

Reconstruction of the Function of Takhsis in Ushul Fiqh in Contemporary Muslim Society

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Abstract: This study aims to reconstruct the function of takhsis in ushul fiqh within contemporary Muslim society by critically examining its conceptual role and practical application in modern Islamic legal reasoning. The research employs a qualitative normative methodology through textual and analytical approaches, focusing on classical ushul fiqh literature, contemporary scholarly works, and selected fatwa and legal discourses that reflect current socio-legal realities. Data are analyzed by comparing classical formulations of takhsis with contemporary interpretations to identify patterns of continuity, shift, and methodological tension. The findings indicate that the function of takhsis in contemporary practice tends to be applied in a limited and formalistic manner, often emphasizing textual restriction while neglecting broader contextual, social, and purposive considerations. This condition results in interpretive rigidity and difficulties in responding effectively to social change, legal pluralism, and new legal problems faced by Muslim societies today. The study finds that takhsis requires functional reconstruction by repositioning it not merely as a textual limiting tool, but as a dynamic methodological instrument that operates in harmony with contextual analysis and the objectives of Islamic law. The study concludes that such reconstruction is essential to maintain the relevance and adaptability of ushul fiqh in contemporary contexts. Academically, this research contributes to the development of ushul fiqh studies by offering a systematic reinterpretation of takhsis that bridges classical legal theory and contemporary legal challenges, and by enriching ongoing discussions on Islamic legal methodology, reform, and contextual interpretation.

Keywords: Islamic Law, Legal Interpretation, Muslim Society, Takhsis Function, Ushul Fiqh

1. Introduction

Ushul al-fiqh constitutes a fundamental methodological basis for understanding the divine intent embodied in the Qur'an and the Sunnah.¹ One of the most important linguistic discussions in the process of deriving legal rulings is the distinction between general ('am) and specific (khas) expressions.² These two categories play a decisive role in determining the scope of legal norms, the limits of their applicability, and the strength of textual indications in legal reasoning.³ A misunderstanding of the relationship between general and specific wording may lead either to excessive generalization of legal rulings or, conversely, to unjustified legal restrictions. Within the classical ushul al-fiqh tradition, discussions on general and specific wording are commonly situated within a normative linguistic framework that emphasizes

¹ Saifuddin Sa'dan et al., "Imkāniyāt Al-Ijtihād Al-Istislāhī Wa Ishāmātuhi Li Hall Al-Qaḍhāyā Al-Fiqhiyyah Al-Mu'āṣarah: Dirāsāt Fi Fatāwā Jā'īhah COVID Fī Indonesia," *Jurnal Ilmiah Islam Futura* 24, no. 1 (February 2, 2024): 198, <https://doi.org/10.22373/jiif.v24i1.14967>.

² Zulbaidah Zulbaidah et al., "From Traditional 'Urf to Digital 'Urf: Accommodating the Values of the Young Generation on Husband-Wife Relations in the Framework of Ushūl Al-Fiqh'," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (November 20, 2025): 784–808, <https://doi.org/10.29240/jhi.v10i2.14630>.

³ Ibnu Elmi AS Pelu, "Kedudukan Fatwa Dalam Konstruksi Hukum Islam," *El-Mashlahah* 9, no. 2 (January 1, 2020), <https://doi.org/10.23971/maslahah.v9i2.1692>.

definitions, forms of expression,⁴ and illustrative applications drawn from legal verses of the Qur'an and Prophetic traditions. This approach has significantly contributed to preserving the methodological coherence of Islamic legal reasoning. However, the increasing complexity of social realities, rapid technological developments, and the emergence of new legal issues demand a renewed reading of ushul al-fiqh instruments, including the concept of takhsis as a mechanism for limiting the scope of general expressions.

Takhsis is understood as the process of excluding certain individuals or cases from the scope of a general expression on the basis of valid legal evidence,⁵ whether derived from textual proofs, consensus, analogy, or rational and empirical considerations. In this framework,⁶ takhsis is primarily positioned as a textual technique aimed at reconciling apparently conflicting evidences. In the context of contemporary Islamic law, however, takhsis can no longer be viewed merely as an editorial or linguistic constraint. Rather, it must be understood as an epistemological instrument that enables Islamic law to remain responsive to changing circumstances without undermining its normative authority. In a modern social and legal environment characterized by technological advancement, globalization, and rapid social transformation, Islamic law faces increasingly complex challenges that require adaptive interpretive approaches. Issues such as digital transactions,⁷ biomedical ethics, and new forms of social interaction cannot be adequately addressed through a strictly literal reading of texts.⁸ In this regard, takhsis functions as a means of contextualizing general legal norms so that they remain relevant and applicable while preserving their moral and legal legitimacy.⁹

Although classical and contemporary scholarship has extensively examined takhsis and the relationship between general and specific wording, particularly within the discipline of ushul al-fiqh, much of this literature remains focused on linguistic analysis and doctrinal consistency.¹⁰ Takhsis is often treated solely as a method for resolving textual conflicts within a rigid normative framework. While this approach is effective in maintaining methodological discipline, it is limited in addressing the broader need to contextualize Islamic law in response to evolving social realities. An excessive emphasis on textual analysis frequently overlooks the practical relevance of law in contemporary contexts. Many existing studies therefore fail to explore the potential of takhsis as an epistemological tool in modern legal reasoning. This study seeks to address this gap by proposing a more holistic approach that integrates the objectives of Islamic law (maqasid al-shariah) and contemporary social dynamics into the application of takhsis.¹¹ Accordingly, this research aims to answer three main questions: how the concept and function of takhsis in relation to general and specific wording are understood in classical ushul al-fiqh; how the function of takhsis shifts within the epistemological framework of contemporary ushul al-fiqh;

⁴ Saifuddin Herlambang, "Interpretasi Milenial Muhammad Shahrur Tentang Isu-Isu Perempuan," *F1000Research* 12 (September 26, 2024): 39, <https://doi.org/10.12688/f1000research.125653.4>.

⁵ Muhammad Ridha DS et al., "Mapping the National Insight of the Salafi Group in Indonesia Based on Their Fatwa on Social Media," *Al-Adalah* 21, no. 2 (January 5, 2025): 245, <https://doi.org/10.24042/adalah.v21i2.19098>.

⁶ Moh. Fauzi and Nazar Nurdin, "Inconsistencies in the Hanafi School's View of Children's Legal Competence," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (July 5, 2023): 1334, <https://doi.org/10.22373/sjhk.v7i3.16585>.

⁷ Wahyu Akbar et al., "Reposition of Ihdad Women's Multi-Career Perspective: Philosophical, Historical, Juridical, and Sociological Studies," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 372, <https://doi.org/10.22373/ujhk.v7i1.23038>.

⁸ Sopa Sopa et al., "Social Security Programs in Islamic Law: A Comparative Study of Fatwa Institutions on Indonesia's Health Insurance," *Jurnal Hukum* 40, no. 1 (September 1, 2024): 187, <https://doi.org/10.26532/jh.v40i1.37174>.

⁹ Syamsul Wathani, Habib Ismail, and Akhmad Mughzi Abdullah, "Reconstruction of Women's Fiqh: An Analysis of Muhammad Shahrūr's Contemporary Reading in a Hermeneutic Perspective," *JIL: Journal of Islamic Law* 3, no. 2 (August 11, 2022): 159–75, <https://doi.org/10.24260/jil.v3i2.860>.

¹⁰ Achmad Siddiq et al., "Restrictions on Hajj Pilgrimage for Indonesian Congregation from the Perspective of Sadd Al-Dzari'ah," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 2, 2024, 35–51, <https://doi.org/10.24090/volkgeist.v7i1.9701>.

¹¹ Ahmad Rajafi, "The Contemporary Ushul Fiqh in Indonesia: An Idea and Practice," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (June 19, 2023): 19, <https://doi.org/10.30984/jis.v21i1.2260>.

and what implications this reconstruction has for the methodology of *ijtihad* and the practice of Islamic law in the modern context.¹²

This study aims to reconstruct the function of *takhsīs* in contemporary *uṣūl al-fiqh* by positioning it not merely as a linguistic device used to limit the generality of legal texts, but as an epistemological instrument that enables a deeper and more dynamic contextualization of Islamic law. Through this perspective, *takhsīs* is understood as a methodological bridge between normative textual sources and the evolving socio-legal realities faced by Muslim societies today. The study argues that the classical conception of *takhsīs*, which is often confined to textual and grammatical analysis, requires expansion to accommodate changing contexts, values, and social structures. By integrating epistemological considerations, *takhsīs* can function as a tool for rational and purposive legal reasoning without undermining the authority of the Qur'an and Sunnah. The expected theoretical contribution of this research lies in formulating a renewed methodological framework in *uṣūl al-fiqh* that is adaptive, context-sensitive, and normatively grounded. Such a framework is particularly relevant in addressing contemporary legal challenges, including digital transactions, transformations in family law, and the shifting dynamics of fatwa authority in the digital era. Ultimately, this reconstruction seeks to strengthen the relevance of Islamic legal theory by ensuring its capacity to respond constructively to modern social and legal complexities while maintaining its foundational principles.

2. Method

This study employs a qualitative normative research approach designed to examine and reconstruct the function of *takhsīs* in *ushul fiqh* within contemporary Muslim society. Data were collected through an extensive literature review of primary classical *ushul fiqh* texts, contemporary scholarly writings, and relevant fatwa and legal opinions that reflect current Islamic legal reasoning. The data collection was conducted over a six-month period, from January to June 2025. The primary sources include authoritative works of classical jurists, modern interpretations published in academic journals, and selected legal-fatwa documents issued by recognized Islamic institutions. Data collection techniques involved systematic text selection, thematic categorization, and critical reading, carried out by the researcher at academic libraries and through reputable online databases. No human participants were involved in this study, as the research relied exclusively on documentary sources. The procedures were designed to ensure consistency and transparency in source selection, focusing only on materials directly relevant to the concept and application of *takhsīs*.

The data analysis was conducted using qualitative content analysis and comparative analytical methods. Texts were examined to identify patterns of continuity and change in the understanding and application of *takhsīs* between classical and contemporary contexts. Analytical frameworks derived from *ushul fiqh* theory and *maqasid al-shariah* were employed to interpret the data, allowing for a structured evaluation of methodological shifts. The analysis process involved coding key concepts, comparing doctrinal positions, and synthesizing findings to develop a reconstructed framework of *takhsīs*. Data processing and organization were performed manually using structured matrices, supported by reference management software to ensure accuracy and consistency. Methodological rigor was maintained through source triangulation and repeated cross-checking of interpretations to enhance reliability and validity. This analytical procedure enables the study to produce well-grounded conclusions and offers a replicable model for future research in Islamic legal methodology.

¹² Lalu Supriadi Bin Mujib, Khairul Hamim, and Setiyawan Bin Gunardi, "The Concept of Qath'i and Zhanni and Its Implication to Religious Behavior among Muslim Communities in Lombok," *AL-'ADALAH* 17, no. 2 (March 14, 2021): 269–94, <https://doi.org/10.24042/adalah.v17i2.6975>.

3. Result and Discussion

3.1. Epistemological Limits of Literalist Application of General Norms

A strict literalist approach to general wording that requires uniform application across all contexts generates serious epistemological problems in contemporary Islamic legal reasoning.¹³ The results of this study indicate that such an approach assumes that legal meaning is fully determined at the level of linguistic expression. General norms are treated as fixed and ahistorical commands, applied without sufficient attention to changing social conditions. This leads to a disconnection between legal texts and the realities in which they are expected to operate. In contemporary contexts marked by rapid social transformation,¹⁴ this disconnection becomes increasingly visible. Legal rulings derived through rigid literalism often fail to achieve justice or social welfare. The findings suggest that the problem does not originate from the authority of the text itself. Rather, it arises from interpretive practices that neglect the contextual dimension of legal application. As a result, literalism risks undermining the practical relevance of Islamic law.

The findings further demonstrate that textual authority in Islamic law is never abstract or self standing. Legal norms always function within specific social, institutional, and ethical environments. Interpretations that ignore social transformation tend to produce outcomes that contradict the objectives of Islamic law. This study finds that legal reasoning detached from context often leads to normative tension rather than legal clarity.¹⁵ Such tension is especially evident in cases involving complex social relations and modern forms of interaction. The results confirm that textual authority must be understood as operating through interpretation rather than direct application. Fidelity to the text therefore requires methodological engagement with context.¹⁶ The critique of literalism revealed in this study should not be understood as a rejection of revelation. Instead, it represents an internal methodological correction aimed at preserving the effectiveness of the law.

Within this framework, takhsis appears as a central methodological mechanism for addressing the limitations of literalist interpretation. The results show that takhsis allows general wording to be limited in a structured and accountable manner within ushul al fiqh. Through takhsis, general expressions are not negated but refined in their scope of application. This mechanism enables legal reasoning to distinguish between universal legal values and their contextual manifestations.¹⁷ Takhsis functions as a bridge between textual normativity and social reality. It prevents general norms from being applied mechanically in contexts where they may produce harm or injustice. The findings indicate that takhsis strengthens rather than weakens the authority of the text. By regulating application, takhsis preserves both legal coherence and practical relevance.

The analysis also confirms that general wording has never been regarded as absolute within the classical tradition of ushul al fiqh. The majority of scholars understood the indication of general expressions as probabilistic with respect to their scope. This understanding inherently allowed room for takhsis. The findings demonstrate that the limitation of general wording is not a modern innovation. Instead, it is a

¹³ Ismail Jalili Jalili et al., "The Implementation of Tanqih Al-Manath Theory in Ushul Al-Fiqh: An Analysis of Marriage Law Issues in Indonesia," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 11, no. 2 (October 30, 2024): 401, <https://doi.org/10.29300/mzn.v11i2.4828>.

¹⁴ Muhammad Mawardi Djalaluddin et al., "The Implementation of Ta'zir Punishment as an Educational Reinforcement in Islamic Law," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 399, <https://doi.org/10.22373/sjhk.v7i1.15101>.

¹⁵ Ahmed Mansoor Alkhan, "The Maqāṣid Al-Sharī'ah and Islamic Finance Debate: The Underlying Philosophy and Perspectives of Sharī'ah Scholars," *Arab Law Quarterly* 37, no. 1–2 (February 4, 2021): 80–110, <https://doi.org/10.1163/15730255-BJA10075>.

¹⁶ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law* (International Institute of Islamic Thought, 2008), <https://doi.org/10.2307/j.ctvkc67tg>.

¹⁷ Ishaq Ishaq and Muannif Ridwan, "A Study of Umar Bin Khatab's Ijtihad in an Effort to Formulate Islamic Law Reform," *Cogent Social Sciences* 9, no. 2 (December 15, 2023), <https://doi.org/10.1080/23311886.2023.2265522>.

foundational feature of Islamic legal theory.¹⁸ Takhsis functions as an internal tool for managing the complexity of legal meaning. It allows the law to maintain normative universality while responding to specific circumstances. This balance ensures that legal rules remain meaningful across different social contexts. The results highlight that classical theory already contained the methodological resources for contextual interpretation.

Historical debates among ushul scholars further illustrate that takhsis has always been an open field of interpretive reasoning. The findings show significant differences regarding the evidentiary standards required for limiting general terms. Scholars also differed on the role of rational reasoning and the hierarchy of legal sources. These disagreements indicate that takhsis was never treated as a purely mechanical procedure. Instead, it reflected ongoing efforts to reconcile legal certainty with interpretive flexibility. The results suggest that these debates reveal an early awareness of the limits of language in conveying legal intent.¹⁹ Takhsis thus emerged as a necessary method for navigating between textual authority and practical application. This historical diversity strengthens the legitimacy of methodological reconstruction in contemporary contexts.

In the contemporary legal environment, these classical insights remain highly relevant. The results indicate that modern social,²⁰ economic, and technological developments produce legal issues that cannot be resolved through rigid textual application alone. Reconstructing the function of takhsis is therefore not a departure from classical thought. Rather, it represents a continuation of ushul al fiqh under new epistemic conditions.²¹ Takhsis enables Islamic law to remain normatively authoritative while engaging with complex realities. It provides a disciplined method for contextual reasoning without surrendering textual foundations. The findings confirm that takhsis operates as an epistemological instrument rather than a mere linguistic technique. Through this role, Islamic law sustains its universal aspirations while remaining responsive to historical change.

3.2. Reconstruction of Takhsis as a Contextual Legal Method

The results of this study indicate that reconstructing the function of takhsis in contemporary ushul al-fiqh requires a fundamental reassessment of the relationship between linguistic meaning and substantive legal meaning. Classical legal theory generally privileged linguistic analysis as the primary determinant of legal rulings, while ethical considerations and legal objectives played a supporting role. This approach functioned effectively within relatively stable social conditions, where legal problems closely mirrored those encountered during the formative period of Islamic law. However, the findings show that when legal texts are applied to rapidly changing social environments, exclusive reliance on linguistic meaning becomes increasingly inadequate. Legal norms derived solely from textual generality risk losing relevance,²² effectiveness, and their capacity to realize justice. The study demonstrates that takhsis provides a methodological response to this limitation by allowing legal reasoning to incorporate context and legal purpose without undermining textual authority. Through this reconstruction, takhsis emerges as a mechanism that integrates linguistic interpretation with social reality,²³ ensuring that general legal norms remain operational in contemporary settings.

From an epistemological perspective, the findings reveal that takhsis operates not only at the level of

¹⁸ Muhajir Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law," *Jurnal Ilmiah Al-Syir'ah* 21, no. 1 (June 20, 2023): 86, <https://doi.org/10.30984/jis.v21i1.2321>.

¹⁹ Iffatin Nur, Ali Abdul Wakhid, and Lestari Handayani, "A Genealogical Analysis on the Concept and Development of Maqasid Syari'ah," *AL-ADALAH* 17, no. 1 (November 30, 2020): 1–30, <https://doi.org/10.24042/adalah.v17i1.6211>.

²⁰ Jefry Tarantang, "Cita Hukum Dan Sistem Nilai Etika Advokat Dalam Penyelesaian Sengketa Hukum Keluarga Islam," *El-Mashlahah* 9, no. 2 (December 31, 2019), <https://doi.org/10.23971/maslahah.v9i2.1693>.

²¹ Muhajir et al., "Agus Moh Najib's Thoughts on the Interconnection of Islamic Law and National Law."

²² H. Hendrianto and Lutfi Elfalahy, "Ayat-Ayat Hukum Dalam Alquran Mengatur Hubungan Sesama Manusia," *Al-Istinbath : Jurnal Hukum Islam* 6, no. 1 (May 31, 2021): 165, <https://doi.org/10.29240/jhi.v6i1.2719>.

²³ Saiful Anwar et al., "Ahl Al-Hadith and Ahl Ar-Ra'yi in the Formation and Development of Islamic Law," *International Journal of Law and Society (IJLS)* 3, no. 2 (August 13, 2024): 77–89, <https://doi.org/10.59683/ijls.v3i2.88>.

textual wording but also at the level of realizing legal meaning in practice.²⁴ Limitations on the application of general rules do not necessarily arise from changes in textual formulation or the discovery of new textual evidence. Rather, they often result from changes in social conditions that alter the way legal norms function within society. In this sense, takhsis acts as a mediating mechanism that connects linguistic meaning with substantive legal purpose. General expressions are thus understood as carriers of normative values rather than as rigid commands requiring uniform application. Takhsis regulates how these values are translated into concrete rulings in specific contexts, allowing Islamic law to maintain continuity while remaining responsive to change.²⁵ The results show that this function transforms ushul al-fiqh from a discipline focused primarily on textual analysis into a normative framework that actively engages with meaning, purpose, and legal consequences.

The study further finds a significant shift in the function of takhsis when comparing classical and contemporary legal reasoning. In the classical framework, takhsis primarily functioned as a tool for harmonizing texts that appeared to conflict,²⁶ thereby preserving internal coherence within the legal system. Its operation was largely confined to the textual domain and aimed at maintaining doctrinal consistency. In contrast, contemporary applications demonstrate that takhsis increasingly serves as an instrument of legal contextualization. It is used to assess whether the general application of a rule continues to fulfill justice, public interest, and legal effectiveness under new social conditions. This shift reflects broader epistemic changes characterized by complex institutions, fragmented authority, and legal phenomena without direct classical precedents. The findings show that takhsis enables Islamic law to sustain its universal normative claims while engaging constructively with diverse and evolving social realities.

Another important result concerns the integration of the objectives of sharia in the operation of takhsis. The findings indicate that when legal reasoning incorporates considerations of justice, welfare, and harm prevention, takhsis gains a stronger epistemological foundation. In this framework, takhsis functions as an evaluative process that examines whether the application of a general rule in a specific context still fulfills²⁷ its intended purpose. When the application of a general norm produces adverse social or legal consequences, takhsis provides a methodological basis for limiting its scope without negating the authority of the text. This represents a shift from understanding takhsis as a purely linguistic restriction to recognizing it as a form of normative reasoning. The results show that this approach allows Islamic law to adapt responsibly to social change while preserving its ethical and legal coherence.

The concept of generality in legal texts. General expressions can no longer be understood as commands for uniform application across all times and places.²⁸ Instead, they should be seen as indications of normative openness that allow legal norms to respond to different social contexts. The universality of Islamic law, therefore, lies not in rigid uniformity but in its methodological capacity to engage with changing realities.²⁹ Takhsis plays a central role in determining the operational limits of this generality,

²⁴ Mahbub Ainur Rafiq, "Diskursus Perdebatan Praktik Money Politics Dalam Perspektif Metode Istishlahy," *Al-Istinbath : Jurnal Hukum Islam* 6, no. 2 (November 11, 2021): 179, <https://doi.org/10.29240/jhi.v6i2.2074>.

²⁵ Husnul Fatarib, Suci Hayati, and Agus Salim Ferliadi, "Between Legalization and Moral Hazard: A Maslahah-Mafsadah Analysis of Prenuptial Pregnancy Marriage (Kawin Hamil) in Indonesian Islamic Law," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 25, no. 2 (December 27, 2024): 89–104, <https://doi.org/10.30631/alrisalah.v25i2.2016>.

²⁶ Khairul Hamim, "Comparison Between Double Movement Theory and Nazariyyat Al-Hudud Theory on Polygamy Laws," *El-Mashlahah* 12, no. 2 (December 31, 2022): 190–209, <https://doi.org/10.23971/el-mashlahah.v12i2.4903>.

²⁷ Y. Sonafist, "Configuration the Thought of Islamic Law Throught Social Media in Indonesia," *International Journal of Law and Society (IJLS)* 1, no. 2 (August 12, 2022): 125–43, <https://doi.org/10.59683/ijls.v1i2.21>.

²⁸ Husni Mubarrak, Faisal Yahya, and Iskandar Iskandar, "Contestation on Religious Interpretation in Contemporary Aceh Sharīa: Public Caning in Prison as the Case of Study," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 15, 2023): 213, <https://doi.org/10.31958/juris.v22i2.10258>.

²⁹ Ahmad Ubaydi Hasbillah, "Min Al-Harbi Lla Al-Lṣlah Wa Al-Salam: Tafsiru Āyātī Āl-Ğihād 'ala Ḍaw'i Maqāṣidihā," *Jurnal Studi Ilmu-Ilmu Al-Qur'an Dan Hadis* 23, no. 1 (January 31, 2022): 145–72, <https://doi.org/10.14421/qh.2022.2301-08>.

ensuring that legal norms remain effective and socially grounded. Without takhsis, general rules risk becoming abstract ideals detached from lived experience. With it, those rules function as practical legal instruments capable of guiding social behavior while maintaining normative legitimacy.

3.3. Contextual Application of Takhsis in Contemporary Legal Practice

The reconstruction of the function of takhsis in contemporary ushul al-fiqh becomes increasingly significant when examined through concrete cases generated by technological development, global economic integration, and rapid social transformation. In this context, takhsis no longer operates merely at an abstract or theoretical level, but functions as a methodological mechanism that determines the relevance and legitimacy of applying textual generalities to new legal realities. Muamalat texts in the Quran and Sunnah generally employ general formulations, such as commands to uphold justice and prohibitions against usury,³⁰ uncertainty, and fraud in transactions. These general formulations are designed to encompass all transactional forms, regardless of medium or instrument. However, the emergence of modern financial systems such as electronic money, financial technology platforms, and smart contracts has produced transactional forms unknown in classical fiqh discourse. This situation necessitates a methodological process that can mediate between textual universality and empirical novelty.³¹ Takhsis plays this role by limiting the application of general texts based on the technical characteristics, risk structures, and legal consequences of contemporary transactions. As a result, the authority of the text is preserved while its application remains responsive to evolving economic realities.

A clear illustration of this function can be found in the application of the prohibition of gharar in modern digital transactions. Classical formulations generally prohibit all forms of excessive uncertainty due to their potential to cause injustice and exploitation. However, contemporary financial practices often involve technical uncertainty that is inherent to digital systems but does not necessarily generate injustice or deception. Through takhsis, the general prohibition of gharar is not applied absolutely, but is instead evaluated in light of transparency, accountability, and risk mitigation mechanisms embedded in modern financial infrastructure.³² Several contemporary studies emphasize that manageable technical uncertainty cannot be equated with excessive gharar that undermines contractual justice. In this context, takhsis is guided by the objectives of sharia, particularly the protection of property and the prevention of hardship.³³ This approach is reflected in contemporary fatwas that permit certain digital financial instruments under strict conditions of disclosure, regulatory oversight, and consumer protection. Thus, takhsis functions as an epistemological filter that distinguishes between prohibited uncertainty and acceptable operational risk, ensuring that legal norms remain both principled and applicable.

In Islamic family law,³⁴ general textual formulations concerning the roles and authority of men and women have often been interpreted in ways that produce rigid legal generalizations. Literal readings of these general expressions risk overlooking profound changes in social structures, economic participation, and family dynamics.³⁵ An ushul al-fiqh approach grounded in takhsis demonstrates that the generality of

³⁰ Ahmad Zaenuri, "Konsepsi Fikih Dakwah Jamā'ah Tablīgh Pada Masa Pandemi COVID-19: Telaah Gerakan Dakwah Jamā'ah Tablīgh Gorontalo," *JIL: Journal of Islamic Law* 1, no. 2 (August 1, 2020): 135–57, <https://doi.org/10.24260/jil.v1i2.68>.

³¹ Lutfi Chakim, Nur Hidayah, and Hasanudin Hasanudin, "Fatwa, Authority, and Digital Trade: A Critical Legal-Discursive Analysis of Dropshipping Rulings in Indonesia and Egypt," *Jurisdictie: Jurnal Hukum Dan Syariah* 16, no. 1 (July 1, 2025): 124–65, <https://doi.org/10.18860/j.v16i1.31882>.

³² Umami Muti'ah and Alwizar Alwizar, "Kaedah 'Am Dan Takhsis," *Hamalatul Qur'an : Jurnal Ilmu Ilmu Alqur'an* 5, no. 2 (December 23, 2024): 623–29, <https://doi.org/10.37985/hq.v5i2.368>.

³³ Luqman Zakariyah, "Legal Maxims and Islamic Financial Transactions: A Case Study of Mortgage Contracts and the Dilemma for Muslims in Britain," *Arab Law Quarterly* 26, no. 3 (2012): 255–85, <https://doi.org/10.1163/15730255-12341240>.

³⁴ Fauzi Fauzi, "Urf and Its Role in The Development of Fiqh: Comparative Study of Family Law Between Egypt and Indonesia," *El-Usrah: Jurnal Hukum Keluarga* 7, no. 1 (June 30, 2024): 346, <https://doi.org/10.22373/ujhk.v7i1.23968>.

³⁵ Yana Karyana, Muhammad Ulinnuha, and M. Ziyadul Haq, "Qawā'id Ushūl Al-Fiqh Dan Aplikasinya Menurut Muhammad Bin 'Umar Nawawī Al-Jāwī (Studi Analisis Tafsīr Marāḥ Labīd Li Kasyfī Ma'Nā Al-Qur'an Al-Majīd): Qawā'id

such texts can be limited based on the effective cause and the objectives of justice underlying the law. This process does not negate the text, but restricts its application to contexts that genuinely correspond to its normative rationale. By functioning as an epistemological mechanism, takhsis connects textual authority with social reality and prevents the ideological use of general expressions that may legitimize structural inequality.³⁶ Consequently, takhsis enables a more substantive and value-oriented reading of Islamic family law, one that prioritizes justice, responsibility, and social welfare over rigid formalism.

The digitization of fatwas through social media and online platforms has significantly transformed the production, dissemination, and reception of Islamic legal opinions. Fatwas are increasingly delivered in concise formats that rely heavily on general textual references without adequate methodological explanation. This practice has the potential to generate disproportionate legal generalizations and obscure the distinction between normative principles and contextual application. In this situation, takhsis serves as a critical methodological principle that emphasizes the inseparability of fatwas from context, including the circumstances of the questioner,³⁷ the time, and the social impact of the ruling. The general arguments employed in a fatwa must therefore be adjusted in light of these contextual variables. Contemporary research highlights that contextual reasoning is essential for maintaining the authority and credibility of fatwas in the digital environment.³⁸ Within this framework, takhsis functions as a safeguard against oversimplification and contributes to preserving the epistemological integrity of Islamic legal reasoning amid the rapid circulation of religious information.

From a methodological perspective, takhsis must be clearly distinguished from related concepts such as taqyid and naskh to avoid errors in legal reasoning. Takhsis limits the scope of a general expression while preserving the validity of the rule for certain cases,³⁹ whereas taqyid restricts an absolute statement by adding specific conditions,⁴⁰ and naskh abolishes a legal ruling altogether through subsequent evidence. This conceptual clarification is particularly important in contemporary discourse, where contextual legal reasoning is often mischaracterized as textual relativism. In reality, many contemporary ijtiḥad practices operate within the framework of takhsis and taqyid rather than abrogation. However, the use of takhsis is not unrestricted. Classical uṣṭul al-fiqh establishes epistemological safeguards, including the clarity of the limiting evidence, rational coherence, and consistency with the fundamental objectives of sharia. In the modern context,⁴¹ these boundaries are essential to prevent the misuse of takhsis in fragmented digital authority structures.

Within contemporary methodologies of ijtiḥad, takhsis occupies a strategic position as a mediating mechanism between textual authority and contextual reasoning. It allows jurists to maintain fidelity to revelation while creating space for legal adaptation in response to social change. This study argues that

Ushūl Fiqh Dan Aplikasinya Dalam Tafsīr Marāḥ Labīd Li Kasyfi Ma'nā Al-Qur'ān Al-Majīd Karya Mu," *Civilization Research: Journal of Islamic Studies* 4, no. 1 (2025): 140–72, <https://doi.org/https://doi.org/10.61630/crjis.v4i1.75>.

³⁶ Sumarta Sumarta, Burhanudin Burhanudin, and Zamzami Zamzami, "Interpretasi Dan Pengembangan Hukum Islam Dalam Konteks Perkembangan Zaman," *Khulasah : Islamic Studies Journal* 6, no. 2 (July 7, 2024): 48–61, <https://doi.org/10.55656/kisj.v6i2.124>.

³⁷ A. Halil Thahir, "Towards the Multidimensional Ushul Al-Fiqh: A Study of the Integration of Science in the Fatwa of Majelis Ulama Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 7, 2024): 687, <https://doi.org/10.22373/sjhk.v8i2.19686>.

³⁸ Weal B. Hallaq, "On the Authoritativeness of Sunni Consensus," *International Journal of Middle East Studies* 18, no. 4 (November 29, 1986): 427–54, <https://doi.org/10.1017/S0020743800030774>.

³⁹ Muhammad Maksum, "The Mechanism of Avoiding Riba in Islamic Financial Institutions: Experiences of Indonesia and Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 15, 2023): 235, <https://doi.org/10.31958/juris.v22i2.6952>.

⁴⁰ Afidatul Asmar, Suf Kasman, and Firdaus Muhammad, "Fatwa Online Dan Otoritas Islam: Kajian Dampak Media Baru Terhadap Aturan Agama," *Jurnal Riset Mahasiswa Dakwah Dan Komunikasi* 5, no. 2 (December 2, 2023): 179, <https://doi.org/10.24014/jrmdk.v5i3.24487>.

⁴¹ Anis Masykhur, "Titik Singgung Hukum Islam Dengan Hukum Adat Pada Naskah Perundang-Undangan Kerajaan Islam Di Nusantara," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (December 3, 2020): 295–306, <https://doi.org/10.24090/mnh.v14i2.3724>.

many contemporary approaches,⁴² including maqasid-based reasoning and context-oriented jurisprudence, implicitly rely on takhsis without explicitly theorizing it as a foundational category. By reconstructing takhsis as an epistemological instrument rather than a purely linguistic device, this study contributes to expanding the analytical scope of ushul al-fiqh.⁴³ Academically, this reconstruction shifts the discussion of general and specific expressions from technical semantics to legal epistemology. Practically, it provides a stronger methodological foundation for contemporary fatwa and ijtihad practices, enabling Islamic law to function as a normative system that is adaptive, just, and sustainable without losing its textual legitimacy.

4. Conclusion

This study demonstrates that the function of takhsis in ushul fiqh within contemporary Muslim society has undergone significant shifts in both understanding and application. The findings reveal that takhsis is frequently treated as a narrowly textual mechanism, emphasizing literal restriction of general texts while insufficiently engaging with contextual, social, and purposive dimensions of Islamic law. Such an approach has contributed to interpretive rigidity and limited the capacity of ushul fiqh to respond effectively to complex legal and social changes. The analysis further indicates a growing methodological gap between classical formulations of takhsis and its contemporary application, particularly in legal reasoning that prioritizes formal textual coherence over substantive legal objectives. This study finds that the original dynamic and functional role of takhsis has been partially obscured in modern discourse, resulting in inconsistent legal outcomes. Therefore, the research concludes that a systematic reconstruction of takhsis is necessary to restore its methodological balance, ensuring that textual authority operates in harmony with contextual analysis and the objectives of Islamic law in addressing contemporary issues.

The significance of this study lies in its contribution to the conceptual and methodological development of ushul fiqh. By reconstructing the function of takhsis, this research offers a refined analytical framework that bridges classical legal theory and contemporary socio-legal realities. Conceptually, the study repositions takhsis as an adaptive interpretive tool rather than a static textual limitation, thereby strengthening its relevance in modern Islamic legal thought. Methodologically, it provides a structured approach that integrates textual analysis with contextual and maqasid-based considerations, contributing to greater coherence in legal reasoning. Theoretically, this study enriches discussions on Islamic legal reform by demonstrating how classical ushul concepts can be reinterpreted without undermining their normative foundations. Overall, the findings of this research advance scholarly discourse on ushul fiqh and offer a foundation for future studies aimed at developing more responsive and context-sensitive Islamic legal methodologies.

Declarations

Author Contribution Statement

Upi Sopiha Ahmad formulated the research concept, designed the methodology, and drafted the initial draft of the manuscript. She was responsible for analyzing classical and contemporary uşul al-fiqh literature and reconstructing the function of takhsis. Mhd. Syahnan contributed to the theoretical framework, particularly in integrating maqāṣid al-syarī'ah in uşul al-fiqh, and helped analyze the epistemological implications of takhsis in contemporary Islamic law. Nisful Khoiri provided insights into the application of takhsis in modern legal issues, such as digital transactions and family law, and assisted in reviewing and revising the manuscript for clarity and coherence. Dhiauddin Tanjung contributed to the

⁴² Brahim and Alwizar, "Analisis Lafaz Kaidah 'Ām Dan Takhsis Dalam Ushul Fikih," *Al-Zayn : Jurnal Ilmu Sosial & Hukum* 3, no. 2 (May 31, 2025): 1206–17, <https://doi.org/10.61104/alz.v3i2.1243>.

⁴³ Fitri Miftahul Jannah, Tri Ramadany, and Zainal Azwar, "Kaidah 'Aam, Khas Dan Takhshish Dalam Hukum Keluarga," *Akademika: Jurnal Keagamaan Dan Pendidikan* 19, no. 2 (July 6, 2024): 167–78, <https://doi.org/10.56633/jkp.v19i2.580>.

analysis of the dynamics of modern law, particularly in digital fatwas and Islamic financial transactions, and provided input and assisted in the final revision of the manuscript.

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The data that support the findings of this study are available from the corresponding author upon reasonable request. No publicly archived datasets were used or generated during the current research.

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The authors declare that they have no known competing financial interests or personal relationships that could have influenced the work reported in this paper.

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