

# Takhrij as a Method of Madhhab-Based Ijtihad in Determining the Rulings of Contemporary Nawāzil: An Epistemological Analysis between Qiyas, Taqlid, and Fiqh al-Wāqi‘

**Sharhan Asad Almawarid**

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

Email : [gold.8478@gmail.com](mailto:gold.8478@gmail.com)

**Rahmad Padilah**

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

Email : [rahmadalghiffari8@gmail.com](mailto:rahmadalghiffari8@gmail.com)

**Zul Ikromi**

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

Email : [zulikromi86@gmail.com](mailto:zulikromi86@gmail.com)

**Muklis Lubis**

Universitas Islam Negeri Sultan Syarif Kasim Riau, Pekanbaru

Email : [mukhlislubis.h@gmail.com](mailto:mukhlislubis.h@gmail.com)

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## ABSTRACT

*The development of contemporary Islamic legal issues (nawāzil) demands an extraction method (istinbāt) capable of maintaining the Continuity of classical fiqh authority while remaining responsive to shifting modern realities. In this context, takhrīj emerges as a pivotal method within the ushul fiqh tradition, particularly following the decline of absolute ijihad and the rise of madhhab-based orientations. However, studies on takhrīj have thus far focused predominantly on its technical applications, while its epistemological dimension as a form of madhhab-based ijihad remains relatively under-explored. This research aims to analyze the essence of takhrīj as a method of madhhab-based ijihad, examine its position between qiyās and taqlīd, and explain its relevance in determining contemporary nawāzil rulings. Using a qualitative approach with a normative-doctrinal method (library research), this study employs descriptive, conceptual, and applied analyses of turāth literature and contemporary studies. The results indicate that takhrīj is not merely a legal derivation technique, but rather an epistemological mechanism that proportionally connects texts, madhhab principles, and social reality. Within the structure of ushul fiqh, takhrīj occupies a position between absolute ijihad and taqlīd, thus characterizing it as a form of structured madhhab-based ijihad. Furthermore, this study finds that the methodological flexibility of takhrīj allows Islamic law to remain relevant in addressing contemporary problems, such as smart contracts, digital money, and fiqh al-wāqi‘, without departing from the framework of the madhhab’s ushul. The novelty of this research lies in its effort to reconstruct takhrīj not only as a method of fiqh but also as an epistemological paradigm for the development of contemporary Islamic law.*



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**Corresponding Author : Sharhan Asad Almawarid**

## INTRODUCTION

The development of contemporary Islamic legal issues (*nawāzil fiqhiyyah mu'āshirah*) presents new challenges for *ushul fiqh* studies in responding to shifts in social, economic, technological, and modern human interaction patterns. Various issues, such as smart contracts, digital money, artificial intelligence, and diverse forms of modern electronic transactions, are phenomena not explicitly found in classical *fiqh* literature. This condition demands a methodology of legal derivation (*istinbath*) that is not only capable of maintaining the authority of Sharia texts but also possesses the flexibility to interpret contemporary realities. In this context, *takhrīj* emerges as a pivotal method within the *ushul fiqh* tradition to bridge the gap between madhhab principles and the continuously evolving new issues.

Historically, the *takhrīj* method developed alongside the decline of absolute *ijtihad* and the strengthening of madhhab-based orientations since the fourth century Hijriyah. Jurists of that era sought to address new problems through two primary approaches: linking new cases to existing legal branches that already had established rulings (*takhrīj al-furū' 'ala al-furū'*) and tracing them back to the principles and *ushul* of the madhhab (*takhrīj al-furū' 'ala al-uṣūl*). On the other hand, the method of *takhrīj al-uṣūl min al-furū'* also developed, a process of extracting general principles from the scattered legal branches within a madhhab. Through these methods, scholars sought to maintain the continuity of the madhhab while preserving the capacity of *fiqh* to respond to the changes of the times.

In essence, *takhrīj* is not merely understood as a technique of legal analogy, but rather as an epistemological mechanism in the *istinbath* process. It occupies a position between absolute *ijtihad* and *taqlīd*, as it operates within the methodological framework of the founding imam of a madhhab while still requiring profound analytical skills, reasoning, and mastery of *ushul fiqh*. Consequently, scholars established various rules and methodological boundaries in the practice of *takhrīj*, such as the prohibition of performing *takhrīj* when clear primary texts (*nash*) exist, the obligation to comprehensively understand the madhhab's *ushul* and *qawaid fiqhiyyah*, and the necessity of understanding the legal rationale (*'illat*) and factors influencing the law. Without these boundaries, *takhrīj* risks devolving into an uncritical form of *taqlīd* or even a methodological deviation in legal determination.

Studies on *takhrīj* have been widely discussed in both classical literature and contemporary research, particularly regarding its definition, types, and applications in certain *fiqh* issues. However, most research remains partial and emphasizes technical-applied aspects, while the epistemological dimension, the relationship between *ushul* and *furu'*, and its relevance to the development of contemporary Islamic law have not been comprehensively elaborated. In the midst of the complexity of modern *nawāzil*, the discussion of *takhrīj* can no longer be understood simply as a method of legal derivation; it must be positioned as a methodological paradigm that maintains the balance between madhhab authenticity and the dynamics of social reality.

Based on this background, this study aims to analyze the concept of *takhrīj* in *ushul fiqh*, examine its epistemological urgency within the Islamic legal knowledge system, explain its methodological rules and boundaries, and analyze its application in contemporary Islamic legal determination. This research also seeks to demonstrate that *takhrīj* is a form of structured madhhab-based *ijtihad* that remains relevant in facing modern developments, while serving as an essential instrument in maintaining the continuity and adaptability of Islamic law amidst changing modern realities.

## LITERATURE REVIEW

Studies concerning the method of *takhrīj* in *ushul fiqh* have garnered significant attention from both classical scholars and contemporary researchers. These discussions generally focus on the relationship between *ushul* (principles) and *furu'* (subsidiary branches), the methodology of legal derivation (*istinbath*), and the role of *takhrīj* in addressing new legal issues (*nawāzil*). In the classical tradition, the discourse on *takhrīj* flourished primarily after the consolidation of the madhhab system and the decline of absolute *ijtihad* in the fourth century Hijriyah. Scholars subsequently sought to maintain the continuity of Islamic law through the development of *takhrīj* methods, both in the form of *takhrīj al-furū' 'ala al-uṣūl* and *takhrīj al-furū' 'ala al-furū'*.

Imam Asy-Syafi'i in *Ar-Risālah* asserted that no single event occurs except that Allah has established its ruling in the Qur'an and Sunnah, whether directly or through the process of *istinbath*. This statement serves as the epistemological foundation that Sharia possesses the capacity to address all temporal developments through the mechanism of *ijtihad* and legal extraction. Thus, *takhrīj* is understood as a methodological tool to connect primary texts (*nash*) with new issues that lack explicit provisions. (Ar-Risalah, 1940)

Ibnu Khaldun in his *Muqaddimah* explained that the emergence of the *takhrīj* method was a consequence of the growth of legal schools (*madhahib*) and the waning capacity for absolute *ijtihad* among jurists. According



to him, followers of a madhhab required a method to link new problems to previously settled cases through established principles within the school. This view indicates that *takhrīj* was born out of a methodological necessity to preserve the continuity of the madhhab while responding to the dynamics of social life. (Khaldun, 2004)

In terminological aspects, Ibnu Taimiyah defined *takhrīj* as the process of "transferring one issue to another similar issue and equating them." This definition shows that the essence of *takhrīj* is an analogical process within the framework of a madhhab, specifically, connecting a new case to one that already has a legal determination based on a shared effective cause (*'illat*) or legal meaning. This definition was subsequently followed by several Hanbali scholars such as Al-Mardawi and Ibnu Badran. (Taimiyah, 2001)

Meanwhile, Ya'qub al-Bahisin in his work *At-Takhrīj 'inda al-Fuqahā' wa al-Uṣūliyyīn* explained that the term *takhrīj* is used in several senses: *takhrīj al-uṣūl min al-furū'*, *takhrīj al-furū' 'ala al-uṣūl*, and *takhrīj al-furū' 'ala al-furū'*. According to him, all these types share a common ground in the activity of legal derivation within a madhhab framework. Al-Bahisin's study provides an important contribution in clarifying the epistemological dimensions of *takhrīj* and its relationship with the development of *ushul fiqh* and madhhab-based jurisprudence. (Al-Bahusain, 1993)

Az-Zanjani in the book *Takhrīj al-Furū' 'ala al-Uṣūl* emphasized that the branches of jurisprudence are built upon the principles of *ushul*. Therefore, one cannot correctly understand *fiqh* without understanding the methods of derivation and the *ushul* rules that underpin it. This perspective demonstrates that the science of *takhrīj* is not merely a technical method for establishing laws, but also a means of understanding the structural relationship between *ushul* and *furū'* in Islamic jurisprudence. (Al-Zanjani, 1982)

On the other hand, Al-Qarafi explained that a *mukharrij* (practitioner of *takhrīj*) must possess profound mastery of *ushul fiqh*, *qiyas* (analogy), and madhhab rules. According to him, *takhrīj* cannot be performed merely by understanding the branches of *fiqh*; rather, it requires the ability to analyze legal rationales (*'illat*) and the interrelation between rules. This indicates that *takhrīj* is a scholarly activity requiring high methodological competence and cannot be carried out haphazardly. (Al-Qarafi, 2001)

Several contemporary studies also indicate that the *takhrīj* method remains highly relevant in addressing modern legal issues such as insurance, copyright, inflation, digital transactions, and various other contemporary contract forms. In this context, *takhrīj* functions as a bridge between classical madhhab authority and modern social reality. Consequently, many contemporary scholars view the strengthening of *takhrīj* methodology as an urgent necessity to ensure that Islamic jurisprudence remains dynamic without losing its methodological grounding.

## METHODS

This study is a qualitative research project utilizing a library research design, focusing on a normative-doctrinal study within the field of *ushul fiqh*. This approach is employed because the research object pertains to the concepts, principles, and methodology of *takhrīj* in determining contemporary Islamic laws derived from classical literature (*turāth*) and contemporary scholarly studies. A normative research framework was chosen to analyze the epistemological construction of *takhrīj*, the relationship between *uṣūl* (principles) and *furū'* (subsidiary branches), and its application in the legal derivation process (*istinbāt*) regarding *nawāzil* (contemporary issues).

The data sources in this study consist of primary and secondary sources. Primary sources include *ushul fiqh* and *fiqh* treatises that discuss the method of *takhrīj*, such as *Ar-Risālah* by Imam Asy-Syafi'i, *Al-Musawwadah* by Ibnu Taimiyah, *Takhrīj al-Furū' 'ala al-Uṣūl* by Az-Zanjani, *Al-Furūq* by Al-Qarafi, and *At-Takhrīj 'inda al-Fuqahā' wa al-Uṣūliyyīn* by Ya'qub al-Bahisin. Secondary sources comprise academic journals, contemporary research, and literature related to contemporary Islamic law and the application of *takhrīj* in modern issues such as digital transactions, smart contracts, and digital money.

Data collection techniques were conducted through documentation and literary studies, involving the review, identification, and classification of data relevant to the research theme. Subsequently, the data were analyzed using a descriptive-analytical method with conceptual, historical, and applied approaches. The *conceptual approach* is used to analyze the definitions, types, and principles of *takhrīj*; the *historical approach* is employed to trace the development of *takhrīj* within the madhhab tradition; while the *applied approach* is utilized to examine the implementation of the *takhrīj* method in determining contemporary Islamic legal rulings.

The data analysis technique involves three stages: data reduction, data display, and conclusion drawing. In the reduction stage, the researcher selects data relevant to the research focus. Then, the data are organized systematically according to the discussion themes and analyzed critically and comparatively to identify the



relationship between the theory of *takhrīj*, the principles of *ushul fiqh*, and their application to contemporary legal problems. Through this method, the research is expected to produce a comprehensive analysis regarding the position of *takhrīj* as a method of structured madhhab-based *ijtihād* in the development of contemporary Islamic law.

## RESULTS AND DISCUSSION

### A. Etymological and Terminological Analysis of *Takhrīj*

Linguistically, the word *takhrīj* is derived from the root verb *kha-ra-ja* (خرج), which generally means to go out or to bring something out. Ibnu Faris explains that this root possesses two fundamental meanings: "to exit from something" and "the distinction between two things." From these meanings, the definition of *takhrīj* evolved into the process of bringing forth, revealing, or extracting something from its origin. Therefore, in Arabic usage, the term *takhrīj* does not only signify a physical extraction but also refers to uncovering and revealing hidden meanings. Linguists even employ the expression "أخرج الشيء واستخرجه," meaning to bring out and extract something, as well as the phrase "خَرَجَ فلان في العلم," which indicates that someone has profoundly mastered a particular field of knowledge. (Zakariyya, 1979)

In terminological terms, scholars provide diverse definitions based on their respective disciplinary perspectives and the specific type of *takhrīj* being discussed. Ibnu Taimiyah defines *takhrīj* as "transferring one issue to another similar issue and equating them". (Taimiyah, 2001) This definition was subsequently adopted by several Hanbali scholars, such as Al-Mardawi and Ibnu Badran. Meanwhile, Ibnu Farhun defines it as the process of deriving the legal ruling of one issue from another similar case, while Alawi As-Saqqaf explains that *takhrīj* is the transfer of rulings according to the jurists of a madhhab from one form to another based on the texts (*naṣṣ*) of their imam. Muhammad Riyadh further clarifies that *takhrīj* is the activity of a madhhab-based *mujtahid* in applying analogy (*qiyās*) to issues lacking an explicit text from the imam by linking them to other issues that already have established legal determinations within the madhhab. (Al-Maliki, 1998)

From these various definitions, it is evident that *takhrīj* is essentially closely related to the activity of *istinbāt* (legal derivation) within a madhhab framework. However, some definitions are considered too narrow as they limit *takhrīj* to the process of analogy between subsidiary branches of fiqh (*takhrīj al-furū' 'ala al-furū'*), while others are so general that they nearly mirror the concept of absolute *qiyās*. In reality, the usage of the term *takhrīj* among jurists (*fuqahā'*) and legal theorists (*uṣūliyyīn*) encompasses several forms simultaneously: *takhrīj al-uṣūl min al-furū'*, *takhrīj al-furū' 'ala al-uṣūl*, and *takhrīj al-furū' 'ala al-furū'*. Dr. Ya'qub al-Bahisin explains that all these types converge in a jurisprudential activity that serves the legal school by strengthening its principles (*uṣūl*) and expanding their application to new issues (*nawāzil*). (Al-Bahusain, 1993)

Conceptually, *takhrīj al-uṣūl min al-furū'* is the process of extracting the principles of *uṣūl* from the subsidiary branches of fiqh narrated from the imams of the madhhab. *Takhrīj al-furū' 'ala al-uṣūl* refers to linking subsidiary branches of fiqh to the principles and rules of *uṣūl* that form the foundation of the madhhab. Meanwhile, *takhrīj al-furū' 'ala al-furū'* is the process of linking a new case to another subsidiary branch of fiqh that already has a settled legal ruling due to a shared legal rationale (*'illat*) or legal significance. These three types demonstrate that *takhrīj* is not merely a simple analogical technique but a methodological mechanism that systematically connects principles, rules, and legal realities. (Al-Zanjani, 1982)

Based on this analysis, it can be concluded that *takhrīj* is a method of madhhab-based *ijtihād* aimed at deriving practical Sharia rulings through the opinions of the imams, the madhhab's *uṣūl*, and its established rules. Therefore, *takhrīj* functions not only as a legal derivation technique but also as an epistemological mechanism that bridges *uṣūl* and *furū'*, as well as classical *turāth* literature and contemporary issues. In this context, *takhrīj* occupies a middle ground between absolute *ijtihād* and *taqlīd*, as it operates within the corridors of the madhhab's methodology while still demanding active analysis, analogy, and legal reasoning. (Syusyan, 1998)

### B. The Historical Development of the *Takhrīj* Method

The development of the *takhrīj* method is inseparable from the historical dynamics of *ijtihād* within the Islamic jurisprudential tradition. In the early era of Islam, the Companions and the *Tabi'in* performed legal derivation (*istinbāt*) directly from the Qur'an and Sunnah according to their respective analytical capacities. However, as life's complexities evolved and the branches of *fiqh* expanded, scholars began formulating *ushūlī* principles and rules to organize various laws into a more systematic structure. These principles served to assist jurists in understanding, mastering, and tracing new issues back to existing legal foundations. In this context,



Imam Asy-Syafi'i asserted that there is no single event for which Allah has not established a ruling in the Qur'an or Sunnah, whether explicitly stated or revealed through the process of *istinbāt*. (Ar-Risalah, 1940)

As legal schools (*madhahib*) developed, the activity of *ijtihad* did not cease; rather, it expanded through the monumental works of the imams and their disciples across various branches of *fiqh*. Nevertheless, by the fourth century Hijriyah, the practice of *taqlid* began to strengthen, and the number of absolute *mujtahids* declined. Followers of the schools tended to commit to the opinions of their respective imams and sought to extract the *uṣūl* and rules that formed the basis of that school's *istinbāt* methodology. Under these conditions, the *takhrīj* method emerged as a methodological solution to address new issues (*nawāzil*) without departing from the framework of the *madhhab*. Jurists of that era generally employed two primary approaches: linking new cases to existing legal branches (*takhrīj al-furū' 'ala al-furū'*) or tracing them back to the school's foundational principles (*takhrīj al-furū' 'ala al-uṣūl*). This limited form of *ijtihad* arose as a consequence of the perceived "closing of the gates of absolute *ijtihad*" and the rise of school-based fanaticism. (Erwan, 2018)

Ibnu Khaldun explained that the birth of the *takhrīj* method was a consequence of the *madhhab* evolving into an independent scientific discipline restricted to its adherents. When followers no longer possessed the capacity for absolute *ijtihad* and independent analogy (*qiyās*), they required a method to connect new problems to similar cases based on the established principles of their imam's school. Therefore, *takhrīj* can be understood as a form of methodological adaptation to maintain the continuity of Islamic law amidst the weakening tradition of absolute *ijtihad*. (Ibnu Khaldun, 2004)

In its development, the *takhrīj* method gave rise to various scholarly disciplines concerning the relationship between *uṣūl* and *furū'*. One form is *takhrīj al-uṣūl min al-furū'*, the process of extracting foundational principles through the analysis of the imams' legal branches. This method was used by scholars to understand the *istinbāt* methodology of an imam and to build a more systematic system of *uṣūl*. Notable figures in this field include Abu Ya'la Al-Farra' in the book *Al-Uddah* and Abu Al-Khattab Al-Kalwadzani in *At-Tamhīd*, both of whom sought to compile the *uṣūl* of the Hanbali school from the legal branches narrated from Imam Ahmad. (Taimiyah, 2001)

Furthermore, the discipline of *takhrīj al-furū' 'ala al-uṣūl* flourished, focusing specifically on the relationship between jurisprudential disagreements and the underlying *uṣūl* rules. In this field, Az-Zanjani, through his work *Takhrīj al-Furū' 'ala al-uṣūl*, emphasized that legal branches are built upon foundational principles; thus, one cannot truly comprehend *fiqh* without understanding the derivation methods and the evidence upon which they are based. Consequently, the science of *takhrīj* developed not merely as a technical method for legal determination, but also as a means to understand the epistemological structure of *fiqh* and the causes of divergent opinions among scholars. (Taimiyah, 2001)

In the contemporary era, the use of the term *takhrīj* is predominantly directed toward *takhrīj al-furū' 'ala al-furū'*, particularly in efforts to answer new problems that lack direct precedents in classical *fiqh* texts. This indicates that *takhrīj* has undergone a transformation from a mere instrument of school preservation into a method of structured *ijtihad* that functions to maintain the relevance of Islamic law in the face of modern social, economic, and technological developments. Thus, the history of *takhrīj* demonstrates that this method was born not solely due to the stagnation of *ijtihad*, but as a form of intellectual adaptation by jurists to preserve the continuity of Sharia amidst changing times. (Aal Taimiyah, 2001)

### C. The Forms and Classifications of *Takhrīj*

Scholars of *uṣūl al-fiqh* and jurists explain that *takhrīj* comprises several distinct forms and applications, depending on the object of study and the method of *istinbāt* (legal derivation) employed. Generally, the term *takhrīj* is used in three primary forms: *takhrīj al-uṣūl min al-furū'*, *takhrīj al-furū' 'ala al-uṣūl*, and *takhrīj al-furū' 'ala al-furū'*. While these three forms converge in the activity of legal extraction within a *madhhab* framework, each possesses unique characteristics and methodological directions. Ya'qub al-Bahisin explains that these differences arise because scholars apply the term *takhrīj* in diverse contexts, spanning both the fields of *uṣūl al-fiqh* and school-based jurisprudence (*fiqh madhhabī*). (Al-Bahusain, 1993)

The first form is *takhrīj al-uṣūl min al-furū'*, which is the process of extracting *uṣūl* principles and rules from the subsidiary legal branches (*furū'*) narrated from the imams of the schools. This method is utilized to uncover the *istinbāt* methodology of an imam through an analysis of their jurisprudential rulings. In other words, the *uṣūl* are not constructed theoretically beforehand but are inferred from existing jurisprudential practices. Within the Hanbali school, this method is evident in the works of Abu Ya'la Al-Farra' and Abu Al-Khattab Al-Kalwadzani, who sought to organize Imam Ahmad's *uṣūl* based on the legal branches narrated from him. Consequently, this type of *takhrīj* is more reconstructive and epistemological, as it aims to build the methodological framework of a *madhhab* from its practical legal rulings. (Aal Taimiyah, 2001)



The second form is *takhrīj al-furū' 'ala al-uṣūl*, which involves linking subsidiary legal branches to the *uṣūl* principles and rules that serve as the foundation of the *madhhab*. This type aims to explain the relationship between jurisprudential rulings and the evidence or derivation methods upon which they are based. Az-Zanjani explains that legal branches are constructed upon *uṣūl*; therefore, an understanding of *fiqh* remains incomplete without grasping the *uṣūl* rules that serve as its foundation. Through this method, a jurist (*faqīh*) can identify the causes of divergent opinions among schools and understand the connection between *uṣūlī* rules and the results of jurisprudential *ijtihād*. Thus, this type of *takhrīj* is more analytical and argumentative in clarifying the methodological basis of a ruling. (Al-Bahusain, 1993)

The third form is *takhrīj al-furū' 'ala al-furū'*, which entails linking a new issue to an existing legal branch that already has an established ruling, based on a shared legal rationale (*'illat*) or legal significance. This is the most widely utilized form of *takhrīj* in contemporary jurisprudential practice, particularly in addressing *nawāzil* (contemporary issues) that are not explicitly found in classical literature. In this method, a jurist does not return directly to the original primary evidence (*dalīl*) but uses an established legal branch as the basis for analogy (*qiyās*) for the new case. Consequently, some scholars view this type as being very close to *madhhab*-based *qiyās*, yet it remains distinct as the process is conducted strictly within the framework of the methodology and rules of the school's imam. (Al-Bahusain, 1993)

Although these three types of *takhrīj* differ in their objects and approaches, they collectively demonstrate the intimate relationship between *uṣūl* and *furū'* within the structure of Islamic jurisprudence. *Takhrīj al-uṣūl min al-furū'* moves from the branch to the principle; *takhrīj al-furū' 'ala al-uṣūl* moves from the principle to the branch; and *takhrīj al-furū' 'ala al-furū'* moves from one branch to another similar branch. Thus, *takhrīj* can be understood as a methodological system that preserves the continuity between *uṣūl* theory and jurisprudential practice, while simultaneously allowing Islamic law to continue evolving in the face of shifting social realities and contemporary problems. (Al-Dabūsī, 1998)

#### D. The Epistemological Position of *Takhrīj* between *Ijtihād*, *Qiyās*, and *Taqlīd*

Within the structure of *uṣūl al-fiqh*, *takhrīj* occupies a unique epistemological position, situated between absolute *ijtihād*, *qiyās*, and *taqlīd*. *Takhrīj* cannot be equated with absolute *ijtihād* because its activity does not refer directly to the Qur'an and Sunnah independently; rather, it operates within the framework of the methodology and *uṣūl* of a school's imam. However, *takhrīj* also cannot be categorized as pure *taqlīd*, as the practitioner is still required to possess analytical skills, an understanding of the legal rationale (*'illat*), mastery of analogy (*qiyās*), and the ability to methodologically link new issues to the school's principles. Consequently, many scholars view *takhrīj* as a form of *madhhab*-based *ijtihād* or restricted *ijtihād* (*ijtihād muqayyad*), which maintains scientific legitimacy despite remaining within the methodological boundaries of a specific school. (Al-Bahusain, 1993)

From an epistemological perspective, *takhrīj* functions as a mechanism that bridges the authority of the text, the authority of the *madhhab*, and the demands of reality. When an issue lacks an explicit text (*naṣṣ*) from the school's imam, a *mukharrij* (practitioner of *takhrīj*) seeks to derive its ruling through the rules, principles, and derivation patterns established within that *madhhab*. In this context, *takhrīj* acts as an instrument to maintain the continuity of Islamic law without departing from the school's methodological framework. Ibnu Khaldun explained that this method emerged when the capacity for absolute *ijtihād* began to wane while the public's need for legal answers continued to grow, requiring followers to have a method for linking new problems to the well-established principles of their imam's school. (Ibnu Khaldun, 2004)

Although it shares similarities with *qiyās*, *takhrīj* has a broader scope. *Qiyās* fundamentally focuses on legal analogy based on the similarity of the effective cause (*'illat*) between the original case (*aṣl*) and the subsidiary case (*far'*), whereas *takhrīj* involves not only analogy but also the analysis of *uṣūlī* rules, the reconstruction of the imam's methodology, and an understanding of the relationship between *uṣūl* and *furū'*. Therefore, some scholars distinguish between absolute *qiyās* and *madhhab*-based *qiyās* in the practice of *takhrīj*. In *takhrīj al-furū' 'ala al-furū'*, for example, a jurist does not directly apply analogy from a new case to a primary text, but rather to another legal branch that already has an established ruling within the *madhhab*. This demonstrates that *takhrīj* is a more complex form of internal legal development within a school compared to standard analogy. (Al-Bahusain, 1993)

On the other hand, some scholars criticize the practice of *takhrīj*, viewing it as a potential form of "veiled *taqlīd*" if conducted without a profound mastery of *uṣūl al-fiqh* and Sharia evidence (*dalīl sharī*). Some experts even argue that attributing a ruling to a *madhhab*'s imam through an unstated analogy could lead to methodological deviations. However, the majority of scholars permit the practice as long as it is performed by experts who understand the school's *uṣūl* and possess adequate derivation skills. They maintain that the results of *takhrīj* can



still be attributed to the madhhab because they are built upon the methods and principles utilized by the imam of the school themselves. (Aal Taimiyah, 2001)

Based on this analysis, *takhrīj* can be understood as a form of structured madhhab-based *ijtihād*, an intellectual activity that balances legal conservatism, through adherence to the school's *uṣūl*, with legal dynamism, through the ability to adapt to new realities. In the context of contemporary Islamic law, this epistemological position makes *takhrīj* highly relevant as a methodological instrument for addressing various contemporary issues (*nawāzil*) without severing the continuity of the classical jurisprudential tradition. Thus, *takhrīj* is not merely a method of legal derivation, but an epistemological paradigm that demonstrates the flexibility of Islamic law in the face of changing times.

### E. Methodological Rules and Constraints of *Takhrīj*

As a method of derivation (*istinbāt*) within the framework of a *madhhab*, *takhrīj* cannot be performed arbitrarily without clear methodological rules and constraints. Scholars emphasize that the validity of *takhrīj* depends heavily on the practitioner's (*mukharrij*) ability to understand the school's *uṣūl*, jurisprudential maxims (*qawā'id fiqhiyyah*), legal rationales ('*illat*), and the founder's derivation methods. Consequently, *takhrīj* is not an activity that can be conducted solely by knowing the branches of *fiqh*; rather, it requires a profound mastery of *uṣūl al-fiqh* and the tools of analogy (*qiyās*). Al-Qarafi asserts that a jurist will not be able to perform *takhrīj* correctly unless they understand the relationship between *furū'* and *uṣūl* and recognize the underlying foundations of divergent scholarly opinions. (Al-Qarafi, 2001)

Among the essential rules in *takhrīj* is the prohibition of performing it on issues that already have a clear and explicit text (*naṣṣ ṣarīḥ*) from the Qur'an, the Sunnah, or an explicit explanation from the imam of the school. *Takhrīj* is only employed when an issue lacks an explicit determination yet can still be linked to an existing rule or a similar case. Therefore, scholars cite the maxim: *lā ijtihād ma'a al-naṣṣ* (there is no *ijtihād* in the presence of a clear text). This maxim indicates that the scope of *takhrīj* lies within the domain of *ijtihād*, areas that lack definitive provisions, rather than on laws that are already *qaṭ'i* (definitive). (Al-Shatibi, 4/294)

Furthermore, the existence of a legal rationale ('*illat*) is a primary element for the validity of *takhrīj*, particularly in *takhrīj al-furū'* '*ala al-furū'*'. Scholars explain that linking a new case to another legal branch can only be done if there is a shared rationale that is *mu'tabarrah* (legally recognized) and there is no influential difference (*fāriq mu'atstsir*) between them. Thus, some forms of *takhrīj* are built upon the method of *nafy al-fāriq* (negating the difference), which involves eliminating any relevant distinction between two cases. The majority of *uṣūl* scholars permit this form as long as there is a strong conviction regarding the legal equality between the two issues. This view is held by Abu al-Husayn al-Basri, Imam Al-Juwayni, Abu Ishaq Asy-Syirazi, and Ibnu Qudamah. (Al-Bahusain, 1993)

In practice, scholars differ regarding the permissibility of attributing the results of *takhrīj* to the imam of the school. Some scholars prohibit such attribution if the resulting law is derived through an analogy based on a rationale reached via *istinbāt*, as it is not considered the imam's direct statement. This opinion is attributed to Abu al-Hasan al-Basri and Abu Ishaq Asy-Syirazi. However, the majority of scholars permit it, arguing that *takhrīj* is a continuation of the imam's derivation method and is built upon the *uṣūl* he established. This position is supported by Al-Athram, Al-Khiraqi, Imam Al-Juwayni, and Ibnu Shalah. (Aal Taimiyah, 2001)

Moreover, the practice of *takhrīj* is seen as a means of safeguarding the welfare (*maṣlaḥah*) of the Sharia and protecting religious law from those who have not reached the rank of absolute *ijtihād*. Many scholars, therefore, accept this method as a preventive measure to maintain the continuity of Islamic law and as a form of caution in establishing the laws of Allah SWT. Nevertheless, some scholars remain critical, viewing it as potentially giving rise to "veiled *taqlīd*" if practiced without deep knowledge and methodological integrity. In this context, the epistemological validity of *takhrīj* relies heavily on the scientific competence of the practitioner and their discipline in maintaining the boundary between legitimate *istinbāt* and mere reproduction of school opinions. (Al-Barr, 2020)

Thus, the methodological rules and constraints of *takhrīj* demonstrate that this method is not a simple analogical activity, but a process of structured madhhab-based *ijtihād* governed by rigorous scholarly regulations. These rules serve to ensure that *takhrīj* remains within the corridors of the Sharia, does not contradict clear texts, and maintains epistemological legitimacy in the development of contemporary Islamic law.

### F. The Application of *Takhrīj* in Determining Contemporary Islamic Law

The development of contemporary Islamic legal issues demonstrates that the method of *takhrīj* retains strong relevance in addressing various modern *nawāzil* (new legal problems). The complexity of social, economic,



and technological life has given rise to novel issues not explicitly found in classical *fiqh* literature, necessitating an *istinbāt* (derivation) method capable of maintaining continuity between Sharia principles and changing realities. In this context, *takhrīj* functions as a methodological instrument that allows jurists to connect contemporary issues with the established *uṣūl* (principles), *qawā'id* (maxims), and *furū'* (legal branches) of the school tradition. Thus, the flexibility of Islamic law does not always require the formulation of entirely new *uṣūl*, but can be achieved through the optimization of *takhrīj* methodology.

One example of the application of *takhrīj al-uṣūl min al-furū'* can be seen in the concept of *fiqh al-wāqī'* (jurisprudence of reality) developed by Yusuf al-Qaradawi. Through an analysis of various *ijtihād* practices by past scholars, Al-Qaradawi emphasizes the importance of understanding social reality before establishing a ruling. From the accumulation of these legal branches, the following maxim emerged: "والمكان المتغير الفتوى بتغير الزمان والأحوال والأعراف" (Fatwas may change according to changes in time, place, circumstances, and customs). This maxim is rooted in the classical *uṣūl fiqh* tradition notably the thought of Ibn al-Qayyim in *I'lām al-Murwāqī'in*, and was further developed by Al-Qaradawi within the framework of *fiqh al-wāqī'* as a response to the complexity of modern reality. In this instance, *takhrīj* is used to extract epistemological principles from jurisprudential practices, resulting in a legal approach that is more adaptive to social change.

The application of *takhrīj al-furū' 'ala al-uṣūl* can be observed in the issue of digital transactions via blockchain-based smart contracts. This issue raises questions regarding the validity of contracts executed automatically by computer systems without verbal pronouncements or conventional signatures. To address this, the issue is traced back to a fundamental *uṣūlī* maxim in the chapter of contracts: "العبرة في العقود للمقاصد والمعاني لا للألفاظ والمباني" (The criterion in contracts is the intent and meaning, not merely the words and forms). Based on this rule, actions such as clicking an "agree" button or triggering a contract execution are understood as a substantial form of mutual consent (*tarādī*), even if not expressed verbally. Consequently, digital contracts via smart contracts can be deemed valid as long as they fulfill the other pillars (*rukun*) and conditions (*sharat*) of a contract. In this case, digital technology is positioned as a new *wasīlah* (means) for expressing contractual intent, rather than an element that changes the essence of the law itself.

Meanwhile, the application of *takhrīj al-furū' 'ala al-furū'* is evident in the use of digital money or e-money as a medium of exchange and transaction. This issue was not directly encountered in classical *fiqh* because money in the past was synonymous with the physical forms of gold dinars and silver dirhams. In this *takhrīj* method, digital money is analogized to another legal branch with an established ruling: the function of money as *thaman* (medium of exchange) in sale and purchase transactions. Electronic money is viewed as sharing the same function as conventional money serving as a medium of payment accepted by society despite differing in physical form. Therefore, contemporary scholars permit the use of digital money provided it is free from elements of *riba* (usury), *gharar* (uncertainty), and *maysir* (gambling), while continuing to meet the basic principles of Islamic *mu'amalah*. Through this approach, *takhrīj* demonstrates its ability to maintain the relevance of Islamic law within the modern digital economic system.

Furthermore, the *takhrīj* method can be applied to various other contemporary issues, such as the use of Artificial Intelligence in generating fatwas, organ transplantation, digital copyright, and virtual asset transactions. In all these cases, jurists strive to connect new realities with established *uṣūl*, *qawā'id*, and *furū'* so that the resulting rulings maintain Sharia legitimacy while remaining relevant to temporal developments. Thus, the application of *takhrīj* in contemporary Islamic law shows that this method is not merely a classical methodological legacy, but an instrument of *ijtihād* possessing high flexibility in facing social and technological modern changes.

### G. Reconstructing *Takhrīj* as a Method of Contemporary *Ijihād*

The development of modern social, economic, and technological realities demonstrates that Islamic law requires a derivation methodology (*istinbāt*) that is not only capable of preserving the authenticity of classical *fiqh turāth* (heritage) but is also responsive to the dynamics of the era. In this context, *takhrīj* possesses significant potential to be reconstructed as a method of contemporary *ijtihād* that proportionately bridges the gap between the text, the *madhhab*, and reality. This reconstruction is vital because some practices of *takhrīj* have thus far been narrowly understood as a derivative activity within the scope of a school, whereas epistemologically, it has a broader dimension as an adaptive mechanism for the development of Islamic law. Therefore, *takhrīj* needs to be repositioned, not merely as an instrument for preserving a *madhhab*, but as a methodological paradigm for addressing modern *nawāzil* (contemporary legal problems).

Epistemologically, the reconstruction of *takhrīj* must be built upon the integration of classical *uṣūl al-fiqh*, *maqāsid al-syarī'ah* (the objectives of Sharia), and an understanding of reality (*fiqh al-wāqī'*). In practice, many contemporary issues cannot be resolved solely through a textual approach or simple analogy (*qiyās*); they require



a multidimensional analysis of the social context, shifts in custom (*'urf*), technological developments, and the resulting impact on public interest (*maṣlahah*). Consequently, contemporary *takhrīj* must move from a pattern of pure analogy toward a more integrative approach between evidence (*dalīl*), maxims (*qawā'id*), objectives (*maqāṣid*), and reality. In this regard, Yusuf al-Qaradawi's idea regarding the importance of understanding reality before establishing a ruling shows that the validity of a fatwa depends not only on the understanding of the *naṣṣ* (text) but also on the accuracy of interpreting the context of its application.

Furthermore, the reconstruction of *takhrīj* demands a redefinition of the concept of *madhhab*-based *ijtihād*. Often, *madhhab*-based *ijtihād* is passively understood as a form of total adherence to the opinions of the school's imam. However, the essence of *takhrīj* demonstrates an active intellectual activity through the analysis of *uṣūl*, legal rationales (*'illat*), and jurisprudential maxims to answer new problems. Thus, *takhrīj* can be understood as a form of structured *madhhab*-based *ijtihād*, a derivation activity that remains rooted in the school's methodology while remaining open to changes in reality. This model allows Islamic law to maintain methodological continuity alongside applicative flexibility without having to abandon the authority of the classical jurisprudential tradition.

Moreover, reconstructing the *takhrīj* methodology is crucial in facing the challenges of the digital era and globalization, which have spawned interdisciplinary legal issues. Phenomena such as smart contracts, digital money, artificial intelligence, and virtual transactions show that modern reality is evolving faster than the classical legal formulations available in *fiqh* books. Under these conditions, *takhrīj* can serve as a strategic instrument to link Sharia principles with technological changes without having to build a new legal system detached from the *turāth*. Therefore, the flexibility of Islamic law in the contemporary era lies not only in the ability to produce new rulings but also in the ability to reconstruct derivation methods capable of methodologically reading the shifts in reality.

Based on this analysis, this study posits that *takhrīj* has great relevance to be developed as a paradigm of contemporary *ijtihād* that integrates the authority of the *naṣṣ*, school methodology, *maqāṣid al-syarī'ah*, and modern social reality. This reconstruction shows that *takhrīj* is not merely a technical method within *madhhab*-based *fiqh*, but an epistemological system that maintains the balance between legal conservatism and social dynamism. Accordingly, strengthening the *takhrīj* methodology is an essential requirement in the development of contemporary Islamic law so that it remains authentic, adaptive, and capable of proportionately answering the challenges of the times.

## CONCLUSION

Based on the discussion, this study demonstrates that **takhrīj** in *ushul fiqh* is not merely a legal derivation technique, but a *madhhab*-based *ijtihād* method possessing an epistemological dimension that bridges Sharia texts, school methodology, and contemporary reality. Conceptually, *takhrīj* developed into three primary forms: **takhrīj al-uṣūl min al-furū'**, **takhrīj al-furū' 'ala al-uṣūl**, and **takhrīj al-furū' 'ala al-furū'**, all of which illustrate the integral relationship between *uṣūl* and *furū'* within the structure of Islamic jurisprudence. Historically, *takhrīj* emerged as a methodological response to the decline of absolute *ijtihād* and the increasing need to resolve new legal issues (*nawāzil*) within a *madhhab* framework.

From an epistemological standpoint, *takhrīj* occupies a position between absolute *ijtihād*, *qiyās*, and *taqlīd*. It cannot be equated with independent *ijtihād* as it operates within the methodological framework of a school's imam; however, it is not categorized as passive *taqlīd* because it demands analytical skills, derivation (*istinbāṭ*), and a profound understanding of legal rationales (*'illat*). Therefore, *takhrīj* can be understood as a form of **structured madhhab-based ijtiḥād** that maintains a balance between the authority of the classical jurisprudential tradition and the necessity of adapting to changing realities. The validity of this method relies heavily on adherence to methodological rules and constraints, such as consistency with primary texts (*naṣṣ*), the presence of a shared legal rationale, and the scholarly competence of the practitioner (*mukharrij*).

In a contemporary context, this research finds that *takhrīj* remains highly relevant in addressing various modern issues, such as *fiqh al-wāqī'*, smart contracts, and digital money. Through the *takhrīj* method, new problems can be linked to established *uṣūl*, maxims, and legal branches, ensuring that Islamic law retains Sharia legitimacy while possessing applicative flexibility. Consequently, the reconstruction of *takhrīj* as a contemporary *ijtihād* method is essential to strengthen the capacity of Islamic law to respond to modern social and technological developments without severing its methodological continuity with classical *fiqh turāth*.



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