

## ***Ijtihād Qaḍā'ī* under Bureaucratic Governance: Judicial Practice in the Religious Court of Sungai Penuh and Padang Panjang, Indonesia**

**Asa'ari<sup>1</sup>, Nuzul Iskandar<sup>1</sup>**

<sup>1</sup>Institut Agama Islam Negeri Kerinci, Indonesia

Corresponding Author: nuzul.iskandar@gmail.com

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**Abstract:** In the context of an increasingly standardized and bureaucratized modern judiciary, judges of Indonesia Religious Court occupy a complex position, as the judicial roles require adherence to state law while simultaneously exercising *ijtihād* within the Islamic legal tradition. Therefore, this study aimed to analyze how *ijtihād qaḍā'ī* is practiced by Religious Court judges and how judicial standardization shapes the patterns of legal reasoning. A qualitative socio-legal approach was used to evaluate judicial practice in two first-instance Religious Court in Indonesia, based on interviews, observations, and analysis of twelve divorce decisions issued in 2023. The results showed that *ijtihād qaḍā'ī* remains present in judicial decisions but tends to be repetitive and standardized. This was reflected in relatively uniform argumentative patterns, the dominance of formal normative references, jurisprudence, and specific *qawa'id fiqhiyah*, while methodological engagement with *fiqh* and hadith remained limited. In conclusion, judicial standardization and bureaucratization do not eliminate *ijtihād qaḍā'ī* but transform it into a constrained and proceduralized mode of legal reasoning. Theoretically, this study reconceptualizes *ijtihād qaḍā'ī* in contemporary religious court as a form of constrained normative legitimation, shaped by the logics of bureaucratic rationality and legal formalism.

**Keywords:** *Ijtihād qaḍā'ī*; Religious Court; Judicial Reasoning; Judicial Standardization

### **Introduction**

Religious Court, as a judicial institution, performs a dual role of enforcing state law while simultaneously providing a space for judicial *ijtihād*. In this context, the roles of judges extend beyond the technical application of rules to maintain the functional harmony between legal instruments and social awareness for legal certainty (Aisyah, 2018). The obligation to exercise *ijtihād* is a logical consequence of the judge functioning as an agent of *rechtsvinding* (legal discovery) (Hidayatullah, 2020), and the historical connection between the Religious Court and the tradition of *qadha* in Islamic legal civilization (Jalili & Syukri, 2025; Rodliyah et al., 2024; Rofii, 2014). However, the space for judges to develop *ijtihād* is often not fully available in practice. A study conducted by the Judicial Commission of the Republic of Indonesia shows that judicial practice, including within Religious Court, frequently faces a tendency toward stagnation in legal reasoning due to administrative and bureaucratic pressures in the adjudication process. Consequently, judicial decisions tend to be highly normative and show limited development of more contextual legal arguments (Irianto et al., 2017).

Judicial reforms that emphasize efficiency, legal certainty, and accountability have generated various forms of standardization within modern court systems (Friedman, 1975). In socio-legal literature, these developments are often associated with the broader process of bureaucratic rationalization, in which administrative efficiency and procedural uniformity become central organizing principles of judicial institutions (Weber, 2019). In the Indonesian context, the process of judicial standardization is also reflected in the practice of drafting decisions. An initial examination of divorce judgments in the two Religious Court examined in this study shows a tendency toward relatively uniform patterns of legal reasoning. The

argumentative structure of the decisions often appears template-like, with repetitive use of legal references, including citations of *fiqh* opinions, *qawā'id fiqhīyyah*, and Qur'anic verses serving as the basis for judicial considerations. Moreover, the examination of the grounds for divorce in many decisions almost always relies on the justification of "continuous disputes and conflicts between husband and wife," as stipulated in Article 19(f) of Government Regulation No. 9 of 1975 and Article 116(f) of the Compilation of Islamic Law.

According to several studies, Religious Court judges have indeed exercised *ijtihād qaḍā'ī* in judicial practice, including in the context of *rechtsvinding*, the pursuit of substantive justice, or legal reform. For example, a study conducted at the Mataram Religious Court showed that judges use diverse interpretive approaches in adjudicating cases, including contextual and hermeneutical interpretation (Hamid, 2022). Similar results were reported in a study of the Jakarta Religious Court, which documented variations in legal reasoning and judicial outcomes as judges attempt to formulate more comprehensive legal considerations (Supardin et al., 2025). In a more specific context, particularly in cases of interreligious inheritance, judicial *ijtihād* has been shown to function as a mechanism for adapting Islamic law to social realities (Samsarina et al., 2025). However, these studies have not sufficiently examined how the practice of *ijtihād* evolves, whether continuously developed, reproduced, or instead stagnates within an increasingly standardized judicial structure. This study addressed the existing gap by examining how *ijtihād qaḍā'ī* is practiced in the Religious Court and how judicial standardization may shape the patterns of legal reasoning reflected in judicial decisions. More broadly, existing literature has tended to examine judicial *ijtihād* and the bureaucratization of the judiciary as separate domains of inquiry. Consequently, limited attention has been paid to how processes of judicial standardization reshape the epistemic practice of judges, particularly in the context of Islamic legal reasoning.

Investigations on the bureaucratization of the judiciary suggest that judges are often positioned within a judicial bureaucracy prioritizing compliance with standardized procedures and administrative targets as the primary indicators of performance. Critical analyses of Indonesia modern judicial system show that judges are frequently constrained by administrative duties, performance reporting obligations, and strict adherence to standard operating procedures (SOPs), thereby potentially eroding substantive function as guarantors of justice (Fariq, 2025). From a socio-legal perspective, this phenomenon is consistent with results in the sociology of law, showing that formal bureaucratic structures within judicial institutions tend to emphasize formal rationality, such as procedure, efficiency, and administration, thereby narrowing the space for judicial creativity and substantive reasoning (Smith et al., 2019). In the context of judicial decision-making, these structural conditions may also influence the epistemic practice of judges, referring to how judges construct legal knowledge, select authoritative legal sources, and formulate legal reasoning in decisions. Therefore, these results provide an important structural framework for understanding the position of judges within the modern judicial system in terms of organizational arrangements and procedural compliance. Existing studies have rarely examined how structural pressures shape the epistemic dimension of judicial reasoning, particularly in relation to the practice of *ijtihād qaḍā'ī* and the use of Islamic legal sources in the Religious Court. This raises a broader analytical problem of how institutional structures of judicial standardization transform not only judicial behavior, but also the epistemological foundations of legal reasoning in contemporary court systems.

Based on the discussion above, this study aims to analyze how *ijtihād qaḍā'ī* is practiced by Religious Court judges within an increasingly standardized judicial environment, and how these individuals develop and exercise competence in Islamic legal reasoning, particularly in the use of *fiqh*, *ushul al-fiqh*, and *qawā'id fiqhīyyah*, under demands for procedural uniformity. It specifically addressed two questions, namely (1) how is *ijtihād qaḍā'ī* articulated in the legal reasoning of Religious Court judges in divorce cases, and (2) how does judicial standardization influence the patterns of legal reasoning reflected in decision-making? Theoretically, this study contributes to broader socio-legal debates on judicial reasoning and legal formalism by showing how institutional standardization reshapes the epistemic foundations of legal interpretation. By focusing on the practice of *ijtihād qaḍā'ī*, it offers a conceptual account of how Islamic legal reasoning is transformed within contemporary bureaucratic court systems, thereby extending discussions beyond the Indonesian context. Practically, the results are expected to provide insights for

strengthening the intellectual capacity and professional development of judges within the Religious Court, specifically in relation to enhancing the quality of legal reasoning in judicial decision-making.

## Literature Review

This study used the framework of *ijtihād qadā'ī* to examine the intellectual agency of judges within the complexities of a modern judicial system. Epistemologically, *ijtihād qadā'ī* is defined as the rigorous legal reasoning undertaken by a *qādī*, particularly when textual sources (*naṣṣ*) are general, ambiguous, or provide no direct solution to a concrete case (Hallaq, 2004; Khalaf, 2010; MacCormick, 1994; Mudzhar, 1993; Zuhaily, 1986). In the contemporary era, this role has experienced a structural transformation, where the judge is no longer an independent interpreter within the classical *madhhab* tradition but a state official operating within a rigid, codified legal framework (Hallaq, 2009). Within the Indonesian context, *ijtihād* serves as a vital instrument for constructing a "National School" of Islamic law, a discursive process of "public reasoning" that aims to reconcile Sharia principles with local *adat*, positive law, and modern ideals of gender equality (Bowen, 2003; Hooker, 2008).

The effective exercise of interpretive authority necessitates "judicial competence", conceived as a reflective-autonomous capacity that allows judges to navigate beyond ordinary mechanical application of rules (Dworkin, 1986). Judicial competence is the ability to interpret ambiguous legal concepts through *ijtihād qadā'ī*, particularly in sensitive areas such as the 'best interests of the child.' A prominent example is found in cases related to children born out of wedlock, where judges must navigate beyond strict textual boundaries to provide proportional legal protection and fulfill the child constitutional rights to legal certainty (Rohmawati & Siddik, 2022). In pluralistic legal systems, this competence is increasingly measured by the ability to catalyze bureaucratic reform for marginalized communities, effectively shifting from forced religious impersonation toward constitutionally empowered legal agency (Hidayati, 2025). This competence requires a deep mastery of Islamic legal methodologies, including *fiqh*, *uṣūl al-fiqh*, *qawā'id fiqhīyyah*, *tafsīr*, and hadith, enabling judges to construct coherent and context-sensitive legal arguments (Al-Ghazali, 1992; Al-Zuhaily, 1999). Theoretically, the process of *ijtihād* is structured through five interrelated dimensions, namely the subject agency, scholarly foundations, rigorous reasoning methods, engagement with social facts, and a profound orientation toward the objectives of law or *maqāṣid al-sharī'a* (Zaidan, 1996).

A critical tension arises when judicial agency frequently collides with the pervasive logic of bureaucratic standardization, which prioritizes procedural efficiency and administrative uniformity (Langbroek, 2010; Resnik, 1985; Vauchez, 2014). Systematic codification often narrows the scope for free *ijtihād*, potentially shifting judicial practice toward a "bureaucratic-legalistic" mode where procedural compliance overshadows substantive legal exploration (Brown, 2009). When navigating "hard cases" characterized by an "open texture" of law (Schauer, 2009), judges act as "interstitial legislators" who fill legal lacunae through purposive and teleological interpretation (Barak, 2006; Cardozo, 2005). In this view, law is an evolving social instrument rather than a static decree (Tamanaha, 2017). This is exemplified in contemporary practice in Indonesia, where judges use creative analogies, such as DNA testing for filiation by analogizing it to the classical concept of *qiyāfa* (physiognomy) to achieve substantive justice despite statutory silence (Lindbekk et al., 2023). Ultimately, these reasoning patterns reflect a complex strategic negotiation between institutional constraints, personal judicial preferences, and pragmatic intuitions (Epstein & Weinshall, 2021; Posner, 2010; Segal & Spaeth, 2012).

To provide a clear analytical bridge, the concept of *ijtihād qadā'ī* in this study is operationally disaggregated into five systematic dimensions (Zaidan, 1996). First, the subject of *ijtihād* examines the judge degree of autonomy within the organizational hierarchy. Second, the scholarly foundations identify the hierarchy of sources used, from classical texts to state regulations. Third, the methods of reasoning observe specific instruments such as *qiyās*, *maṣlahah*, or teleological analysis. Fourth, the dimension of contextual engagement assesses the extent to which social facts and empirical circumstances influence the final judgment. Fifth, the orientation toward objectives determines whether the decision aims for formal-procedural certainty or substantive justice through *maqāṣid*. These dimensions are systematically

contrasted with indicators of bureaucratic standardization, including repetitive decision templates and the prioritization of performance targets (Langbroek, 2010; Resnik, 1985), to map the dynamic landscape of judicial reasoning in the Religious Court of Sungai Penuh and Padang Panjang. The multifaceted framework allows for a critical evaluation of how judicial agency is reinvented within the specific constraints of Indonesia modern legal bureaucracy.

## Method

This study adopted a qualitative design using a juridical socio-legal approach to analyze the practice of *ijtihad qadā'i* among religious court judges within the context of judicial standardization. The object was judicial practice in two religious court, namely the Sungai Penuh in Jambi Province and the Padang Panjang in West Sumatra Province. These two sites were selected based on considerations of regional representativeness and the diversity of judicial practice at the first-instance level of the religious judiciary. The selection was based on several considerations, including differences in regional legal culture, variations in caseload, and the socio-religious characteristics of the communities served. Both courts are also located in regions with strong Islamic legal traditions, thereby providing a relevant institutional context for examining the practice of *ijtihad qadā'i* in judicial decision-making. Data were collected through in-depth interviews with judges and court clerks, direct observation of court proceedings, and document analysis of judicial decisions.

The judicial decisions analyzed in this study were selected using a purposive sampling strategy from cases adjudicated throughout 2023, with a focus on *cerai talak* (divorce initiated by the husband) and *cerai gugat* (divorce initiated by the wife). The selection aimed to capture variations in case characteristics and judicial reasoning patterns rather than to achieve statistical representativeness. In total, twelve judicial decisions were analyzed in this study. Selection considered variations in case characteristics, including default judgments (*verstek*), cases examined with the presence of both parties, those withdrawn following successful mediation, cases involving legal representation, as well as the diversity of grounds for divorce claims. This variation was considered important for examining how judges construct legal reasoning across different procedural and factual contexts. Data analysis was conducted qualitatively by examining the structure of legal reasoning and judicial argumentation patterns using the *ijtihad qadā'i* framework, supported by indicators of competence and a socio-legal perspective on judicial standardization and bureaucratization. The analytical process comprised coding and categorizing judicial reasoning based on the conceptual dimensions of *ijtihad qadā'i* and the indicators of competence identified in the literature. To enhance the validity of the results, the analysis was complemented by triangulation across multiple data sources, including judicial decisions, interview data, and observations of court proceedings. This analysis was aimed at understanding how judges construct and reproduce Islamic legal arguments in practice, rather than at assessing the normative correctness of the decisions.

## Results and Discussion

This study examined the practice of *ijtihad qadā'i* by analyzing twelve judicial decisions issued throughout 2023 at the Sungai Penuh (Jambi) and the Padang Panjang Religious Court (West Sumatra). The sites were selected to capture judicial dynamics within two distinct socio-cultural spheres, namely the Kerinci community and the Minangkabau tradition. In both court, divorce cases (both *cerai talak* and *cerai gugat*) overwhelmingly dominate the annual caseload (*Direktori Mahkamah Agung, 2023; Pengadilan Agama Padang Panjang, 2024; Pengadilan Agama Sungai Penuh, 2024*). This predominance positions divorce proceedings as the primary arena where judges navigate the tension between Islamic legal reasoning and modern institutional frameworks.

For in-depth analysis, six decisions were selected from each court using a purposive sampling strategy based on data availability and case relevance. Although the composition at the Sungai Penuh court reflects a higher frequency of *cerai gugat* due to the availability of accessible judicial records, the overall sample provides sufficient variation in procedural contexts, including contested litigation, default judgments (*verstek*), and mediation, to enable a rigorous qualitative examination. This selection aims not

for statistical representativeness, but "theoretical saturation" to uncover how judges structure legal reasoning under the constraints of an increasingly standardized judicial environment.

To provide a concrete overview of the cases analyzed, Table 1 shows a list of *cerai talak* (divorce by husband's petition) and *cerai gugat* (divorce initiated by the wife) cases examined in this study at the Sungai Penuh and the Padang Panjang Religious Court.

**Table 1. Case Numbers and Categories of Cases Analyzed**

No	Padang Panjang Religious Court		Sungai Penuh Religious Court	
	Case Number	Type of Case	Case Number	Type of Case
1	86/Pdt.G/2023	husband-initiated	167/Pdt.G/2023	husband-initiated
2	157/Pdt.G/2023	wife-initiated	159/Pdt.G/2023	husband-initiated
3	234/Pdt.G/2023	wife-initiated	221/Pdt.G/2023	husband-initiated
4	256/Pdt.G/2023	wife-initiated	142/Pdt.G/2023	wife-initiated
5	250/Pdt.G/2023	wife-initiated	161/Pdt.G/2023	wife-initiated
6	247/Pdt.G/2023	wife-initiated	202/Pdt.G/2023	wife-initiated

The slight imbalance in case types at the Sungai Penuh court, comprising one *ṭalāq* and five judicial divorces, resulted from the availability and completeness of records in the Supreme Court Directory during the study period. Following Yin (2017), this purposive selection prioritizes data accessibility and relevance over statistical symmetry. Regardless, the sampled cases provide sufficient procedural and factual variation to facilitate a rigorous examination of how judges navigate *ijtihād qadā'ī* within an increasingly standardized judicial environment.

**General Patterns of *Ijtihād Qadā'ī* Practice in the Religious Court**

Based on the analysis of twelve decisions, a consistent pattern of "minimalistic *ijtihād*" was identified, where diverse social facts, ranging from infidelity to gambling, were systematically subsumed under a single normative classification of "continuous disputes and quarrels" per Article 19(f) of Government Regulation 9/1975 and Article 116(f) of the KHI. For instance, in Case No. 250/Pdt.G/2023/PA.Spn, despite complex issues of financial non-transparency and gambling, the court ultimately relied on this standardized legal pigeonhole. This phenomenon shows the "formal rationality" of the modern judicial bureaucracy. As mentioned by Weber (2019), modern legal systems prioritize calculability and efficiency, often leading to the reduction of complex human experiences into standardized legal categories. This confirms that substantively different factual circumstances tend to be compressed into a single legal category, thereby limiting the space for contextual Islamic legal reasoning (Irianto et al., 2017).

**Table 2. Typology of Legal Reasoning**

Cluster of Social Facts (Issues)	Representative Case Numbers	Primary Legal Basis	Judicial Outcome
<b>Morality &amp; Fidelity:</b> Infidelity, extramarital affairs, and suspicion of homosexual orientation.	157/PA.Spn; 167/PA.PP; 159/PA.PP; 221/PA.PP; 142/PA.PP.	Art. 19(f) PP No. 9/1975 & Art. 116(f) KHI (Continuous disputes and quarrels)	Claims/Petitions Granted
<b>Responsibility &amp; Economy:</b> Neglect, lack of financial transparency, and gambling issues.	86/PA.Spn; 234/PA.Spn; 250/PA.Spn; 202/PA.PP.	Art. 19(f) PP No. 9/1975 & Art. 116(f) KHI	Claims/Petitions Granted; Default Judgments
<b>Violence &amp; Conflict:</b> Domestic violence, verbal abuse, and polygamy without consent.	161/PA.PP; 247/PA.Spn	Art. 19(f) PP No. 9/1975 & Art. 116(f) KHI	Claims Granted; Default Judgments

The "minimalistic *ijtihad*" is characterized by brief normative references and a lack of explicit reflection on *maqāṣid al-sharī'a* or broader socio-legal contexts. This corroborates previous studies showing that many Religious Court decisions rely predominantly on a textual-normative framework grounded in legal positivism without developing arguments responsive to social reality (Ramadhan & Muslimin, 2022). Furthermore, Supreme Court jurisprudence is often used as a tool for reinforcing formal legitimacy rather than a source for intellectual development (Arifin, 2024). Within this "iron cage" of judicial standardization, driven by uniform decision formats and administrative performance indicators, *ijtihad qaḍā'i* operates in a largely confirmatory manner, reinforcing established doctrinal formulas rather than engaging in deeper methodological exploration (Hallaq, 1984; Rofii, 2014).

The systematic convergence suggests a phenomenon of "epistemic shrinkage," where the rich methodological pluralism of classical Islamic law is compressed by the weight of modern judicial administration. In this context, *ijtihad qaḍā'i* is no longer an expansive intellectual inquiry, but has evolved into a "proceduralized *ijtihad*", a specialized form of reasoning that prioritizes legal certainty and administrative safety over substantive innovation. The dominance of standardized templates and performance-based indicators creates a "calculable" judicial environment, forcing judges to act as bureaucratic agents rather than autonomous legal scholars. Consequently, the reduction of *ijtihad* in these court is not only a sign of declining scholarly competence, but a deliberate, albeit subtle, epistemic mechanism designed to maintain the equilibrium of a modern nation-state judicial hierarchy.

### The Depth of Legal Reasoning

The tabulated data from twelve decisions at the Sungai Penuh and Padang Panjang Religious Court show significant variations in the depth of judicial reasoning, reflected in both the volume of normative references and the diversity of scholarly sources. This depth was assessed through four key indicators, namely the invocation of Qur'anic verses, engagement with classical *fiqh* texts, the application of *qawā'id fiqhīyyah*, and openness to extra-jurisdictional considerations such as social theory and non-religious positive law. The comprehensive mapping of these analytical dimensions is shown in Table 3.

**Table 3. Normative References and Legal Argumentation in Religious Court Decisions**

No	Case	Qur'an	Fiqh	Qawā'id	Other Developments
<b>Religious Court of Sungai Penuh</b>					
1	86/2023	Q2:227	F1, F2, F3	Q1	-
2	157/2023	-	F4	Q1	T1, T2, T3
3	234/2023	-	-	-	-
4	256/2023	-	-	-	-
5	250/2023	-	F1-F5	Q1	L1, S1
6	247/2023	-	F1-F5	Q1	-
<b>Religious Court of Padang Panjang</b>					
1	167/2023	Q2:227	-	Q1	-
2	159/2023	Q2:227; Q5:1	-	-	-
3	221/2023	Q30:21; Q2:227	F6	Q1	-
4	142/2023	Q5:1; Q30:21; Q2:233	F7-F9	Q1, Q2	H1, N1
5	161/2023	Q30:21; Q2:233	F7-F10	Q1	-
6	202/2023	Q30:21	F7-F8	Q1	-

#### Notes:

Fiqh References:

- F1 = *Ahkam al-Qur'an*
- F2 = *al-Anwar*
- F3 = *Madza Hurriyat al-Zaujaini*
- F4 = *Fiqh Sunnah*
- F5 = *al-Fiqh al-Islami wa Adillatuh*

- F6 = al-Thalaq fi Syari'ati al-Islamiyah
- F7 = Ghayatul Maram
- F8 = Fiqh Sunnah
- F9 = Yanah al-Thalibin
- F10 = Syarqawi

Qawā'id:

- Q1 = *Dar'ū al-Mafasid*
- Q2 = *Kullu Mahbusin bi al-Nafaqah*

Other:

- T1-T3 = Social theories
- L1 = Domestic Violence Law (Law No. 23 of 2004)
- S1 = sociological considerations
- H1 = Hanafi jurisprudence
- N1 = proof of nusyuz

The "depth of legal reasoning" is defined by the extent to which judicial considerations transcend ordinary citation of authoritative texts to engage in substantive interpretive justification (*istidlāl*). This analytical depth is evidenced by the methodological processing of normative sources through the principles of *uṣūl al-fiqh* and legal maxims, the seamless integration of legal arguments with the specific factual circumstances of each case, and the judges willingness to explore multiple juristic perspectives or interdisciplinary analytical frameworks when resolving disputes.

The data in Table 3 show several aspects of legal reasoning. First, references to the Qur'an in divorce cases adjudicated by both court generally show a normative and repetitive tendency. The verses most frequently cited are Q. al-Baqarah (2):227, Q. al-Rūm (30):21, and Q. al-Baqarah (2):233, which have classically served as normative foundations in cases concerning marriage and divorce.

The use of the verses is generally legitimative rather than analytical. In other words, Qur'anic verses are cited to reinforce legal conclusions that have already been reached, rather than being treated as sources substantively processed through *uṣūl al-fiqh*-based reasoning. In this context, Qur'anic citations serve primarily to strengthen the legal basis of the statutory provisions referenced and to clarify general principles of *Sharī'a* (Elizatum et al., 2025). This shows that the depth of *ijtihād* grounded in Qur'anic texts remains at normative justification, rather than at the level of meaning exploration (*istidlāl*) (Nurhartanto, 2023). The normative reliance is further evidenced by the fact that the Compilation of Islamic Law (KHI) frequently serves as the primary legal reference in judicial considerations, specifically when statutory laws or government regulations provide no specific guidance for a case.

Second, concerning *fiqh* references, the most striking difference between the two court is in the use of juristic sources. At the Sungai Penuh Religious Court, the majority of divorce judgments cite a relatively large number of classical and contemporary *fiqh* texts, such as *Aḥkām al-Qur'ān*, *al-Fiqh al-Islāmī wa Adillatuh*, *Fiqh al-Sunnah*, and *Mādihā Hurriyyat al-Zawjayn fi al-Ṭalāq*. However, these references tend to recur across cases and even across judges, producing a relatively uniform pattern of legal argumentation. At the Padang Panjang Religious Court, although the number of *fiqh* references in several cases was smaller, there was a clearer variation in analytical approach. For example, in divorce litigation, judges not only cite *Fiqh al-Sunnah* and *Ghāyat al-Marām*, but also explicitly refer to a particular school of law (the Ḥanafī school) and relate it to issues concerning the evidentiary assessment of *nushūz*. This shows an effort to connect *fiqh* reasoning more sharply with the factual context of the case.

The results show that the quantity of *fiqh* references does not necessarily correspond to the depth of legal reasoning. In several cases, a smaller number of references, when used contextually, more accurately reflects a more substantive form of *ijtihād qaḍā'ī* (Isnantiana, 2017). Interestingly, although both religious court operate within Muslim communities that are sociologically and historically strongly affiliated with the Shāfi'ī school, judges do not strictly confine themselves to school doctrines. The data show judicial efforts to draw upon and use perspectives from other schools, including Ḥanafī, particularly in addressing evidentiary issues related to *nushūz* (marital disobedience) as well as the reciprocal rights and obligations of spouses. This practice suggests that judicial decision-making is not only understood as the reproduction

of the authority of the majority school, but rather a selective process of engaging with the broader cross-madhab *fiqh* tradition (Khorī et al., 2025), showing a positive tendency. The results suggest that the depth of judicial reasoning cannot be measured ordinarily by the number of juristic references cited in a decision. Rather, depth is better understood in terms of how legal sources are methodologically processed and connected to the factual context of the dispute. Analytical depth is further shown by the judges' ability to negotiate between classical *fiqh* doctrines, which often disregard joint property, and the more progressive stipulations of the Islamic Law Compilation, ensuring the protection of wives' rights to marital assets before inheritance distribution (Nasution & Muchtar, 2024).

Third, concerning references to *qawā'id fiqhiyyah*, the results show the predominance of the legal maxim *dar' al-mafāsīd muqaddam 'alā jalb al-maṣāliḥ* in almost all of the decisions analyzed. Normatively, this maxim signifies that the prevention of harm or detriment should take precedence over the pursuit of benefit or welfare (Suyuti, 1983). The maxim functions as a form of normative justification, enabling judges to legitimize divorce rulings when the continuation of a marriage is considered possible to generate greater harm. The application of the principle that 'preventing harm is preferable to achieving benefits' serves as a crucial justification for granting divorce in cases of physical disability or sexual dysfunction, including impotence, where maintaining the marital bond is deemed to generate more harm than benefit (Fitri et al., 2024). Ideally, the application of legal maxims should be integrated with the *maslahah* theory to realize *Maqasid al-Shari'ah*, specifically focusing on the preservation of property and descendants to mitigate adverse consequences within familial dynamics (Harahap et al., 2023). Although substantively relevant, the overwhelmingly dominant and nearly exclusive reliance on this maxim shows a limited exploration of other *qawā'id fiqhiyyah*. Only one case at the Padang Panjang Religious Court uses an additional maxim, namely *kullu mahbūs bi al-nafaqah*, which pertains to the obligation of maintenance (Al-Nadawi, 1994). This suggests that *qawā'id fiqhiyyah* have not been fully treated as a rich analytical toolkit, but rather a set of safe, expedient, and broadly accepted legitimating formulas.

Fourth, concerning non-*fiqh* considerations, the dimension that most clearly reflects the depth of judicial reasoning occurs in the category of "other forms of development." At the Sungai Penuh Religious Court, only one case explicitly used a cross-disciplinary approach, drawing on fields such as the philosophy of science, Robert Linton role theory, and Lévi-Strauss anthropology. In several other cases, references were made to the Domestic Violence Law and sociological considerations, although the number remains limited. At the Padang Panjang Religious Court, although explicit engagement with social theory is relatively rare, there is a more consistent effort to link *fiqh* arguments with factual proof presented in court, such as evidentiary assessments of a wife *nushūz* and debates among schools of *fiqh*. This approach shows that *ijtihād qaḍā'ī* is not understood only as a textual exercise, but also a mode of reasoning grounded in the social facts shown during judicial proceedings. In developing judicial reasoning, judges should also integrate, for example, a gender justice perspective to ensure that the dignity of women is protected and decisions do not perpetuate patriarchal stereotypes, putting the first wife at a disadvantage (Santoso et al., 2023). The gender-responsive reasoning is particularly important in divorce cases involving domestic violence, where judges may exercise discretion to award *'iddah* and *mut'ah* maintenance to the wife even in contested divorce (*cerai gugat*) proceedings, thereby transcending rigid procedural boundaries to ensure substantive protection for female victims (Yusuf et al., 2023). This reflects a constructive legal culture where judges perceive law not only as a rigid set of rules, but a flexible instrument to address urgent social dilemmas (Supriyadi & Suriyati, 2022).

The data show that although *ijtihād qaḍā'ī* is formally present in religious court decisions through references to the Qur'an, *fiqh*, and *qawā'id fiqhiyyah*, it tends to be repetitive and fails to develop progressively (Bilalu et al., 2022). The uniformity of argumentative patterns and the limited exploration of alternative scholarly approaches suggest that judicial reasoning is more often reproduced as a formal requirement rather than substantively developed.

A critical point in this analysis is the complete absence of *ḥadīth* citations. Given that *ḥadīth* embodies a rich normative reservoir for domestic conflict and justice (Al-Qaththan, 2008), the omission signifies a strategic shift toward "safe" and standardized sources. This absence may be interpreted as a hallmark of the formalization of legal reasoning, where judges avoid sources that require deeper, high-risk interpretive

engagement. In this context, the creative space of *ijtihād qadā'ī* becomes constrained, and the potential of *ḥadīth* to strengthen substantive justice remains unutilized in favor of administrative calculability.

This pattern is not only a matter of individual judicial preference but is deeply rooted in the institutional environment of the religious court. From a Weberian perspective, it is the "formal rationality" of a modern judicial bureaucracy (Weber, 2019). Standardized decision formats, training orientations, and institutional pressures for procedural efficiency encourage judges to act as bureaucratic agents who prioritize predictability. As observed by Merryman and Pérez-Perdomo (2018), judges in these systems tend to function as "appliers of rules" rather than "creators of reasoning."

The reliance on standardized statutory provisions and repetitive legal maxims creates a "proceduralized *ijtihād*," where institutional standardization enhances consistency but also simultaneously constructs an "iron cage" that narrows the interpretive space for more substantive forms of *ijtihād qadā'ī*. Therefore, the reduction of *ijtihād* observed in these decisions is an epistemic consequence of a system designed to maintain the equilibrium of a modern nation-state judicial hierarchy at the expense of methodological pluralism.

### Standardization of Legal Reasoning in Judicial Decisions

The institutional patterns identified in the previous sections, particularly the repetitive use of certain Qur'anic verses, the dominance of a single legal maxim, and the relatively uniform structure of fiqh citations, show that judicial reasoning in the religious court operates within a standardized interpretive framework. In this study, the standardization of judicial reasoning refers to the institutional tendency to structure judicial decision-making through uniform procedural formats, recurring legal sources, and repetitive argumentative patterns. Standardization in this context does not necessarily produce identical judicial outcomes but rather narrows the range of acceptable forms of legal reasoning across cases. Within this framework, *ijtihād qadā'ī* is identified through several indicators, including the contextual interpretation of Islamic legal sources, engagement with multiple juristic opinions, methodological use of *qawā'id fiqhīyyah* and *maqāṣid al-sharī'a*, as well as the ability to connect *fiqh* reasoning with the factual circumstances of a case.

The standardization of reasoning cannot be separated from the institutional construction of judicial recruitment and formation. Normatively, mastery of Islamic law and the sources remains an explicit requirement for religious court judges, reflecting the expectation that the judiciary possesses the scholarly capacity to undertake *ijtihād qadā'ī* in adjudicating concrete legal disputes. However, the actual recruitment and training system shows a different institutional orientation. The recruitment of religious court judges follows the broader structure of civil service selection, in which administrative screening, general competency examinations, and bureaucratic qualifications constitute the primary stages of assessment, while methodological mastery of Islamic legal reasoning occupies a secondary position. Interviews with judges recruited in 2018 and 2019 further show that examinations on Islamic law largely focus on basic familiarity with *fiqh* norms and statutory regulations rather than on methodological competencies such as *uṣūl al-fiqh*, *qawā'id fiqhīyyah*, or the management of *ikhtilāf* among juristic schools.

This tendency became more pronounced following changes in judicial recruitment policies under PERMA No. 2 of 2017 and PERMA No. 1 of 2021. These regulations increasingly position prospective judges within the framework of a modern judicial bureaucracy by emphasizing technical, procedural, and managerial competencies. The shift toward recruiting case analysts as the primary pathway to judicial office shows a broader transformation in the institutional construction of judges. In this context, judges are increasingly shaped as components of an administrative judicial workflow rather than as independent juristic authorities grounded in deep methodological engagement with Islamic legal tradition. The process reflects the broader historical trend where the role of religious authorities, such as the *qadhi* or *penghulu*, has shifted from a central spiritual guardian to a professional Marriage Registrar whose duties are rigidly governed by state regulations and administrative credit points (Abubakar et al., 2025). Consequently, the epistemological formation of judges tends to prioritize procedural reliability, bureaucratic discipline, and institutional conformity over the cultivation of substantive *ijtihād* capacity.

From a Weberian perspective, this institutional transformation may be understood as an epistemic consequence of judicial bureaucratization. In bureaucratic legal systems, legal reasoning gradually shifts from substantive rationality, where judges engage in interpretive and ethical deliberation, toward formal rationality, in which decisions are expected to conform to standardized procedures, institutional templates, and administratively accepted forms of argumentation. This transformation does not eliminate judicial discretion, but restructures it within organizational constraints that favor predictability, consistency, and efficiency. Consequently, judges tend to rely on recurring statutory provisions, familiar *fiqh* references, and routinized legal maxims, while broader methodological exploration of Islamic legal sources becomes increasingly limited. This tendency reflects what legal formalism scholars describe as the prioritization of rule compliance and standardized legal structures over creative judicial reasoning (Nishigai, 2022). In this context, standardization functions not only as a technical mechanism of court administration but also an epistemic structure that shapes how judges think, reason, and construct legal authority.

Based on the results, this study proposes the notion of “bureaucratized *ijtihād qaḍā’ī*” to describe a contemporary mode of judicial *ijtihād* that continues to operate within religious court decisions but under highly standardized institutional conditions. In this model, *ijtihād* is reorganized into forms of reasoning that prioritize procedural legitimacy, administrative conformity, and argumentative predictability. Consequently, judicial *ijtihād* no longer primarily functions as an open-ended process of methodological exploration, but increasingly operates as a controlled mechanism of normative justification within bureaucratically structured adjudication. This concept helps explain why contemporary religious court decisions continue to use Islamic legal references while simultaneously showing limited interpretive diversity and constrained methodological experimentation.

The broader framework of judicial development through various Supreme Court Regulations further reinforces the explained tendency. Regulations concerning mediation procedures, electronic litigation, judicial certification, and the standardization of judicial decision formats collectively construct a compliance-based judiciary, in which judicial quality is measured primarily through procedural conformity, administrative efficiency, and standardized case management. These regulations formally aim to strengthen professionalism and improve judicial services, but also simultaneously reinforce technical rationality in judicial practice. For example, mediation regulations place strong emphasis on procedural compliance, while electronic court regulations prioritize administrative efficiency and technological adaptation. Similarly, regulations concerning judicial certification and case adjudication guidelines tend to frame judicial competence in sectoral and procedural terms rather than in terms of methodological mastery of Islamic legal reasoning.

In this regard, the PERMA No. 9 of 2017 concerning the format and guidelines for drafting judicial decisions is particularly significant. By introducing standardized templates and formats for judicial decisions, the regulation contributes to the routinization of legal reasoning and fosters the reproduction of similar argumentative structures across cases. Although this standardization enhances procedural consistency and readability, it simultaneously narrows the interpretive space available for methodological exploration and argumentative diversity, both of which constitute important characteristics of *ijtihād qaḍā’ī*. Kennedy (1986) stated that legal decision-making often operates within structured argumentative frameworks, channeling judicial reasoning toward predictable forms. In the context of religious court, the standardization of judicial formats and institutional expectations appears to encourage judges to rely on safe, familiar, and institutionally accepted forms of reasoning rather than engaging in broader interpretive experimentation within the *fiqh* tradition.

When connected to the empirical results of this study, the institutional arrangements help explain why judicial reasoning in the analyzed decisions tends to rely on repetitive Qur’anic references, recurring *fiqh* citations, and a limited number of legal maxims. Although judges are theoretically granted the freedom to fill legal lacunae by observing living laws or customary practice, institutional standardization often narrows this window of opportunity (Aisyah, 2018). The relatively narrow range of juristic sources and methodological approaches identified in the decisions reflects not only individual judicial preference, but also the influence of institutional cultures and professional routines embedded within the judicial system (Nelken, 2004). In this context, the reduction of interpretive variation in religious court decisions should be

understood as a structural consequence of judicial bureaucratization rather than solely a matter of individual intellectual limitation. Although judges continue to exercise a degree of *ijtihād qadā'ī*, it increasingly operates within standardized procedural and epistemic boundaries.

The results suggest the development of “bureaucratized *ijtihād*,” that formally remains present within religious court decisions but operates within highly standardized institutional and procedural constraints. In this model, *ijtihād* functions less as an open-ended methodological engagement with Islamic legal sources and more as a controlled mechanism of normative legitimation within bureaucratic adjudication. The repetitive use of certain legal maxims, the limited exploration of alternative juristic perspectives, and the predominance of standardized argumentative structures show that *ijtihād qadā'ī* has not disappeared, but become routinized and administratively regulated within the framework of the modern judiciary. This condition contrasts with the historical character of classical Islamic legal reasoning, which Hallaq (2009) describes as being characterized by methodological pluralism, interpretive flexibility, and dynamic engagement across juristic schools.

The standardization of judicial reasoning in religious court decisions should be understood as an ambivalent institutional phenomenon. On the one hand, it strengthens procedural consistency, predictability, and administrative efficiency within the judicial system. On the other hand, it narrows the interpretive space necessary for the development of substantive and methodologically rich *ijtihād qadā'ī*. This phenomenon often leads to an epistemological failure where *maṣlahah* is invoked rhetorically but remains detached from empirical validation, effectively prioritizing collective social anxiety over the long-term welfare and objective readiness of the individuals implicated (Azni et al., 2025). Based on the results, improving the quality of religious court decisions cannot be achieved solely through procedural reform and administrative standardization, but also requires the reconstruction of judicial training and institutional policies that position Islamic legal reasoning, methodological pluralism, and the capacity for *ijtihād* as core competencies of religious court judges.

## Conclusion

In conclusion, this study shows that the practice of *ijtihād qadā'ī* within Indonesia religious court has not disappeared, but rather experienced a transformation within the framework of judicial standardization and bureaucratization. Based on the results, judicial reasoning in the analyzed decisions tends to rely on repetitive Qur'anic references, recurring fiqh citations, standardized legal maxims, and routinized argumentative structures, showing that *ijtihād qadā'ī* increasingly functions as a form of constrained normative legitimation rather than an open-ended process of methodological legal reasoning. Theoretically, this study contributes to contemporary discussions on *ijtihād* and judicial investigations by showing that judicial *ijtihād* in modern religious court must be understood not only as an individual intellectual activity but also an institutional and epistemic phenomenon shaped by bureaucratic structures, recruitment systems, judicial training, standardized decision formats, and procedural expectations. In this regard, the concept of “bureaucratized *ijtihād*” can be used to explain how *ijtihād* formally remains present within judicial decisions while simultaneously operating within institutional constraints that favor procedural conformity, predictability, and administrative efficiency over methodological pluralism and interpretive flexibility. The results further suggest that the reduction of interpretive variation in judicial decisions is a structural consequence of the broader modernization of the judiciary and not simply the result of individual judicial limitations. Accordingly, improving the quality of religious court decisions requires procedural reform and administrative standardization, as well as reconstruction of judicial recruitment, education, and training frameworks that position methodological mastery of Islamic legal reasoning, including *uṣūl al-fiqh*, *qawā'id fiqhīyyah*, *maqāṣid al-sharī'a*, and cross-madhab engagement. Ultimately, the future development of religious court depends not only on strengthening legal certainty and institutional efficiency but also on preserving the interpretive vitality and methodological richness that historically characterized the Islamic legal tradition.

Despite the significant results, several limitations of this study should be acknowledged. First, the empirical analysis is limited to judicial decisions from two religious court, which may not fully represent

the diversity of judicial reasoning across Indonesia broader religious court system. Second, this study relies primarily on textual analysis of judicial decisions and does not capture the internal deliberative processes through which judges formulate legal arguments. Future studies may expand the empirical scope by examining decisions from a wider range of court and incorporating qualitative approaches, such as interviews with judges or courtroom observations, to better understand how to negotiate the relationship between institutional standardization and the interpretive traditions of Islamic law in everyday judicial practice.

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## Conflict of Interest

The author declares that there is no conflict of interest in the conduct of this study and the writing of this article. Any professional relationships between the author and judges of the religious court, as well as institutional cooperation between the author institution and the religious court, did not influence the independence of the analysis or the conclusions of the study.

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