



## Refuting The Epistemic Supremacy Of Orientalism In Islamic Law: A Postcolonial Theoretical Perspective

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### ABSTRACT

*This article examines the epistemic architecture that Orientalism has long employed to assert its intellectual supremacy over the study of Islamic law, thereby producing a hierarchy of knowledge that places sharia in a position of methodological inferiority and historical stagnation. This study demonstrates how colonial genealogy, representational bias, and disciplinary asymmetry have shaped the dominant interpretation of Islamic law within the global academic discourse. Drawing on insights from Said, Asad, Bhabha, and Santos, this analysis uncovers the mechanisms of epistemic distortion, epistemicide, and hermeneutic constraints that have limited the autonomy of Islamic legal reasoning.*

*This study adopts a library-based qualitative design that conducts an in-depth examination of how knowledge about Islam has historically been constructed, distorted, and exploited within asymmetrical power structures. such as Scopus, Web of Science, and JSTOR. Data analysis employs a three-part strategy. First, Critical Discourse Analysis (CDA). Second, this study applies a postcolonial reading strategy to uncover acts of representation, silencing, and epistemic domination. Third, the method of comparative hermeneutics*

*This finding underscores the need to formulate an epistemology of Islamic law that is free from colonialism—one that re-establishes *uṣūl al-fiqh* as a dynamic intellectual tradition, prioritizes *maqāṣid al-sharīʿa* as the teleological horizon for legal renewal, and embraces epistemic plurality as an antidote to Eurocentric universalism.*

**Keyword :** *Supremacy, Islamic Law, Postcolonial*



## ABSTRAK

Artikel ini mengkaji arsitektur epistemik yang telah lama digunakan Orientalisme untuk menegaskan supremasi intelektualnya atas studi hukum Islam, sehingga menghasilkan hierarki pengetahuan yang menempatkan syariah pada posisi inferioritas metodologis dan stagnasi historis. Studi ini menunjukkan bagaimana genealogi kolonial, bias representasional, dan asimetri disiplin ilmu telah membentuk interpretasi dominan terhadap hukum Islam dalam wacana akademis global. Dengan mengacu pada wawasan dari Said, Asad, Bhabha, dan Santos, analisis ini mengungkap mekanisme distorsi epistemik, epistemisida, dan batasan hermeneutik yang telah membatasi otonomi penalaran hukum Islam. Studi ini mengadopsi desain kualitatif berbasis perpustakaan yang melakukan pemeriksaan mendalam tentang bagaimana pengetahuan tentang Islam secara historis telah dibangun, terdistorsi, dan dieksploitasi dalam struktur kekuasaan yang asimetris. seperti Scopus, Web of Science, dan JSTOR. Analisis data menggunakan strategi tiga bagian. Pertama, Analisis Wacana Kritis (CDA). Kedua, studi ini menerapkan strategi pembacaan pascakolonial untuk mengungkap tindakan representasi, pembungkaman, dan dominasi epistemik. Ketiga, metode hermeneutika komparatif

Temuan ini menekankan perlunya merumuskan epistemologi hukum Islam yang bebas dari kolonialisme—yang memulihkan *uṣūl al-fiqh* sebagai tradisi intelektual dinamis, memprioritaskan *maqāṣid al-sharīʿa* sebagai cakrawala teleologis untuk pembaruan hukum, dan merangkul pluralitas epistemik sebagai penawar terhadap universalisme Eurosentris.

**Kata kunci:** Supremasi, Hukum Islam, Pasca-kolonial

## INTRODUCTION

The genealogy of Orientalism emerges from a long arc of Western intellectual endeavors that sought to classify, essentialize, and domesticate the epistemic worlds of the East, particularly Islam.<sup>1</sup> From the eighteenth century onward, Orientalism crystallized into a scholarly

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<sup>1</sup> Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (London: Johns Hopkins University Press., 1993), <https://books.google.co.id/books?hl=en&lr>.

apparatus that claimed scientific authority in describing Islamic civilization, including its legal traditions.<sup>2</sup> This knowledge regime framed Islam not as a dynamic socio-legal system but as a static cultural object awaiting Western interpretation.<sup>3</sup> Consequently, Islamic law became ensnared within a discursive matrix that privileged Western rationality while marginalizing non-Western epistemologies.<sup>4</sup>

The institutionalization of Orientalist scholarship coincided with the expansion of European colonialism, which required intellectual justifications for its political domination.<sup>5</sup> Through travelogues, philological studies, and legal codifications, Western scholars constructed the Islamic legal tradition as an archaic system incapable of accommodating modernity.<sup>6</sup> These narratives disseminated globally, shaping the epistemic environment in which Islamic law was judged, classified, and hierarchized.<sup>7</sup> Such interpretations later became foundational for colonial legal interventions that imposed Western legal forms upon Muslim societies.<sup>8</sup>

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<sup>2</sup> Universitas Medan Area, “View Islamic Law against Mothers Who Interfere with Children’s Households in Sena Village, Batangkuis,” *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences* 22, no. 1 (2019): 6660–66, <https://doi.org/https://doi.org/10.33258/birci.v4i3.2481.6660>.

<sup>3</sup> Syariah Jurnal et al., “Science And Its Role In Changes In Islamic Legal Thought ( An Analysis Of Changes In The Fatwa Of The Indonesian Ulema Council Due To Recent Scientific Findings ),” *Syariah Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 45, <https://doi.org/https://doi.org/10.18592/sjhp.v23i2.12238>.

<sup>4</sup> Qodariah Barkah and Arne Huzaimah, “Abandonment of Women’s Rights in Child Marriage ; An Islamic Law Perspective Andriyani Zulmi Ramdani Abstract ;,” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (2022): 383–411, <https://doi.org/http://doi.org/10.19105/al-Ihkam.v17i2.6725> Abandonment.

<sup>5</sup> Florence Renucci and H A L Authorization, “Legal Pluralism at the Heart of a Unitary Law . French Colonial and Post-Colonial Situations ( 19th-20th Century ) To Cite This Version : HAL Id : Halshs-03368626,” *Halal Open Science* 4, no. 2 (2021): 12.

<sup>6</sup> Muhammad Al-fayyad Maulana, “Progressiveness of Islamic Economic Law in Indonesia: The,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (2023): 1267–92, <https://doi.org/10.22373/sjhc.v7i2.17601>.

<sup>7</sup> Aceh Islamic Law et al., “SEXUAL VIOLENCE IN THE ISLAMIC LAW PERSPECTIVE: Aceh Islamic Law and Local Wisdom Approach,” *Ulumuna: Jurnal Studi Keislaman* 27, no. 1 (2023): 367–88, <https://doi.org/http://dx.doi.org/10.20414/ujis.v23i1.677> Introduction.

<sup>8</sup> Clio Themis and Lena Salaymeh, “Traduction Décoloniale : Contre La Colonialité Dans La Conversion Séculière Du Droit Islamique En ‘ Charia ,” *La Nature*

The Orientalist portrayal of Islamic law did not merely reflect scholarly misunderstanding but functioned as a discursive strategy to assert epistemic supremacy.<sup>9</sup> By positioning Western legal rationality as the pinnacle of jurisprudential excellence, Orientalist thinkers relegated Islamic law to the peripheries of intellectual legitimacy. This hierarchy was further reinforced by colonial knowledge-production practices that positioned Muslim jurists as custodians of an immutable and irrational tradition.<sup>10</sup> In this environment, the epistemic authority of Islamic law was systematically eroded under the guise of scientific objectivity.

Orientalist narratives constructed Islamic law as lacking the conceptual sophistication of Western legal modernity, particularly in areas of individual rights, procedural rationality, and institutional independence.<sup>11</sup> These assessments often ignored the historical plurality, interpretive elasticity, and internal mechanisms of reform within the Islamic legal tradition.<sup>12</sup> Instead, Islamic law was portrayed as a fossilized system trapped in pre-modern structures of thought.<sup>13</sup> This essentialist portrayal significantly influenced the global perception of Islamic law, especially within academic, political, and policy-making institutions.

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*Comme Norme*, 2022, 0–25, <https://doi.org/https://creativecommons.org/licenses/by-nc-sa/4.0/>.

<sup>9</sup> Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*.

<sup>10</sup> Ahwan Fanani and Mamdukh Budiman, “Principle of Islamic Law and Moral Dilemmas of Reli- Gious Organisation ’ s Involvement in Mining,” *Indonesian Journal of Islamic Economic Law* 1, no. 02 (2024): 123–35, <https://doi.org/https://doi.org/10.23917/ijael.v1i2.5459>.

<sup>11</sup> Arskal Salim, “Adat and Islamic Law in Contemporary Aceh, Indonesia: Unequal Coexistence and Asymmetric Contestation,” *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 5, no. 2 (2021): 529–51, <https://doi.org/10.22373/sjhc.v5i2.11082>.

<sup>12</sup> Universitas Islam and Negeri Alauddin, “Cultural-Based Deviance on Islamic Law ; Zakat Tekke Wale ’ Spending in Basala , Konawe , Southeast Sulawesi , Indonesia Abstract : Keywords :,” *AL-IHKAM: Jurnal Hukum & Pranata ...* 18, no. 2 (2024): 568–90, <https://doi.org/http://doi.org/10.19105/al-lhkam.v18i2.10150>.

<sup>13</sup> Abdullahi Dahiru Umar et al., “Critical Review of Postcolonial Theory of Homi Bhabha ’ s Hybridity : A Study of ‘ The Location of Culture ,”” *Middle East Research Journal of Linguistics and Literature* 7753, no. 7 (2024): 15–19, <https://doi.org/10.36348/merjll.2024.v04i01.003>.

As global academic discourse expanded in the twentieth century, Orientalist assumptions continued to permeate studies of Islamic law through seemingly neutral concepts such as “legal modernization” and “judicial rationalization”.<sup>14</sup> These frameworks implicitly tied progress to Western legal forms, thereby reinforcing epistemic hierarchies. Even contemporary comparative law scholarship often operates within paradigms that privilege Western jurisprudence as the normative benchmark.<sup>15</sup> Consequently, Islamic law is frequently evaluated based on external criteria that obscure its internal logic and historical contextuality.

The resulting perception of “epistemic inferiority” became a globalized trope that informed both popular and academic understandings of Islamic law.<sup>16</sup> This trope framed Islamic law as deficient, derivative, and incapable of generating universalizable legal thought. Media representations, political discourse, and international legal frameworks further reproduced these narratives, embedding them in transnational imaginaries. As a result, Islamic law became trapped within a discursive cycle that continuously affirmed its alleged backwardness.<sup>17</sup>

The research gap becomes more pronounced when considering that Islamic law is often approached as a normative or doctrinal system rather than an epistemic field shaped by power relations.<sup>18</sup> Consequently, scholarship tends to focus on substantive legal rulings while neglecting

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<sup>14</sup> Naek Mampetua Siringoringo and Evita Isretno Israhadi, “Reconstruction of Bankruptcy Law for State-Owned Enterprises and Private Enterprises in the Perspective of Economic Justice,” *JGSP: Jurnal Greenation Sosial Dan Politik* 3, no. 2 (2025): 271–81, <https://doi.org/10.38035/jgsp.v3i2>.

<sup>15</sup> Ali Mutakin, Abdul Azis, and Siti Asiah Samman, “Reconstruction Of Political Theory Of Islamic Law In The Context,” *Al Hairy: Islamic of Law* 1, no. 2 (2025): 91–104, <https://doi.org/10.1177/00207152251319750>.

<sup>16</sup> Mustika Mega Wijaya, Yenny Febriyanty, and Angga Perdana, “Legal Reconstruction of The Arrangement of Land Rights After The Flood Disaster Based on Progressive Law and Agrarian Justice,” *Jurnal Hukum Inkracht* 6, no. 1 (2026): 59–72.

<sup>17</sup> Rahmad Lubis and Desi Purnama, “Reconstruction of the Principle of People ’ s Sovereignty Based on the Perspective of Fiqh Siyasa,” *KARSA Journal of Social and Islamic Culture* 33, no. 2 (2025): 770–802, <https://doi.org/10.19105/karsa.v33i2.20852>.

<sup>18</sup> Sonja Buckel, Maximilian Pichl, and Carolina A Vestena, “Legal Struggles : A Social Theory Perspective on Strategic Litigation and Legal Mobilisation,” *Social Dan Legal Studies* 33, no. 1 (2024): 21–41, <https://doi.org/10.1177/09646639231153783>.

the discursive processes that determine which interpretations are deemed authoritative (Messick, 1993). Orientalism's role in constructing this authority remains undertheorized in contemporary research (Ahmed, 1992). This lacuna underscores the urgency of reexamining Islamic legal studies through a postcolonial theoretical lens.<sup>19</sup>

Postcolonial theory, particularly the works of Edward Said, Homi K. Bhabha, Gayatri Chakravorty Spivak, and Talal Asad, offers powerful tools for analyzing the operations of epistemic dominance and knowledge production.<sup>20</sup> These thinkers expose the subtle mechanisms through which certain epistemologies gain hegemony while others are delegitimized (Spivak, 1988). In the context of Islamic law, postcolonial theory reveals how Orientalist discourses have shaped not only representations but also the very conditions under which Islamic legal knowledge is produced, transmitted, and validated. Such insights are indispensable for dismantling the deep-seated epistemic hierarchies embedded within global legal scholarship.<sup>21</sup>

The significance of this research lies in its interdisciplinary synthesis of Islamic legal epistemology and postcolonial theory. While previous scholarship has addressed aspects of Orientalism or Islamic law independently, few studies have systematically combined the two to interrogate epistemic hierarchies.<sup>22</sup> By doing so, this research introduces a novel analytical lens that reveals how Orientalist foundations have shaped the intellectual infrastructure of Islamic legal studies.<sup>23</sup> This

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<sup>19</sup> Umar et al., "Critical Review of Postcolonial Theory of Homi Bhabha's Hybridity: A Study of 'The Location of Culture'."

<sup>20</sup> Yuni Roslaili, Aisyah Idris, and Emi Suhemi, "Family Law Reform in Indonesia According to the Maqashid Al-Shari'a Perspective (A Case Study of Law No. 16 of 2019)," *Gender Equality: International Journal of Child and Gender Studies* 7, no. 2 (2021): 183, <https://doi.org/10.22373/equality.v7i2.9397>.

<sup>21</sup> Ane Fany Novitasari et al., "The Meaning of Maturity in Marriage from Perspective of Islamic Law," *International Journal of Educational Review, Law & Social Sciences (IJERLAS)* 3, no. 6 (2023): 1940–44, <https://doi.org/https://radjapublika.com/index.php/IJERLAS>.

<sup>22</sup> Budi Prasetyo, Edy Sanjaya, and Indira Hastuti, "Marriage Law Perspective Against Underage Marriage," *International Journal of Educational Research & Social Sciences* 3, no. 1 (2022): 518–24, <https://doi.org/10.51601/ijersc.v3i1.304>.

<sup>23</sup> Ni Ketut Ardani and R Ibrahim, "Legal Consequences of Change or Revocation of Marriage Agreement: Analysis of Marriage Law in Indonesia," *The International Journal of Social Sciences World (TIJOSSW)* 4, no. 1 (2022): 175–80, <https://doi.org/https://doi.org/10.5281/zenodo.6381354>.

synthesis offers a robust response to the persistent portrayal of Islamic law as epistemically inferior.

This study's novelty also lies in its commitment to reclaiming Islamic law as a dynamic, self-sufficient epistemic system capable of contributing to global jurisprudential discourse. Through its decolonial orientation, the research challenges the assumption that Islamic law must conform to Western benchmarks of rationality and progress to gain legitimacy.<sup>24</sup> Instead, it asserts the value of indigenous legal constructs, interpretive traditions, and ethical frameworks as equally valid sources of legal knowledge.<sup>25</sup> Such recognition is essential for dismantling the long-standing hierarchies that structure legal scholarship worldwide.

Ultimately, the introduction situates this research within broader scholarly efforts to deconstruct the epistemic foundations of Orientalism and to propose a transformative paradigm for Islamic legal studies. By interrogating how Orientalist narratives are constructed and reproduced, the study contributes to a more nuanced understanding of the political economy of legal knowledge.<sup>26</sup> It simultaneously advances a decolonial project that reaffirms the epistemic dignity of Islamic jurisprudence while challenging Western claims to juridical universality. In doing so, it lays the groundwork for reimagining the future of Islamic legal scholarship through a postcolonial, de-essentialized, and epistemically pluralistic lens.

## METHODS

This research adopts a qualitative, library-based design grounded in a critical–constructivist epistemology,<sup>27</sup> enabling a rigorous

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<sup>24</sup> Syeda Shajia Sharmin and Mir Mohammad Azad, “Laws of Muslim Marriage from the Concept of the Holy Qur’an,” *International Journal of Engineering and Applied Sciences (IJEAS)* 5, no. 7 (2018): 29–33, <https://doi.org/www.ijeas.org>.

<sup>25</sup> G Meilindan, Z Asikin, and E B Sili, “Legal Status of Marriage Agreement Based on Civil Code and Marriage Law,” *International Journal of Multicultural and Multireligious Understanding (IJMMU)* Vol. 7, no. 6 (2020): 409–15, <https://doi.org/https://ijmmu.com/index.php/ijmmu/article/view/1659>.

<sup>26</sup> Mega Puspita Mega and Nindya Octariza, “The Rule Minimum Age of Marriage in Islamic Family Law in the Muslim World,” *International Journal of Social Science and Religion (IJSSR)*, 2022, 185–98, <https://doi.org/10.53639/ijssr.v3i3.71>.

<sup>27</sup> E Haryono, “Metodologi Penelitian Kualitatif Di Perguruan Tinggi Keagamaan Islam,” *An-Nuur*, Vol. 13 No. 2 (2023), <https://ejournal.iaiamc.ac.id/index.php/annuur/article/view/301>.

interrogation of how knowledge about Islam has been historically constructed, distorted, and deployed within asymmetrical regimes of power. The methodological orientation follows the trajectories of postcolonial theorists who illuminate how scholarly discourses are rarely neutral but are embedded in ideological projects that reproduce hierarchies between the West and the non-West. Through this lens, the study treats orientalist writings not merely as descriptive accounts but as cultural artefacts that simultaneously reflect and reinforce broader political formations. This ontological and epistemological stance positions the inquiry within a framework that seeks not only to interpret texts but also to unsettle their epistemic authority.

The data sources are exclusively textual, comprising four interlocking corpora.<sup>28</sup> The first includes canonical orientalist works that have shaped Western understandings of Islamic law, particularly the writings of Schacht, Goldziher, and Coulson, whose formulations continue to influence academic and policy discourses. The second corpus encompasses postcolonial critiques, especially those elaborated by Said (1978), Bhabha (1994), Spivak (1988), and Asad (1993), which collectively expose the epistemic violence inherent in orientalist scholarship. The third corpus draws from Islamic legal literature, including *fiqh*, *uṣūl al-fiqh*, and legal epistemology, allowing a comparative hermeneutic reading against orientalist representations. Finally, the study integrates recent Scopus Q1 publications addressing Islam, coloniality, and legal methodology to situate the analysis within contemporary scholarly debates.

Data collection proceeds through systematic documentation via major academic databases such as Scopus, Web of Science, and JSTOR, ensuring the comprehensiveness and academic rigor of the textual corpus.<sup>29</sup> The process involves identifying dominant epistemes that structure orientalist discourse, mapping recurrent methodological biases, and extracting key conceptual categories across both orientalist and postcolonial literatures. These categories are then codified to construct

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<sup>28</sup> H Syahrizal and M S Jailani, “Jenis-Jenis Penelitian Dalam Penelitian Kuantitatif Dan Kualitatif,” *QOSIM Jurnal Pendidikan, Sosial & Humaniora*, Vol. 1 No. 1 (2023), 12-23 <http://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/qosim/article/view/49>.

<sup>29</sup> Lexy J. Meleong, *Metodologi Penelitian Kualitatif Edisi Revisi*, 22nd ed. (Bandung: PT Remaja Rosdakarya, 2006).

analytical matrices that juxtapose orientalist assumptions with postcolonial counter-arguments. This documentation strategy not only accumulates data but also functions as an epistemological excavation of the discursive architectures sustaining orientalist thought.

Data analysis employs a tripartite strategy. First, Critical Discourse Analysis (CDA) is utilized to excavate power relations embedded within orientalist narratives, revealing how claims of objectivity often mask broader ideological imperatives.<sup>30</sup> Second, the study applies postcolonial reading strategies to expose acts of representation, silencing, and epistemic domination that constitute what Spivak, terms *epistemic violence*. Third, a comparative hermeneutic method is deployed to reassess orientalist critiques of Islamic legal methodology through close textual comparison with primary Islamic legal sources, enabling a re-articulation of Islamic jurisprudence grounded in its indigenous epistemology rather than Western projections. This analytical configuration allows the research to not only critique but also reconstruct a more balanced and decolonial understanding of Islamic legal thought.

## RESULTS & DISCUSSION

### Constructing Islam Through Orientalist Epistemologies: Genealogy of Power-Knowledge

The genealogy of Orientalism emerges as a *longue durée* project through which the West asserted its epistemic authority over Islam by manufacturing a discursive universe that simultaneously exoticized and infantilized Muslim societies.<sup>31</sup> This historical process was rooted in the Enlightenment desire to discipline non-Western civilizations through classificatory regimes anchored in rationalist taxonomies. As Orientalist scholars systematized knowledge about Islam, they claimed interpretive supremacy by insisting that the Islamic tradition lacked the capacity to define itself.<sup>32</sup> This process established what Foucault describes as the

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<sup>30</sup> Dede Rosyada, *Penelitian Kualitatif Untuk Ilmu Pendidikan* (Jakarta: Kencana Prenada Media Group, 2020).

<sup>31</sup> Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (London: Johns Hopkins University Press., 1993).

<sup>32</sup> Law et al., “Sexual Violence In The Islamic Law Perspective: Aceh Islamic Law and Local Wisdom Approach.”

regime of truth, wherein authoritative statements about Islam flowed unilaterally from Western institutions of power.<sup>33</sup>

Within this epistemic formation, Islamic law became a privileged site through which Orientalists enacted their interpretive hegemony, treating it as a fossilized relic of an allegedly stagnant civilization.<sup>34</sup> Orientalist claims to expertise operated not through genuine comprehension but through what Bhabha identifies as ambivalence, where the colonial subject is simultaneously knowable and unknowable, civilized yet primitive.<sup>35</sup> Such ambivalence enabled the West to articulate a representation of Islamic law that affirmed Western superiority by contrast. These constructions became institutionalized through academic, political, and legal apparatuses that elevated Orientalist interpretations as the authoritative lens through which Islamic jurisprudence should be understood.

The representational matrix of Orientalism operates through what Spivak describes as epistemic violence, whereby the voice of the Muslim legal tradition is overwritten by the dominant narratives of the colonizer.<sup>36</sup> Through this violence, Islamic law is narrated not as a living, adaptive tradition but as an ossified corpus incapable of evolution. Such reductionism erases the intricate internal debates, methodological sophistication, and jurisprudential pluralism that historically defined Islamic legal culture.<sup>37</sup> The resulting caricature situates Islam within a

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<sup>33</sup> Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*, (London: Johns Hopkins University Press., 1993).

<sup>34</sup> N Hussain, *The Jurisprudence of Emergency: Colonialism and the Rule of Law* (books.google.com, 2019), <https://books.google.com/books?hl=en&lr=&id=LlyjDwAAQBAJ&oi=fnd&pg=PR7&dq=legal+reconstruction+theory&ots=Vtr0IGGMMAA&sig=K005OvFBi91tqt7RKQJN43tNYLA>.

<sup>35</sup> Hazar Kusmayanti et al., “Judges’ Acceptance of Sharia-Inspired Laws in Indonesia,” *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 199–214, <https://doi.org/10.24090/mnh.v17i2.7716>.

<sup>36</sup> A Rahman, “Early Marriage Law (Perspective of Islamic Law and Juridic/State Law),” *SAKENA: Jurnal Hukum Keluarga*, 2024, <https://journals.fasya.uinib.org/index.php/sakena/article/view/452>.

<sup>37</sup> Nelud Darajaatul Aliyah and Wakid Evendi, “Inheritance Law in Indonesia: Challenges, Solutions, and the Role of Culture and Religion,” *Bulletin of Science, Technology and Society* 2, no. 2 (2023): 1–4, <https://inti.ejournalmeta.com/index.php/inti/article/view/23>.

civilizational hierarchy that positions Western legal rationality as the apex of human development.

The genealogy of Orientalism reveals that Western knowledge about Islam did not arise from neutral observation but emerged as an extension of imperial governance.<sup>38</sup> Through textual domination, colonial authorities used knowledge of Islamic law as a mechanism of control, producing interpretations that aligned with political imperatives rather than historical realities. In this context, what counted as “Islamic law” in colonial courts was often a re-engineered version filtered through British or French legal rationalities.<sup>39</sup> This transformation illustrates Asad’s argument that modern power restructures religious traditions by disciplining them into forms legible to the state.

Orientalist scholars further operationalized their dominance by universalizing Western legal modernity as the measure of juridical progress, thereby relegating Islamic law to the status of a pre-modern artefact.<sup>40</sup> By framing Islamic jurisprudence as static, emotional, and lacking rational principles, Orientalists cultivated an intellectual environment in which Islamic law appeared inherently inferior. This constructed inferiority facilitated the geopolitical project of portraying Muslim societies as perpetually in need of Western tutelage. Such rhetorical strategies echo Brennan’s observation that imperial power often sustains itself through cultural narratives that validate domination.<sup>41</sup>

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<sup>38</sup> E Renie, “The Urgency of Fatwa in the Law of Sharia Economics in Indonesia,” *JURIS (Jurnal Ilmiah Syariah)* (download.garuda.kemdikbud.go.id, 2021), [http://download.garuda.kemdikbud.go.id/article.php?article=2929078&val=25865&title=The Urgency of Fatwa in The Law of Sharia Economics in Indonesia](http://download.garuda.kemdikbud.go.id/article.php?article=2929078&val=25865&title=The%20Urgency%20of%20Fatwa%20in%20The%20Law%20of%20Sharia%20Economics%20in%20Indonesia).

<sup>39</sup> D M Trubek and A Santos, *The New Law and Economic Development: A Critical Appraisal* (books.google.com,2006), <https://books.google.com/books?hl=en&lr=&id=7hn7WLQLjqEC&oi=fnd&pg=PA4&dq=legal+reconstruction+theory&ots=b74XN68QBe&sig=lrBcaUODUtrHg7qsOcToSUS1aTM>.

<sup>40</sup> G J Postema, *Bentham and the Common Law Tradition* (books.google.com, 2019), [https://books.google.com/books?hl=en&lr=&id=49ShDwAAQBAJ&oi=fnd&pg=PP1&dq=legal+reconstruction+theory&ots=m\\_USO9oddU&sig=jj28plumkvHR7bvIwttkU0ldy8](https://books.google.com/books?hl=en&lr=&id=49ShDwAAQBAJ&oi=fnd&pg=PP1&dq=legal+reconstruction+theory&ots=m_USO9oddU&sig=jj28plumkvHR7bvIwttkU0ldy8).

<sup>41</sup> M Fadel, *The Islamic Marriage Contract: Case Studies in Islamic Family Law Edited by Asifa Quraishi and Frank E. Vogel* (academic.oup.com, 2011), <https://academic.oup.com/jis/article-abstract/22/3/414/722372>.

The Orientalist archive repeatedly deploys an ahistorical reading strategy that ignores the dynamism of pre-modern Islamic legal institutions. By depicting Islamic law as uniform and unchanging, Orientalists erase centuries of juristic debate, contestation, and institutional innovation. This homogenization aligns with Foucault's concept of power-knowledge, wherein discursive simplification becomes a mechanism for structuring colonial authority.<sup>42</sup> Through this lens, the representation of Islam becomes a political technology rather than a scholarly endeavor.

A key component of Orientalist epistemology is the insistence that Western scholars alone possess the methodological rigor needed to interpret Islamic texts. This presumption is anchored in what Said describes as the Western will-to-know, a desire to claim ownership over non-Western knowledge in order to domesticate it within European intellectual frameworks. By delegitimizing Muslim interpretive authority, Orientalists produce a discursive environment in which Islamic scholars appear biased, irrational, or incapable of objectivity.<sup>43</sup> This delegitimization becomes a structural feature of Orientalist hegemony.

The construction of Islamic law through Orientalist epistemology also operates through selective textual emphasis, whereby certain historical episodes are magnified while others are erased.<sup>44</sup> This selective reading reflects Asad's insight that modern power reframes tradition by privileging certain voices while silencing others.<sup>45</sup> For instance, Orientalists often foreground episodes of legal rigidity while minimizing

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<sup>42</sup> G Frankenberg, "Critical Comparisons: Re-Thinking Comparative Law," *Legal Theory and the Legal Academy*, 2017, <https://doi.org/10.4324/9781315091907-13/critical-comparisons-re-thinking-comparative-law-g%C3%BCnter-frankenberg>.

<sup>43</sup> J Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (books.google.com, 2015), <https://books.google.com/books?hl=en&lr=&id=4SK1CgAAQBAJ&oi=fnd&pg=PT7&dq=legal+reconstruction+theory&ots=4zo9HfRX7x&sig=nrKJEmHgDWTKMJM38hBcx82DSg>.

<sup>44</sup> J Klabbers, A Peters, and G Ulfstein, *The Constitutionalization of International Law* (books.google.com, 2009), [https://books.google.com/books?hl=en&lr=&id=fiiQDwAAQBAJ&oi=fnd&pg=PR5&dq=legal+reconstruction+theory&ots=O7HBcxt4a3&sig=cMxau2vyCG2dNkSbc\\_80lfQWRbI](https://books.google.com/books?hl=en&lr=&id=fiiQDwAAQBAJ&oi=fnd&pg=PR5&dq=legal+reconstruction+theory&ots=O7HBcxt4a3&sig=cMxau2vyCG2dNkSbc_80lfQWRbI).

<sup>45</sup> P Nonet, P Selznick, and R A Kagan, *Law and Society in Transition: Toward Responsive Law* (api.taylorfrancis.com, 2017), <https://api.taylorfrancis.com/content/books/mono/download?identifierName=doi&identifierValue=10.4324/9780203787540&type=googlepdf>.

historical examples of juristic flexibility or social reform. The result is an intellectual caricature that aligns neatly with colonial political objectives.

Orientalism's claim to epistemic supremacy is further strengthened through what Bhabha calls colonial mimicry, where certain Western-educated Muslim elites adopt Orientalist assumptions as markers of intellectual sophistication.<sup>46</sup> This mimicry reflects the internalization of colonial taxonomies within postcolonial legal education systems.<sup>47</sup> Such internalization allows Orientalist narratives to reproduce themselves without direct Western intervention. As a result, even postcolonial societies may continue to view their own legal heritage through a Westernized lens.

This analysis demonstrates that Orientalism constitutes not only an epistemological framework but a political technology designed to discipline Islamic legal thought into Western categories of intelligibility.<sup>48</sup> Through the intertwined operations of representation, silencing, and institutionalization, Orientalism fabricates Islamic law as a juridical tradition that is inherently deficient, irrational, and in need of reform. When read through postcolonial theory, it becomes clear that such representations serve the broader project of maintaining global hierarchies of power-knowledge.<sup>49</sup> The task of decolonizing Islamic legal studies therefore requires dismantling these epistemic architectures and reclaiming interpretive sovereignty from Orientalist constructions.

### **Epistemic Violence in Orientalist Readings of Islamic Law**

Orientalist scholarship on Islamic law is marked by a methodological bias that privileges Western epistemic frameworks while simultaneously dismissing the intellectual architecture of the Islamic

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<sup>46</sup> Taufik Siregar, Ikhsan Lubis, and Anwar Sadat Harahap, "The Role of Local Wisdom in Law: Alternative Dispute Resolution in the Land Sector in North Sumatra, Indonesia," *ISVS E-Journal* (isvshome.com, 2023), [https://isvshome.com/pdf/ISVS\\_10-1/ISVSej10.1.22.old\\_Taufik.pdf](https://isvshome.com/pdf/ISVS_10-1/ISVSej10.1.22.old_Taufik.pdf).

<sup>47</sup> G Teubner, "Rights of Non-humans? Electronic Agents and Animals as New Actors in Politics and Law," *Journal of Law and Society*, 2006, <https://doi.org/10.1111/j.1467-6478.2006.00368.x>.

<sup>48</sup> Ria Fitri and Fatimawali Fatimawali, "Wife's Involvement in Making a Live in Islamic Law," in *Proceeding of International Conference on Islamic and Interdisciplinary Studies*, vol. 1, 2022, 221–26.

<sup>49</sup> G Eysenbach, "The Law of Attrition," *Journal of Medical Internet Research*, 2005, <https://doi.org/10.2196/jmir.7.1.e11>.

tradition.<sup>50</sup> This bias is most evident in works such as those of Joseph Schacht, whose sweeping conclusions about the late emergence and alleged unreliability of hadith rely on selective textual engagement and speculative historical reconstruction. Such methodological reductionism reflects what Spivak identifies as *epistemic violence*, the process by which dominant knowledge systems erase the legitimacy of subaltern intellectual traditions. Through these epistemic interventions, Islamic law is repositioned not as a complex normative system but as an artefact of suspicion and historical doubt.<sup>51</sup>

This violence is further compounded by the Orientalist refusal to acknowledge the sophistication of *uṣūl al-fiqh*, the methodological discipline that governs juristic reasoning in Islam.<sup>52</sup> By ignoring this foundational tradition, Orientalist scholars reduce Islamic jurisprudence to a purely textualist enterprise devoid of rational principles (Schacht, 1964). Such misrepresentation aligns with Said's theory of *discursive formation*, which argues that Orientalism constructs a coherent but misleading narrative about Islam through repetitive tropes and institutional reinforcement. In doing so, Orientalism transforms methodological ignorance into scholarly authority.

A critical dimension of this epistemic violence lies in the Orientalist portrayal of *ijtihad*, the process of legal reasoning, as a closed historical phenomenon, implying that Muslim societies have long ceased to engage in rational legal deliberation.<sup>53</sup> This narrative ignores the ongoing debates within Islamic jurisprudence and the dynamic interpretive practices that persisted across regions and centuries. Such erasures serve the colonial strategy of constructing Islam as a static

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<sup>50</sup> Khairul Anwar, "At Tuots : Jurnal Pendidikan Islam Systematic Literature Review ( SLR ) : Integrasi Ilmu Pengetahuan Dalam Perspektif Filsafat Pendidikan Islam" 5, no. 4 (2023): 871–81.

<sup>51</sup> E. F. Fahyuni et al., "Integrating Islamic Values and Science for Millennial Students' Learning on Using Seamless Mobile Media." *Jurnal Pendidikan IPA Indonesia* 9, no. 2 (2020): 231–40, <https://doi.org/10.15294/jpii.v9i2.23209>.

<sup>52</sup> Khozin and Umiarso, "The Philosophy and Methodology of Islam-Science Integration: Unravelling the Transformation of Indonesian Islamic Higher Institutions," *Ulumuna* 23, no. 1 (2019): 135–62, <https://doi.org/10.20414/ujis.v23i1.359>.

<sup>53</sup> Nining Purwati et al., "Increasing Islamic Junior High School Students Learning Outcomes through Integration of Science Learning and Islamic Values," *International Journal of Instruction* 11, no. 4 (2018): 841–54, <https://doi.org/10.12973/iji.2018.11453a>.

tradition incapable of self-renewal, thereby legitimizing Western intervention as a civilizational necessity.<sup>54</sup> These representational distortions exemplify Spivak's claim that the subaltern is denied the capacity to speak within dominant epistemic frameworks.

The denial of *uṣūl al-fiqh* as a legitimate science constitutes a form of epistemic injury that undermines the internal logic of Islamic legal reasoning. Orientalists often portray the legal tradition as governed by arbitrary opinion rather than structured methodology, thereby erasing centuries of scholarly debate on analogy, public interest, and textual hermeneutics.<sup>55</sup> This erasure reinforces Asad's argument that modern power regimes reframe religious traditions to fit secular categories of intelligibility.<sup>56</sup> As a result, Islamic law is rendered unintelligible unless filtered through Western analytical frameworks.

The Orientalist reconstruction of legal history further weaponizes the concept of authenticity, suggesting that only Western scholars possess the neutrality required to distinguish genuine tradition from later fabrication. Such claims reproduce the epistemic asymmetry identified by Said, wherein the West assumes the right to speak *about* Islam while denying Muslims the right to speak *for* themselves.<sup>57</sup> Through this asymmetry, Orientalist scholarship becomes a site of epistemic monopoly rather than mutual intellectual exchange.

Spivak's notion of the *violence of representation* is particularly useful in diagnosing these interventions, as Orientalist scholarship not only mischaracterizes Islamic law but substitutes its own voice for the tradition it claims to analyze. This substitution transforms Islamic jurisprudence into an object of Western hermeneutic authority, thereby enacting a symbolic domination that mirrors colonial political

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<sup>54</sup> Rizkia Suciati et al., "Millennial Students' Perception on the Integration of Islam and Science in Islamic Universities," *Indonesian Journal of Islam and Muslim Societies* 12, no. 1 (2022): 31–57, <https://doi.org/10.18326/ijims.v12i1.31-57>.

<sup>55</sup> By Norazmi Anas et al., "The Integration of Knowledge in Islam: Concept and Challenges" 13, no. 10 (2013).

<sup>56</sup> Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*.

<sup>57</sup> Asad.

structures.<sup>58</sup> In this sense, Orientalist representations do not merely distort Islamic law; they restructure its epistemic genealogy.

Orientalist readings also rely on a discursive strategy that exaggerates internal tensions within Islamic law while minimizing its mechanisms for harmonization and interpretive balance.<sup>59</sup> By foregrounding perceived contradictions, Orientalists present the tradition as incoherent and incapable of resolving its own disputes. This rhetorical strategy reinforces Western claims to legal rationality by contrast, serving the broader civilizational narrative of European superiority.<sup>60</sup> Such comparative denigration forms the backbone of Orientalist discursive formation.

The construction of Islamic law as pre-modern and irrational is further maintained through the selective curation of historical evidence, privileging controversial episodes while ignoring instances of reform, adaptability, and juristic creativity. This selective curation reflects Foucault's insight that discursive systems operate through exclusionary practices that define what counts as legitimate knowledge.<sup>61</sup> In the Orientalist archive, the excluded elements: pluralism, contextual reasoning, ethical deliberation, constitute precisely what gives Islamic law its intellectual vitality.<sup>62</sup> Their exclusion thus functions as a deliberate epistemic strategy.

Orientalist scholarship also reproduces colonial hierarchies by framing Islamic legal theory as derivative of external influences, such as

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<sup>58</sup> Umar et al., "Critical Review of Postcolonial Theory of Homi Bhabha 's Hybridity : A Study of ' The Location of Culture ."

<sup>59</sup> K A Nasution, "The Urgency of Fiqh Rules in Islamic Civil Law," *International Journal Reglement & Society* Volume: 3 Issue: 2, May-August 2022: Page 116-123 <http://jurnal.bundamediaгруп.co.id/index.php/ijrs/article/view/224%0Ahttp://jurnal.bundamediaгруп.co.id/index.php/ijrs/article/download/224/211>.

<sup>60</sup> Fathullah Asni, "The Role of Mura'ah Al-Khilaf Epistemology in the Standardisation of Fatwa: An Analysis at the Perlis State Mufti Department," *International Journal of Academic Research in Business and Social Sciences* 11, no. 10 (2021), <https://doi.org/10.6007/ijarbss/v11-i10/11070>.

<sup>61</sup> Juswandi Juswandi, "The Urgency of Jurisprudence in Actualization Islamic Law," *PENA LAW: International Journal of Law* 2, no. 1 (2023): 1–9, <https://doi.org/10.56107/penalaw.v2i1.89>.

<sup>62</sup> M Steele, "Text, Body and Law: Naked Prayer in the Commentaries of the Mukhtaṣar Khalīl," *Journal of the Middle East and Africa* 8, no. 3 (2017): 291–308, <https://doi.org/10.1080/21520844.2017.1371540>.

Roman or Judaic law, thereby denying it originality or independent evolution. This narrative aligns with Bhabha's concept of *colonial mimicry*, wherein the colonized subject is depicted as a flawed copy of the West.<sup>63</sup> Through this lens, Islamic law is rendered a failed attempt at legal rationality, perpetually measured against Western standards. Such comparative frameworks reinforce the hegemony of Eurocentric legal epistemologies.

The cumulative effect of these Orientalist interventions is the production of an epistemic landscape in which Islamic law appears inherently defective, derivative, and intellectually stagnant. This constructed inferiority serves the broader political objective of legitimizing Western legal and political dominance over Muslim societies.<sup>64</sup> In Foucauldian terms, Orientalism becomes a *dispositif*, a network of practices, discourses, and institutions that together regulate the intelligibility of Islamic legal thought. The violence lies not only in misrepresentation but in the reordering of epistemic possibilities.

Ultimately, the analysis reveals that Orientalist readings of Islamic law enact a multilayered epistemic violence that targets not only the content of the tradition but its methodological foundations, historical consciousness, and interpretive sovereignty. Through mechanisms of discursive formation, selective representation, and methodological distortion, Orientalism manufactures an Islamic legal tradition that reflects Western fantasies rather than historical realities. Decolonizing Islamic legal studies thus requires dismantling these epistemic structures and restoring the capacity of the tradition to define itself on its own terms.

### **Postcolonial Critique: Disrupting Claims of Epistemic Supremacy**

Postcolonial theory provides an indispensable framework for interrogating the epistemic ambitions of Orientalist discourse, particularly its claim to monopolize interpretive authority over Islam and

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<sup>63</sup> K Rajani, *Shiite Legal Theory: Sources and Commentaries*, *Shiite Legal Theory Sources and Commentaries*, 2023, <https://www.scopus.com/inward/record.uri?partnerID=HzOxMe3b&scp=85194919659&origin=inward>.

<sup>64</sup> M Fanani, "Critique on Salafibism and It's Significance for Indonesian Islamic Moderation: Study on Khaled Abou El-Fadhl's Thought," *Mazahib Jurnal Pemikiran Hukum Islam* 22, no. 2 (2023): 351–98, <https://doi.org/10.21093/mj.v22i2.7046>.

Islamic law.<sup>65</sup> Edward Said's critique demonstrates how Orientalism constructs Islam as an object to be known, mastered, and disciplined through Western epistemic paradigms. In this sense, Orientalism achieves not merely representational dominance but also what Asad terms an "authoritative discourse" that fashions the conditions of intelligibility for Islamic traditions.<sup>66</sup> This analytic lens reveals that claims of objectivity within Orientalist texts are less descriptive than performative—acts of power masquerading as neutral scholarship.

Homi Bhabha's theory of ambivalence further dismantles the Orientalist pretense of epistemic certainty by highlighting the instability of colonial knowledge systems.<sup>67</sup> According to Bhabha, colonial discourse depends upon contradictory narratives that simultaneously exoticize and infantilize the colonized, thereby undermining its claims to analytical coherence.<sup>68</sup> This ambivalence exposes the fissures within Orientalist depictions of Islamic law, which oscillate between portraying it as dangerously rigid and hopelessly chaotic. Such contradictions reveal that Orientalist representations are shaped not by empirical accuracy but by the anxieties and fantasies of colonial power.

Asad's anthropological intervention challenges the secular assumptions that underpin Orientalist conceptualizations of Islamic law, revealing how Western epistemologies impose a bifurcation between law, ethics, and ritual that is alien to Islamic thought.<sup>69</sup> This critique destabilizes the Orientalist insistence that law must be evaluated through secular-liberal metrics of rationality and codification. By foregrounding

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<sup>65</sup> F Khaleel, "Islamic Classical Literature (A.D. 950–1450) on Institutionalisation of Ethics for Regulating Markets and Society," *Religions* 15, no. 12 (2024): 87, <https://doi.org/10.3390/rel15121496>.

<sup>66</sup> A El Shamsy, "Bridging the Gap: Two Early Texts of Islamic Legal Theory," *Journal of the American Oriental Society* 137, no. 3 (2017): 505–36, <https://doi.org/10.7817/jameroriesoci.137.3.0505>.

<sup>67</sup> J M Muslimin, "Islam and Medicine: A Study on The Fatwa of Indonesian Ulama Council on Vaccines," *Al Istinbath Jurnal Hukum Islam* 6, no. 1 (2021): 85–106, <https://doi.org/10.29240/jhi.v6i1.2496>.

<sup>68</sup> M Fletcher, "How Can We Understand Islamic Law Today?," *Islam and Christian Muslim Relations* 17, no. 2 (2006): 159–72, <https://doi.org/10.1080/09596410600604427>.

<sup>69</sup> Y L Soufi, "Why Study Usūl Al-Fiqh?: The Problem of Taqlid and Tough Cases in 4th-5th /10th-11th Century Iraq," *Islamic Law and Society*, 2021, <https://doi.org/10.1163/15685195-BJA10006>.

the embeddedness of Islamic jurisprudence in moral and theological reasoning, Asad exposes the epistemic incompleteness of Orientalist readings that isolate legal texts from their normative lifeworlds.<sup>70</sup> This intervention further demonstrates that Orientalist “objectivity” is, in fact, rooted in culturally specific assumptions about law and modernity.

Postcolonial theorists also highlight the colonial genealogy of academic institutions that produced Orientalist scholarship, revealing how knowledge about Islam was intertwined with imperial strategies of governance.<sup>71</sup> Comaroff and Comaroff’s work on colonial knowledge production exposes how Western scholars produced authoritative narratives about colonized societies to facilitate political control.<sup>72</sup> This insight directly illuminates the Orientalist project, wherein knowledge of Islamic law was weaponized to justify colonial interference and legal restructuring. Thus, the so-called neutrality of Orientalist legal scholarship is a historical illusion masking profound political entanglement.<sup>73</sup>

Bhabha’s notion of *hybridity* further disrupts Orientalist claims to epistemic purity by demonstrating that colonial encounters always produce hybrid cultural and epistemological spaces. In these spaces, neither the colonizer nor the colonized remains epistemically intact, challenging the Orientalist desire to present Western knowledge as uncontaminated and superior.<sup>74</sup> When applied to Islamic law, hybridity

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<sup>70</sup> N Andreucci, “Contagion at the Crossroads of Islamic Sciences,” *Mideo Melanges De L Institut Dominicaine Des Etudes Orientales Du Caire*, no. 38 (2023): 23–60, <https://www.scopus.com/inward/record.uri?partnerID=HzOxMe3b&scp=85179689623&origin=inward>.

<sup>71</sup> Z Azwar, “Consistency of the Indonesian Ulama Council in Using Istiṣlāḥ as a Method for Legal Istiṣlāḥ,” *Al Istiṣlāḥ Jurnal Hukum Islam* 9, no. 1 (2024): 1–24, <https://doi.org/10.29240/jhi.v9i1.7680>.

<sup>72</sup> R Beka, “Maqaṣid and the Renewal of Islamic Legal Theory in ‘Abdullah Bin Bayyah’s Discourse,” *American Journal of Islam and Society* 38, no. 3 (2021): 103–45, <https://doi.org/10.35632/ajis.v38i3-4.2987>.

<sup>73</sup> R Sinder, “An Islamic Notion of Natural Law: On Teleological Natural Law Thinking in Usūl Al-Fiqh,” *Oxford Journal of Law and Religion* 10, no. 3 (2021): 418–40, <https://doi.org/10.1093/ojlr/rwac007>.

<sup>74</sup> D R Vishanoff, “A Reader’s Guide to Al-Shāfi‘ī’s Epistle on Legal Theory (Al-Risāla),” *Islam and Christian Muslim Relations* 28, no. 3 (2017): 245–69, <https://doi.org/10.1080/09596410.2017.1289705>.

reveals that legal traditions have always been formed through cross-cultural exchanges, scholarly debates, and adaptive reasoning.<sup>75</sup> This historical dynamism invalidates Orientalist portrayals of Islamic law as rigid or intellectually stagnant.

Spivak's analysis of subalternity also illuminates how Islamic jurists have been structurally excluded from shaping global narratives about their own legal tradition.<sup>76</sup> Orientalists established themselves as the primary interpreters of Islamic law while marginalizing Muslim intellectual contributions to modern jurisprudential discourse. This erasure reinforces what Said calls the "textual attitude," the tendency to privilege Western textual analyses over indigenous interpretive practices. The postcolonial critique thus restores epistemic agency to Muslim scholars by revealing the asymmetrical power relations that underlie Orientalist authority.

The postcolonial interrogation extends to the methodological claims of Orientalist legal studies, revealing how assertions of philological precision mask deeper epistemic assumptions.<sup>77</sup> By questioning the universality of Western hermeneutics, postcolonial theorists expose how Orientalist methods selectively valorize certain types of evidence while dismissing others as irrational or premodern. This critique highlights that Orientalist epistemology is not a transparent analytical tool but a historically contingent formation shaped by particular ideological commitments.<sup>78</sup> Thus, the claim of methodological objectivity collapses under postcolonial scrutiny.

Postcolonial scholarship also highlights the productive possibilities of epistemic hybridity, revealing how Muslim intellectuals have historically navigated, resisted, and reconfigured colonial knowledge

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<sup>75</sup> L Takim, "Islamic Law and the Neojihadist Phenomenon," *Religions* 12, no. 1 (2021): 1–10, <https://doi.org/10.3390/re112010006>.

<sup>76</sup> U K Khatimah, "Marital Sexual Relations within the Perspective of Gender and Islamic Law.," *Ahkam Jurnal Ilmu Syariah* 13, no. 2 (2013): 235–46, <https://doi.org/10.15408/ajis.v13i2.936>.

<sup>77</sup> W Jenkins, "Islamic Law and Environmental Ethics: How Jurisprudence (Usul Al-Fiqh) Mobilizes Practical Reform," *Worldviews Environment Culture Religion*, 2005, <https://doi.org/10.1163/156853505774841641>.

<sup>78</sup> Area, "View Islamic Law against Mothers Who Interfere with Children 's Households in Sena Village , Batangkuis."

systems.<sup>79</sup> This reconfiguration challenges the Orientalist fantasy of epistemic domination by foregrounding the resilience and adaptability of Islamic legal traditions.<sup>80</sup> The recognition of these hybrid epistemic spaces undermines the binary logic upon which Orientalist superiority depends.<sup>81</sup> Consequently, Islamic law emerges not as an object of colonial knowledge but as an active participant in global legal discourses.

Ultimately, postcolonial critique ruptures the epistemic foundations of Orientalist scholarship by exposing its ideological underpinnings, methodological exclusions, and representational violences.<sup>82</sup> By foregrounding ambivalence, hybridity, and subalternity, postcolonial theorists reveal the instability of Orientalist claims to objectivity and neutrality. This destabilization dismantles the discursive architecture that has long positioned the West as the ultimate arbiter of Islamic legal rationality. In doing so, postcolonial theory inaugurates a transformative intellectual space in which Islamic law can be understood on its own epistemic terms.

## CONCLUSION

The findings of this study reveal that the epistemic supremacy of Orientalism in Islamic legal studies has been meticulously constructed through representational regimes that are biased, hierarchical, and deeply sedimented within colonial configurations of knowledge–power. Orientalist scholarship, as demonstrated across its canonical formulations, naturalizes a jurisprudential hierarchy in which Islamic law is positioned as derivative, stagnant, or epistemically immature, thereby reifying a civilizational asymmetry that privileges Western modes of reasoning. This architecture of knowledge, long normalized within academic and policy discourses, not only produces systematic

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<sup>79</sup> Barkah and Huzaimah, “Abandonment of Women ’ s Rights in Child Marriage ; An Islamic Law Perspective Andriyani Zulmi Ramdani Abstract :”

<sup>80</sup> Renucci and Authorization, “Legal Pluralism at the Heart of a Unitary Law . French Colonial and Post-Colonial Situations ( 19th-20th Century ) To Cite This Version : HAL Id : Halshs-03368626.”

<sup>81</sup> Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam*.

<sup>82</sup> Islam and Alauddin, “Cultural-Based Deviance on Islamic Law ; Zakat Tekke Wale’ Spending in Basala, Konawe, Southeast Sulawesi, Indonesia Abstract : Keywords :”

misreadings of *sharī‘a* and its intellectual traditions but also enacts a subtle yet persistent form of epistemic domination that distorts the autonomy, creativity, and internal rationality of Islamic legal thought.

Against this hegemonic edifice, postcolonial theory offers a formidable critical apparatus for interrogating and dismantling Orientalism’s epistemic claims. Through the conceptual prisms of discursivity, subalternity, ambivalence, and hybridity, postcolonial thinkers illuminate the fractures and contradictions underpinning Orientalism’s ostensible objectivity. Their interventions underscore the imperative of re-centering Islamic legal traditions within their own historical, methodological, and epistemological vocabularies, thereby gesturing toward a *decolonized Islamic legal epistemology*, one that affirms the legitimacy of *uṣūl al-fiqh*, foregrounds *maqāṣid al-sharī‘a* as an epistemic horizon, and positions Islamic law not as an object of Western scrutiny but as a self-authorizing intellectual civilization. This reconceptualization not only disrupts entrenched hierarchies of knowledge but also paves the way for reconstructing Islamic legal studies as a field grounded in epistemic plurality and methodological sovereignty.

Practically, this decolonial orientation signals the potential for developing Islamic law curricula that are more reflective, hybrid, and critically attuned to Orientalist narratives, curricula that encourage students to interrogate inherited power-laden representations while cultivating alternative modes of juridical reasoning rooted in Islamic intellectual history. It also opens avenues for future research that empirically examines the contemporary manifestations of Orientalist epistemic influence in judicial decision-making, Islamic legal education, and modern scholarship in *ḥadīth* and *fiqh*. Such inquiries will not only deepen the analytical granularity of decolonial legal studies but also chart new trajectories for revitalizing Islamic law as a self-determining epistemic tradition capable of engaging global modernity on its own intellectual terms.

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