

## The Critique toward *Uṣūl al-Fiqh* Literacy of 1890–2023: An Offer for Development

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### Abstract

Critique of *uṣūl al-fiqh* literacy is very crucial. The scarcity of critique can lead to the risk of intellectual stagnation and an inability to address the legal needs of a constantly changing society, simultaneously causing a lack of resonance with reconstructive ideas. The study aims: 1) to explore evidence of the scarcity of studies criticizing *uṣūl al-fiqh* from 1890 to 2023; 2) to explain the factors influencing the scarcity of critical works, and 3) to propose steps for the reconstruction of *uṣūl al-fiqh*. The data sources for this article are works collected from web publishers, digital libraries, and search engines. The data obtained was mapped and analyzed, and its trends were recorded. This study finds that during the period 1890-2023, criticism was the rarest aspect in *uṣūl al-fiqh* literature. The factors causing the scarcity of critique vary and complement each other, involving scholarly elements, *uṣūl al-fiqh* factors, and surrounding policies. Although criticism of *uṣūl al-fiqh* is relatively rare, it does not mean there is no space for reconstruction. Through this study, readers can understand the recent developments in *uṣūl al-fiqh* and assess the extent to which criticism has been undertaken while reflecting on how reconstruction can be initiated once again.

**Keywords:** critique; policy; rare issue; reconstruction; *uṣūl al-fiqh*

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Kritik terhadap literasi *uṣūl al-fiqh* adalah hal yang penting. Langkanya kritik dapat memunculkan risiko stagnasi intelektual dan ketidakmampuan dalam memenuhi kebutuhan hukum masyarakat yang terus berubah sekaligus menyebabkan ide-ide rekonstruksi kurang mengemuka. Penelitian ini bertujuan: 1) mengeksplorasi bukti-bukti terjadinya kelangkaan kajian yang mengkritik *uṣūl al-fiqh* dari tahun 1890 sampai 2023; 2) mengeksplanasi faktor-faktor yang mengarahkan kelangkaan karya kritik; dan 3) mengusulkan langkah-langkah rekonstruksi *uṣūl al-fiqh*. Sumber data artikel ini adalah karya-karya yang dikumpulkan dari web-penerbit, perpustakaan digital, dan mesin pencari. Data yang didapatkan dipetakan, dianalisis, dan dicatat trendnya. Penelitian ini menemukan bahwa dalam kurun 1890-2023, kritik merupakan isu yang paling langka dalam karya-karya tersebut. Faktor yang menyebabkan kelangkaan kritik itu bervariasi, dan saling melengkapi satu sama lain. Faktor-faktor itu bisa dari unsur ilmunya, *uṣūl al-fiqh*-nya, maupun kebijakan yang mengitarinya. Meskipun kritik terhadap *uṣūl al-fiqh* adalah sesuatu yang langka, bukan berarti tidak ada celah untuk rekonstruksinya. Dengan penelitian ini, pembaca dapat memahami perkembangan terkini *uṣūl al-fiqh* dan mengevaluasi sejauh mana kritik telah dilakukan dan bagaimana seharusnya rekonstruksi dimulai lagi.

**Kata Kunci:** kritik; kebijakan; isu langka; rekonstruksi; *uṣūl al-fiqh*

## Introduction

*Uṣūl al-fiqh* is a very important and interesting field of Islamic studies. Some books have been published and reviewed many times. There are scholars whose thoughts are repeatedly reviewed by other scholars. There are also legal sources whose studies dominate publications compared to other sources. What's even more unfortunate is that these rare issues are crucial for the success of *uṣūl al-fiqh* in addressing contemporary challenges. Based on the authors' search, 'Abd al-Wahhāb Khallāf's book, *'Ilm Uṣūl al-Fiqh*, for example, has been printed by Maktabah Da'wah al-Islāmiyyah eight times. Similarly, Hallaq's book, *A History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh*, has been reviewed by other scholars eight times.<sup>1</sup> Robert Gleave's book, *Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory*, for instance, has also been reviewed seven times.<sup>2</sup>

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<sup>1</sup> Robert Gleave, 'Wael B. Hallaq: A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. ix, 294 pp. Cambridge, New York and Melbourne: Cambridge University Press, 1997. £35', *Bulletin of the School of Oriental and African Studies* 61, no. 3 (1998): 537–38, <https://doi.org/10.1017/S0041977X00019388>; Wilferd Madelung, 'A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. By Wael B. Hallaq. pp. ix, 294. Cambridge Etc, Cambridge University Press, 1997. £35.00', *Journal of the Royal Asiatic Society* 8, no. 2 (1998): 267–68, <https://doi.org/10.1017/S1356186300010130>; Murteza Bedir, 'A History of Islamic Legal Theories: An Introduction to Sunni Usul al-Fiqh, by Wael B. Hallaq. 304 pages, Bibliography, Index. New York, NY: Cambridge University Press, 1997. \$59.95 (Cloth) ISBN 0521-59027-2', *Middle East Studies Association Bulletin* 33, no. 1 (1999): 83–83, <https://doi.org/10.1017/S0026318400038670>; Colin Imber, 'Wael B. Hallaq, A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh, Cambridge: Cambridge University Press, 1997. pp. ix + 294. \$98.95 (ISBN 0–860784568)', *Law and History Review* 17, no. 3 (1999): 626–28, <https://doi.org/10.2307/744391>; Delfina Serrano Ruano, 'A History of Islamic Legal Theories: An Introduction to the Sunnī Uṣūl al-Fiqh by Wael B. Hallaq', *Journal of Law and Religion* 15, no. 1/2 (2000): 379–83, <https://doi.org/10.2307/1051528>; Bruce B. Lawrence, 'Book Review: A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh by Wael B. Hallaq', *British Journal of Middle Eastern Studies* 28, no. 2 (2001): 236–38; Christopher Melchert, 'A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. By Wael B. Hallaq. Cambridge: Cambridge University Press, 1997. pp. ix + 294. \$59', *Journal of Near Eastern Studies* 62, no. 3 (2003): 220–22, <https://doi.org/10.1086/380334>; David S. Powers, 'A History of Islamic Legal Theories an Introduction to Sunnī Uṣūl al-Fiqh, by Wael B. Hallaq Cambridge: Cambridge University Press, 1997. 294 pp. \$59.95', ed. David S. Powers, *Middle East Forum* 8, no. 2 (1999), <https://www.meforum.org/1293/a-history-of-islamic-legal-theories>.

<sup>2</sup> Matthew B Ingalls, 'Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory, by Robert Gleave', *Review of Middle East Studies* 47, no. 1 (2013): 71–73; Ovamir Anjum, 'Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory, by Robert Gleave', *Journal of Islamic Studies* 25, no. 3 (2014): 384–87, <https://doi.org/10.1093/jis/etu046>; David R Vishanoff, 'Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory, by Robert Gleave', *Islam and Christian-Muslim Relations* 25, no. 4 (2014): 553–57, <https://doi.org/10.1080/09596410.2014.946823>; Ahmed El Shamsy, 'Book Review: Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory, Written by Robert Gleave', *Islamic Law and Society*

Meanwhile, on the other hand, Yusufoglu Kazim, for example, without specifying a particular time frame, states that there is a common opinion that independent absolute juridical interpretation (*al-ijtihād al-muṭlaq al-mustaqill*) is practically impossible nowadays. According to him, this theme is rarely re-examined.<sup>3</sup> Similarly, Alnaief Moath, Kotb, and Rissouni, without specifying a particular time frame, assert that the dynamics of society and the necessity to find new laws not explicitly mentioned in religious texts are also among the least discussed themes.<sup>4</sup> However, as is well-known, *ijtihād* is indeed a crucial theme to answer the evolving needs of society.<sup>5</sup> The two facts above indicate a gap that issues in the *uṣūl al-fiqh* literature are not going well.

So far, *uṣūl al-fiqh* works can be divided into three categories: language, form, and content. In terms of language, *uṣūl al-fiqh* works are divided into Arabic, English, Indonesian, Malay, Turkish, French, German, Persian, Uzbekistan, Russian, and Urdu. In terms of form, they are divided into books (textbooks and monographs), book reviews, and articles. In terms of content, this article differentiates them into the thoughts of prominent figures, thematic discussions, relations-relevance-comparisons, and critiques-developments. All Arabic-language works are accessible, but the language may not be understood by a wider audience. Several sources highlight the importance of understanding Arabic in understanding the concepts of *uṣūl al-fiqh*.<sup>6</sup> English-language works are partially closed access, although the language is understood by more people.

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22, no. 1–2 (2015): 148–52, <https://doi.org/10.1163/15685195-02212p06>; Alexander Key, 'Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory. By Robert Gleave. Edinburgh: Edinburgh University Press, 2013. pp. xii + 212. \$39.95 (Paperback)', *Journal of Near Eastern Studies* 74, no. 1 (2015): 179–84, <https://doi.org/10.1086/679622>; Carolyn Baugh, 'Robert Gleave, Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory (Edinburgh: Edinburgh University Press, 2012). pp. 256. \$112.00 Cloth, \$39.95 paper. ISBNs: 9780748625703, 9780748689866', *International Journal of Middle East Studies* 48, no. 2 (2016): 407–9, <https://doi.org/10.1017/S0020743816000258>; Rumea Ahmed, 'Islam and Literalism: Literal Meaning and Interpretation in Islamic Legal Theory. By Robert Gleave', *Journal of the American Oriental Society* 136, no. 2 (2021): 458–460, <https://doi.org/10.7817/jameroriesoci.136.2.458>.

<sup>3</sup> Kazim Yusufoglu, 'The Relationship between Justification and Judgement in Usul al-Fiqh', *Journal of the Near East University Islamic Research Center* 8, no. 2 (2022): 167–81, <https://doi.org/10.32955/neuistem.2022.8.2.04>.

<sup>4</sup> Moath Alnaief and Kotb Rissouni, 'A Critical Analysis of the Claim that Absolute Juristic Interpretation (Ijtihād) Has Ended', *Journal of Islamic Thought and Civilization* 12, no. 2 (2022): 28–40, <https://doi.org/10.32350/jitc.122.03>.

<sup>5</sup> Nabeela Falak, 'The Concept of Ijtihad, Its Legitimacy, Need and Importance in the Present Age', *Islamic Sciences* 3, no. 1 (2020): 95–111, <https://doi.org/10.52337/islsci.v3i1.18>.

<sup>6</sup> Mohd Sham Kamis et al., 'Readiness of Understanding the Arabic Term in Usul Fiqh', *Journal of Education and E-Learning Research* 7, no. 1 (2020): 100–103, <https://doi.org/>

Some works criticize or propose developments in *uṣūl al-fiqh*, but are quite limited. As an example of criticism, Hallaq's article challenges the common belief that al-Shāfi'ī is the architect of *uṣūl al-fiqh*. Hallaq argues that this discipline came later and points to Ibn Surayj and his students as early exponents.<sup>7</sup> While examples of works proposing developments are relatively more numerous, they are typically associated with scholars who have deviated from traditional methodological approaches and engaged in philosophical reflections on Islamic law.<sup>8</sup> For example, Abū Zayd al-Dabūsī and Ibn Rushd have placed and systematized religious law within rationalist epistemology and legal theory.<sup>9</sup> These scholars have sought to provide innovative contributions to ethics and general questions of legal philosophy within the realm of Islamic law.<sup>10</sup>

However, although several works criticize and propose developments to *uṣūl al-fiqh*, as far as this research has been conducted, there is not a single work that examines the issue of *uṣūl al-fiqh* scarcity critique. Therefore, to address this literature gap, this article aims to: 1) explore the evidence of the scarcity of works that criticize and/or develop *uṣūl al-fiqh* from 1890 to 2023; 2) explain the factors that lead to the scarcity of such critical works; and 3) propose reconstruction measures against *uṣūl al-fiqh*. With this aim, the trend of the contemporary *uṣūl al-fiqh* literature map and its causes can be identified, so that the practical impacts can be anticipated.

This article is based on data collected by documenting literature found on web publishers, digital libraries, and search engines from November 6, 2023, to November 16, 2023. Arabic literature was found on 3 (three) websites, and literature in various languages was found on 12 (twelve) websites, see Table 1.

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10.20448/journal.509.2020.71.100.103; Mohd Hilmi Ramli, 'al-Taftāzānī's Sources of Knowledge in Sharḥ al-Talwīḥ 'alā al-Tawḍīḥ li Matn al-Tanqīḥ fi Uṣūl al-Fiqh', *Jurnal Akidah & Pemikiran Islam* 22, no. 2 (2020): 155–204, <https://doi.org/10.22452/afkar.vol22no2.5>.

<sup>7</sup> Wael B Hallaq, 'Uṣūl al-Fiqh and Shāfi'ī's Risāla Revisited', *Journal of Arabic and Islamic Studies* 19 (2019): 129–83, <https://doi.org/10.5617/jais.7749>.

<sup>8</sup> Serdar Kurnaz, 'Eine Islamische Rechtsphilosophie? Herausforderungen, Problemfelder und Lösungsvorschläge', *Rechtsphilosophie* 9, no. 2 (2023): 128–50, <https://doi.org/10.5771/2364-1355-2023-2-128>.

<sup>9</sup> Salman Abdul Muthalib, 'Establishment of Islamic Law Based on Mukhtalif Hadiths: A Study on Ibn Qutaybah's Thoughts', *Jurnal Ilmiah al-Mu'ashirah* 20, no. 1 (2023): 219–29, <https://doi.org/10.22373/jim.v20i1.17697>.

<sup>10</sup> Pujangga Candrawijayaning Fajri, 'Pendekatan Maqashid al-Syari'ah sebagai Pisau Analisis dalam Penelitian Hukum Islam', *Jurnal Penelitian Agama* 23, no. 2 (2022): 247–62, <https://doi.org/10.24090/jpa.v23i2.2022.pp247-262>.

Table 1  
Data Source Websites

Arabic Literature	Multilingual Sites
1. <a href="https://shamela.ws/">https://shamela.ws/</a>	1. <a href="https://www.tandfonline.com/openaccess/openjournals">https://www.tandfonline.com/openaccess/openjournals</a>
2. <a href="https://waqfeya.net/">https://waqfeya.net/</a>	2. <a href="https://link.springer.com/">https://link.springer.com/</a>
3. <a href="https://perpustakaanisla.mdigital.com/">https://perpustakaanisla.mdigital.com/</a>	3. <a href="https://onlinelibrary.wiley.com/">https://onlinelibrary.wiley.com/</a>
	4. <a href="https://www.cambridge.org/core/publications/journals">https://www.cambridge.org/core/publications/journals</a>
	5. <a href="https://journals.sagepub.com/">https://journals.sagepub.com/</a>
	6. <a href="https://www.jstor.org/vlib/interchange.at/">https://www.jstor.org/vlib/interchange.at/</a>
	7. <a href="https://garuda.kemdikbud.go.id/">https://garuda.kemdikbud.go.id/</a>
	8. <a href="https://www.mendeley.com/search/">https://www.mendeley.com/search/</a>
	9. <a href="https://doaj.org/">https://doaj.org/</a>
	10. <a href="https://libgen.is/">https://libgen.is/</a>
	11. <a href="https://www.sciencedirect.com/">https://www.sciencedirect.com/</a>
	12. <a href="https://scholar.google.com/">https://scholar.google.com/</a>

In the Arabic-only websites, the literature has been categorized separately, so the data search was done by simply clicking on “*uṣūl al-fiqh*” button. In the multilingual websites, the data was searched by typing the keyword, “*uṣūl al-fiqh*”, into the search button. This article only counts open-access data. If a piece of literature is found multiple times on two or more websites, this article counts it only once. Literature that does not belong to *uṣūl al-fiqh* but is categorized as such by the website is not counted. As for works generated through the search button, since they are in order of highest relevance, the data were collected in that order until there was no relevance at all.

To get to the issue of the scarcity of critique, this article first examines the content of the found works (content analysis), then maps them (literature mapping), and finally, counts the number of works based on the categories created for comparison with other categories.

The year 1890–2023 was intentionally chosen as a reference because 1890 is the oldest year and 2023 is the most recent year when works were found and published on these websites. This reference year signifies the year a work was first published in its print edition by a publisher, not the first time it was displayed online. The oldest work found is an Arabic-language work titled *Sharḥ Manār al-*

*Anwār* by Ibn Malik, published by *Dār al-Kutub al-‘Ilmiyyah* in 1890.<sup>11</sup> The oldest work in another language than Arabic (English) is *A Historical Sketch of Mohammedan Jurisprudence* by Abdur Rahim, published in 1907.<sup>12</sup> Meanwhile, the most recent works are "*Uṣūl al-Fiqh Literacy for the Local Community: A Study on Shaykh Mukhtar Ambai’s Manuscript*" by Repelita Repelita, Nuzul Iskandar, Mursal Mursal, dated October 2, 2023,<sup>13</sup> and "In the Context of the Science of *Uṣūl al-Fiqh*, Textual and Numerical Interpretation of Some Verses and Hadiths, with an Example of Social Groups" by Hasan Özket, dated October 22, 2023.<sup>14</sup>

### **The Rarest Discussed Issues in *Uṣūl al-Fiqh* of 1890-2023**

This article uncovers the fact that works criticizing *uṣūl al-fiqh* are the least numerous during the period 1890-2023 compared to *uṣūl al-fiqh* works addressing other issues. This observation is made by accessing all *uṣūl al-fiqh* works from identified websites. Specifically, from two Arabic-language websites (Waqfeya and Maktabah Shamela/MS) and an Indonesian website (Perpustakaan Islam Digital/PID),<sup>15</sup> it was found that not all works were *uṣūl al-fiqh*. Therefore, this article separates *fiqh*, *maqāṣid*, and *qawā'id al-fiqhiyyah* works and does not include them in the count. Additionally, many works are displayed on two or more websites; hence, this article counts them only once. The number of works resulting from the conducted data search can be seen in Table 2 and Table 3.

After selecting works from the above three websites, only 490 works were found were truly belong to *uṣūl al-fiqh*, and none of them were identical to each other. These selected works were then combined with works found on various language websites, resulting in the total number of works used as data for this research can be seen in Table 4.

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<sup>11</sup> ‘Abd al-Laṭīf ibn ‘Abd al-‘Azīz ibn Mālik, *Sharḥ Manār al-Anwār fī Uṣūl al-Fiqh* (Libanon: Dār al-Kutub al-‘Ilmiyyah, 1642).

<sup>12</sup> Abdur Rahim, ‘A Historical Sketch of Mohammedan Jurisprudence’, *Columbia Law Review* 7, no. 2 (1907): 101–15, <https://doi.org/10.2307/1109683>.

<sup>13</sup> Repelita Repelita, Nuzul Iskandar, and Mursal Mursal, ‘Uṣūl al-Fiqh Literacy for the Local Community: A Study on Shaykh Mukhtar Ambai’s Manuscript’, *al-Ahkam* 33, no. 2 (2023): 133–56, <https://doi.org/10.21580/ahkam.2023.33.2.17045>.

<sup>14</sup> Hasan Özket, ‘In the Context of the Science of Usul al-Fiqh, Textual and Numerical Interpretation of Some Verses and Hadiths, with an Example of Social Groups’, *Journal of Human Sciences* 20, no. 4 (2023): 622–35, <https://doi.org/10.14687/jhs.v20i4.6415>.

<sup>15</sup> This website in Indonesian language for the introduction, but it provides Arabic books, see more: <https://perpustakaanislamdigital.com>

This article examines 872 works of *uṣūl al-fiqh* that have undergone the selection process and relevance assessment, ensuring their accuracy as data. These works are known to include the year of publication. It turns out that these 872 works were published in various years ranging from 1890 to 2023. The quantity of works varies each year, indicating the development of thought among *uṣūl al-fiqh* scholars (see Figure 1 and Figure 2).<sup>16</sup>

Table 2  
Number of Works in Waqfeya-MS-PID before Recapitulation

No	Source	Number of Works
1	Waqfeya	404
2	Maktabah Shamilah (MS)	240
3	Perpustakaan Islam Digital (PID)	82
Total		726

Table 3  
Number of Works in Waqfeya-MS-PID after Recapitulation

No	Source	Works	
		Calculated	Not calculated
1	Waqfeya-MS-PID	41	82
2	Waqfeya-MS	85	85
3	Waqfeya-PID	29	29
4	MS-PID	6	6
5	Waqfeya	220	
6	MS	103	
7	PID	6	
8	Not <i>uṣūl al-fiqh</i> in Waqfeya		29
9	Not <i>uṣūl al-fiqh</i> in MS		5
Total		490	236

<sup>16</sup> Naman Paharia, Muhammad Syafiq Mohd Pozi, and Adam Jatowt, 'Change-Oriented Summarization of Temporal Scholarly Document Collections by Semantic Evolution Analysis', *IEEE Access* 10 (2022): 76401–15, <https://doi.org/10.1109/ACCESS.2021.3135051>.

Table 4  
Total Number of Works as Data

No	Source	Total Works	Note
1	Waqfeya	220	digital library
2	Google Scholar	112	search engine
3	MS	103	digital library
4	Jstor	86	digital library
5	Waqfeya-MS	85	digital library
6	Waqfeya-MS-PID	41	digital library
7	Garuda	32	digital library
8	Taylor and Francis	31	publisher
9	Mendeley	30	digital library
10	Waqfeya-PID	29	digital library
11	Springer	27	publisher
12	Wiley	18	publisher
13	Cambridge	18	publisher
14	DOAJ	15	digital library
15	Libgen	9	digital library
16	MS-PID	6	digital library
17	PID	6	digital library
18	Sage	3	publisher
19	Science Direct	1	digital library
Total		872	

Figure 1  
Development of Works 1890-2023 in Arabic Literature

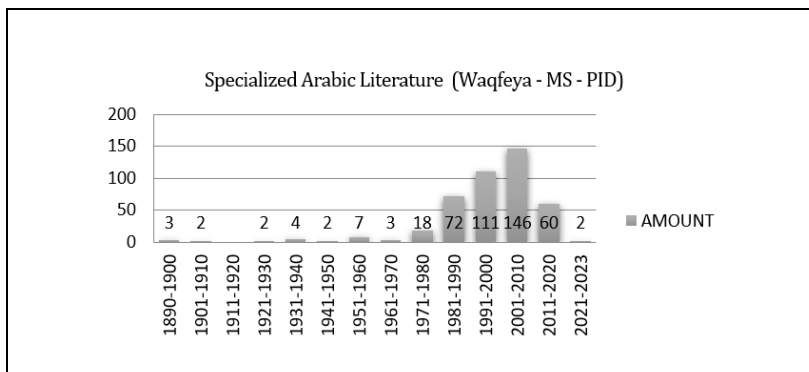
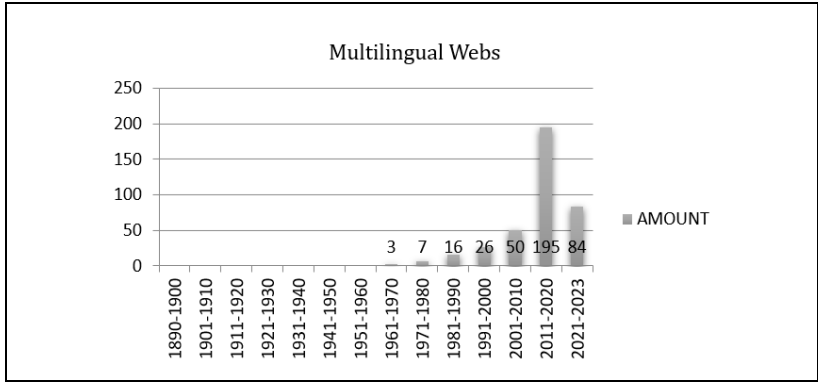




Figure 2  
Development of Works 1890-2023 in Multiligual Websites



In addition to varying publication years, the 872 works of *uşūl al-fiqh* also use different introductory languages. It is permissible for Islamic studies works to use various languages globally, as demonstrated by various studies. For instance, Haque found that various languages have been used in Islamic studies, with Arabic and Urdu playing significant roles.<sup>17</sup> The map of works based on the languages used can be seen in Figure 3.

Finally, to determine that works criticizing *uşūl al-fiqh* are the rarest, this article should conduct content analysis and literature mapping on the works and compare the quantities among organizational works. Besides serving this purpose, this process can also help readers understand the recent developments in *uşūl al-fiqh*, including evaluating the extent to which an issue is researched and how these issues evolve. Soaita et al. further emphasize the role of literature mapping in identifying research gaps and transforming conceptual approaches.<sup>18</sup>

The results of content analysis and literature mapping along with the comparison of quantities can be seen in Table 5. Due to space limitations, here are examples of works that criticize *uşūl al-fiqh* in Table 6.

<sup>17</sup> Shahzaman Haque, 'Language Use and Islamic Practices in Multilingual Europe', *Signs and Society* 8, no. 3 (2020): 401–25, <https://doi.org/10.1086/710157>.

<sup>18</sup> Adriana Mihaela Soaita, Bilge Serin, and Jenny Preece, 'A Methodological Quest for Systematic Literature Mapping', *International Journal of Housing Policy* 20, no. 3 (2020): 320–43, <https://doi.org/10.1080/19491247.2019.1649040>.

Figure 3  
Total Comparison of Works by Language

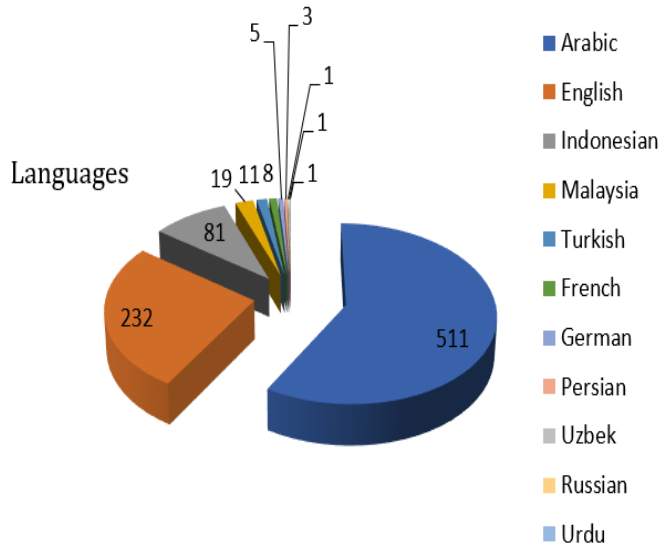


Table 5  
Total Number of Comparative Works by Issue

Source	Books				Articles				Total
	Text book	Monograf	Book Review	<i>Nazam/ Mukhtasar /Sharh/ Hāshiyah</i>	Figure's Thought	Thematic	Relation/ Relevance/ Comparison	Critique	
Waqfeya-MS-PID	170	229		91					490
Multi-language Web	13	23	46		59	189	33	19	382
Total	183	252	46	91	59	189	33	19	872

Table 6  
Three Examples of Criticism

No.	Works	Criticism
1	Was the Gate of <i>Ijtihād</i> Closed? <sup>19</sup>	Critiquing the notion that <i>ijtihād</i> has been closed, it is argued that there is no evidence supporting the closure of <i>ijtihād</i> during the Middle Ages. Scholars of that time tended to prefer <i>taqlīd</i> because it provided a sense of certainty and stability in legal rulings.
2	A Critical Analysis of the Claim that Absolute Juristic Interpretation ( <i>Ijtihād</i> ) has Ended. <sup>20</sup>	Critiquing the opinion that <i>al-ijtihād al-muṭlaq al-mustaqill</i> (independent absolute reasoning) is no longer possible. This view is deemed incorrect, as it is argued that this level of interpretation is necessary for the preservation and renewal of legal sources.
3	Scholarly Consensus: <i>Ijmā'</i> : Between Use and Misuse. <sup>21</sup>	Critiquing the use of <i>ijmā'</i> as a tool to maintain cultural and religious uniformity, highlighting that it has been misused by scholars and governors as a political tool to suppress dissenting religious voices.

### Factors Leading to Scarcity of Critique toward *Uṣūl al-Fiqh* of 1890-2023

The scarcity of critique towards *uṣūl al-fiqh* is a concerning issue, given the importance of this field in Islamic legal studies.<sup>22</sup> This article finds that the rarity of criticism ideas in *uṣūl al-fiqh* is influenced by three factors: scholar factors, *uṣūl al-fiqh* factors, and policy factors. Scholar factors consist of a combination of three interrelated elements: specialization and focus on other matters, reluctance to think critically, and a dismissive attitude towards criticism launched by the *maqāṣid* field. *Uṣūl al-fiqh* factors consist of a combination of three interrelated elements: Arabic language as the medium, lack of methodological innovation, and lack of practical relevance to contemporary needs. Meanwhile, policy factors consist of a combination of two interrelated

<sup>19</sup> Wael B. Hallaq, 'Was the Gate of Ijtihad Closed?', *International Journal of Middle East Studies* 16, no. 1 (1984): 3–41, <https://doi.org/10.1017/s0020743800027598>.

<sup>20</sup> Alnaief and Rissouni, 'A Critical Analysis of the Claim that Absolute Juristic Interpretation (Ijtihād) Has Ended'.

<sup>21</sup> Abdullah bin Hamid Ali, 'Scholarly Consensus: *Ijma'*: Between Use and Misuse', *Journal of Islamic Law and Culture* 12, no. 2 (2010): 92–113, <https://doi.org/10.1080/1528817x.2010.574391>.

<sup>22</sup> Idris Masudi, 'Kontribusi Ushul Fiqh dalam Kajian Kritik Matn Hadith', *Refleksi* 15, no. 1 (2018): 63–92, <https://doi.org/10.15408/ref.v15i1.9706>.

elements: curriculum and accessibility provision. Identification of these factors is made with the understanding that there is no generalization and that these factors are variable.

### Scholar Factors

One contributing factor to the scarcity of critique ideas is the diversification of scholars' specializations and focus within Islamic studies, such as theology, history, philosophy, comparative religion, and others. Scholars are more inclined towards fields considered more dynamic, relevant to contemporary issues, or with broader social implications. This can sometimes divert their attention from more specialized and technical fields like *uṣūl al-fiqh*. In addition to a broader focus on Islamic studies, the common conservative paradigm in Islamic boarding schools, for example, where the study of *uṣūl al-fiqh* is limited to consumption and memorization without contextualization and application, may contribute to this trend.<sup>23</sup> It can also be considered a triggering factor. As a result, a dominance of specific sub-themes is found in works of *uṣūl al-fiqh*.<sup>24</sup> While it must be acknowledged that scholars interested in broader Islamic studies may still incorporate *uṣūl al-fiqh* into their research, and critique can emerge from their interdisciplinary perspectives, specialization and focus on other areas have led to a lack of publications criticizing *uṣūl al-fiqh*.<sup>25</sup>

In addition to specialization and focus, the reluctance of scholars to think critically has been a concern among scholars.<sup>26</sup> Their reluctance to think critically is evident in the works of *uṣūl al-fiqh* with a traditional paradigm and static nature, which then hinders its ability to provide solutions to

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<sup>23</sup> Zaenal Arifin, 'Ushul Fiqh sebagai Kerangka Berpikir Santri Milenial dalam Memecahkan Problematika Sosial Keagamaan', *Hukum dan Demokrasi (HD)* 23, no. 2 (2023): 68–79, <https://doi.org/10.61234/hd.v23i2.19>.

<sup>24</sup> Nadiyah Mu'adzah, 'Ushul Fiqh, Qaidah Fiqhiyyah, and Islamic Jurisprudence', *Journal of Islamic Economic Literatures* 3, no. 2 (2022), <https://doi.org/10.58968/jiel.v3i2.130>.

<sup>25</sup> Vera Oktafiani and Akhyar Hanif, 'Konsep Amtsāl al-Qur'ān Nūr al-Dīn 'Itr dalam Karyanya 'Ulūm al-Qur'ān al-Karīm', *Lathaif: Literasi Tafsir, Hadis dan Filologi* 1, no. 1 (2022): 100–108, <https://doi.org/10.31958/lathaif.v1i1.5749>.

<sup>26</sup> Nasiri Nasiri, 'The Perfect Performance of Tariqat al-Mutakallimin according Fakhruddin al-Razi Perspective', *International Journal of Islamic Thought and Humanities* 2, no. 1 (2023): 56–64, <https://doi.org/10.54298/ijith.v2i1.61>. Mahmud Arif, 'Fundamentals of Qur'anic Education Concept: A Critical Conceptualization with Special Reference to al-Kilāni's Thought', *Global Journal al-Thaqafah* 9, no. 2 (2019): 15–26, <https://doi.org/10.7187/GJAT122019-2>.

contemporary social problems.<sup>27</sup> They often remain literal in their interpretations and fail to adapt to new circumstances, resulting in a lack of relevant theoretical tools for changing situations.<sup>28</sup> Furthermore, early scholars practiced critique in their works but replaced it with terms like evaluation and refinement, while contemporary scholars attempted to extract the connotations of critique from the works of their predecessors.<sup>29</sup> Their reluctance was triggered by concerns about the emergence of partiality and politicization.<sup>30</sup> They avoid potential controversy or challenges to established norms. This risk avoidance can lead to reluctance to engage in criticism of *uṣūl al-fiqh*, which, in turn, can be identified as one of the contributing factors to the scarcity of critique and development of *uṣūl al-fiqh*.<sup>31</sup>

In addition to specialization, focus, and reluctance to think critically, there is another aspect of the scholar's factor that plays a relative role in the scarcity of critique *uṣūl al-fiqh*. It is their disregard for criticism from *maqāṣid* scholars, while *maqāṣid* can answer the needs of society.<sup>32</sup> On one hand, traditionalists believe that *uṣūl al-fiqh* is still richer than *maqāṣid*. *Uṣūl al-fiqh* has linguistic aspects and literal interpretations that are more operational,<sup>33</sup> which *maqāṣid* does not possess as it only emphasizes the goals and purposes of the law.<sup>34</sup> *Maqāṣid* itself has indeed received criticism from some modern and contemporary scholars, indicating a shift in focus towards a reevaluation of the traditional perspective of *maqāṣid*. They

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<sup>27</sup> Mustapha Elhassani Elalaoui, 'Fiqh Criticism according to the Malikis: Its Fields and Kinds', *International Journal of Specialized Islamic Studies* 7, no. 4 (2022): 227–44, <https://doi.org/10.31559/SIS2022.7.4.2>.

<sup>28</sup> Abdul Basith Junaidy, 'Revitalisasi Uṣūl Fiqh dalam Menghadapi Perubahan Sosial', *Islamica: Jurnal Studi Keislaman* 3, no. 2 (2014): 43–59, <https://doi.org/10.15642/islamica.2009.3.2.43-59>.

<sup>29</sup> Elalaoui, 'Fiqh Criticism according to the Malikis: Its Fields and Kinds'.

<sup>30</sup> Johan Sandahl, 'Opening up the Echo Chamber: Perspective Taking in Social Science Education', *Acta Didactica Norden* 14, no. 4 (2020): 6, <https://doi.org/10.5617/adno.8350>.

<sup>31</sup> Rasyid al-Hafizh, Fachrul Rozy, and Zaim Rais, 'Uṣul al-Fiqh: Its Epistemology, Purpose, and Use', *Diktum: Jurnal Syariah dan Hukum* 19, no. 1 (2021): 1–15, <https://doi.org/10.35905/diktum.v19i1.1529>.

<sup>32</sup> Mohamed Saladin Abdul Rasool, Mohamed Azmil Mohd Yusof, and Siti Mariam Ali, 'Wellbeing of the Society: A Maqasid al-Shari'ah Approach', *Jurnal Akidah & Pemikiran Islam*, no. Sp. 1 (2020): 25–46, <https://doi.org/10.22452/afkar.sp2020no1.2>.

<sup>33</sup> Rezart Beka, 'Maqasid and the Renewal of Islamic Legal Theory in 'Abdullah bin Bayyah's Discourse', *American Journal of Islam and Society* 38, no. 3–4 (2021): 103–45, <https://doi.org/10.35632/ajis.v38i3-4.2987>; Mohammad Hashim Kamali, 'Issues in the Legal Theory of Uṣul and Prospects for Reform', *Islamic Studies* 40, no. 1 (2001): 5–23.

<sup>34</sup> Marwa Hamed et al., 'Maqasid Research Methodology Challenges: A Survey Study', *Journal of Contemporary Maqasid Studies* 1, no. 2 (2022): 83–104, <https://doi.org/10.52100/jcms.v1i2.88>.

criticize *maqāsid* more than *uṣūl al-fiqh*.<sup>35</sup> It seems that the dominance of traditional approaches has hindered the development of new ideas and perspectives in *uṣūl al-fiqh*.<sup>36</sup> On the other hand, non-traditionalist groups choose not to delve into criticisms directed towards *uṣūl al-fiqh*. Instead, they opt to use *maqāsid* to address legal questions.<sup>37</sup> This reality, in turn, makes the relationship between *uṣūl al-fiqh*, which should complement each other (*takāmuliyyah*), become less harmonious. Not to mention the primordial problem of *maṣlaḥah* as the mother of *maqāsid*, which has been debated by scholars since ancient times,<sup>38</sup> and the problem of *maqāsid* itself, which is suspected to be vulnerable to secular influences in the form of utilitarianism<sup>39</sup> and its arbitrary use by rulers.<sup>40</sup>

### The *Uṣūl al-Fiqh* Factors

The use of the Arabic language as the primary language in the study of Islamic sciences, including *uṣūl al-fiqh*, is indeed rooted in historical and cultural reasons that cannot be ignored.<sup>41</sup> Therefore, a strong foundation in the Arabic language is often considered crucial for a deep understanding of *fiqh*.<sup>42</sup> It is important to note

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<sup>35</sup> Zaprulkhan Zaprulkhan, 'Maqāsid al-Sharī'ah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda', *Walisono: Jurnal Penelitian Sosial Keagamaan* 26, no. 2 (2018): 445–72, <https://doi.org/10.21580/ws.26.2.3231>. Mohammad Hashim Kamali, 'Maqasid al-Shari'ah and Ijtihad as Instruments of Civilisational Renewal: A Methodological Perspective', *ICR Journal* 2, no. 2 (2011): 245–71, <https://doi.org/10.52282/icr.v2i2.647>.

<sup>36</sup> Hamed et al, 'Maqasid Research Methodology Challenges: A Survey Study'.

<sup>37</sup> Arman Mergaliyev et al, 'Higher Ethical Objective (Maqasid al-Shari'ah) Augmented Framework for Islamic Banks: Assessing Ethical Performance and Exploring Its Determinants', *Journal of Business Ethics* 170, no. 4 (2021): 797–834, <https://doi.org/10.1007/s10551-019-04331-4>.

<sup>38</sup> Muhammad Nazir Aliasa, 'A Review of Maslahah Mursalah and Maqasid Shariah as Methods of Determining Islamic Legal Ruling', *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 3 (2021): 2994–3001, <https://doi.org/10.17762/turcomatv12i3.1331>.

<sup>39</sup> Adi Setia, 'Freeing Maqasid and Maslahah from Surreptitious Utilitarianism', *Journal of Islamic Sciences* 14, no. 2 (2016): 127–57, [https://cis-ca.org/\\_media/pdf/2016/2/A\\_fmamfsu.pdf](https://cis-ca.org/_media/pdf/2016/2/A_fmamfsu.pdf).

<sup>40</sup> Abdessamad Belhaj, 'Abū Ya'rub al-Marzūqī and His Critique of the Maqāsid Theory', *Religions* 14, no. 9 (2023): 1212, <https://doi.org/10.3390/rel14091212>. Mogamat Nasief Adams, 'A Postcolonial Critique of Modernist Approaches to Maqāsid al-Sharī'ah', *Master Thesis* (University of Johannesburg, 2017).

<sup>41</sup> Nahla A. K. Alhirtani, 'Arabic Language Learning and Its Effect on Islamic Sciences Teaching a Case of a Premier University', *Review of European Studies* 11, no. 1 (2019): 51–62, <https://doi.org/10.5539/res.v11n1p51>.

<sup>42</sup> Salahuddin Mohd. Shamsuddin and Siti Sara binti Hj. Ahmad, 'Modernization of Arab Linguistic Sciences in Modern Age', preprints.org, 2018, <https://www.preprints.org/manuscript/201801.0197/v1>. Michael Carter, 'The Study of Arabic', *Diogenes* 58, no. 1–2 (2011): 106–18, <https://doi.org/10.1177/03921921112444981>.

that the relationship between the language of instruction and the criticism of a particular field of knowledge is a complex one. Although the Arabic language is the traditional language in the study of *uṣūl al-fiqh*,<sup>43</sup> it does not automatically hinder criticism or the development of new ideas. Scholars engage in critical analysis, debates, and the exploration of new ideas in *uṣūl al-fiqh*. In recent times, efforts have been made to translate classical Islamic texts into various languages to make them more accessible to a wider audience.<sup>44</sup> Additionally, scholars proficient in languages other than Arabic also contribute to the criticism *uṣūl al-fiqh* in their linguistic and cultural contexts. Scholars continue to engage in critical analysis and contribute to the development of *uṣūl al-fiqh* in various linguistic and cultural backgrounds.<sup>45</sup> This perspective emphasizes that linguistic diversity can enrich *uṣūl al-fiqh*.

However, on the other hand, for scholars outside the Arabic-speaking regions, language barriers can pose challenges in accessing and interacting with *uṣūl al-fiqh*. This may limit their contributions to this field.<sup>46</sup> An example of such language barriers is Creswell's opinion that there is potential Arabic literature that cannot be translated.<sup>47</sup> This second perspective highlights the idea that language diversity limits *uṣūl al-fiqh*. In essence, both statements acknowledge the importance of the Arabic language. However, the first statement emphasizes the active involvement of *uṣūl al-fiqh* scholars regardless of language, while the second statement underscores the potential limitations faced by scholars outside the Arabic-speaking regions. The complex nature of the Arabic language in *uṣūl al-fiqh* is highly likely to contribute to the lack of criticism in *uṣūl al-fiqh*.<sup>48</sup>

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<sup>43</sup> Ahmad Syaripudin et al., 'Pengaruh Pemahaman Bahasa Arab terhadap Istinbāt Hukum Fikih', *Nukhbatul 'Ulum: Jurnal Bidang Kajian Islam* 7, no. 2 (2021): 178–96, <https://doi.org/10.36701/nukhbah.v7i2.411>.

<sup>44</sup> Pradi Khusufi Syamsu et al., 'Scrutinizing Integrative Learning in Arabic Instruction', *International Journal of Islamic Thought and Humanities* 2, no. 1 (2023): 107–23, <https://doi.org/10.54298/ijith.v2i1.78>.

<sup>45</sup> Buhori Muslim et al., 'The Arabic Language Contribution to the Istinbāt in Islamic Law of Acehese Scholars', *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 6, no. 1 (2022): 224–43, <https://doi.org/10.22373/sjhk.v6i1.11732>.

<sup>46</sup> Ahmet Topal, 'A Comparison of the Linguistic Categories of Muṣṭarak and Muṣṭakil of the Ḥanafī Islamic Jurisprudence', *Sırnak Üniversitesi İlahiyat Fakültesi Dergisi*, no. 31 (2023): 122–51, <https://doi.org/10.35415/sirnakifd.1258792>.

<sup>47</sup> Robyn Creswell, 'Is Arabic Untranslatable?', *Public Culture* 28, no. 3 (2016): 447–56, <https://doi.org/10.1215/08992363-3511490>.

<sup>48</sup> Mohammed Salmeen Abdullah Bin Snh, Abdelali Bey Zekkoub, and Yousef Mohammed Abdo, 'The Methodology of al-Imām Jamāl al-Dīn al-Ṣafadī's Use of Intrusion in the Interpretation of the Noble

In addition to the issue of language, the lack of methodological innovation in *uṣūl al-fiqh* is also highly likely to contribute to the scarcity of critique ideas. Although scholars engage in the analysis and debate of methodologies, the agreed-upon sources remain the Quran, Sunnah, consensus (*ijmā*), and analogy (*qiyās*).<sup>49</sup> Adherence to these sources may contribute to the perception of continuity rather than continuous methodological innovation. Scholars focus on interpreting and adapting existing methodologies to address contemporary issues rather than introducing entirely new methodologies.<sup>50</sup>

Although the diversity of opinions in *uṣūl al-fiqh*, representing various schools of thought, can be considered a strength<sup>51</sup> it can also lead to differences in views extending to the methodological domain.<sup>52</sup> Disagreements on methodological aspects may contribute to the scarcity of works criticizing *uṣūl al-fiqh* if consensus on these crucial issues cannot be reached.<sup>53</sup> In other words, the absence of unanimous agreement on sources or methodologies further reinforces the scarcity of works that critique *uṣūl al-fiqh*.<sup>54</sup> Consequently, the complexity of contemporary challenges may simply necessitate scholars to

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Qur'an through His Book "Kashf al-Asrār wa Hatku al-Astār": An Analytical Critical Study', *Ma'ālim al-Qur'ān wa al-Sunnah* 19, no. 1 (2023): 46–68, <https://doi.org/10.33102/jmq.v19i1.389>.

<sup>49</sup> Nurul Hidayah and Fayruzah el-Faradis, 'Efforts to Improve the Quality of al-Qur'an Reading and Writing Learning in al-Wathoniyah al-Islamiyah Sumenep al-Qur'an Education Park (TPQ)', *Indonesian Journal of Advanced Research* 2, no. 5 (2023): 475–90, <https://doi.org/10.55927/ijar.v2i5.4226>. Ahmet Yaman, 'Fikih Usūlū İşlevini Tamamladı mı?', *Marmara Üniversitesi İlahiyat Fakültesi Dergisi* 57, no. 57 (2019): 25–46, <https://doi.org/10.15370/maruifd.679183>.

<sup>50</sup> Fathullah al Haq Muhamad Asni, 'al-Syatibi Methodology Analysis in the Unification of Usul al-Fiqh Methods', *International Journal of Academic Research in Business and Social Sciences* 7, no. 7 (2017): 260–68, <https://doi.org/10.6007/IJARBS/v7-i7/3093>.

<sup>51</sup> Nasiri, 'The Perfect Performance of Tariqat al-Mutakallimin according Fakhrudin al-Razi Perspective'.

<sup>52</sup> Izza Rohman, 'Different Approaches to Sunni-Shi'i Exegetical Differences: al-Ṭabāṭabā'ī, Hamka, and Shihab on Ahl al-Bayt', *Australian Journal of Islamic Studies* 8, no. 1 (2023): 25–41, <https://doi.org/10.55831/ajis.v8i1.555>. S Sadari, 'Qur'anic Studies: Ber-Ushul Fiqh dengan Maqashid Syariah sebagai Metode dalam Perspektif Yudian Wahyudi', *Shahih: Journal of Islamicate Multidisciplinary* 3, no. 1 (2018): 47–61, <https://doi.org/10.22515/shahih.v3i1.1103>.

<sup>53</sup> Ahmad Muzakki, 'Moderate Fiqh in The Perspective of Islamic Boarding School Students', *Syaikhuna: Jurnal Pendidikan dan Pranata Islam* 14, no. 1 (2023): 99–118, <https://doi.org/10.58223/syaikhuna.v14i01.6400>.

<sup>54</sup> Yahdi Dinul Haq, Hafizah Muchtia, and Zia Alkausar Mukhlis, 'Bid'ah in Concept of Maslahah Mursalah and Istihsan According to Imam Asy-Syathibi', *Juris (Jurnal Ilmiah Syariah)* 20, no. 2 (2021): 225–37, <https://doi.org/10.31958/juris.v20i2.3352>.



adapt existing methods or propose different applications,<sup>55</sup> rather than introducing entirely new methodologies.<sup>56</sup>

In addition to language issues and lack of methodological innovation, there is another factor that plays a relative role, namely the lack of practical relevance of *uṣūl al-fiqh* to contemporary needs. It is not accurate to universally state that *uṣūl al-fiqh* lacks practical relevance, as opinions on this matter vary among scholars.<sup>57</sup> In essence, while some argue that the fundamental principles of *uṣūl al-fiqh* are timeless and can be applied to address modern legal issues, others believe that adaptation and reinterpretation are needed to meet contemporary demands.<sup>58</sup> In turn, although some scholars actively contribute to the evolution of *uṣūl al-fiqh* by addressing contemporary challenges and proposing developments,<sup>59</sup> not all scholars are equally involved in this process. Some factions are more conservative or traditional in their approach. They highlight the prevalent conservative paradigm in the study of *uṣūl al-fiqh*, limited to consumption without contextualization and application.<sup>60</sup>

In conclusion, while it can be debatable, this article tends to perceive that the lack of practical relevance of *uṣūl al-fiqh* to contemporary needs leads to the scarcity of critique and proposals for the development of *uṣūl al-fiqh*. It acknowledges that the relationship between *uṣūl al-fiqh*, practical relevance, and scholars' engagement in criticism varies among scholars and schools of thought within the Islamic legal tradition.

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<sup>55</sup> Snh, Zekkoub, and Abdo, 'The Methodology of al-Imām Jamāl al-Dīn al-Ṣafadī's Use of Intrusion in the Interpretation of the Noble Qur'ān through His Book "Kashf al-Asrār wa Hatku al-Astār": An Analytical Critical Study'.

<sup>56</sup> Asni, 'al-Syatibi Methodology Analysis in the Unification of Usul al-Fiqh Methods'.

<sup>57</sup> Yaman, 'Fikah Usūlū İşlevini Tamamladı mı?'

<sup>58</sup> Kamali, 'Issues in the Legal Theory of Usul and Prospects for Reform'. Sumeysra Yakar, 'The Diachronic Analysis of Interactive Relation between 'Urf and Sira 'Uqalāiyya in the Ja'fari School of Law', *Kilis 7 December University Journal of Theology* 7, no. 2 (2020): 719–744, <https://doi.org/10.46353/k7auifd.793977>.

<sup>59</sup> Robert W. Hefner, 'Ihsan Ethics and Political Revitalization: Appreciating Muqtedar Khan's Islam and Good Governance', *International Institute of Islamic Thought*, 2020, <https://doi.org/10.47816/01.001.20>.

<sup>60</sup> Arifin, 'Ushul Fiqh sebagai Kerangka Berpikir Santri Milenial dalam Memecahkan Problematika Sosial Keagamaan'.

## The Policy-related Factors

The final factor that has led to the dearth of criticism *uṣūl al-fiqh* science is the policy of implementing the *uṣūl al-fiqh* curriculum in the educational system.<sup>61</sup> Indeed, this perception is still subjective and cannot be generalized. However, as known, among Islamic educational institutions, some are comprehensive.<sup>62</sup> Some also experience limitations, especially in curriculum, teaching methods, and resources. The limitations in the educational process are likely to hinder or limit the ability of scholars to produce critical and innovative works in *uṣūl al-fiqh*. It can be said that these limitations may give rise to relatively traditional scholars who do not contribute significantly to the critique *uṣūl al-fiqh*.<sup>63</sup>

The above perception is highly relevant to what Rahman reported that the standard number of *uṣūl al-fiqh* subjects and the need for modules to produce competent Sharia students is lacking.<sup>64</sup> On the contrary, Safian presents the case of Yusuf Qaradawi, a prominent scholar, who made a remarkably significant contribution to the development of *fiqh* despite the limitations in his education.<sup>65</sup> Gaybullayev further complicates this issue by discussing the contributions of scholars from Mawarounnahr to the development of *uṣūl al-fiqh*, stating that the influence of education on scholarly contributions can vary depending on specific contexts and individuals.<sup>66</sup>

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<sup>61</sup> Ahmad Hapidin, Nanat Fatah Natsir, and Erni Haryanti, 'The Challenge of Science in Islamic Education in Era 4.0', *Jurnal Alwatzikhoebillah: Kajian Islam, Pendidikan, Ekonomi, Humaniora* 8, no. 1 (2022): 41–57, <https://doi.org/10.37567/alwatzikhoebillah.v8i1.995>.

<sup>62</sup> Moh. Asror Yusuf, 'Rethinking the Significance of Pesantren-Based Integrative Islamic Studies in the Faculty of Ushuluddin and Dakwah IAIN Kediri', *Teosofi: Jurnal Tasawuf dan Pemikiran Islam* 9, no. 2 (2019): 326–52, <https://doi.org/10.15642/teosofi.2019.9.2.326-351>.

<sup>63</sup> Abdul Haris and Nurfaika Nurfaika, 'Rekonstruksi terhadap Design of Education, Character, and Practice', *Jurnal Alwatzikhoebillah: Kajian Islam, Pendidikan, Ekonomi, Humaniora* 8, no. 2 (2022): 82–95, <https://doi.org/10.37567/alwatzikhoebillah.v8i2.1429>.

<sup>64</sup> Noor Naemah Abdul Rahman et al., 'The Teaching and Learning of Usul Alfiqh in Public Universities in Malaysia: Reality and Challenges', *Jurnal Syariah* 16, no. 3 (2008): 523–536, <https://ejournal.um.edu.my/index.php/JS/article/view/22755>.

<sup>65</sup> Yasmin Hanani Mohd Safian, 'The Contribution of Yusuf Qaradawi to the Development of Fiqh', *Electronic Journal of Islamic and Middle Eastern Law* 4 (2016): 45–53, <https://doi.org/10.5167/uzh-124518>.

<sup>66</sup> Gaybullaev Saidahmadkhon Samatkhonovich, Khushvaqov Makhmayusuf Ashurovich, and Abdupattaev Mumin Mirzo Murodjon Ugli, 'The Entry and Development of the Science "Usul al-Fiqh" in Mawarounnahr', *Turkish Online Journal of Qualitative Inquiry (TOJQI)* 12, no. 6 (2021): 6735–41, <https://www.tojq.net/index.php/journal/article/download/2817/1882/3127>.

In addition to the curriculum policies above, policies related to providing access to *uṣūl al-fiqh* literature also contribute to the scarcity of works criticizing *uṣūl al-fiqh*. Some argue that policies regarding access to *uṣūl al-fiqh* reading materials do not seem to be the reason for the scarcity of works criticizing *uṣūl al-fiqh*. Research conducted by Staudt and Davis, for example, suggests that providing free and discounted access to scientific literature does not always result in higher article production or increased citations.<sup>67</sup> Additionally, a study by Parker seems to support the findings above, focusing on the importance of removing access barriers to global research for developing countries.<sup>68</sup>

Nevertheless, logical reasoning can understand the fact that some publications may be difficult for the general public to access due to limited distribution. This may include publications in less common languages or works that are not easily accessible online. Furthermore, from Gaybullayev's study, it can also be inferred that if policies providing widespread access to *uṣūl al-fiqh* literature are identified as a potential factor for the extraordinary development of the field, there may be varying impacts depending on specific contexts and individuals.<sup>69</sup> Therefore, conversely, as inferred by this article, limited access can be a directing factor in the scarcity of works criticizing *uṣūl al-fiqh*. Inferences like the ones above can also be drawn from Rahman's study, indicating that if there is a lack of standardized curricula and the need for modules in *uṣūl al-fiqh* at universities, it may result in Sharia students who are not competent. Consequently, these students may be unable to produce critical and constructive works on *uṣūl al-fiqh* in the contemporary era.<sup>70</sup>

## Steps to Reconstruct *Uṣūl al-Fiqh*: An Offer for Development

The reconstruction of *uṣūl al-fiqh* in this article refers to rebuilding (*i'ādah al-binā'*) *uṣūl al-fiqh* with the aim that Islamic law (as a product of *uṣūl al-fiqh*) remains compatible with and useful for contemporary life. The author believes

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<sup>67</sup> Joseph Staudt, 'Mandating Access: Assessing the NIH's Public Access Policy', *Economic Policy* 35, no. 102 (2020): 269–304, <https://doi.org/10.1093/epolic/eiaa015>. Philip M. Davis, 'Do Discounted Journal Access Programs Help Researchers in Sub-Saharan Africa? A Bibliometric Analysis', *Learned Publishing* 24, no. 4 (2011): 287–98, <https://doi.org/10.1087/20110406>.

<sup>68</sup> Kimberly Parker, 'Further Reflections on Open Access', *Bulletin of the World Health Organization* 87, no. 9 (2009): 732–732, <https://doi.org/10.2471/BLT.09.070946>.

<sup>69</sup> Samatkhonovich, Ashurovich, and Ugli, 'The Entry and Development of the Science "Usul al-Fiqh" in Mawarounnahr'.

<sup>70</sup> Rahman et al., 'The Teaching and Learning of Usul Alfiqh in Public Universities in Malaysia: Reality and Challenges'.

that, as Mahmassani suggests,<sup>71</sup> Islamic law is a living and evolving legal system, no different from any other legal system in the modern world, and therefore *uṣūl al-fiqh* should also be developed. In the past, when scholars reconstructed *uṣūl al-fiqh*, their motives were one of two things: to encourage the development of new legal methodologies, or to justify the legal doctrines of a madhhab. Although, most historians argue that *uṣūl al-fiqh* was largely, if not entirely, justificatory.<sup>72</sup> Now, scholars have another motive: that Islamic law is no longer portrayed in a simplistic way, such as passive, conservative, and restraining social and political development,<sup>73</sup> as well as so that Islamic law remains enforceable in modern states.<sup>74</sup>

In broad terms, scholars can now be grouped into 3 (three): secular groups representing the view that Islamic teachings should be completely ignored; traditional groups highlighting the importance of restoring traditional forms of pure religion; and reformist groups trying to find new perspectives in formulating Islamic legal theories that are more relevant to current realities.<sup>75</sup> Different approaches led to different reconstruction results. In Indonesia, for example, Hasbi Ash-Shiddieqy and Hazairin have put forward the idea of Indonesian fiqh madhhab as a form of reconstruction of *uṣūl al-fiqh* that reflects the social and cultural context of Indonesia.<sup>76</sup> This article is inclined towards the third approach, although it must realize that the contribution it proposes is small. However, no matter how small the contribution of an idea on *uṣūl al-fiqh*, it deserves to be considered.<sup>77</sup>

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<sup>71</sup> John Strawson, 'Revisiting Islamic Law: Marginal Notes from Colonial History', *Griffith Law Review* 12, no. 2 (2003): 362–83, <https://doi.org/10.1080/10383441.2003.10854525>.

<sup>72</sup> Youcef Soufi, 'The Historiography of Sunni Usul al-Fiqh', in *The Oxford Handbook of Islamic Law*, ed. Anver M. Emon and Rumea Ahmed (Oxford University Press, 2018), 248–70, <https://doi.org/10.1093/oxfordhb/9780199679010.013.30>.

<sup>73</sup> Strawson, 'Revisiting Islamic Law: Marginal Notes from Colonial History'.

<sup>74</sup> Rüdiger Lohlker, 'Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia', *Interdisciplinary Journal for Religion and Transformation in Contemporary Society* 7, no. 1 (2021): 188–208, <https://doi.org/10.30965/23642807-bja10011>.

<sup>75</sup> Wael B Hallaq, 'Crises of Modernity: Toward a New Theory of Law?', in *A History of Islamic Legal Theories*, ed. Wael B Hallaq (Cambridge: Cambridge University Press, 1997), 207–54, <https://doi.org/10.1017/CBO9780511801266.007>.

<sup>76</sup> Adelina Nasution, 'Narsisme Ulama: Dilema dan Possibilitas Rekonstruksi Ushul Fiqh di Indonesia', *al-Ahkam* 28, no. 2 (2018): 219–44, <https://doi.org/10.21580/ahkam.2018.18.2.2308>.

<sup>77</sup> Fajri Matahati Muhammadin and Hanindito Danusatya, 'De-Secularizing Legal Education in Indonesian Non-Islamic Law School: Examining the "Introduction to Jurisprudence" Textbooks on the

Below are the steps that can be taken: first, re-systematization. While this step may seem simple, it is very meaningful. Scholars can now see and take an example of what the scholars of *mā warā'a al-nahr* did. They systematized the topics, summarized all views and opinions, and revised them.<sup>78</sup> More technically, they examined the factors that influenced the development, as well as introduced new concepts and methods that had not been found in previous *uṣūl al-fiqh*. Some of their new concepts and methods are *taqlīd*, *ittiḥād al-madhāhib*, and *ijtihād* which all play an important role in *uṣūl al-fiqh*.<sup>79</sup> They also added rules to the method of *istinbāṭ* previously found in al-Shāfi'i's *al-Risālah*, provided broader theological explanations, and introduced ratio and logic as a means to better understand religious teachings.<sup>80</sup> Some of their works are *maḥāsin al-sharī'ah* by Kaffāl al-Shāshī, *Taqwīm al-'Adillah* by Abū Zayd al-Dabūsī and "*uṣūl al-pazdawī*" by Fakhr al-Islām al-Pazdawī. Because of this, their works are considered authoritative sources throughout the Muslim world. New research published is always related to their works. Their contributions are all the more important for having deeply revealed the purpose and essence of Islam in their *uṣūl al-fiqh* works.<sup>81</sup>

Second, integration with other sciences. Many scholars advocate this. *Uṣūl al-fiqh* should indeed be developed by integrating it, for example, with the humanities. This is solely to address contemporary humanitarian issues.<sup>82</sup> Multidisciplinary, interdisciplinary, or trans-disciplinary models of study are forms of such integration.<sup>83</sup> *Uṣūl al-fiqh* that has been integrated with other sciences is even considered important for the successful implementation of the

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"Norm Classification" Chapter', *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam* 1, no. 2 (2018): 135–58, <https://doi.org/10.30659/jua.v1i2.2455>.

<sup>78</sup> Walid A. Saleh, 'Rereading al-Ṭabarī through al-Māturīdī: New Light on the Third Century Hijrī', *Journal of Qur'anic Studies* 18, no. 2 (2016): 180–209, <https://doi.org/10.3366/jqs.2016.0242>.

<sup>79</sup> Saidahmadxon Gaybullayev, 'The Beginning and Development of the Science "Usul al-Fiqh" in Mawarannahr', *The Light of Islam*, 2021, 68–75, <https://doi.org/10.47980/IIAU/2021/2/9>.

<sup>80</sup> Yovqochev Sh.A, 'On the Contribution of the Transoxiana (Mawarannahr) Peoples to the Islamic Sciences', *Minbar Islamic Studies* 15, no. 2 (2022): 263–83, <https://doi.org/10.31162/2618-9569>.

<sup>81</sup> Samatkhonovich, Ashurovich, and Ugli, 'The Entry and Development of the Science "Usul al-Fiqh" in Mawarounnahr'.

<sup>82</sup> Hijrian Angga Prihantoro, 'Hassan Hanafi and Islamic Legal Theory: From Phenomenology to Critique of the Slogan "Going Back to the Qur'an and Sunna"', *Mazahib* 20, no. 2 (2022): 193–224, <https://doi.org/10.21093/mj.v20i2.3750>.

<sup>83</sup> Lailita Fitriani et al., 'Eksistensi dan Kehujjahan Urf sebagai Sumber Istimbath Hukum', *al-Hikmah* 7, no. 2 (2022): 246, <https://doi.org/10.30651/ah.v7i2.8088>.

reconstruction of *uṣūl al-fiqh* in Indonesia.<sup>84</sup> Ali Yafie, for example, proposes that the reconstruction of *uṣūl al-fiqh* involves integrating the text with reason, integrating the text with reality, and integrating the text with *maṣlaḥah*.<sup>85</sup> Hassan Hanafi's thoughts in *Min al-Naṣṣ ilā al-Wāqī'* can be categorized not only in this integration step because he uses the hermeneutic and phenomenological approaches, but also in the third step later, because he advocates the *maṣlaḥah* approach.<sup>86</sup> In short, if Islamic law, as a product of *uṣūl al-fiqh*, is to be compatible with contemporary humanity, then its *uṣūl al-fiqh* must be integrated with current humanitarian sciences.<sup>87</sup>

Third, making *maqāṣid* as an approach. Some Islamic scholars have tried to reconstruct *uṣūl al-fiqh*, but at least according to Hallāq, no one has produced a pragmatic and systematic *uṣūl al-fiqh* that considers different social, cultural, and political contexts. The most important aspect of pragmatic and systematic *uṣūl al-fiqh* is the public good and interest (*maqāṣid al-sharī'ah*).<sup>88</sup> Therefore, *uṣūl al-fiqh*, which is perceived to be dysfunctional in responding to global challenges<sup>89</sup> because it is heavily influenced by *'ilm al-kalām*,<sup>90</sup> as well as its *qiyās* method that merely transfers partial cases to other partial cases, and is not followed by a shift towards the experimental method.<sup>91</sup> The *maqāṣid* is accommodative because it is

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<sup>84</sup> Nasution, 'Narsisme Ulama: Dilema dan Posibilitas Rekonstruksi Ushul Fiqh di Indonesia'.

<sup>85</sup> Amrin Amrin, Suciyani Suciyani, and Nurrahmaniah Nurrahmaniah, 'Reconstruction of Ali Yafie's Thinking in the Field of Social Fiqh in the Development of Islamic Law (Critical Review)', *al-Manhaj: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 1 (2023): 187–200, <https://doi.org/10.37680/almanhaj.v5i1.2341>.

<sup>86</sup> Hassan Hanafi, *Min al-Naṣṣ ila al-Wāqī': Muḥāwalah li-l'ādah Binā'i 'Ilmi Uṣūl al-Fiqh* (Cairo: Markaz al-Kitāb li al-Nashr, 2004), 5–17; Amrin Amrin, Supriyanto Supriyanto, and Suciyani Suciyani, 'Hasan Hanafi's Thoughts on the Authenticity of God's Revelation', *Jurnal Indo-Islamika* 12, no. 1 (2022): 35–48, <https://doi.org/10.15408/jii.v12i1.22159>.

<sup>87</sup> Yusdani, 'Islamic Law and Contemporary Challenges from Fresh Ijtihad Point of View', *Jurnal Hukum Islam* 20, no. 1 (2022): 101–24, <https://doi.org/10.28918/jhi.v20i1.5991>.

<sup>88</sup> Setia, 'Freeing Maqasid and Maslaha from Surreptitious Utilitarianism'; Hallaq, 'Crises of Modernity: Toward a New Theory of Law?'

<sup>89</sup> Kamali, 'Issues in the Legal Theory of Usul and Prospects for Reform'; Tazul Islam, 'Expansion of Maqasid Thought beyond Maqasid al-Shariah: Maqasid al-Quran as a New Paradigm', *Hamdard Islamicus* 45, no. 4 (2022): 79–95, <https://doi.org/10.57144/hiv45i4.514>.

<sup>90</sup> Rami Koujah, 'Divine Purposiveness and Its Implications in Legal Theory: The Interplay of Kalām and Uṣūl al-Fiqh', *Islamic Law and Society* 24, no. 3 (2017): 171–210, <https://doi.org/10.1163/15685195-00243p01>. Ṭāhā Jābir al-'Alwānī, 'Muqaddimah', in *Nazariyyah al-Maqāṣid 'ind al-Imām Muhammad al-Ṭāhir Ibn Āshūr* (Virginia: International Institute of Islamic Thought, 1963), 6–15.

<sup>91</sup> al-'Alwānī, 'Muqaddimah'.

based on wisdom rather than technical linguistic details so that it can answer a variety of new pragmatic issues,<sup>92</sup> and has proven to encourage the flexibility, creativity, and dynamism of Islamic law,<sup>93</sup> promising certainty<sup>94</sup> and following human nature.<sup>95</sup> Therefore, *ijtihād uṣūlī* needs to be developed into *ijtihād maqāṣidī*,<sup>96</sup> to play a more important role in producing Islamic law.<sup>97</sup>

The steps proposed by this article are small, meager contributions. There is still much that can be done starting from: an in-depth understanding of the Qur'an and Sunnah; study of *ijmā'* and *qiyās*; study of classical fiqh books; understanding of the contemporary social and cultural context; involvement of scholars and jurists; discussion and consultation; legislation and implementation; public education; and evaluation and correction.<sup>98</sup> Unfortunately, there is not enough space to review them here. This contribution is proposed efforts to reconstruct *uṣūl al-fiqh* are multifaceted. Although criticism of *uṣūl al-fiqh* is rare, it does not mean that there is no scope for reconstructing it. Many scholars have attempted to do so.<sup>99</sup> It is just that perhaps the echo is less resounding.

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<sup>92</sup> T M Buba, 'Role of Maqasid al-Shariah as a Social Welfare Concept in the Interpretation of the Sources of Shari'ah', *Unilorin Shariah Journal* 2, no. 1 (2014): 61–86.

<sup>93</sup> Melchert, 'A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh. By Wael B. Hallaq. Cambridge: Cambridge University Press, 1997. pp. ix + 294. \$59.'

<sup>94</sup> Ibrāhīm ibn Mūsā al-Lakhmi al-Gharnaṭī Abū Ishāq al-Shāṭibī, *Muwāfaqāt fi Uṣūl al-Shari'ah* (Cairo: Maktabah al-Tijāriyah al-Kubrā, 2019).

<sup>95</sup> Mohammad Hashim Kamali, 'Human Intellect ('Aql) and Innate Human Nature (Fitrah) as Identifiers of Maqāṣid', in *Actualization (Tafīl) of the Higher Purposes (Maqasid) of Shariah* (Herndon: International Institute of Islamic Thought, 2020), 12–15, <https://doi.org/10.2307/j.ctv19pr6v.8>.

<sup>96</sup> Beka, 'Maqāṣid and the Renewal of Islamic Legal Theory in 'Abdullah Bin Bayyah's Discourse'. Mohammad Hashim Kamali, 'Ijtihād Maqāṣidī', in *Actualization (Tafīl) of the Higher Purposes (Maqasid) of Shariah* (Herndon: International Institute of Islamic Thought, 2020), 18–20, <https://doi.org/10.2307/j.ctv19pr6v.10>.

<sup>97</sup> Lohlker, 'Fiqh Reconsidered: Indigenization and Universalization of Islamic Law in Indonesia'. Achmad Faidi, 'Reconstruction of the National Legal System: Study the Implementation of the Maqāṣid al-Shari'ah Theory', *al-Adalah: Jurnal Syariah dan Hukum Islam* 15, no. 2 (2019): 307–24, <https://doi.org/10.24042/adalah.v15i2.3387>.

<sup>98</sup> Umi Latifah, Ida Nurlaeli, and Ulfi Zulfikar Faridhun, 'Development of Classical Fiqh towards Contemporary: Relevance of Thought of Islamic Figures and Operational Transformation of Fiqh Products', *Santri: Journal of Pesantren and Fiqh Sosial* 4, no. 1 (2023): 1–20, <https://doi.org/10.35878/santri.v4i1.692>. M. Pauzi, Darul Hipni, and Anwar M. Radiamoda, 'The Importance of the Ijtihad Jama'i Method in Contemporary Fiqh Formulations', *al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 23, no. 1 (2023): 13–20, <https://doi.org/10.30631/alrisalah.v23i1.1322>.

<sup>99</sup> Zelfeni Wimra et al., 'The Living Fiqh: Anatomy, Philosophical Formulation, and Scope of Study', *Juris (Jurnal Ilmiah Syariah)* 22, no. 1 (2023): 185, <https://doi.org/10.31958/juris.v22i1.9491>.

If scholars in a particular field, including *uṣūl al-fiqh*, never criticize their expertise, several implications may arise. While some of these implications are positive, such as the presence of stability and enduring traditions, the establishment of a consistent and robust understanding, and the consolidation of authority, this article is more inclined to highlight that the majority of implications are negative. These may include: 1) There is a risk of stagnation that could impede progress, innovation, and the evolution of ideas, eventually causing methodologies and practices to become outdated;<sup>100</sup> 2) The emergence of failures in addressing contemporary challenges;<sup>101</sup> and 3) The narrowing of intellectual capacities among its scholars.<sup>102</sup> In summary, although stability and criticism have their respective benefits, a healthy and dynamic field often requires a balance. Constructive criticism and developmental ideas can drive progress, encourage innovation, and ensure that a field remains dynamic and responsive to evolving challenges and opportunities.

It can be said that this article, on one hand, rejects what Asim stated that the comparison of different chapters of *uṣūl al-fiqh* is a favorite topic among legal experts today, and new books are published every day.<sup>103</sup> However, on the other hand, it reinforces what he also said that the journey of *uṣūl al-fiqh* is shaped by a combination of historical developments, the influence of scholars, and critical thinking methodologies. Scholars engage in debates and discussions to refine legal methodologies, challenge opinions, and propose alternative interpretations. Therefore, critical thinking is crucial for all fields of study.<sup>104</sup> Nevertheless, there is something more certain from this article, which is to note the current trends without explicitly rejecting or reinforcing existing theories. What this article finds serves as an observation of the current scholarly condition, highlighting that issues related to the criticism and development of *uṣūl al-fiqh* are not doing as well as other topics in this subject.

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<sup>100</sup> Junaidy, 'Revitalisasi Uṣūl Fiqh dalam Menghadapi Perubahan Sosial'.

<sup>101</sup> Samir al-Khal, 'Taha Jaber al-Alwani and His Innovative Project for the Science of Usul al-Fiqh', *Majalah al-Mi'yar* 26, no. 2 (2022): 457–74, <https://www.asjp.cerist.dz/en/article/182959>.

<sup>102</sup> Jamaluddin Jamaluddin, 'Epistemologi Pembaharuan Usul Fikih Hasan Turabi', *Jurnal Mahkamah: Kajian Ilmu Hukum dan Hukum Islam* 2, no. 1 (2017): 59–76, <https://doi.org/10.25217/jm.v2i1.78>.

<sup>103</sup> Muhammad Asim ul Hassan et al, 'The Historical and Critical Thinking of Usul-ul- Fiqh and Its Evolution in Contemporary Era', *Central European Management Journal* 31, no. 3 (2023): 820–28, <https://doi.org/10.57030/23364890.cemj.31.2.88>.

<sup>104</sup> Hassan et al.



As the mother of *maqāṣid*, *uṣūl al-fiqh* should receive a larger portion of learning compared to *maqāṣid*. *Uṣūl al-fiqh*, being the foundation for *maqāṣid*, requires more intensive and critical teaching of its principles and methodology. The reality that courses, teaching curricula, faculty study programs, research, early dissemination, and publications (books, journal articles, and proceedings) about *maqāṣid* are booming, as reported by Kamalī and al-Khādimī, should not overshadow the essential importance of *uṣūl al-fiqh*.<sup>105</sup> It should awaken the awareness of *uṣūl al-fiqh* scholars who are reluctant to move away from the comfort of established knowledge. Additionally, it is crucial to address this scarcity of critique and developmental proposals by fostering openness to accepting diverse opinions from various fields of knowledge, including science, social sciences, humanities, and technology.<sup>106</sup> The last, but equally important, recommendation is government policy support to address the scarcity of critique and developmental efforts in this field.

## Conclusion

Out of 872 examined works, only 19 addressed criticism ideas related to *uṣūl al-fiqh*. The identified themes of these 19 works include criticism of the notion that the doors of *ijtihād* are closed; the idea that independent *ijtihād* is impossible; the politicization of *ijmā'*; the assertion that al-Shāfi'ī is the founder of *uṣūl al-fiqh*; the categorization of agreed-upon vs. disagreed-upon sources, among others. The factors contributing to the scarcity of critique ideas are diverse and complementary. Scholars' specialization and focus on other areas, reluctance to engage in critical thinking, and neglect of criticism from *maqāṣid* studies are internal factors. On the other hand, internal factors within *uṣūl al-fiqh* include the use of Arabic as the introductory language, the lack of methodological innovation, and the perceived lack of practical relevance to contemporary needs. Curriculum and access provision are policy-related factors. All these factors work together to contribute to the scarcity of critique in *uṣūl al-fiqh*. Although criticism of *uṣūl al-fiqh* is rare, it does not mean that there is no scope for reconstructing it. This article proposes some

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<sup>105</sup> Mohammad Hashim Kamali, 'Approaches to Maqāṣid: Reductionism, Expansionism and Moderation (Tafīr, Ifrāt, I'tidāl)', in *Actualization (Tafīl) of the Higher Purposes (Maqāṣid) of Shariah* (Herndon: International Institute of Islamic Thought, 2020), 6–9, <https://doi.org/10.2307/j.ctv19pr6v.6>; Nūr al-Dīn Mukhtār al-Khādimī, *al-Maqāṣid al-Sharī'ah: Dawābiṭuhā, Tārīkhuhā, Taṭbīqātuhā* (Riyāḍ: Dār Kunūz Iṣbīliyāh, 2007), 43–96.

<sup>106</sup> Umdatul Baroroh, 'Understanding Methodology of Fiqh Sosial', *Santri: Journal of Pesantren and Fiqh Sosial* 1, no. 1 (2020): 27–42, <https://doi.org/10.35878/santri.v1i1.202>.

steps that can be taken immediately to reconstruct *uṣūl al-fiqh*. These steps have been initiated by previous scholars, namely: re-systematization, integration with other sciences, and the use of *maqāṣid* as an approach.

This article has made a significant contribution to understanding the recent developments in *uṣūl al-fiqh* and evaluating the extent to which scholars of *uṣūl al-fiqh* engage in criticizing and reconstructing their field of expertise. Indeed, it is important to acknowledge that the development of *uṣūl al-fiqh* requires time and sustained contributions. Constructive criticism is needed to enrich and advance the existing *uṣūl al-fiqh*, as well as ensure that it meets the societal needs for relevant legal principles. There are some notes regarding the research methodology that could enhance diversity and depth of analysis. For instance, the study focused solely on open-access books and articles, while dissertations and works from reputable publishers could provide additional insights. If opportunities arise, other researchers can conduct more detailed analyses, identifying changes or patterns of criticism over time to gain a deeper understanding. Overall, this article provides a valuable initial overview, and further development could open space for more in-depth and comprehensive research in the future.[a]

### **Author Contribution Statement**

**Tholkhatul Khoir:** Conceptualization; Data Curation; Formal Analysis; Funding Acquisition; Investigation; Methodology; Project Administration; Resources; Validation; Visualization; Writing Original Draft; Writing, Review & Editing.

**Lathifah Munawaroh:** Validation; Visualization; Writing, Review & Editing; Translation.

**Zainudin bin Hassan:** Methodology; Validation; Writing, Review & Editing.

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