MADANIA
JURNAL KAJIAN KEISLAMAN
Vol. 29, No. 2, December 2025
P-ISSN: 1410-8143; E-ISSN: 2502-1826
DOI: http://dx.doi.org/10.29300/madania.v29i2.9141
https://ejournal.uinfasbengkulu.ac.id/index.php/madania/index

THE CONTEXTUAL *IJTIHÂD* OF UMAR IBN KHATTÂB: Between Legal Reform and Local Wisdom in Early Islamic Society

Amir Sahidin[1], Mohammad Muslih[2], Setiawan bin Lahuri[3], Zahrul Fata[4], Zahratur Rofiqah Binte Mochamad Sandisi[5]
[1,2,3]Universitas Darussalam Gontor
Jl. Raya Siman, Dusun I, Demangan, Kabupaten Ponorogo, Jawa Timur 63471, Indonesia
[4]Universitas Islam Negeri Kiai Ageng Muhammad Besari Ponorogo
Jl. Puspita Jaya, Krajan, Kabupaten Ponorogo, Jawa Timur 63492, Indonesia
[5]Singapore Islamic Scholars & Religious Teachers Association
Jl. Wisma Indah 448 Changi Road #03-01, Singapore, 419975
E-mail: [1]452024841001@student.unida.gontor.ac.id, [2]muslih@unida.gontor.ac.id, [3]binlahuri@unida.gontor.ac.id, [4]zahrulfata76@gmail.com, [5]zahratur@pergas.org.sg

Received: 20-08-2025; Revised: 17-09-2025; Accepted: 05-11-2024; Published regularly: December 2025

Abstract: This article aims to situate Umar ibn al-Khattâb's *ijtihâd* within the tension between the spirit of legal reform and loyalty to normative texts in the development of Islamic law following the death of the Prophet Muhammad. Various issues emerged after the death of the Prophet Muhammad that had never occurred during his lifetime. This situation prompted the Companions to exercise *ijtihâd* in response to the challenges of their time. In this context, Umar ibn al-Khattâb stands out as a prominent figure who introduced a number of legal decisions that appeared to diverge from practices established during the Prophet's era. His *ijtihâd* included the suspension of the amputation penalty for theft, the annulment of *ḥadd* punishment for adultery, the decision not to distribute war booty among Muslim soldiers, and the discontinuation of *zakât* allocation to new converts (*mu'allaf*). Some scholars praise Umar's sharp legal insight as being in harmony with the *maqâshid al-syarî'ah* (the higher objectives of Islamic law), while others regard it as an early form of legal liberalization or even a deconstruction of the Islamic legal system. Employing a qualitative, library-based method with a descriptive-analytical approach, this study finds that Umar's *ijtihâd* did not abrogate fixed legal rulings in Islam but rather reflected a contextual sensitivity to socio-political realities that could hinder the just implementation of law. In conclusion, Umar's *ijtihâd* represents a hermeneutical approach that balances textual fidelity with contextual awareness. The contribution of this study lies in emphasizing that Umar's contextual approach offers a paradigmatic model for understanding the dynamics of contemporary Islamic law while remaining grounded in the principles of *maqâshid al-syarî'ah.*

Keywords: Umar ibn Khattâb; *ijtihâd*; legal reform; early Islamic society; *maqâshid al-syarî'ah*

Abstrak: Artikel ini bertujuan menempatkan *ijtihâd* Umar ibn al-Khattâb dalam ketegangan antara semangat reformasi hukum dan loyalitas terhadap teks-teks normatif dalam perkembangan hukum Islam pasca wafatnya Nabi Muhammad. Berbagai persoalan muncul setelah wafatnya Nabi Muhammad yang tidak pernah terjadi pada masa hidup beliau. Kondisi tersebut mendorong para sahabat untuk melakukan *ijtihâd* guna menjawab tantangan zaman. Dalam konteks ini, Umar bin Khattab tampil sebagai sosok yang menonjol dengan menetapkan sejumlah keputusan hukum yang tampak berbeda dari praktik pada masa Nabi. *Ijtihâd* tersebut antara lain berupa menggugurkan hukuman potong tangan bagi pencuri, menggugurkan hukuman *ḥadd* bagi pezina, tidak membagi harta rampasan perang kepada tentara Muslim, serta menghentikan pemberian zakat bagi *mu'allaf*. Sebagian ulama memuji ketajaman visi hukum Umar yang dinilai selaras dengan *maqâshid al-syarî'ah*, sementara sebagian lain menilainya sebagai bentuk liberalisasi atau dekonstruksi terhadap sistem hukum Islam. Melalui metode kualitatif berbasis kajian pustaka dan pendekatan deskriptif-analitis, penelitian ini menemukan bahwa *ijtihâd* Umar tidak membatalkan hukum-hukum tetap dalam Islam, melainkan menunjukkan sensitivitas terhadap konteks sosial-politik yang dapat menghalangi penerapan hukum secara adil. Kesimpulannya, *ijtihâd* Umar merepresentasikan pendekatan hermeneutik yang seimbang antara kepatuhan terhadap teks dan kesadaran terhadap konteks. Kontribusi penelitian ini terletak pada penegasan bahwa pendekatan kontekstual Umar dapat menjadi model paradigmatik dalam memahami dinamika hukum Islam kontemporer yang tetap berlandaskan pada *maqâshid al-syarî'ah*.

Kata kunci: Umar ibn Khattâb; *ijtihâd*; reformasi hukum; masyarakat Islam awal; *maqâshid al-syarî'ah*

Introduction

The Companions are the generation who understand the most about Islamic law because they interacted directly with the Prophet, studied with him, saw how the revelation came down and how the Prophet applied the revelation.[1] They are also very instrumental in transforming Islamic law to the next generation. Therefore, the Prophet, in several of his hadiths, praised them and called upon the Muslims to adhere to his sunnah and the sunnah of Khulafa al-Rasyidin, *"You must hold fast to my teachings and also the teachings of the Khulafa al-Rasyidin who are guided, hold firmly."*[2] He also said, *"Follow two people after me: Abu Bakr and Umar."*[3]

Along the way, many issues were undiscovered at the time of the Prophet Muhammad. Hence, the Companions made *ijtihâd* to find solutions. Several laws that have been applied at the time of the Prophet PBUH were subsequently viewed as less applicable or in need of contextual reassessment in later times.[4] It is as Umar ibn Khaththab did with some of his *ijtihâd*, such as withholding the punishment of cutting off hands for thieves and the *hadd* for adulterers, not distributing the spoils of war to Muslim soldiers, and stopping the giving of *zakât* to *mu'allaf*. Against some of these *ijtihâd*s, many people praised Umar's sharpness and intelligence in grounding Islamic law in the *maqâshid al-syarî'ah* frame.[5] However, some scholars portray Umar as a pioneer in the deconstruction of Islamic law, insofar as he subjected the text to the demands of reality.[6] Therefore, this article attempts to assign Umar's *ijtihâd* position in the middle of the tug-of-war between the two camps.

As the author's search for the previous article or *al-buhûts al-sâbiqah*, many articles have been found discussing Umar ibn al-Khattâb's *ijtihâd*. Of the many articles, some focus on discussing Umar's *ijtihâd* from a socio-historical perspective;[7] progressive legal perspective;[8] implementation of sharia;[9] hermeneutics;[10] the ontology of justice;[11] and others.[12] However, there is a research gap concerning Umar's *ijtihâd*, particularly regarding the tension between contextualization and the liberalization of Islamic law, including how his decisions adapted legal rulings to social conditions, community needs, and local wisdom in early Islamic society. Therefore, this article aims to provide a clearer understanding of Umar ibn al-Khattâb's contextual *ijtihâd*, especially in cases where his decisions appear to challenge conventional applications of Islamic law by suspending or reinterpreting *nash* (scriptural texts), while simultaneously demonstrating how he integrated legal principles with the practical wisdom of the society.

---

[1] Abdul Aziz bin Aburrahman Ibn Rabi'ah, *'Ilmu Maqâshid al-Syâri'* (Riyad: Maktabah al-Mulk Fahd, 2002), 319.

[2] Abu Dawud, *Sunan Abî Dâwud* (Beirut: Al-Maktabah al-'Ashriyah, n.d.). Muhammad bin Isa Al-Tirmîdzî, *Sunan Al-Tirmîdzî* (Beirut: Dâr al-Gharb al-Islâmî, 1998), no. 2676, vol. 4, 341.

[3] Ahmad bin Muhammad bin Hanbal, *Musnad Al-Imâm Ahmad Bin Hanbal* (Beirut: Muassasah al-Risalah, 2001), no. 23245, vol. 38, 208.

[4] Bisri Tujung, "Al-Nasikh Wa Al-Mansukh (Deskripsi Metode Interpretasi Hadis Kontradiktif)," *Al-Majaalis: Jurnal Dirasat Islamiyah* 2, no. 2 (2015): 69–98, https://doi.org/10.37397/almajaalis.v2i2.28.

[5] Muhammad Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'* (Egypt: Dar al-Fikr al-'Araby, 1970), 8-9. Muhammad Imarah, *Al-Nash al-Islâmy; Baina al-Târîkhiyyah Wa al-Ijtihâd Wa al-Jumûd* (Egypt: Nahdhah al-Mishr, 2006), 26.

[6] Abdullah Ahmed Al-Na'im, *Dekonstruksi Syariah, Terj: Ahmad Suaedy, Amirudi Ar-Rany* (Yogyakarta: LKiS, 1994), 56-57.

[7] M Zaidi Abdad, "Ijtihad Umar Ibn Al-Khattàb: Telaah Sosio-Historis Atas Pemikiran Hukum Islam," *Istinbath* 37, no. 1 (2014): 37–50.

[8] Tasnim Rahman Fitra, "Ijtihad 'Umar Ibn Al-Khaththâb Dalam Perspektif Hukum Progresif," *Al-Ahkam* 26, no. 1 (2016): 49, https://doi.org/10.21580/ahkam.2016.26.1.705.

[9] Muhammad Ridwan, "Implementasi Syariat Islam: Telaah Atas Praktik Ijtihad Umar Bin Khattab," *Tsaqafah* 13, no. 2 (2017): 231–54, https://doi.org/10.21111/tsaqafah.v13i2.1507.

[10] Muhamad Zulfar Rohman, "Menakar Hermeneutika Umar," *Nun: Jurnal Studi Alquran Dan Tafsir Di Nusantara* 5, no. 2 (2019): 127–50, https://doi.org/10.32495/nun.v5i2.93.

[11] Ahsan Dawi Mansur, Siti Mistiningsih, "Justice Ontology; A Study of 'Umar Ibn Al-Khaththâb's Ijtihâd," *Al-Ahkam* 31, no. 1 (2021): 91, https://doi.org/10.21580/ahkam.2021.31.1.7234.

[12] For example, Khairatun Hisan, Arif Dian Santoso, "Analisis Syar'iyyah Ijtihad Umar Bin Khattab Terhadap Hadd Sariqah," *Al-Jinayah* 6, no. 2 (2020), https://doi.org/10.15642/aj.2020.6.2.397-319. Rafid Abbas, "Ijtihad Umar Bin Khattab Tentang Hukum Perkawinan Perspektik Kompilasi Hukum Islam," *Al-Hukuma: The Indonesian Journal of Islamic Family Law* 04, no. 1 (2014): 474, https://doi.org/10.15642/al-hukama.2014.4.2.474-499. Amir Sahidin, "Telaah Atas Ijtihad Umar Bin Khaththab Perspektif Maqâshid Al-Syarî'ah," *Jurnal Penelitian Medan Agama* 14, no. 1 (2023): 25–34, http://dx.doi.org/10.58836/jpma.v14i1.16553.

Method

This study employs a library research approach, drawing on both primary and secondary sources. The primary sources consist of classical Islamic texts, including works on jurisprudence and historical accounts related to Umar ibn al-Khattâb. Secondary sources include modern scholarly books, academic articles, and other relevant materials discussing the central themes of this research.[13] The study applies a descriptive-analytical approach supported by *maqâshid*-based hermeneutics and historical-contextual analysis. Data are analyzed through content analysis, involving systematic and critical examination of both classical and modern texts.[14] This approach allows identification of Umar's legal decisions (*ijtihâd*), contextualization within social, political, and historical conditions, and interpretation through *maqâshid*-based hermeneutics to assess alignment with the higher objectives of Islamic law.[15] The findings are then synthesized into argumentative insights revealing both explicit rulings and implicit principles, demonstrating Umar's balanced approach between textual adherence and contextual adaptation.

Result and Discussions

Contextualization and Liberalization of Islamic Law

Scholars concur that the Sharia encompasses noble *maqâshid* aimed at preserving human welfare both in this world and the hereafter.[16] These benefits can be categorized as *dzarûriyât* (primary), *hâjiyât* (secondary), or *tahsîniyât* (tertiary).[17] Together, they constitute the three fundamental pillars of Islamic law. Al-Shatibi articulated that these three principles are essential stipulations within the religion for any jurist seeking to engage in *ijtihâd*, and they are all recognized as *maqâshid al-syarî'ah*.[18] In striving to realize the *maqâshid al-syarî'ah* (objectives of Islamic law), a jurist should not rely solely on the *nash* (scriptural text) and apply it indiscriminately. Rather, a sound understanding of the prevailing circumstances and context is required to ensure that the application of the text remains aligned with the divine intent.[19]

Moreover, Ibn Asyur also explained, "If the comprehension of the *nash shar'ī* is limited to its apparent and literal meaning, it will undoubtedly restrict the breadth of its significance and provide minimal contribution. However, if this understanding is approached with attention to the *'illah* (cause) and its *maqāṣid* (objectives), the *nash* will undoubtedly remain a perpetual source of knowledge with ever-relevant meaning. Consequently, the door to analogical reasoning (*al-qiyâs*) will be opened, and discussions surrounding *shar'î* law will naturally align with the realization of the *maqâshid al-syarî'ah*, specifically the promotion of *maslahat* (benefit) and the rejection of *mufsadat* (harm)."[20] Therefore, Imam al-Juwaini said, "Whoever fails to understand that commands and prohibitions have various kinds of goals to be achieved, then they do not have the ability (*bashîrah*) related to the application of the sharia".[21] It highlights the urgency to look at the existing context, conditions, and reality.[22]

---

[13] Sugiyono Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&D* (Bandung: Alfabetha, 2016), 15.

[14] Imam Supriyogo dan Tobroni, *Metodologi Penelitian Sosial Agama* (Bandung: Remaja Rosdakarya, 2003), 71.

[15] Winarno Surakhmad, *Dasar Dan Teknik Research* (Bandung: Tarsito, 1978), 131.

[16] Amir Sahidin dan Imam Kamaluddin, "Examination of Maqashid al-Shari'ah Between Textual and Contextual Reasoning (Descriptive Analysis Study)," *Istinbanth: Jurnal Hukum* 18, no. 1, (2024): 1-25, https://doi.org/10.32332/istinbath.v20i02.4830. Jarman Arroisi, Amir Sahidin, and Muhammad Fahmi Amrullah, 'Problems of the Hierarchy of Needs Theory in the Perspective of Maqâshid Al-Syarî'ah', *Madania: Jurnal Kajian Keislaman* 28, no. 2 (2024), http://dx.doi.org/10.29300/madania.v28i2.3397.

[17] Abu Hamid Al-Ghazâlî, *Al-Mustashfâ* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1993), 174. Al-Shâthibî, *Al-Muwâfaqât* (Dâr Ibnu 'Affân, 1997), vol. 2, 17. Muhammad Thahir bin 'Âshûr, *Maqâshid Al-Syarî'ah al-Islâmiyyah* (Beirut: Dâr al-Kitâb al-Lubnânî, 2011), 134.

[18] Al-Shâthibî, *Al-Muwâfaqât*, vol. 2, 81.

[19] Ibn Qayyim Al-Jauziyah, *I'lâm al-Muwâqi'în 'An Rabb al-'Âlamîn* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1991), vol. 3, 66.

[20] Ahmad Al-Raisûnî, *Nazhariyah Al-Maqâshid 'inda al-Imâm al-Shâthibî* (Herdon: al-Ma'had al-'Âli li al-Fikr al-Islâmî, 1995), 360.

[21] Abdul Malik Al-Juwaini, *Al-Burhîn Fî Ushul al-Fiqh* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1997), vol. 1, 101.

[22] Bayu Arif Mahendra et al., 'Formalizing Fiqh Al-Aqalliyyat for Muslim Minorities Perspectives of Abdallah Bin Bayyah, Taha

This urgency is further reinforced by the perspective of Jasser Auda, who observes that the application of Islamic law today—or, more precisely, its often inadequate application—is frequently reductive rather than comprehensive; literal rather than ethical; one-dimensional rather than multidimensional; viewing matters in black-and-white terms without accounting for multiple facets of an issue; deconstructive rather than constructive; relying on verbal indications rather than on the objectives and purposes underlying the rulings of Islamic law.[23] Therefore, he emphasizes that *maqâshid al-syarî'ah* constitutes one of the most significant intellectual tools and methodological approaches for contemporary Islamic reform and renewal.[24]

Awareness of the importance of considering this context was felt by the scholars above and came from "Islamic" scholars. They believe that it needs to develop *ijtihâd* by using a textual approach and contextually.[25] However, sometimes they are too excessive in using and reasoning this *maqâshid al-syarî'ah* conception, as Ulil Abshar *et al.* asserted, "*Maqâshid al-syarî'ah* is the source of all sources of law in islam, including the source of the Quran itself. If there is a legal provision (sharia) that contradicts *maqâshid al-syarî'ah*, that provision is void and must be canceled for the sake of *maqâshid al-syarî'ah* logic."[26] If it is the reasoning, there will be a massive deconstruction of sharia in the name of *maqâshid al-syarî'ah*, on the pretext that the sharia is no longer relevant to today's context, such as the obligation to wear the *hijab*, inheritance 1;2, *hudud, qisas*, stoning, *'iddah,* and others.[27]

However, they seem to have found the truth about this "*ijtihâd*" with the *ijtihâd* that Umar ibn al-Khattâb once carried out, such as "abolishing" the punishment of cutting off hands for thieves and the hadd punishment for adulterers, not distributing the spoils of war to Muslim soldiers, and stopping the giving of *zakât* to *mu'allaf*.[28] Meanwhile, in these cases, according to them, a direct *nash* is present that Umar did not apply. Thus, they conclude that deconstructing Sharia based on maslahat is permissible since Umar ibn al-Khattâb has exemplified it.[29] Therefore, the author will examine Umar ibn al-Khattâb's *ijtihâd* more deeply on these four cases. This article seeks to examine Umar's *manhaj* (methodology) of contextualization in these cases, while also exploring whether Umar ibn al-Khattâb's approach constituted a deconstruction of the *syarî'ah* or merely a suspension or reinterpretation of the *nash* (scriptural texts).

Analysis of Umar ibn al-Khattâb's *ijtihâd*

Umar ibn al-Khattâb was a senior Companion and an absolute *mujtahid*, known for undertaking numerous *ijtihâds*. This article, however, will focus on four of his *ijtihâds* that are often perceived as setting aside the *nash* (scriptural text), insofar as they did not follow a literal application but instead considered the prevailing context and *mashlahah* (public interest). These four instances concern: the suspension of the *hadd* punishment of hand amputation for theft, the suspension of the *hadd* for adultery during a specific circumstance, withholding the distribution of war booty among Muslim soldiers,

Jabir Al-Alwani & Jamâl al-Dîn 'Atiyyah', *Madania: Jurnal Kajian Keislaman* 28, no. 2 (2024), http://dx.doi.org/10.29300/madania.v28i2.6472.

[23] Jasser Auda, *Maqâshid Al-Syarî'Ah Ka Falsafah al-Tasyrî' al-Islâmy, Ru'yah Manzhûmah. Trans: Abdul Lathif al-Khayyath* (London: Al-Ma'had al-'Aly li al-Fikr al-Islamy, 2012), 27.

[24] Jasser Auda, *Maqasid Al-Shariah: A Beginner's Guide* (London: The International Institute of Islamic Thought, 2008), 22.

[25] Nasr Hamid Abu Zaid, Mafhum Al-Nash: Dirasah Fi 'Ulum al-Quran (Egypt: Haiah al-Miṣriyah al-'Ammah, n.d.), 27. Ahmad Imam Mawardi, *Fiqh Minoritas* (Yogyakarta: LKiS, 2010), 202.

[26] Ulil Abshar Abdalla Abd Muqsith Ghazali, Luthfi Assaukanie, *Metodologi Studi Al-Quran* (Jakarta: Gemainsani, 2009), 150-151.

[27] Ulil Abshar Abdalla, "Menyegarkan Kembali Pemahaman Islam," Kompas, 2002. Muhammad Abid Al-Jabiri, *Al-Dîn Wa al-Daulah Wa Tathbîq al-Sharî'ah* (Beirut: Markaz Dirasat al-Wahdah al-'Arabiyyah, 1996), 176. Muhammad Haj Hammad, *Al-'Âlamiyyah al-Islâmiyyah al-Tsâniyyah* (British West Indies: Internasional Studies and Research Bureau, 1996), 496-497. Amina Wadud Muhsin, *Wanita Di Dalam Al-Quran* (Bandung: Pustaka, 1994). Abd Moqsith Ghazali, *Ijtihad Islam Liberal* (Jakarta: Jaringan Islam Liberal, 2005), 212.

[28] Misbahuzzulam Misbahuzzulam, "Ijtihad Hakim," *Al-Majaalis: Jurnal Dirasat Islamiyah* 1, no. 1 (2013): 133–50, https://doi.org/10.37397/almajaalis.v1i1.10.

[29] Al-Na'im, *Dekonstruksi Syariah, Terj: Ahmad Suaedy, Amirudi Ar-Rany*, 56-57.

and discontinuing the allocation of *zakât* to the *mu'allaf* (those whose hearts are to be reconciled). The explanations are as follows:

First, Abolishing the *Hadd* Punishment for Thieves

The *hadd* law for a thief who reaches the *nishab* has been determined by Allah in Surah al-Mâidah [5]:38, in the form of cutting off their hand. Concerning this, Wahbah al-Zuhaili explained that it is a *qath'i tsubût* and *dalâlah* proposition, and hence, the narration is *mutawâtir* with only one meaning.[30] This punishment was also practiced at the time of the Prophet Muhammad PBUH and Abu Bakr. However, during Umar's time, there were several cases where he did not apply the *hadd* punishment. There were at least four cases mentioned by Muhammad al-Baltaji, in his book, "*Manhaj 'Umar ibn al-Khattâb fî al-Tasyrî*":[31]

First, according to al-Sarkhasi's narration, during the year of famine, two thieves were brought before Umar with a piece of meat. Later, the owner of the meat, complained that they had stolen and slaughtered his pregnant camel. Umar then said: 'Will you accept two pregnant camels in compensation for your one pregnant camel? For I do not cut off the hand of a thief who steals dates from trees, nor do I apply the *hadd* during a year of famine.[32]

Second, the narration of al-Sa'di, that the children of Hatib ibn Abi Balta'ah once stole a camel belonging to a Bani Muzainah man. They were called by Umar and confessed their actions. Therefore, Umar ordered Katsir ibn al-Shalti to cut off their hands. After they left, Umar then called them back and said, "If I did not know that you are using them and starving them, so that if one of them eats what Allah forbids is permissible, I will certainly cut off their hands". Umar then ordered the thief's father to pay a fine twice the price of the stolen camel (in exchange for *hadd*).[33]

Third, the narration of Imam Malik, that Abdullah ibn Amru ibn al-Hadramy, came to Umar with a child. Then Abdullah said, cut off this little boy's hand because he has stolen. Umar asked, "What did he steal?" Abdullah replied that he stole his wife's mirror worth sixty dirhams. Umar instructed to let him go; he had no right to have his hands cut off because he was his (Abdullah) servant who stole his own jewelry.[34]

Fourth, the narration of Abu Yusuf, that there was a man who stole from the Baitul Mal, leading Sa'ad to write the deed to Umar. Then Umar replied that he had no right to cut his hand off [35] because he had the right to it (*Baitul Mal*).[36]

From the four narrations above, At first glance, it may appear that Umar deconstructed the *syarî'ah* by setting aside a *nash qath'î* (definitive text) through his decision not to enforce the *hadd* of hand amputation for theft. Yet is that truly the case? Scholars, in discussing this first instance, explain through the narration recorded by al-Sarakhsî that Umar considered the prevailing circumstances of famine. Accordingly, he did not apply the punishment, in line with the Prophetic statement: لَا قَطْعَ فِي مَجَاعَةِ مُضْطَرٍّ ('There is no cutting [of the hand] during a famine that compels [people to steal])[37] Al-Qurthûbi explained that *al-idzthirâr* or "مُضْطَرٍّ" has two meanings, *i.e.*, conditions forced by others and conditions of extreme hunger. Then, al-Qurthûbi emphasized that most scholars and jurists interpreted this word as a condition of hunger.[38] Ibn al-Qayyim explains that *al-idzthirâr* constitutes a strong justification for suspending the law of hand amputation.[39]

In the second case, the narration of al-Sa'di, Umar saw that in the context of this case—although

[30] Wahbah Al-Zuhailî, *Al-Wajîz Fî Ushûl al-Fiqh* (Beirut: Dâr al-Fikr, 1999), 32.

[31] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 214.

[32] Muhammad Al-Sarkhasi, *Al-Mabsûth* (Beirut: Dâr al-Ma'rifah, 1993), vol. 9, 140.

[33] Al-Jauziyah, *I'lâm al-Muwâqi'în 'An Rabb al-'Âlamîn*, vol. 3, 17.

[34] Malik bin Anas, *Al-Muwaththa'* (Abu Dhabi: Muassasah Zaid bin Sultan, 2004), no. 3105, vol. 5, 1229.

[35] Abu Yusuf Al-Anshari, *Al-Kharrâj* (Egypt: al-Mathba'ah al-Salafiyyah, 1994), 187.

[36] Ahmad bin Ali Al-Jashash, *Ahkâm Al-Qur'ân* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1994), vol. 2, 533.

[37] Al-Sarkhasi, *Al-Mabsûth*, vol. 9, 140.

[38] Syamsuddin Al-Qurthubi, *Al-Jâmi' Li Âhkâm al-Qur'ân* (Egypt: Dâr al-Kutub al-Mishriyyah, 1964), vol. 2, 225.

[39] Al-Jauziyah, *I'lâm al-Muwâqi'în 'An Rabb al-'Âlamîn*, vol. 3, 18.

there is no information on the general famine—they belonged to *al-idzthirâr* people, *i.e.*, hunger in particular.[40] Umar stated, "Had I not been aware that they were being starved and driven to desperation so much so that, if one of them ate what Allah has forbidden, it could be excused, I would have cut off their hands".[41] Therefore, in both the first and second cases, the presence of hunger exempted the offenders from the *hadd* punishment, in accordance with the word of Allah, "فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ"; "But if one is compelled [by necessity], neither desiring it nor transgressing [its limit], then there is no sin upon him."[42]

In the *third* and *fourth* cases, *i.e.*, the narration of Imam Malik and Abu Yusuf, Umar saw that there was a matter of ownership related to the two contexts. A slave or servant has a right to benefit from the property of their master, and likewise, Muslims have a collective right to the wealth of the Baitul Mal. Therefore, taking from such property is not treated in the same way as ordinary theft.[43] Therefore, Umar said, "He has no right to have his hand cut off because he has a right from it".[44] Besides Umar, 'Alî ibn Abî Thâlib also demonstrated a similar approach. Al-Qurthubî records that when a thief was brought to him for stealing from the khumus (one-fifth share of war booty), 'Alî ruled that the punishment of hand amputation did not apply, remarking that the thief already had a rightful share in it."[45] Al-Jashash added, "We did not find any disagreement from any of the Companions on this issue".[46] Thus, all the four schools of thought (Hanafi, Maliki, Shafi'i, and Hanbali) agreed to suspend *hadd* due to *subhat* (ambiguity).[47]

Based on these explanations, it may be concluded that the same impediments (*mawâni'*) to the application of the *hadd* punishment of hand amputation are found in the four cases above, namely, the presence of famine (*jû'*) and issues of doubtful ownership (*subhat*). All of them are included in the general hadith of the Prophet Muhammad, *"Avoid (cancel) hadd with subhat."*[48] In another narration, it is stated, *"In another narration it is stated: 'Avoid applying the hudûd against Muslims as much as you can, for it is better for an imam (judge) to err in granting pardon than to err in enforcing a hadd. If you find a way out (a reason to avert the hadd) for a Muslim, then refrain from applying it."*[49] That is why Umar once said, *"Suspending the hadd because of subhat is better than enforcing it in subhat (doubt)."*[50]

Based on this, it is evident that Umar pays great attention to the context of the reality surrounding him. Hence, it can be observed whether the conditions have been fulfilled and the suspect is free from impediments (*mawâni'*) to apply a law. Umar did not arbitrarily enforce the *hadd* law, but he also did not annul the law. In other cases, where conditions were met, and there were no obstacles, Umar enforced this *hadd* punishment. Al-Qurthûbi confirmed that Umar had cut off Ibn Samurah's hand for stealing.[51] Ibn Abbas also corroborated this statement, "I testify that I saw Umar cutting off the leg of a man, after previously (cutting off) his hands and feet, for stealing the third time."[52]

Second: Abolishing the *Hadd* Punishment for Adulterers

With regard to the *hadd* for adultery (*zinâ*), the Prophet PBUH clearly outlined the prescribed punishments. For unmarried offenders (*al-bikr*), the punishment is one hundred lashes along with

[40] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 214.

[41] Al-Jauziyah, *I'lâm al-Muwâqi'în 'An Rabb al-'Âlamîn,* vol. 3, 17.

[42] Qs. Al-Baqarah: 173

[43] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'* 214.

[44] Al-Jashash, *Ahkâm Al-Qur'ân.*

[45] Al-Qurthubi, *Al-Jâmi' Li Âhkâm al-Qur'ân*, vol. 6, 169.

[46] Al-Jashash, *Ahkâm Al-Qur'ân,* vol. 2, 533.

[47] Abdurahman bin Muhammad Al-Jaziri, *Al-Fiqh 'alâ al-Madzâhib al-Arba'ah* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 2003), vol. 5, 161.

[48] Abu Bakar Al-Baihaqi, *Sunan Al-Shaghîr Li al-Baihaqî* (Karachi: Jâma'ah al-Dirâsah al-Islâmiyyah, 1989), vol. 3, 302. Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 217.

[49] Al-Baihaqi, *Sunan Al-Shaghîr Li al-Baihaqî,* vol. 3, 302. Abu Yusuf Al-Anshari, *Al-Radd 'alâ Siyar al-'Auzâ'i* (al-Hind: Lajnah Ihya' al-Ma'arif, n.d.), 50. Muhammad bin Isa Al-Tirmidzi, *Sunan Al-Tirmîdzi* (Beirut: Dar al-Gharb al-Islamy, 1998), no. 1424, vol. 3, 85.

[50] Al-Anshari, *Al-Kharrâj*, 166.

[51] Al-Qurthubi, *Al-Jâmi' Li Âhkâm al-Qur'ân*, vol. 6, 160.

[52] Abu Bakar Al-Shan'ânî, *Al-Mushanif* (Beirut: Maktabah al-Islamy, 1403), no. 18768, vol. 10, 187.

 DOI: http://dx.doi.org/10.29300/madania.v29i2.9141

banishment for one year. As for previously married individuals (*al-thayyib*), the punishment is stoning to death (*rajm*).[53] In addition, the law is also strengthened by the practice of the Prophet against adulterers.[54] However, in certain instances, Umar, acting as caliph after Abû Bakr, suspended the implementation of the *hadd* punishment for adultery. There are at least five of the following cases, *first*, the narration of Abu Yusuf from al-Najaz ibn Sibrah, "While we were in Mina with Umar, suddenly a *Dahâmah* woman was crying on a donkey. The people around her almost killed her while saying: She has committed adultery, she has committed adultery. When she came to Umar, Umar asked: what is your problem? The woman replied: A woman once came forward saying: 'Indeed, Allah has blessed me with the sustenance of night prayer (*qiyâm al-layl*). I pray, then sleep again, and by Allah, I do not awaken except to find that a man has had intercourse with me. I saw him, but I could not recognize who he was.' Upon hearing this, Umar remarked: 'Had this woman been executed, I would have feared al-Akhshabayn in the Hellfire.' He then wrote to the leader of the Anshâr instructing that she not be punished with death.[55]

Second, in the narration recorded by al-Bukhârî, a slave woman was forced to commit adultery. Umar punished the one who coerced her, while exempting the slave from punishment on account of her being under compulsion.[56] *Third,* Ibn al-Qayyim relates that there was a woman who was extremely thirsty, she approached a shepherd and asked him for water. The shepherd refused to give her water unless she committed adultery with him, and under compulsion she did so. The Companions then discussed whether the punishment of stoning should apply to her. 'Alî said: 'This was done under compulsion, and I see no punishment for it, as Allah says in Surah al-Baqarah [2]: 173, 'Umar likewise exempted her from the *hadd* punishment.[57]

Fourth: Ibn al-Qayyim also relates a case in which a woman who had committed adultery was brought before Umar. When questioned, she admitted the act, saying, 'It is true, O Amîr al-Mu'minîn.' 'Alî, however, observed that she had been with a man who was unaware of the prohibition. As a result, Umar did not enforce the *hadd* punishment.[58] *Fifth*: Ibn Hazm's narration says that when Abdurrahman ibn Hatib died, he freed his slave who prayed and fasted. Including those who were foreign women and did not understand religion well. Then, the woman became pregnant while she was a widowIt was brought to Umar's attention, so he asked the woman: 'Are you pregnant?' She immediately replied, 'Yes, by Margusy for two dirhams,' answering openly without hesitation. The Companions then discussed the matter, and 'Uthmân remarked: 'I see that she feels no guilt, as though she did not know; and the *hadd* punishment applies only to those who are aware (of its prohibition).' Accordingly, Umar ordered that she be given one hundred lashes and exiled as a form of *ta'zîr*, due to her ignorance of the law concerning adultery.[59]

Upon closer examination of the five cases above, it may be observed that Umar refrained from enforcing the *hadd* punishment for adultery for two principal reasons: first, compulsion (*ikrâh*), and second, ignorance (*jahl*) of the prohibition of adultery.[60] The first cause, namely *ikrâh* (compulsion), is reflected in the first three cases: oversleeping, coercion, and the presence of dire necessity to preserve life.[61] Therefore, Umar's *ijtihâd* represents a sound understanding of the *syarî'ah* in light of the context he faced, rather than a deconstruction of the *syarî'ah* or a denial of the *nash.* His *ijtihâd* is consistent with the Qurânic principle in Surah al-Bâqarah [2]: 173 and the Prophetic hadith: رُفِعَ عَنْ أُمَّتِي الْخَطَأُ وَالنِّسْيَانُ وَمَا اسْتُكْرِهُوا عَلَيْهِ ('My ummah has been excused from [liability for] mistakes, forgetfulness, and what they are compelled to do').[62]

---

[53] Muslim bin Hijaj Al-Naisaburi, *Shahîh Muslim* (Beirut: Dar Ihya' al-Turats, n.d.), no. 1697, vol. 3, 1324.

[54] Muhammad bin Ismail Al-Bukhari, *Shahîh Al-Bukhârî* (Dar Thuqi al-Najah, 1422), no. 2695, vol. 3, 184.

[55] Al-Anshari, *Al-Kharrâj*, 167.

[56] Al-Bukhari, *Shahîh Al-Bukhârî,* no. 6949, vol. 9, 21.

[57] Ibn Qayyim Al-Jauziyah, *Al-Thuruq al-Hakimiyyah* (Maktabah Dâr al-Bayân, n.d.), 49.

[58] Al-Jauziyah, *Al-Thuruq al-Hakimiyyah,* 51.

[59] Abu Muhammad Ibnu Hazm, *Al-Ihkâm Fî Ushûl al-Ahkâm* (Beirut: Dar al-Afkar al-Jadidah, n.d.), vol. 4, 182.

[60] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 259.

[61] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 259-260.

[62] Al-Sarkhasi, *Al-Mabsûth*, vol. 24, 57. Muhammad bin Yazid Al-Qazwaini, *Sunan Ibn Mâjah* (Aleppo: Dâr Ihyâ' al-Kutub al-'Arabî, n.d.), no: 2043, vol. 1, hlm. 659.

The second reason is *jahl* (ignorance) of the ruling on adultery, as narrated by Ibn al-Qayyim in the fourth case and by Ibn Hazm in the fifth. Both accounts appear to describe a similar case involving foreign women unfamiliar with the teachings of Islam. However, in Ibn al-Qayyim's narration the opinion is attributed to 'Alî, whereas in Ibn Hazm's narration it is attributed to 'Uthmân.[63] Her direct confession further reinforces the conclusion that she was ignorant of the ruling. Conversely, if one were to argue that such a response was merely a strategy to evade the *hadd* punishment based on awareness that ignorance can serve as an excuse then the matter would fall under the category of *shubuhât* (doubtful cases). As explained earlier, the application of *hudûd* may be averted in the presence of *subhat*.[64]

Thus, both explanations agree that Umar abolished the punishment, while Ibn Hazm's (fifth) narration that Umar whipped and exiled is a form of *ta'zîr* punishment (punishment set by the judge). Al-Baltâjî explained: 'If this report is authentic, it would suggest that Umar harbored doubt about her claim of ignorance, since she lived among Muslims, prayed, and fasted.' Accordingly, Umar considered that the woman should still be subject to *ta'zîr*, as she had sufficient access to knowledge. Through this *ijtihâd*, Umar sought to close the door to those who might exploit ignorance as an excuse. Thus, he deemed the appropriate *ta'zîr* punishment to be equivalent to the *hadd* prescribed for unmarried adulterers, one hundred lashes and exile.[65]

Moreover, what strengthens that Umar saw that ignorance could overturn punishment is the narration of al-Syarkhasi. Umar once said, "If she knows that Allah forbids adultery, then uphold the hadd for her. But if she doesn't know, teach her. If she repeats it, then enforce the *hadd*."[66] Al-Sarakhsî added: Umar treated presumptive judgment (*zhann*) at that time as a form of *shubha*, since there was no legal clarity in the matter.' [67] From this it may be observed that Umar was highly attentive to the social context and prevailing circumstances before applying the *nash* to offenders. Conversely, he did not disregard or negate the *nash* by deconstructing the *syarî'ah* in matters of the *hadd* punishment for adultery whether concerning the unmarried or the previously married.

Third: Not Sharing Conquered Lands

Regarding sharing the spoils of war (*ghanîmah*), Allah states clearly in Surah al-Anfâl [8]:41 that one-fifth of the spoils of war is allocated for the needs of worship and social welfare, while the remaining four-fifths are designated for the soldiers who attained victory. This method of distribution was likewise practiced by the Prophet PBUH and continued under the caliphate of Abû Bakr.[68] However, this method of distribution was not maintained during the caliphate of Umar ibn al-Khattâb, particularly with regard to conquered lands, despite the directive of Surah al-Anfâl [8]: 41.

When the Muslim armies liberated Iraq, the soldiers urged their commander, Sa'd ibn Abî Waqqâsh, to distribute the land and spoils of war among them. Similar requests were made in al-Shâm under the leadership of Abû 'Ubaydah ibn al-Jarrâh, and in Egypt under 'Amr ibn al-'Âsh.[69] As a result of this incident, the leaders decided to write a letter to Umar, asking him to settle this important matter.

After receiving the message, Umar ibn al-Khattâb convened a council of Companions to deliberate on the matter. Two major opinions emerged: the first was to distribute the land and its produce among the soldiers who had fought, while the second was to preserve it for the collective benefit of all Muslims. Umar ultimately adopted the second view in resolving the question of conquered lands.[70] In practice, the conquered lands were returned to their inhabitants to cultivate and govern. However, the land was subjected to a tax (*kharâj*), and non-Muslim individuals were liable for the security tax

[63] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 261.

[64] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'* 261.

[65] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'* 261-262.

[66] Al-Sarkhasi, *Al-Mabsûth*, vol. 9, 53-54.

[67] Al-Sarkhasi, *Al-Mabsûth*, vol. 9, 54.

[68] Amir Syarifuddin, *Pembaharuan Pemikiran Dalam Hukum Islam* (Padang: Angkasa Raya, 1993), 97.

[69] Al-Anshari, *Al-Kharrâj*, 35. Al-Baladzuri, *Futûh Al-Buldân* (Beirut: Maktabah al-Hilâl, 1988), 216.

[70] Al-Anshari, *Al-Kharrâj*, 36.

 DOI: http://dx.doi.org/10.29300/madania.v29i2.9141

(*jizyah*). The revenues from *kharâj* and *jizyah* were then allocated for the welfare of all Muslims, both the soldiers who had fought and the wider Muslim community, including future generation.[71]

Umar examined the wording of the nash while also taking into account the prevailing context and the principle of *mashlaḥah*, as the following description illustrates. His *ijtihâd* did not imply that the entire text was invalid; rather, it highlighted the need to consider the substance of the text and the overarching objectives of the *syarî'ah*. The Prophet's own practice in managing war booty demonstrates this vision. At least five incidents of conquest during the Prophet's time may serve as models for analyzing Umar's *ijtihâd.* The first is the campaign against Banû Qurayzhah, in which the Prophet PBUH took one-fifth of the spoils as prescribed, while the remainder was distributed among the troops.[72] *Second,* during the siege and subsequent expulsion of Banû al-Nadzîr, the Prophet PBUH allocated their lands as war booty to the Muslims.[73] *Third*, when the people of Fadak surrendered and Wâdî al-Qurâ was conquered, the local inhabitants were allowed to retain control of the land, but they were required to deliver half of its revenues to the Muslims.[74] *Fourth*, in the aftermath of the battle against the Jews of Khaybar, the spoils of war, both land and property, were distributed as *ghanîmah*. However, the Jews were permitted to continue cultivating the date plantations on the condition that they would give half of the produce to the Muslims.[75] The *fifth* event was the conquest of Makkah. In this case, the Prophet PBUH allowed the people of Makkah to retain ownership of their lands.[76]

From the foregoing examples, it may be concluded that the distribution of *ghanîmah* as described in Surah al-Anfâl [8]: 41 is not a fixed provision in Islamic law with respect to land management; rather, its application is subject to the discretion of the leader. As Muḥammad al-Baltâjî argues, the issue of land acquired through military conquest cannot be regarded as a standard legal matter, but rather one whose resolution must be guided by the broader practice of the Prophet PBUH.[77] This conclusion is supported by the fact that, in earlier instances, military commanders refrained from independently deciding the status of conquered lands. Even the Companions who had accompanied the Prophet PBUH differed in their views on this matter. Had the ruling in such cases been definitive (*qath'î*), there would have been no disagreement among them. This is further reinforced by the Prophet's own varied policies in determining the status of conquered lands.[78]

Fourth: Suspension of *Zakât* Allocations for the *Mu'allaf*

On the issue of *zakât* allocations for the *mu'allaf,* Allah states in Surah al-Tawbah [9]: 60 that eight categories are entitled to receive *zakât,* one of which is the *mu'allaf*. The scholars have classified the *mu'allaf* mentioned in this verse into three groups. The first consists of those whose hearts remain distant from Islam; they are granted a portion of *zakât* to prevent them from harming or opposing the Muslims. The second group includes tribal leaders and people of influence, who may be given *zakât* either to encourage their support in defending Islam or at least to reduce their hostility toward it. The third group comprises recent converts whose faith is still fragile; they are supported with *zakât* so that they do not relapse into disbelief due to economic hardship.[79] Despite such urgency, in this case, Umar ibn al-Khattâb

[71] Al-Anshari, *Al-Kharrâj,* 36-37.

[72] Al-Baladzuri, *Futûh Al-Buldân*, 31.

[73] Abdul Malik bin Hisyam, *Sîrah Ibn Hisyâm* (Beirut: Dar al-Jail, 1411), vol. 4, 146. Ibn Jarir Al-Thabari, *Târîkh Al-Thabârî* (Beirut: Dâr al-Kutub al-'Ilmiyyah, 1407), vol. 2, 58. Al-Baladzuri, *Futûh Al-Buldân*, 28.

[74] Hisyam, *Sîrah Ibn Hisyâm*, vol. 4, 326. Al-Baladzuri, *Futûh Al-Buldân*, 41. Al-Thabari, *Târîkh Al-Thabârî*, vol. 2, 138.

[75] Hisyam, *Sîrah Ibn Hisyâm*, vol. 4, 308. Al-Baladzuri, *Futûh Al-Buldân,* 32. Al-Anshari, *Al-Kharrâj,* 50-51.

[76] Ibn Taimiyah, *Majmû' al-Fatâwa* (Madinah: Mujma' al-Malik al-Fahd, 1425), vol. 20, 574. Al-Mawardi, *Al-Ahkâm al-Sulthaniyyah* (Egypt: Dar al-Hadits, n.d.), 90.

[77] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 122.

[78] Al-Baltaji, *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*, 122-123. Hisyam, *Sîrah Ibn Hisyâm*, vol. 5, 67.

[79] Al-Jashash, *Ahkâm Al-Qur'ân*, vol. 4, 324. Ibn Humam, *Fath Al-Qadîr* (Beirut: Dar al-Fikr, n.d.), vol. 2, 259. Muhammad Al-Syaukani, *Nail Al-Authâr* (Beirut: Dar al-Jail, n.d.), vol. 14, 230.

in the time of Abu Bakr and in his own time did not enforce the law.

During the caliphate of Abû Bakr, two mu'allaf approached him seeking a portion of *zakât* in the form of land, as the Prophet had once granted them. They said: 'In our region there are vacant lands that remain unused; why not grant them to us?' Abû Bakr responded by issuing them a letter of ownership. After receiving his approval, they went to Umar to confirm the document. When Umar read the contents of the letter, he immediately took it and tore it up, declaring: 'In the past, the Prophet PBUH recognized you as mu'allaf. At that time Islam was weak and its people were few. But now Allah has strengthened Islam and made it victorious. So go and work as the Muslims work. The truth is from Allah: whoever wills to believe, let him believe; and whoever does not, let him disbelieve.' Hearing this, they returned to Abû Bakr in protest. Yet Abû Bakr agreed with Umar's reasoning and withdrew his earlier decision. At this, they exclaimed: 'Is the caliph you, or is it Umar?' Abû Bakr calmly replied: 'It is Umar, if he so wills.'[80]

In this account, it may appear that Umar set aside the Qurânic provision regarding *zakât* for the *mu'allaf*. In practice, however, he withheld their share because he observed that Islam had by then become strong and widespread, and no longer required the support of the *mu'allaf* as it did in the Prophet's time, when their loyalty was crucial. As al-Jashshâsh notes, Abû Bakr did not object to Umar's decision, for he understood the rationale on which it was based. Abû Bakr recognized that the entitlement of the *mu'allaf* was contingent upon the circumstances of the Muslim community: it applied when the Muslims were few and vulnerable, but ceased when Islam had become established and dominant.[81] Therefore, according to Muhammad al-Babarti, the purpose of giving the *zakât* portion for *mu'allaf* in the time of the Prophet Muhammad PBUH was to achieve the victory and glory of Islam. At that time, Islam was weak under the dominance of the unbelievers. However, once the situation changed and Islam had grown strong, the ruling was applied in the opposite manner.[82]

It is therefore clear that Umar ibn al-Khattâb's decision not to allocate *zakât* to the *mu'allaf* was not a nullification of the Qurânic *nash*. Rather, it reflected his sharp awareness of the context of his time, marked by the strength and victory of Islam. In such circumstances, the portion designated for the *mu'allaf* could instead be redirected to other categories more in need, thereby increasing its benefit. Conversely, if the objectives of the *syarî'ah* required that *zakât* be given to the *mu'allaf*, for example, to strengthen Islam in a context of weakness, then the ruling would once again apply to them. Thus, Umar did not cancel the Qurânic *nash*, but temporarily suspended its application in light of prevailing conditions.

Conclusion

Based on the explanations above, it becomes evident that Umar ibn al-Khattâb possessed a remarkable capacity for understanding both scriptural texts and the lived realities of his community. His juridical reasoning (*ijtihâd*) demonstrates that he never sought to circumvent definitive rulings (*qath'î* matters); rather, he carefully identified genuine impediments that could legitimately prevent the application of prescribed punishments. These impediments included factors such as coercion, ignorance, and ambiguity (*syubhât*) particularly when compounded by circumstances like widespread famine, dire hunger, or disputes over rightful ownership.

What distinguished Umar's jurisprudence was his ability to differentiate between immutable principles and contingent applications within Islamic law. He remained firmly grounded in prophetic practice and revealed texts while simultaneously attending to the overarching objectives of the sharia that concern public welfare. Unlike approaches that either dismiss textual authority, as seen in certain liberal methodologies, or ignore contextual realities,

[80] Abu Yusuf Ya'qub Al-Fasawi, *Al-Ma'rifah Wa al-Târîkh* (Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.), vol. 3, 309.

[81] Al-Jashash, *Ahkâm Al-Qur'ân*, vol. 4, 325.

[82] Muhammad Al-Babarti, *Al-'Inâyah Syarh al-Hidâyah* (Beirut: Dâr al-Fikr, n.d.), vol. 2, 260.

 DOI: http://dx.doi.org/10.29300/madania.v29i2.9141

Umar maintained a careful equilibrium between literal and contextual interpretation. Thus, it may be said that there is a need to balance textual adherence with contextual understanding, so that the law is applied in accordance with the *maqâshid al-syarî'ah,* namely, to realize *mashlahah* and prevent *mafsadah*, both in this world and in the hereafter.

References

'Âshûr, Muhammad Thahir bin. *Maqâshid Al-Syarî'ah al-Islâmiyyah*. Beirut: Dâr al-Kitâb al-Lubnânî, 2011.

Abbas, Rafid. "Ijtihad Umar Bin Khattab Tentang Hukum Perkawinan Perspektik Kompilasi Hukum Islam." *Al-Hukuma: The Indonesian Journal of Islamic Family Law* 04, no. 1 (2014): https://doi.org/10.15642/al-hukama.2014.4.2.474-499.

Abd Muqsith Ghazali, Luthfi Assaukanie, Ulil Abshar Abdalla. *Metodologi Studi Al-Quran*. Jakarta: Gemainsani, 2009.

Abdad, M Zaidi. "Ijtihad Umar Ibn Al-Khattàb: Telaah Sosio-Historis Atas Pemikiran Hukum Islam." *Istinbath* 37, no. 1 (2014): 37–50.

Abdalla, Ulil Abshar. "Menyegarkan Kembali Pemahaman Islam." Kompas, 2002.

Al-Anshari, Abu Yusuf. *Al-Kharrâj*. Egypt: Al-Mathba'ah al-Salafiyyah, 1994.

Al-Anshari, Abu Yusuf. *Al-Radd 'alâ Siyar al-'Auzâ'i*. Al-Hind: Lajnah Ihya' al-Ma'arif, n.d.

Al-Babarti, Muhammad. *Al-'Inâyah Syarh al-Hidâyah*. Beirut: Dâr al-Fikr, n.d.

Al-Baihaqi, Abu Bakar. *Sunan Al-Shaghîr Li al-Baihaqî*. Karachi: Jâma'ah al-Dirâsah al-Islâmiyyah, 1989.

Al-Baladzuri. *Futûh Al-Buldân*. Beirut: Maktabah al-Hilâl, 1988.

Al-Baltaji, Muhammad. *Manhaj 'Umar Bin al-Khaththâb Fî Tasyrî'*. Egypt: Dar al-Fikr al-'Araby, 1970.

Al-Bukhari, Muhammad bin Ismail. *Shahîh Al-Bukhârî*. Dar Thuqi al-Najah, 1422.

Al-Fasawi, Abu Yusuf Ya'qub. *Al-Ma'rifah Wa al-Târîkh*. Beirut: Dar al-Kutub al-'Ilmiyyah, n.d.

Al-Ghazâlî, Abu Hamid. *Al-Mustashfâ*. Beirut: Dâr al-Kutub al-'Ilmiyyah, 1993.

Al-Jabiri, Muhammad Abid. *Al-Dîn Wa al-Daulah Wa Tathbîq al-Sharî'ah*. Beirut: Markaz Dirasat al-Wahdah al-'Arabiyyah, 1996.

Al-Jashash, Ahmad bin Ali. *Ahkâm Al-Qur'ân*. Beirut: Dâr al-Kutub al-'Ilmiyyah, 1994.

Al-Jauziyah, Ibn Qayyim. *Al-Thuruq al-Hakimiyyah*. Maktabah Dâr al-Bayân, n.d.

Al-Jauziyah, Ibn Qayyim. *I'lâm al-Muwâqi'în 'An Rabb al-'Âlamîn*. Beirut: Dar al-Kutub al-'Ilmiyyah, 1991.

Al-Jaziri, Abdurahman bin Muhammad. *Al-Fiqh 'alâ al-Madzâhib al-Arba'ah*. Beirut: Dâr al-Kutub al-'Ilmiyyah, 2003.

Al-Juwaini, Abdul Malik. *Al-Burhîn Fî Ushul al-Fiqh*. Beirut: Dar al-Kutub al-'Ilmiyyah, 1997.

Al-Mawardi. *Al-Ahkâm al-Sulthaniyyah*. Egypt: Dar al-Hadits, n.d.

Al-Na'im, Abdullah Ahmed. *Dekonstruksi Syariah, Terj: Ahmad Suaedy, Amirudi Ar-Rany*. Yogyakarta: LKiS, 1994.

Al-Naisaburi, Muslim bin Hijaj. *Shahîh Muslim*. Beirut: Dar Ihya' al-Turats, n.d.

Al-Qazwaini, Muhammad bin Yazid. *Sunan Ibn Mâjah*. Aleppo: Dâr Ihyâ' al-Kutub al-'Arabî, n.d.

Al-Qurthubi, Syamsuddin. *Al-Jâmi' Li Âhkâm al-Qur'ân*. Egypt: Dâr al-Kutub al-Mishriyyah, 1964.

Al-Raisûnî, Ahmad. *Nazhariyah Al-Maqâshid 'inda al-Imâm al-Shâthibî*. Herdon: Al-Ma'had al-'Âli li al-Fikr al-Islâmî, 1995.

Al-Shan'ânî, Abu Bakar. *Al-Mushanif*. Beirut: Maktabah al-Islamy, 1403.

Al-Sarkhasi, Muhammad. *Al-Mabsûth*. Beirut: Dâr al-Ma'rifah, 1993.

Al-Shâthibî. *Al-Muwâfaqât*. Dâr Ibnu 'Affân, 1997.

Al-Syaukani, Muhammad. *Nail Al-Authâr*. Beirut: Dar al-Jail, n.d.

Al-Thabari, Ibn Jarir. *Târîkh Al-Thabârî*. Beirut: Dâr al-Kutub al-'Ilmiyyah, 1407.

Al-Tirmidzi, Muhammad bin Isa. *Sunan Al-Tirmîdzi*. Beirut: Dar al-Gharb al-Islamy, 1998.

Al-Zuhailî, Wahbah. *Al-Wajîz Fî Ushûl al-Fiqh*. Beirut: Dâr al-Fikr, 1999.

Anas, Malik bin. *Al-Muwaththa'*. Abu Dhabi: Muassasah Zaid bin Sultan, 2004.

Arroisi, Jarman, Amir Sahidin, and Muhammad Fahmi Amrullah. 'Problems of the Hierarchy of Needs Theory in the Perspective of Maqâshid Al-Syarî'ah'. *Madania: Jurnal Kajian Keislaman* 28, no. 2 (2024). http://dx.doi.org/10.29300/madania.v28i2.3397

Auda, Jasser. *Maqasid Al-Shariah: A Beginner's Guide*. London: The International Institute of Islamic Thought, 2008.

Auda, Jasser. *Maqâshid Al-Syarî'Ah Ka Falsafah al-Tasyrî' al-Islâmy, Ru'yah Manzhûmah. Trans: Abdul Lathif al-Khayyath*. London: Al-Ma'had al-'Aly li al-Fikr al-Islamy, 2012.

Dawud, Abu. *Sunan Abî Dâwud*. Beirut: Al-Maktabah al-'Ashriyah, n.d.

Fitra, Tasnim Rahman. "Ijtihad 'Umar Ibn Al-Khaththâb Dalam Perspektif Hukum Progresif." *Al-Ahkam* 26, no. 1 (2016): 49. https://doi.org/10.21580/ahkam.2016.26.1.705.

Ghazali, Abd Moqsith. *Ijtihad Islam Liberal*. Jakarta: Jaringan Islam Liberal, 2005.

Hammad, Muhammad Haj. *Al-'Âlamiyyah al-Islâmiyyah al-Tsâniyyah*. British West Indies: Internasional Studies and Research Bureau, 1996.

Hanbal, Ahmad bin Muhammad bin. *Musnad Al-Imâm Ahmad Bin Hanbal*. Beirut: Muassasah al-Risalah, 2001.

Hazm, Abu Muhammad Ibnu. *Al-Ihkâm Fî Ushûl al-Ahkâm*. Beirut: Dar al-Afkar al-Jadidah, n.d.

Hisan, Khairatun, Arif Dian Santoso. "Analisis Syar'iyyah Ijtihad Umar Bin Khattab Terhadap Hadd Sariqah." *Al-Jinayah* 6, no. 2 (2020): https://doi.org/10.15642/aj.2020.6.2.397-319.

Hisyam, Abdul Malik bin. *Sîrah Ibn Hisyâm*. Beirut: Dar al-Jail, 1411.

Humam, Ibn. *Fath Al-Qadîr*. Beirut: Dar al-Fikr, n.d.

Imarah, Muhammad. *Al-Nash al-Islâmy; Baina al-Târîkhiyyah Wa al-Ijtihâd Wa al-Jumûd*. Egypt: Nahdhah al-Mishr, 2006.

Mahendra, Bayu Arif, Masykuri Abdillah, Ahmed Al-Dawoody, and Muhamad Abduh. 'Formalizing Fiqh Al-Aqalliyyat for Muslim Minorities Perspectives of Abdallah Bin Bayyah, Taha Jabir Al-Alwani & Jamâl al-Dîn 'Atiyyah'. *Madania: Jurnal Kajian Keislaman* 28, no. 2 (2024). http://dx.doi.org/10.29300/madania.v28i2.6472.

Mansur, Ahsan Dawi, Siti Mistiningsih. "Justice Ontology; A Study of 'Umar Ibn Al-Khaththâb's Ijtihâd" *Al-Ahkam* 31, no. 1 (2021): https://doi.org/10.21580/ahkam.2021.31.1.7234.

Mawardi, Ahmad Imam. *Fiqh Minoritas*. Yogyakarta: LKiS, 2010.

Misbahuzzulam, Misbahuzzulam. "Ijtihad Hakim." *Al-Majaalis: Jurnal Dirasat Islamiyah* 1, no. 1 (2013): 133–50. https://doi.org/10.37397/almajaalis.v1i1.10.

Muhsin, Amina Wadud. *Wanita Di Dalam Al-Quran*. Bandung: Pustaka, 1994.

Rabi'ah, Abdul Aziz bin Aburrahman Ibn. *'Ilmu Maqâshid al-Syâri.'* Riyad: Maktabah al-Mulk Fahd, 2002.

Ridwan, Muhammad. "Implementasi Syariat Islam: Telaah Atas Praktik Ijtihad Umar Bin Khattab." *Tsaqafah* 13, no. 2 (2017): https://doi.org/10.21111/tsaqafah.v13i2.1507.

Rohman, Muhamad Zulfar. "Menakar Hermeneutika Umar." *Nun: Jurnal Studi Alquran Dan Tafsir Di Nusantara* 5, no. 2 (2019): https://doi.org/10.32495/nun.v5i2.93.

Sahidin, Amir, and Imam Kamaluddin. 'An Examination of Maqashid Al-Shari'ah between Textual and Contextual Reasoning (Descriptive Analysis Study)'. *Istinbath: Jurnal Hukum* 20, no. 2 (2024): 21–40. https://doi.org/10.32332/istinbath.v20i02.4830

Sahidin, Amir. "Telaah Atas Ijtihad Umar Bin Khaththab Perspektif Maqâshid Al-Syarî'ah." *Jurnal Penelitian Medan Agama* 14, no. 1 (2023): 25–34. http://dx.doi.org/10.58836/jpma.v14i1.16553.

Sugiyono, Sugiyono. *Metode Penelitian Kuantitatif, Kualitatif Dan R&D*. Bandung: Alfabetha, 2016.

Surakhmad, Winarno. *Dasar Dan Teknik Research*. Bandung: Tarsito, 1978.

Syarifuddin, Amir. *Pembaharuan Pemikiran Dalam Hukum Islam*. Padang: Angkasa Raya, 1993.

Taimiyah, Ibn. *Majmû' al-Fatâwa*. Madinah: Mujma' al-Malik al-Fahd, 1425.

Tobroni, Imam Supriyogo dan. *Metodologi Penelitian Sosial Agama*. Bandung: Remaja Rosdakarya, 2003.

Tujung, Bisri. "Al-Nasikh Wa Al-Mansukh (Deskripsi Metode Interpretasi Hadis Kontradiktif)." *Al-Majaalis: Jurnal Dirasat Islamiyah* 2, no. 2 (2015): 69–98. https://doi.org/10.37397/almajaalis.v2i2.28.

Zaid, Nasr Hamid Abu. *Mafhum Al-Nash: Dirasah Fi 'Ulum al-Quran*. Egypt: Haiah al-Miṣriyah al-'Ammah, n.d.