Normativity-Deductivity of Ibn Rusyd's *Bidâyat al-Mujtahid wa Nihâyat al-Muqtashid*

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Abstrak:

Ibn Rusyd dalam khazanah pemikiran Islam lebih dikenal sebagai seorang filsuf. Padahal ia juga diakui kepakarannya dalam bidang-bidang lain, di antaranya adalah fikih. Faktanya, ia meninggalkan karya monumentalnya dalam bidang fikih, yakni kitab *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid*. Kitab ini menyusun pembaban kitab ini secara sistematis-logis dan komprehensif, serta menyajikan beragam pendapat dari berbagai mazhab fikih yang berkembang pada waktu itu secara objektif. Tulisan ini mengkaji tentang mukadimah kitab *Bidâyat al-Mujtahid* yang bersisi teori-teori pemahaman nas yang mendasari sebab-sebab perbedaan pendapat yang akan diuraikan di dalamnya, juga tentang sistematisasi kitab ini. Penulis pada akhirnya menyimpulkan bahwa kitab *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid* merupakan kitab fikih perbandingan yang diuraikan secara sistematis-argumentatif-logis dan memuat tema-tema fikih secara holistik-komprehensif.

Kata Kunci:

Ibn Rusyd, *Bidâyat al-Mujtahid*, perbandingan *fiqh*, yurisprudensi Islam

Abstract:

Ibn Rusyd, better known as Moslem philosopher, but he was actually an expert in other fields, among which was islamic jurisprudence (*fiqh*). He wrote a monumental work in the field of Islamic jurisprudence, namely the *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid.* This book compiles the book systematically, logical, and comprehensive, and serves a variety of opinions from various schools of jurisprudence that developed at that time objectively. This paper examines about *Muqaddimah Bidâyat Kitab al-Mujtahid* that comprise theories of understanding religious text *(al-adillah al-syar'îyah)* underlying causes of dissent which will be described in it, also on the systematization of this book. I finally concludes that the book *Bidâyat al-Mujtahid wa Nihâyat al-Muqtashid* is *fiqh* comparison described systematically-logical-argumentative and contains themes of *fiqh* holistically-comprehensive.

Keywords:

Ibn Rusyd, *Bidâyat al-Mujtahid*, *fiqh* comparison, Islamic jurisprudence

Introduction

He is Ahmad Hassan (1887-1958), a scholar and the central figure of Islam Union (Persatuan Islam-PERSIS),[1] the

activist ofreform movement (*reform*, *tajdîd*) in Islam and well-known as the most revolusionary and radical,[2] has his own impression on the *Bidâyat al-Mujtahid*. Initially, Hassan does not really care with the hustle and bustle between old people and young people,[3] even his religious understanding was closer to old people's understanding. When he was visiting Kiai

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[1] Islamic Union (Persatuan Islam-PERSIS) is one of religious organizations with modernist characteristic such as Muhammadiyah and Al-Irsyad. The organization was founded in bandung in 1924. In subsequent periods, when the dispute misunderstanding between Muslim groups traditionalist and modernist Muslims culminated, Ahmad Hassan was one of figures of the most heavily criticized the understanding of traditionalist Muslim groups. At that time, he was then identical with PERSIS, and PERSIS was identical with him in reverse.

[2] At that time, he was then identical with PERSIS, and PERSIS was identical with him in reverse. Therefore, PERSIS with Ahmad Hassan as the central figure known as the severest and the most incisive one in criticizing the traditionalist Muslim. He is then viewed as a spearhead in dealing with various forms of understanding and religious practices deemed to have deviated from the pure Islamic teachings. Akh. Minhaji, "Respon Kelompok Tradisionalis Terhadap Misi Pembaharuan Ahmad Hassan," Paper is presented in Dies Natalis IAIN Sunan Kalijaga, Yogyakarta, 26 September 1997, 1.

[3] In the discourse of the historical development of Islamic thought in Indonesia, The Old People are identical as traditionalist Muslim group—the group that still want to maintain the tradition that has been exist and practiced in the community. While, young people are identical with the modernists Muslim group—a group that wants the understanding and religious practices to be returned to the original sources, the Qur'an and hadith. Their movement is known as *tajdîd* movement or *ishlâẖ* (reform).

A. Wahab Hasbullah (later known as one of the founders of Nahdatul Ulama (NU), he proposed a question to Kiai Hasbullah on the law of reading *ushallî*. Based on his knowledge, he answered that reading *u shallî is* sunna. When he was questioned its legal basis, Kiai Hasbullah said that it could be easily found in any books. Kiai Hasbullah was wondering why such an easy question was asked to him.[4]

Kiai Hasbullah then asked Hassan to find out its legal basis in the Qur'an and hadith, because the young people believe that the religion is what is said by Allah and his apostle. The next morning, Hassan started to observe any verses in the Qur'an and books of hadith, but he did not find the legal basis of reading *ushallî*. He then started to have a conviction in his heart to justify the understanding of the young people. The statement, that religion is only what is said by Allah and his apostle, was strongly penetrated within himself. That moment was taken as the best moment in his life relating to his radical religous understanding.[5]

In Surabaya, when he paid a visit to one of his companions (a supporter of *tajdîd* movement), Hassan was firstly introduced to *Bidâyat al-Mujtahid*. He took opportunity to read that book as soon as the owner went away. He really put an deep interest into the book that it encourages him to possess it for his own. The

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[4] Syafiq A. Mughni, *Hassan Bandung: Pemikir Islam Radikal* (Surabaya: Bina Ilmu, 1994), 16.

[5] Ibid., for further information, please read Deliar Noer, *Gerakan Modern Islam di Indonesia 1900-1942* (Jakarta: LP3ES, 1995), 98.

book is regarded as one of the readings that affect Hassan's way of thinking.[6]

That is a bit story that enable to show the position of *Bidâyat al-Mujtahid* in the former society. It is true that upto the early twentieth century, when the wave of reform struck the Moslems in Indonesia, the book still became exclusive reading book for our society with only certain people reading it particularly the activists and the supporters of reform movement. However, nowadays, the book has been easily acceptable by every Moslem.

About the Author

The author of the book is Muḥammad ibn Abû al-Qâsim Aḥmad ibn Abû al-Walîd Muḥammad ibn Aḥmad ibn Rusyd,[7] later known as Ibn Rusyd. He was born in Cordova in 520 H/1126 M and died in Morocco in 595 H/1198 M.

He lived in a family and neighborhood under Mâlik doctrine (*madzhab*). His father and his grandfather had occupied as the chief of of the court in Andalusia. Both of them particularly his gran father was a prominent expert in *fiqh* in Cordova.[8] Beside learning *fiqh* from his father, Ibn Rusyd also learnt it from Abû al-Qâsim ibn Basykuwâl, Abû Marwân ibn Masarrah, Abû Bakar ibn Samḥûn, and many more.[9]

His learning in *fiqh* was quite deep.It was proven by his work namely *Bidâyat al-Mujtahid*, which he presented various reasons of different arguments among the expert of *fiqh* (*fuqahâ'*), it was also mentioned the *'illat* of the law. Beside that, he was also appointed as *qâdlî al-qudlâh* in Cordova in the era of Amîr Yûsuf ibn 'Abd al-Mu'min, which previously as *qâdlî* in Seville. Ibn Farḥûn stated that the orientation of the *fiqh* of Ibn Rusyd tends to be analitical (*dirâyah*) more than textual (*riwâyah*).[10] If it is so, surely this case has loce relationship with his capacity the prominent philosopher.

Beside his expertise in *fiqh*, Ibn Rusyd also learnt and deepened about medical science, *manthiq*, and philosophy.

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[6] Mughni, *Hassan Bandung*, 20-1. It is quite sure that Hassan's interest in the book of *Bidâyat al-Mujtahid* particularly due to the model used in discussing the jurisprudence always contradicted to the theorems of Islamic canon. It is also completed with analysis toward the distinctive argumentations which are emergent from it. Probably, he has found it previously when he learned religion in his traditionalist neighborhood.

[7] That quite long complete name was intentinally excerpted to clarify the lineage of Ibn Rusyd to his grandfather. Based on that name, the name of his father is Aḥmad with *kunyah* Abû al-Qâsim, while his grandfather is Muḥammad ibn Rusyd with *kunyah* Abû al-Walîd. Abû al-Ḥassân ibn 'Abd Allâh ibn al-Ḥassân al-Nubahî al-Mâliqî (sic: Mâlikî) al-Andalusî, *Ta`rîkh Qudlâh al-Andalus* (Beirut: al-Maktab al-Tijârî, n.d.), 98, 99, 110-11. This explanation needs to be affirmed because in the literature of *fiqh* (Mâliki) or *târîkh al-tasyrî'*, between the name of Ibn Rusyd and his grandfather are almost similar. If the names of *kunyah* from hisfather and his grandfather are deleted, so his name will be like what is written in the *Bidâyat al-Mujtahid*.

[8] Within history, it seemed that Ibn Rusyd's grandfather was more well known than his father because his grandfather had some works in the field of Islamic jurisprudence which became some references in Mâliki school. Due to his name was similar to his grandfather's name, some writers named his grandfather as Ibn Rusyd al-Kabîr while Ibn Rusyd himself as Ibn Rusyd al-Ḥafîd. Hasbi Ash Shiddieqy, *Pengantar Ilmu Fiqh* (Jakarta: Bulan Bintang, 1993), 118.

[9] Muḥammad 'Athîf al-'Irâqî, *al-Naz'ah al-'Aqlîyah fî Falsafah Ibn Rusyd* (Cairo: Dâr al-Ma'ârif, n.d.), 24.

[10] Ibid.; and Dewan Redaksi Ensiklopedi Islam, *Ensiklopedi Islam* (Jakarta: Ichtiar Baru van Hoeve, 1993), 165.

Even his expretise in philosophy was more eminent than other fields. He was well-known by western as the greatest Arabic philosopherand as a great commentator toward Aristotle's most autorative philosophy. The works of Ibn Rusyd has been able to penetrate the borders of language and religion. His thought has also affected the Christian society in Europe.[11]His most well-known work in philosophy is *Tahâfut al-Tahâfut*, containing his protest againts the critique of al-Ghazâlî which is directed to other philosophers as in his book *Tahâfut al-Falâsifah*.

Cordova, the hometown of Ibn Rusyd, was the most glorious and advanced city in Andalusia. Many Moslem scholars from various expertise were from that city. Ibn Rusyd had once stated that if there was scholar died in Seville and wanted his books to sell, they were brought to Cordova that they were finally sold out. Meanwhile, if there was a singer died in Cordova and wanted his musical instruments to sell, they were brought to Seville.[12] This condition indicated that how high the scientific tradition was in Cordova in that moment.

In the era of Abû Yûsuf al-Manshûr, Ibn Rusyd occupied a very high position even higher than the close companions of al-Manshur had. He had a very harmonious relationship with the Amîr. However, in that era, he also underwent a very hard situation. He got slandered and was accused as theone who taught a misleading teaching which contradicted to the religious teaching.[13] Despite he refused that accusation, he still got a punishment namely being secluded into a place called Lucena.[14]

Apparently, this insident had wider impact. The ruler issued an injunction to burn the philosophical books written by him and other philosophers. Hence, most of his philosphical books written in Arabic had vanished.[15] It was said that the slander was conducted by the *fuqahâ'* who were extremely conservative and uniterested in philosophy. Several years after the incident, the condition was getting fine, al-Manshûr forgave him and freed him. He then went to Morocco and not long after that he died and soon after that al-Manshûr died as well.[16]

The Position of *Bidâyat al-Mujtahid* among the Books of *Fiqh*

To know the position of *Bidâyat al-Mujtahid* among the books of *fiqh*, it can be investigated through the history of the growth and development of Islamic jurisprudence from time to time (*târîkh al-tasyrî' al-Islâmî*). Since the beginning of its development up to nowadays, Islamic Jurisprudence had undergone some pha-

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[11] Marsyall G.S. Hodgson, *The Venture of Islam: Conscience of History in a World Civilization*II (Chicago: The University of Chicago Press, 1977), 320 and G.E. van Grunebaum, *Classical Islam: A History 600 AD–1258 A.D.*, trans. Katherine Watson (Chicago: Chicago Aldine Publisying Company, 1970), 187.

[12] al-'Irâqî', *al-Naz'ah al-'Aq-lîyah*, 30.

[13] It said that Ibn Rusyd stated in one of his book which was as his judgments toward the philosophy of Aristotle that Zahrah (venus) was one of Gods. Ibid., 28-9.

[14] Dewan Redaksi Ensiklopedi Islam, *Ensiklopedi Islam*, 165.

[15] M. T.H. Houstma, et. al., *First Encyclopedia of Islam 1913-1936*, III (Leiden: E.J. Brill, 1993), 410.

[16] al-'Irâqî, *al-Naz'ah al-'Aqlîyah*, 30.

ses in its growth and development. Some experts divide those phases or periods into seven phases: [17]

1. The period of prophet Muhammad PBUH.
2. The period of the great companions, ended to the last *al-khulafâ` al-râsyidûn*.
3. The period of little companion and great *tâbi'în* (40 H to the beginning of II H century).
4. The period of *mujtahidîn* (early century of II H to century of IV H).
   In this period, the *imâm madzhab* and *fuqahâ'* emerged and had a freedom to do *ijtihâd*.

5. The period of *murajjihûn* (middle century of IV H to 656 H).In this period, the followers of mazhab strove to do *tarjîh* the jududgments taken when the controvercies appeared. Some made an effort to return those judgements to the primary source of the jurisprudence. They also investigated the *'illat* of the jurisprudence and did the *tarjîh* toward the imam.
6. The period of *muqallidûn* (656 H to the century of XIII H). In this period, the followers of the *madzhab* completely accepted the judgements decreed by the *mujtahid* without mak-

ing investigation towards those decree.

7. The period of reconstructing the Islamic Jurisprudence (the end of XIII H century up present).

If refers to those periods, it is unequivocal that Ibn Rusyd is included into the period of *murajjihûn* (the period of the fifth *tasyrî'*). That period was signalized by the spirit of conducting *ijtihâd* and thinking freely was getting decreased. It was caused by some factors, some of them were: the development of spirit of *taqlîd*, the getting rooted *madzhab* fanatism, the spread of unfair debates.[18]

Some of the works by the scholars of that period are: explaining the *'illat* of jurisprudence being investigated by their imam, conducting *tarjîh* toward the distinctive judgements within a *madzhab* (it was either the *tarjîh* in term of *riwâyah*or *dirâyah*), and maintaining their own judgement.[19] Thus, in this way, *Bidâyat al-Mujtahid* could finally be positioned. In the book, Ibn Rusyd explained much about the *'illat* of jurisprudence and conducted *tarjîh* in some of the time. Even, he conducted it not only within one *madzhab* but also across different *madzhab*s.

In this period, the experts of islamic jurisprudence (*fuqahâ'*) could be distinguished into several levels according to their quality and ability:[20]

1. *Mujtahid* in *madzhab* (*fî al-madzhab*).
   Being included in this level, they are: Al-Hasan ibn Zayyâd (Hanafî),

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[17] The experts had different views in determining the phases of the growth and the development of Islamic jurisprudence within history. Muhammad al-Khudlarî Bek, divided those phases into six periods, Yûsuf Mûsâ made them into four periods. The decision of determining the phases used in this writing is the phases division according Hasbi Ash Shiddieqy in one of his books. Has-bi Ash Shiddieqy, *Sejarah Pertumbuhan dan Perkembangan Hukum Islam* (Jakarta: Bulan Bintang, 1971), 12-3.

[18] Ibid., 149-52 and Muhammad Khudlarî Bek, *Târîkh al-Tasyrî' al-Islâmî*, 1st edition (Egypt: Al-Maktabah al-Tijârîyah al-Kubrâ, 1965), 324 and 334.

[19] Ibid., 154-55 and Khudlarî Bek, *Târîkh al-Tasyrî' al-Islâmî*, 331-34.

[20] Ash Shiddieqy, *Pengantar Ilmu Fiqh*, 84-5.

Ibn al-Qâsim (Mâlikî), al-Muzanî (Syâfi'î), and al-Ashram (Ḥanbalî).

2. *Mujtahid fî al-masâ`il.*
They are al-Karkhî (Ḥanafî), Ibn 'Arabî and Ibn Rusyd (Mâlikî), al-Ghazâlî (Syâfi'î), and al-Baghdâdî (Ḥanbalî).

3. The *tarjîḥ*
4. The *takhrîj*
They are al-Jashshâsh (Ḥanafî), Khalîl (Mâlikî), al-Nawawî (Syâfi'î), and Ibn Qudâmah (Ḥanafî).

5. *Ahl al-tamyîz.*
6. *Muqallid mutlaq.*

So, it is equivocal that based on the levels above, Ibn Rusyd is included into *mujtahid fî al-masâ'il*, one level before *mujtahid fî al-madzhab* which means two levels before *mujtahid mutlaq*. *Mujtahid fî al-masâ`il* is a man who has ability to conduct *ijtihâd* toward the cases which the *imâm* do not conduct *ijtihâd* to them, by holding tight to basics of *tasyrî'* or *istinbâth* which are tightly held by the *imâm madzhab.*

The primary reference book in a mazhad is surely the book (if any) which is written by the imam himself which he is the founder of the *madzhab*. Then, the books containing his views and instructions which are written by his students who learns diretly to him. Then, the books which are written by the students of his students (the students of second generation in a *madzhab*) and it goes on and on till the next generations.

In *madzhab* of Mâlikî, if it refers to the division of history into the periods of *tasyrî'* and the levels of *fuqahâ'* above, the primary book of *madzhab* Mâlikî is *al-Muwaththa`*, which was written by Mâlik

himself. Then, the next books were the books which were written by his students who learnt directly to him (Mâlik). Some of the famous books are *al-Asadîyah* written by Asad ibn Furât and *al-Mudawanah* written by Ibn al-Qâsim.[21] Both of the books occupiedthe first level in *madzhab* (*mujtahid fî al-madzhab*). Meanwhile, Ibn Rusyd with his *Bidâyat* occupied the second level, one level before Ibn al-Qâsim.[22] Even, if seen from its content which covers the comparative views from some *madzhabs*, the book can be taken as reference by other *madzhabs*.

The Preambule of *Bidâyat al-Mujtahid*

The preambule of the *Bidâyat al-Mujtahid* is very significant to be reviewed, because it can be as an introduction for the readers before analyzing its content. The preambule reveals various things enabling the readers to get a better understanding to the book. At least, there are three things being discussed by Ibn Rusyd in the preambule, they are the purpose of writing the book, and the principles of establishing the jusrisprudence, included in it is the causes of the emerging the different opinions among *fuqahâ'* in term of methodology.

Ibn Rusyd stated that the original purpose of writing the book was only for his own notes to enable to ease him to remember various jurisprudence problems and their theorems which are either

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[21] Compare with Ash Shiddieqy, *Pengantar Ilmu Fiqh*, 118 and Hasbi Ash Shiddieqy, *Pedoman Hukum Sjar'y jang Berkembang dalam Alam Islamy Sunny I* (Jakarta: Pustaka Islam, 1952), 73.
[22] Compare with Ash Shiddieqy, *Pengantar Ilmu Fiqh*, 84-5.

being agreed or not. Beside that, the original purpose of his writing the book is to remind him to the causes of emerging the contradiction in that jurisprudence, namely the basic rules for the problems that are not discussed by canon law but frequently come to the mind of a *mujtahid*.[23]

As discussed in this book, according to him, the problems are as the problems being also discussed by *syara'* or at least they have closely related to it. Those jurisprudence problems are agreed for some of the time and some are still debated. This condition has been exist since *shahâbah* era to the era of wi-despreading *taqlîd* ideology.[24]

The biggest part in the preambule contains some rules or theories which are related to to the process of establishing the law and its causes of the emerging different judgement. According to Ibn Rusyd, there are three ways to obtain the law from prophet Muhammad PBUH., they are via the words (*lafzh*) he uttered, the actions he conducted, and *iqrâr* (*taqrîr*, justification). As for the problems that are not discussed by *syâri'*, according to majority of the scholars (*jumhûr 'ulamâ'*) the law establishment can be taken by using *qiyâs* method, meanwhile, according to *Ahl al-Zhâhir* there is no any law on it and it is not allowed to do *qiyâs* in *syara'* law.[25]

The last argument is more logical because law cases happening among humans are not limited; meanwhile, the prophet's words, actions and *taqrîr* are limited. So, it is kind of impossible to compare the limited thing to the unlimited one.[26]

Related to words (*lafzh*), Ibn Rusyd mentions that there are four types which there of them are agreed and one is debated. The three types of agreed *lafzh* are:

1. The word *'âmm* which means *'âmm* or *khâshsh* which means *khâshsh*.

   For instance: حُرِّمَتْ عَلَيْكُمُ الْمَيْتَةُ وَالدَّمُ وَلَحْمُ الْخِنْزِيرِ

   The word *al-khinzîr* in the verse is as the word *'âmm* which means *'âmm*, namely all kinds of pigs, as long as there is no any similar name (*isytirâk*), such as sea pig.

2. The word *'âmm* but it means *khâshsh*.

   For instance: خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا

   The word *amwâl* in the verse is *'âmm* which means *khâshsh*, because muslims have agreed that the tithe (*zakâh*) is not a compulsory for any kinds of wealth, but it is only for specific wealth.

3. The word *khâshsh* which means *'âmm*, covers:

   a. The word which means 'lower' also includes another meaning which is 'higher'.

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[23] Abû al-Walîd Muḥammad ibn Aḥmad ibn Muḥammad ibn Rusyd, *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid,* I (n.c.: Syirkah al-Nur Asia, n.d.), 2. As an exalted judge, those notes were really needed because they were as basics for his mastery in the field of jurisprudence.

[24] Of his statement, when the book was written, the *taqlîd* ideology had been widespread among the isalmic society.

[25] In the history of *tasyrî'*, the groups who protest bto use *qiyâs* in Islamic jurisprudence are: Syiah, al-Nazhzhâm (Mu'tazilah), and *Ahl al-Zhâhir*.

Their primary reason is because the texts (*nash*) in the Qur`an and sunnah have been sufficed with law needed by human. As for the things that are not found their *nash*, the law then is essentially allowed. 'Alî Ḥasab Allâh, *Ushûl al-Tasyrî' al-Islâmî*, 2nd edition (Egypt: Dâr al-Ma'ârif, 1959), 92-3.

[26] ibn Rusyd, *Bidâyat al-Mujtahid*, 2. In this case, it seems that Ibn Rusyd prefers the argument of *Ahl al-Zhâhir*, and thi indicates that he has his freedom to choose any argument he likes while the society in his neighborhood is restricted by the *madzhab* they follow.

b. The word which means 'higher' also includes another meaning which is 'lower'.

c. The word which also covers other meanings which are equivalent.

For instance: فَلَا تَقُلْ لَهُمَا أُفٍّ, the word *uff* (hus), also covers hitting, insulting, abusing and the like.[27]

The fourth type of word (*lafzh*) which is still debated is the explanation of the word (*lafzh*) according to *dalîl al-khithâb*, namely the opposite understanding of its original meaning.[28] As it has been known that not all scholars (*'ulamâ'*) admit the validity *nash* understanding by using *dalîl al-khithâb*.

It is also essential to take note that is the view of Ibn Rusyd on the difference between *qiyâs* and the word *khâshsh* which means *'âmm*. According to him, *qiyâs* is as the word *khâshsh* which is indeedly used in the same meaning as *khâshsh* too, then there is another concept which is not discussed by *syara'* which is equivalent to it. In the sense that another concept which is not included into *man-thûq al-nash* that is equivalent to a concept which has legal there are provisions in the text (*nash*) on the basis of similarities between between these two concepts. Thus, it is not based on the content of the

lafzh (*dalâlah al-lafzh*). Due to equalizing a concept beingnot discussed by *syara'* with the concept being discussed on the basis of the content of the *lafzh* is not *qiyâs* but the word (*lafzh*) *khâshsh* which is meant *'âmm*.[29]

As example of *qiyâs* is likening the beer drinker to *qâdzif* (the person who accused other people conducting adultery) in term of the punishment with 80 times beating. Meanwhile, the example of *lafzh khâshsh* which is meant *'âmm* is equalizing every measurable commodity and every food ingredient with six kinds of usury commodities that are mentioned in hadith. Toward *qiyâs*, *Ahl al-Zhâhir* refuses it and he accepts the word *khâshsh* which is meant *'âmm*.[30] Because it is as the matter of perception of the people who listen to those words. The people refusing it indicate that they have disavowed a

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[27] The word *'âmm* which means *khâshsh* is almost similar to *qiyâs*, so that some of scholars consider that the above interpretation of فَلَا تَقُلْ لَهُمَا أُفٍّ is taken as *qiyâs* namely *qiyâs awlâwî*. 'Abd al-Hamîd Hâkim, *al-Bayân* (Jakarta: Sa'adiyah Putra, n.d.), 125.

[28] *Dalîl al-khithâb* in Syâfi'î school is called *mafhûm al-mukhâlafah*. Asjmuni A. Rahman, *Metoda Penetapan Hukum Islam*, 1st edition (Jakarta: Bulan Bintang, 1986), 103.

[29] Compare the difference between the two concepts with the difference between analogical interpretation and extensional interpretation in criminal law, particularly in terms of the determination an act as crime, where it is not allowed to conduct analogically but it is allowed by using extensional interpretation toward the provision in the criminal code and other rules.

[30] Dâwud al-Zhâhirî (the figure of *Ahl al-Zhâhir* and the founder of Zhâhirî school clarifies that every insident surely has its law based on the Qur'an and hadith by expanding *nash* through understanding the meaning and the purpose of its content. According to Ibn Hazm, the prominent scholar of Zhâhirî school, *Ahl al-Zhâhir* refuses *qiyâs* according to them that looking for the *'illat* of the law is void. Muhammad ibn 'Alî ibn Muhammad al-Syawkânî, *Irsyâd al-Fuhûl 'ilâ Tahqîq al-Haqq min 'Ilm al-Ushûl*, 1st edition (Egypt: Mushthafâ al-Bâbî al-Halabî, 1937), 200. The view of Dâwud shows that he refused *qiyâs* but he can accept the giving meaning extensively toward *nash*.

type of the Arab's *khithâb*. The two concepts are indeedly similar. Therefore, it should strongly be observed.[31]

Turning to the issue of the actions of prophet Muhammad PBUH., the majority of experts consider that his act is one way to gain Islamic jurisprudence. Yet, another group found that the sole act can not provide legal provison because it does not have a clear statement (*shîghah*). The first group have different opinion about the kind of judgement derived from such action—is it as obligation (*wâjib*) or optional (*sunnah*). The selected opinion is that if there is an indication of its obligation or its prohibition, it means the law gained is also obliged (*wâjib*) or prohibited (*harâm*). If the indication is *sunnah* or *makrûh*, so the law gained is *sunnah* or *makrûh*. Yet, if there is no any indication, it will be sunnah when the actions related to *'ibâdah (al-qurbah)* and it will be *mubâh* when the actions related to *non-'ibâdah*.[32]

Related to *iqrâr* (*taqrîr*, justification), Ibn Rusyd does not give much explanation but he only gives a statement that *iqrâr* indicates to *jawâz*. Beside that, he mentions about *ijmâ'*. According to him, *ijmâ'* serves to strengthen the legal status from *zhannî* to *qath'î*. It should be re-

membered that *ijmâ'* is not an independent legal basis but it still has to lean on *syara'*. If it is independent, it means that it has been created a new syariaafter the prophet Muhammad PBUH.[33]

The explanation of Ibn Rusyd in the preambule of *Bidâyat al-Mujtahid* is concluded with the explanation of the causes to the divergence of opinion among *fuqâhâ'*. For him, there are six causes why the *fuqahâ'* are in divergence, they are:[34]

1. The irresolution of lexical meaning being related to any possibilities between *lafzh khâshsh* with *ma'nâ khâshsh/'âmm. Lafzh 'âmm* with *ma'nâ khâshsh/'âmm*, or the presence or the absence of *dalîl al-khithâb*.

2. The presence of *isytirâk* (ambiguity) in the *lafzh*:

   a. *Mufrad*, such as: lafal *qur'* (قرء) which means purified or *haydl*; the word *amr* which can mean *wâjib* or *sunnah*; and the word *nahy* which can mean *harâm* or *makrûh*.

   b. *Murakkab*, such as in: إِلَّا الَّذِينَ تَابُوا, does it mean *fâsiq* only or *fâsiq* and *syâhid* which means the repentance of the *qâdzif* can erase his wickedness so that his testimony can be finally accepted.[35]

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[31] ibn Rusyd, *Bidâyat al-Mujtahid*, 3.

[32] Ibid., 4 and 'Alî Hasab Allâh, *Ushûl al-Tasyrî' al-Islâmî*, 54-6. In the book, he categorizes the prophet's actions into two categories: prophet's actions in his capacity as a human being and in his capacity as a messenger. The last category can be divided into three —that is being applied for him only in expalining the Qur'an and in explaining the thing beside those two things. Related to the last one, he categorizes it into two categories —if the actions could be categorized as *syara'*, so it needs to follow but if it could not be categorized as *syara'*, so it is as a form of *qurbah*, which its law is *sunnah*, but if it is not, so the law is *mubâh*.

[33] Ibid.

[34] Compare to Mahmûd Syaltût, *al-Islâm 'Aqîdah wa Syarî'ah*, 3rd edition (n.c.: Dâr al-Qalam, 1966), 515-43. Syaltût mentions things that cause the dissent in understanding the Qur'an and hadith. The things he mentions are almost the same as those mentioned by Ibn Rusyd, however he makes it more systematic and detailed.

[35] Qs. al-Nûr (24): 4-5. The complete verse is as follow:

وَالَّذِينَ يَرْمُونَ الْمُحْصَنَاتِ ثُمَّ لَمْ يَأْتُوا بِأَرْبَعَةِ شُهَدَاءَ فَاجْلِدُوهُمْ ثَمَانِينَ جَلْدَةً وَلَا تَقْبَلُوا لَهُمْ شَهَادَةً أَبَدًا وَأُولَئِكَ هُمُ الْفَاسِقُونَ (4) إِلَّا الَّذِينَ تَابُوا مِنْ بَعْدِ ذَلِكَ وَأَصْلَحُوا فَإِنَّ اللهَ غَفُورٌ رَحِيمٌ

3. The divergence of opinion in *i'râb*.

4. The irresolution of lexical meaning, between the meaning in *haqîqî* (intrinsic meaning) and *majâzî* (figurative meaning) aswell as the ambiguity between *haqîqah* or *isti'ârah*. The forms of *majâzî* can be like: *al-hadzf, al-ziyâdah, al-taqdîm,* and *al-ta`khîr*

5. The *lafzh* which is sometimes mentioned absolutely (*muthlaq*) and sometimes mentioned in *muqayyad*, such as the word *raqabah* (رقبة).

6. The existence of controversy *(ta'ârudl)* in:
   a. Any various types of *lafzh*
   b. Deeds *(af'âl)*
   c. *Taqrîr (iqrâr,* justification)
   d. Various *qiyâs*
   e. Inter concept:
      (i) *Ta'ârudl* between words and deeds *taqrîr* or *qiyâs.*
      (ii) *Ta'ârudl* between deeds and *taqrîr* or *qiyâs.*
      (iii) *Ta'ârudl* between *taqrîr* with *qiyâs.*[36]

Contents and Systematics of Compiling the *Bidâyat al-Mujtahid*

Bidâyat al-Mujtahid is one of the classical *fiqh* book containing quite com-plete the entire materials of *fiqh*. Not less than 68 subject matters (*kitâb*) contained in it. Based on the previous description of the purpose and contents, the book may also be seen as historical document of *tasyrî'* regarding to various legal issues which had been discussed since the early period of Islam to the era of Ibn Rusyd. In keeping with the title, the book can be used as the first guide for thepeople who want to become a *mujtahid*, and can be as a final reference for them having intermediate ability (*muqtashid*) in the study of Islamic jurisprudence.

The book is divided into two volumes, but genereally, both of them are made into one volume by maintaining its original volume — two volumes. The first volume contains 367 pages and the second volume contains 374 pages; so, the total page is 741 pages. Of the 68 subject matters, if they are classified according to its magnitude theme, it will be as follows:

1. The theme about *thahârah* (4 *kitâbs*): ritual ablutions (*wudlû'*), bath, *tayammum*, and purification of unclean.

2. Theme about *shalâh* (3 *kitâbs*): *Shalâh* I, *shalâh* II, and the law of the deceased.[37]

3. The theme about the charity (*zakâh*) (2 *kitâb*): *Zakâh* and *zakâh al-fithrah*.

4. Theme about fasting (3 *kitâbs*): fasting I, fasting II, and *i'tikâf*.

5. Heme about pilgrimage (*hajj*) (1 *kitâb*).

6. Theme about *jihâd* (1 *kitâb*).

7. Theme about oaths and promises (2 *kitâb*): oath and *nazar*.

8. Theme about animal slaughter (4 *kitâbs*): *Qurbân*, animal slaughter, hunt, and *aqîqah*.

9. Theme about food and drink (1 *kitâb*).

10. Theme about family (*al-ahwâl al-syakhshîyah*) (6 *kitâbs*): marriage, divorce (*thalâq*), *îlâ`, zhihâr, li'ân,* and *ihdâd*.

11. Theme about *mu'âmalah mâddîyah* (Islamic economic law) which covers

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[36] ibn Rusyd, *Bidâyat al-Mujtahid*, 4.

[37] *Kitâb Ahkâm al-Mayyit* (law on corpse) can also be included in the theme of *thahârah* because it also contains the procedures of *thahârah* for the deceased.

most of the *kitâb* — 25 *kitâbs*: *Buyû'*, *sharf*, *salam*, *bay' al-khiyâr*, *bay' al-murâbahah*, *bay' al-'ârîyah*, *ijârâh*, *ju'l*, *qirâdl*, *musâqâh*, *syirkah*, *syuf'ah*, *qismah*, *ruhûn*, *hajr*, *taflîs*, *shulh*, *kafâlah*, *hiwâlah*, *wakâlah*, *luqathah*, *wadî'ah*, *'âriyah*, *ghashb*, and *istihqâq*.

12. Theme about heir and heritage and related matters (3 *kitâbs*): *Hibah* (grant), *washîyah* (wills), and *fa-râ'idl* (heritage).
13. Theme about the freeing of slaves (4 *kitâbs*): *'Itq*, *kitâbah*, *tadbîr*, and *ummahât al-awlâd*.
14. Theme about criminals (9 *kitâbs*): *Qishâsh*, *jarh*, *diyât fî al-nufûs*, *diyât fî mâ dûna al-nufûs*, *qasâmah*, *ahkâm al-zinâ*, *qadzaf* (including penalties for drink liquor), *sariqah*, and *hirâbah* (including punishments for apostasy).
15. Theme about justice (1 *kitâb*).

Almost of the book consists of several chapters (*bâb*), each *bâb* consists of several topics (*fashl),* and every *fashl* covers several issues. Sometimes the systematics used starting from the *kitâb* consisting of some numbers (*jumlah*), each of which is divided into several *bâb*, and every *bâb* covers several *fashl*, and every *fashl* can be specified into several *mas`alahs*. However, those terms are not really standard and sometimes inconsistently used. As an example, the order could be: *kitâb-jumlah-mas`alah* or *kitâb-bâb-mas`alah*, and so forth. Beside that, a *jumlah* or *bâb* which is mentioned as the detailsof the discussion of a *kitâb* or *juz*` (*qism*) is not complete as the number previously mentioned. For instance, when it is mentioned *kitâb al-buyû'* covering six *juz*`, in fact, it is only mentioned the first and the second *juz*` while

the next *juz`s* change its term to be *qism* and *jumlah*.[38]

In his every discussion, Ibn Rusyd always shows different opinion from various schools (*madzhabs*), beside there are certain figures (*shahâbah*, *tâbi'în*, and *tâbi' al-tâbi'în*). Beside that, it is also mentioned the basics or the arguments of each group and the causes of the dissent. Sometimes, he shows the selected opinion from a various opinions that exist and sometimes he is not available for comment. As an example, the following will be provided an overview of how Ibn Rusyd makes systematic discussion and how the model of the discussion looks like. The subject matter of the the example is about buying and selling (*kitâb al-buyû'*).[39]

The subject of the sale and the purchase consists of six *juz`s*, the second *juz* describes the causes of the breakdown of the sale and selling and buying. This section is divided into four *bâb*s, one of them is the second *bâb* which discusses about any types of selling and buying which contain usury. The second *bâb* is still dividedinto four *fashl*s which the fourth *bab* describes the criteria of the same kind and the unsimilar commodity. The fourth *fashl* contains three *mas`alah*s that follow.

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[38] ibn Rusyd, *Bidâyat al-Mujtahid* II, 364-6.

[39] In *Bidâyat al-Mujtahid*, *kitâb al-buyû'* is a subject of the most extensive and detailed than other subjects regarding to *mu'âmalah mâddîyah* (economy). This is reflected in its systematic discussion which has a range of quite long and complete hierarchy, namely: *Kitâb-Juz`-Bâb-Fashl-Mas`alah*. Generally, *fiqh* book indeed provide broader description about the purchase because it is seen as the basis for other forms of transaction (contract, business agreement). Compare Muhammad Muslehuddin, *Menggugat Asuransi Modern*, trans. Burhan Wirasubrata, 1st edition (Jakarta: Penerbit Lentera, 1999), 109.

In this case, it will only be quoted several explanations of Ibn Rusyd in the fourth *fashl* and added one problem that follow.[40]

In the second *bâb* contains vairous forms of buying and selling which contains usury. It is mentioned that there are kinds of usury occuring in buying and selling, they are *nasî`ah* usury and *fadll* usury.[41] In regard with *fadll* usury, the fourth *fashl* is discussed. The criteria of similar and dissimilar commodity, it is important to be discussed with respect to a hadith of prophet Muhammad PBUH. which indicates the presence of six kinds of trading commodities.[42] He bans the exchange of similar commoditiy (of those six commodities) unless the same and

comparable. The exchange of the similar commodity being conducted with the dissimilar and not comparable commodity is categorized as buying and selling which contains *fadll* usury.

Then in the fourth *fashl* is questioned whether the category of those goods classification covers its good and bad or its dry and wet (for crops). In this case, it is given example of disagreement over *qamh* and *sya'îr* (both are wheat but are different in quality). Mâlik and al-Awzâ'î found that both are a kind, while Abû Hanîfah and al-Syâfi'î argue to the contrary. Mâlik leaned his opinion to the habit or tradition of Medina inhabitants. However, his followers lean their opinion to hadith and *qiyâs*. The hadith states:

الطعام بالطعام مثلا بمثل

According to them, the word *tha'âm* (food) covers *burr* (*qamh*) and *sya'îr*. In terms of *qiyâs*, according to them, both of them taken into the same kind because both of them have more similarities.[43]

On the other hand, Abû Hanîfah and al-Syâfi'î also leaned their opinion on hadith and *qiyâs*. The hadith which they propose is:

لا تبيعوا البر بالبر والشعير بالشعير إلا مثلا بمثل

In this hadith, *burr* and *sya'îr* are made as two distinct types. Another hadith is as:

وبيعوا الذهب بالفضة كيف شئتم والبر بالشعير كيف شئتم والملح بالتمر كيف شئتم يدا بيد

Based on *qiyâs*, because the two commodities are different in name and usage, so, in consequence, both of them are also different in their kind.[44]

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[40] For *kitâb al-buyu'*, see ibn Rusyd, *Bidâyat al-Mujtahid II*, 93-145, for its systematic discussion, see the table of content, Ibid., 364-66.

[41] Ibid., 96. According to Muhammad Abû Zahrah, there two kinds of usury, they are the usury occuring in debts and receivables and the usury occuring in trading. The first kind of usury is forbidden by the Qur'an, which later known as *nasî`ah* usury or *Jâhilîyah* usury. Meanwhile, the second kind of usury is divided into kinds, they are *nasa 'usury* (a not-cash trading), *fadll* usury (barter trading in one kind of commodity that is done with dissimilar and not comparable way). The prohibition of usury which occurs in trading is noted in the hadith. Muhammad Abû Zahrah, *Buhûts fî al-Ribâ*, 1st edition (n.c.: Dâr al-Buhûts al-'Ilmîyah, 1970), 78-9.

[42] Those six commodities are gold, silver, wheat (*burr*), *sya'îr*, dates and salt. As for the hadith regarding to this matter has various versions, as being narrated by 'Ubâdah, he said that:

سمعت رسول الله صلى الله عليه و سلم ينهى عن بيع الذهب بالذهب والفضة بالفضة والبر بالبر والشعير بالشعير والتمر بالتمر والملح بالملح إلا سواء بسواء عينا بعين فمن زاد أو ازداد فقد أربى

ibn Rusyd, *Bidâyat al-Mujtahid*, II, 96.

[43] Ibid., 101-2.

[44] Ibid.

According to Ibn Rusyd, the basis of the opinion proposed by the followers of Mâlik about their understanding to the above hadith *(tha'âm)* is weak. Because the meaning of the word *al-tha'âm* is general then is interpreted by other hadith which are *shahîh*. It it is not solely understanding which is based on mind.[45] For him, the cause of the dissent between Mâlik and al-Awzâ'î in one side with Abû Hanîfah and al-Syâfi'î in another side lies in their differences in viewing the same or the different usage of both commodities. For those who think the same usage will ar-gue that the two commodities are similar. However, for those who think that they are different in usage will certainly argue that the commodities are not similar.[46]

There are three problems that follow the fourth *fashl*, one of them is concerning the scholars' dispute about bartering the similar meat, in which there should not *fadll* usury.[47] In this case, Mâlik classifies the meat of animal into three classifications, they are the meat of four-legged animal, the meat of animal water, and the meat of bird. Various types of meat of animal that are still in the same group are considered as the same kind so that the

barter should be the same and equal. However, if it is conducted within cross group, so the barter should not be the same and equal. However, Abû Hanîfah rejects such model of grouping and considers that all kinds of animals are each different from one another. So, according to him, *fadll* usury occurs only in bartering meat of animal of the same kind only (for example, mutton with mutton). Meanwhile, al-Syâfi'î has two opinions, the first opinion is similar to the opinion of Abû Hanîfah and the second opinion states that all kinds of meat are the same.[48]

The implication of such dissent, for example, the barter between mutton with beef on Abû Hanifah's opinion is allowed to do without being the same and comparable, which, according to Mâlik, it is not allowed to do. Meanwhile, al-Syâfi'î, due to having two opinions, states that it is allowed to do as well as it is not allowed to do.

The basis of al-Syâfi'î's opinion, the second one, is based on the prophet's hadits:

الطعام بالطعام مثلا بمثل

According to him, if the animal is dead (becoming meat) then there goes the properties that distinguish it with another animal and finally it becomes meat—the same as other animals' meat. Mâlik leans his opinion on the view that of the animals are different in their species, so their meats are surely different. While, while, Hanafîyah base their opinion on their view of the difference from the unit types of animals. So, any kind of different animals will be different types of meat. Ac-

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[45] The Ibn Rusyd's view shows that despite his school is Mâlikî but he is still critical towad the teaching or the ideology brought by the followers of Mâlik.

[46] Ibid.

[47] The dissent in this case surely happens to tohse who argue that *fadll* usury could occur at almost any similar commodity, not limited to six kinds of commodities mentioned in the hadith. Majority of the jurists *(jumhûr al-fuqahâ')* the six commodities in the hadith are *lafzh khâshsh* which means *'âmm*. Thus, according to them, *fadll* usury is not limited to those six commodities but *Ahl al-Zhâhir* argues the opposite. Ibid., 97.

[48] Ibid., 102.

cording to Ibn Rusyd, the opinion H̲a-nafîyah is the most powerful in terms of meaning, because the prohibition *fadll* u-suryis only when both bartered commodities have the same functionality.[49]

Those are few examples of how Ibn Rusyd describes and discusses the legal issues in the *Bidâyat al-Mujtahid*.

Conclusion

Based on the previous explanation, it can be concluded that the book of Ibn Rusyd's *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid* is a highly qualified Islamic jurisprudence (*fiqh*) book.[50] The book was written by a Jurist who is also as a philosopher and an expert in *manthiq*. The book mentions and discuss various opinions in the field of Islamic jurisprudence which are either related to '*ibâdah* or *mu'âmalah*, and also the issues having been agreed or debated by providing their each reasons. Within the book, it also can be found many prominent and famous Jurists from the prophet's companions (*shah̲âbah*) or the successors (*tâbi'în*) also the well-known *imam* of *fiqh*.

Indeed, the *Bidâyat al-Mujtahid* is a personal notebook of Ibn Rusyd regarding to issues on Islamic jurisprudence which are always talked about since the earliest period till much later in his life. Thus, this book can also be viewed as the

most valuable historical document of *tasyrî'*.

To gain good comprehension of the discussion in the book, particularly, the analysis of Ibn Rusyd on the causes of dissent among *fuqahâ'* in one issue, so, the preambule of the book should be well investigated. Within the preambule outlined many of theories that are often discussed in *ushûl fiqh*, especially concerning to the rules of law excavation. The inconsistency of using terms, (*kitâb, juz`, qism*, and the like) in making systematic discussion that often occur in some specific themes, makes the less scrupulous readers difficult to construct those themes intact. In such a case, before entering into the legal discussion about some specific sub-themes, the readers are recommended to explore and assess its systematics intact.

By following the description in the *Bidâyat al-Mujtahid* intensely, it will be gained a strong impression that the approach used by Ibn Rusyd tends to be normative with deductive analysis. Indeed, the tendency which is commonly cocured in the study of Islamic jurisprudence since then and now. A legal cases was brought, then shown a wide variety of opinion completed with each reasons, then explained the causes of the dissent. Frequently, in the end of the dis-cussion, it was concluded by the Ibn Rusyd's opinion or conclusion about copinions that are considered closest to the truth associated with *syara'* texts. This such model of discussion is very commonly used in this book. It is rarely found the explanation on the causes of the dissent in social, geographical, and antropological

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[49] Ibid.

[50] According to A. Hanafi, up to now, there is no *fiqh* books which are able to match the book, although, in terms of the number of pages, there are many *fiqh* books are available. A. Hanafi, *Terdjemah Bidajatul Mudjtahid*, I (Jakarta: Bulan Bintang, 1967), 3.

perspective. Generally, the causes proffered are only in terms of text comprehension.

Finally, it should be stressed however, this book is very valuable and important to be a reference to experts who are engaged in the field in the field of Islamic jurisprudence. Although, the approach used tends to be normative-deductive, the critical readers could understand and color it with empirical deductive with the support of other sources of information especially those relating to historical studies. So that, it can display an overview of the history of the development of islamic thoughts and its historical-social condition that framed it.[]

Bibliography

Andalusî, Abû H̲assan ibn 'Abdullâh ibn H̲assan al-Nubahî al-Mâliqî (al-Mâlikî) al-. *Ta`rîkh Qudlâh al-Andalus*. Beirut: al-Maktab al-Tijârî, n.d.

Bek, Muh̲ammad al-Khudlarî. *Târikh al-Tasyrî' al-Islâmî*. Egypt: Al-Maktabah al-Tijârîyah al-Kubrâ, 1965.

Grunebaum, G.E. von. *Classical Islam: A History 600 AD–1258 AD*. Translated by Katherin Watson. Chicago: Chicago Alding Publisying Company, 1970.

H̲akîm, 'Abd al-H̲amîd. *al-Bayân*. Jakarta: Sa'adiyah Putra, 1989.

Hanafi, A. *Terdjemah Bidajah al-Mudjtahid*, 10 jilid. Jakarta: Bulan Bintang, 19-71.

Hasab Allâh, 'Alî. *Ushûl al-Tasyrî' al-Islâmî*. Egypt: Dâr al-Ma'ârif, 1959.

Hodgson, Marsyall G.S. *The Venture of Islam: Conscience and History in a World Civilization*, 2 volumes. Chicago: The University of Chicago Press, 1977.

Houstma, M. TH., et. al. *First Encyclopaedia of Islam 19139-1936*, 9 volumes. Leiden: E.J. Brill, 1993.

Ibn Rusyd, Abû al-Walîd Muhammad ibn Ahmad ibn Muhammad. *Bidâyat al-Mujtahid wa Nihâyah al-Muqtashid*, 2 juz. n.c.: Syirkah al-Nur Asia, n.d.

'Irâqî, Muhammad 'Âthif. *Al-Naz'ah al-'Aqlîyah fî Falsafah Ibn Rusyd*. Cairo: Dâr al-Ma'ârif, n.d.

Minhaji, Akh. "Respon Kelompok Tradisionalis Terhadap Misi Pembaharuan Ahmad Hassan". Paper presented in Dies Natalis IAIN Sunan Kalijaga, Yogyakarta, March 23, 1997.

Mughni, Syafiq A. *Hassan Bandung: Pemikir Islam Radikal*. Surabaya: Bina Ilmu, 1994.

Muslehuddin, Muhammad. *Mengugat Asuransi Modern*. Translated by Burhan Wirasubrata. Jakarta: Penerbit Lentera, 1999.

Noer, Deliar. *Gerakan Modern Islam di Indonesia 1900-1942*. Jakarta: LP3ES, 1995.

Rahman, Asjmuni A. *Metode Penetapan Hukum Islam*. Jakarta: Bulan Bintang, 1986.

Shiddieqy, T.M. Hasbi Ash. *Pengantar Ilmu Fiqih*. Jakarta: Bulan Bintang, 1993.

Shiddieqy, T.M. Hasbi Ash. *Pedoman Hukum Sjar'y jang Berkembang dalam Alam Islamy Sunny*. Jakarta: Pustaka Islam, 1952.

Shiddieqy, T.M. Hasbi Ash. *Sejarah Pertumbuhan dan Perkembangan Hukum Islam*. Jakarta: Bulan Bintang, 1971.

Syaltût, Ma<u>h</u>mûd. *al-Islâm 'Aqîdah wa Syarî'ah*. n.c.: Dâr al-Qalam, 1966.

Syawkânî, Mu<u>h</u>ammad ibn 'Alî ibn Mu<u>h</u>ammad al-. *Irsyâd al-Fu<u>h</u>ûl ilâ Ta<u>h</u>qîq al-<u>H</u>aqq min 'Ilm al-Ushûl*. Egypt: Musthafâ al-Bâbî al-Halabî, 1937.

Zahrah, Mu<u>h</u>ammad Abû. *Bu<u>h</u>ûts fî al-Ribâ*. n.c.: Dâr al-Bu<u>h</u>ûts al-'Ilmîyah, 1970.

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