

METHODOLOGY OF *IJTIHĀD* OF *SALAFĪ* DOCTRINE;
COMPARATIVE STUDY AND ITS RELEVANCE IN
MALAYSIA

BY

KHAIRUL FAHMI BIN JAMALUDIN

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Ahmad Ibrahim Kulliyyah of Laws
International Islamic University Malaysia

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ABSTRACT

Salafī doctrine has become a phenomenal event nowadays. Its slogan of returning to *Qur'ān* and *Sunnah* has tempted Muslims from various backgrounds and walks of life to follow this particular doctrine. Despite its benevolent intention, this call of *Salafī* doctrine seems to have issues with local *madhab* as well as religious authorities in Malaysia. This study focuses on the methodology of *ijtihād* of *Salafī* doctrine in *khilāfiyyah* issues. The objective of the study is to examine the methodology of *ijtihād* of *Salafī* doctrine; comparing the methodology of *ijtihād* of *Salafī* doctrine with methodology of *ijtihād* of the Four *madhabs*; to scrutinize laws and *fatwās* related to *Salafī* doctrine; and to propose a suitable legal provision that is capable of governing as well as regulating this doctrine in order to maintain the harmony and unity of Muslim community in Malaysia. In doing so, interviews and questionnaires have been conducted by the researcher to test the hypothesis of the study. This study adopts a qualitative method that is most important for socio-legal research. Specifically, the qualitative research method collects data from various legal writings, writing of classical jurists of the Four *madhabs*, national laws, *fatwā*, etc. This study also uses in-depth semi-structured interviews as well as structured questionnaires to obtain data from the respondents. The findings of this study demonstrate that the methodology of *ijtihād* of *Salafī* doctrine is quite different from the methodology of *ijtihād* of Four *madhabs* where it employs literal approach in understanding and interpreting various Islamic sources. It also discovers that the *fatwā* related to *Salafī* doctrine does serve its purpose in educating the public and controlling the doctrine from confusing the public at large. Finally, this study reveals that the difference of methodology of *ijtihād* between the *Salafī* doctrine and the Four *madhabs* must be handled with utmost respect and care in order to avoid further complications in the future. The study, therefore, concludes by suggesting that there is a need to give legal effect to the existing *fatwā* and there is a need to propose a specific legal provision to govern and regulate the *Salafī* doctrine.

ملخص البحث

أصبح الاتجاه السلفي حدثاً هائلاً في هذه الأيام. وقد أغرى رفع شعار العودة إلى القرآن الكريم والسنة النبوية الكثير من المسلمين على اختلاف مرجعيتهم وطريقتهم في الحياة إلى اتباع هذا الاتجاه. وعلى الرغم من نية هذا الاتجاه الحسنة، إلا أنه يبدو أن لهذا الاتجاه مشاكل مع المذاهب المحلية والسلطات الدينية في ماليزيا. تُركز هذه الدراسة على منهج الاجتهاد السلفي في المسائل الخلافية. وتهدف إلى دراسة الاجتهاد في الاتجاه السلفي؛ ومقارنة منهجية الاجتهاد فيه بمنهجية الاجتهاد في المذاهب الأربعة؛ والتدقيق في القوانين والفتاوى المتعلقة بالاتجاه السلفي؛ واقتراح حكم قانوني مناسب قادر على حوكمة وتنظيم هذا الاتجاه للمحافظة على الانسجام والوحدة في المجتمع الإسلامي في ماليزيا. عمل الباحث على إجراء مقابلات واستبانات لاختبار فرضية الدراسة، واعتمدت هذه الدراسة على طريقة نوعية مهمة في البحث الاجتماعي القانوني وهي على وجه التحديد البحث النوعي بجمع البيانات من عديد الكتابات القانونية والكتابات الفقهية في المذاهب الأربعة والفتاوى والقوانين الوطنية، وغير ذلك. تستخدم هذه الدراسة بشكل أساسي المقابلات والاستبانات المنظمة والمتعمقة للحصول على بيانات من المحييين. توصلت الدراسة إلى جملة من النتائج، من أهمها: أن منهجية الاجتهاد السلفي تختلف عن منهجية الاجتهاد في المذاهب الأربعة حيث تفهم وتفسر مختلف المصادر الإسلامية حرفياً، وأن الفتاوى المتعلقة بالاتجاه السلفي تخدم غرضها في تثقيف الجمهور والسيطرة على إرباك الجمهور عموماً، وتكشف هذه الدراسة أن الاختلاف في منهجية الاجتهاد بين الاتجاه السلفي والمذاهب الأربعة يجب التعامل معها بشكل صحيح لتجنب المزيد من التعقيدات في المستقبل. وتوصي الدراسة بضرورة الحاجة إلى إضفاء تأثير قانوني على الفتاوى الحالية، والحاجة إلى اقتراح حكم قانوني محدد لحوكمة وتنظيم الاتجاه السلفي.

APPROVAL PAGE

The dissertation of Khairul Fahmi bin Jamaludin has been approved by the following:

Mohamad Asmadi Abdullah
Supervisor

Mohamad Sabri Zakaria
Co-supervisor

Afridah Abas
Co- Supervisor

Badruddin Ibrahim
Internal Examiner

Abdul Monir Yaacob
External Examiner

Abdul Manan Ismail
External Examiner

Akram Zeki Khedher
Chairman

DECLARATION

I hereby declare that this thesis is the result of my own investigation, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

Khairul Fahmi bin Jamaludin

Signature.....

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INTERNATIONAL ISLAMIC UNIVERSITY MALAYSIA

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To my beloved father, Haji Jamaludin bin Haji Yaacob and to my caring mother,

Hajjah Champawan binti Shafi'e:

May Allah grant them His Mercy

And the reward in the Hereafter

For the care and affection with which they have nourished me.

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LIST OF ABBREVIATIONS

AC	Appeal Court /Appeal Case
AD	(<i>anno Domini</i>) in the year of our Lord
AG	Attorney-General
AH	After <i>Hijrah</i> (the migration of Prophet (PBUH) to Medina)
Anor	Another
CAP	Chapter
CE	Christian Era
CJ	Chief Judge
CJN	Chief Justice of Nigeria
CPA	Criminal Procedure Act
CPC	Criminal Procedure Code
COP	Commissioner of Police
ed./eds.	Editor / Editors
Etc.	(<i>et cetera</i>) and so forth
FIR	First Information Report
FRN	Federal Republic of Nigeria
JCA	Justice Court of Appeal
NNLR	Northern Nigeria Law Report
NWLR	Nigerian Weekly Law Report
Ors.	Others
P./PP.	Page / Pages
PBUH	Peace Be Upon Him
Pt.	Part
QB	Queen's Bench
RA	<i>Radhiyal Allahu Anhu (m)</i> (May Allah be pleased with him / them)
ﷺ	<i>Sallal Allahu Alayhi wa-sallam</i> (Blessings and Peace of Allah be upon Him)
RAH	Rahimahu Allah Ta'ala
SCNLR	Supreme Court of Nigeria Law Report
V	Versus
Vol. / Vols.	Volume/Volumes
MAW	Muhammad Ibn Abd al- Wahhab
JAKIM	Jabatan Kemajuan Islam Malaysia

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Syariah Court Enactment 2004 (State of Sabah)(Enactment No. 6 of 2004)
Syariah Court Ordinance 2001 (State of Sarawak)(No. 42 of 2001)
Syariah Criminal Offences (State of Pahang) 2013 (Enactment No. 11 of 2013)
Syariah Criminal Offences (State of Sabah) 1995 (Enactment No. 3 of 1995)
The Law of Johor 1789
The Laws of Perak 1878
Undang-undang Melaka

TRANSLITERATION

b = ب	z = ز	f = ف
t = ت	s = س	q = ق
th = ث	sh = ش	k = ك
j = ج	ṣ = ص	l = ل
ḥ = ح	ḍ = ض	m = م
kh = خ	ṭ = ط	n = ن
d = د	ẓ = ظ	h = ه
dh = ذ	' = ع	w = و
r = ر	gh = غ	y = ي

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

There has been a call for reviving Islam and returning to *Qur'ān* and *Sunnah* by certain people who follow “*Salafī* doctrine”. *Salafī* doctrine is a doctrine calling Muslim to return back to *Qur'ān* and *Sunnah* and to practise “true” *Islamic* teaching as practiced by the Prophet Muhammad ﷺ and his Companion.

In practising the “true” *Islamic* teaching, *Salafī* doctrine refuses to accept the concept of good innovation (*bid'ah ḥasanah*) or the concept of disputed (*khilāfiyyah*) in worship (*ibādah*) matters where Muslim scholars will have different opinions in certain issues and still respect each other’s view as well as celebrate different opinion between them. It is because for them i.e. majority of Muslim scholars, the difference of opinions or *ikhtilāf* is a blessing (*rahmat*)¹.

Due to the refusal of acknowledging the concept of good innovation (*bid'ah ḥasanah*) or disputed (*khilāfiyyah*) issues, it appears that those who follow *Salafī* doctrine tend to disapprove any practice that is against their teaching by labeling it as innovation (*bid'ah*). According to *Salafī* doctrine, any innovation in the matter pertaining to worship (*ibādah*) which is not derived from the *Qur'ān* or *Sunnah* of the Prophet ﷺ is considered as innovation (*bid'ah*) and every innovation (*bid'ah*) is astray. This contention is based on the *Qur'ānic* verse and several *aḥādīth* of the Prophet ﷺ as follows:

¹ Zayn Mustafa ibn Aḥmad Kāsīmī al- Bāsirwānī, *Nukhbat al- Afkār min Mashawarāt al- Akhyār wa Laliy al- Asfār*, (Beirut: Dār al- Kutub al- ‘Ilmiyyah, 2016), 303- 303

Allāh says in the Holy *Qur'ān*:

اليوم أكملت لكم دينكم واتممت عليكم نعمتي ورضيت لكم الإسلام ديناً²

*Translation: This day I have perfected your religion for you, completed My Favor upon you, and have chosen for you Islam as your religion"*³

From this verse, it can be understood that the religion of *Islam* has been perfected before the demise of the Prophet ﷺ. Therefore, according to *Salafī* doctrine, any attempt to introduce innovation in matters pertaining to worship (*'ibādah*) contradicts to the above verse, thus is rejected. Those who follow *Salafī* doctrine also use several *ahādith* related to innovation (*bid'ah*) as follow:

There is a very famous *ḥadīth* related to innovation (*bid'ah*) where the Prophet Muhammad ﷺ said:

وإياكم ومحدثات الأمور فإن كل محدثة بدعة كل بدعة ضلالة.....⁴

*Translation: And beware of newly-invented matters, for every newly- invented matter is an innovation and every innovation is a deviation."*⁵

In another well-known *hadith* reported by Jabir (RA), the Prophet Muhammad ﷺ said:

وأحسن الهدي هدي محمد، وشر الأمور محدثاتها وكل محدثة بدعة كل بدعة ضلالة وكل

ضلالة في النار...⁶

² *Qur'ān*, (al- Mā'idah); 3: 107

³ 'Abdullāh Yūsuf Ali, *The Holy Qur'ān: Text and Translation*, (Kuala Lumpur: Islamic Book Trust, 2007): 118- 119

⁴ Abū Dawūd Sulayman ibn al- Ash'at, *English Translation of Sunan Abū Dawūd*, trans. Nasiruddin al- Khattab, (Riyād: Dār al- Salām, 2008), Vol. 5, Hadith 4607: 161- 162

⁵ Ibid

⁶ Ahmad ibn Shu'ayb al- Nasa'i, *English Translation of Sunan al- Nasā'i*, trans. Nasiruddin al- Khattab, (Riyād: Dār al- Salām, 2007), Vol. 2, Hadith 1579: 438- 439.

Translation: The best speech is the Book of Allah and the best guidance and example is that of Muhammad, and the worse of all things are the newly invented things (in the religion), for every newly-invented thing is an innovation and every innovation is going astray and every going astray is in the Fire⁷.

Furthermore, in another *ḥadīth*, reported by Aishah (RA), the Prophet ﷺ said:

من أحدث في أمرنا هذا ما ليس فيه فهو رد⁸

Translation: Whoever innovates into this affair of ours something that we have not commanded it is to be rejected⁹.

Based on the above *ahādith*¹⁰, it seems that innovation in the matter of worship (*‘ibādah*) is strictly forbidden and prohibited as it does not come from the Prophet ﷺ. Any innovation which does not come from the Prophet ﷺ is rejected and considered as innovation (*bid’ah*). Every innovation (*bid’ah*) is going astray and every going astray is in the hell fire. The above *Qur’ānic* verse and *ahādith* are among the authorities that are mostly cited and relied upon by those who follow *Salafī* doctrine in criticizing the practice of Muslim society in Malaysia as the act of innovation (*bid’ah*).

This call to revive *Islam* has its roots from the ideology introduced by Shaykh Ibn Taymiyyah al- Harrānī¹¹ who was a prominent Muslim scholar from Hanbali

⁷Ibid

⁸ Muhammad Ibn Ismā’il al- Bukhāri, *Sahih al-Bukhari*, (Riyad: Bayt al- Afkar al- Dawliyyah, 1998), Kitab al- Sulh, Hadīth No. 2697: 514

⁹ Muhammad Ibn Ismā’il al- Bukhāri, *The Translation of the Meanings of Sahih al- Bukhāri*; Arabic-English, trans. Muhammad Muhsin Khan, (Riyād: Dār al- Salām, 1997), Vol. 3, Hadīth 2697: 505

¹⁰*Ahādith* is plural words for *hadith*.

¹¹His full name is Ahmad ibn Abd al-Salām Ibn Abdullāh, Abu al-Abbās Taqiy al-Din Ibn Taymiyyah al-Harrani, born in Harran, east of Damascus, in 661/1263. A famous Hanbali scholar in *Qur’ānic* exegesis (tafsir), *hadith* and jurisprudence. Ibn Taymiyyah was a voracious reader and author of great personal courage who was endowed with a compelling writing style and a keen memory. Taqi al-Din Ahmad ibn Taymiyyah, *al-Fatāwā al-Kubrā Li ibn Taymiyyah*, (Beirūt: Dār al- Kutub al-Ilmiyyah,

madhab. Shaykh Ibn Taymiyyah was a very influential Muslim scholar who was blessed with exceptional and extinguish capability in understanding *Islām* from its main sources which are *Qur'ān* and *Sunnah* and managed to come out with many *ijtihāds* and *fatwās* related to jurisprudence (*fiqh*), Islamic oriented politic (*siyāsah shar'iyyah*), etc. which is not only suitable during his period but still relevant until nowadays. His *ijtihād* and *fatwās* are being widely used and heavily relied upon by contemporary Muslim scholars.

Nevertheless, in certain issues related to theology (*'aqīdah*), it seems that his opinion was not given similar treatment as there had been opposition from Muslim scholars who lived in his period¹² as well as after his period¹³. The majority of Muslim scholars during and after his period rejected his opinion when it comes to theology (*'aqīdah*) issue¹⁴. His ideology was succeeded by his famous student Shaykh Ibn Qayyim al- Jawziyyah¹⁵ and later was revived by Muḥammad Ibn 'Abd Wahhāb, who lived in the 18th century who managed to gather many followers from different background in Hijjāz. Eventually, the followers of Muhammad Ibn 'Abd Wahhāb, as well as any person who follows his ideology, was called *Wahhābī* until today. The “*Wahhābī*” term has been acknowledged by their very own scholar such as Ibn Bāz where he said that:

1987), Vol. 1, 7-9; See: Ibn Taymiyyah, World Heritage Encyclopedia, <http://worldheritage.org/articles/eng/Ibn_Taymiyyah> (Accessed on 15 January 2019)

¹² Among the scholars that opposed Ibn Taymiyyah during his period is al-Zahabi who is also one of his students. (Abdullah ibn Salih ibn 'Abd al- 'Aziz al- Ghusn, *Da'āwī al- Munāwī'in li Shaykh al- Islam ibn Taymiyyah; 'Ard wa Naqd*, (Riyād: Dar Ibn al- Jawzi, 2003), 37- 38)

¹³ Among the scholars that opposed Ibn Taymiyyah after his period are Ibn Hajar al- Haytami (Muhammad ibn 'Abd al- 'Aziz al- Shayi', *Ara'ibn Hajar al- Haytami al- I'tiqādiyyah 'Ard wa Taqwīm fi Daw' 'Aqīdah wa al- Salaf*, (Riyad: Maktabah Dār al- Minhaj li al- Nashr wa al- Tawzi', 2005), 83- 84; see Ahmad ibn Muhammad ibn 'Ali ibn Hajar al- Haytami, *al- Fatāwā al- Hadithiyyah*, (Beirut: Dar al- Kutub al- 'Ilmiyyah, 2014), 204- 205; Taj al- Din al- Subki and Taqi al- Din al- Subki (Taqi al- Din al- Subki, *Shifa' al- Saqam fi Ziyarat Khayr al- Anam*, (Beirut: Dar al- Kutub al- 'Ilmiyyah, 2006), 121- 122)

¹⁴ Sa'ied Haji Ibrahim, *Perbandingan Aqidah dan Fahaman Umat Islam*, (Kuala Lumpur: Darul Ma'rifah, 1997), 503- 512. For instance, the issue of Allah sits (*istiwa'*) on the throne (*'Arash*) and the issue of Allah descends to the sky of the world every night.

¹⁵His full name is Shamsuddin Muḥammad Ibn Abu Bakr Ibn Ayyub, Ibn Qayyim al- Jawziyyah.

“Wahhābīyah is referred to Shaikh Muḥammad Ibn Abd Wahhāb who died in year 1206 Hijrah in which he carried out his da’wah to Allah in Najd...”¹⁶

Nonetheless, due to the negative connotation of “*Wahhābī*” term, they decided to change or “rebrand” the name of the doctrine to “*Salafī*” doctrine so that it will reflect their claim as the doctrine that strives to practice the true *Islamic* teaching as being practised by the Prophet ﷺ and his Companion¹⁷.

Even so, this call for reviving *Islām* as mentioned before is somehow being opposed by many Muslim scholars starting from the emergence of *Salafī* doctrine by its founder, i.e. Muhammad Ibn Abd Wahhāb (shall be addressed as MAW hereinafter), until today. In the early emergence of *Salafī* doctrine, the opposition did not only come from Hanbali scholars during his time, but also came from his own father and brother who did not agree with MAW who considered innovation that has no direct reference from *Qur’ān* and *Sunnah* of the Prophet Muḥammad ﷺ as bad innovation (*bid’ah ḍalālah*)¹⁸. A contemporary historian, Commins, also raised a very important question related to the opposition made to *Salafī* doctrine as shown below:

One of the myths about Wahhābīsm is that its distinctive character stems from its affiliation with the supposedly ‘conservative’ or ‘strict’ Hanbali legal school. If that were the case, how could we explain the fact that the earliest opposition to Ibn Abd al-Wahhāb came from other Hanbali scholars? Or that a tradition

¹⁶ ‘Abd al- ‘Azīz ibn ‘Abdullah ibn Bāz, “*al- Ta’rif bi Da’wah al- Shaykh Muhammad ibn Abd al- Wahhāb*: <https://binbaz.org.sa/fatwas/6899> التعريف بدعوة الشيخ محمد بن عبد الوهاب رحمه الله (Accessed on 4th August 2019)

¹⁷ Hasan ibn ‘Ali al- Saqqāf, *al- Salafīyah al- Wahhābīyah: Afkārūha al- Asasiyyah wa Jaduruha al- Tārikhiyyah*, (Bayrūt: Dār al- Imām al- Rawwās, 2002), 20; see, Alī Jum‘ah, *al- Mutashaddidūn: Manhajuhum, wa Munāqashah Ahammu Qaḍāyāhum*, (Qāherah: Dār al- Muqattam Li al- Nashr wa al- Tawzī‘, 2011),7

¹⁸ Sulaymān Ibn Abd Wahhāb, *al-Ṣawā‘iq al-ilāhīyah fī al-radd ‘alā al-Wahhābīyah*, (Beirut: Dār Zulfaqār, 1998)