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EPISTEMOLOGY OF ISLAMIC LAW IN THE IBN RUSHD'S PERSPECTIVE

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Abstract

Islamic law is an integral part of Islam. Everyone who studies Islam also studies Islamic law. Ibn Rushd, an expert in Islamic law has a method of establishing Islamic law. Ibn Rushd's method was influenced by philosophy (epistemology). What is the method of Ibn Rushd's epistemology of Islamic law and its relevance? The purpose of this study is to know the method of determining Ibn Rushd's Islamic law and its relevance. The epistemology of Islamic law Ibn Rushd has four premises: primary premises (al-maqulat al-ula), sensory knowledge (al-mahsusat), opinions which are generally accepted (al-masyhurat), and opinions received (al-maqbulat) Primary premises and sensory knowledge are included in the convincing category (al-yaqin), opinions that are generally accepted (al-mashhurat) are in a degree close to the beliefs and opinions received (al-maqbulat) only reaches the expected degree (zhan) Ibn Rushd's epistemology of Islamic law to improve human morals. So that Ibn Rushd established the freedom of the madzhab and did not justify fanaticism towards a school of thought.

Keywords: Epistemology, Islamic law, and moral

Introduction

Classical Islamic science literature is not familiar with the term Islamic law. Likewise in the Qur'an, hadith, books of *fiqh*, and ushl al-*fiqh* do not find the word Islamic law (Adinugraha, 2020). The term that is widely used in the literature is *al-hukm, hukm Allâh, syarî'ah, hukm syar'î, al-syarî'ah al-Islâmiyyah, al-tasyrî' al-Islâmî* (Khallaf, 1978), and then mentioned as understanding of religion. Some *fiqh* scholars such as Imam Abu Hanifah define *fiqh* as knowledge of a Muslim about his obligations and rights as a servant of Allah. This definition covers all aspects of life, namely aqidah, sharia and morals (Khasanah et al., 2021). *Fiqh* in his day and in previous times was still widely understood, covering the fields of worship, *mu'amalah*, and morals. Over time, Islamic law has become a separate discipline where Islamic law is more identical with *fiqh*, which is knowledge of amaliyah sharia laws with detailed arguments (Hendriarto, 2021). Implementation of this definition, issues other than sharia law as well as aqidah, morality and the like from discussions in this discipline (Ismanto, 2021). Therefore, as a shift and incorporation of meaning in defining Islamic law, it can be concluded that the understanding of religion is related to sharia laws (Et.al, 2021). Islamic law in the treasury of Islamic scholarship is an integral and most important part of existence for Muslims (Ulama'i, 2019).

Joseph Schacht expressed his opinion that an observer of Islamic civilization would not be able to understand the turmoil in the development of Islamic legal institutions in modern Muslim countries today without a deep understanding of the history of Islamic law theory and practice (Liebesny et al., 1966). Joseph Schacht (2020) also said that it is not an exaggeration when Islamic law occupies a very central position in the religious sense of the Muslims and a truism to say Islam

as a religion of law (Gyekye & von Grunebaum, 1976). According to H. A. R. Gibb, Islamic law is "the epitome of the true Islamic spirit, the most desicive expression of Islamic thought, the essential kernel of Islam" (Kitagawa, 1954). Therefore, many Islamic researchers have concluded that it is impossible to understand Islam well without comprehensive knowledge of Islamic law (M. & Gibb, 1963).

Based on the foregoing, the importance of Islamic law is so important that it is necessary to study it as deeply as possible about the nature of Islamic jurisprudence (Adinugraha & Muhtarom, 2021b). One of the treasures of Islamic thinkers is Ibn Rushd (520-595 H/1126-1198 AD), an Andalusian Islamic philosopher who extensively reviewed, criticized and commented on Aristotle's thoughts, so he was nicknamed "The Commentator". In addition, Ibn Rushd is also known as an expert in Islamic law with his monumental works *Bidâyah al-Mujtahid wa Nihâyat al-Muqtashid*. The background of a philosopher and also an expert in Islamic law, through this research will describe the epistemological framework of Islamic law according to Ibn Rushd and its relevance to the development of Islamic law. This goal is to contribute to the offer of the development of Islamic law which is increasingly complex in facing the challenges of the times in the era of globalization which requires it to develop.

Method

The literature review method is used in this research (Weeks, 2019). Because this study examines various sources of literature on the epistemological method of Ibn Rushd's perspective towards Islamic law and its relevance in today's life.

Results and discussion

Understanding of Islamic Law

The term Islamic law in the Qur'an and Islamic law literature does not mention at all. The Qur'an only mentions the word *syarî'ah*, *fiqh*, the law of God, and that which is rooted in it. Islamic law is a translation term from Islamic law in Western literature (Ali, 2000).

Sharia terminology in using it contains two meanings, namely: in a broad sense and in a narrow sense (Adinugraha & Mujaddid, 2021). In a broad sense, Sharia means the entire norm of the Islamic religion which includes both doctrinal and practical aspects. In a narrow sense, sharia refers to the practical aspects of Islamic teachings, namely, the part that consists of norms that regulate concrete human behavior such as worship, marriage, buying and selling, cases in court, state administration and others (Adinugraha & Ulama'i, 2020). If the term Islamic law is to be used to translate the term Sharia, then it is meant by Sharia in a narrow sense (Al-Zarqa, 1989). Al-Ghazali defines *fiqh* in the sense of legal science as a science that examines the established Sharia laws regarding the behavior of people as legal subjects such as mandatory, sunnah, haram, facade, legal and so on. Meanwhile, in the sense of being the law itself, *fiqh* is intended as a collection of Sharia laws regarding human behavior that are determined through the Qur'an, the Prophet's explanation, *ijma'* ummah and *ijtihad* jurists (Hammad, 1987).

The word law is etymologically derived from the Arabic root, namely"*hakama-yahkumu* which then the shape of the *mashdar* becomes *hukman*. Word *al-hukmu* is the singular form of the plural *al-ahkâm.* The root of the word *hakama* then appears the word *al-hikmah* which means wisdom (Adinugraha et al., 2020). This means that people who understand the law then practice it in everyday life wisely (Muzakkir, 2019). Another meaning that emerges from the root of the word is "control or bridle of the horse", namely that the existence of law is essentially to control or restrain someone from things that are prohibited by religion (Riyadi & Adinugraha, 2021). The meaning of "prevent or reject" is also one of the meanings of word *hukmu* which has the root word *hakama*. Prevent injustice, prevent injustice, prevent persecution, and reject other damage or *mafsadat* (Rohidin, 2016).

Furthermore, the word Islam is a form of *maṣdar* from the root *aslama-yuslimu-islâman* by following *wazn af'ala-yuf'ilu-if'âlan* which means submission and obedience and can also mean Islam, peace, and safety. However, the original sentence of the word *Islâm* is derived from the word

salima-yaslamu-salāman-wa salāmatan which means safe (from danger), and free (from defects) (Munawwir, 1984). Islam as a submission and surrender of a servant when dealing with his Lord. The ability of human reason and mind that is manifested in science is not comparable to the knowledge and ability of Allah. Human abilities are very limited, for example only limited to the ability to analyze, rearrange existing natural materials to be processed into materials that are useful for human life, but are not able to create in the sense of making from nothing into existence or invention (Algarni, 2019).

Sources of Islamic Law

The sources of Islamic law are the Qur'an and the Sunnah of the Prophet. These two sources are also called the main arguments of Islamic law, because they are the main clues to Allah's law. There are also other arguments besides the Qur'an and Sunnah such as *qiyas, Istihsan* and *istislah*, but these arguments are only supporting arguments which are only tools to arrive at the laws contained in the Qur'an and Sunnah. Sunnah of the Prophet. As according to Abdul Wahhab Khallaf, the sources of Islamic law agreed upon by many scholars as sources of Islamic law are: *al-qur'an, al-sunnah, al-ijma'*, and *al-qiyas* (Khallaf, 1978).

The Qur'an in the study of Islamic law is the first and main object in legal research activities to solve a legal problem (Marom et al., 2021). Likewise, the Sunnah of the Messenger of Allah is the source of Islamic law which means about all the behavior of the Prophet related to the law of recognition (*Sunnah Taqririyah*). The Qur'an instructs Muslims to obey the Messenger of Allah, explaining that in the Prophet there is a good example, and great character (Adinugraha, Mubtadi, et al., 2021). Allah considers that obeying the Messenger is obeying Allah, and Allah nullifies the faith of a person who does not surrender to the decision of the Prophet. Although the main authority for the legislation of Islamic law is the Qur'an, the Qur'an states that the Messenger of Allah is the interpreter of the verses of the Qur'an (Purwanto, Fauzi, et al., 2020). On this basis, the companions during the life of the Prophet and after his death have agreed on the necessity to make the Sunnah of the Prophet as a source of law.

The Prophet's period of settlement related to law or other problems was immediately returned by the Prophet. But this was also done by the companions when they were traveling, while the Prophet was not with them. However, along the way, there are events that must be taken into account. From that incident they carried out the application of Islamic law which they then reported to the Prophet for clarification (Sholehuddin et al., 2021). So when the Prophet was still alive, those related to new events (whether concerning the law or otherwise) everything was returned to the Prophet.

However, after the death of the Prophet, in establishing a law, the Companions used the Qur'an and the Sunnah of the Prophet. They return each event to both sources. If neither of them to find a law, then they perform *ijtihad* (Nursalam, 2016, 2013). *Ijtihad* carried out at this time was limited to the questions asked. Friends do not want to express opinions about something that has not happened (Sopyan, 2018). In *ijtihad*, sometimes they use analogy (*qiyas*), or based on benefit and reject harm. It is their *ijtihad* that guarantees the development of Islamic law so that it is able to adapt to the diversity of society. They also have different methods and abilities in understanding legal texts. The Companions are famous in their use of *ra'y*. And between them there are always differences of opinion. While the laws contained in the texts are limited, events and problems that arise will always develop according to the times. There is always tension and space between the two, namely the dynamics of social change. This is what in Islam is known as *ijtihad* (Asmani, 2016).

After the generation of friends in the development of Islamic law, the next generation is the *tabi'in* generation. They continue the tradition of companions in the course of Islamic law (Nurhuda et al., 2020). They set the law based on what they understand from the Qur'an and Sunnah (Sayis, n.d.). In addition, they also practice *ijtihad*, as did the Companions. The development of Islamic law towards the period of perfection of Islamic law and the emergence of the Imams of the *Madzhab*. These schools have given birth to methodological formulations for a very broad and comprehensive legal study so as to make it easier for the next generation of Muslims to further develop legal studies. The development of *madzhab* makes Islamic law more flexible, dynamic, because its presence will bring up alternative legal provisions (from the results of *ijtihad*), which in the end Islamic law will be more

adaptive and accommodating to any changes that occur in society (Rohman, 2015). Along with the development of Islamic law which has matured, the impact after that is the period of *taqlid*. This period was marked by the emergence of explanations of problems that had been studied previously, reformulating the methods of the founders of the *madzhab* and culminating in the fanatical defense of the opinions of the *madzhab* priests (Yumni, 2019).

After experiencing stagnation for several centuries, Islamic thought rose again. This happened in the 19th century AD/13H. The revival of Islamic thought arose as a reaction to the attitude of *taqlid* mentioned above which had brought about the decline of Islamic law. New movements emerged among the movement of jurists who suggested a return to the Qur'an and Sunnah (Adinugraha, 2020). However, these efforts are still faced with serious problems, especially with regard to the methodology of reform. The methodological effort of Islamic law reform in question is the method used to overcome every problem that occurs in society, namely by carrying out new interpretations of Islamic law sources such as the Qur'an, *sunnah*, *ijma'* and *qiyas* or by reopening *ijtihad* activities. In his study of changes in Islamic law, Norman D. Anderson suggests two patterns of legal reform carried out in the Islamic world. First, Sharia is gradually being neglected in everyday practice – such as commercial law, criminal law and many more – to eventually follow regulations of mostly foreign origin imposed by the secular justice system. Second, even in this sacred area of family law, a number of very significant changes were made by interpreting and applying family law (Yelwa, 2014).

What Anderson said did not touch the root of the problem. For this reason, at this time we are challenged to formulate a systematic methodology for reforming Islamic law or an adequate method of reforming Islamic law, borrowing the term An-Na'im based on a relevant theological framework (Campbell & An-Na'im, 1990). Another obstacle that is no less important is the psychological problem that arises from the disproportionate theological framework of understanding Islamic law. Efforts to reform Islamic law presuppose the existence of parts of Islamic law that are inadequate. According to most traditional circles, this is a distortion of the perfection of Islamic law which is divine. To break through this obstacle, what must be done is to build awareness, that Islamic law is not actually a law in which all the principles and details of the rules were revealed directly by Allah to the Prophet. Based on historical studies, it can be seen that Islamic law is a product of formation by early Islamic jurists based on the interpretation of its basic sources, namely the Qur'an and Sunnah (Fadholi et al., 2020). Such historical awareness can certainly make contemporary Muslims more open to the possibility of substantially reforming Islamic law (Safitri, 2020). The history of Islamic law as stated above can show that Islamic law (*fiqh*) is not divine in nature, but rather as a product of a process of logical interpretation and elaboration of the texts of the Qur'an and Sunnah (Adinugraha, Nasution, et al., 2021). It is for this purpose that the study of Islamic law reform becomes very urgent (Sartika, 2018).

The development of Islam and new problems emerging rapidly resulted in the *fuqaha* finding it difficult to solve all these problems only by relying. There are four kinds of words, deeds and *taqrir* of the Prophet, which later became one of the sources of Islamic law (Ulama'i, 2019). Three of them have been agreed and one is still in dispute. The three agreed upon are: (1) the general word (*lafazh 'âmm*) with the intent in accordance with its generality; (2) a special word (*lafazh khâsh*) with the intent according to its specificity; (3) words that have a general meaning, but require a special meaning, or special words that require a general understanding (Joni Tamkin Bin Borhan, 2015).

The three kinds of words above sometimes use the following terms: (1) *al-tanbih bi al-a'lâ ila al-adnâ* (affirmation of lower provisions with higher provisions); (2) *al-tanbih bi al-adnâ 'ala al-a'lâ* (affirmation of higher provisions with lower provisions); (3) *al-tanbih 'alâ al musawi bi almusawi* (affirmation of equivalent provisions with equivalent provisions).

Ijmâ' ulama (consensus of scholars) as one of the methods in taking Islamic law. If *ijma'* occurs in one of the four methods above, even though it is not a *qath'i* (certain) proposition, then the law determined by *zhan* (estimate) turns into a qath'i law. *Ijma'* is indeed not a stand-alone law, if it is not based on one of the four methods above. Because if *ijma'* has its own position, it means the same as establishing a "new law" after the Prophet Muhammad SAW. That means it does not refer to the legal provisions of Sharia (Adinugraha & Zayadi, 2020).

Ijma' in theoretical matters cannot be known with certainty, as well as in practical matters. *Ijma' ummah* in any matter and at any time can't be known, unless the time is strictly limited. All the scholars at that time were clearly known, and their opinions on certain issues came in succession (*mutawâtir*). In addition, there is certainty that all scholars at that time had agreed on the absence of the meaning of birth and the meaning of *takwil* in the Sharia text, then also agreed that knowledge about an issue should not be kept secret from others, and there was only one method to understand it, the text of the law (Adinugraha, Din, et al., 2021).

Legal statements that can be disclosed to a *mukallaf* (a person who is subject to the burden of the law) can generally take the form of *amr* (command), *nahy* (prohibition), and *takhyir* to choose one. *Amr* (command) connotes the obligation to carry out legal provisions and there is a risk of punishment if they do not carry out these legal provisions. So *Amr* denotes obligatory law. If the *amr* can be understood to be rewarded with rewards and there is no risk of punishment, the *amr* connotes circumcision. Likewise, *nahy* (prohibition), if the violation of the legal provisions is accompanied by punishment, then the act has the connotation of *haram* (Hafidz, 2021). But if nahy can be understood only as a prohibition without being accompanied by threats of punishment, then *nahy* which has the connotation of *makruh*.

Biography and Works of Ibn Rushd

Ibn Rushd or in Latin Averroes, was a philosopher from Spain (Andalusia). He was the founder of independent thought and thus had a very high influence in Europe. His full name Abu Walid bin Ahmad bin Muhammad bin Rushd was born in Cordoba (Spain) in the year 520 Hijri (1126 AD). Ibn Rushd's father and grandfather were well-known judges in Cordoba (Hourani & Sharif, 1965). When childhood Ibn Rushd himself was a child who had many interests and was multi-talented (Hourani & Sharif, 1968). He studied many disciplines, such as medicine, law, mathematics, and philosophy (Leaman, 2020). Ibn Rushd studied medicine with Abd Malik ibn Zuhr (d. 1162 AD), Abu Jafar Harun and Jarbun al-Balansi, and studied law (*fiqh*) especially Imam Malik's Kitab al-Muwatha' by his father. In addition, he also studied law at Ibn Rizq, Abu al-Qasim, Ibn Basykuwal, Abu Marwan, Ibn Samhun, Jafar Ibn Abd al-Aziz and Abd Allah al-Mazari (Al-Iraqi, 1984).

Ibn Rushd was a genius from Andalusia with his encyclopedic knowledge. Most of his life was to serve as *Qāḍī* (judge) and physicist. In the West, Ibn Rushd is also known as the greatest commentator on Aristotelian philosophy who influenced Christian philosophy in the Middle Ages, including thinkers such as St. Thomas Aquinas (Rashid, 2020). Many people came to Ibn Rushd to consult on medical and legal matters (Bloch, 2019). Ibn Rushd was very proficient in the field of Islamic law and was the only expert on khilafiyah in his time. *Bidayah al-Mujtahid wa Nihayah al-Muqtasiq* (written in 1168 AD), is a monumental work that describes the reasons for the emergence of differences of opinion in Islamic law (*fiqh*) and the reasons why each of them is considered the best work in their field (Usaibi'ah, 1996).

Ibn Rushd died in 1198 AD in Marrakech at the age of 72 and his body was taken to Cordoba to be buried there. Ibn Arabi (1160-1240 AD) witnessed the convoy of Ibn Rushd's corpse being carried on a donkey while several of his works were carried on other donkeys. All of Ibn Rushd's original works were written in Arabic. However, due to bans and burnings, most of the works that have come down to us have only been in Hebrew and Latin translations (Uwaidah, 1993). These works are classified into several themes, namely: works of logic (*mantiq*), works of physics (*thabiiyat*) or natural philosophy, works of metaphysics (*ma bad al-tabiah*), works of theology (*'ilm kalam*), astronomical works and legal works (*fiqh*) (Soleh, 2012).

His monumental work is *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid* is the most famous as well as the most quality when compared to his other *fiqh* books. Ibn Rushd's book was completed by Ibn Rushd in 1188 AD while serving as the Supreme Court Justice in Cordoba, or when he was about 62 years old (Wardani, 2015). This book contains the views and arguments of all schools of Islamic law, both those who are textualist and rationalist since the time of the Companions until the 11th century AD (Uvroy, 1991). In our current era, this book is categorized as a book containing comparative Islamic law or comparative jurisprudence or comparative *madzhab* science.

As an academic work, Ibn Rushd's Bidāyah al-Mujtahid is the same as other books which were not born without being motivated by the accompanying circumstances and situations. If we go back to history before its presence, namely the end of the 11th century AD, we will find that the Islamic world at that time was in a very bad condition where political conflicts swept throughout the Islamic region. In the period of Islamic decline, which actually started at the end of the Umayyad reign and was referred to as the period of disintegration (in Islamic history, it is the period of Islamic decline) by Harun Nasution (Muh. Subhan Ashari, 2020), areas far from the center of government in Damascus and then in Baghdad broke away from the power of the caliph which resulted in the emergence of small dynasties (Azani, 2013).

With political conditions that are not conducive like this, it is certainly very influential in other fields such as economics, social and culture as well as science, especially *fiqh*. In this latter field they no longer have the productive scientists as in previous centuries. Specifically in the field of *fiqh*, Islamic scholars no longer produce academic works and are satisfied with those that have existed before, what they do is nothing more than summarizing or making explanations of the works of their predecessors (Adinugraha & Muhtarom, 2021a). In such conditions, Muslims are hit by a disease called *taqlīd*, namely following someone's opinion without being accompanied by any knowledge, reason, argument or argument.

Such conditions were experienced by Ibn Rushd, a condition that led him to become one of the Muslim scientists who required the doors of *ijtihad* to be reopened as he wrote in his Bidāyah al-Mujtahid, "We wrote this book for nothing but *fiqh* experts to attain the degree of *mujtahid*" (Rushd, 2005). Take out all existing capabilities to explore Islamic values and apply them according to the existing situation and conditions. The degree of *Mujtahid* itself cannot be obtained by someone just by memorizing the laws of various problems without being accompanied by sufficient capacity in the fields of *uṣūl fiqh*, Arabic, and philology, even though he has a very high quality of memorization.

In terms of understanding Islam which is often narrowed by some Muslims with *fiqh*, Ibn Rushd strongly opposes *taqlid* and *madzhab* fanaticism, with the aim of providing awareness and for the sake of progress for Muslims who seem to dissolve in a narrow Islamic view. Ibn Rushd through his Bidāyah al-Mujtahid was very concerned about Islamic issues and cared for Muslims (Ali et al., 2021). Because of this concern, he called for reopening the door of *ijtihad* which was previously closed, in the hope of opening the minds of Muslims that the scholars of *madzhab* were not prophets or apostles sent by Allah, whom they could not do anything wrong or protected (*ma'ṣūm*). They are ordinary people so we can have different opinions with them.

Ibn Rushd explains that in the preamble of Bidâyat al-Mujtahid that Islamic law comes from the Qur'an and al-Sunnah which is called naṣṣ. And when there is a legal problem whose provisions are not contained in the text, it is attempted to know the law through the analogy method (*qiyās*). The use of *ijma'* (consensus) for Ibn Rushd may only have occurred during the time of the Companions. With the development of Islamic teachings and the wider area of Islam, it is very difficult to reach consensus for all *mujtahids* who lived at that time. According to Ibn Rushd what can happen in *ijma'* is only agreement on *'amaliyah* issues and not theoretical problems (Rushd, 2005).

In the 11th century AD the science of comparative *fiqh* is known as the science of *khilāf*, which is the science that discusses the opinions and or views of different scholars, by comparing the arguments they use in establishing a law. In the introduction to his very famous history book Al-Muqaddimah, Ibn Khaldn asserts that the science of *khilāf (al-khilāfiyyah)* is a very useful science for knowing the opinions of the imams and their arguments and making it easier for others who want to use it in determining a law (Khaldūn, 1986). It is for this reason that Ibn Rushd wrote the book Bidāyah al-Mujtahid, a reason which is based on his thoughts on the importance of reopening the door of *ijtihad*. In the study of hermeneutics now do not pursue a single truth against a law.

Ibn Rushd's Conception of the Epistemology of Islamic Law

Ibn Rushd in establishing an Islamic law uses the Qur'an and al-Sunnah as the main basis. However, because these two sources are very limited, he also uses *ijtihâd* as an alternative method to solve the growing problems of Sharia law (Miftakhuddin et al., 2021). In solving the increasingly complex problems of Sharia law, Ibn Rushd uses a lot of *qiyâs* (analogy). Sharia problems that cannot

be found in the Qur'an and Sunnah are decided by analogizing or equating them with laws that already have provisions in the two main sources of Islamic teachings, namely the Qur'an and al-Sunnah. The use of *ijmâ'* (consensus) for Ibn Rushd may only have occurred during the time of the Companions. With the development of Islamic teachings and the wider area of Islam, it was very difficult to reach consensus for all the mujtahids who lived at that time. According to Ibn Rushd what can happen in *ijma'* is only agreement on *'amaliyah* matters and not theoretical problems.

The concept of truth in knowledge or the validity of knowledge is part of an epistemological study that discusses the validity of knowledge or statements, including *fiqh*. According to Ibn Rushd the validity of knowledge (*fiqh*) with four premises, namely: primary premises (*al-maqulat al-ula*), sensory knowledge (*al-mahsusat*), generally accepted opinions (*al-masyhurat*), and opinions that are generally accepted (*al-maqbulat*) (B. & Titus, 1948).

1. Primary premises (*Al-Maqulat Al-Ula*)

These premises are the main principles that are recognized for certain truth. This type of knowledge consists of two parts, namely: the primary principles (*al-mabādi al-ūla*) and the basic teachings of the sharia (*al-'aqāwil al-syariyāh*). Primary principles are the principles of knowledge which are accepted as axiomatically correct (*dlarūrī*). The main teachings of sharia are sharia teachings that are definite (*qathi*), and clear without the need for takwil (Rushd, n.d.).

2. Sense knowledge (*Al-Mahsusat*)

This knowledge is knowledge generated through inductive research in the field (*istiqra'*). Ibn Rushd defines istiqra' as an effort to seek universality based on studies in the field that are particular. This sensory knowledge can be used as a premise if it has become a universal theory based on the combination and assessment of many cases in the field (Rushd, 1977). Through the concept of *ijtihad*, then *fiqh* accommodates many cases in the field with its method based on inductive research. Because the dimension of *ijtihad* produces knowledge that does not exist in the provisions of the Qur'an and Sunnah. So as the function of Islamic law that functions dynamically, it fits in every space or condition and time. Through the concept of *ijtihad*, every new event will get its legal provisions, namely by applying the legal texts so that they are found in conformity with the benefit of mankind as desired by God (Aulya & Hafizh, 2019). This is the knowledge of the senses in the science of *fiqh*.

3. Commonly Accepted Opinions (*Al-Masyhurat*)

These opinions are statements that are acknowledged by the majority of the people, or by all scholars (ulama) and intelligent people (*uqala*) or the majority of them (Rushd, n.d.). This opinion in the study of *fiqh* is called *ijma'*, namely the agreement of the mujtahids of the people of Muhammad SAW at a time, after the death of the Prophet Muhammad. Against a sharia law (S., 2021).

4. Accepted Opinions (*Al-Maqbulat*)

These opinions are statements conveyed and acknowledged by several people or a small group of people (Dinata, 2021). In the study of *fiqh* this opinion can be called a fatwa which is religious advice given by the person who asks for it and the advice can be carried out or not including the person who asks for it (Dahlan, 2011).

From the premises above have different degrees of truth. There are three degrees of premise, namely (Berman & Butterworth, 1982):

1. Convincing Premise (*al-Yaqin*)

a. The fact that it really exists, is real beyond mind (*kharij al-nafs*);

b. The fact that something can't be anything other than itself;

c. The fact that the stated truth is true because of itself (*ala ma huwa alaih fi al-nafs*), not because of others.

2. Approaching Confidence (*Muqarib Lil Yaqin*)

a. The fact that it really exists, is real beyond mind (*kharij al-nafs*);

b. The fact that something couldn't be anyone other than him. This means that the truth of the premise that is at a degree close to the truth is not proven true in itself but because of the testimony of other parties.

3. Allegation (*Zhan*)

This premise is in fact no different from the degree to which it approaches the truth. The difference between the two lies only in the number of people who testify and accept it.

Primary premises and sensory knowledge fall into the category of convincing (*al-yaqin*), because they are considered to meet the specified requirements, namely real outside the mind, proven not to refer to anything else and the truth is proven in itself. However, these two forms of premises themselves are also not equal in position, although they are both considered convincing, but primary premises are still considered superior and primary than sensory knowledge, because they are considered more useful (Rushd, 1979).

Regarding the primary premises and the main teachings of sharia in the science of *fiqh*, its validity is unquestionable because the principles are final. Meanwhile, opinions that are generally accepted (*al-masyhurat*) are at a degree close to belief. Because, the truth is not axiomatic but because of the intervention of other parties, even by the majority of the community (Adinugraha, Kumala, et al., 2021). That's the function of *ijtihad*, which on the other hand needs the truth, but sometimes *ijtihad* needs to be reviewed so that it is adjusted to the circumstances. So that *ijtihad* has a double meaning, it can convince or approach belief. The opinions received (*al-maqbulat*) only reach the degree of conjecture (*zhan*) because the truth is not on themselves but by other parties and even then only by a few people, including in the study of *fiqh* is a fatwa that is only accepted by a few people (Puspita et al., 2020). Among the three degrees of premise, only the premise that reaches the degree of convincing (*al-yaqin*) and approaching belief (*muqarib lil-yaqin*) can be used as a basis for thinking. A premise that only reaches the degree of conjecture (*zhan*) is not worthy of being used as a rationale for producing knowledge, including *fiqh* results (Berman & Butterworth, 1982).

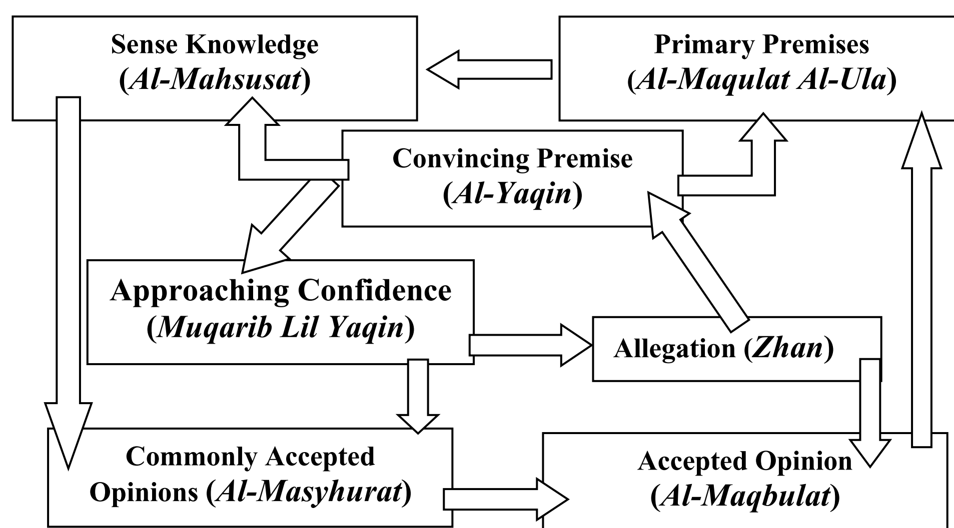

Figure 1. Ibn Rushd's Islamic law epistemology

Regarding the degree of belief that can be used as a basis for thinking, Ibn Rushd is actually in line with the *fiqh* scholars who wrote his work on *maqāṣid al-syarī'ah* or *al-maqāṣid* science which is a matter of principles in sharia, dividing the goals of sharia both in worship, human relations and customs are divided into three parts (Purwanto, Rofiq, et al., 2020), namely:

1. For urgent needs

This goal includes five things, namely to maintain religion, maintain reason, maintain soul, preserve property and maintain offspring. This goal becomes a very urgent matter because without these five things, human life in this world and the hereafter will be damaged.

2. Needs

Examples are eating, drinking, making rental contracts, buying and selling, and others. Although this goal is very much needed by humans in life, its degree is still below the primary goal because

when this need is not met, the damage it causes is not as severe as the damage caused when the first need is not met.

3. Complementary

Namely all things related to customs and good ethics, such as always maintaining cleanliness, maintaining neatness in dressing, carrying out sunnah practices, practicing politeness in eating and so on (Al-Syatibi, 2003).

Basically, Ibn Rushd is no different from the previous *fiqh* scholars in terms of the relationship between the Shari'a and the benefit, what distinguishes Ibn Rushd and the others is the emphasis only. If the *fiqh* experts emphasize the benefits and interests, Ibn Rushd emphasizes his views on the moral side (substance) (S., 2021). He argues that the Shari'a was born to improve human morals. In this case El-Abidi stated that Ibn Rushd was the only *fiqh* expert who built the goals of the Shari'a on a moral foundation (Zarkasyi et al., 2020).

The method used by Ibn Rushd in this book is to display mistakes between the mujtahids, so that the reader's point of view in reading this book will assume that the mistakes that occur can be considered normal. The application of uṣūl and *fiqh* in this book is clear and orderly. In this book, Ibn Rushd seems to maintain tolerance of *madzhab*s, because Ibn Rushd does not place claims based on fanaticism against any *madzhab*. Then the qaul conveyed by Ibn Rushd across generations, starting from the generation of companions, to the imam whose *madzhab* is not codified even though it still exists and he quotes.

Conclusions

The epistemology of Ibn Rushd's Islamic law differs from that of most of the scholars of his time. However, one thing that should be noted here is that what Ibn Rushd did was an *ijtihad* which had the possibility of being right and wrong at the same time, as was done by other *fiqh* scholars. And what is called *ijtihad* as we know if it is true, it will be rewarded twice and if it is wrong, it will be rewarded once. The concept of Islamic legal epistemology according to Ibn Rushd contains four premises, namely: primary premises (*al-maqulat al-ula*), sensory knowledge (*al-mahsusat*), generally accepted opinions (*al-masyhurat*), and accepted opinions (*al-maqbulat*). Primary premises and sensory knowledge fall into the category of convincing (*al-yaqin*), because they are considered to meet the specified requirements, namely real outside the mind, proven not to refer to anything else and the truth is proven in itself and can be used as a basis for thinking. While the opinions that are generally accepted (*al-masyhurat*) are at a degree close to belief. Because, the truth is not axiomatic but because of the intervention of other parties, even by the majority of the community. As for the opinions received (*al-maqbulat*) only reach the degree of conjecture (*zhan*) because the truth is not on themselves but by other parties and even then only by a few people. These two premises cannot be used as a basis for thinking.

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