Progressive Legal Reasoning in Contemporary Islamic Legal Reform: Negotiating the *Maqāṣid* and Hermeneutic Approaches

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Abstract: This research aims to negotiate and integrate two schools of progressive legal thought in Islamic legal reform: the *maqāṣid al-sharī'ah*-institutional model proposed by Asrorun Niam Sholeh, and the hermeneutic-individual model developed by Abdullah Saeed. Both emphasize the urgency of Islamic law's responsiveness to the dynamics of the times, but they depart from different epistemological frameworks. In addition, this research aims to identify the fundamental similarities and differences between the two, as well as their integration. This research employs a qualitative method, utilizing a literature review and critical discourse analysis of Asrorun's legal framework, as presented in his works and his influence on the Fatwa Commission of the Indonesian Ulema Council (MUI), as well as Saeed's academic works on contextual hermeneutics. The analysis reveals that Asrorun established a legal framework grounded in *maqāṣid al-sharī'ah* through a collective institutional authority framework, emphasizing reform from within the MUI by recontextualizing the classical *fiqh* normative framework, while remaining open to social change. Meanwhile, Saeed promotes epistemological reform through a contextual hermeneutic approach that challenges traditional epistemological structures (literal authority over texts) and provides ample space for ethical rationality for universal ethical values in ijtihad. The integration of these two approaches yields an epistemological negotiation model that bridges institutional structures and hermeneutic interpretive dynamics in the context of Islamic legal renewal. The implications of this comparison reveal both tensions and opportunities for dialogue between the internal reform model (insider reform) and a more radical methodological transformation.

Keywords: Contextual *Ijtihad*; Hermeneutic; Islamic Legal Reform; *Maqāṣid*; Progressive Legal Reasoning

Introduction

*O*ver time, with globalization and increasingly complex contemporary realities, classical *fiqh* is often considered insufficiently responsive in addressing new issues (Abdullah et al., 2013). Many modern social problems do not have a direct intersection in classical Islamic legal literature, so there is a need for a more contextual and progressive approach in legal thinking/reasoning, as an effort to bridge the gap between the text and the new realities faced by Muslims (Kamali, 2008). Progressive legal reasoning seeks to address contemporary issues by integrating modernity with traditional Islamic principles (Rusli, 2014). Progressive legal reasoning does not seek to abandon classical traditions but rather represents an effort to reinterpret normative texts and consider them in light of contextual social aspects (El Fadl, 2001). This idea is particularly relevant to the *ummah* (Muslim community), which seeks Islamic and practical solutions to complex contemporary realities (Azra, 2013).

Two figures who have emerged in this idea are Asrorun Ni'am Sholeh and Abdullah Saeed. Both represent two different but complementary approaches to issuing fatwas. The internal reformist approach originates from religious institutions and the transnational epistemological approach based on contextual

hermeneutics (M. A. N. Sholeh, 2024). Asrorun, as part of the MUI Fatwa Commission, conducts Institutional Legal Reasoning by combining classical-traditional and responsive-progressive approaches based on *maqāṣid al-sharī'ah* to contemporary realities through the LIVING approach. Additionally, Abdullah Saeed employs independent legal reasoning by developing a contextual hermeneutics and human rights framework to interpret the Quran through a socio-historical and moral lens (Saeed, 2005b). Therefore, these two approaches need to be examined comparatively and comprehensively, as they reflect the tension between two poles and the potential for epistemic dialogue within the discourse on global Islamic legal reform.

Previous studies have highlighted the dynamics of progressive reasoning and the roles of its actors. For example, Hosen's (2004) research examines the authority of fatwas and the reconstruction of Islamic law in Indonesia, with a focus on the Indonesian Ulema Council (1975–1998) as an agent of normative change (Hosen, 2004). Meanwhile, the work by Saeed and Hasan (2006) elaborates on contextual hermeneutics in Qur'anic studies, which forms the primary foundation of Saeed's approach to Islamic law (Saeed, 2005b). Additionally, several studies on progressive fatwas have explored aspects such as the integration of modernity and tradition (Duderija & Zonneveld, 2021), moderation (Rusli, 2014), contextualism (Whyte, 2023), and value-based approaches (Ismail et al., 2021). However, no comparative or comprehensive research has explicitly brought together the ideas of progressive fatwas with the epistemological approaches of Asrorun and Saeed.

Therefore, this research aims to fill this gap by exploring methodological intersections, epistemological positions, and their contributions to the renewal of Islamic law. At least, this research will answer four questions: 1) How is the progressive legal reasoning model developed by Asrorun Ni'am Sholeh and Abdullah Saeed constructed? 2) What are the differences in the epistemological and methodological bases between their approaches? 3) How do their approaches position the relationship between text, context, and religious authority? 4) What are the contributions of each approach to contemporary Islamic legal reform?

Progressive legal reasoning in contemporary Islamic legal reform involves a multifaceted approach that encompasses historicism, hermeneutics, *maqāṣid al-sharī'ah*, and integration with modern legal systems. These steps simultaneously aim to adapt Islamic law to be relevant to the realities of contemporary society. Asrorun, on the one hand, offers an approach rooted in institutional frameworks and strong legitimacy. In contrast, Saeed proposes an approach grounded in individual thought and a broad ethical scope. Both represent two different but relevant epistemic models in responding to the challenges of the times. Thus, theoretically, this research is expected to enrich the study of fatwa epistemology and provide new insights into the dynamics of contemporary Islamic legal reform.

Literature Review

Progressive Legal Reasoning in Islamic Legal Reform

Literature on progressive legal thinking in contemporary Islamic legal reform reveals a methodological spectrum that combines traditional approaches and interpretive innovations to address modern social dynamics. Historicism, in both its progressive historical theory and its use as a reference for text interpretation, serves as the initial foundation for framing legal change (Fadel, 2011). In line with this, Ibn Qayyim al-Jawziyyah's theory posits that Islamic law is adaptable to variations in space, time, conditions, motives, and customs, which is crucial for Islamic family law to remain in harmony with contemporary realities (Ningsih, 2025). At the institutional level, collective ijtihad (*al-ijtihād al-jamā'ī*), which developed in the 20th century, strengthened cooperation among scholars in formulating a methodological framework responsive to modern challenges (Makhlouf, 2020).

The framework of *maqāṣid al-sharī'ah* is an essential pillar in linking Islamic legal reform with the principles of human rights and ethical objectivism, while bridging the differences between conservative and progressive groups (Rohmanu & Rofiah, 2023). In Indonesia, the concept of *maqāṣid* has been widely implemented to accommodate social change while preserving the five principles of protecting the five basic things (Yusuf et al., 2024; Zaim & Eldeen, 2024). Nevertheless, significant challenges remain, such as in

Malaysia, where the gap between widespread legal awareness and core epistemological commitments in Islamic legal theory hinders reform, exacerbated by the perception that Islamic law is absolute and singular, which in turn reinforces conservative resistance (Moustafa, 2013).

Maqāṣid and Hermeneutic Legal Reasoning

The relationship between *maqāṣid al-sharī'ah* and hermeneutic legal reasoning exhibits significant conceptual synergy in efforts to reform Islamic law, ensuring its relevance to contemporary social developments. *Maqāṣid al-sharī'ah*, which aims to protect religion, life, intellect, lineage, and property, has evolved from classical formulations to modern approaches (El-Mesawi, 2012; Nur et al., 2020; Takim, 2014; Yusuf et al., 2024). This framework has become a crucial instrument in adapting Islamic legal norms to the needs of society without compromising their fundamental principles (Helmy, 2022; Zaim & Eldeen, 2024).

Hermeneutic legal reasoning, on the other hand, focuses on interpreting the texts of the Qur'an and Sunnah in a thematic and contextual manner, resulting in legal decisions that take into account the unity of meaning and social reality (Belhaj, 2013). Although there is debate regarding the limits of restructuring Islamic legal hermeneutics, between maintaining classical methodology and opening space for a more progressive collective approach (Hefni et al., 2025).

From a methodological perspective, research in this field generally adopts a qualitative and normative approach, combining empirical analysis with a philosophical-interpretive framework to examine the basic principles of Islamic law (Fauziah, 2023). The role of ijtihad becomes crucial, especially in responding to new, complex issues, to ensure that legal decisions remain aligned with the objectives of Sharia (Fahrudin, 2021; Kamali, 2021). The contemporary ijtihad framework integrates the principles of *uṣūl al-fiqh* and *qawā'id fiqhiyyah*, thereby strengthening the methodological basis for reform (Zahari & Safiai, 2025).

Method

This research employs a qualitative comparative approach. This approach is used to explore two models of progressive legal reasoning developed by Asrorun Ni'am Sholeh and Abdullah Saeed. The selection of these two figures is based on representative considerations: Asrorun reflects the institutional legal reasoning model rooted in fatwa authority and religious institutional structures in Indonesia, while Abdullah Saeed represents the independent legal reasoning model that has developed in the global academic sphere, characterized by a contextual hermeneutic style. Thus, this comparative research is not intended to assess the superiority of either approach, but rather to integrate them to find a form of epistemological negotiation that contributes to the reform of Islamic law. The research data were obtained through literature studies, with data taken from works that describe methodological constructs, authoritative legitimacy, and the social context that influences the style of legal reasoning of each figure. Several fatwas were also presented in the research as examples of how the methodology of legal reasoning is carried out through fatwa products.

The analysis process was carried out in several stages. First, examining the understanding of legal reasoning through an analysis of the literature written by both figures, including the ideological principles underlying their ideas. Second, analyzing how ideas and legal reasoning are produced in individual and collective works, such as books and fatwa documents, including how Asrorun negotiates religious authority with the need for legal reform, and how Saeed articulates hermeneutics as a strategy for Islamic renewal in the global academic context. Third, analyzing social practices in revealing the power structures, ideological positions, and socio-political dynamics that shape and are influenced by these two models of legal reasoning. Thus, through this comparative approach, the research not only compares theoretical frameworks but also critiques the power relations and ideologies that may underlie the construction of legal reasoning. Thus, this research can identify epistemological common ground and tensions to formulate a possible model of integration between institutional authority and intellectual freedom in the renewal of Islamic law, one that is ethical, inclusive, and adaptive to social change. As for this research, the overall process of the method is inseparable from the use of artificial intelligence (AI). This research was written explicitly by the author (human). It used artificial intelligence (AI) assistance in several technical

aspects, such as data display, reference management, paraphrasing (in several aspects), and translation (which has also been proofread by experts in the field). This process is part of adapting to the times while adhering to ethical standards in publication.

Results and Discussion

The Paradigm of Legal Reasoning in *Maqāṣid* Asrorun Ni'am Sholeh

1. Strategies for Islamic Law Reform: Integrating *Maqāṣid al-Sharī'ah* and Normative *Fiqh*

Asrorun Ni'am Sholeh is one of the leading figures in the development of contemporary Islamic law in Indonesia, particularly in reforming fatwas through religious authority institutions. His background in Islamic boarding schools and academic experience on campus have shaped his unique approach to Islamic law. The literal meaning of the text does not merely bind him, but also does not detach him from the roots of the tradition. This integration is clearly evident in his view, which prioritizes the *maqāṣid al-sharī'ah* paradigm, emphasizing justice, public interest, and the protection of fundamental human rights. (Auda, 2007). Asrorun's *maqāṣid*-based orientation makes his ideas more adaptive to ever-changing social dynamics. He believes that religious texts cannot be fully understood without considering the social context and moral objectives behind them (A. N. Sholeh, 2024, p. 55).

In general, Asrorun's main ideas regarding the relationship between legal reasoning, *uṣūl fiqh*, and fatwa have generated several key concepts. First, a fatwa is not only a product of text, but also a living and dynamic element that is understood, applied, and used as a reference in public policy. Second, the symbiosis of fatwa (fatwa strategy), namely the relationship between the state (fatwa) and the state, which are interconnected and interdependent. Third, a fatwa oriented towards *maslahat* must be directed towards tangible benefits. Fourth, progressive and responsive fatwas address contemporary social issues. Asrorun's thinking is influenced by his position at the intersection of Islamic boarding school/Islamic organization traditions and the academic/governmental world, so his influence is twofold: classical *uṣūl* and *fiqh* traditions (as a textual/theoretical foundation) and institutional experience (MUI, KPAI, and Ministries) that require a pragmatic-contextual approach. He also frequently refers to and interacts with contemporary religious policy figures (e.g., policies influenced by MUI figures and national religious thinkers), so his thinking accommodates institutional religious discourse and public demands.

Asrorun Ni'am Sholeh has been the Chairman of the Fatwa Commission of the Indonesian Ulema Council (MUI). Through this position, he has played a crucial role in significantly contributing to the direction and substance of MUI fatwas. He carries out his duties by continuing to use classical *fiqh* as a fundamental normative reference. However, he also strives to develop an adaptive method of legal deduction (*istinbāṭ*) that responds to the dynamic social changes occurring in society. For example, in several fatwas addressing current issues, such as vaccination, the use of genetic engineering technology, and the halal status of rapidly developing digital products, the scholars have provided guidance (MUI, 2023).

Every fatwa that is issued must go through several stages, depending on the complexity and category of the legal issue at hand: 1) Issues that are clear in terms of the law (*ma'lūm min al-dīn bi al-ḍarūrah*): For cases that are *qath'i* (certain), fatwas are issued in accordance with established law. 2) Controversial issues (*khilafiyah*): two main approaches are used: a) *al-jam' wa al-tawfiq* (combining and reconciling different opinions to find common ground) (Oktiviana, 2023); b) If a common ground cannot be reached, the *tarjīḥ* method (selection of the strongest opinion) is used through the *muqāranah* approach (comparison of arguments) based on the principles of *muqāran uṣūl al-fiqh*. 3) New issues (not found in the madhhab or *mu'tabar* books) are dealt with through ijtihad *jama'i* (collective) using the *bayānī* (textual) and *ta'līlī* (rational) approaches, using the methods of *qiyās, istiḥsān, ilḥāq, sad al-zarā'i'*, and other principles derived from the *manhaj* (school of thought) of the *mu'tabar* (authoritative) scholars (A. N. Sholeh, 2024, p. 84). The reform paradigm proposed by Asrorun Ni'am Sholeh is an effort to formulate a harmonious synthesis while maintaining the classical *fiqh* framework and demonstrating intellectual courage to adopt a more responsive contextual approach. One strategic step taken is to reconstruct the method of *istinbāṭ al-ḥukm*, considering universal values in Islam and the actual needs of contemporary society. Asrorun integrates

three epistemological approaches simultaneously: *bayānī* (textual), *burhānī* (rational), and *'irfānī* (intuitive), a formulation that philosophically aligns with the thought of Muhammad 'Ābid al-Jābirī (Al-Jabiri, 1990).

2. Characteristics of Institutional Fatwas: Authoritative Collectivity in the Influence of Asrorun's Legal Reasoning
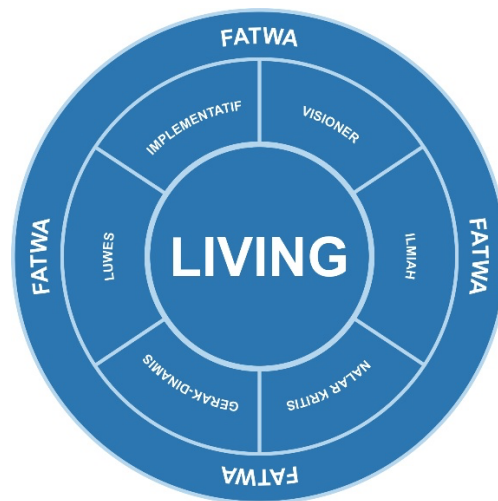
One of the most distinctive characteristics of Asrorun Ni'am Sholeh's paradigm of thought is his emphasis on the importance of fatwas originating from institutions and prioritizing authoritative collectivity. He believes that issuing fatwas should not depend solely on the personal authority of a single scholar, but rather should emerge from a consultative forum that reflects the diversity of perspectives across schools of thought and fields of expertise. This principle is evident in the collegial working mechanism of the Indonesian Ulema Council (MUI), where the fatwa-issuing process involves experts from various disciplines, including Islamic jurisprudence, medicine, economics, and sociology. For Asrorun, collective fatwas are not only a form of articulation of *maqāṣid al-sharī'ah* in legal substance, but also a manifestation of *maqāṣid* in the decision-making process itself. He emphasizes the value of *syūra* (consultation) and the integration of a multidisciplinary approach as part of the ethical principles guiding the issuance of fatwas. This approach shows affinity with the thinking of figures such as Yusuf al-Qaradawi. Still, the difference lies in Asrorun's emphasis on systematic institutional work, rather than merely articulating personal thoughts (Qardhawi, 2001).

In a global context, Asrorun's approach is similar to the institutional fatwa model developed by religious institutions such as Dar al-Ifta' in Egypt and the mufti institution in Jordan, which both emphasize the importance of *ijtihad jamā'ī* or collective ijtihad. However, Indonesia's pluralistic context regarding madhhabs and its inclusive society make this approach unique. Interestingly, several studies have noted that the institutional approach to fatwa issuance influenced by Asrorun's thinking has not only had an impact at the national level but has also attracted attention among Muslim minorities abroad (Tayeb, 2020). Several fatwas issued by the Indonesian Ulema Council under Asrorun Ni'am Sholeh's methodological approach reflect a responsive, contextual, and *maqāṣid al-sharī'ah*-based orientation. Some of these fatwas serve as concrete examples of the integration between Islamic normative values and the demands of contemporary reality, such as the fatwa on COVID-19 vaccination (Hakim et al., 2023; Taufiq et al., 2025), the fatwa on reproductive technology, the fatwa on cryptocurrency transactions, and the fatwa on digital halal (Huda et al., 2025; M. Asrorun Niam Sholeh et al., 2022). Meanwhile, research conducted by Syafiq Hasyim shows a similar trend. He notes that over the past two decades, fatwas issued by the MUI have shifted toward a more rational, inclusive approach that emphasizes public interest (Hasyim, 2015). However, this approach is not without criticism. Some researchers, including Robin Bush, question the clarity of the MUI's position within the state's ambiguous institutional structure, which straddles religious authority and proximity to the state, potentially blurring the independence of fatwas from political influence (Bush, 2009).

3. Asrorun Ni'am Sholeh and the Insider Reform Model

The approach to Islamic legal reform proposed by Asrorun Ni'am Sholeh can be categorized as insider reform, namely renewal from within the established religious structure through the Indonesian Ulema Council (MUI). Asrorun developed a principle for issuing fatwas called the LIVING approach, an acronym for *Luwes* (flexible), *Implementatif* (implementable), *Visioner* (visionary), *Ilmiah* (scientific), *Nalar-kritis* (critical thinking), and *Gerak Dinamis* (dynamic movement) (A. N. Sholeh, 2024, p. 55).

Picture 1: LIVING Approach Model: The Principle of Progressive Fatwa Asrorun

Source: from Asrorun's book on Reviving Fatwas and illustrated by the author

First, Flexibility (*Murūnah*): Fatwas must be flexible and adaptable in responding to the realities of people's lives. However, this flexibility should not be misinterpreted as *tasāhul* (easing without basis) or *tahakkum* (issuing fatwas without knowledge). Second, Implementative (*'amaly, taṭbīqī*) emphasizes that the fatwa issued must be able to be implemented in real life in society. Third, Visionary (*Mustaqbaliah*) is not only concerned with solving current problems, but also considers the future implications of the fatwa. This means that fatwas must be able to answer not only what is happening now, but also what may happen later (*naẓar fī mā ālāt al-af'āl*). Fourth, Scientific (*Manhaji*), Fatwas do not originate from unlimited free will (*bilā ḥudūd wa lā ḍawābiṭ*), but must follow the *manhaj* (method) that has been compiled and developed by scholars through disciplines such as tafsir, hadith, *uṣūl al-fiqh*, and *qawāʿid fiqhiyyah*. Fifth, Critical Reasoning (*Tafkīr-Naqdī*) in Asrorun's framework of thought stems from the need to obtain a comprehensive understanding of the issue, namely a complete *taṣawwur* of the case or problem at hand. Fifth, Dynamic Movement (*Ḥarakah-Taṭhawwuriyyah*), Fatwa is not understood as a static and final legal decision, but as a process of ijtihad that continues to move, develop, and respond to the dynamics of the times and the emergence of new issues (*masāʾil jadīdah au mustajaddah*) (Anshori & Abdurrahman, 2025; Ifandy & Hasanah, 2024). A concrete example of the application of this approach can be seen in the following fatwa table:

Table 1. Analysis of the application of the LIVING framework in the Indonesian Ulema Council's Fatwa

Fatwa Name	Main Content of Fatwa	LIVING FATWA Analysis
MUI Fatwa No. 66 of 2022 concerning the Use of Zakat Funds for Disaster Management	- Zakat can be used for disaster relief if it falls under the categories of *fī sabīlillāh* or *ghārim*. - Reinforcing the arguments of the Qur'an and hadith regarding the distribution of zakat, mutual assistance, and aid for those affected by disasters.	Flexible: Flexible in including disaster relief programs in the *mustaḥiq* (*fī sabīlillāh*, *ghārim*) category. Implementable: Provides concrete guidance for BAZNAS/LAZ in the distribution of zakat. Visionary: Anticipating the impact of disasters and expanding the scope of zakat. Scientific: Using arguments from the Qur'an, hadith, and *fiqh* rules on *maṣlaḥah*. Critical Thinking: Considering Indonesia's geographical realities, social vulnerabilities, and public policy needs. Dynamic Action: Responding to disaster phenomena and mitigation.
MUI Fatwa No. 80 of 2022 concerning Products/Materials	- Food products, medicines, cosmetics, and so on must be tested for halal compliance	Flexible: Adapting to developments in food technology and industry. Practical: Establishing practical guidelines for halal auditors and the industry. Visionary: Anticipating the complexity of future

that Must be Tested in a Laboratory	(pork contamination, alcohol, and water permeability). – Sharia basis: the command to consume what is halal, the prohibition of pork/*khamr*, and the concept of *syubhat*.	products. Scientific: Using the principles of the Qur'an and hadith, as well as the *fiqh* rule of "*al-aṣlu fī al-ashyā' al-ibāḥah*". Critical Thinking: Responding to industrial contamination risks and health hazards. Dynamic Movement: Encouraging innovation in halal supervision.
Fatwa Ijtima' Ulama VIII (2024) concerning Zakat for YouTubers, Instagram Celebrities & Digital Creative Economy Actors	- Content creators' income is subject to zakat if it reaches the *niṣāb* threshold. - Haram content: income is not subject to zakat and must be distributed for social purposes.	Flexible: Accepts various types of professions in professional zakat. Applied: Provides technical guidance on the amount of zakat. Visionary: Responds to the ever-evolving phenomenon of the digital economy. Scientific: Uses arguments from the Qur'an, hadith, and qiyas. Critical Thinking: Considers the social impact of content that is not in accordance with Sharia law (gossip, slander, pornography). Dynamic Movement: Responds to changes in the digital economy structure.
Seventh *Ijtima' Ulama* (2021) on Cryptocurrency Law	- Cryptocurrency as currency: prohibited (*gharar*, *ḍarar*, *qimār*). - Cryptocurrency as a commodity: not valid unless it has underlying assets and is free from *gharar*/*ḍarar*.	Flexible: Understanding the two positions of cryptocurrency (as currency and commodity), not closing it entirely, but applying strict conditions. Applicable: Guiding regulators, investors, and the public. Visionary: Seeing the development of the global digital economy. Scientific: Using the principles of usury, prohibition of *gharar*, *qimār*, and *sil'ah* in *fiqh al-mu'āmalah*. Critical Thinking: Analyzing economic factors and social risks. Dynamic Action: Responding quickly to rapidly developing blockchain technology innovations.
MUI Fatwa No. 65 of 2022 on Zakat Fitrah	- Explanation: Is it permissible to pay zakat *al-fiṭr* with money, the deadline for payment, early payment, types of staple foods, and so on.	Flexible: Allows for the payment of zakat *al-fiṭr* in cash. Feasible: Provides technical guidance. Visionary: Anticipates the need for rapid and effective distribution. Scientific: Uses arguments from the Qur'an, hadith, and qiyas, as well as the principles of *fiqh al-taysīr* and *maṣlaḥah*. Critical Thinking: Considers social conditions in distribution. Dynamic Movement: Adapts to changes in consumption patterns and modern logistics.

Source: data processed by the author

Based on the table above, it is evident that the pattern of legal deduction is not only based on religious texts in a normative manner but also employs contextual *uṣūl al-fiqh* methods, thus providing an overview that shows fatwas move within the classical tradition while also being responsive. These fatwas demonstrate a flexible dimension and dynamic movement, as legal interpretations do not originate from the dynamics of society. Likewise, the Implementative and Visionary dimensions of fatwas provide practical guidelines for institutions, the state, zakat administrators, halal auditors, and the general public. Furthermore, the scientific and critical reasoning dimension of the fatwas demonstrates the use of normative arguments found in the Qur'an, hadith, ijma', and qiyas, combined with social analysis.

For example, in fatwas on zakat funds and professional zakat, the *uṣūl al-fiqh* approach of *maṣlaḥah mursalah* is employed, which serves as a legal argument (basis) if it does not contradict the text. In fatwas

related to food technology and cosmetics issues, the fatwa methodology uses the qiyas (analogy) method to extend the 'illah (legal rationale) from one context to another new context through scientific evidence. Modern fatwa institutions often integrate religious and scientific authorities as sources of legitimacy. Thus, qiyas is not only positioned textually, but also through empirical evidence (Ansori, 2022; Maulana et al., 2022).

Similarly, in the cryptocurrency fatwa, which uses the sadd al-zarī'ah method, namely prevention of potential mafsadah, because it contains elements of gharar (uncertainty). This shows that the istinbāṭ fatwa method not only considers normative aspects, but also takes into account aspects of prudence. Overall, the above fatwas illustrate the framework of LIVING fatwas that are explicitly described, as well as in terms of methodology that emphasizes the harmonious integration of classical uṣūl al-fiqh and contemporary social analysis. Thus, fatwas are not only normative legal products, but also play a role in shaping ethics and morals in the development of Islamic law, especially in Indonesia (Faiz et al., 2024; Wimra et al., 2023).

The concept of living fatwas and the methodology for determining them have contributed to a progressive framework in the discourse on Islamic legal reform in Indonesia. Fatwas are not only archival products but also living entities that interact with public policy and respond to social issues. Although the idea of living under a fatwa is a strong normative concept, it still has conceptual and methodological limitations that need to be discussed. This is not intended as criticism, but rather to fill the academic gap in making living fatwa a more scientific and measurable discourse of Islamic legal reasoning. First, the concept of a living fatwa is placed as a framework for formulating fatwas, so that they are implemented by society and not merely as textual documents. However, this concept has not been equipped with evaluative instruments to ensure that fatwas are truly alive in the social practices of society.

Second, the concept of living fatwa emphasizes the existence of scientific methodological procedures. However, this is still prone to institutional bias, especially when fatwa institutions interact with complex political, social, and bureaucratic landscapes. According to Hallaq, Islamic legal institutions are inextricably linked to value systems and are shaped by state structures. Thus, it is highly likely that the issuance of fatwas is influenced by power and political structures. Third, the concept of a living fatwa ideally provides direction for public policy (symbiotic relations). Although it seems attractive, it carries the risk that fatwas will be co-opted by the logic of the state. An-Na'im asserts that when religion and the state system are directly integrated, religion can indirectly lose its moral position because it is subject to political mechanisms.

Fourth, although this concept is oriented towards maṣlaḥah/maqāṣid, there is still confusion regarding the priority of maṣlaḥah when there is a conflict of values—for example, between the protection of life and religion, between economic stability and distributive justice. Abou El-Fadl reminds us that maṣlaḥah should not be used as an excuse to justify a pragmatic approach that ignores moral and inclusivity dimensions. Fifth, although this concept emphasizes relevance, acceptance, and social implementation, it still tends to focus on institutional procedural aspects and overlooks communication strategy aspects. In the digital age, effective communication strategies are crucial for conveying a message, including fatwas. Bunt explains that in this era of technological advancement, religious authority no longer comes exclusively from scholars but is influenced by the dynamics of digital media.

The Hermeneutic Legal Reasoning Paradigm of Abdullah Saeed

1. Epistemic Reform Through Contextual Hermeneutics

Abdullah Saeed is widely recognized for his significant contributions in developing a contextual hermeneutic approach to the Qur'an and Islamic law. Although Abdullah Saeed's early thinking was influenced by conservative views, his intellectual direction underwent a significant shift during his postgraduate studies in Australia. This academic phase marked a crucial turning point in the development of his thought. Immersed in a multicultural environment and engaged in open academic discourse in Australia, he was encouraged to reconsider the relationship between sacred texts and their historical and social contexts (Saeed, 2006). Saeed has a very diverse educational background. He majored in Middle Eastern studies, applied linguistics, and Islamic studies. As a lecturer, Saeed teaches a range of subjects, including Islamic foundational texts, Islamic legal methodology, Qur'anic hermeneutics, Religious

Freedom in Asia, Islam and Human Rights, and Islam and Muslims in Australia. He was also involved in interfaith meetings, which broadened his horizons regarding the current global situation. At the University of Melbourne, Abdullah Saeed held the positions of Chair of Islamic Studies and Director of the National Centre of Excellence for Islamic Studies (NCEIS).

One of Abdullah Saeed's most significant contributions to Islamic legal reform lies in his sharp critique of the literalist approach to interpreting the Qur'an. He argues that the tendency to interpret the text without considering the historical and social contexts in which the verses were revealed has led to stagnation in the development of Islamic law (Saeed, 2005). In his various works, Saeed points out that the world has changed so much over the last 150 years that there's now a massive gap between Islamic studies and what Muslims need to deal with these changes. Saeed not only highlights technological issues where Islamic scholarship is clearly lagging. He also addressed contemporary social and humanistic issues, such as education, literacy, human dignity, interfaith relations, the emergence of the nation-state in Islam, and human rights, which urge Muslim scholars to formulate more contextual Islamic thought.

In his work Interpreting the Qur'an: Towards a Contemporary Approach, Saeed emphasizes that an interpretation solely focused on the literal meaning of the Qur'anic text is insufficient to address the complexities of modern life. He critiques traditional *mufassirun* who, in his view, often neglect the socio-historical context of the revelation and fail to adequately distinguish between the realities of past societies and the evolving demands of the contemporary world (Saeed, 2005). Saeed proposes an idea he calls the contextualist approach. This method emphasizes the importance of comprehensively understanding the Qur'an, taking into account its historical aspects, universal moral values, and the ethical orientation of Islamic teachings. (Saeed, 2005). With this approach, his contributions are not only relevant at the theoretical level but also have practical applications in addressing the challenges faced by Islam in the modern era.

Abdullah Saeed has consistently led an epistemological reform in Islamic legal thought through the contextual hermeneutic approach he developed. He proposes a layered method of reading the Qur'an that includes: (1) the historical context of the revelation, (2) the context of classical tafsir or interpretive tradition, and (3) the contemporary context or modern application. This approach aims to reconstruct the epistemological framework of Islam to be more open, adaptive, and socially responsible (Saeed, 2005). In epistemological discussions, Saeed's contextual interpretation is significantly influenced by several of his predecessors, including Nasr Hamid Abu Zayd, Hans-Georg Gadamer, and, in particular, Fazlur Rahman. From Nasr Hamid, Saeed adopts a textual approach in which a term in the Qur'an undergoes a change in meaning from one period to another. From Gadamer (1975), Saeed discovered the importance of understanding the horizon of the author and the reader in interpreting a text. Finally, Saeed himself acknowledges that his hermeneutical method refines the interpretive general guidelines (Saeed, 2005a) proposed by Fazlur Rahman (Fina, 2011), particularly in his book Major Themes of the Qur'an.

According to Saeed, contextual hermeneutics is not merely a methodological technique but a crucial intellectual project. Aimed at affirming that Islam is a religion compatible with the values of democracy, pluralism, and social justice (Arkoun, 2002; Zayd et al., 2006). Saeed argues that fatwas should be contextual, flexible, and open to social change through this framework. He firmly rejects the view that positions Islamic law as a sacred and unshakable (immutable) normative system, and calls for the process of *ijtihad* to be understood as a creative and dynamic intellectual activity, always bound to the ever-changing social reality.

According to Saeed, the textual approach has limited the meaning of the Qur'an's verses, especially the ethical-legal verses, to the understanding of the early generations, thus closing the space for new interpretations that reflect the socio-cultural context of Muslims today. *First*, Complexity of Meaning (*Ta'addud Al-Ma'na*). One of the essential foundations of this approach is the principle of complexity of meaning. For Saeed, meaning is not singular, static, and absolute, but rather complex, dynamic, and contextual (Fina, 2011). He identifies several reasons why meaning in the Qur'anic text must be understood as open and evolving. *Second*, Socio-Historical Context. Within the framework of epistemological reform proposed by Abdullah Saeed, understanding the socio-historical context is essential to interpreting the Qur'an contextually (Fina, 2011, p. 154). Saeed rejects the notion that the Qur'an was revealed in a vacuum

because, in reality, revelation was sent down to an Arab society with complex social, cultural, and political structures that were influenced by surrounding civilizations. *Third,* Hierarchy of Values in Ethic-Legal Texts. Within the framework of Abdullah Saeed's contextual hermeneutics, the principle of value hierarchy in ethical-legal verses (law and ethics) is a crucial pillar in reinterpreting religious texts to remain relevant to contemporary developments (Dahlan, 2018). For Saeed, not all verses of the Qur'an carry the same normative weight; therefore, categorization is necessary to distinguish between those that are fixed and those that are flexible in context.

First, obligatory values are universal and principled values that remain unchanged across time (Asroni, 2021, p. 120). These include theological aspects such as the pillars of faith, the main practices of worship commanded in the Qur'an, and explicit prohibitions and commands regarding what is halal and haram. Second, fundamental values are ethical values repeatedly emphasized in the Qur'an and considered the basic principles of Islamic teachings (Zaini, 2014). Third, protective values function as guardians and protectors of fundamental values. Fourth, implementational values are specific actions to carry out protective values. An example is the punishment of cutting off a thief's hand, as stated in the Qur'an. And fifth, instructional values are policies or legal decisions issued in response to a specific situation when the verse was revealed. The most crucial aspect of Saeed's proposal in his hermeneutic theory is the hierarchy of values in the verses of the Qur'an. For him, before beginning to interpret and learn lessons from the verses of the Qur'an, a reader must first determine the level of the hierarchy of values in those verses. By deciding this hierarchy, a reader can accurately determine whether a verse is mutable or immutable. Additionally, this hierarchy can help interpreters identify and extract relevant values that align with ethical or legal guidelines. These ethical-legal guidelines are the key to contextualising the Qur'an in accordance with contemporary changes.

2. Characteristics of Individual-Based Legal Reasoning: Abdullah Saeed and Practical Contributions

Unlike figures such as Asrorun Ni'am Sholeh, who plays a role in official institutional structures such as the Indonesian Ulema Council (MUI), Abdullah Saeed presents himself as a public intellectual who expresses his views in academic circles and international discourse. He does not issue fatwas in a formal institutional format, but instead conveys normative opinions through scientific writings and academic forums, which are often referenced in international discourse. Some of his views on Islamic legal reasoning represent a progressive and contextual approach to responding to contemporary issues. First, on the issue of religious freedom, Saeed openly rejects the legitimacy of the death penalty for apostates (Saeed, 2017). Secondly, regarding women's inheritance rights, he proposes a reinterpretation of the inheritance distribution ratio of two to one between males and females, taking into account the changing social and economic roles of women in the modern era (Zayd et al., 2006). Thirdly, on the issue of LGBT, Saeed adopts a cautious yet progressive stance. He does not explicitly legitimize homosexual behavior but calls for a more empathetic, ethical, and non-discriminatory approach towards Muslim LGBT individuals. (Saeed, 2018).

Although not legally binding, Saeed's views have made a significant contribution to shaping progressive Islamic discourse on the global stage. Abdullah Saeed believes that one of the fundamental errors in contemporary Islamic legal practice is the neglect of ethical rationality and universal values, which are at the core of Islamic teachings. In his various scholarly works, he emphasizes that the process of ijtihad should not rely solely on textual structures such as *nash* and *qiyās*, but must also be rooted in ethical principles that uphold public interest and justice as normative goals (Saeed, 2005b). Saeed's commitment to these ethical values is also evident in his views on legal issues concerning women and family. He advocates for the reinterpretation of certain verses related to polygamy, inheritance systems, and women's testimony, encouraging a renewed understanding grounded in justice and gender equality (Saeed, 2018).

Epistemological Similarities and Differences between Asrorun Ni'am Sholeh and Abdullah Saeed

After thoroughly examining Asrorun Ni'am Sholeh's progressive fatwa model and Abdullah Saeed's contextual approach, both appear to be essential representations of contemporary efforts to reform Islamic law.

1. **Multidimensional Approach within the Framework of Legal Reasoning: Text, Context, and Methodology**

Although they come from different geographical, institutional, and cultural backgrounds, both have developed Islamic legal epistemologies that emphasize responsiveness to the dynamics of the times. However, there are essential differences in their epistemological perspectives. *First*, Approach to Text, Asrorun Ni'am Sholeh, in his legal reasoning, continues to regard the text as the primary source of law. He employs the traditional *bayānī* (textual) method, combined with the *maqāṣid* approach, to provide breadth in interpretation. For Asrorun, the text cannot be understood separately from the tradition and discipline of *fiqh*, especially those developed in *pesantren* (Islamic boarding schools) and religious institutions such as the MUI. Therefore, his approach to the text greatly respects the authority of *turāts* (classical heritage), while opening up contextual space. In Addition, for Asrorun, understanding the text cannot be separated from the established tradition of *fiqh* scholarship, especially one that has grown and developed in *Pesantren* (Islamic boarding school) environments and authoritative institutions such as the Indonesian Ulema Council (MUI) (M. A. N. Sholeh, 2018). In contrast, Abdullah Saeed views the text of the Qur'an as a product of historical communication between God and humanity in the context of the 7th century. Therefore, his understanding emphasizes the contextual layers of revelation (*asbāb al-nuzūl*), and he deconstructs the boundaries between text and context more openly (Saeed, 2005b).

Second, Position on Social Context. Asrorun Ni'am Sholeh believes that Islamic legal products must be formulated through collective institutional mechanisms and under the authority of religious scholars. He emphasizes that contextual considerations must not be separated from the discipline of *fiqh* and formal institutional procedures. Although responsive to change, Asrorun's *ijtihad* remains within the framework of collective deliberation and established traditional discipline. In contrast, Abdullah Saeed views context not merely as the background of the text but as an integral part of meaning-making. From his perspective, the legal norms in the Qur'an are contextual. They cannot be fully understood without considering the social and historical dimensions of the circumstances in which the text was revealed (Saeed, 2017). Thus, the fundamental difference between the two lies in their views on authority and flexibility in the process of *ijtihad*. Asrorun places greater emphasis on collective methodological caution and maintaining continuity with the scholarly tradition. At the same time, Saeed places greater focus on epistemological courage, openness to global values, and the reinterpretation of Islamic law within the framework of universal justice.

Third, Ethics in Legal Reasoning Methodology. Asrorun Ni'am Sholeh remains grounded in classical Islamic legal ethics, enriched by the framework of *maqāṣid al-sharī'ah*, which expands the scope of ijtihad to contemporary realities. While opening space for contextual interpretation, he remains committed to the methodological boundaries and fiqh norms firmly established in the Islamic scholarly tradition. On the other hand, Abdullah Saeed emphasizes universal ethical values as the foundation for the development of Islamic law. Principles such as justice, religious freedom, gender equality, and respect for human dignity are the main framework for reconstructing Islamic legal thought (Saeed, 2018). Thus, the fundamental difference between the two lies in their epistemological emphasis: Asrorun builds reform from within the traditional *fiqh* framework by incorporating *maqāṣid* to expand the law. At the same time, Saeed begins by drawing on global ethical values to reinterpret Islamic law, making it more responsive to the demands of modern times.

2. **Sources of Epistemic Legitimacy and Models of Authority**

Asrorun Ni'am Sholeh gained religious legitimacy through three pillars that reinforce each other. First, the authority of classical Islamic tradition and intellectual heritage (*turāts*). Second, he was affiliated with major religious institutions, including the Indonesian Ulema Council (MUI) and Nahdlatul Ulama (NU). Third, his involvement in state structures (M. A. N. Sholeh, 2020). On the other hand, Abdullah Saeed builds his legitimacy through a different path: academic excellence, consistency in formulating arguments, and global influence gained through scientific publications and participation in international intellectual forums (Duderija, 2014).

The model of authority promoted by Asrorun Ni'am Sholeh is rooted in institutional structures and the principle of collectivity. He positions himself as part of a line of scholars working within the formal framework of religious institutions, such as the MUI and NU, with a full awareness of the social, political, and moral responsibilities that accompany this role (A. N. Sholeh, 2024). In contrast, Abdullah Saeed develops an authority model that is individual, academically grounded, and based on moral credibility as a public intellectual. He rejects forms of religious authority that are exclusive and rigid, closing the door to innovation and legal reform (Saeed, 2005b). Thus, Asrorun represents a typology of Islamic authority rooted in structural and communal legitimacy. In contrast, Saeed represents a model of authority derived from individual intellectual capacity and moral courage, offering alternative interpretations of Islamic heritage in a rapidly changing global landscape.

Table 2. Substantive Similarities and Differences in Thought

Aspects	Asrorun Ni'am Sholeh	Abdullah Saeed	Similarities
Social Background	Islamic boarding schools & national institutions (NU, MUI)	Global & transnational academia (Australia)	Both have a background in Islamic higher education
Textual Approach	Traditional-reconstructive (*bayānī* + *maqāṣid*)	Contextual hermeneutics	Both use *maqāṣid al-sharī'ah*
Social Context	Processed through institutionalization and collective ijtihad	Treated as an integral part of the meaning of the text	Both respond to contemporary realities
Fatwa Authority	Institutions (fatwa commissions) and deliberative councils	Individuals and academics	Both have public influence
Sources of Legitimacy	MUI, NU, state law	Academic, human rights, *maqāṣid*	Both reject textual legalism alone
Legal Ethics	Protection of interests within the framework of *fiqh*	Rights, freedom, and social justice are key ethical values	Islamic ethics as the basis for ijtihad
Fatwa Products	Formal, collective, legal, and social	Individual, academic, and moral opinions	Equally responsive to modern issues
Type of Reform	Normative reform based on *maqāṣid* within the framework of *turāts*	Epistemological and hermeneutical reform	Avoiding textual extremism

Source: data processed by the author

Contribution to Islamic Legal Reform: The Epistemological Negotiation Model of Islamic Legal Reasoning

Contemporary Islamic legal reform faces epistemological tensions between institutional religious authority and academic intellectual freedom. This tension is evident in two main approaches: the institutional legal reasoning model represented by Asrorun Ni'am Sholeh, and the independent legal reasoning model based on contextual hermeneutics developed by Abdullah Saeed. Both depart from the same concern about the stagnation of Islamic law, but take different paths in responding to the challenges of modernity and pluralism in Muslim societies. An epistemological dialectic between institutional authority and intellectual freedom of thought essentially characterizes contemporary Islamic legal reform. This dialectic is evident in two main approaches: legal reasoning based on *maqāṣid al-sharī'ah*, as developed by Asrorun Ni'am Sholeh, and legal reasoning based on contextual hermeneutics, as developed by Abdullah Saeed. Both depart from concerns about the stagnation of Islamic law, albeit through different legal paths and approaches in responding to the challenges of modernity.
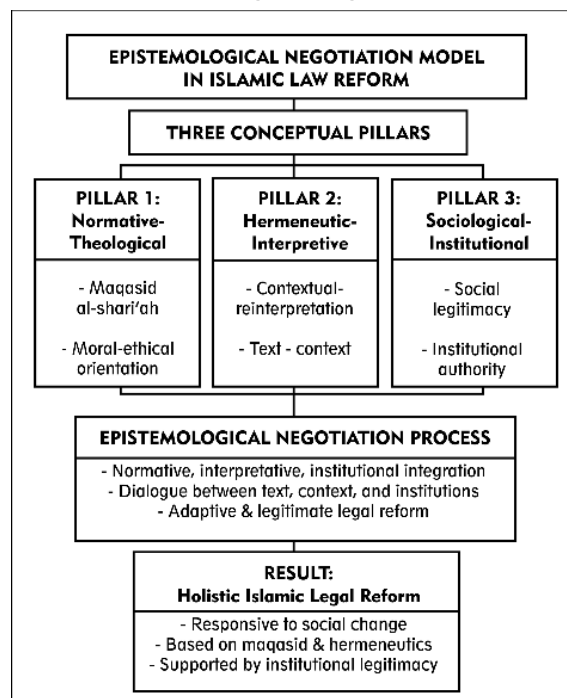
Asrorun Ni'am Sholeh aims to foster institutional ijtihad through the Indonesian Ulema Council (MUI), based on the *maqāṣid al-sharī'ah*, to enhance social legitimacy, remain relevant to contemporary

times, and adapt to emerging issues. Meanwhile, Saeed is attempting to reform Islamic law through a contextual hermeneutic approach, utilizing the methodology of tafsir, which involves a re-reading of the Qur'an's text. These two approaches often run parallel to each other and are even separate in Islamic legal studies. There has been no attempt to integrate the two in the effort to reform Islamic law. However, as mentioned by Hallaq (2009) and Kamali (2008), Islamic legal reform will be successful if it can integrate multidimensional epistemology. Therefore, there is a need for an epistemological negotiation model, namely an approach that can bridge institutional structures and hermeneutic interpretation dynamics in the process of Islamic legal reform.

This model is based on the belief that Islamic legal reform cannot proceed effectively if it is based solely on formal authority, but must also have epistemological, moral, ethical, and adaptive depth in response to social change. Jasser Auda (2007) argues that Islamic legal reform must adopt a systemic approach that considers social dimensions. The epistemological negotiation model is based on three interrelated conceptual models. First, the normative-theological foundation, based on the *maqāṣid al-sharī'ah* approach, serves as the main principle of Sharia objectives, as developed by earlier scholars and institutionally applied by Asrorun. This foundation provides moral direction, basic norms, and Sharia objectives as the basis for reform. Second, the hermeneutic foundation is based on the reinterpretation of Qur'anic texts in accordance with the social, political, and cultural contexts, as proposed by Saeed (2005b) and previously by Nasr Abu Zayd (2006). This foundation provides a mechanism for re-reading texts to make them relevant to contemporary social dynamics. Third, a sociological-institutional foundation, namely the existence of social legitimacy through institutional roles, authority structures, and public acceptance in the application of Islamic law, as analyzed by Bowen (2003) and Hallaq (2009). This foundation solidifies the implementation of norm interpretation into policies that possess strong legitimacy.

In practice, this model can operate through a multi-level and continuous dialogue process between the conceptual-normative stage, contextual interpretation, and implementation.

Diagram 1. Schematic of the epistemological negotiation model in Islamic Law Reform

Source: edited by the author

Based on the diagram above, in the initial stage, scholars analyze normative aspects using the *maqāṣid* approach. Next, they perform contextual interpretation through a hermeneutic approach, reinterpreting Islamic legal texts in the context of society. Then, the results of this reading are tested and institutionalized

through formal legitimization by institutions such as fatwa-issuing bodies or similar entities, which lends them force. Next is the synthesis process, which involves conducting epistemological negotiations by comprehensively integrating text, context, and institutions, ensuring that legal reform is comprehensive and effective. Thus, the result is adaptive Islamic legal reform through responsive policies, progressive fatwa products, and community acceptance.

Thus, this model can contribute to three main areas. Epistemically, it can serve as a bridge between ethical and institutional ijtihad by rejecting the liberal-conservative dichotomy that is often debated in Islamic law. Methodologically, this model can provide a framework for dialogue, discussion, and even integration between *maqāṣid*, hermeneutics, and institutionalism. Socially, this model can offer a framework for ijtihad that is responsive to contemporary issues, such as gender, human rights, and pluralism. Thus, it can be said that this model is not only conceptual but also applicable and operational, encouraging collective ijtihad in Islamic legal reform. Therefore, this model is also in line with the arguments of Rahman (1982) and Kamali (2003), who suggest that Islamic legal reform must undergo a dialectic between normativity towards the text and openness to context. Thus, a balance exists between methodological stability and epistemological transparency, demonstrating that the epistemological negotiation model offers a new paradigm in Islamic legal reform that is adaptive, transformative, and inclusive (Muhajir et al., 2023; Zulfa et al., 2025). Ultimately, the dialectic between these two approaches does not serve to reinforce the dualism of Islamic legal thought but rather as a creative dialectic that opens up new approaches to Islamic legal reform.

Conclusion

This comparative research examines the epistemological dynamics in the renewal of Islamic law by analyzing the works of two key figures: Asrorun Ni'am Sholeh and Abdullah Saeed. Asrorun develops a progressive legal reasoning based on *maqāṣid al-sharī'ah* through a structured, collective, and institutional approach within the Indonesian Ulema Council (MUI), integrating *maqāṣid al-sharī'ah* into the classical *fiqh* structure to address contemporary issues. This model is referred to as reform from within, emphasizing methodological stability and socio-political legitimacy through the authority of ulama and the state. On the other hand, Abdullah Saeed advocates epistemological reform through a contextual hermeneutic approach that challenges literal authority and opens space for ethical interpretation based on universal values such as justice, freedom, and equality. He represents the voice of progressive Islam in international forums, despite facing challenges in social acceptance among conservative Muslims.

The integration of these two approaches yields an epistemological negotiation model that bridges institutional structures and hermeneutic interpretive dynamics during the process of Islamic law reform. This comparison highlights the epistemological tension between internal reform models and radical methodological transformation, while also offering opportunities for constructive dialogue. Both contribute to broadening the horizons of progressive legal thinking to be more inclusive, contextual, and oriented toward public ethics. Therefore, creative integration between institutional stability and epistemological courage is crucial in formulating a relevant and meaningful legal framework within the global social order. These findings enrich the research of contemporary Islamic legal thought and significantly contribute to the discourse on Islamic legal reform, particularly in understanding the relationship between text, context, and religious authority in the modern era. Although this research contributes theoretically and practically to the discourse on Islamic legal reform, it still has limitations, namely the limitations of the primary data (interviews with key figures) used, despite the literature. It works by reflecting the mindsets and ideas of both figures. Further research recommendations could enrich the discussion with a more comprehensive and in-depth perspective, thereby enriching the discourse on Islamic legal reform.

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Conflict of Interest

All authors of this manuscript declare that they have no conflicts of interest.

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