholars, in which the understanding of each other does not contain any difference in principle it seems mutually reinforcing and perfecting each other. Among these definitions are:<sup>8</sup>

| No | Scientist of UshulFiqh | Definition of <i>Ijtihad</i>  |
|----|------------------------|---|
| 1  | Imam al-Ghazali        | The mobilization of abilities by mujtahids in seeking knowledge of syari'ah                                       |
| 2  | Imam asy-Syaukani      | Outpouring the ability to obtain operational shari'ah law, amali through <i>istinbath</i> (legal control) efforts |

So, *ijtihad* is trying to be real by using all the resources and funds to study Islamic law from its source, namely the Koran and the Hadith of Rasulullah then giving birth to new laws from it. From the definition mentioned above, it can be seen that *ijtihad* contains two main factors, namely:<sup>9</sup>

First, *Ijtihad* specifically to establish law and its explanations. This is perfect *Ijtihad* and is devoted to scholars who want to know the laws of *furu 'amaliyah* by using detailed arguments. According to the *jumhur* of scholars, *Ijtihad* in this particular sense and form may at some point be cut off. Meanwhile, the Hanbali scholars said that every period should not be empty of *Ijtihad* in this form. Therefore, at all times, there must always be mujtahids who reach that level.

Second, special *Ijtihad* to apply and practice law. All scholars agree that throughout the ages there will be no vacancy of this category of Mujtahids. They are the ones who will seek and determine 'illat in various cases of *juz'iyah* by applying the principles established by previous scholars.

#### The argument of *Ijtihad*

The legal basis for *ijtihad* is found in many verses of the Qur'an and the hadith of the Prophet Muhammad, whose texts command to use mind and reason and take *I'tibar* (lessons):<sup>10</sup>

| No | Sources of Islamic Law | The argument of Ijtihad   |
|----|------------------------|---|
| 1  | Al-Qur'an              | إن في ذلك لآيات لقوم يتفكرون<br>“ In fact, in this, there are signs (the greatness of Allah) for those who think”.  |
| 2  | Al- Hadits             | عن عمرو بن العاص رضى الله عنه انه سمع رسول الله صلى الله عليه و سلم يقول اذا حكم الحاكم فاجتهد ثم أصاب فله أجران واذا حكم فاجتهد ثم أخطأ فله أجر<br>"From Amribn ash ra, he heard the Rasulullah said, if a judge wants to establish a law, then ai performs ijthihad. And it turns out that his ijthihad is right then he gets two rewards, and if he wants to enact the law then he performs ijthihad, and it turns out that his ijthihad is wrong. then he gets one reward " <sup>11</sup> |

From the data above, it seems clear that ijthihad was legalized by Rosulluh to be used as a source of Islamic law if it is not found in the Koran and the legal Sunnah of the actual case, even though the possibility of ijthihad being carried out was wrong according to Allah's view. Hadith also provides experience to people who can perform ijthihad. If the ijthihad is true, according to Allah's point of view, two rewards will be given, and if one is wrong, one will be rewarded.<sup>12</sup>

### The law of doing Ijtihad

In his position as a faqih whose opinion will be followed and practised by other people who ask for a fatwa about something, the law of doing ijthihad depends on the conditions of the mujtahid and the people around him. What is meant by the law of doing ijthihad here is the law of people who carry out ijthihad, both from the purpose of taklifi law, and wadh'I law. because those who are authorized to carry out ijthihad are people who have reached the level of a faqih.<sup>13</sup>

There are four laws related to the things referred to above, namely:<sup>14</sup>

#### 1. Wajib 'ain

If a faqih is asked about the law of a case that has been applied, whereas he is the only faqih who can perform ijthihad and he feels that if he does not do ijthihad at that time, it will result in the case being unlawful, then the law of doing ijthihad for that faqih is wajib 'ain.

#### 2. Wajib kifayah

When a faqih is asked about the law of a case that applies, while he is the only faqih at that time, he is not worried that the case will be missed from the law, or at that time there will be several faqihs. So the law of doing ijthihad when it was wajibkifayah.

#### 3. Sunah

If the conditions stated to the faqih have not occurred practically, but the people want legal provisions to anticipate the emergence of such cases, then ijthihad, in this case, is sunnah, meaning that the faqih is not guilty of not doing ijthihad. Still, if he does ijthihad, it will be better.

#### 4. Mubah

In dealing with a case that has occurred in reality or has not yet occurred, and the case has not been regulated in the text of the Koran or the Sunnah. At the same time, several people have qualifications as a mujtahid, so in this case the law of doing ijthihad for a faqih the law is permissible or permissible.

#### 5. haram

Doing ijthihad which is punished as haram is for cases where there are already laws and are determined based on the sharih and qothi 'arguments or those who carry out ijthihad have not yet reached the level of faqih.

### The Requirements for doing ijthihad

The opening of the door to ijthihad in Islamic law does not mean that everyone can do ijthihad, but only people who have certain conditions are allowed to do ijthihad. These conditions are:

| No | The Requirements for doing ijthihad | explanation                           |
|----|-------------------------------------|---------------------------------------|
| 1  | expert in Arabic <sup>15</sup>      | Ushulfiqh scholars have agreed that a |

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|---|---|---|
|   |   | mujtahid is required to master Arabic because al Qur'an was revealed as the source of shari'ah in Arabic. Likewise with the Sunnah which functions as an explanation of al Qur'an, which is also arranged in Arabic.  |
| 2 | Have knowledge of al Qur'an <sup>16</sup>           | The point is to know the syar'iyah laws found in al Qur'an and the verses that mention these laws, as well as the ways to extract laws from their verses.   |
| 3 | Have knowledge of al Sunah (hadits) <sup>17</sup>   | This condition has been unanimously agreed upon by the scholars, that a mujtahid must fully understand the Sunnah, both qauliyah, fi'iliyah and taqriyah, at least on each subject matter (field) according to the opinion that ijti had can be divided into areas.   |
| 4 | experts on aspects of qiyas <sup>18</sup>           | Mujtahid must know the aspects of Qiyas, for example, he knows about 'illat, and the wisdom of forming the law which is why the law is sharia, regarding the paths prepared by Syar'i to know the ' illat of the law.   |
| 5 | experts on the contradiction of texts <sup>19</sup> | Good at dealing with opposing texts, sometimes in one problem there are several (provisions) that are opposite. These contradictory texts can sometimes be known about the history of their issuance and at times are not known.  |
| 6 | expert on the purposes of sharia law <sup>20</sup>  | It is understood that the law in Islamic syari'at is intended and aims for the welfare of all humanity. And that is what Muhammad SAW's treatise means. As Allah has said in surah al-Anbiya, verse 107:<br>وما ارسلناك الا رحمة للعالمين<br>. and we do not send you (Muhammad) except as a mercy to all worlds ". <sup>21</sup> |

#### IV. Products of Ijtihad at the time of the companions of the Prophet Muhammad

At the time of the Companions, the territory of Islam expanded. Along with these societal problems grew very heterogeneous, as a result of the fusion of ethnicities and various cultures. In resolving various actual problems at that time, the role of ijti had was considered very important, because, without ijti had, there would be many problems whose legal status was unknown. At the same time, revelation (al-Qur'an) and hadith had stopped. Among the famous friends who performed ijti had after Rasulullah died, were Abu Bakr, Umar bin Khattab, Zaid bin Thabit, Ubay bin Ka'ab, Muaz bin Jabal, IbnAbas, and Ibn Mas'ud.<sup>22</sup>

Umar ibnKhattab is doing ijti had often considered the benefit of the people; he did not just apply the text outwardly, while the goal of the law was not achieved. For example, for the sake of the benefit of the people who were conquered by Islamic troops in an area, he determined that the land in the area was not taken by

Islamic troops but allowed to be cultivated by residents, on condition that every harvest must be submitted a percentage of the Islamic government, Umar bin Khattab argued that the people in the area do not have a livelihood which as a result can burden the State. Ushulfiqh scholars argue that the foundation of Umar bin Khattab, in this case, is the benefit.<sup>23</sup>

Ali ibnAbiTalib also performed ijtiḥad in a qias way, that is, against the punishment of those who drank khamer with the punishment of those who did qadf. The reason is that a person who is drunk from drinking wine will be delighted, and if he is delirious, his speech cannot be controlled so that he can accuse people of committing adultery. The punishment for qadf actors is eighty flogs. Therefore the punishment for those who drink khamer is the same as the punishment for accusing adultery.<sup>24</sup>

Even though the Companions of the Prophet SAW.in doing ijtiḥad and istinbath using one method and source of reference, sometimes in making a legal decision, a case can be different. For example, Abu Bakr argued that a grandfather could prevent (hijab) his siblings from inheritance rights, because the Koran names grandfather as a father<sup>25</sup>, as stated in surah Yusuf verse 38:

واتبعت ملة إبراهيم وإسحاق ويعقوب

"And I followed the religions of my fathers, namely Ibrahim, Isaac and Yakub.<sup>26</sup>

But Umar disagreed with Abu Bakr and said "grandfather did not hinder the brothers, because the naming of grandfather as a father is majazi (figuratively)".<sup>27</sup>

The difference in the results of their ijtiḥad occurs partly because of the difference in the ijtiḥad method they use in addition to different scientific backgrounds and reasoning orations. Umar bin Khattab, for example, was more inclined towards maslahat as well as using qiyas. Meanwhile, Ali bin Abi Talib and Abdullah bin Mas'ud both used qiyas more, although sometimes they also used maslahah 'ammah.<sup>28</sup>

## V. Analysis of the Legal Position of the Results of Ijtiḥad in the Times of Prophet Muhammad's Companions

To find out the legal position of the pre-codified ushul fiqh ijtiḥad results, we must first find out whether someone who performs ijtiḥad must be right or can he still be wrong. Then if it is considered correct, then whether the law that is jurisprudential must also be binding for other people or not, then whether it can be cancelled by other laws as a result of ijtiḥad, or not. These issues will be discussed in this discussion to find out the legal position of the pre-codified ushul fiqh ijtiḥad.

### The truth value of Ijtiḥad results

This issue revolves around whether in each law (commonly called the problem of furu ') there is a certain law that has been established by the law by God, and whether the mujtahid can find the law or not? If God has established the law (furu '), it means that the truth that is being sought by the mujtahid is only one, and one who can reach the truth is also one. Or at each of these events, there is no certain law from God, but the law is the conclusion solely from research that has ijtiḥad, and thus everyone who performs ijtiḥad can reach the truth, and the truth can also be counted.

To find out whether the results of ijtiḥad are right or wrong, we can refer to the asbabunnuzul surah Anfal verse: 67

ما كان لنبي ان يكون له اسري حتى يثخن في الأرض

It is not proper for a prophet to have prisoners before he can cripple his enemies on earth.<sup>29</sup>

The scholars stated that the asbabunnuzul this verse is a matter of the Badr prisoners of war. This case arose when facing Badar prisoners of war. At that time, the Prophet asked Abu Bakr's opinion about prisoners of war, what should he do? Then Abu Bakr expressed his opinion so that the prisoners of war were detained and not killed in the hope that they would be of use to Islam. Then the Prophet asked Umar ibnKhattab's opinion; he expressed the opinion that the prisoner should be killed because it might harm Islam. Then the Prophet thought to consider the steps to be taken; then he concluded that to hold the prisoner as suggested by Abu Bakr. Then Allah SWT rebuked the Prophet's actions by bringing down Surah Anfal verse 67.<sup>30</sup>

From the above case, we can conclude that what the Prophet did, in that case, was solely the result of his thoughts, not based on revelation and the results of ijtiḥad were not certain but could be wrong.

To find out whether the results of ijthihad carried out by the mujtahid were only one, or it could be said, we can look at the hadith narrated by Abu Dawud and al-Nasa'i.<sup>31</sup> At the time when the Prophet Muhammad was still alive, two friends were on their way, suddenly entered prayer time, while they did not find water. Therefore, both of them pray with tayammum. Not long after, the two of them found water. Because it is still in prayer time, one person repeats his prayer, and the other does not repeat his prayer, because he thinks that his prayer is perfect. Meanwhile, those who repeat their prayers think that even though their prayers have been done perfectly, of course, their prayers only with tayammum are invalidated, because water has been found during prayer time. When the two of them met the Messenger of Allah and related the incident, the Messenger of Allah said to those who did not repeat their prayers:

أصبنا السنة وأجزأتك صلاتك

" You have done according to the Sunnah, and your prayers are sufficient ". {HR. Abu Dawud}<sup>32</sup>

To those who repeat their prayers, the Prophet SAW said:

لك الأجر مرتين

" For you two merits ". {HR. Abu Daud}<sup>33</sup>

### **Obligation to comply with Ijthihad Results Opinions**

This issue revolves around whether the opinion generated by ijthihad is binding on Muslims in general, or to people who ask questions or to those who carry out ijthihad themselves. For Muslims in general, the opinion resulting from ijthihad is not binding. It does not require other people to follow it, because an opinion that has been found by someone can still be an object of ijthihad for others at any time and in every environment. The existence of something ijthihad in a matter does not prevent the existence of other ijthihad, because the opinion it gets is only based on strong conjecture (dhann), because it is not obtained from a qat'I text or from a law that has been confirmed, but only based on signs. -a sign which has been determined by syara 'and which is used as a multiplier. The results obtained, of course, can vary according to the differences in the woman's woman who wears them.<sup>34</sup>

Concerning the person who performs ijthihad himself, the opinion of the results of ijthihad is binding on him, and he must act according to his requirements as long as he still holds the results of his ijthihad because this opinion is the law of syara 'which is following his expectations (belief). In this case, he may not leave his opinion or follow other mujtahids who have other opinions. This has been agreed upon by the fuqaha because each of these opinions is based on his strong conjecture (individual beliefs, and therefore, there is no reason to win either one.<sup>35</sup>

Concerning other people who ask questions, the opinion of the results of ijthihad is also binding on him, because the mazhab of the person who asks is the handle of the person being asked. This is according to the strong stance of the scholars of fiqh.<sup>36</sup>

### **Cancellation of Ijthihad<sup>37</sup>**

It has been mentioned above that the results of ijthihad are only binding for those who carry out ijthihad and for those who carry out ijthihad and for other people who ask him. This binding is valid as long as the person doing ijthihad does not withdraw his opinion.

If it is the person performing the ijthihad himself who conducts a review and determines a new opinion which he considers correct. Then this new opinion must be held. So if according to his first ijthihad, a person thinks that, a marriage without a guardian is allowed where he does it. At the same time, the marriage has not been legalized by the court, then changes to his ijthihad and thinks that a marriage without a guardian is invalid. He must cancel his first ijthihad and decide, to then remarry using a guardian. If it is not decided, then it means that he is constantly mixing with his wife by violating his own beliefs.

## **VI. CONCLUSION**

The law that resulted from ijthihad during the time of the Prophet Muhammad's companions before the codification of ushul fiqh was valid and could be practised based on the hadith of the Prophet SAW. "If

someone performs *ijtihad*, then the result of *ijtihad* is right then he gets two rewards, and if the *ijtihad* result is wrong, he gets one reward". The companions who performed *ijtihad* after the Prophet SAW. Died still used the science of *ushul fiqh* even though at that time the science of *ushul fiqh* had not been written and recorded—*ushul* knowledge when it was stored in their chest and conveyed orally from the teacher to the student.

## REFERENCES

- [1] Imam Nahe'i, M.H.I. dan Dr. Wawan Juandi, M.Ag, *Revitalisasi Ushul Fiqh Dalam Proses Istinbath Hukum Islam*, (Situbondo: Ibrohimy Pres, 2010), Cet. 1, h. 26-27
- [2] Moh. Kasiram, *Metodologi Penelitian Kualitatif-Kuantitatif*, (Malang: UIN-Maliki Press, 2008),. cet. ke-1. h. 53.
- [3] CikHasanBisri, *Model Penelitian Fiqh*, (Bogor: Kencana, 2003), cet. ke-1. h. 96-98.
- [4] Amir Syarifuddin, *ushul fiqh*, (Ciputat: PT Logos Wacana Ilmu), h 223
- [5] Depag RI, *Qur'an dan Terjemahannya*, (Bandung, 2009), h. 205
- [6] *Ibid*, hal 292
- [7] Totok Jumanoro, Samsul Munir Amin, *Kamus Uşul Fiqh*. (Penerbit Amzah, 2005), cet. ke-1, hal 110
- [8] M.Abdul Mujieb, dkk, *Kamus istilah fiqh*, (Jakarta: PT Pustaka Firdaus, 1994), hal 110-111
- [9] Muhammad Abu Zahro, *ushul fiqh*, (Lebanon: Darul fikr arobi, 1958), hal 567
- [10] Huzaemah Tahindo Yanggo pengantar perbandingan mazhab, (Ciputat: logos wacana ilmu, 1999), hal 3
- [11] Imam Muslim, *Shahih Muslim*, juz 9, hal 114
- [12] Huzaemah Tahindoyanggo, *op.cit*, hal 6
- [13] Amir Syarifuddin, *op.cit*, hal 226
- [14] Ardla'ah Ahmad, *Diktat Ushul fiqh "seputar ijtihad dan mujtahid"*, hal 12-14
- [15] Muhammad Abu Zahro, *op.cit*, hal 380
- [16] Abdul Wahab Kholaf, *ilmuushulfiqh*, (kairo: darulilmu, 1978), hal 218
- [17] Muhammad Abu Zahro, *op.cit*, hal 383
- [18] Abdul Wahab Kholaf, *op.cit*, hal 219
- [19] A.Hanafi, *pengantar dan sejarah huku islam*, (Jakarta: Bulan Bintang, 1970), hal 167
- [20] Muhammad Abu Zahro, *op.cit*, hal 386
- [21] Depag RI, *op.cit*, hal 508
- [22] Huzaemah Tahindo yanggo, *pengantar perbandingan mazhab*, (Ciputat: logos wacana ilmu, 1999), hal 28
- [23] Abdul Azis Dahlan, *Ensiklopedi Hukum Islam*, (Jakarta: PT Ichtiar Baru Van Hoeve, 1997), hal 1882
- [24] *Ibid*, hal 1882
- [25] Muhammad Ali as-Saayis, *pertumbuhan dan perkembangan hukum fiqh*, (Jakarta: PT Raja Grafindo Persada, 1995), hal 40
- [26] Depag RI, *op.cit*, hal 354
- [27] Muhammad Ali as-Saayis, *op.cit*, hal 41
- [28] Muhammad Abu Zahroh, *op.cit*, hal 17-18
- [29] Depag RI, *Op.cit*, Hal 272
- [30] Amir Syarifuddin, *ushul fiqh*, (Ciputat: PT Logos Wacana Ilmu) , hal 231
- [31] Huzaemah Tahido Yanggo, *op.cit*, hal 23
- [32] Imam Abu Daud, *op.cit*, zus 1, hal 414
- [33] *Ibid*, hal 414
- [34] Ahmad Hanafi, MA, *pengantar dan sejarah hukum islam*, (Jakarta: Bulan Bintang, 1970), hal 170
- [35] *Ibid*, hal 171
- [36] *Ibid*, hal 171