

## PERSPECTIVES ON THE USE OF QIYAS BETWEEN IMAM BUKHARI AND IMAM SYAFIE

M. Qamarulzaman<sup>1a\*</sup>, Amran Abdul Halim<sup>2b</sup> and Azman Abd Rahman<sup>3c</sup>

<sup>a</sup>Faculty Of Quranic Sunnah Studies, Universiti Sains Islam Malaysia (USIM), 71800, Bandar Baru Nilai, Nilai, Negeri Sembilan, MALAYSIA

E-mail: [mohd.qamarulzaman@gmail.com](mailto:mohd.qamarulzaman@gmail.com)<sup>1</sup>

<sup>a</sup>Faculty Of Quranic Sunnah Studies, Universiti Sains Islam Malaysia (USIM),

E-mail: [amranabdulhalim@usim.edu.my](mailto:amranabdulhalim@usim.edu.my)<sup>2</sup>

<sup>a</sup>Faculty Of Syariah and Law, Universiti Sains Islam Malaysia (USIM)

E-mail: [azmanusim@usim.edu.my](mailto:azmanusim@usim.edu.my)<sup>3</sup>

\*Corresponding Author: [mohd.qamarulzaman@gmail.com](mailto:mohd.qamarulzaman@gmail.com)

Received: 7 August 2024

Accepted: 2 September 2024

Published: 30 September 2024

DOI: <https://doi.org/10.33102/jfatwa.vol.29no3.612>

### ABSTRACT

*The issue of applying fiqh (Islamic jurisprudence) in today's society highlights the need for a method that can harmonize the adaptation of Quranic and Hadith texts with changing times. Qiyas (analogical reasoning) is considered effective, especially in addressing new and complex issues where clear guidance from the Quran and Sunnah is lacking. Without Qiyas, Islamic law would struggle to keep up with evolving customs and modern dynamics. Since Qiyas is one of the key methods today, alternative approaches are needed to assist in forming ijihad (independent reasoning) to resolve new legal issues. This study aims to explain the differences and similarities in the use of Qiyas in ijihad by Imam Bukhari and Imam Syafi'e through a qualitative analysis of relevant books and articles. The findings reveal that Imam Bukhari's use of Qiyas was limited to Qiyas Jaliy (clear analogy). At the same time, Imam Syafi'e also favored Qiyas Jaliy and rejected Qiyas Khafiy (hidden analogy), aligning with Imam Bukhari's approach despite differences in their Usul Fiqh methods. This study provides a new perspective and different opinion on Qiyas, offering insights into its use in ijihad and opening alternative opportunities from Imam Bukhari's perspective, which can be considered alongside Imam Syafi'e's approach in modern discussions of Islamic law.*

**Keywords:** *Qiyas, Ijtihad, Imam Bukhari, Imam Syafie, Usul Fiqh.*

### 1. INTRODUCTION

Recent observations indicate an increasing complexity in addressing the realities of contemporary life. The swift advancements in technology, science, and local environments have led to the emergence of intricate and complex fiqh issues. Consequently, a diverse range of *usul fiqh* methodologies is required to



This is an open-access article distributed under the terms of the Creative Commons Attribution License (<https://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author(s) and source are properly credited.

offer alternative solutions and to derive conclusions that address the needs of the Muslim community. Contemporary fuqaha are confronted with life issues that cannot be resolved solely through the Quran and Sunnah; additional methodologies are necessary. Among the significant methods employed is the process of intellectual interpretation, or usually known as *qiyas*. In examining the perspectives of two esteemed scholars, Imam Bukhari and Imam Syafie, particularly regarding the method of *qiyas*, it is imperative to recognize that legal *ijtihad* is not exclusively constrained to the literal texts of the *Quran* and *hadith* but is also amenable to human intellectual interpretation. The literal approach yields definitive rulings (*mansus*), whereas rulings derived through reason are typically categorized as *ma'qul* (Noor Deris, 1994).

The position of *ma'qul* in the process of *ijtihad* cannot be denied. This is because the majority of scholars accept and acknowledge the authority of *ma'qul* as a legitimate and relevant source of law in resolving new challenges that arise in the modern era. The modern world presents complex and unique problems, requiring an inclusive and contextual approach. Although the *ijtihad* method of *lafzi* (text-based) holds an important and primary role in determining the law, there is also a need to incorporate views based on human intellect and experience. This is because only through a holistic approach that encompasses *mansus* and *ma'qul* can we comprehensively face modern challenges. Among the processes that apply the concept of *ma'qul* in the *ijtihad* of fiqh law is *qiyas*.

## 2. METHODOLOGY

This study employs a qualitative method and applies content analysis as the research design. Content analysis involves a systematic and detailed examination of textual materials to identify patterns, themes, and meanings within the data. The primary data collection instruments used in this study include an in-depth analysis of a variety of sources such as books, academic journals, and theses that focus on the method of *qiyas* used by Imam Bukhari and Imam Syafie in their respective *ijtihad*.

The study materials encompass a comprehensive range of resources, not limited to physical copies of texts. Online databases and digital libraries are extensively utilized to access a broad spectrum of relevant materials. This approach ensures the inclusion of contemporary scholarly works and the most recent research findings available in the field, providing a thorough and up-to-date analysis.

The information collected from these sources is meticulously examined to extract relevant content. This involves identifying key concepts and principles employed by Imam Bukhari and Imam Syafie in their application of *qiyas*,

understanding their methodological differences and similarities, and interpreting the significance of these differences within the context of Islamic jurisprudence. Each source is critically analyzed to ensure accuracy and depth in understanding the nuanced approaches of both scholars. The data is then compared across different sources, allowing for a comprehensive comparison of the methodologies of Imam Bukhari and Imam Syafie. This comparison highlights the distinctive features and contributions of each scholar's approach to *qiyas*, providing a clearer picture of their methodologies.

Finally, the findings are synthesized and summarized, offering a cohesive conclusion that reflects the insights gained from the research. This process ensures that the study provides a thorough and well-rounded analysis of the method of *qiyas* as applied by Imam Bukhari and Imam Syafie, contributing to the broader understanding of their *Ijtihad* practices and their significance in the development of Islamic jurisprudence.

### 3. RESULTS & DISCUSSION

#### 3.1 Definition Of Qiyas

Etymologically, the term "*qiyas*" originates from Arabic and is the *masdar* form of the word "قياس قاسا- يقيس", which has the fundamental meaning of measuring, comparing, analogizing, and equating (Nasrun Haroen, 1997). In Arabic, *qiyas* can be understood as a method or process for measuring something using an existing standard or parameter. Literally, *qiyas* derives from the root word "قياس", which means measuring something with something else.

In other words, *qiyas* contains the fundamental element of the phrase "تقدير الشيء بـ شيء آخر", which can be translated as "measuring something with something else." (Zakky al-Din, 1964). For instance, when someone says "قست الثوب", it means they are measuring a garment using a meter or another measuring tool. Simply put, *qiyas* reflect the concept of measuring or comparing something using specific parameters or criteria. In the context of Islamic law, *qiyas* is applied as a form of legal *ijtihad*, where principles from the *Quran* and *Sunnah* are used to evaluate and understand new situations or events analogously. Thus, *qiyas* become an important reference in the Islamic legal context as a method for deriving legal conclusions consistent with the principles established in the primary sources of Islam.

Another definition of *qiyas*, as mentioned by Imam Al-Haramain Juwayni, is: "As for analogy (*qiyas*), it is the application of subsidiary matters to the original issue with the presence of reasons that connect them in the determination of a

legal ruling." Meanwhile, according to the terminology as described by the *usuliyyun*, it is the connection of what does not have an explicit text concerning its ruling with what has an explicit text due to the similarity of *illah* between them (al-Juwayni, Jalaludin Al-Mahalli, 2001). Al-Amidi defines the method of *qiyas* as a "metaphor for the similarity between *furu'* and *ashal* in the *illah* derived from the ruling of the *ashal*." According to Ibnu al-Hajib, *qiyas* is equating a subsidiary matter with the original in terms of its legal cause, and what they correctly mean is the similarity of *furu'* with *ashal* in the *illah* of its ruling. Al-Mushawwib adds to this definition the phrase "according to the view of the establisher," referring to the one who establishes the ruling (Amir Syarifudin, 1999).

Dr. Abdul Karim Zaydan, a renowned scholar in the field of contemporary *fiqh*, explains the principles of *qiyas* by detailing how, technically, this principle reflects the legal reasoning from an original issue to a new one. This occurs because both cases share similarities in *'ilat* or relevant factors. He explains that the evolution of the use of *qiyas* involves adjustments between two objects, whether in terms of *hissiat* (sensory or tangible attributes) or *maknawiat* (meaning or abstract concepts) (Abdul Karim Zaydan, 1994). For example, the use of *hissiat* can be seen in the statement "I measure this paper with that paper," which shows a comparison of two items based on their tangible attributes or physical form. Meanwhile, an example of *maknawiat* usage can be illustrated in the statement, "The knowledge of person A cannot be compared to the knowledge of person B," emphasizing that the two types of knowledge cannot be equated based on the meaning or abstract concepts they represent.

Dr. Abdul Karim Zaydan also explains that the principles of *qiyas* provide a foundation for deriving legal judgments that align with changes in situations or issues that may not be directly addressed in the primary legal texts (Abdul Karim Zaydan, 1994). Through understanding and applying the concept of *qiyas*, scholars can conclude certain *hukum* based on the similarity of *'ilat* in issues to address societal needs and changes in times.

Technically, *qiyas* operate by making decisions about matters not explicitly outlined in primary legal texts, such as the *Quran* and *Hadith*, based on two premises related to the real world. Each premise has a similarity or common indicator, allowing us to draw conclusions in terms of the abstract meaning (NAS) as legal references (Abd Karim Syahrastani, 2007).

For example, we have the first premise stating that all beverages containing alcohol are prohibited in Islam. Then, we have the second premise, stating that beer is a beverage that contains alcohol. Using *qiyas*, we can conclude that beer is also prohibited in Islam based on the similarity of the alcohol *'ilat* in it with

the first premise. The importance of *qiyas* lies in their ability to provide convincing reasoning when faced with situations or objects not directly addressed in the primary texts. By ensuring that there are similarities or relevant indicators in the premises, we can make accurate and convincing inferences through the use of *qiyas*.

### 3.2 *The Positioning Qiyas In Ijtihad*

*Qiyas* is one of the methods usually found in *usul ijtiḥad* in Islamic jurisprudence and it is considered the fourth source of law after the *Quran*, *Sunnah*, and *Ijma'* (Remiswal, et. al, 2021). Although it is recognized as a method for deriving Islamic rulings, there is a difference of opinion among scholars regarding the status of *qiyas* as a source of law. For the majority of scholars, *qiyas* is seen as a form of legal *ijtiḥad* made through the rational interpretation of the meanings of the *Quran* and *hadith* of the Prophet Muhammad (SAW), with the aim of deriving rulings that align with the Islamic law desired by Allah (SWT). Although *qiyas* is generally accepted by the *jumhur* (majority) of scholars, there are also groups of scholars who reject it. They argue that *qiyas* is not a valid *hujjah* and thus cannot be considered an independent source of law (Nasrullah, 2017). Those who reject this method include scholars of the Shi'ie al-Nizam, Dawud al-Zahiri, and some *Shi'ah* scholars (Faisal Ahmadi, et. Al, 2020) (Amiruddin M. Jamil, 2015). For them, *qiyas* does not provide a strong basis to be used as a legal reference in Islam. In this debate, there is a diversity of views among scholars, reflecting the complexity and variety of interpretations in the effort to understand and apply Islamic law.

The use of *qiyas* in *ijtiḥad* also has specific conditions, one of which is emphasized by Sheikh Tahir, a renowned *fuqaha'* in the Nusantara region. He states, "It has been established in the principles of *usul al-fiqh* that *qiyas* and *ijtiḥad* are not valid (cannot be used as a source for a ruling) as long as there is an explicit text (*nas*) on a matter, by neglecting the text and relying on *qiyas*" (Tahir Jalaluddin, 1953). This means that when there is a clear text (*nas*) in the *Quran* or *hadith* related to a particular issue, the use of *qiyas* and *ijtiḥad* is not permitted, and the ruling to be followed is that which is contained or has been made clear in the text. In this context, he emphasizes that *qiyas* and *ijtiḥad* can only be used when there is no text explicitly addressing a particular issue in society. Therefore, in the process of *ijtiḥad*, priority should be given to the texts (the *Quran* and *hadith*) in determining the ruling, and only when there is no relevant text should *qiyas* and *ijtiḥad* be applied. This understanding underscores the primacy of the *Quran* and *hadith* texts in guiding Islamic law, with the use of *qiyas* as a last resort when there is no direct indication from these primary sources.

As one of the methods of *ijtihad* in Islamic law, *qiyas* consist of four elements, also known as the *rukun qiyas*. Each element plays a specific role in forming a new legal foundation. First, the *ashal*, or *maqis alaih*, is the basis or primary reference of *qiyas*. The *ashal* is an issue that already has a clear legal ruling. In some contexts, the *ashal* is also referred to as the point of comparison. The *ashal* serves as the starting point used to formulate the analogy in *qiyas*. Second, the second element of *qiyas* is the *far'u* or *maqis*, which refers to the new issue that does not yet have a clear legal ruling in the texts of the *Quran* and *hadith*. This is the new object or problem that will be analogized with the *ashal* or *maqis alaih*. In other words, the *far'u* is the situation or event that lacks a set legal ruling. Then, the fourth element of *qiyas* is the *hukum ashal*, which is the ruling found in the *ashal* or *maqis alaih*. This ruling is used as a reference or basis for comparison to determine the appropriate ruling for the *far'u* or new issue that lacks a legal determination. Finally, *'Illat* refers to the characteristics or attributes shared between the *ashal* or *maqis alaih* and the *far'u* or *maqis*. The *'Illat* forms the basis of similarity or equivalence, allowing the *far'u* to be analogized or applied to the *ashal*. With the presence of *'Illat*, a foundation is established that legitimizes the process of analogy in *qiyas* (Munadi Usman, 2017).

Without the use of *qiyas* in the process of *ijtihad* today, various negative impacts could arise. *Qiyas* plays a crucial role because it is the method that allows Islamic law to be adapted to new issues not covered by the *al-Quran* and *hadith*. For instance, when dealing with social, economic, and technological changes. Without *qiyas*, it would be challenging to generate legal perspectives that align with the realities of contemporary society. Furthermore, the absence of *qiyas* could increase legal uncertainty. Situations or problems not addressed by old texts might lead to gaps and legal ambiguity, resulting in confusion within society without clear legal guidance. This indirectly disrupts the purpose of legal rulings. With the presence of *qiyas*, such issues can be managed according to the function of *fiqh* in guiding societal behavior towards justice and welfare, as outlined in the *al-Quran* and *sunnah*. *Qiyas* also plays a role in preventing the risk of misinterpretation of legal texts, especially concerning new issues not explicitly detailed in the primary legal sources, namely the *al-Quran* and *hadith*. Hence, from the time of Rasulullah S.A.W., *qiyas* has grown from a systematic form of reasoning to a kind of sophisticated doctrine nowadays (Tajudeen Muhammed, 2004).

*Qiyas* assists and realizes the flexibility of legal texts in Islamic law, allowing interpretation and adaptation to changing times and local customs. This is because, in the field of legal sociology, it is stated that law is an inseparable part of a society's culture. Law cannot be isolated from the essence, spirit, and thought patterns of the society practicing that culture. In other words, law is not a standalone entity but reflects the character and values that have

permeated the daily life of a community. As part of the culture, law functions not only as a formal regulation but also as a mirror of identity, norms, and worldview that shapes the uniqueness of a community. Indeed, law embodies the spirit and thinking of the society, representing the spiritual structure of that society (Soerjono Soekanto, et. al, 1982). Without *qiyas*, the legal system might become rigid and struggle to adapt to societal developments. Contemporary issues that lack direct guidance in primary texts could be difficult to understand and resolve without the application of *qiyas*, which facilitates creative thinking and legal solutions to address these problems (Munadi Usman, 2017). While *qiyas* is very important, it is essential to remember that its use must align with the principles of *usul fiqh* and must not contradict the fundamental values of Islam derived from the *al-Quran* and *sunnah*.

### 3.3 *Imam Al-Bukhari, The Mujtahid*

Muhammad bin Ismail bin Ibrahim bin Al-Mughirah bin Bardizbah, or Barduzbah, (Az-Zahabi, 1992). more commonly known as *al-Bukhari*, was a prominent *muhaddith* of the 9th century who is widely regarded as the most important hadith scholar in Sunni Islam history. His notable works include the hadith collection *Sahih al-Bukhari*, *al-Tarikh al-Kabir*, and *al-Adab al-Mufrad*. Imam *al-Bukhari* was born on July 21, 810 CE in *Bukhara*, Persia (David Marshall, 1971). He is renowned for his role in compiling and verifying hadiths considered authentic, which later became known as *Sahih al-Bukhari*, a monumental work recognized as one of the highest-ranking hadith collections in terms of authenticity in Islam.

*Sahih al-Bukhari* includes thousands of carefully selected hadiths, organized with high precision. This is affirmed by Imam *Bukhari*'s own words: "I did not include in this book except hadiths, and even more so, hadiths that I left out" (Ibnu Hajar, 1963). The meticulous detailing and filtering criteria in the selection of hadiths make this work a primary reference in determining Islamic law and practice. *Al-Tarikh al-Kabir* and *al-Adab al-Mufrad* are also significant contributions of *al-Bukhari* in the fields of history and ethics. As a leading *muhaddith*, Imam *al-Bukhari* is known for his scholarly proficiency and noble and pious personality. He has a high reputation for verifying the authenticity of the hadiths he compiled, making his contributions a valuable legacy in the development of hadith knowledge within the Islamic tradition.

However, the credibility of Imam *Bukhari*'s knowledge extends beyond the realm of hadith alone; he was also a *mujtahid mustaqil*, (Abu Faris, 1989). meaning he was capable of formulating his own *fiqh* methodologies without relying on the methods of other *fuqaha'* and had the ability to independently engage in *ijtihad* in determining Islamic law. His status is comparable to other

prominent *mujtahids* in the field of *fiqh*, such as Imam Syafi'e, Maliki, Hanbali, and Hanafi. His excellence in the field of *ijtihad* adds an additional dimension to his legacy as a hadith scholar.

If we examine his hadith collection, *Sahih al-Bukhari*, we can clearly find elements of *fiqh* within it. This indicates that Imam *Bukhari* did not merely compile hadiths without context but also arranged them with a profound understanding of Islamic legal principles. This book is not just a collection of hadiths but reflects Imam *Bukhari's* comprehensive view of Islamic law as a whole. As R. Marston Speight remarked about the writing of *Sahih al-Bukhari*: "It was intended to be a tool for the study of jurisprudence, with many of the texts arranged according to the categories of Islamic law; the heading of the different sections reveals the compiler's competence in jurisprudence. Although all four schools of Sunni law consider him to be one of their basic sources, he never identified with any particular school" (R. Marston, 1993). Imam *Bukhari's* work is not merely a collection of hadiths but a profound and also contain comprehensive view of Islamic law. This further strengthens his reputation as a *mujtahid*, therefore proving his extensive knowledge in the field of *fiqh*. His proficiency in formulating Islamic law is evident not only in the domain of hadith but also in a deep understanding of the context and application of *fiqh* law in the life of Muslims. However, despite the recognition by many esteemed scholars of his expertise in *fiqh*, his school of thought is not widely known or used in discussions of *fiqh* issues. This is because his school did not undergo the same developmental process as other schools of thought like Mazhab Syafie, Mazhab Maliki, Mazhab Hanbali and Mazhab Hanafi. One of the main reasons is the lack of clear codification by Imam *Bukhari* to document his *fiqh* views (Ishak Suliaman, 2015).

### 3.4 Principals Of Fiqh Between Muhaddithin & Fuqaha In General

*Fuqaha* are often regarded as the figures who are always involved in the practice of *ijtihad*. This view arises because *ijtihad* is the result of applying the principles of knowledge they mastered to specific issues, especially in practical matters. For *fuqaha*, *ijtihad* is not merely an intellectual endeavor but also a product of a deep understanding of Islamic legal principles. However, it should be emphasized that the issuance of *ijtihad* is not exclusively limited to *fuqaha*. Back in the day, *Ijtihad* did not have a stipulation that it must come specifically from *fuqaha*. Instead, *ijtihad* can also be issued by scholars from various other fields, such as experts in *hadith* and *tafsir*. A clear example can be seen in other notable scholars such as Imam Zahiri, Abu Thaur, and Imam al-Bukhari (Fathoni Hasyim, et. al 2020). who are renowned as *muhaddith* but are also known for having their distinct schools of thought. The diversity in methods and sources of *ijtihad* reflects the richness of Islamic approaches to human life



issues. Scholars from various disciplines can also make valuable contributions in interpreting and applying Islamic law. Therefore, one should not be fixated on the view that *ijtihad* only emerges from *fuqaha*, but it can also come from scholars who are experts in *hadith*, *tafsir*, and other fields. This indirectly highlights the flexibility and capability of Islamic jurisprudence in addressing complex *fiqh* issues, especially in these challenging times.

Al-Khatib al-Baghdadi *Rahimahullah* said: "Among the scholars of *hadith* are those who are learned, *faqih* (jurisprudents), *khatib*, and preachers who call to righteousness and forbid wrongdoing. Allah SWT has made them the pillars or supports of the *shari'ah*, destroyers of newly invented *bid'ah*, and they are representatives of Allah in administering this world. They are also intermediaries between the Prophet SAW and his ummah, and they are the *mujtahid* (diligent scholars) who safeguard this religion..." (Al-Baghdadi, 463H). This statement by Al-Khatib al-Baghdadi *Rahimahullah* highlights the significance and high status of *ulama* of *hadith* within the Islamic community. They are not only regarded as experts in *hadith* but also as individuals with extensive knowledge in *fiqh*, *khatib*, and preachers who call to goodness and forbid wrongdoing. Al-Khatib al-Baghdadi describes them as "pillars or supports of the *shari'ah*," indicating that their expertise extends beyond mere understanding of *hadith* to include the maintenance and comprehension of Islamic legal aspects.

One of the reasons for the presence of *muhaddithin* were also seems to be skilled in *fiqh* issues is the continuity of *hadith* as the second source of legal authority in Islamic jurisprudence. A clear understanding of the apparent meanings and context of *hadith*, along with expertise in verifying and explaining the authenticity and status of *hadith*, can lead to a robust *ijtihad*. *Muhaddithin* who are able to deeply understand *hadith* can produce strong legal opinions that align with the principles of *shari'ah*.

Fundamentally, *muhaddithin*, who are also experts in *fiqh*, often have their own methodology for deriving legal rulings. Al-Mubarakfuri explains several principles used by these *ulama* of *hadith*, particularly in deriving *fiqh* rulings from sources such as the *Qur'an*, *Sunnah*, and other legal sources. This is outlined in his book *Sirah al-Imam al-Bukhari*, which details the methodology of *muhaddithin* in deriving legal rulings (Al-Mubarakfuri, 2002). In deriving legal rulings, *muhaddithin* prioritizes the highest source in Islam, namely the *Qur'an*. They consider the verses of the *Qur'an* as the primary basis for resolving legal issues. If a problem can be solved through relevant verses of the *Qur'an*, *hadith* scholars will not rely on the opinions or *ijtihad* (legal opinions) of others. Secondly, the importance of the *Sunnah* becomes very evident when verses of the *Qur'an* have multiple meanings that might not be clear if only the apparent

text is considered. In such cases, *hadith* scholars use the *Sunnah* to help clarify and understand the true meaning of the verses. The *Sunnah* serves as a determinant and reinforcement of the meaning of the *Qur'an* verses, thus preventing misunderstandings of the al-Quran textual sources.

When the *Qur'an* does not provide a clear solution to an issue, *hadith* scholars turn to the *Sunnah*. They view the *Sunnah* as an inseparable source of legal guidance from the *Qur'an* and use it to fill any legal gaps that might be present in the *Qur'an*. It is also important to note that among *muhaddithin*, the priority given to *hadith* as a source of law is very high. If a relevant *hadith* exists for a particular issue, they will not follow others' *ijtihad* but will use the *hadith* as the primary reference for determining the ruling. Furthermore, if no *hadith* is available, *hadith* scholars will refer to the views of the *Sahabah* and *Tabi'in*, the generations following the companions of the Prophet Muhammad SAW. Referring to their views helps provide a broader perspective on understanding and applying the law. When the *Sahabah* or *Tabi'in* have consensus on an issue, *hadith* scholars will adopt that consensus, showing their respect for the agreement of the early generations of Islam. However, if there are differing opinions among them, *hadith* scholars will choose to follow the view of those considered more knowledgeable, pious, and accurate, or the most well-known.

Imam Bukhari and Imam Syafie are two examples of prominent Islamic scholars with different expertise and approaches in applying the principles of *usul fiqh* regarding their methods of *ijtihad*. Imam Bukhari, renowned for his expertise in *hadith*, is found to focus more on the authenticity of the *nas* (evidence) as the core of the discipline of *hadith*, and this is clearly seen in his approach to other sources of *ijtihad*. Fundamentally, he uses four primary sources: the *Qur'an*, *Hadith*, *Athar*, and *Ra'yu* (Fathoni Hasyim, et. al 2020). Meanwhile, Imam Syafie incorporates principles that include the *Qur'an*, *Hadith*, *Ijma'*, and *Qiyas* as the main sources in his legal conclusions (Teuku Khairul, 2018). Imam Syafie's *ijtihad* concept emphasizes the integration of *mansus* and *ma'qul* in his legal reasoning, encompassing the validity of legal evidence not only from the perspective of the definitive evidence but also considering rational methods like *Qiyas* to adapt to practical needs in local customs. The differences in their approaches or principles of *usul* are largely due to the specialization and expertise each possesses (Fathoni Hasyim, et. al 2020). Thus, the differences in the principles of *usul fiqh* applied by both reflect their distinct understandings and focus on the sources of Islamic law, as well as their goals of practical applicability in applying *ijtihad* to contemporary societal issues.

### 3.5 Application Of Qiyas By Imam Bukhari & Imam Syafie

In the view of the Imam Syafie school, every legal ruling or regulation in Islam must have a basis or evidence from the *Quran* and *Sunnah* of the Prophet. This evidence can be in the form of a clear textual (*manṣūṣ*) source or it can also be based on *aql* (reasoning) through the process of *qiyas* based on the principles found in the *Quran* and *Sunnah* (Hussain Hamid, 1971). *Qiyas* in other words, is also referred to as *ijtihad* by Imam Syafie (Al-Syafie, 1940). This explains why Imam Syafie in his *Risalah* links *qiyas* with the concept of *ijtihad*, as both are methods for deriving Islamic rulings in situations or issues not explicitly addressed in the *Quran* or *Sunnah*. By relating *qiyas* to *ijtihad*, Imam Syafie indicates that the use of the *qiyas* method is essentially an intellectual effort to find Islamic rulings that are not clearly stated in the *Quran* or *Sunnah*.

Furthermore, Imam Syafie states that the method of *qiyas* should only be used if there is a need to establish a new legal rule. However, these *qiyas* must be based on evidence or proof found in the *Quran* and *Sunnah*. This is because it is generally known that Islamic law cannot be established unless it is directly or indirectly related to evidence. In this context, *qiyas* become an important methodology for finding Islamic rulings. *Qiyas* is the process of reasoning where the law from an issue already explained in the *Quran* or *Sunnah* is applied to a similar issue that has not been explicitly and clearly addressed. Thus, it is clear that the *Mazhab Syafie* emphasizes the importance of having a clear basis or connection to evidence in determining Islamic law, even when using *ma'qul* methods.

Imam *Syafi'e* uses the principle of *qiyas* as a basis for his arguments, as evidenced by the *ayah* from Surah An-Nisa' (4:59),

يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولَى الْأَمْرِ مِنْكُمْ فَإِن تَنَزَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ إِن كُنتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

which means: "O you who have believed, obey Allah and obey the Messenger and those in authority among you. Moreover, if you disagree over anything, refer it to Allah and the Messenger if you should believe in Allah and the Last Day. That is the best [way] and best in result." According to Imam *Syafi'e*, the meaning of "refer to Allah and His Messenger" in this *ayah* is to "apply *qiyas* to the issue you are facing by referring to the *Quran* and the *Sunnah*" (Huzemah Tahido, 2011).

Although Imam *Syafi'e* accepts the apparent use of *qiyas* as one of his legal references, not all forms of *qiyas* are accepted by him, such as *qiyas khafiy*. For Imam *Syafi'e*, *qiyas khafiy* (or some also known as *istihsan*) is considered a form

of *talazzuz* (indulgence) (As-Syafie, 1940). If it were allowed in religious matters, it would lead to permissibility for every rational person beyond the scope of knowledge, and it would allow the formulation of religious law in every context, ultimately leading everyone to legislate religion for themselves, therefore he didn't acknowledge *qiyas khafiy* as his preferred legal preferences.

On the other hand, from Imam Bukhari's perspective, it can be understood from his writing of *Sahih Bukhari* that he clearly expressed his disagreement with the use of the method of *qiyas*. In *Kitab al-I'tisam bi al-Kitab wa al-Sunnah*, Imam al-Bukhari states a chapter translation by saying (1403 AH, *Kitab al-I'tisam bi al-Kitab wa al-Sunnah*):

باب تَعْلِيمِ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - أُمَّتَهُ مِنَ الرِّجَالِ وَالنِّسَاءِ، مِمَّا عَلَّمَهُ اللَّهُ، لَيْسَ بِرَأْيٍ وَلَا تَمْثِيلٍ

Meaning: The chapter where the Prophet SAW teaches his followers, both men and women, what Allah SWT has taught him, not based on mere opinions or *qiyas* (analogy).

The essence of Imam Bukhari's fiqh is largely composed of textual understanding, relying on the apparent meaning of *nas* and not being extensively open to the scope of *qiyas* (analogy) (Fathoni Hasyim, et. al 2020). Nevertheless, Imam Bukhari did use *qiyas*, though not extensively (Al-Ja'ied, 1993). The type of *qiyas* acknowledged by Imam Bukhari was limited to *qiyas jaliy* (clear analogy) and not *qiyas khafiy* (hidden analogy) (Abdul Qahir, 1995). This perspective is supported by the statements of Ibn Hajar and Ibn Battal, who noted that while Imam Bukhari accepted *qiyas* as a basis, it was not employed extensively. Furthermore, Imam al-Muzani, based on his reference to hadith, identified two hadiths related to Bukhari's acceptance of *qiyas* in the context of the chapter on *tashbih*. According to Ibn Battal, the term *tashbih* essentially means the same as *tamthil* (comparison), which carries a meaning similar to *qiyas*. (Scott D. Lucas, 2006) This selective use of *qiyas* by Imam Bukhari can be observed in the hadith of Anas bin Malik collected in his book, where he states (1403 H, *Kitab al-Ahkam*):

يُنْتَمَا أَنَا وَالنَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - خَارِجَانِ مِنَ الْمَسْجِدِ فَلَقِينَا رَجُلًا عِنْدَ سُدَّةِ الْمَسْجِدِ فَقَالَ: يَا رَسُولَ اللَّهِ: مَتَى السَّاعَةُ؟ قَالَ النَّبِيُّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ -: مَا أَعَدَدْتُ لَهَا فَكَأَنَّ الرَّجُلَ اسْتَكْبَانَ ثُمَّ قَالَ: يَا رَسُولَ اللَّهِ، مَا أَعَدَدْتُ لَهَا كَبِيرَ صِيَامٍ وَلَا صَلَاةٍ وَلَا صَدَقَةٍ، وَلَكِنِّي أَحْبَبْتُ اللَّهَ وَرَسُولَهُ. قَالَ أَنْتَ مَعَ مَنْ أَحْبَبْتَ

Meaning: When I was with the Prophet SAW leaving the mosque, a man met us at the mosque door and asked, "O Messenger of Allah, when is the Hour?" The Prophet SAW replied, "What have you prepared for it?" The man was silent and then said, "O Messenger of Allah, I have not prepared with much fasting, prayer, or charity, but I love Allah and His Messenger." The Prophet SAW said,

"You will be with those whom you love."

The relevance of this hadith to the translation of the chapter concerns the fatwa because it is found in the hadith. Matters related to administering justice (Qaeda) are based on qiyas. Therefore, it is clear that Imam al-Bukhari used qiyas jali and accepted it as evidence.

*Qiyas jaliy* is an analogy based on a definite reason, with no alternative possibility other than the reason indicated by the evidence, such as the prohibition of *khamr* (intoxicants), which is explicitly mentioned in the *nas*. On the other hand, *qiyas khafiy* involves analogies where the reason is not clear, requiring scholars to deliberate extensively to find the cause. For example, giving *zakat* in the form of a sheep, while for a poor person, money might be more valuable and beneficial than a sheep. This is also known as *istihsan* according to An-Nasafy (Kadenun, 2018).

#### 4. CONCLUSION

*Qiyas* is undeniably an important method that needs to be understood and mastered, as it is seen today as an effective intellectual tool for addressing modern societal issues. Although the *Quran* is regarded as the primary guide covering all aspects of human life, the use of *qiyas* is recognized as a thinking method that helps align *Quranic* verses and *hadith* with the context and realities of the present time. Even though *qiyas* is not direct evidence, as a method of *ijtihad*, it holds a significant place, ranking fourth in the hierarchy of *ijtihad*. This understanding demonstrates the wisdom and flexibility in formulating Islamic law according to the needs of society. The importance of the framework of *usul fiqh* in shaping the law is also emphasized, with the understanding that behind *fiqh* rulings are the foundational principles of *usul fiqh* that provide the basis for legal reasoning. Therefore, the diversity and variety of *usul fiqh* methods are crucial, and alternative methods of *ijtihad* should be considered to formulate appropriate legal solutions for complex contemporary issues.

This study highlights that while Imam *Bukhari* predominantly adheres to the apparent understanding of *nas* (textual evidence) and infrequently employs *qiyas* (analytical reasoning), it is noteworthy that he did utilize *qiyas* in certain contexts. Imam *Bukhari* primarily focused on the explicit meanings derived from *Quranic* verses and *hadith*, reflecting a conservative approach to *ijtihad* that prioritizes textual clarity over speculative reasoning. His use of *qiyas* was, therefore, limited and applied selectively, primarily in situations where the textual evidence was not explicit but still required an interpretation consistent with the principles laid out in the *Quran* and *Sunnah*. On the other hand, Imam *Syafi'e* shares some common ground with Imam *Bukhari* in his cautious

approach towards *qiyas*, particularly *qiyas khafiy* (hidden or less apparent analogical reasoning). Imam *Syafi'e* explicitly rejects *qiyas khafiy* as it is viewed as a form of *talazzuz* (excessive indulgence in personal reasoning), which could lead to subjective interpretations that deviate from established principles. In his methodology, *Syafi'e* emphasizes a balanced approach that incorporates both *nas* and clear *qiyas* (known as *qiyas jaliy*) but remains wary of reasoning methods that may introduce uncertainty or excessive personal judgment into legal rulings.

Both scholars exhibit a cautious stance towards the use of *qiyas*, albeit for different reasons. Imam *Bukhari* focuses on ensuring that *ijtihad* remains closely tied to textual sources, thereby minimizing the scope for *qiyas*, while Imam *Syafi'e* restricts the application of *qiyas khafiy* to prevent the potential for subjective biases. This distinction underscores the nuanced approaches each scholar adopted in applying *ijtihad* within their respective legal frameworks, reflecting their commitment to preserving the integrity and clarity of Islamic jurisprudence. Thus, this study reflects the need for diverse *usul fiqh* methods and the importance of using *qiyas* as a thinking tool to address modern societal issues. Without alternative *ijtihad* methods and diverse *usul* methods, the development of *fiqh* may face difficulties over time, potentially impacting the growth and sustainability of Islam in facing the dynamic challenges of the future.

## 5. REFERENCES

- Abd al-Karim Zaydan (1994), *al-Wajiz fi usul al-fiqh*, Mua'assasat al-Risalah Nashirun: Beirut.
- Amiruddin M. Jamil (2015), *Kaedah penggunaan Sumber Hukum Dalam Berfatwa oleh Majlis Permusyawaratan Ulama' (MPU)*, Sarjana Sastera Pengajian Islam, Universiti Utara Malayisa.
- Abu Faris, Muhammad Abdul al-Qadir (1989), *Fiqh al-Imam al-Bukhari*, Al-Urdun : Dar al-Furqan, Jilid 2.
- Al-Baghdadi, Abi Bakar Ahmad B. Ali Al-Baghdadi, *Syarah Ashab al-Hadis*, Dar Al-Ihya': Misr, Vol. 1.
- Abdus Salam Al-Mubarakfuri (2002), *Sirah al-Imam al-Bukhari (Sayyidul Fuqaha Wa Imamul Muhaddisin)*, Dar Ilm Fawaid : Makkah, Vol. 1.
- As-Syafie, Muhammad Bin Idris As-Syafie (1940), *al-Risalah*, Tahqiq : Ahmad Muhammad Syakir, Dar Al-Kitabul Ilmiyah : Beirut Lubnan.
- Al-Jai'ed, Satar Bin Thawab (1993), *Fiqh al-Imam al-Bukhari fi al-Buyu' wa al-Salam min Jami'ih al-Sahih*. Jami'ah Umm al-Qurra, Vol. 2.
- Abdul Qahir Muhammad Ahmad Mukhtar Qamar (1995), *Fiqh Imam al Bukhari fi al-Imarah wa al-Qada' min Jami'ih al-Sahih*, Thesis, Jami'ah Umm al-Qura', Mecca.
- David. M. Lang (1971), *A Guide To Eastern Literatures*, Praeger Publisher, First Edition (January).
- Faisal Ahmadi, M. Randy Martadinata, A. Apriani, N. Razinah (2020), *The Values Of Qiyas In Islamic Jurispudence*, Jurnal Wasatiyyah : Jurnal Hukum, Vol. 1, No. 2, Disember.
- H. Amir Syarifuddin (1999), *Ushul Fiqh*, PT Logos Wacana Ilmu: Jakarta.
- H. Kadenun (2018), *Istihsan Sebagai Sumber dan Metode Hukum Islam*, Qalamuna, Vol. 10, No. 2, July – December.
- Hussain Hamid Hassan (1971), *Nazariyyah al-Maslahah fi al-Fiqh al-Islamiy*, Islamiy, Universiti Al-Azhar : Kaherah.

- Huzemah Tahido Yanggo (2011), Pengantar Perbandingan Mazhab, Gaung Persada : Jakarta.
- Ibnu Hajar, Ahmad Bin Ali Bin Hajar (1963), Hady Al-Sariy, tahqiq : Ibrahim Iwad Misr, Mustafa al-Babi Al-Halabi, Vol. 1.
- Ishak Suliaman M. Murshidi M. N. (2015), Fiqh dan Ijtihad Imam Al-Bukhari, Dewan Bahasa Pustaka (DBP) : Kuala Lumpur.
- Imam Haramayn Al-Juwayni, Imam Jalaluddin Al-Mahalli (2001), Syarah Waraqat Fi Usul Fiqh, Dar Al-Fadhilah: Cairo.
- M. Noor Deris (1994), Pemakaian Teori Al-Masalih Al-Mursalah dari Perspektif Mazhab Syafie, Jurnal Islam 2.
- M. B. Abd Al-Karim Al-Syahrastani (2007), al-Milal wa al-Nihal, Dar al-Kutub Al-Ilmiyyah : Beirut, Vol. 3.
- M. Tahir Jalaluddin (1953), Ta'yid Tadhkirah Muttabi' al-Sunnah fi al-Rad 'Ala al-Qa'il bi Sunniyah, Zi United Press, Pulau Pinang.
- Munadi Usman (2017), Pengantar Ilmu Usul Fiqh, Unimal Press,.
- M. B. Ahmad B. Utsman Al-Zahabi (1992), Syi'ir Alam an-Nubala', Muassasah Ar-Risalah : Beirut, Vol. 12.
- M. Fathoni Hasyim, Liliek Channa A. W., I. Amrusi J., Basuki, A. Wijaya, Nur Ahid (2020), The Process of Al-Bukhari Fiqh Methodology Development in Islamic Law, International Journal Of Innovation, Creativity and Change Vol. 14, Issues 1.
- Nasrun Haroen (1997), Ushul Fiqh, Logos Wacana Ilmu : Jakarta, Cet. 2.
- Nasrullah (2017), Majelis Ulama Indonesia (MUI), Studi Atas Penggunaan Metodologi Qiyas Sebagai Upaya Penetapan Hukum Islam Di Indonesia Al-Fikra : Jurnal Ilmiah Keislaman, Vol. 6, No. 2 July – December.
- Remiswal, A. Anggraini, Asma B., Z. Nazar (2021), Introduction To Qiyas and Maslahah and Its Application In the Future, Yudisia : Jurnal Pemikiran Hukum dan Hukum Islam, Vol. 12, No. 2, December.
- R. Marston Speight (1993), The Encyclopedia of Religion, ed. Micea Eliade, Collier Macmillan Publisher : London, Vol. 2.



Soerjono Soekanto, Mustafa A. (1982), *Sosiologi Hukum Dalam Masyarakat Rajawali* : Jakarta, Edition.

Scott D. Lucas (2006), 'The Legal Principles Of Muhammad B. Ismail Al-Bukhari and Their Relationship To Classical Salafi Islam', *Islamic Law & Society*,

Tajudeen Muhameed B. A. (2004), *Relevance Of Qiyas (Analogical Deduction) As A Source Of Islamic Law In Contemporary Times*, M.A Thesis, Open Repository Ahmadu Bello University, Nigeria.

Zakky al-Din Sya'ban (1964), *Ushul al- Fiqh al-Islami*, Dar al-Ta'lif: Egypt.

***Disclaimer***

*The views expressed in this article are those of the author. Journal of Fatwa Management and Research shall not be liable for any loss, damage or other liability caused by / arising from the use of the contents of this article.*