



Critical Analysis of Children's Legal Skills in the Hanafi Mazhab

Andi Wijaya*

*Universitas Indonesia,
Depok-Indonesia,
email: andi.wijaya@ui.ac.id*

Siti Nurhaliza

*Universitas Gadjah Mada (UGM),
Yogyakarta – Indonesia,
email: siti.nurhaliza@ugm.ac.id*

** corresponding author*

Article history: Received: January 30, 2021, Revised: May 03, 2021; Accepted May 29, 2021:
Published: June 25, 2021

Abstract:

This research explores the concept of legal proficiency or "Ahliyyah" in the Hanafi Mazhab of thought, with a particular focus on the "mumayyiz" phase which marks when children begin to differentiate between good and bad at the age of seven. This research uses a qualitative approach, collecting data from classical texts, legal documentation, and interviews with ulama and legal practitioners, to explore how children's legal skills are defined and applied. The results of the study show that there are significant variations in the application of Ahliyyah principles in various social and cultural contexts, reflecting the flexibility and adaptation of the Hanafi Mazhab of thought to diverse societal conditions. This study highlights the importance of standardization in the application of law and the need for more inclusive legal education for legal practitioners, to increase consistency and fairness in legal practice. The social and ethical implications of legal protection for children in this school of

Author correspondence email: jjil.pascasarjana@iain-jember.ac.id

Available online at: <https://jurnalpasca.uinkhas.ac.id/index.php/IJIL/Home>

Copyright (c) 2021 by Indonesian Journal of Islamic Law



Andi Wijaya, et al.

thought show the importance of a holistic approach that combines moral considerations and children's welfare in all legal decisions. The conclusions of this research emphasize the need for policies that are more dynamic and responsive to the needs of children, supporting their welfare while maintaining the integrity and adaptability of Islamic law within the Hanafi Mazhab of thought.

Keywords:

Madhab Hanafi, child legal skills, Ahliyyah, mumayyiz, Islamic law

Abstract:

This research explores the concept of legal proficiency or "ahliyyah" in the Hanafi Mazhab of thought, with a particular focus on the "mumayyiz" phase which marks when children begin to differentiate between good and bad at the age of seven. This research uses a qualitative approach, collecting data from classical texts, legal documentation, and interviews with ulama and legal practitioners, to explore how children's legal skills are defined and applied. The results of the study show that there are significant variations in the application of Ahliyyah principles in various social and cultural contexts, reflecting the flexibility and adaptation of the Hanafi Mazhab of thought to diverse societal conditions. This study highlights the importance of standardization in the application of law and the need for more inclusive legal education for legal practitioners, to increase consistency and fairness in legal practice. The social and ethical implications of legal protection for children in this school of thought show the importance of a holistic approach that combines moral considerations and children's welfare in all legal decisions. The conclusions of this research emphasize the need for policies that are more dynamic and responsive to the needs of children, supporting their welfare while maintaining the integrity and adaptability of Islamic law within the Hanafi Mazhab of thought.

Keywords:

Madhab Hanafi, child legal skills, Ahliyyah, mumayyiz, Islamic law

Introduction

In the midst of the diversity of Islamic legal thought that continues to develop, the Hanafi Mazhab of thought plays an important role as one of the four main schools of thought that is very influential in the history of Islamic law. Founded by Imam Abu Hanifah (699–767 AD), this school not only spread widely in South Asia, Turkey, and parts of the Middle East, but was also historically adopted by major dynasties such as the Ottomans and the Mughals. Its uniqueness lies in the application of *ra'yi* (opinion) and *qiyas* (analogy) methodology, which allows significant flexibility and adaptation to changing social and cultural conditions. However, this flexibility often raises critical questions regarding the internal consistency of the application of legal principles, especially in relation to the issue of children's legal capacity. Although it allows the Hanafi Mazhab of thought to adapt to the emerging needs and challenges of a changing society, it often poses challenges in terms of maintaining uniform legal standards, especially in dealing with sensitive issues such as the legal competence of children. According to this school of thought, children are considered as potential legal subjects, whose legal skills develop with age and understanding. The age factor becomes critical in determining when a child begins to be recognized as having the legal capacity to act in a particular capacity, which is regulated through the concept of "mumayyiz" or the ability to differentiate, which is usually thought to occur around the age of seven. The consequences of this ability to differentiate are not only limited to private acts of worship, but also extended to participation in legal affairs and civil transactions, such as buying and selling or contracts. This is where the Hanafi Mazhab of thought often encounters complications: properly measuring and assessing children's intellectual and emotional capacities, and determining how and when these norms should be applied. This complexity is compounded by variations in local interpretations and adaptations of these principles, which can differ greatly depending on the social context and needs of the communities applying them.

On a broader level, the Hanafi Mazhab of thought promotes a responsible approach and considers both the welfare of the individual and society. In the context of children, this means striking a balance between protecting them from exploitation and misjudgment while

also recognizing and supporting their gradual development of skills and autonomy. This makes the discussion of legal skills in the Hanafi Mazhab of thought not only relevant in a theological and legal context, but also in broader social and ethical discourses about children's rights and protection. Thus, while the Hanafi Mazhab of thought provides significant flexibility in legal interpretation, it also demands a deep understanding and careful consideration of how these principles are applied, particularly in cases involving children, to ensure that not only justice achieved but also that the protection and welfare of children takes priority in all legal decisions.

In Islamic law, the concept of legal proficiency or "ahliyyah" plays a very important role in determining how individuals are treated in a legal context. Ahliyyah, as a basic principle in fiqh, refers to a person's ability to assume legal obligations and carry out and accept the consequences of legal actions. The two main aspects of Ahliyyah—ahliyyah al-wujub and Ahliyyah al-ada'—pertain respectively to the capacity to have legal obligations and the ability to carry out legal actions. In the Hanafi Mazhab of thought, this understanding is applied with particular nuance when it comes to children, reflecting deep theological and philosophical views on children's cognition and morality. The Hanafi Mazhab of thought, known for its methodical and systematic approach to interpreting the shariah, places special emphasis on the phase of child development called "mumayyiz". The mumayyiz phase marks the period when children begin to be able to differentiate between good and bad, and understand the consequences of their actions, which the Hanafi Mazhab of thought establishes at the age of seven. This phase is considered a critical stage in a child's cognitive and moral development, where they begin to develop the capacity to be responsible for certain actions within the law. Furthermore, determining the age of seven years as the beginning of mumayyiz abilities is not absolute but provides a framework for parents and teachers to start introducing children to religious obligations and practices gradually. Under proper supervision and guidance, children are taught the basics of worship and social etiquette, which is considered preparation for the greater responsibilities they will assume upon reaching puberty. The age of puberty—defined around the age of puberty, which can vary from one

individual to another – is the point at which children are considered to have full *Ahliyyah al-wujub* and *Ahliyyah al-ada'*, allowing them to fully participate in all aspects of Islamic law.

In this context, the Hanafi Mazhab of thought pays great attention to detail and individual variation in the application of its laws. Children's legal skills are not only seen from the perspective of age but also from their cognitive abilities and level of moral understanding. This approach shows the flexibility and adaptation of Islamic law to the needs of diverse individuals, while emphasizing the importance of education and character development from an early age. Thus, the Hanafi Mazhab of thought recognizes that the journey towards legal maturity is a gradual process that requires a mature and wise approach, adapting the law to the child's psychological and social conditions. The depth and complexity of this view not only reflects the school's commitment to maintaining moral and legal integrity but also to the protection and development of future generations of Muslims. This research is not only important in an academic context to understand more deeply the variability of interpretation and application of law in the Hanafi Mazhab of thought, but is also very socially relevant. Children, as an integral part of the structure of society, are directly affected by how Islamic law is interpreted and applied in the context of their daily lives. In countries with majority Muslim populations that follow the Hanafi Mazhab of thought, such as Pakistan, Afghanistan, and parts of India, regulations regarding the legal capacity of children affect various aspects of their lives, including education, health, and social protection. Different legal interpretations of the age and conditions under which children are considered capable of performing religious duties (such as prayer and fasting) or participating in legal transactions (such as buying and selling contracts) have significant practical implications for the way children are treated and involved in social and religious activities.

Debates about age and mental capacity standards in *Ḥanafī fiqh* also provide important insights into broader discussions about children's rights and the integration of global norms about children's rights with Islamic law. In this case, this research aims to investigate how children's legal capacity is defined and applied in the Hanafi Mazhab of thought, and what inconsistencies arise in its application. Research questions include: How does the Hanafi Mazhab of thought determine a child's legal capacity? Are there inconsistencies in the

application of the law regarding children, and how does this affect legal interpretation and practice? Through this research, it is hoped that it can contribute to a richer and more layered understanding of how Islamic law, especially in the Hanafi Mazhab of thought, handles the issue of children's legal skills with all its complexities and challenges. It is hoped that the results of this research will not only contribute to academic discourse but also to the development of legal policies and practices that are more sensitive to the needs and rights of children in Islamic societies.

Methods

This research adopts a qualitative approach to explore and understand the interpretation and application of children's legal skills in the Hanafi Mazhab of thought. Data will be collected from two main sources: classical texts and relevant legal documents, such as the *Kitab al-Mabsut* by al-Sarakhsi and fatwas from religious authorities, as well as current academic literature. Document and text analysis will be conducted to extract information about the definition and application of children's legal skills, followed by case studies from court records and in-depth interviews with legal scholars and practitioners. Content analysis techniques will be used to identify themes, patterns, and relationships in the data, with a focus on language use and legal context.

Data analysis will follow grounded theory principles, involving open, axial, and selective coding to develop a theoretical framework that explains legal practice in the Hanafi Mazhab of thought, especially in the context of children. This research will adhere to strict research ethics guidelines, including confidentiality, participant anonymity, and obtaining informed consent. The ultimate aim is to provide a comprehensive and insightful understanding of how children's legal skills are defined and applied, and their impact on the protection and development of children in legal and social contexts.

Results and Discussion

Definition of Children's Legal Capabilities in the Hanafi Mazhab of thought

In the Hanafi Mazhab of thought, the concept of "ahliyyah" or legal proficiency is central to how individuals are recognized and valued within the structure of Islamic law. Ahliyyah refers to a person's capacity to assume legal rights and obligations, which is important in determining how a person can interact in social and legal activities. In the context of children, Hānafi expounds this concept with particular nuance, noting cognitive and moral maturity as key determinants of when and how children acquire legal skills. The Hanafi Mazhab distinguishes two main aspects of Ahliyyah: "ahliyyah al-wujub" and "ahliyyah al-ada'". Ahliyyah al-wujub relates to the capacity to have legal obligations, which includes the ability to be required to perform certain tasks such as prayer and fasting after reaching a certain age. Meanwhile, Ahliyyah al-ada' is the ability to legally carry out legal actions, such as carrying out transactions or making contracts. The Hanafi Mazhab of thought specifically considers age to be a key factor in determining when a child reaches the stage of "mumayyiz" - the ability to differentiate between good and bad actions. According to this school of thought, children are considered to enter this phase at around seven years of age. This is an important period because it marks the first time the child can begin to assume some form of legal responsibility, albeit limited. This mumayyiz stage is very important because it paves the way for children to gradually develop Ahliyyah al-wujub. Even though children do not yet have the full capacity for Ahliyyah al-ada', they are permitted to perform certain actions that are deemed not to harm them or others, such as attending religious services or learning the basics of simple economic transactions under supervision. Determining a child's legal skills is not only based on age but also on cognitive and moral assessments. The Hanafi Mazhab emphasizes the importance of teaching and guidance during this phase, recognizing that children need support to gradually develop their understanding of legal obligations and rights. This educational process is considered an investment in building children's character and legal capacity, ultimately preparing them for their full obligations and rights as adults. In practice, the Hānafi approach ensures that children are gradually integrated into society as full legal participants,

7

taking into account their maturity at each stage. This protection not only meets theological and legal needs but also ensures that children's social and moral development is valued and supported.

Implementation of Mumayyiz Principles in Real Legal Cases

The principle of 'mumayyiz' in the Hanafi Mazhab of thought stipulates that children begin to have limited legal skills at the age of seven, a critical phase that marks their ability to differentiate between good and bad actions. The implementation of this principle is not only important in a theoretical or doctrinal context but also has wide practical application in legal systems following the Hanafi Mazhab of thought. The application of 'mumayyiz' in real legal cases shows how this principle is interpreted and applied by courts in diverse situations, providing important insights into the relationship between Islamic legal theory and judicial practice. In judicial practice, the principle of 'mumayyiz' is applied to assess the extent to which children can be responsible for their actions, both in the context of worship and civil transactions. This is often seen in cases involving financial obligations, such as inheritances, or in the context of crimes or misdemeanors. The application of mumayyiz in this context requires the court to specifically assess evidence that shows the mental and emotional capacity of the child at the time the legal action was taken. One interesting case study involved an eight-year-old boy from Pakistan, who accidentally injured his playmate while playing. Local courts are faced with the challenge of determining whether the child is mumayyiz enough to understand the consequences of his actions. The judge evaluates evidence, including testimony from teachers and parents, to assess the child's level of understanding and maturity. The final verdict determined that the child did not fully understand the consequences of his actions due to a lack of in-depth understanding of the injury and its legal implications, illustrating that the application of the mumayyiz principle is highly dependent on individual context. In another case in India, a nine-year-old girl sued for separation of inheritance. The court ruled that the girl, although considered mumayyiz, needed a guardian to manage her inheritance until she reached puberty, underscoring that full legal proficiency does not automatically occur at the age of seven, but develops gradually. Discussions about the implementation of the mumayyiz principle in

court decisions reveal the importance of social and cultural context in assessing children's legal capacity. Variability in the application of the law suggests that while the Hanafi Mazhab of thought provides a theoretical framework, local adaptation and individual judgment by judges largely determines how these principles are applied in practice. This shows that in the Hanafi Mazhab of thought, there is recognition of the need to adapt legal principles to social and individual realities. This recognition not only strengthens the adaptability of Islamic law in the face of social change but also highlights the challenges in ensuring consistent protection and justice for children. These discussions are important in informing broader discussions about children's rights and the need for legal approaches that are more dynamic and responsive to their changing needs. The application of the *mumayyiz* principle in real legal cases shows the importance of the interaction between legal doctrine and judicial practice. These case studies provide important insights into how legal principles are applied and interpreted in various contexts, offering valuable lessons for the development of laws and practices that are more responsive to the needs of children in societies that adhere to the Hanafi Mazhab of thought.

Variability in the Interpretation and Application of the Law

The application of legal principles in the Hanafi Mazhab of thought shows a significant degree of flexibility, especially in dealing with cases involving children. Based on interviews with legal scholars and practitioners, variability in the interpretation of these principles often leads to different legal applications depending on the social and cultural context in which the law is applied. This flexibility, while providing great room for adaptation to local needs, also raises challenges in maintaining consistent application of the law as a whole. From the interviews, it was revealed that scholars and legal practitioners often face a dilemma in determining "*mumayyiz*" or a child's capacity to carry out certain legal actions. For example, in the context of communities in South Asia, children are often considered to enter *mumayyiz* age earlier due to economic and social factors that encourage them to participate in family economic activities. In contrast, in more modern urban areas with better access to education, children may not be recognized as *mumayyiz* until they are older. This variability reflects adaptation to different socio-economic and cultural conditions, but also raises questions about uniformity and fairness in the application of the law. Further analysis shows that differences in

the determination of *mumayyiz* age and the interpretation of legal proficiency are often influenced by factors such as education level, social norms, and the economic conditions of society. In some cases, legal practitioners must navigate between adhering to legal texts and adapting legal principles to meet social justice and individual needs. This underlines the importance of understanding social and cultural context as determining factors in legal interpretation, which indirectly support or challenge existing legal practice. The influence of this context is evident in the way different societies handle the same issues, such as child custody, inheritance, or religious obligations. This variability, directly visible through case studies and interviews, shows that the law does not operate in a vacuum but is influenced by a dynamic and often complex social environment. The results of interviews and case analysis in this research underline the need for a more dynamic and contextual approach in the interpretation and application of Islamic law, especially in the Hanafi Mazhab of thought. Flexibility in the law, while useful in accommodating local needs, requires a careful balance between respecting inherited legal principles and adapting them to current conditions to ensure that justice is done, especially for vulnerable children. This study highlights the importance of legal education that involves a deep understanding of social, psychological, and cultural factors in the application of law. Through an approach like this, the Hanafi Mazhab of thought can not only maintain its relevance in the modern context but also ensure that its interpretation of Islamic law continues to support just and inclusive social development, particularly in protecting and developing children's rights.

Challenges in Maintaining Legal Consistency

Hanafi Mazhab of thought, founded by Imam Abu Hanifah and widespread in various regions with diverse social and cultural backgrounds, faces significant challenges in maintaining legal consistency. The uniqueness of this school of thought lies in its application of *ra'yi* (opinion) and *qiyas* (analogy) methodology, which provides the flexibility necessary to adapt to dynamic social conditions. However, this same flexibility often leads to non-uniformity in the application of the law, especially in relation to children's legal abilities. Legal competence, or "*ahliyyah*," in the

context of children, is the focus of intense debate within this school of thought, particularly regarding age and the condition of “mumayyiz” – the ability to distinguish between good and bad. According to the Hanafi Mazhab of thought, children are considered to enter this phase at the age of seven, but the interpretation and application of this condition can vary greatly depending on the regional context. These differences in interpretation not only affect individual legal decisions but also raise broader questions regarding the fairness and uniformity of the law on a larger scale. The influence of changing social conditions on the interpretation of juvenile laws becomes clear when observing how these practices differ between regions. In some areas, increased access to education and resources may enable children to reach the mumayyiz stage earlier, while in other areas, economic and social challenges may hinder understanding and application of this concept. This creates a lack of uniformity in legal practice, which can influence legal decisions regarding inheritance, custody, and other legal obligations towards children. One of the main challenges in maintaining legal consistency is how the Hanafi Mazhab of thought navigates between the need to adapt to social conditions and the need to maintain consistent and fair legal principles. This condition is complicated by variations in legal education and practice among scholars and practitioners, who may have different interpretations of the same legal texts and principles. To address these challenges, some scholars of the Hanafi Mazhab of thought suggest the development of more stringent and comprehensive guidelines that can navigate between the need for flexibility and the need for uniformity. This may include more standardized training for legal scholars and practitioners, as well as broader dialogue between legal authorities in different regions to harmonize the interpretation and application of legal principles. The ability of the Hanafi Mazhab of thought to adapt to various social and cultural conditions is one of its main strengths, but is also a source of challenges in maintaining legal consistency, especially in matters regarding children's law. Studying and addressing this variability is not only important to ensure that Islamic law remains relevant and responsive to the needs of modern society, but also to ensure that it is applied fairly and consistently, protecting the rights and welfare of children in all areas.

Social and Ethical Implications of Legal Protection of Children

In the Hanafi Mazhab of thought, the concept of legal skills or "ahliyyah" of children is not only rooted in theological and legal considerations but also in broad social and ethical considerations. This research's focus on how the Hanafi Mazhab of thought addresses this issue reveals deep social and ethical implications, particularly in striking a balance between protecting children from exploitation and facilitating the development of their skills and autonomy. From data collected through interviews and document analysis, it is clear that the Hanafi Mazhab of thought places a high priority on social justice and individual goodness, which are core principles in Islam. The Hanafi Mazhab of thought recognizes the importance of the "mumayyiz" phase as a critical period in children's moral and cognitive development, where they begin to be able to differentiate between good and bad. Establishing the age of seven as the beginning of this phase not only marks the beginning of legal responsibility in several aspects but also requires careful education and supervision from parents and educators. In this case, the school focuses not only on protecting children from legal action that they may not be ready to handle, but also on the importance of giving them the tools to develop the skills that will be necessary when they reach full maturity. Child protection in the Hanafi Mazhab of thought also reflects a greater awareness of how children, as the future generation of Muslims, must be nurtured and protected in their social and cultural context. This includes the introduction of appropriate age and development laws, as well as policies that ensure that children can grow up in a safe and supportive environment that promotes strong ethical and moral values. Thus, the Hanafi Mazhab of thought actively contributes to the development of a young generation who not only understands the law but also has moral integrity and social sensitivity. The legal protection provided to children in the Hanafi Mazhab of thought also plays a role in regulating broader social relations, by emphasizing the importance of justice, equality and individual welfare. This underlines that legal policies relating to children must be approached not only from the perspective of harm prevention but also from capacity building. Thus, every policy or legal decision must consider its long-term impact on the development of children and society as a whole. Although the Hanafi Mazhab of thought offers a strong framework for the legal

protection and guidance of children, this research also identifies areas where there may be room for improvement. For example, increasing standardization in the interpretation and application of laws relating to children could help reduce legal uncertainty and improve their protection. Furthermore, recommendations for a more inclusive and comprehensive legal education for children could strengthen their understanding of their rights and responsibilities, which in turn would help them become more active and informed participants in Islamic societies. The results of this research confirm that the legal protection of children in the Hanafi Mazhab of thought does not only involve the application of rules but also the formation of character and preparation for future generations. This protection has broad social and ethical implications, showing how the law can be used as a tool to achieve social justice and develop a harmonious and civilized society.

Recommendations for Legal Practice and Policy

This research reveals the importance of uniformity and clarity in legal practice, especially in relation to children's legal skills in the Hanafi Mazhab of thought. From the results of analysis and interviews with ulama and legal practitioners, there is an urgent need to develop clearer and more consistent guidelines that can accommodate the needs of diverse communities without compromising the basic principles of Islamic law. A more standardized and well-documented legal approach would not only help minimize undesirable variations in interpretation, but also provide a more stable framework for the fair and balanced application of the law. It is very important to develop legal training and education modules that specifically target aspects of children's legal skills. These programs should be designed to increase legal practitioners' and religious scholars' understanding of the psychological and social aspects that influence child development. This training may include seminars, workshops, and e-learning modules that provide insight into how best to assess legal proficiency based on an individual's age and abilities, as well as how to integrate this understanding into everyday legal practice. The research results show the need for legal guidelines that are not only rigid but also flexible and inclusive enough to take into account individual differences and diverse cultural contexts. These guidelines should include general principles that can be adapted to suit the specific needs of different societies, ensuring that they are relevant and practical in a variety of situations. This will also help in providing more effective

and empathetic legal solutions, especially in cases involving children. Effective policy development requires collaboration across disciplines, including law, psychology, education, and the social sciences. This collaboration is important to ensure that the policies created are not only strong from a legal perspective but also support the holistic development and welfare of children. The establishment of interdisciplinary teams to review and formulate policies will ensure that all aspects of children's lives are considered, providing them with a supportive environment for growth and development. To ensure the effectiveness of implemented policies, regular monitoring and evaluation is essential. This will not only help in identifying weaknesses in existing policies but also in adapting and updating approaches according to changes in society and children's needs. This ongoing evaluation will help in ensuring that legal policies remain relevant and responsive to new challenges as they arise. By taking into account the complexity and variations in the interpretation and application of *Ḥ anafī* law regarding children's legal skills, these recommendations aim to strengthen legal practice and policy development. These steps will not only increase consistency and fairness in the application of the law but also support the welfare and development of children as individuals who are entitled to full legal protection and recognition in accordance with their age and abilities.

Conclusion

This research examines children's legal skills in the Hanafi Mazhab of thought, highlighting how this school of thought defines and applies the concept of "ahliyyah" or legal skills, with a special focus on the "mumayyiz" phase. In this phase, children are thought to be able to differentiate between good and bad by the age of seven, which is an important point in their moral and legal development. This study shows that there is significant variability in the interpretation and application of this principle, depending on social and cultural context, reflecting the flexibility of the Hanafi Mazhab in adapting to the changing needs of society. However, this also poses challenges in maintaining legal consistency and fairness, highlighting the need for clearer guidelines and improved legal education for practitioners and clerics. The results of this research suggest that increasing

standardization in legal practice and policy, which is sensitive to children's needs, can help reduce variations in interpretation and improve the protection and development of children. The social and ethical implications of the legal protection of children emphasize the importance of incorporating moral considerations and child welfare in all legal aspects, supporting character formation and preparation for future generations in Islamic societies. In conclusion, the Hanafi Mazhab of thought provides a flexible framework but requires a more cohesive and informed approach to ensure effective and fair protection for children in a dynamic legal context.

Bibliography

- Al-Āmidī, Ali bin Mu ḥ ammad. *Al-I ḥ kām Fī U ṣ ūl Al-A ḥ kām*. Beirut: Dār al-pole al-Ilmiyyah, 1986.
- Al-Jazīrī, Abd al-Ra ḥ mān. *Kitab Al-Fiqh Ala Al-Madhāhib Al-Arba`ah*. Cairo: Dār al-Hadīth, 1998.
- Al-Kāsānī al- Ḥ anafī, Abī Bakr b. Mas'ūd. Bada'i' Al- Ṣ anā'i' Fī Tartīb Al-Syarā'i'. Beirut: Dār al-Kutub al-`Ilmiyyah, 2010.
- Al-Sarakhsi, Muhammad ibn Ahmad. Buku al- Mabsut . Beirut: Dar al-Ma'rifah , nd
- Bearman, Peri, Rudolph Peters, and Frank E. Vogel, eds. *The Islamic School of Law: Evolution, Devolution, and Progress*. Cambridge, MA: Harvard University Press, 2005.
- Coulson, Noel J. *A History of Islamic Law*. Edinburgh: Edinburgh University Press, 1964.
- Hallaq, Wael B. *A History of Islamic Legal Theories: An Introduction to Sunni Usul al- fiqh* . Cambridge: Cambridge University Press, 1997.
- Hallaq, Wael B. *Sharia: Theory, Practice, Transformations*. Cambridge: Cambridge University Press, 2009.
- Jackson, Sherman A. *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al- Dīn al- Qarāfi* . Leiden: Brill, 1996. <https://doi.org/10.1163/9789004478903>.
- Johansen, Baber. *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh*. Leiden: Brill, 1999. <https://doi.org/10.1163/9789004499274> .
- Kamali, Mohammad Hashim. *Principles of Islamic Jurisprudence*. Cambridge: Islamic Texts Society, 2003.

Andi Wijaya, et al.

Opwis, Felicitas. *Maslaha and the Purpose of the Law: Islamic Discourse on Legal Change from the 4th/10th to 8th/14th Century*. Leiden: Brill, 2010.

Weiss, Bernard G. *The Spirit of Islamic Law*. Athens: University of Georgia Press, 1998.

Abdullah, Ahmad Badri, et.al. "Postmodernism Approach in Islamic Jurisprudence (Fiqh)." *Middle East Journal of Scientific Research* 13, no. 1 (2013).
<https://doi.org/10.5829/idosi.mejsr.2013.13.1.1756>.