


## BALANCING PLURALISM AND LEGAL CERTAINTY IN IJTIHĀD THROUGH THE THEORIES OF *AL-MUSHAWWIBAH* AND *AL-MUKHATHTHIAH*

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**Abstract:** The formulation of Islamic legal norms (*fiqh*) based on *zhanni* (speculative) evidence often leads to divergent interpretations among *mujtahid* scholars. These differences can confuse within the Muslim community regarding which legal opinion should be followed. This study aims to analyse the theoretical framework of *al-mushawwibah* and *al-mukhaththiah* within the discipline of *ushul al-fiqh*, particularly in the context of determining legal rulings derived from *zhanni* sources. Employing a qualitative descriptive approach and library research method, the study examines selected verses of the Qur'an, Prophetic traditions, and the classical as well as contemporary juristic opinions. The findings reveal that the *al-mushawwibah* theory affirms the validity of multiple legal conclusions as long as they are grounded in sound *ijtihadic* methodology. At the same time, *al-Mukhaththiah* asserts that only one ruling can be deemed correct, though other attempts still merit reward. The novelty of this research lies in its contextual application of classical epistemological theories to contemporary *fiqh* disputes, such as the differing opinions on whether bank interest constitutes *riba*. These insights contribute to the reinforcement of legal pluralism and encourage a moderate approach in navigating diverse *ijihad*-based rulings within Islamic law.

**Keywords:** *al-Mushawwibah*; *al-Mukhaththiah*; epistemology in *fiqh*; truth indeterminism.

**Abstrak:** Penentuan hukum fiqh dalam Islam yang bersumber dari dalil-dalil *zhanni* sering kali melahirkan perbedaan pandangan di antara para mujtahid. Perbedaan ini tidak jarang menimbulkan kebingungan di tengah umat mengenai norma hukum mana yang seharusnya dijadikan pedoman. Penelitian ini bertujuan untuk menganalisis konstruksi teori *al-mushawwibah* dan *al-mukhaththiah* dalam kerangka ushul fiqh guna memahami keberagaman hasil *Ijtihād* atas dalil-dalil *zhanni*. Dengan menggunakan pendekatan kualitatif deskriptif dan metode studi pustaka, penelitian ini menelaah sejumlah ayat al-Qur'an, hadis, serta pendapat para mujtahid klasik dan kontemporer yang relevan. Hasil penelitian menunjukkan bahwa teori *al-mushawwibah* mengafirmasi validitas semua hasil *Ijtihād* selama didasarkan pada metodologi yang benar, sedangkan teori *al-mukhaththiah* menegaskan bahwa hanya satu pendapat yang benar meski yang lain tetap mendapat pahala *ijtihad*. Kebaruan kajian ini terletak pada upaya mengontekstualisasikan teori klasik tersebut dalam problem kontemporer, seperti perbedaan pandangan tentang status bunga bank dalam fiqh muamalah. Temuan ini relevan untuk memperkuat prinsip toleransi dalam keberagaman hukum Islam serta mendorong sikap moderat dalam memilih dan mengamalkan hasil *ijtihad*.

**Kata-Kata Kunci:** *al-Mushawwibah*, *al-Mukhaththiah*, episemologi fiqh, determinisme kebenaran.

## Introduction

Every human being has a natural inclination to seek the truth and justify their actions. Truth as a goal cannot be separated from the point of view or perception of each character, knowledge, and their respective environments. What is considered valid in one social environment may not be regarded as accurate in another.<sup>1</sup> In Islamic jurisprudence (*fiqh*), the determination of legal rulings often relies on *zhanni* (speculative) evidence, which inherently carries uncertainty and variability. This creates a fundamental problem: different scholars (*mujtahids*) may arrive at conflicting conclusions on the same issue, causing confusion among Muslims about which ruling to follow. Such divergence raises urgent questions about the nature of truth and certainty in fiqh, especially when legal norms impact daily religious and social practices. Despite the central role of *Ijtihād* in interpreting Islamic law, the absence of a clear framework to reconcile these differences undermines legal clarity and community cohesion. Therefore, this study aims to analyse the theories of *al-mushawwibah* and *al-mukhaththiah* in *ushul al-fiqh*, with the goal of better understanding how contradictory yet valid interpretations coexist and exploring their implications for contemporary Islamic legal thought and practice.<sup>2</sup>

*Fiqh* is an inseparable field in Islamic Law, which is an implementative reflection of all texts of the Qur'an and al-Hadith, both those that are *zhanni*, which is still in the form of conjecture and those that are *qat'i* in the form of clear law, so that it has the potential to lead to different conclusions, meaning that it is still *ikhtilaf* or differences of opinion. The study based on *al-mushawwibah's* theory suggests that multiple, correct conclusions can coexist; in fact, they can all be true. In contrast to *al-Mukhaththiah's* theory, which posits that all findings are numerous, with only one being true, this is

<sup>1</sup> Antti Hautamäki, "The Relativity of Truth," 2020, 75–103, [https://doi.org/10.1007/978-3-030-34595-2\\_4](https://doi.org/10.1007/978-3-030-34595-2_4). Thorben Alles, "Truth and Perspectives," *Interdisciplinary Journal for Religion and Transformation in Contemporary Society* 8, no. 1 (July 7, 2022): 13–33, <https://doi.org/10.30965/23642807-bja10040>. Antti Hautamäki, "The Relativity of Knowledge," 2020, 105–28, [https://doi.org/10.1007/978-3-030-34595-2\\_5](https://doi.org/10.1007/978-3-030-34595-2_5).

<sup>2</sup> Trueblood, *Philosophy of Religion*, Terj. Rasjidi Filsafat Agama (Jakarta: Bulan Bintang, 2002).

because several conclusions can have contradictory values. Such an assessment arises because ushul fiqh or a fiqh frame of mind utilises subjective reasoning and qualitative paradigms. This type of reasoning lacks some degree of truth. The truth of *Ushul Fiqh* is considered fabricated, and the nature of its truth is speculative.<sup>3</sup>

The concept of legal truth is shaped by the diverse perspectives of those who interpret and apply the law. Because each individual or group uses their own standards, this often results in conflicting interpretations and legal conclusions. Such contradictions create uncertainty, especially in fiqh, where legal rulings affect daily religious and social practices. Therefore, it is essential to have a clear understanding of how legal truth is determined to minimise confusion and strengthen the authority of Islamic law. While some views consider truth to be empirical and based on sensory experience, others emphasise logical consistency or practical benefits. However, rather than focusing on theoretical differences, the priority is to establish a coherent approach that can accommodate diverse opinions without undermining legal certainty.<sup>4</sup>

Truth in fiqh can be one of the objects of the highest value in any branch of science. Fiqh, as one branch, is the result of knowledge of Islamic Law. It cannot be separated from the value of truth achieved, especially since the issue of fiqh is not just a dialectic of science. Still, the resulting fiqh provisions will serve as the basis for implementing worship for a Muslim. As a science, fiqh has an open nature, allowing anyone who seeks to study and produce new fiqh provisions to do so while still being guided by the Qur'an and al-Hadith. However, the question arises about the value of the truth produced, whether it is absolute or relative. Understanding the truth in fiqh is essential because it influences the attitudes that shape a Muslim's personality, particularly in the implementation of Islamic Law in society. For example, madhab fanaticism is one of the negative impacts on the understanding that the truth in fiqh is absolute, so that it makes someone intolerant; it will actually lead to intolerance in the material views of madzhab.<sup>5</sup> The main principle in Islamic teachings is *Rahmatan lil' Alamin*, which holds that all humans are equal before Allah SWT, fostering unity and brotherhood.

Some of the previous studies that discussed the truth of the ikhtilaf of the scholars of Ushul Fiqh varied. As Suryan A. Jamrah researched<sup>6</sup>, ikhtilaf and differences of opinion and thought have occurred since the time of the Prophet, continuing from one generation to the next, and persisting to this day. Therefore, people must be wise, careful, and selective in their dealings with the results of sincerity and differences of opinion that continue to arise. Furthermore, Khoirul Asfiyak<sup>7</sup> explained that the tradition of Muslim thought is coloured by differences of opinion, both in the area of kalam, tasawwuf, politics, and especially in the field of Islamic Law. Ahmad Rofiq explains that

<sup>3</sup> Chozin Nasuha, "Epistemologi Ushul Fiqh Kontemporer," *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial* 2, no. 4 (2014): 329–42, <https://doi.org/10.30868/am.v2i04.128>.

<sup>4</sup> Yogi Prasetyo, "Legal Truth (Menakar Kebenaran Hukum)," *Legal Standing: Jurnal Ilmu Hukum* 1, no. 1 (2017), <https://doi.org/10.24269/lis.v1i1.588>.

<sup>5</sup> Arif Jamaluddin Malik, "Kebenaran Dalam Ilmu Fiqh," *Al-Hukama: The Indonesian Journal of Islamic Family Law* 2, no. 2 (2012), <https://doi.org/10.15642/al-hukama.2012.2.2.186-194>.

<sup>6</sup> Suryan A Jamrah, "Ikhtilaf Dan Etika Perbedaan Dalam Islam," *TOLERANSI: Media Ilmiah Komunikasi Umat Beragama* 6, no. 2 (2014): 223–40, <https://doi.org/10.24014/trs.v6i2.908>.

<sup>7</sup> Khoirul Asfiyak, "Kajian Filosofis Dan Antropologis Tentang Fenomena Ikhtilaf Dalam Tradisi Pemikiran Muslim," *Vicratina: Jurnal Pendidikan Islam* 10, no. 2 (2016).

the correct result of Ijtihādulama achieves two merits, and the result of *Ijtihādīs* is to receive only one reward.<sup>8</sup> The research of Syed Salim bin Syed Shamsuddin and Abdul Manan bin Ismail<sup>9</sup> explains that the collective *Ijtihād* approach (*Ijtihād jama'i*) is a forum to find a meeting point among *ikhtilāf* that applies in fiqh. Muhammad Zuhdi's research<sup>10</sup> demonstrates that the attitude and ethics in dealing with differences of opinion involve responding to them, as exemplified by the Holy Prophet, who first heard all the different views of his noble companions. As for Muhammad Basri et al.,<sup>11</sup> they explained that differences of opinion are natural and scientific, natural because in nature, the human perspective is not always uniform. Scientific, because the texts of the Shari'ah (al-Quran and al-Sunnah) provide space for the possibility of dissent, so that differences can be negative and positive; therefore, we must be good at responding to them.

While previous studies have acknowledged the existence of scholarly disagreements (*ikhtilaf*) and proposed ethical or collective approaches to address them, they have not thoroughly examined the determinism of legal truth as articulated in the theories of *al-Mushawwibah* and *al-Mukhaththiah*. This research fills that critical gap by investigating how these classical theories can clarify the legitimacy and hierarchy of conflicting Ijtihād results, thereby offering a framework to resolve legal uncertainty that impacts both jurisprudential coherence and the practical guidance of Muslim communities.

## Methodology

The descriptive qualitative approach is employed in this research, with a literature study as the primary method of inquiry<sup>12</sup>. The collected data is then compiled to be concluded objectively. This research is expected to provide references related to the theory of *al-mushawwibah* and *al-mukhaththiah* in *ushul Fiqh* and *Fiqh* as determinism of the truth of the *ikhtilaf* of the *mujtahids* to determine the laws bound by the Qur'an and al-Hadith based on the study of the sources of relevant verses of the Qur'an, al-Hadith, and *ikhtilaf* of the *mujtahids*.

## Results and Discussion

### The theories of *al-Mushawwibah* and *al-Mukhaththiah*

The concept of truth in Islamic Law primarily originates from the Qur'an and al-Hadith, its primary sources. These sources have also given rise to various views and conclusions on legal issues in Islam. When referring to the Qur'an in Surah al-Baqarah, Verse 147, it states:

الْحَقُّ مِنْ رَبِّكَ فَلَا تَكُونَنَّ مِنَ الْمُمْتَرِينَ<sup>٤</sup>

<sup>8</sup> Ahmad Rofiq, "Teori Kebenaraan Dalam Pemikiran Hukum Al-Ghazali (1058-1111M)," *International Journal Ihya' 'Ulum Al-Din* 18, no. 2 (2016): 181–215, <https://doi.org/10.21580/ijhya.17.2.1736>.

<sup>9</sup> Syed Salim Syed Shamsuddin and Abdul Manan Ismail, "Pendekatan Ijtihad Jama'i Dalam Pengharmonisasian Ikhtilaf Fuqaha," *Journal of Fatwa Management and Research* 12, no. 1 (2018): 22–36, <https://doi.org/10.33102/jfatwa.vol12no1.4>.

<sup>10</sup> Muhammad Zuhdi, "Sikap Dan Etika Dalam Menghadapi Ikhtilaf Pendapat Mazhab Fiqih," *Journal Islamic Education* 6, no. 2 (2019): 16.

<sup>11</sup> Muhammad Basri et al., "Dinamika Ikhtilaf Di Antara Ulama Mazhab Fiqih" 1, no. 1 (2023): 57–66, <https://doi.org/10.24014/trs.v6i2.908>.

<sup>12</sup> Moh. Nazir, *Metode Penelitian* (Bandung: Ghalia Indonesia, 2003), h.193.

“The truth is from your Lord, therefore never be among those who doubt”.

The verse affirms that the truth of Islamic Law originates from Allah Almighty, as explained in al-Hadith and supported by the explanations of mujtahids, which are necessarily based on the Qur'an and al-Hadith. The truth of *Ijtihād* carried out by muttahids is a fundamental point that is often questioned and even the object of research analysis. Al-Ghazali argues that every Mujtahid who performs *Ijtihād* in a matter that falls into the category of conjecture (*dhazanniyah*) tends to be absolutely correct. While other scholars assert that there is only one true *Ijtihād*, this means that the others are wrong. In al-Ghazali's book *Al-Mankhul*, it is mentioned that al-Shafi'i, Abu Ishaq, and a group of Fuqaha state that the correct result of *Ijtihād* is one and gets two rewards, but the wrong one receives one reward. As the hadith of the Prophet, which means as follows:<sup>13</sup>

“Has told us Abdullah bin Yazid almuqri almakki has told us Haiwa bin Shuraikh has told me Yazid bin Abdullah bin Al Had from Muhammad bin Ibrahim bin Alharits from Busr bin Sa'id from Abu Qais, a former slave Amru bin' Ash, from 'Amru bin' ash he heard the Prophet sallallahu' alaihi wasallam say If a judge adjudicates and gives *Ijtihad*, then his *Ijtihād* is right, then he gets two merits, and if a judge gives *Ijtihad*, then his *Ijtihād* is wrong (misses), for him two merits. Amru said so, I told this hadith to Abu Bakr bin Amru bin Hazm, and he said, "This is how Abu Salamah bin Abdurrahman told me from Abu Hurayrah. And Abdul' Aziz bin Al Muttalib from Abdullah bin Abu Bakr from Abu Salamah from the Prophet sallallahu' alaihi wasallam Sallallahu'alaihiwa sallam, for example”.

In the opinion of Djazuli and Aen, *Ijtihād* is divided into two parts: *Ijtihād* in legal *istinbath*, which includes its explanation, *istinbath al-ahkam wa bayanuh*, and *Ijtihād* in the application of law, or *tathbiq al-ahkam*.<sup>14</sup>

*Ijtihād* focuses on all abilities to produce practical sharia law through *istinbath* methods or formulations related to law. In contrast, the definition of *qiyas* is to equate the law of a case that is not stated in the Qur'an with the law of other instances that are declared because of the similarity of *'illat* law.<sup>15</sup> The development in *Ushul Fiqh* itself should aim to convince others that the *fiqh* it produces is grounded in logic and truth. The logic and truth in *Ushul Fiqh* are no different from the methods of social science or cultural science research. Logic remains the contribution of theory to the search for truth. However, there are many kinds of logic used to reach that truth. However, not all of them are relevant for the development of *Ushul Fiqh* in today's era.

<sup>13</sup> Shahih Bukhari, “Al-Hadits Al-Nabawi Hadis Nomor 6805. [https://Carihadis.Com/Shahih\\_Bukhari/=ijtihad](https://Carihadis.Com/Shahih_Bukhari/=ijtihad) (Diakses 28 Maret 2023).,” n.d.

<sup>14</sup> Acep Djazuli and I. Nurol Aen, *Ushul Fiqh Metodologi Hukum Islam* (Depok: PT Raja Grafindo Persada, 2000), h.69.

<sup>15</sup> Ahmed Gad Makhlof, “Evolution of Islamic Law in the 20th Century: The Conception of Collective *Ijtihād* in the Debate Between Muslim Scholars,” *Oxford Journal of Law and Religion* 9, no. 1 (February 1, 2020): 157–78, <https://doi.org/10.1093/ojlr/rwaa019>. Muhammad Iqbal, “Concluding Remarks: *Qiyās* and Contemporary Models of Parallel Reasoning,” in *Logic, Argumentation and Reasoning*, 2022, 223–44, [https://doi.org/10.1007/978-3-030-91676-3\\_7](https://doi.org/10.1007/978-3-030-91676-3_7).

These types of logic include Formal logic. This logic seeks truth by examining relations between small and large *muqaddimah*, aiming to generalise the *natijah* that exists in each *sakal* or *qiyas manthiqi*. This logic cannot be applied in *Ushul Fiqh*. It is because *Ushul Fiqh* does not pursue *qiyas-qiyas manthiqi*, but rather transferability. Mathematical logic is the search for truth by examining propositional relations according to material reality, such as the principle that three equals three. Definite and measurable values support this logic. This logical theory encompasses the existence of postulates or rules, as well as definite formulas. Statistics employ this kind of logic and can be applied to positivist social science research, as well as cultural studies and religious studies.

Reflective logic is a way of thinking that enables quick abstraction and elaboration. This logic takes place quickly and can utilise the power of intuition. In the science of *tasawwuf*, this logic is referred to as the *dzauqi* approach, which can be developed until *laduni*. Qualitative logic, on the other hand, involves searching for truth through the descriptive analysis of data gathered in the field or from libraries. The quality of its truth is based on existing reality. Linguistic logic is the search for truth based on the use of language. This logic is of great interest to Qur'anic research, and such research requires interpretation. Among the various kinds of logic methods mentioned above, *Ushul Fiqh* tends to utilise qualitative logic and linguistic logic. At one time, reflective logic was also employed, particularly in developing methodological postulates such as *istihsan* and *mashlahah mursalah*.

Qualitative logic is widely used to develop sociological propositions such as *ijma'*, *qaul shahabi*, and others. Linguistic logic is employed to create normative propositions, including those derived from the Qur'an and the text of al-Hadith. On the other hand, qualitative logic is typically applied within a limited scope of truth, meaning the truth reached is not a discourse that applies generally or broadly, but instead at the local level or in specific cases. Therefore, qualitative truth is more specific and does not require regularity. Thus, texts or cases that are managed using qualitative logic will produce different conclusions. It does not mean that such truths are weak, but rather that they utilise propositions grounded in reality. That is a phenomenon that Islam calls *rahmatan lil'alamin*.

The truth in *Ushul Fiqh* is *nisbi* or *zhanni* and relative or *mukhtalaf fih*, and adheres to the law of probability *ijtihadiyah*. The point of departure for such an *Ijtihad* person is creative and intelligent truth, and they do not blame others or judge wrong, heresy, *jumud*, and so on.<sup>16</sup> Of course, the stance of such an *Ijtihad* person is not agreed upon by a religious person who obeys mathematical truth. Some of them say that God is one. The Prophet Muhammad and the Qur'an are both one, so Islamic thought should also be one (united). However, it is undeniable that even creative truth can accommodate small aspirations of truth, which is a truth that is rarely adopted by scientists who always think globally. It should be considered, either by followers of *mushawwibah* or *mukhaththiah*, that human behaviour is unique, and this is the object of discussion in *Ushul Fiqh*. Therefore, the demands of truth and/or objectivity in *Ushul Fiqh* should be

<sup>16</sup> Lalu Supriadi Bin Mujib, Khairul Hamim, and Setiyawan Bin Gunardi, "The Concept of Qath'i and Zhanni and Its Implication to Religious Behavior among Muslim Communities in Lombok," *AL-'ADALAH* 17, no. 2 (March 14, 2021): 269–94, <https://doi.org/10.24042/adalah.v17i2.6975>.

sought not like natural phenomena. If natural phenomena exhibit physically observed, repeated, and orderly patterns, then human behaviour does not always follow this pattern; in fact, it will always be biased.

The question in this *Ijtihād* in terms of dissent is whether in every event where there is no legal provision in the *nash*, it should be sought by the Mujtahid. The opinion of groups adhering to the theory of justification or *mushawwibah* holds that in a legal case where there is no *nash* provision, it can be sought based on *al-dzan* or hypothesis. The establishment of the law is based on conjecture, and the Law of Allah Almighty for every Mujtahid is what is dominant in the conjecture, *ghalabah al-dhann*. It is the opinion chosen.

Al-Ghazali argues that, through reasoning and argumentation, one can ascertain and blame those who disagree with every Mujtahid on matters that are conjectural or hypothetical, as there is no definite legal provision from Allah.<sup>17</sup> Al-Ghazali is based on the case study or method used rather than the ability and condition of the Mujtahid concerned. First, regarding the issue of *nashnya*, if the Mujtahid is mistaken and the *nash* exists and can be reached, provided the Mujtahid is earnest but fails to act, this constitutes *taqshir*. Consequently, the Mujtahid is wrong and sinful because they do not intend to conduct. If the Mujtahid has made a diligent effort due to circumstances such as a long or late delivery, this is then categorised as a wrong. Because if the word *mujtahid* knew the *nash*, then the Mujtahid would not be wrong. Al-Ghazali provided a parable: if the Prophet (peace be upon him) performed prayers facing Jerusalem after Allah Almighty commanded Jibril to take down and convey to the Prophet Muhammad (PBUH) to change his *qibla*, then the Prophet was not mistaken. Although the command to face the *Kaaba* has been handed down, it has not been conveyed to the Prophet. Likewise, the order came down and was given while the people of the Quba Mosque were praying in front of Jerusalem. After that, the Prophet had not informed them; therefore, they were not wrong. It is because the provisions of the law already exist, but they are not being implemented<sup>18</sup>.

This level of bias can only be perceived as objective if it is clearly and understandably described. If the *fiqh* produced through *ushul fiqh* can be accepted by the community, then in this case, the *ushul fiqh* has clarity. This clarity is called truth. So if objective science prefers logical explanations, then *ushul fiqh* presents explanations that contain only an interpretation. If objective truth seeks an orderly establishment of observation, then the management of *ushul fiqh* is a creative humanistic endeavour. In other words, the truth of *ushul fiqh* focuses more on the humanistic aspects of humanity. That is why *ushul fiqh* is considered unique, as it views human behaviour with each other as not always the same.

*Manthiq* truth has a clear causality relationship and must be relational, allowing control of propositions. In contrast, the truth of *ushul fiqh* is emphasised on the interpretation of logic, which is sometimes mixed with human intuition, imagination,

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<sup>17</sup> Azam Ghasemi, "The Tension Between Faith and Reason in Islamic Tradition: A Case Study of Imam Muhammad Ghazali," *Journal of Philosophical Theological Research*, 22AD, <https://doi.org/10.22091/jptr.2022.7659.2646>.

<sup>18</sup> Abu Hamid Al-Ghazali, *Al-Mustashfa Min Ilm Al Ushul* (Beirut: Dar alKutub al-Ilmiah, 2014).

and creativity.<sup>19</sup> Therefore, through this kind of interpretation, Ushul Fiqh is better able to address legal issues related to the behaviour of the *Ummah* or *af'al* or the practice of the deeds of the believers. Moreover, the truth of *ushul-fiqh* is not a thing that was designed to exist, but must be sought in context. *Ushuliyun* is solely responsible for collecting, organising, classifying, and managing the postulates of *fiqhiyah* for the development of *fiqh*.

Some scholars recognise revelation as the source of the law. They interpret this revelation as intended to crystallise the existing knowledge about the law and its meaning in the Qur'an and Sunnah, marking a departure from the epistemological process of *ushul fiqh*. Shofiyullah stated that the relationship between reason and revelation in determining a law of sharia 'is based on the lawmaker namely Allah SWT, in this case so that man only carries out orders and to only recognise the law revealed by Allah SWT, and Man only in nature in relation to the ushul fiqh in the application of the logic of truth of a law is to recognise the signs given by Allah SWT.<sup>20</sup>

All texts in the Qur'an and al-Hadith are in the form of *zhanni* or conjecture, so the meaning that arises from the text is always formulated in different conclusions or *mukhtalaf fih*. Adherents of *mushawwibah* are said to have different conclusions, suggesting that the truth is not only one but can also be entirely accurate; thus, if all his mujtahids display a frame of mind that is in line with the path of *ushul fiqh*. As believers consider that all descriptions of a conclusion produced are many, then only one is true, even if certain conclusions have contradictory values. This kind of assessment arises frequently because *ushul fiqh*, or the framework of *fiqh* thinking, employs subjective reasoning and lacks certainty, and also adopts a qualitative paradigm. In this paradigm, the philosophy of positivism views social reality as holistic, complex, dynamic, full of meaning, and interactive, characterised by symptom relationships. This kind of reasoning lacks truth at a certain level, so that the reality that exists in this jurisprudence is considered uncertain or still far-fetched and speculative, being merely a paradigmatic design of truth. Of course, assumptions like this are not always accurate. However, the development of *ushul fiqh* is expected to be carried out through diligent efforts to convince others that the *fiqh* they profess is logical and valid.

*Manthiqy* truth has a clear causal relationship and must be relational, allowing control of propositions. Meanwhile, the truth in *ushul fiqh* emphasises the interpretation of logic, which is sometimes mixed with one's intuition, imagination, and creativity. Therefore, through this kind of interpretation, *ushul fiqh* is expected to be better able to enter the realm of legal issues related to the behaviour of the *Ummah* or *af'al-mukallafin*. Moreover, the truth of *ushul fiqh* is not just something that is designed to exist, but must be sought in the context of practice. The *ushul fiqh* (*ushuliyun*) is

<sup>19</sup> Nalini Bhushan, Jay L. A Garfield, and Daniel Raveh, "Thinking with Causality about 'Causality,'" in *Contrary Thinking*, ed. Nalini Bhushan, Jay L. Garfield, and Daniel Raveh (Oxford University Press, 2011), 46–56, <https://doi.org/10.1093/acprof:osobl/9780199795550.003.0004>. Suhayb Amin Nadir, "Investigating the Place of Imagination in Farabi's Epistemological Theory," *Asian Social Science* 11, no. 22 (August 18, 2015), <https://doi.org/10.5539/ass.v11n22p220>.

<sup>20</sup> Shofiyullah, "Epistemologi Ushul Fikih Al-Syafi'i (Telaah Atas Qiyas Dalam Kitab Al-Risalah)" (UIN Sunan Kalijaga Yogyakarta, 2009), h.9.

tasked with collecting, organising, classifying, and managing the postulates of *fiqh*, given the importance of *fiqh*.

### **Evaluation of *al-Mushawwibah* and *al-Mukhaththiah* Theories**

The foundational concepts of the *al-Mushawwibah* and *al-Mukhaththiah* theories play a crucial role in understanding epistemology and jurisprudential truth within Islamic legal thought. *Al-Mushawwibah* endorses the acceptance of multiple simultaneous truths, suggesting that several independent legal conclusions can be valid concurrently. Conversely, *al-Mukhaththiah* insists on the exclusivity of a single correct truth, asserting that only one interpretation is legally sound while the others are erroneous. By situating these theories in modern legal issues, this paper explores how each may contribute to or complicate the development of *fiqh* (Islamic jurisprudence) today<sup>21</sup>.

The *al-Mushawwibah* theory, with its embrace of plural legal truths, offers notable flexibility and a recognition of interpretive diversity, reflecting the variegated social and cultural contexts of the *Muslim ummah*. Such pluralism is especially valuable in addressing novel jurisprudential challenges that lack precedent, such as those posed by bioethical dilemmas or Islamic financial instruments in a globalised economy. Nevertheless, this multiplicity of concurrent truths presents significant drawbacks, chief among them legal uncertainty and potential confusion among the community. When multiple valid rulings coexist, the authority and decisiveness of Islamic legal guidance may be diluted, risking fragmentation of legal practice and a weakening of communal consensus. For instance, in modern contexts requiring swift and clear legal directives, such as new technological applications or economic regulations, this pluralism may hinder the delivery of coherent legal solutions.

In contrast, the *al-Mukhaththiah* theory prioritises legal unity by affirming a single definitive truth, thereby safeguarding the cohesiveness and authority of Islamic law. This singularist approach is efficient in maintaining clarity and consistency in domains where legal certainty is paramount, such as criminal or civil Islamic law. However, this rigidity in seeking one correct interpretation risks marginalising the socio-cultural complexities and localised variations that characterise the global Muslim community. The approach may prove overly dogmatic when confronting the plurality of *madhhabs* (legal schools), customs, and evolving social realities, including those driven by rapid technological innovation and globalisation. Hence, while the theory strengthens jurisprudential unity, it may lack the necessary adaptability to fully engage with the nuanced and diverse lived experiences of Muslims worldwide<sup>22</sup>.

Comparatively, both theories must be examined alongside classical jurisprudential methods such as *ijma'* (consensus) and *qiyas* (analogical reasoning), as well as contemporary pluralistic approaches that advocate for legal diversity within Islamic jurisprudence. *Ijma'* underscores communal agreement as a source of legal authority, whereas *qiyas* facilitates analogical extension from established texts to new cases. Modern pluralistic frameworks seek to harmonise legal unity with interpretive diversity,

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<sup>21</sup> Chozin Nasuha, "Epistemologi Ushul Fiqh Kontemporer."

<sup>22</sup> Abdul Wahab Ibrahim Abu Sulaiman, *Alfikru Al Ushul Dirasah Tahliliyah Naqdiyah* (Jedah: Daar Al Syaruq Lil Al-Nasyr Wal Tauzi', 1984), 457.

recognising the need for both cohesion and contextual flexibility. From this vantage point, *al-Mushawwibah* and *al-Mukhaththiah* represent complementary yet contrasting methodologies. To foster a more robust and context-sensitive jurisprudence, integrating these theories with broader classical and modern paradigms is essential, enabling Islamic law to address multifaceted contemporary issues more effectively<sup>23</sup>.

In practical terms, the application of these theories to contemporary Islamic legal questions, such as bioethics, Islamic finance, and women's rights, reveals their respective strengths and limitations. *Al-Mushawwibah's* pluralistic model can accommodate contextual nuances and divergent interpretations in rapidly evolving fields, offering space for multiple legitimate juristic opinions. However, to prevent social and legal fragmentation, mechanisms ensuring coherence and authoritative guidance must accompany its implementation. Conversely, *al-Mukhaththiah* ensures decisiveness and legal clarity, which are crucial for maintaining order and stability; however, it requires methodological flexibility to avoid ossification and irrelevance in the face of changing social realities. Therefore, advancing Islamic jurisprudence today necessitates a methodological synthesis that balances pluralistic inclusivity with juridical certainty, thereby addressing contemporary challenges comprehensively and pragmatically.

### Truth and Error in Berijtihad

Sulayman's book *Al-Fikru al-Ushul* explains that the distinction between the doctrines used by *al-Mutakallimin* and *al-Ahanaf* regarding the formation of fundamentalist rules in *al-Mutakallimin* is based entirely on linguistic stylistic connotations and Sharia evidence presented together with reason.<sup>24</sup> Zuhaili Nasr's opinion also states that scholars regarding *Ijtihad* matters of fiqh or jurisprudence are conjectural; in this case, every result of *Ijtihad*, whether it is a single truth or an error, is conjectural. Many opinions arise regarding the truth of the efforts of scholars or mujtahids. The first point is that the differences in the conclusions of the mujtahids are all true. The second point is that the opinions on these differences are wrong, as there is only one valid conclusion.

The disagreement stems from the differences among scholars, specifically regarding whether Allah Almighty has a single, specific rule for each issue. It raises the question of who among the mujtahids is correct in their support and who is incorrect in their opposition. Or is Allah Almighty's judgment about the justification of *Ijtihad* only speculation, so that a mujtahid can be said to be correct? This led to the emergence of two schools: the true doctrine and the erroneous doctrine. We will briefly explain these concepts using evidence or postulates to support our understanding. Because the problem is theoretical, metaphysical, and semi-fictional, and does not produce sharia.

Truth in relation to Islamic Law can be viewed from several paradigms of thought, among them philosophy-based truth, which demands knowledge to provide understanding, and religion-based truth, which is achieved through the study of science as a form of worship. Furthermore, the philosophy of truth is relative, and nothing is

<sup>23</sup> Muhammad Zuhdi, "Sikap Dan Etika Dalam Menghadapi Ikhtilaf Pendapat Mazhab Fiqih."

<sup>24</sup> Abdul Wahab Ibrahim Abu Sulaiman, *Alfikru Al Ushul Dirasah Tahliliyah Naqdiyah* (Jedah: Daar Al Syaruq Lil Al-Nasyr Wal Tauzi', 1984), 457.

absolutely perfect. Suppose science does not answer a problem. In that case, philosophy must play a role in providing answers to conjectures, speculations, guesses, conjectures and estimates, then man is in confusion. science as knowledge that is arranged systematically and methodically, the approach used is empirical, bound by the dimensions of space and time and based on the ability of the five human senses, rational and general and experts can use propositions.

Religion is a set of rules governing how to worship God and must be interpreted and have a binding nature. The rules that come are higher than God, and man is the executor of those rules.<sup>25</sup> According to these rules, a person will face punishment if they fail to follow the rules set by God. Religious affairs become a matter fraught with emotions, subjectivity, tendencies, and sometimes the nature of bargaining. In conclusion, religion is the absolute truth, while philosophy and science are relative truths.

Based on this, some things that are often understood include the words philosophy, science, and religion. Philosophy means to think deeply, while religion means to devote or serve. A person who studies philosophy not only knows philosophical matters, but more importantly, they can also feel deeply about them. Likewise, people who study religion are not only satisfied with religious knowledge but also need to familiarise themselves with religious life. Religion is not knowledge of God, but the relationship between a human being and God<sup>26</sup>.

Another key difference between religion and philosophy lies in their focus: religion is deeply rooted in the heart, whereas philosophy is more concerned with a cold and calm mind. A philosopher, when dealing with adherents of another school of thought, is usually lenient because he will be able to abandon his stance if he feels he is wrong. On the contrary, a religious person usually defends their religion completely because they have bound themselves to it and are devoted to it. A further difference between philosophy and religion is that philosophy, although calm in its work, often muddies the minds of its adherents. In contrast, religion, although it fills its adherents with enthusiasm and feelings of self-devotion, still has the effect of calming the souls of its adherents.

The methods of seeking truth in science and research are inextricably linked, underscoring the interconnection between scientific truth, research, and truth. Science and research have a very close relationship, with results and processes being closely tied.<sup>27</sup> Research is a process, while the results of research are the products of scientific inquiry or philosophical investigation. In contrast, other opinions suggest that research, science, and philosophy are processes that lead to a result, namely, the pursuit of truth. Science and philosophy view truth as an achievable goal, but one that is never entirely achieved. With a subjective attitude, our perception is never separated from subjective factors. Human behaviour in finding actual knowledge will always be overwhelmed by alpha.

Truth can be sought through scientific thinking, which can be achieved in several ways. For instance, a discovery like this could occur by chance, meaning it could not have

<sup>25</sup> Fabrizio Macagno and Lucia Salvato, "Argumentation and the Interpretation of Religious Texts," *Journal of Argumentation in Context* 12, no. 1 (May 9, 2023): 2–18, <https://doi.org/10.1075/jaic.22006.mac>.

<sup>26</sup> Trueblood, *Philosophy of Religion*, Terj. Rasjidi Filsafat Agama, h.14.

<sup>27</sup> Maria Zélia B. Rocha, "As Sendas Da Verdade: Um Olhar Foucaultiano Sobre a Busca Da Verdade," *Sociologias* 20, no. 47 (April 2018): 308–36, <https://doi.org/10.1590/15174522-020004712>.

been foreseen. The circumstances are often uncertain and may not always accurately portray the truth. Second, Trial and Error: Trial and failure are active attempts to try again. At the time of conducting the trial, there was no clear understanding of the solution to be implemented. Third, authority refers to the opinion of an institution, individual, expert, or prominent scholar considered authoritative. This opinion is treated as absolute, and its truth becomes public property, often stemming from the belief in someone who is always right and never wrong. Fourth, speculative truth solving involves a problem-solving approach that consists of considering various possible solutions, even though the person concerned is uncertain that the chosen method is the most appropriate. It is based on considerations that prioritise the goodness and rightness of a choice over a specific outcome. Fifth, through critical thinking or experience, this human being possesses the ability to think. A syllogism is a method of reasoning that involves arranging premises to draw a conclusion, either deductively or inductively, based on facts gathered through direct experience. From this point, research methods were developed, as humans have found the most effective way to achieve their goals. Sixth, by seeking truth through scientific research methods, research can serve as a tool for channelling human curiosity in the scientific sphere. One will be convinced that there is a causal element of the exact phenomenon that can be scientifically explained. Research is objective because the conclusions drawn will only be based on convincing evidence, collected through clear and systematic procedures.

The proposal of fiqh is a scientific discipline that encompasses various principles, methods, or rules, including the process of deriving law. The problems of qat'i and zanni, such as syakk and wahm, mutawatir and ahad, are examples of complex epistemological concepts. Consequently, these sciences investigate the origins of knowledge, the validity of a science, and the degree of truth it represents. Epistemologically, qat'i means confident, and contains no doubt and cannot be questioned because it is finished. Unlike zhanni, which still has the possibility of the result being wrong and can also be right, it is not as uncertain as qat'i. To determine how a science can be said to be qat'i or zhanni depends on the source of the knowledge obtained. If the source is qat'i, then the knowledge it produces is also qat'i, which is sure, and vice versa. If the source obtained is doubtful, then the knowledge relied on is also questionable.

Imam Baqillani expressed his opinion that the most crucial concern in *Ushul Fiqh* is actually related to propositions. However, like Abu al-Husayn, he did not make it a priority topic only.<sup>28</sup> In *Taqrib wa al-Irshad*, Baqillani begins with an explanation of the nature of a science, reason, classification, and categories of science. According to Baqillani, this needs to be done because both a postulate and madlul, as well as the law of reason and sharia, are objects of science or ma'lumat. This object cannot be known if we do not see the essence of science itself and everything related to it<sup>29</sup>. Therefore, the discussion of scientific problems will be a certainty.

<sup>28</sup> Mohammad Zaini Yahaya, Muhammad Adib Samsudin, and Hayatullah Lalulddin, "An Overview of the Principles of Jurisprudence Vis-A-Vis Legal Maxim," *Asian Social Science* 10, no. 2 (December 29, 2013), <https://doi.org/10.5539/ass.v10n2p157>.

<sup>29</sup> Much Hasan Darajat, *Al-Baqillani'S Concept of Devine Speech in Relation to The Issue of The Createdness of The Qur'An: With Special Reference To His Al-Taqrrib Wa Al-Irshad* (Kuala Lumpur: International Islamic University Malaysia, 2009), h.43. Souad Kourime, "OBJECTIVITY ISSUES IN ISLAMIC THOUGHT: A

Islam has standards of validity and accuracy in assessing the scope of views and opinions. The views and opinions expressed are valid if they are carried out at any time and in any place without restrictions in a particular society.<sup>30</sup> Therefore, various views and opinions of scholars can be adopted, used, and accepted today. However, the past of scholars has long passed. What is meant here are views that strictly adhere to the standards contained in Islamic Law. Just as Imam Shafi'i said: Everyone who speaks based on the Qur'an and al-Hadith, then that speech is a provision that must be followed. Moreover, anyone who speaks without reference to the Qur'an and al-Hadith is confused<sup>31</sup>. Likewise, regarding Philosophy and Religious Truth, Al-Ghazali's work, *Tahafut al-Falasifah*<sup>32</sup>, is more religious in nature. Al-Ghazali saw that a small group of freethinkers were compelled to renounce the beliefs of Islam and ignore the basics of ritual worship as useless to their intellectual attainments.<sup>33</sup>

### Islamic Economic Framework of Truth and Error

Research conducted by Inayati identified a framework in Ibn Khaldun's Islamic economic epistemological terminology, including *al-'umran* (civilisation), *al-fikr* (thought), *at-ta'lim* (teaching and division of knowledge), *at-tarikh* (history), and *al-waqi' al-ijtima'i* (social reality).<sup>34</sup> While the source of Islamic economics, Ibn Khaldun, is rooted in the revelation of the Qur'an and as-Sunnah, he also drew on the phenomenon of social reality and history.<sup>35</sup> The methods of Islamic economics employed by Ibn Khaldun include deductive, analytical, and empirical-inductive approaches. The validity of truth in Ibn Khaldun's opinion is divided into two types: absolute and relative. The authority of the presenter tests this absolute truth, while the feasibility and possibility of the data in relation to the present reality test relative truth.

Science, as viewed through the Western lens, originates from experience, empiricism, reason, and rationality. According to Islamic scholars, the sources of knowledge are the Qur'an, al-Sunnah, reason, and senses. The Qur'an and al-Sunnah, along with revelation, reason, and senses, are sources of knowledge centred on the nature of Allah. Prof. Juhaya Praja and Kasule added the senses and experience as a source of knowledge in Islam apart from revelation, reason, and intuition<sup>36</sup>. Revelation,

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CONCEPTUAL APPROACH," *Jurnal Ilmiah Islam Futura* 22, no. 1 (February 25, 2022): 88, <https://doi.org/10.22373/jiif.v22i1.12736.vv>

<sup>30</sup> Mashood A. Baderin, *Islamic Legal Theory: Volume 1*, ed. Mashood A. Baderin (Routledge, 2017), <https://doi.org/10.4324/9781315251721>.

<sup>31</sup> Imam Fakhrudin Ar-Razi, *Manaqib Imam Asy-Syafi'i* (Beirut: Dar Al-Kutub Al - Ilmiah, 2015), h.23.

<sup>32</sup> Michael E. Marmura, "Al-Ghazali," in *The Cambridge Companion to Arabic Philosophy* (Cambridge University Press, 2004), 137–54, <https://doi.org/10.1017/CCOLO521817439.007>.

<sup>33</sup> Ali Hasan, "Al-Ghazali and Ibn Rushd (Averroes) on Creation and the Divine Attributes," in *Models of God and Alternative Ultimate Realities* (Dordrecht: Springer Netherlands, 2013), 141–56, [https://doi.org/10.1007/978-94-007-5219-1\\_13](https://doi.org/10.1007/978-94-007-5219-1_13).

<sup>34</sup> Faruk Yaslıçimen and Lütü Sunar, "The Possibilities of New Perspectives for Social Sciences: An Analysis Based on Ibn Khaldun's Theory of Umrân," *Asian Journal of Social Science* 36, no. 3–4 (2008): 408–33, <https://doi.org/10.1163/156853108X327029>.

<sup>35</sup> Ruben Dario Mendoza Arenas et al., "Ibn Khaldun, Muqaddima: Outline on Conflict and Social Cohesion at the Dawn of Sociology or Social Theory," *Journal of Law and Sustainable Development* 11, no. 7 (September 25, 2023): e1058, <https://doi.org/10.55908/sdgs.v11i7.1058>.

<sup>36</sup> Juhaya S. Praja, *Filsafat Dan Metodologi Ilmu Dalam Islam Dan Penerapannya Di Indonesia* (Bandung: Mizan Media Utama, 2002), h.2.

empirical observation, reason, and conclusion are closely related to each other. So reason is used to understand revelation and draw conclusions from empirical observations. Revelation protects the intellect and provides information about invisible knowledge; therefore, reason cannot understand the empirical world to its full potential without gaining help. Akram Khan argues that the sources of Islamic economics include the Qur'an, al-Sunnah, Islamic Law and jurisprudence through *ijma'*, *qiyas*, and *Ijtihad*, the history of Muslim civilisation, and other data directly related to economic activities in certain regions.<sup>37</sup>

The truth and error of the law are closely related to epistemology. Epistemology is essentially a discussion related to the philosophy of knowledge, encompassing the origin or source of knowledge, the methodology for obtaining it, and the validity of specific expertise. Epistemology, or the theory of knowledge, is a branch of philosophy that encompasses the nature and scope of science, its underlying assumptions and fundamentals, and the accountability for statements related to the knowledge possessed.

Furthermore, from the epistemological perspective, it can be seen that economics is derived through the observation or empiricism of social phenomena that occur among people as they meet the needs of their lives.<sup>38</sup> The observations made will then be generalised through specific premises to draw general conclusions. Changes and consistency observed in the system of production and distribution of goods and services will then be used to inform various general theories that can address multiple economic problems. Abu Yusuf's thoughts related to the theory of supply and demand, for example, were the result of his observations in the community of his time.

Ibn Khaldun raised the theme of the economic problems of society and the state empirically. He explained that the economic phenomenon is based on the theory of demand in economics, which states that if the demand for a good increases, its price will automatically increase.<sup>39</sup> The theory is obtained from various experiences and facts in the field that are studied consistently and continuously by economists. Research conducted by Ahyani and Hasanah on the development of the Islamic economy, which is poised for rapid growth, began with the emergence of several shari'ah-compliant financial institutions that aligned with efforts to accelerate the community's economic development. The Islamic economic system exhibits various characteristics, including the emergence of demands to prioritise aspects of Islamic Law and business ethics. Notably, Indonesia, which is predominantly Muslim, is a significant example of this trend. The existing system in Islamic economics is obliged to apply the principles of shari'ah and Islamic business ethics.

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<sup>37</sup> Hakimah Yaacob and Selamah Maamor, "The Restricted Autonomy of Will: The Disregarded Values in Shariah Based Contract," *Indian Journal of Public Health Research & Development* 9, no. 11 (2018): 1410, <https://doi.org/10.5958/0976-5506.2018.01649.2>.

<sup>38</sup> Emerson Abraham JACKSON, "Rethinking Epistemology: Narratives in Economics as a Social Science," *Theoretical and Practical Research in the Economic Fields* 14, no. 1 (June 26, 2023): 164, [https://doi.org/10.14505/tpref.v14.1\(27\).13](https://doi.org/10.14505/tpref.v14.1(27).13).

<sup>39</sup> Saleh Muhammad Zeki Mahmood Al-Leheabi, Mujahid Mustafa Bahjat, and Abdullatif Ahmadi Ramchahi, "The Economic Thought of IBN Khaldoun in His 'Muqaddimah,'" *World Applied Sciences Journal* 25, no. 1 (2013), <https://doi.org/10.5829/idosi.wasj.2013.25.01.743>.

It is philosophically why the principles in Islamic economics must meet several criteria and principles, including worship or *al-tawhid*<sup>40</sup>, equality or *al-musawat*, freedom or *al-hurriyat*<sup>41</sup>, justice or *al-'adl*, help-help or *al-ta'awun*, and tolerance or *al-tasamuh*. In his study, this theory of truth in *ushul fiqh*, which incidentally became a tool or method of legal *istinbath*, plays a strategic role in Islamic economics. Abu Haneefa and his followers belonged to the class of *al-Mushawwibah*, and the truth of their doctrine was that justifying the law was by *Ijtihad*, but not in the same manner. "Every Mujtahid is true, and the truth is on the side of Allah (swt); there is only one truth. Moreover, suppose he is wrong in assuming a truth on the side of Allah Almighty. In that case, his deeds are legally correct, and Abu Al-Hasan Al-Karkhi said: All our companions agree: Every Mujtahid is true when he is assigned, and the truth is with God. Therefore, in the context of truth and error in the determination of Islamic economic law, also known as Islamic economics, *al-Mushawwibah* and *al-Mukhaththiah* are applicable, for example, in the context of bank interest. Some fuqaha state that bank interest includes *riba*, while others argue that bank interest is not usury. Though it is undoubtedly based on the same source, namely the Qur'an contained in Sura Al Imran Verse 130, which states that:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ<sup>ع</sup>

"O believers, do not eat *Riba* multiplied and fear Allah so that you may have good luck".

Ulama who forbid bank interest consider that bank interest includes usury, while scholars who allow it believe that it does not include usury. Contemporary scholars differ on the law of bank interest. First, some scholars, such as Yusuf Qaradawi, Mutawalli Sha'rawi, Abu Zahrah, and Muhammad al-Ghazali, have stated that bank interest is haram because it involves usury. This opinion is also shared by Islamic ulama forums, including *Majma' al-Fiqh al-Islami*, *Majma' Fiqh Rabithah al-'Alam al-Islami*, and the Indonesian Ulema Council (MUI). The proposition for the prohibition of *riba* is the word of Allah subhanahu wa ta'ala in Sura al-Baqarah, verse 275:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ<sup>ع</sup>

Those who eat (transact with) usury cannot stand, except like those who stagger because of Satan's possession. So it happens because they say that buying and selling is the same as usury. In fact, Allah has legalised buying and selling and forbade usury. Whoever has come to him a warning from his Lord (concerning

<sup>40</sup> Baidar mohammed mohammed Hasan and Muneer Ali Abdul Rab, "The Principle Of Equality In Islam Is An Analytical Study Of The Concepts Of Differentiation And Racism," *Malaysian Journal of Syariah and Law* 9, no. 1 (June 9, 2021): 17–34, <https://doi.org/10.33102/mjisl.vol9no1.295>.

<sup>41</sup> Abdulla Iter (ع تر الله ع بد), "The Concept of Freedom in the HAnafi School: Freedom in Relation to Interests and Right," *Journal of Islamic Ethics*, July 13, 2021, 1–53, <https://doi.org/10.1163/24685542-12340067>.

usury), then he stops so that what he has obtained first belongs to him and his business (is up) to Allah. Who repeats (usury transactions), they are the inhabitants of hell. They remain in it”.

Then, the hadith of Prophet Muhammad sallallahu' alaihi wasalla narrated by Jabir bin Abdillah:

From Jabir, he said: “The Messenger of Allaah (peace and blessings of Allaah be upon him) condemned the one who ate (took) usury, gave, wrote it down, and the two who witnessed it.” He said: "They have the same legal status." (HR. Muslim, number 2994). (See: Yusuf Qaradhawi, *Fawa'id al-Bunuk Hiya al-Riba al-Haram*, Cairo: Dar al-Shahwah, pages 5-11; MUI Fatwa Number 1 of 2004 concerning interest).

Later, some other contemporary scholars, such as Shaykh Ali Jum'ah, Muhammad Abduh, Muhammad Sayyid Thanthawi, Abdul Wahab Khalaf, and Mahmud Syaltut, asserted that legal bank interest may or may not include usury. This opinion is in accordance with the fatwa issued by *Majma' al-Buhus al-Islamiyyah* dated 23 Ramadan 1423 H, coinciding on November 28, 2002 A.D. They hold to the word of Allah subhanahu wata'ala Surat an-Nisa' verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا  
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

“O men of faith, do not falsely eat one another's property, except in the way of consensual business among you, and slay yourselves not; Verily Allah is merciful to you.

Based on the above verse, Allah Almighty forbids vainly eating other people's property, such as stealing, gassing, and usury. On the other hand, Allah justifies it if it is done with a business that runs with mutual pleasure. Therefore, the joy of both parties to the transaction in determining the amount of profit at the outset, as is the case in banks, is justified in Islam. In addition, they reasoned that if bank interest is haram, then the addition to the principal of the loan is also haram, even though the additional amount is not required at the time of the contract.<sup>42</sup> However, the additional legal meaning is permissible, then bank interest is also allowed, because there is no difference between bank interest and additional principal on the loan. Furthermore, in the fatwa of *Majma' al-Buhus al-Islamiyyah*, it is mentioned:

“Actually investing in banks that determine profits or interest before the law is lawful according to Shari'a, and it is okay”. (See: Ali Ahmad Mar'i, *Buhus fi Fiqhil Mu'amalat*, Cairo: Al-Azhar Press, pages 134-158; Asmaul Ulama al-ladzina Ajazu Fawaidal Bunuk; Fatwa *Majma' Buhuts al-Islam bi Ibahati Fawaidil Masharif*).

<sup>42</sup> Huzeyfe ÇEKER, “Hanefî Fıkıh Kitaplarında Ribâ Şüphesi Kavramının Kullanımı,” *Cumhuriyet İlahiyat Dergisi* 25, no. 1 (June 15, 2021): 73–91, <https://doi.org/10.18505/cuid.853809>. Ali Rıza Gül, “İslâm'daki Faiz Yasağının Temeli Olarak Câhiliye Ribâsı Kavramı,” *Cumhuriyet İlahiyat Dergisi*, June 15, 2017, 701–701, <https://doi.org/10.18505/cuid.307384>.

Based on the explanation above, it can be understood that the law of bank interest is a matter of khilafiyah. Some scholars forbid it because it involves usury, while others allow it, arguing that it does not constitute usury. However, they all agreed that usury was haram. A Muslim is given the freedom to choose opinions according to his steadiness.<sup>43</sup> If his heart is firm in saying that bank interest is permissible, then he can follow the opinion of the cleric who allows it. Meanwhile, if his heart is hesitant, he can follow the opinion of the cleric who forbade him. The Apostle sallallahu' alaihi wasallam said:

“Kindness is anything that calms your heart and soul, while sin is what causes the heart to doubt and worry, even though many people say that it is good”. (HR. Ahmad).

Differences in legal conclusions among scholars are often a direct consequence of varying epistemological frameworks, socio-cultural contexts, and methodological approaches. In the realm of *fiqh al-mu'āmalāt al-māliyyah* (Islamic financial transactions), the theories of *al-Mushawwibah* and *al-Mukhaththi'ah* offer contrasting paradigms for evaluating the truth or error of legal opinions. Under the lens of *al-Mushawwibah*, truth in *fiqh* is viewed as relative and pluralistic. Every sincere *ijtihad*, though potentially divergent, is considered to carry some degree of validity and is acceptable within its respective sociocultural and legal environment. This approach accommodates legal diversity and acknowledges the dynamic nature of societal needs, allowing *fiqh* rulings to be flexible and context-sensitive.<sup>44</sup>

Conversely, the *al-Mukhaththi'ah* theory posits that although multiple *ijtihad* efforts may exist, only one corresponds with the true divine intent (*ḥukm Allāh al-ḥaqīqī*). In contrast, others are objectively mistaken, even if the mujtahid is excused for their error. This absolutist approach offers epistemological clarity and may serve legal standardisation well, but often lacks the capacity to respond to varied local realities and complex modern issues, particularly in areas such as Islamic finance, which are heavily context-driven.

To clarify how these two theories impact the evaluation of legal differences in *mu'āmalāt*, the following table presents a comparative analysis of *Al-Mushawwibah* vs. *al-Mukhaththi'ah* in the Context of *Mu'āmalāt Māliyyah*:

Aspect	<i>al-Mushawwibah</i>	<i>al-Mukhaththi'ah</i>
<b>View on Truth in Ijtihad</b>	All sincere <i>ijtihad</i> are potentially correct	Only one <i>ijtihad</i> is correct; others are mistaken
<b>Epistemological Nature</b>	Pluralistic, relativistic	Absolutist, exclusivist
<b>Implication for Legal Pluralism</b>	Encourages diversity and coexistence of legal opinions	Promotes uniformity and centralisation

<sup>43</sup> Nail Okuyucu, “Şâfiî'nin Kaynak İçî Nesih Teorisi ve Şâfiî Fikih Geleneğinde Yorumlanış Biçimleri,” *İslâm Araştırmaları Dergisi*, January 1, 2020, 29–73, <https://doi.org/10.26570/isad.650133>. Petya Koleva, Maureen Meadows, and Ahmed Elmasry, “The Influence of Islam in Shaping Organisational Socially Responsible Behaviour,” *Business Ethics, the Environment & Responsibility* 32, no. 3 (July 22, 2023): 1001–19, <https://doi.org/10.1111/beer.12529>.

<sup>44</sup> Fauzan Arrasyid et al., “The Progressivity of Umar Ibn Al-Khattab’s Ijtihad in Responding to Community Social Changes,” *Al-Istinbath: Jurnal Hukum Islam* 8, no. 1 May (May 16, 2023): 21, <https://doi.org/10.29240/jhi.v8i1.4872>.

<b>Response to Modern Financial Issues</b>	Flexible, adaptive to local context (e.g., fintech, contracts)	May be rigid; struggles with contextual variation
<b>Risk</b>	Potential legal uncertainty/confusion in unified systems	May marginalise valid local or minority views
<b>Strength</b>	Contextual sensitivity accommodates evolving practices	Clarity, predictability, and strong doctrinal cohesion

Source: author's analysis

In practical applications, especially in fields such as Islamic finance, where legal innovation, local regulation, and socio-economic variation are central, the theory of *al-Mushawwibah* offers an advantage through its ability to incorporate multiple valid approaches.<sup>45</sup> For example, differing legal verdicts on the permissibility of specific sukuk structures or cryptocurrency usage may all be considered valid within their respective contexts under this theory. However, the same flexibility, when left unchecked, could lead to confusion for laypeople or legal inconsistency in institutional settings. On the other hand, *al-Mukhaththi'ah*, by insisting on a singular correct ruling, offers a sense of legal finality and unity that is attractive to codification efforts and regulatory bodies. Yet, such rigidity may hinder the evolution of fiqh in response to new financial technologies or culturally embedded practices that demand more interpretive latitude.

In sum, both theories have distinctive strengths and inherent limitations. A critical understanding of their implications helps us appreciate why specific legal differences persist and how they might be managed rather than eliminated. Integrating both perspectives, acknowledging the sincerity of diverse *Ijtihād* (*al-Mushawwibah*) while striving for methodological rigour and consensus (as emphasised in *Mukhaththi'ah*), could lead to a more balanced framework in addressing the complexities of contemporary Islamic law.

## Conclusion

The study reaffirms the ongoing significance of the theories of *al-Mushawwibah* and *al-Mukhaththi'ah* in contemporary Islamic legal thought, particularly in addressing epistemological tensions within *ijtihād*. Through a critical comparative analysis, it has been demonstrated that while *al-Mushawwibah* offers epistemic inclusivity by validating multiple legal conclusions, *al-Mukhaththi'ah* provides methodological rigour through its commitment to singular truth; however, both exhibit inherent limitations when confronted with the socio-legal plurality of modern Muslim contexts. By engaging these theories beyond descriptive exposition and evaluating their practical implications in areas such as *mu'āmalāt māliyyah*, this article contributes a fresh methodological perspective that bridges normative coherence and contextual adaptability. It argues that a reconciliatory framework, integrating the procedural discipline of *al-Mukhaththi'ah* with the interpretive openness of *al-Mushawwibah*, is essential for the advancement of *Usul al-Fiqh*, enabling it to remain responsive to contemporary realities while upholding its epistemological integrity.

<sup>45</sup> Bismi Khalidin and Armiadi Musa, "Murabaha Financing of The Indonesian Islamic Banks Under an Islamic Economic Law and The Fatwa DSN MUI," *PETITA: JURNAL KAJIAN ILMU HUKUM DAN SYARIAH* 8, no. 2 (October 15, 2023), <https://doi.org/10.22373/petita.v8i2.238>.

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