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Law Changes in Islamic Law (Review of Concepts, Principles and Methodology)

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Abstract. Changes in law are necessary, both in Western and Islamic law; the basis for changes in Islamic law can be found in sources of Islamic teachings and documented in the history of Islamic law legislation. This article aims to analyze law changes in Islamic teachings, both conceptually, fihiyyah principles, and methods that can be followed. The results found that changes in Islamic law have a legitimacy basis from the Prophet's hadith about reformers every 100 years, also reflected in the history of Islamic law legislation both during the time of the Prophet, Companions, Tabi'in, and so on. Changes in law are also recorded from several principles, both fihiyyah principles and ushuliyah principles. Social changes influence the change in the law in the community where the law applies and is applied. The method used to change the law is to do ijihad. The results of this ijihad in Islamic law can be fatwas, jurisprudence (qadli decisions), doctrines (qaul fukaha), qanuns, and research results.

Keyword: law changes, Islamic law, ijihad

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1 Introduction

In astronomy, it is known that the universe created by Allah SWT is always in motion. It never stops. Some revolve around other objects and some move on their axis. Technological advances further confirm this; from very sophisticated telescopes, it is known that the universe has various kinds of galaxies. These galaxies have parts, one of which is our solar system (where the Earth is located) which moves continuously. This means that dynamism is a sunnatullah for Allah's creation, especially for creatures that live like humans; of course, they are always dynamic in meeting their needs and thoughts. The more time moves forward, and humans will also be dynamic.

Even in the law context, it will always move along with the movement of humans. The challenges and obstacles faced by humans cause them to always think of finding ways or ways to overcome it. Of course, this method or path taken is law, and some are not law, meaning that this method requires law legitimacy whether it is correct/according to Shari'a or not. This is the challenge Islamic law faces in an ever-evolving reality. Because Islamic law differs from conventional law, Islamic law is based on revelation, while conventional law is based on mere human thinking.

In the discourse of Islamic law, Islamic law or fiqh is dynamic, elastic, and flexible. It can adapt to various situations facing humanity. It is said to be dynamic because Islamic law is part of Islam as a whole, brought by the Prophet Muhammad, whose purpose is to create an atmosphere of peace and compassion for all creatures on this Earth. To find out and prove this thesis, this paper was written. It is hoped that our understanding will be comprehensive in understanding the law revealed by Allah SWT and brought by Rasulullah SAW. It will also reveal how high Islamic law is.

2 Discussion

2.1 Meaning of Changes in Law

In the discourse on law science, law change is one of the central themes, which becomes a special study that is widely discussed and discussed. Demands for changes in law begin to arise when the gap has reached such a level that the need for change is increasingly urgent. This level can be marked by the

behavior of community members who no longer feel the obligations required by law as something that must be carried out. Thus, there is a gap that distinguishes between law responses on the one hand and society on the other hand regarding the actions that should be carried out [1].

There are several possibilities to interpret what this change in the law means. First, law changes by giving concrete content to abstract law norms. It is indeed the peculiar nature of law to give an abstract and general form to the things it regulates, which makes its regulation long-lasting. Here we are primarily concerned with the forms of relations governed by certain law institutions. These forms may change even though they still use the name of the old law institution [3]. Changes in this form are due to demands for social change, or in other words, law changes are left behind by social changes. In this case, the law is seen as a tool to maintain stability or social control.

Second, changes in regulations are formal; in such a form, changes in the law are a function of their work as a factor of change that burdens the law with various requests (Satjipto, 1983). Changes in this form occur to change the social structure, or in other words, that social change is late from changes in the law. In this case, the law is seen as a tool to carry out social engineering. Both law changes as a means of social control and as social engineering occur anywhere in the world. Both forms of change occur through a lengthy process by the dynamics of the society that demands it.

In the context of Islamic law, law changes are also closely related to the sociological condition of society. We can see this from the course of history, like the instructions of Rasulullah SAW to his friends in dealing with the sociological reality of the people at that time. However, in carrying out ijtihad, the companions did not experience any methodological problems because they could directly ask the Prophet if they had difficulty concluding a law. However, after the Prophet died, new problems began to emerge. The various cases that emerged during the period of the caliph's leadership began to develop, such as family law, transaction law, and laws related to public interests, such as basic human rights, the right to freedom, and laws related to statehood [4].

The way for Islamic law to develop and respond to the times' challenges anytime and anywhere is by knowing the general principles and maqashid sharia.

This can be found in the Al-Qur'an and Sunnah, which explain many juz'i (partial) law cases, and then kulli (universal) principles can be drawn. One example of law changes that occur due to social changes is the provision of horse zakat. At the time of the Prophet, horses were not subject to zakat, but during Umar bin Khattab, horses were obliged to pay zakat when they reached their nisab (size). This is because horses were bred and traded at the time of Umar. While in the time of the Prophet, it was not so. This means that law provisions can change along with social changes, in this case, the level of the community's economic life that is growing.

This example shows the influence of community habits or culture and social change on the development of Islamic law. This is because the law cannot separate itself from social change towards the development of Islamic law. The law grows and develops according to the level of progress of society. This is where the task of law lies, namely, to give direction to change and to regulate social inequalities that occur as a result of the implementation of development [5].

2.2 The Fundamentals of Law Change in Islam

The law basis for changing the law can be seen from the words of the Prophet Muhammad SAW about mujaddid or reformers every 100 years. This hadith was narrated by Abu Hurairah, in which the Prophet said:

إِنَّ اللَّهَ يُبْعَثُ لِهَذِهِ الْأُمَّةِ عَلَى رَأْسِ كُلِّ مِائَةٍ سَنَةٍ مَنْ يُجَدِّدُ لَهَا دِينَهَا

"Verily Allah sends for this people at the end of every hundred years someone who reforms his religion." (HR. Abu Dawud).

This hadith is the basis for the importance of change and renewal in Islam because this hadith explicitly states that there is renewal in religion at the end of every hundred years (a century), which becomes a reference for the revival of Islam. So, every century, a routine cycle of Islamic revival begins with the renewal of religion [6].

2.3 The History of Law Changes in Islam

Islamic law is a law that has a unique character, characteristic. One of the characteristics of Islamic law is *harakah*, meaning that it moves and develops according to and along with the changing times, it is

always dynamic and not static (*jumud*). Islamic law also has the character of *takamul*, *wasathi*, and *tawazun*.

In terms of meaning, Islamic law can move and develop, has the power of life, and can form itself. With the development of the times, it originates from broad sources and can provide several positive laws to humanity that can be used for all times and places. Islamic law has basic principles contained in the procedures for *ijtihad*, with movements that can respond to all human developments and fulfill future expectations while maintaining their personality and basic values.

The character of *takamul*, *tawazun*, *tawasuth*, and *harakah* is what animates the history of the development of Islamic law in dealing with the development of society. However, Islamic law must be able to answer every problem while still being based on the spirit of Sharia, which is always by the development of society. In another language, Islamic law is said to be *sholihun likulli Zaman wa eat*, meaning it is always relevant at any time and place. As quoted by Subhi Muhmassani, Ibn Khaldun stated that human affairs, customs, and civilization are not fixed but change and vary according to changing times and circumstances [7].

Realities that are social to this occur continuously and continuously by human welfare. Therefore, human benefit is the basis of every type of law, so it has become commonplace if there is a change in law caused by changing times and circumstances and the influence of these social phenomena. This has implications for law fatwas produced by scholars where the fatwa will change and vary according to the conditions and situation.

The history of Islamic law records how law can change from one period to another and from one place to another. The most popular example is how there was a difference between the opinion of Imam Shafi'i when he was still in Baghdad, known as *qoul qodim*, and his opinion when he moved to Egypt, which was called *qoul Jadid*. Likewise, what happened in the Hanafi school of thought, which was originally opposed to those who taught the Qur'an to collect wages, but after changing the circumstances and habits of society, finally, recent scholars allowed this. There are many more examples of changes in law based on changes in time and place.

In the local example in Indonesia, law changes due to changes in time and place also occur. For

example, in NU, at the 23rd Muktamar in Solo on 24-29 December 1962, it was decided that taking the eyeballs of a dead person to replace the eyeballs of a blind person in another human body because the danger of being blind does not exceed the danger of damaging the honor of the deceased. This decision was reaffirmed in the National Conference of Alim Ulama NU in Yogyakarta on August 30, 1981, with arguments and references as the 23rd Mukatamar of 1962, eye, kidney, and heart transplants were forbidden. However, in the 28th Muktamar in Yogyakarta on 25-28 November 1989, it was decided that human organ transplants were permitted, provided that they were needed and that other human organs were not found [8].

Likewise, in the second largest Islamic organization in Indonesia, namely Muhammadiyah, there has also been a law change in the law decisions it produces. For example, in 2005, the Majelis Tarjih dan Tajdid (MTT) issued a law fatwa on smoking, which essentially stated that smoking is mubah. However, the fatwa was later revised or considered no longer valid since the issuance of the fatwa resulting from the Agreement in the Halaqah Tarjih on the Fiqh of Tobacco Control, which was held in March 2010 AD, namely the Fatwa of the Tarjih Council and the Tajdid Central Leadership of Muhammadiyah No. 6/SM/MTT/III/2010 Concerning Smoking Laws which stipulates that smoking is law for anyone [9].

As complementary information, the authors provide several examples of law changes that can be found in fiqh books, namely: [10]

- a. The caliph Umar bin Khattab's decision to abolish the qulubuhum convert section, which had been emphasized in the verses of the Qur'an because Islam had become a strong religion.
- b. Caliph Umar bin Khattab's decision on divorce, pronounced three times in one assembly, was considered a divorce Bain because people were not playing games and as a lesson. Even though during the time of the Prophet and Abu Bakr, it was considered that they had divorced once.
- c. The decision of Caliph Umar Bin Khattab not to punish the thief's hand was cut off because when the theft occurred, there was a famine.
- d. The decision of Imam Abu Yusuf as Judge in Baghdad prioritized customs over Nas provisions, such as changing the method of measuring the sale of

wheat, which at the time of the Apostles used moderate measures. According to this principle, some scholars allow determining the beginning of the month with falaki reckoning, considering that, at that time, people were in the science of astronomy. Hence, they had to use ru'yah, but after there were many astronomers and the results could produce confidence and stability, they must use the results of these calculations except in circumstances of necessity.

e. The establishment of Imam ath-Thufi from the Hanbali school prioritizes the principle of benefit over the Annas and with the basis and method of specialization and explanation of the Nash and ijma'.

2.4 Law Change Areas

In the context of law changes that are determined due to changes in time and place, the question is, "Are all these laws changes applicable to all areas in the study of Islamic law?", The next question is, "Is it permissible to change laws that already have clear provisions in texts of the Qur'an and hadith with other texts or principles, namely provisions from the results of ijtihad or law regulations from statutory regulations or customary law principles?" as we all know that Islamic law is divided into two major parts, namely the worship section and the muamalah section. The worship section regulates the procedures for worshiping Allah SWT, while the muamalah section regulates human relations in their social life. In the Qur'an and Hadith discourses, there are also provisions regarding verses and hadiths: qath'i ad-dalalah and dhanni ad-dalalah.

The answers to these two long questions can be stated in 2 details: First, in matters of worship and religion, the answer is unequivocal that there has been no change in the law at all. The texts in matters of worship and religious matters remain unchanged forever because this concerns an eternal essence that requires firmness and stability in the provisions of the texts. Second, in matters related to worldly muamalah issues, changes to the law can be made because it forms the basis of the attitude of paying attention to and prioritizing meaning, goals, and efforts to find reasons based on these goals. However, even on this issue, there is a difference of opinion among the scholars. Some scholars refuse, and some accept it in several ways.

The strongest opinion of the majority of scholars, in general, is that they want to avoid accepting the issue of changing these provisions, even for reasons of changing circumstances. They even forbid fatwas that differ from the provisions of the texts. As for the acceptance of customs or reasons for commemoration and law violations on the grounds of difficulty, they can be justified only in matters not strictly regulated by textual principles. This opinion was followed by Imam Abu Hanifah, Imam Ahmad bin Hanbal, Imam Syafi'i, and Imam Abu Daud adh-Dhahiri, because if there is no text which instructs that it is obligatory to switch from that text, then the change in time or place is canceled.

Whereas what was laid down by caliphs, imams, and Islamic jurists only allowed changes in the interpretation of the texts and methods based on the provisions of the texts as well, namely based on reasons for changing law reasons or because of changes in customs which cannot be separated from the basis of the texts or because emergency factors and the principles of benefit.

2.5 Islamic Law and Social Change

Islamic law and social change are like coins; one another is bound and influences another. Islamic law can affect social change (society) and vice versa. Social change can affect changes in Islamic law. This applies to any law system, including the Islamic law system.

Let us look at the history of the formation of Islamic law. There are various examples of changes in Islamic law that were influenced by social changes and social changes that affected changes in Islamic law. An example is the problem of *tas'ir* (pricing). This is based on the hadith, which states that *tas'ir* was strictly prohibited by the Prophet Muhammad SAW, and this prohibition is in line with the development of society. At the time of the Prophet Muhammad SAW, the hearts and souls of the traders were still pure, not constrained by greed and the desire to enrich themselves, so the prices for the products they charged were reasonable costs. *Tas'ir* is not needed in a situation like this, and even if it is done, the main purpose of buying and selling—which is called "an taradin"—will be lost because *tas'ir* has the potential to make traders feel forced. To sell their product. However, during the *tabi'in* period, they observed that society had changed, and the merchants had become increasingly irate. As a result, they

realized that the trading system at the time of the Prophet, which was still adhered to by the Companions, needed to be changed, and they intervened to prevent the fixing of prices for goods. If this is not taken, it will cause the buyer to be violated.

Another example is the permissibility of receiving compensation in wages for teaching the Qur'an, being a prayer priest, *mu'adzin*, or performing any form of obedience, including pilgrimage. The basis for this permissibility is that *syi'ar* religious leaders and teachers of the Koran can no longer access the *baitul mal*. If they are busy working in other fields such as farming, trading, and so on, of course, the Qur'an will be destroyed little by little, and the message of Islam will be destroyed. [11].

In the discourse on the sociology of law and Islamic law, changes in the general public can occur for different reasons. These causes can arise from the community (interior causes) or outside the community (outer causes). Some interior causes, among others: increase or decrease in population, discoveries, conflict, and revolution (social change that is so fast). While external causes, among others: causes that occur in their home environment, the influence of other communities, war, and others. Social change occurs more easily when the general public is often connected to a different social order or has an advanced education system.

An open system of social layers, a heterogeneous population, and local dissatisfaction with certain areas can also be causes of social change. While revising a regulation (a drafted regulation), it is generally felt that three bodies can correct a law: the law-forming body, the police, and the law-executing body. The existence of unique principle-forming bodies, statutory bodies that pass laws, and implementing organizations that complement laws, are traits traced in countries today. In basic cultures, these three abilities may be owned by a particular organization or shared with a major unit in the public eye, such as the extended family.

Social and law changes, or vice versa, do not necessarily occur simultaneously. This is intended so that under certain conditions, regulatory improvements may be neglected by the progress of various components of society and their way of life, or the reverse may occur. If so, there will be social underdevelopment—a situation where social institutions develop unequally, creating an imbalance.

The slow improvement of law by other social elements, or vice versa, occurs because it is a distinctive feature of the general public that there is a difference between the examples of behavior expected by law norms and the examples of behavior expected by law norms. Other social conventions. This happens because laws are drafted and ratified by those who once had the power or authority. A situation that indicates that improvements in various fields leave behind regulation often creates obstacles in other fields. Disorganization can also be caused by the slow development of law principles which is marked by the absence of new principles to replace old principles that have faded. This situation can lead to anomie, which is a chaotic condition because there is no standard for community members to measure their activities [12].

2.6 Fiqhiyyah and Ushuliyah Principles regarding Changes in Law

In the science of qawaid fiqhiyyah there are several principles that reflect the demands for changes in law, including:

a. Principle

لَا يَنْكُرُ تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَانِ وَالْأَمْكَانِ

"It cannot be denied that there are changes in law due to changing times" (Arfan, 2009)

Also a similar principle that reads:

تَغْيِيرُ الْأَحْكَامِ بِتَغْيِيرِ الْأَزْمَنِ وَالْأَمْكَانِ وَالْأَحْوَالِ وَالْعَوَائِدِ

"Changes in the law are based on changing times, places and circumstances." (Usman, 2002).

Imam Ibn al-Qoyyim al-Jauziyyah stated:

تَغْيِيرُ الْفَتْوَى وَاجْتِلَافُهَا بِحَسَبِ تَغْيِيرِ الْأَزْمَنِ وَالْأَمْكَانِ وَالْأَحْوَالِ وَالنِّيَّاتِ وَالْعَوَائِدِ

"Changes in fatwas and their differences are influenced by changes in times, places, circumstances, intentions and customs" (Al-Jauziyyah).

This principle explains the importance of law transformation in different spaces and times, caused by various factors such as time, place, situation and condition, intentions or goals to be achieved, and the customs that apply in a society. Many examples can be put forward here, such as in matters of marriage which are recorded at the KUA, and divorce, which

are recorded at the Religious Courts (PA). In classical fiqh, there is no such thing as pillars or conditions in marriage concerning marriage registration. Also, in divorce matters, one has to go before a judge. However, this provision is now enforced in various Islamic or Muslim countries. For the community, this is difficult and forced for those who do not understand deeply the importance of recording. They perceive registration as an obstacle or make it difficult for people to get married and divorce. Even though this is not the case, precisely with the existence of such registration, the law aspects of marriage will be maintained safely and orderly. When there is a violation of rights, the prosecution process will get legal standing and receive strong law protection. The changes above are caused by changes in the situation and conditions in a modern society that has developed and advanced.

It is clear to us that Ibn Qayyim al-Gauziyyah and the ushul al-fiqh scholars have played an important role in the situation and social condition that exists in Muslim society, which continues to develop dynamically along with the development and progress of human society in general. He has put in place or at least supports the need to consider social conditions in establishing and applying the law. All of this is intended to realize the servant's benefit through the objectives and substance of the Shari'a.

b. Principle

الْمَحَافِظَةُ عَلَى الْقَدِيمِ الصَّالِحِ وَالْأَخْذُ بِالْجَدِيدِ
الْأَصْلَحِ

"Keeping good old traditions, and taking new things that are better."

This principle is very popular among NU. It has become a life guideline for NU members in the social and religious realms. The meaning of this principle is that treasures in Islam must continue to be actualized so that they become a living principle not only in ushul fiqh studies but can be implemented to solve broader problems so that it can be implemented more.

We have so much heritage, especially traditions, and values of goodness (local wisdom). In the Islamic intellectual tradition, even good customs or traditions have their place in Islam. For example, in the repertoire of fiqh, it is stated that buying and selling greetings (orders) is a custom of the people accommodated by Islamic fiqh. Ijarah or wages are

also one of them. What is a tradition in society is considered in the implementation of ijarah.

Regarding the development problem, of course, it is closely related to the continuation of this principle, namely taking new and better things. Not only good but better or best. For example, registration was required in the case of the above marriages. Previously it was physically in the form of a marriage certificate, and now it is also registered online so that it is easy to access.

In the science of qawaid ushuliyah, several principles imply law changes, including:

a. Principle

الْحُكْمُ يَدُورُ مَعَ عِلَّتِهِ وَجُودًا وَعَدَمًا

"The existence of law is concerned with the existence of its 'illat (cause). There is an 'illat, there is a law, there is no 'illat, there is no law."

From this principle, with the end of what is the reason or law illat, the law provisions also end. Alternatively, Islamic law will experience a change in law status due to the causes and effects surrounding it. Examples can be seen in the following cases:

1. Khamr is forbidden because it opens it; when it loses its intoxicating properties, it is lawful like vinegar.
2. When entering someone else's house or wearing someone else's clothes, it is unlawful because (the illat) does not have the owner's approval. As for if the owner is pleased, then it becomes lawful (because the illat which was originally not ridlo' has disappeared/does not exist)

b. Principle

الْحُكْمُ يَتَّبِعُ الْمَصْلَحَةَ الرَّاجِحَةَ

"The law follows the most powerful / many benefits."

This principle explains that the diligent benefit is the law basis that is built. In the case of marriage registration, for example, because there are many benefits from registration, the provisions for registering marriages are enforced in the laws and regulations in our country. The administration of marriage registration should be preserved and fostered to make it even better, along with the

development of information and communication technology today.

2.7 Ijtihad as a Means of Change and Renewal of Law

According to the scholars, ijtihad is an effort to devote all one's abilities to establish syara' law through detailed arguments from syara' arguments [13]. In Islamic law, ijtihad determines a law for a problem that must be applied, but the answer is not found in the Al-Qur'an or Hadith. In addition, ijtihad is also a means for Islamic law's development, change, and renewal.

Regarding the changes and renewal of Islamic law, not every result of ijtihad can be used as a contribution to the renewal of Islamic law and gain legitimacy from the scholars except when paying attention to the two main points mentioned above, namely, First, who did it? The performer of ijtihad must be someone who fulfills the qualities of a mujtahid. Second, in what area did he perform ijtihad? Renewal with ijtihad is only permitted in areas of ijtihad justified by syara' [14].

The ijtihad methodology is key in implementing ijtihad because the results will be valid or unrelated to the ijtihad method one uses. The scholars have formulated a method in ijtihad known as law istinbath. Law istinbath efforts are usually carried out using two approaches: the linguistic approach and the maqashid shari'ah approach. The approach through linguistic principles is an approach that applies in Arabic because this study will concern Islamic texts (texts) in Arabic. Meanwhile, the maqashid shari'ah approach is carried out because this study will involve the will of syari', which can only be known through a study of maqashid sharia [15]. The maqashid shari'ah approach focuses more on looking at the values in the form of benefit in every taklif (law imposition) revealed by Allah SWT.

In addition to the two approaches above, which are directly related to the texts, the scholars have also formulated the method of ijtihad for problems whose resolution is not directly stated in the texts. These methods are qiyas, istihsan, maslahah mursalah, istishhab, istishlah, sadd adz-dzari'ah and 'urf. As an example of efforts resulting from ijtihad are the various fatwas produced by the DSN MUI relating to muamalah practices, for example, muamalah practices (mudharabah, murabahah, bai' salam, rahn, qardh, and so on) which are currently implemented in Islamic financial institutions, both banking and non-banking.

In addition to the three classic models of *ijtihad* carried out by *mutaqaddimin* scholars, contemporary scholars have also formulated the concept of contemporary *ijtihad*, as put forward by Yusuf Qardhawi. According to Yusuf Qardhawi, contemporary *ijtihad* can be carried out in one of the following two ways [16]: First, *ijtihad intiqai*. *Ijtihad* is carried out by selecting the opinions of previous scholars considered more appropriate and stronger. The previous scholars had solved various problems they faced; it does not mean that what they have determined or produced in *ijtihad* is a final decision for all time, but it needs to be re-examined whether it is by the current situation and conditions or vice versa, it is no longer relevant.

Second, *ijtihad Insyai*. This *ijtihad* is by establishing a new law where previous scholars have never raised the issue of whether the problem is new or old. This *ijtihad* is very much needed because of various problems that arise in the development of science and technology that have never occurred in the hearts of previous *mujtahids*, such as artificial insemination, eye donors, marriage contracts on television screens, modern business transactions, sperm banks, and water tanks milk. The progress of science and technology, the economy, and the globalization of the world have influenced changes in the mindset and attitude of people's lives. The rational attitude that is the main characteristic of modern society makes practice and texts; the practice of *fiqh* can no longer answer these new problems.

2.8 Ijtihad Products as a Result of a Change in Law

In the previous sub-chapter it was stated that *ijtihad* is a means of changing and renewing Islamic law. This is increasingly evident with the birth of various forms of *ijtihad* products that exist and are currently in effect, including:

a. Fatwas

A *fatwa* is the result of a *Mufti's ijtihad* in relation to a law event that is asked of him. So *fatwas* are more specific than *fiqh* or *ijtihad* in general. With this definition, it can be understood that the scope and law authority of this *fatwa* is limited to certain cases and more to certain people or areas. Apart from that, many of the laws that have been *fatwa* have also been formulated in *fiqh* law, it's just that maybe the person requesting the *fatwa* has not been deeply understood. Judging from the role of these animals, it is only

natural that the ability of a *Mukti* must at least have the capacity of a *mujtahid cleric* [17].

b. Court ruling

Qadha is a statement or written decree or decision issued by a body authorized to do so (*al-qadha area*). According to the definition above, it can be understood that court decisions or *qadha* can be used as a benchmark for law determination. Thus, the scientific capacity of a judge should have a standard like that of a *mujtahid* or a *mufti*, with the consideration that apart from being a form of law ruling it is also a reference material for other judges [17].

c. Legislation

The previous sub-chapter stated that *ijtihad* is a means of changing and renewing Islamic law. This is increasingly evident with the birth of various forms of *ijtihad* products that exist and are currently in effect, including:

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c. Legislation

Laws are regulations made by a legislature (*sulthan at-tasyri'iyah*) that are binding on every

citizen where the law is enacted; if anyone violates it, they will receive sanctions. In the historical records of the Islamic government, it can be found that the caliph, the head of state, is not left behind in making laws and regulations concerning the public good that requires it. The factors behind the emergence of making laws are that no provisions are these principles. There is a need for solutions to new problems in people's lives, especially regarding matters of state administration, the preparation of councils, tax arrangements, collection of land taxes, prison arrangements, and others [17].

d. Study

Research is an effort to gather information about a phenomenon or thought by conducting scientific research. This scientific research can be in the form of library and field research. Literature research through *ijtihad intiqâ'i*, namely the maximum effort to select various opinions that exist selectively in the treasures of classical and contemporary *fiqh* literature, which are full of *fatwas* from all schools of thought (*sunni*, *syi'ah*, *dahiri*, and *khawarij*). Likewise, field research is to find out cases that occur in society through *ijtihad insyâ'i* (*ijtihad juz'i*) so that in drawing new law conclusions on a problem that problem (new or old problem) has never been raised and research was carried out by previous scholars (*mujtahid*) [18].

The importance of research on certain problems can be carried out to prepare scientific works in the form of a book, paper, thesis, and dissertations, which are by standard research guidelines. For example, the book *National Law: Eclecticism of Islamic Law and General Law*, written by A. Qodri Azizy, offers his ideas and thoughts on how national law can be realized from a unified law system and doctrine (eclecticism) that has been in force in Indonesia (system religious law, customary law, and the West). So that in the future, there will no longer be a dichotomy between Islamic law thinking and general law. Meanwhile, from the results of research for dissertation purposes, including a dissertation compiled by Fathurrahman Djamil with the theme "Ijtihad Muhammadiyah in Contemporary Jurisprudence: Studies on the Application of *Maqashid al-Syari'ah* Theory" (IAIN Jakarta, 1993), which focuses on research problems on tracing the methods and *manhaj* of the *Tarjih* Council and the *Tajdid Muhammadiyah* in issuing *fatwas* on contemporary issues and their tendency towards

certain schools of thought. "The Concept of *Ijtihad MUI* in the Development of Islamic Law." In addition, the dissertation was written by Helmi Karim (IAIN Jakarta, 1993), who focused his research problem on discussing the extent to which *MUI ijtihad* influenced the development of Islamic law [17].

3 Conclusion

Changes in Islamic law are necessary, which can be taken from the history of Islamic law starting from the early times (the Prophet and his companions), continuing to this contemporary era. Law changes are driven by the contact between law and social reality, functioning as social control or social engineering. However, the area for changing the law is limited to *muamalah* areas. In matters of worship, the provisions stated in the *Qur'an* and *hadith* apply. Changes in law are also supported by Islamic law principles, both *fiqh* and *ushuliyah* principles. Many scholars have given birth to various principles that show the elasticity and dynamism of Islamic law. In changes in Islamic law, the role of *ijtihad* has a very strategic position, both classical *ijtihad* and contemporary *ijtihad*. The results of *ijtihad* in contemporary times have given birth to various variants of law products, not only *fiqh* but also *fatwas*, court decisions, legislation, and scientific research.

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