

**Harmonization of Islamic Law and Local Wisdom: A Methodological Reconstruction of Ijtihad in Family Law Based on Yusuf al-Qaradawi's *Istinbāt* Approach**

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**Abstract:** This article examines the harmonization of Islamic law and local wisdom in family law issues through the development of the *ijtihad* method from the perspective of Yusuf al-Qaradawi's *istinbāt* method. Given that contemporary Muslim family issues are increasingly complex, this study emphasizes the need for an *istinbāt* framework that maintains the authenticity of *naṣṣ* while being responsive to social realities. This study employs a qualitative-normative approach, using *usul al-fiqh* analysis, and examines al-Qaradawi's key concepts as instruments for integrating local wisdom. Data were collected from exploring library materials related to Yusuf al-Qaradawi's works within the framework of *istinbāt* that was developed. The results of this study show that Yusuf al-Qaradawi developed an *istinbāt* method called *istinbāt at-taysir* with three types, namely *intiqā'iy tarjihiy*, *ibdā'iy insyā'iy*, and *intiqā'iy insyā'iy*. This method combines *as-salafiy*, which does not adhere to the opinions of the fiqh schools, and *al-mazhabiy*, which is guided by the opinions of the imams of the schools, by re-examining the various opinions of the scholars or conducting their own *ijtihad* and choosing the opinion that provides leniency, provides convenience, is in accordance with the conditions, and combines local wisdom, to realize the greater good. The contribution of this article lies in providing a methodological model to bridge the tension between textuality and contextuality in family law, while offering academics and policymakers a basis for formulating norms that are more just, relevant, and in line with the demands of modern society.

**Keywords:** Family Law; Ijtihad Method; Islamic Law Harmonization; Istibat al-Taysir; Local Wisdom.

## Introduction

The discourse on Islamic family law has always been at the intersection between normative texts (*naṣṣ*) and an ever-changing social reality. Changes in family relationship patterns, economic dynamics, migration, education, and technological developments, ranging from marriage administration, child care, to post-divorce disputes, have given rise to new issues that demand legal answers that are not merely “in accordance with the arguments,” but also feasible to implement and realize the greater good.<sup>1</sup> In the context of a diverse Muslim society such as Indonesia, these challenges become even more complex because Islamic law coexists with a range of deeply rooted local wisdom, customs, and social practices.<sup>2</sup> As a result, the formulation of family law often faces tensions: on the one hand, there is a desire to preserve the authenticity of teachings; on the other hand, there is a need to ensure that legal provisions remain relevant, fair, and sensitive to local circumstances. To address these new issues, it is still necessary to remain relevant and in line with modern society's demands. This is because the world, humanity, and customs<sup>3</sup> continue to change and evolve; they are not static in one pattern but will continue to change with the passage of time and circumstances, as stated by Ibn Khaldūn.<sup>4</sup>

This was actually responded to by the Prophet Muhammad (632 AD), when he was about to send Mu'az bin Jabal to Yemen as an ambassador and legal expert. He accompanied him while engaging in dialogue with him, as mentioned in the Hadith:

أَخْبَرَنَا أَبُو بَكْرٍ مُحَمَّدُ بْنُ الْحَسَنِ بْنِ فُورِكٍ ، أَخْبَرَنَا عَبْدُ اللَّهِ بْنُ جَعْفَرٍ ، أَخْبَرَنَا يُونُسُ بْنُ حَبِيبٍ ،  
أَخْبَرَنَا أَبُو دَاؤَدَ ، أَخْبَرَنَا شُعْبَةَ ، أَخْبَرَنِي أَبُو عَوْنَ التَّقْفِيُّ ، قَالَ : سَمِعْتُ الْحَارِثَ بْنَ  
عَمْرِو ، يُحَدِّثُ ، عَنْ أَصْحَابٍ مُعَاذِ مِنْ أَهْلِ حِصْنٍ قَالَ : وَقَالَ مَرَّةً عَنْ مُعَاذٍ أَنَّ رَسُولَ اللَّهِ صَلَّى  
اللَّهُ عَلَيْهِ وَسَلَّمَ ، أَنَّ رَسُولَ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - لَمَّا بَعَثَ مُعَاذًا إِلَى الْيَمَنِ قَالَ لَهُ : كَيْفَ  
تَقْضِي إِذَا عَرَضَ لَكَ فَضَاءً؟ قَالَ : أَفْضِي بِكِتَابِ اللَّهِ . قَالَ : إِنْ لَمْ تَجِدْهُ فِي كِتَابِ اللَّهِ؟ قَالَ :  
أَفْضِي بِسُنْنَةِ رَسُولِ اللَّهِ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ - . قَالَ : إِنْ لَمْ تَجِدْهُ فِي سُنْنَةِ رَسُولِ اللَّهِ، قَالَ : أَجْتَهِدُ

<sup>1</sup> Gusti Muzainah and Firqah Annajiyah Mansyuroh, “Integration of Islamic Law and Banjarese Customary Law of Inheritance System Tionghoa Muslim Community in Banjarmasin, South Kalimantan,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 678–702, <https://doi.org/10.22373/sjhk.v6i2.12386>.

<sup>2</sup> Dri Santoso and Wahyu Abdul Jafar, “Harmony of Religion and Culture: Fiqh Munākahat Perspective on the Gayo Marriage Custom,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 2 (2022): 199–218, <https://doi.org/10.18326/ijtihad.v22i2.199-218>.

<sup>3</sup> Ibnu al-Qayyim Al-Jawziyah, *Tilm al-Muwaqqi'in 'an Rabb al-Ālamīn* (Riyāḍ: Dār ibn al-Jawzī, n.d.).

<sup>4</sup> Abdurrahmān bin Muhammad Ibn Khaldūn, *Muqaddimah Ibn Khaldūn*, 1st ed. (Damaskus: Dār Ya'rib, 2004).

بِرَبِّي لَا أُلُو. قَالَ : فَضَرِبَ بِيَدِهِ فِي صَدْرِي وَقَالَ : الْحَمْدُ لِلَّهِ الَّذِي وَفَقَ رَسُولُ اللَّهِ لِمَا يُرِضِي رَسُولَ اللَّهِ .

“When the Messenger of Allah sent Mu'az to Yemen, the Prophet said, “How will you decide a matter if a case is brought before you?” Mu'az replied, “I will decide the matter based on the Book of Allah.” The Prophet then asked, “What if you do not find it in the Book of Allah?” Mu'az replied, “I will decide based on the Sunnah of the Messenger of Allah.” The Prophet asked again, “What if you also do not find the answer in the Sunnah of the Messenger of Allah?” Mu'az replied, “I will exercise *ijtihad* based on my own opinion with sincerity.” The Prophet then patted Mu'az's chest (a sign of approval) and said: “All praise be to Allah, the One who has guided His Messenger, the Messenger of Allah.”<sup>5</sup>

In the study of Ushul Fiqh, this Hadith serves as evidence of the validity and importance of *ijtihad*.<sup>6</sup> In addition, there is another interesting message to consider: the Prophet's question to Mu'az about the ruling on issues not addressed in the Qur'an and Hadith. Implicitly, the Prophet acknowledged that new cases would arise in other regions where he and his companions settled. The Prophet realized that locations thousands of kilometers from Medina, such as Yemen, could pose new problems that the Qur'an and Hadith did not address.<sup>7</sup> During the time of the Prophet, the city of Yemen, which was culturally still part of the Arab region, gave rise to new circumstances, especially in other parts of the region, and even more so in the period after the Prophet's death.<sup>8</sup>

Local wisdom is essentially a collection of values, social ethics, and problem-solving mechanisms that arise from a community's long experience. It is evident in family deliberations, the role of traditional leaders, the tradition of providing for and taking responsibility for relatives, and even the way the community assesses suitability (social eligibility) in marriage.<sup>9</sup> However, not all local elements automatically align with the principles of Sharia; some may support *maqasid asy-syar'iyyah* (the objectives of Sharia), such as the protection of religion, life, reason, lineage, and property, while others have the potential to perpetuate injustices such as gender bias, social status discrimination, or restrictions on the rights of vulnerable parties. Therefore, the idea of “harmonization” cannot be interpreted as total justification of customs,

<sup>5</sup> Ahmad bin Husain bin Ali bin Musa Abu Bakar Al-Baihaqiy, *Sunan Al-Baihaqiy al-Kubra* (Makkah al-Mukarramah: Maktabah Dār al-Baz, 1994).

<sup>6</sup> Imam Syafi'i and Tutik Hamidah, *Maslahah Controversy as Sources, Methods And Objectives (Comparative Analysis Study Of The Four Madhab)*, 7, no. 1 (2022): 19–38, <https://doi.org/10.31538/adlh.v7i1.1642>.

<sup>7</sup> Wahyu Abdul Jafar, “Fiqh Siyasah Dalam Perspektif Al-Qur'an Dan Al-Hadist,” *Al-Imarah: Jurnal Pemerintahan Dan Politik Islam* 3, no. 1 (2018): 18, <https://doi.org/10.29300/imr.v3i1.2140>.

<sup>8</sup> Aziz Munawir and Sahal Akhmad, *Islam Nusantara Dari Ushul Fiqh Hingga Paham Kebangsaan* (Bandung: Mizan, 2015), 115.

<sup>9</sup> Imam Syafi'i, Ruqoyatul Faiqoh, and Vasco Fronzoni, “Concept of Misaqan Ghalidzan in Contemporary Interpretation of Quraish Shihab Thoughts,” *MILRev: Metro Islamic Law Review* 2, no. 2 (2023): 115–133, <https://doi.org/10.32332/milrev.v2i2.7807>.

nor as a complete rejection of customs.<sup>10</sup> Harmonization requires a methodical approach: sorting, weighing, and reformulating so that constructive local values can be integrated, while practices that conflict with the principles of justice and public interest can be corrected through *ijtihad*.<sup>11</sup>

This is where the urgency of developing *ijtihad* methods for family law issues becomes evident.<sup>12</sup> *Ijtihad* is not merely an intellectual activity to “produce law,” but rather a process of *istinbāt* (legal deduction and reasoning) that requires precision in the sources of Sharia, an understanding of the social context, and sensitivity to the impact of law in real life.<sup>13</sup> A common problem is that there are two extremes: (1) an approach that is too textual and ahistorical, resulting in provisions that are difficult to implement or ignore social complexity; and (2) an approach that is too loose, sacrificing normative grounding and opening the door to legal relativism. Both are problematic in family law, as this area directly touches on human dignity, domestic justice, child protection, and social stability.<sup>14</sup>

This article assumes that Yusuf al-Qaradawi's methodological framework can be a productive alternative for bridging this tension. In his various ideas, al-Qaradawi emphasizes the importance of connecting firm principles with flexibility in application, through reasoning based on *maqāṣid*, *maṣlaḥah* (benefit), *fiqh al-wāqi‘* (consideration of reality), *fiqh al-awlaqiyāt* (determining priorities), and *fiqh al-muwāzanāt* (weighing impacts and consequences).<sup>15</sup> This framework helps us see family law not merely as a series of independent “halal-haram” statuses, but as an ethical-legal instrument for realizing protection, justice, and peace within the family. Thus, local wisdom can be positioned as part of social data that is critically evaluated: accepted when it supports the objectives of Sharia law, filtered when ambiguous, and rejected when it clearly undermines justice or violates basic principles.<sup>16</sup>

<sup>10</sup> Muhamad Hasan Sebyar, “Harmonization of Islamic Legal Institutions and Customary Law in Marriage Dispensation Cases at the Panyabungan Religious Court,” *MILRev: Metro Islamic Law Review* 2, no. 2 (2023): 155–174, <https://doi.org/10.32332/milrev.v2i2.7809>.

<sup>11</sup> Said Syaripuddin, “Maslahat as Considerations of Islamic Law in View Imam Malik,” *Samarah* 4, no. 1 (2020): 85–106, <https://doi.org/10.22373/sjhk.v4i1.6754>.

<sup>12</sup> Bambang, “*Ijtihad* and the Dynamics of Islamic Legal Interpretation: An Epistemological Exploration in the Contemporary Context,” *NUSANTARA: Journal Of Law Studies* 3, no. 1 (2024): 56–67, <https://doi.org/10.5281/zenodo.17373912>.

<sup>13</sup> M. Sulthon, Imam Syafi'i, and Auliya Ghazna Nizami, “Contemporary Fiqh in Indonesia: The Dynamics of *Istinbāt al-Aḥkām* at Ma’had Aly Salafiyah Shafi’iyah Sukorejo Situbondo,” *Abkam: Jurnal Ilmu Syariah* 24, no. 1 (2024): 119–134, <https://doi.org/10.15408/ajis.v24i1.32174>.

<sup>14</sup> Abd al-Ilah ibn Husain Al-‘Arfaj, *Al-Manāhij al-Fiqhīyyah al-Mu’asirah Araḍ Wa Taḥlīl* (Bairut: Dar al-Rayahin, 2018).

<sup>15</sup> Yusuf Al-Qaradawi, *Al-Ijtihād Fi Asy-Syari’ah al-Islāmiyah Ma’ā Nazarāt Tahlīliyah Fi al-Ijtihād al-Mu’asir* (Kuwait: Dār al-Qalam, 1996).

<sup>16</sup> Imat Maftuhah, “Pemikiran Ijtihad Syekh Yusuf Qardawi,” *TAZKIYAH Jurnal Keislaman, Kemasyarakatan & Kebudayaan* 19, no. 1 (2018): 55–71.

Yusuf al-Qaradawi is a prominent scholar of this century whose ideas serve as a reference in the formation of contemporary Islamic family law.<sup>17</sup> Based on this background, this article focuses on the central question: how to harmonize Islamic law and local wisdom in family law matters through the development of *ijtihad* methods grounded in Yusuf al-Qaradawi's *istinbāt* perspective. Several studies that are similar to this research include: Determining the Lineage of *Mulā'anah* Children through DNA Testing (A Study of Yusuf al-Qaradawi's *Istinbāt* Method). This study examines Yusuf al-Qaradawi's opinion on determining the lineage of *mulā'anah* children through DNA testing and how Yusuf al-Qaradawi's *istinbāt* method is used. Yusuf al-Qaradawi argues that the determination of the lineage of a *mulā'anah* child through DNA testing cannot be done by the husband, but can be done by the wife. The wife can ask the judge for a DNA test on the child. Yusuf al-Qaradawi's *istinbāt* method uses the *istiṣlāhiyyah* reasoning method, a form of reasoning based on considerations of benefit or the law's purpose.<sup>18</sup>

The following study, Contemporary Fiqh Transformation through a Collective Ijtihad Approach in Resolving Lineage Issues Arising from Egg Freezing, finds that the formulation of contemporary Islamic jurisprudence through a collective *ijtihad* approach is an effective method for resolving lineage issues arising from egg freezing. Egg freezing is considered permissible as long as it is carried out within the framework of a valid marriage and upholds the principle of *hifz al-nasl* (protection of lineage). This study contributes to advancing Islamic legal thought that is responsive to developments in reproductive technology.<sup>19</sup>

Next, regarding Balancing Orthodoxy and Flexibility: A Substantive and Accommodative Approach to Women's Rights in Yusuf al-Qaradawi, this study examines Qardawi's consistency in applying the methodology he formulated. This article shows that even though Qardawi engages in *talfiq* by borrowing opinions from various scholars or madhhabs, he still adheres to the methodology he has developed. This approach offers accommodative legal guidance, enriched by pragmatic nuances arising from the consistent synthesis of various opinions. Furthermore, in a broader context, this concept offers a framework for balancing innovation with orthodoxy.<sup>20</sup> Drawing on several previous studies that discussed the method of *istinbāt* and its partial application, the author's research focuses on *istinbāt al-ahkām* as developed by Yusuf al-Qaradawi.

<sup>17</sup> Ali Akbar, "Metode Ijtihad Yusuf Al-Qardhawi Dalam Fatawa Mu'ashirah," *Jurnal Ushbuluddin* 18, no. 1 (2012): 1–20, <http://dx.doi.org/10.24014/jush.v18i1.695>.

<sup>18</sup> Mutiara Fahmi and Fitiya Fahmi, "Penetapan Nasab Anak Mulā'anah Melalui Tes DNA (Studi Atas Metode Istinbāt Yūsuf al-Qaradāwī)," *Samarab* 3, no. 1 (2019): 151–176, <https://doi.org/10.22373/sjhk.v3i1.5024>.

<sup>19</sup> Edi Susilo, Budi Santoso, and Yessy Eka Ambarwati, "Transformation of Contemporary Fiqh through a Collective Ijtihad Approach in Resolving Lineage Issues Arising from Egg Freezing," *MILRev: Metro Islamic Law Review* 4, no. 2 (2025): 728–760, <https://doi.org/10.32332/milrev.v4i2.10403>.

<sup>20</sup> Waskito Wibowo, Rusli Hasbi, and Ahmed Madi, "Balancing Orthodoxy and Flexibility: Substantive and Accommodative Approaches to Women's Rights in Qaradawi's Fiqh," *Abkam: Jurnal Ilmu Syariah* 24, no. 2 (2024): 311–326, <https://doi.org/10.15408/ajis.v24i2.34134>.

Ultimately, this study is expected to contribute to two areas simultaneously. First, the theoretical realm: enriching the discourse on contemporary *ijtihad* methodology in family law, particularly in pluralistic societies. Second, the practical realm: providing a framework for academics, religious leaders, family mediators, and policymakers to formulate legal responses that are more just, implementable, and that preserve the objectives of Sharia law. Thus, the harmonization of Islamic law and local wisdom does not stop at slogans, but becomes a structured, scientific agenda that begins with methodology, proceeds through critical assessment, and culminates in the welfare of the family as the primary objective.

## Literature Review

### *Contemporary Istibat al-ahkām*

According to Abd al-Ilah ibn Husain al-'Arfaj, there are three contemporary methods for establishing law: *al-Mažhabij*, *as-Salafiy*, and *at-Taysir*.<sup>21</sup> First, *al-Mažhabij* is a method developed by the imams of the four schools of thought (Hanafi, Maliki, Shaf'i, and Hanbali), which later became a guideline for scholars who adhere to it in conducting *istinbāt al-ahkām*. Among them, they argue for binding oneself to a particular school of thought (*al-iltizām bi mažhabin mu'ayyanin*). The legal *Istibat* activity for new problems is based on the legal formulation of the imams of the schools of thought. If no *aqwal* is found from the imams of the schools of thought, then in answering the problem through the mechanism of *ihāq* or *qiyās*, and even changing schools if necessary.<sup>22</sup> In other words, in this case, it is developmental, because it can be said that previous scholars, namely *Mujtahid al-Muṭlaq*, have studied everything related to law. This is what is meant by a *mujtahid Muqayyad*, who submits to the *taqlid* of his imam. Among the scholars who followed this school were Sheikh Muhammad al-Khuḍāri bin Māya'bā al-Jukniy asy-Syinqīṭiy and Sheikh Muhammad Sa'īd Ramaḍan al-Butiy.<sup>23</sup>

The main strength of the *al-mažhabij* method is the consistency and depth of tradition: the madhhab provides a methodology that has been tested across generations, along with a rich precedent of *furu'* for analogy and dispute resolution. In addition, in an institutional context, the madhhab approach provides legal certainty and minimizes contradictions in rulings. However, the weakness of the *al-mažhabij* method arises when it shifts to rigid *taqlid*: *mu'tamad* opinions are followed even though the context ('urf and *illat*) has changed significantly. Madhhab fanaticism also has the potential to override considerations of *maqāṣid* and *maslahah*, which should be the ethical orientation of the

<sup>21</sup> Al-'Arfaj, *Al-Manāhij al-Fiqhiyyah al-Mu'aṣirah Arad Wa Tahhīl*.

<sup>22</sup> Imam Syafi'i et al., "Childfree in Islamic Law Perspective of Nahdlatul Ulama," *Al-Ahkam* 33, no. 1 (2023): 1–22, <https://doi.org/10.21580/ahkam.2023.33.1.14576>.

<sup>23</sup> Muhammad Andrie Bagia, "The Concept of Tamadhhub (Following Madhhab Fiqh) According to Sa'īd Ramadhan Al-Buthi," *Ijtihad: Jurnal Hukum Dan Ekonomi Islam* 8, no. 1 (2014), <https://doi.org/10.21111/ijtihad.v8i1.2588>.

law. Therefore, the tradition of *uṣūl* itself requires verifying the illat of the law and being aware of its context so that the law remains fair and applicable.<sup>24</sup>

Second, *as-Salafiy* is a method that directly derives from the Qur'an and Hadith in the conduct of *istinbāt al-ahkām*, or the establishment of law. The essence of *manhaj* is based on the opinion that is closest or most in line with the *nūṣūṣ aṣy-Syārī'ah* (the Qur'an and Hadith), whether it is the same as the opinions of the various imams of the madhhab or not. From this opinion, it is sometimes more burdensome (heavier) and sometimes easier (more lenient) than the opinions of the imams of the madhhab. This school of thought does not follow a particular madhhab and even forbids every Muslim from *taqlid* except under certain conditions. Among the scholars who typology *istinbāt al-ahkām* like this are Sheikh Abdul Aziz bin Bāz and Sheikh Muhammad Nasiruddin al-Albani.<sup>25</sup>

The advantages of the *as-Salafiy* method include strengthening evidential reasoning and encouraging the courage to review opinions with weak arguments. This method also takes into account hadith criticism, which can improve the accuracy of using historical accounts as evidence. In addition, openness to *tarjih* across madhhabs can be a solution for contemporary cases when the precedents of certain madhhabs are inadequate or difficult to apply. However, this method also has weaknesses, among which the most frequently highlighted is the risk of simplifying *ushūl*: “going straight to the text” without adequate methodological discipline can lead to a literal reading that ignores the complexity of conflicting arguments (*ta'arud al-adillah*), context, and the objectives of the Sharia. Furthermore, in the absence of authoritative standards, this approach is prone to the fragmentation of fatwas deemed sufficient by “the arguments he understands,” without a tradition of collective verification.<sup>26</sup>

Table 1. Comparison of the *as-Salafiy* and *al-Maṣhabiy* Methods

Aspect	<i>As-Salafiy</i> (non-mazhab oriented)	<i>Al-Maṣhabiy</i> (mazhab-oriented)
Orientation	<i>Not bound to any particular school of thought (Ittibā' ad-dalil)</i>	Adhering to the principles ( <i>uṣūl</i> ) and branches of the school of thought ( <i>furu' mazhab</i> ) as a framework
Primary reference	<i>Nass</i> , hadith validation, understanding of the salaf	<i>Nass</i> through the methodology of the madhhab, <i>qawl mu'tamad</i> , and <i>tarjih</i>
Strength	based on arguments, criticism of <i>taqlid</i> , flexible <i>tarjih</i> across schools of thought	Consistency, broad precedent, suitable for institutions, and certainty

<sup>24</sup> Helmi Imran and Karimuddin Abdullah Lawang, “Perkembangan Pola Pemikiran Fiqih Syafiiyah Dan Peran al-Nawawī Sebagai Pemersatu,” *Al-Istinbāt: Jurnal Hukum Islam* 7, no. 1 (2022): 141–60, <https://doi.org/10.29240/jhi.v7i1.4233>.

<sup>25</sup> Al-'Arfaj, *Al-Manāhij al-Fiqhiyyah al-Mu'aṣirah Araḍ Wa Taḥlīl*.

<sup>26</sup> Kamaruddin Amin, “Nāṣiruddīn Al-Albānī on Muslim’s Ṣaḥīḥ: A Critical Study of His Method,” *Islamic Law and Society* 11, no. 2 (2004): 149–76.

Weakness	Risks of simplifying principles, fragmentation of fatwas, “instant” ijтиhad	Risks of rigid imitation, slow adaptation, and potential for fanaticism
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Source: Author's Interpretation

The *at-taysir* method initiated by Yusuf al-Qaradawi, a method that combines *as-salafiy* (which does not adhere to the opinions of the schools of jurisprudence) and *al-ma'zhabiy* (which is guided by the opinions of the imams of the schools of jurisprudence) in conducting *istinbāt al-ahkām*. Yusuf al-Qaradawi explained that in the current era, determining law through contemporary ijтиhad can be done in three ways: *Intiqā'iyy*, *Insya'iyy*, or a combination of the two.<sup>27</sup>

From this point, this study examines the *istinbāt* method proposed by Yusuf al-Qaradawi, the most prominent scholar of this century, whose thoughts have become a reference in the formation of contemporary Islamic family law.<sup>28</sup> Yusuf al-Qaradawi also developed a contemporary method of ijтиhad based on public interest as its foundation.<sup>29</sup> Some studies that have been conducted and have similar topics to this study include:

Determining the Lineage of *Mulā'anah* Children through DNA Testing (A Study of Yusuf al-Qaradawi's *Istinbāt* Method) This study examines Yusuf al-Qaradawi's opinion on determining the lineage of a child born out of wedlock through DNA testing and how the *istinbāt* method used by Yusuf al-Qaradawi works. Yusuf al-Qaradawi argues that determining the lineage of a child born out of wedlock through DNA testing cannot be done by the husband, but can be done by the wife. The wife can ask the judge for a DNA test on the child. Yusuf al-Qaradawi's *istinbāt* method uses the *istiṣlāhiyyah* reasoning method, a form of reasoning based on considerations of benefit or the law's purpose.<sup>30</sup> The following study, Contemporary Fiqh Transformation through a Collective Ijтиhad Approach in Resolving Lineage Issues Arising from Egg Freezing, finds that the formulation of contemporary Islamic jurisprudence through a collective ijтиhad approach is an effective method for resolving lineage issues arising from egg freezing. Egg freezing is considered permissible as long as it is carried out within the framework of a valid marriage and upholds the principle of *hifz al-nasl* (protection of lineage). This study contributes to advancing Islamic legal thought that is responsive to developments in reproductive technology.<sup>31</sup>

Next, regarding Balancing Orthodoxy and Flexibility: A Substantive and Accommodative Approach to Women's Rights in Yusuf al-Qaradawi, this study examines al-Qaradawi's consistency in applying the methodology he formulated. This article shows that even though al-Qaradawi engages in *talfiq* by borrowing opinions from various scholars or madhhabs, he still adheres to the methodology he has developed. This approach offers accommodative legal guidance, enriched by pragmatic nuances arising from the consistent synthesis of various

<sup>27</sup> Bettina Gräf, “Sheikh Yūsuf Al-Qaradāwī in Cyberspace,” *Die Welt Des Islams* 47 (2007): 403–421, <https://doi.org/10.1163/157006007783237464>.

<sup>28</sup> Akbar, “Metode Ijтиhad Yusuf Al-Qardhawi Dalam Fatawa Mu'ashirah.”

<sup>29</sup> Maftuhah, “Pemikiran Ijтиhad Syekh Yusuf Qardawi.”

<sup>30</sup> Fahmi and Fahmi, “Penetapan Nasab Anak Mulā'anah Melalui Tes DNA (Studi Atas Metode Istinbāt Yūsuf al-Qaradāwī).”

<sup>31</sup> Susilo, Santoso, and Ambarwati, “Transformation of Contemporary Fiqh through a Collective Ijтиhad Approach in Resolving Lineage Issues Arising from Egg Freezing.”

opinions. Furthermore, in a broader context, this concept offers a framework for balancing innovation with orthodoxy.<sup>32</sup> Drawing on several previous studies that discussed the method of *istinbāt* and its partial application, the author's research focuses on *istinbāt al-ahkām* as developed by Yusuf al-Qaradawi.

## Method

This study is a library research with a qualitative design that aims to analyze Yusuf al-Qaradawi's method of *istinbāt al-ahkām* and its relevance to the development of *ijtihad* on family law issues in the context of harmonizing Islamic law and local wisdom. The research data consists of primary sources in the form of al-Qaradawi's works on *istinbāt* and legal reasoning tools, as well as secondary sources on *uṣūl al-fiqh*, *maqāṣid*, Islamic family law, and academic studies on Islamic legal pluralism and customs. The sources were selected based on thematic relevance, academic authority, traceability of references, and diversity of perspectives to ensure unbiased analysis.<sup>33</sup>

Data collection was conducted through a documentation study involving source inventory, intensive reading, and recording of quotations/ideas, which were then coded thematically. Data analysis used a combination of conceptual, normative, and comparative analysis: (1) mapping key concepts in al-Qaradawi's *istinbāt* method, (2) unraveling patterns of argumentation and legal reasoning in the establishment of family law and the limits of accommodation of *'urf* (local wisdom), and (3) comparing them with the *uṣūl al-fiqh* apparatus and other methodological tendencies.<sup>34</sup> Validity is maintained through source triangulation (across primary works and secondary literature), consistency in the interpretation of key terms, and the compilation of argument trails that clearly link each conclusion to textual references.<sup>35</sup>

## Results and Discussion

### The at-Taysīr Method Initiated by Yusuf al-Qaradawi

First, *tarjibiy intiqāiy*, is the determination of law carried out by collecting the opinions of previous scholars from their works (*turāṣ*), by revealing the evidence or arguments used, then comparing and choosing the opinion that is stronger and more appropriate to the current situation. Yusuf al-Qaradawi disagreed with the opinion that allows someone to hold an opinion in the field of fiqh without providing reasons. Therefore, a

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<sup>32</sup> Wibowo, Hasbi, and Madi, "Balancing Orthodoxy and Flexibility: Substantive and Accommodative Approaches to Women's Rights in Qaradawi's Fiqh."

<sup>33</sup> Amir Hamzah, *Metode Penelitian Kepustakaan Library Research Kajian Filosofis, Teoritis Dan Aplikatif* (Malang: Literasi Nusantara, 2019).

<sup>34</sup> Sutisna dan Abdurrahman Misno BP, *Metodologi Penelitian Hukum Islam Berbasis Metode Ushul Fiqh* (Bogor: UIKA PRESS, 2019).

<sup>35</sup> Faisar Ananda Arfa, *Metodologi Penelitian Hukum Islam* (Bandung: Citapustaka Media Printis, 2010).

comparative study must be carried out on these opinions and re-examine the evidence of the *naṣṣ* or *ijtihad* that form the basis of these opinions.<sup>36</sup>

In the end, this will enable identification and selection of the opinion with the strongest arguments and reasons, in accordance with the rules of *tarjib*. In principle, this *ijtihad* is the same as *tarjib*: a comparative study of the opinions of the ulama, re-examining the arguments on which those opinions depend. Next, an opinion is chosen which is considered to have more substantial evidence or proof in accordance with the measuring instruments in *tarjib*, including: 1) More in line with current conditions, 2) More graceful to humans, 3) Brings convenience in accordance with the Shari'ah, 4) Prioritizes the realization of *maqāṣid asy-syar'i'ah*, brings *maslahah* and does not cause damage.<sup>37</sup>

Second, *ibdāiy insyaiy*, is the determination of law by conducting *istinbāt al-ahkam* on a problem that has never been discussed by previous scholars, resulting in a new law. Although this problem may never have been discussed (a new problem) or may have been discussed, modern mujtahids make legal decisions that differ from those of previous scholars. This may be due to the evolution of time, which always requires resolving legal problems by considering current circumstances and conditions. Most legal determinations based on *insyaiy ibdāiy* concern new problems that previous scholars were not yet aware of or familiar with. Even if they were aware, they were certainly only in a small line that did not encourage them to investigate the problem. This kind of application is essential because previous *mujtahids* had never faced the various problems that arise from current advances in science and technology.<sup>38</sup> Some examples include zakat on rented land. According to him, because the land rental fee is considered a debt borne by the tenant, the tenant is only required to pay zakat on the crops or fruit produced from the rented land when the yield reaches the *nisab* (minimum threshold). The landowner who rents the land must pay zakat on the rent received. Therefore, each of them pays zakat on the crops. Previous scholars never expressed this opinion. Most of them believed that zakat on the crops and fruit produced by rented land is borne entirely by the tenant.<sup>39</sup>

Third, a method that combines *tarjibiy intiqaiy* and *ibdāiy insyaiy*, namely *ijtihad* by establishing new laws or adding new elements of *ijtihad* as an addition or improvement to previous legal decisions after comparing the opinions of previous scholars on a problem and choosing one opinion that is stronger and more suitable.<sup>40</sup> An example is Egypt's mandatory will law, which has been in effect for several years. The early scholars held that wills are obligatory, and Ibn Hazm held that disbursing a portion of the estate

<sup>36</sup> Ainol Yaqin, "Yūsuf Al-Qarādawī's *Istinbāt* Method and Its Implementation in the Moderation of Islamic Law," *Al-Ahkam* 31, no. 1 (2021): 109–140.

<sup>37</sup> Al-Qaradawi, *Al-Ijtihād Fi Asy-Syar'i'ah al-Islamiyah Ma'a Naẓarāt Tablīliyah Fi al-Ijtihād al-Mu'asir*.

<sup>38</sup> Yusuf Al-Qaradawi, *Al-Ijtibād al-Mu'asir Bayna al-Indībāt Wa al-Insīrāt*, 2nd ed. (Bairut: Al-Maktab al-Islamiy, 1998).

<sup>39</sup> Al-Qaradawi, *Al-Ijtihād Fi Asy-Syar'i'ah al-Islamiyah Ma'a Naẓarāt Tablīliyah Fi al-Ijtihād al-Mu'asir*.

<sup>40</sup> Yusuf Qardawi, *Kaifū Nata'amat Ma'al Quran al-'Azīzī* (Kairo: Dar al-Syuruq, 1999).

of a deceased who has not yet made a will is obligatory. In addition to these two opinions, there are other rules determining the amount of a mandatory will and determining who is entitled to receive it, with sons coming first in the male group and daughters coming first in the female group.<sup>41</sup>

Table 2. Method of *Istinbāt at-Taysīr* Yusuf al-Qaradawi

No	Method	Information
1	<i>Tarjibiy Intiqāiy</i>	Conducting a comparative study of the opinions of scholars by re-examining the aspects of the evidence that are used as the basis for their opinions
2	<i>Ibdaiy Insyāiy</i>	Determination of law by conducting <i>istinbāt al-ahkam</i> on a problem that has never been discussed by previous scholars, thus producing new law
3	Combines <i>Tarjibiy Intiqāiy</i> and <i>Ibdaiy insyāiy</i>	Establishing new laws or adding new elements of ijtihad as an addition or improvement to previous legal decisions after comparing the opinions of previous scholars.

Source: Author's Interpretation

### Characteristics of *Istinbāt* Yusuf al-Qaradawi

#### Not Tied to a Particular School of Thought, and not Blindly Following

Yusuf al-Qaradawi eliminated the fanaticism of the schools of thought and blind imitation of scholars in his fatwas and discussions. The study of Islamic law found in the yellow books of various schools of thought is the result of a *mujahid*'s intellectual struggle, reflects the realities of society, its cultural and sociocultural attractions, and is sometimes influenced by regional and historical politics. Yusuf al-Qaradawi stated that the works of previous scholars were insufficient to answer every new question, and were excessive and ignorant of reality. This is due to the realities of the context, the different needs, and the problems faced in each era.<sup>42</sup>

However, Islam does not minimize the richness of its sources and does not ignore the strength of fiqh across various schools (madhahib), each with its own diversity of sources, both in the form of contextual ijtihad and hypotheses. The works of previous scholars can serve as a reference for legal determination by analyzing the arguments on which they are based, conducting tarjih using the tarjih method, and choosing opinions that benefit people's lives.<sup>43</sup>

<sup>41</sup> M. Noor Harisudin, "The Formulation of Nusantara Fiqh in Indonesia," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 1 (2021): 39–58, <https://doi.org/10.18326/ijtihad.v21i1.39-58>.

<sup>42</sup> Yusuf Al-Qaradawi, *Mujibāt Taghayyur Al-Fatwā Fi 'Aṣrīnā* (Kairo: Maktabah al-'Amānah al-Āmmah, n.d.).

<sup>43</sup> Yusuf Al-Qaradawi, *Min Hadyi Al-Islām Fatwā Mu'aṣirah* (Kuwait: Dar al-Qalam, 1990).

### Make It Easier And Lighter

One characteristic of *Istinbāt* Yusuf al-Qardawi's teachings is that it facilitates and eases the implementation of Islamic law. This is achieved by examining the *nuṣūṣ* of the shari'ah and reasoning in depth to find the ease in Islamic law desired by the shari'ah. If two opinions are similar or close, one difficult and the other easy, the easier one will be chosen. This is the basis scholars use to support their opinions, saying, "This is easier for humans to practice."<sup>44</sup>

This principle is held by al-Qardawi, who considers that the Shari'a was built on the principle of making things easier and eliminating difficulties for Muslims. Facilitating (*at-taysir*) and lightening (*at-takhfif*) is the *manhaj* of the Qur'an and as-Sunnah. Several verses in the Qur'an explain ease, lightness, getting rid of narrowness, denying *taklif* that humans cannot afford, and so on. The Qur'an includes explicitly something between ease and guidance as well as Allah's will (QS. al-Baqarah: 178, 185, an-Nisa': 28, al-Ma'idah, al-Haj: 78) and several as-Sunnah which explain the ease of leniency in Islamic law in order to clarify the meaning of the Qur'an.<sup>45</sup>

### Moderate: Between Loosening and Tightening

Among the characteristics of Yusuf al-Qaradawi's *Istinbāt* is moderation, meaning he neither relaxed nor tightened the law. Yusuf al-Qaradawi refused to abandon the obligation to follow established laws, arguing for adapting to changing times. He also refused to standardize the fatwas and opinions of previous scholars, considering them sacred.<sup>46</sup> Moderation is a balance between two opposing or conflicting sides; neither can influence the other by overthrowing it, and neither takes more rights than the other, going no further than necessary and not marginalizing the other side.<sup>47</sup>

From the above, moderate *istinbāt* is to conduct a study of the *nuṣūṣ al-juz'iyah*, the legal arguments, and the *maqāṣid asy-syari'ah* by combining and integrating them. This *manhaj* can formulate moderate, fair, flexible, dynamic, accommodating, and humanistic fiqh because the *nuṣūṣ asy-syari'ah*, *maqāṣid*, and *maslahat* are all considered and heeded to avoid extremism and tendencies towards conservatism and liberalism.<sup>48</sup>

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<sup>44</sup> Yusuf Al-Qaradawi, *Dirasah Fi Fiqh Maqāṣid Asy-Syari'ah Bayna al-Maqāṣid al-Kulliyah Wa an-Nuṣūṣ al-Juz'iyah* (Kairo: Dar asy-Syuruq, 2008).

<sup>45</sup> Quṭub Ar-Raysūni, *At-Taysir al-Fiqhiy Masyru'iyatuh Wa Ḑawābituh Wa 'Awāiduh* (Bairut: Dar Ibnu Hazm, 2007).

<sup>46</sup> Al-Qaradawi, *Min Hadyi Al-Islām Fatawā Mu'aṣirah*.

<sup>47</sup> Yusuf Al-Qaradawi, *Kalimat Fi Al-Wasatiyah al-Islāmiyah Wa Ma'ālimihā* (Kairo: Dar asy-Syuruq, 2011).

<sup>48</sup> M. Pauzi, Darul Hipni, and Anwar M. Radiamoda, "The Importance of The Ijtihad Jama'i Method in Contemporary Fiqh Formulations," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (2023): 13–20, <https://doi.org/10.30631/alrisalah.v23i1.1322>.

Table 3: Characteristics of *Istinbāt* Yusuf al-Qaradawi

No	Form	Information
1	Not tied to a particular school of thought, and not unthinkingly following	Eliminate the fanatical nature of schools of thought and blind imitation of scholars in their fatwas and discussions
2	Make It Easier And Lighter	Sharia is built based on making things easier and eliminating difficulties for Muslims.
3	Moderate: Between Loosening and Tightening	An attitude that neither loosens nor tightens the law

Source: Author's Interpretation

### Application of the *Istinbāt* Method of Yusuf al-Qaradawi in Family Law

As stated by Yusuf al-Qaradawi, several modern tools can be used to select the most relevant opinions from Islamic fiqh resources: first, changes in social and political conditions, both at the local and global levels. The modern era has brought major transformations across all aspects of human life, including social, economic, political, and cultural spheres. These changes require a reexamination of old opinions that no longer fit the new circumstances. This allows for the selection of opinions deemed less relevant or outdated.<sup>49</sup> Second, modern knowledge and related sciences. The fact that advances in natural science, astronomy, chemistry, physics, medicine, pathology, anatomy, and other fields provide a basis for Muslims, especially contemporary Islamic jurists, to strengthen or weaken knowledge developed in the past, particularly in biology and physics.<sup>50</sup>

Third, the demands and needs of developments in the times and related sciences. Given the demands of the times and their needs, a contemporary Islamic legal expert must consider the practicality and ease of the *furu'iyah* laws in both worship and transactions. In this regard, a person conducting *ijtihad* for the benefit of the Muslim community must regularly consider emergencies, obstacles, and exceptional legal conditions.<sup>51</sup>

Some examples of cases, for example, relate to the status of children of adultery, the differences of opinion among scholars, and their arguments regarding the status of the

<sup>49</sup> Al-Qaradawi, *Al-Ijtihad Fi Ayy-Syari'ah al-Islamiyah Ma'a Nazarat Tahliliyah Fi al-Ijtihad al-Mu'asir*.

<sup>50</sup> David Warren and Christine Gilmore, "One Nation under God? Yusuf al-Qaradawi's Changing Fiqh of Citizenship in the Light of the Islamic Legal Tradition," *Contemporary Islam* 8 (2013), <https://doi.org/10.1007/s11562-013-0277-4>.

<sup>51</sup> Al-Qaradawi, *Al-Ijtihad Fi Ayy-Syari'ah al-Islamiyah Ma'a Nazarat Tahliliyah Fi al-Ijtihad al-Mu'asir*.

lineage of children of adultery. The first opinion is held by the majority of scholars, who say that they are not related to their biological father. The child is only related to the mother. Meanwhile, the second opinion is the opinion of 'Urwah bin Zubair, Sulaiman bin Yasar, Abu Hanifah, Imam al-Hasan al-Basri, Ishaq bin Rahawaih, Ibn Taymiyyah, and Ibn Qayyim al-Jauziyah, who say that they are related to their biological father. The consequence of these two opinions is that a biological father is not bound by responsibility for the child resulting from his actions, and the child has no right to demand rights from his biological father because there is no lineage relationship.

Meanwhile, the second opinion is that a father is bound by responsibility towards his child. He must take care of the child's life by providing for his living and education. Therefore, *tarjih* is carried out, and the arguments of the scholars are examined. This is an attempt to select one of several opinions in the scriptures by comparing previous scholars' views and re-examining the evidence on which each is based. This is then based on changes in the social, political, and economic situation occurring at a given time.<sup>52</sup>

In the end, the opinion with more substantial evidence, or the one chosen by the measuring instruments in the *mentarjih*, is selected. This effort is carried out by weighing and comparing several opinions of Islamic jurisprudence scholars (either within one school of thought or across schools of thought) and then choosing which opinion is in harmony with the times, is a solution, is humanist, and can bring about benefits.<sup>53</sup>

Another example is marriage registration. While the concept of marriage registration is not recognized in Islamic jurisprudence, it is actually mandatory in the compilation of Islamic law. In fact, if registration is not carried out, the marriage is considered null and void. This is a rather complex contradiction in the concept of Islamic jurisprudence. Therefore, it is necessary to determine new laws (*ibdāiy insyāiy*) for cases not yet explained in classical Islamic jurisprudence (not yet discussed by previous scholars), whether these issues are old or new. If no opinion is found in the primary texts, an approach based on the study of *usul al-fiqh* and *fiqh* principles is used. However, the formulation of new laws relies on the methodology established by Islamic scholars. This method is preferred when *fiqh* issues cannot be resolved through a *qauliy* approach (i.e., a *fiqh* text). This must be done to avoid a legal vacuum (*tawāqqūf*).<sup>54</sup>

## Conclusion

Based on a literature review of Yusuf al-Qaradawi's ideas, this study concludes that harmonizing Islamic law and local wisdom in family law issues can be carried out methodologically through *istinbāt at-taysir*. This framework grounds its objectives in Sharia (maslahah) while maintaining a connection to *nass* through a measurable *istidlāl* procedure. Al-Qaradawi developed *istinbāt at-taysir* into three paths: (1) *tarjhiy intiqā'iy* (comparison and selection of the strongest and most appropriate opinions of scholars), (2) *ibdā'iy insyā'iy* (*istinbāt* for new issues not yet discussed by previous scholars), and (3)

<sup>52</sup> Al-Qaradawi, *Al-Ijtihād al-Mu'aṣir Bayna al-Indibāt Wa al-Infirāt*.

<sup>53</sup> Al-Qaradawi, *Al-Ijtihād al-Mu'aṣir Bayna al-Indibāt Wa al-Infirāt*.

<sup>54</sup> Afifuddin Muhajir, *Membangun Nalar Islam Moderat: Kajian Metodologis* (Situsbondo: Penerbit Tanwirul Afkar, 2018).

a combination of *intiqā'iy*–*insyā'iy* (refinement/addition of new elements after selecting the most appropriate opinion). This model essentially combines two tendencies: *as-salafiy* (not bound by any particular school of thought) and *al-mazhabiy* (utilizing the wealth of schools of thought), by re-examining the arguments of scholars and/or conducting *ijtihad*, then selecting the option that provides the most convenience and is compatible with the local context for the sake of benefit. This study also confirms that the methodological character of Qaradawi's *istinbāt* is marked by: (a) not being sectarian and rejecting blind *taglid*, while still recognizing the richness of *turāṣ* as material for *tarjih*, (b) an orientation towards *taysir* (facilitation and simplification) as the operational direction for the application of law, and (c) a moderate stance (*tawāzun*) so as not to fall into two extremes: formalism that complicates matters or leniency that undermines principles. Thus, "local wisdom" is positioned not as an authority that rivals sharia, but as a social reality that is critically assessed: it can be integrated when it is in harmony with *maqāṣid* and justice, and corrected when it gives rise to *mafsadah*.

At the applied level, this study finds that the mechanisms of *tarjih* and *insyā'* (legal renewal) enable a more relevant response to contemporary family law issues. For example, in the case of the status of children born out of wedlock, reasoning proceeds by weighing differences among scholars and the social consequences (the responsibility of the biological father, financial support, and child protection), then performing *tarjih* to arrive at a decision that is more solution-oriented and beneficial. Regarding marriage registration, which is not recognized in classical fiqh but is required under modern regulations, the *ibdā'iy* *insyā'iy* approach is used to avoid legal vacuums and protect family rights. Therefore, the main contribution of this article is to offer a methodological model that bridges the tension between textuality and contextuality, and to provide a basis for academics and policymakers to consider when formulating more equitable and relevant family law norms.

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## Author Contributions Statement

Imam Syafi'i contributed to the conceptualization of the study, methodological design, overall supervision, and the review and refinement of the manuscript. Ramdan Wagianto was responsible for data curation, formal analysis, conducting the investigation process, and preparing the original draft of the manuscript. Hawa' Hidayatul Hikmiyah contributed through

literature review, data curation, validation of findings, and drafting sections of the manuscript. Irzak Yuliardy Nugroho provided methodological support, assisted in visualization and technical processing, and participated in manuscript review and editing. Syaikhoni contributed to the development of the theoretical framework, the interpretation of the data, the critical revision of the intellectual content, and the overall academic supervision. All authors have read and approved the final version of the manuscript.

### AI Usage Statement

Artificial intelligence (AI) tools were used exclusively in this study for technical language support, including grammar correction, sentence refinement, and overall clarity and readability. The use of AI was limited to editorial assistance and did not extend to any substantive aspect of the research process. AI systems had no involvement in the formulation of the research questions, study design, data collection procedures, data analysis, interpretation of results, theoretical framing, or the development of conclusions. All conceptual thinking, methodological decisions, analytical processes, and scholarly interpretations presented in this manuscript are entirely the work and responsibility of the authors. The authors affirm that the integrity, originality, and academic rigor of the research remain fully human-driven and compliant with ethical standards of scholarly publication.

### Conflict of Interest

The author declares that he/she has no conflicts of interest (financial or non-financial) that could influence the research process, analysis, and conclusion in this article. This research was conducted independently based on a literature review of traceable scientific sources, without any affiliation with any institution, organization, or party with an interest in the research results. If there was any support in the form of facilities or access to literature from a particular institution, such support did not influence the interpretation of data and scientific arguments presented in this article.

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