

The Implementation of Legal *Istinbath* Results at LBM MUDI Mesjid Raya Samalanga

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Abstract

This study explores the application of the LBM MUDI Mesjid Raya's legal istinbath results (jurisprudential reasoning) at Samalanga, focusing on their methods and approaches to legal decision-making. Employing phenomenological and sociological approaches, the research integrates qualitative field and library research to analyze legal phenomena within social and religious contexts. Key participants included the chairman and officials of Lajnah Bahtsul Masail (LBM), as well as scholars from Dayah Mudi Mesra Samalanga, Aceh. Data collection methods comprised in-depth interviews, direct observation, and document analysis. The data were analyzed by using a grounded theory approach, adhering to Miles and Huberman's stages of data reduction, data display, and conclusion drawing. The findings indicated that the approach of LBM MUDI Mesjid Raya is based on a systematic istinbath method and a qauli method that prioritizes classical texts. Their decision-making process incorporates multi-perspective problem analysis, consideration of the legal impact on social, political, and economic dimensions, and alignment with the principles of Ahlu al-Sunnah wa al- Jama'ah. The two stages of discussion, which include both members and leadership, make sure that there is full discussion and careful thought. They do this by combining traditional textual bases with modern situations to uphold the principle of maslahah (public interest). The ilhaq masail bi nadhairiha method generates solutions for issues beyond the scope of classical qauli methods. This illustrates LBM's adaptability in addressing contemporary issues while maintaining a commitment to classical Islamic principles, demonstrating a balance between tradition and modern relevance.

I. Introduction

According to Hasbiyallah, the term "*istinbath*" technically refers to the effort to derive legal rulings from the Qur'an and the Sunnah through the foundation of *ijtihad*. Hasbiyallah broadly divides the *istinbath* method into three aspects: linguistic aspects, the purposes (*maqasid*) of Sharia, and the resolution of conflicting evidence (Hasbiyallah, 2013). Every *istinbath* within Sharia must be based on the Qur'an and the Sunnah. As a result, there are two types of Islamic evidence: *nash* (explicit texts) and *ghairun nash* (non-explicit texts). Non-*nash* sources, like *qiyas* (analogical reasoning) and *istihsan* (juristic preference), ultimately derive from, rely on, and align with *nash*. Moreover, a jurist must understand this process through the method of deriving legal rulings (*thuruq al-istinbath*) from the *nash*. By applying established Islamic law principles, the primary goal of *istinbath* is to establish the legal status of every action or statement of a *mukallaf* (legally accountable person) (Tanjung, 2021). These principles assist in comprehending the legal rulings indicated by the *nash*, determining the stronger source of law when conflicts arise between two sources, and recognizing jurists' differing opinions in resolving specific cases.

There are three ways to identify these principles. Firstly, we can directly formulate these principles from the Qur'an or Hadith. For instance, the principle "no harm and no reciprocating harm" (*la dharara wa la dhirara*) is a direct saying of the Prophet. Secondly, we can infer these principles inductively from a variety of Qur'anic verses or hadiths, such as the principle "difficulty brings ease," which derives from numerous Qur'anic verses that provide dispensations and ease in the implementation of Sharia law. Thirdly, we can infer principles inductively from the legal rulings of similar detailed cases. For example, in contracts of sale, there is a principle that the validity of the sale is based on the consent of the parties involved (Al-Fatawa, 2005).

Considering the explanation, scholars have meticulously devised methodologies for Sharia law, extensively documented in *fiqh* literature. A *mustanbith* (practitioner of *istinbath*) approaches *istinbath*—the process of deriving Islamic legal rulings—with the utmost caution and only when deemed necessary. The urgency and significance of *istinbath* encompass several critical aspects. Firstly, it seeks to elucidate the underlying rationale behind established laws, providing insights into the foundational principles guiding Islamic jurisprudence. Secondly, *istinbath* endeavors to delineate the precise legal positions adopted within Islamic legal frameworks, ensuring clarity and consistency in legal interpretations. Thirdly, it serves to illuminate the procedural methodologies employed in the formulation and validation of these legal rulings, ensuring transparency and scholarly rigor in the application of Islamic law (Kusumastuti et al., 2022). Moreover, *istinbath* plays a pivotal role in tracing and comprehending the various methods and approaches employed by scholars throughout history to establish and refine Islamic legal doctrines. By

engaging in *istinbath*, scholars not only address existing legal ambiguities but also pave the way for innovative solutions to contemporary issues lacking explicit legal prescriptions.

Dayah represents one of Indonesia's oldest Islamic educational institutions, deeply rooted in the country's cultural and educational heritage (Yusran et al., 2020). Despite its classification as a non-formal educational entity, *Dayah* exerts substantial societal influence. Contrary to misconceptions prevalent in some quarters, which depict *Dayah* as fostering feudal traditions and autocratic leadership styles, empirical evidence suggests otherwise (Nur, 2019). These institutions serve as bastions of Islamic learning, nurturing intellectual discourse and fostering community cohesion through their commitment to rigorous scholarship and ethical education practices.

The Government Regulation of the Republic of Indonesia Number 55 Year 2007, Article 1 paragraph (4), defines Pesantren or Pondok Pesantren as Islamic religious educational institutions located in communities that offer diniyah education, either independently or in conjunction with other forms of education. Meanwhile, Qanun Aceh Number 5 Year 2008, Article 1 paragraph (29), defines *dayah*, also known as pesantren, as educational institutions where Tullab or students reside (in balee or pondok). A *teungku dayah* guides these institutions, which prioritize Islamic education. Furthermore, the Qanun Aceh differentiates between two types of *Dayah*: "Dayah Salafiah" and "Integrated/Modern Dayah." According to Article 1 paragraph (30), *Dayah Salafiah* is defined as an institution that focuses on providing Islamic religious education in classical Arabic and various supporting sciences. Furthermore, paragraph 31 clarifies that integrated *dayah* refers to the combination of *dayah* with schools or madrasahs.

Dayah is a unique educational institution, not only due to its longstanding existence but also because of the culture, methods, and networks it employs (Mawardi et al., 2021). "Within the national education structure, *Dayah* serves as a crucial link. This significance arises not only from its long historical presence but also because *Dayah* has significantly contributed to the nation's intellectual development based on *fiqh fi ulum al-din*, *akhlakul karimah*, and *faqih fi mashalih al-ummah*" (Ali Buto & Hafifuddin, 2020). *Dayah* is an integral part of Aceh's cultural and educational heritage, playing a pivotal role in shaping the region's intellectual landscape (Kahar, 2021).

Within the environment of *Dayah*, there exists a unique tradition for addressing emerging issues within society, encompassing both religious matters and broader community challenges on an international scale. This tradition is known as *Bahtsul Masail*, a forum for discussing and resolving problems. *Dayah* institutions that uphold this scholarly tradition aim to cultivate critical thinking in tackling the issues at hand, drawing from deep studies of *fiqh* texts. We intentionally design the forum to contribute religious perspectives towards resolving various societal issues.

Historically, the Institution of Bahtsul Masail (LBM) was the first fatwa institution established within the Nahdlatul Ulama (NU) community. Prior to its formal establishment, Bahtsul Masail had been a longstanding tradition within pesantren, predating the formation of NU itself. Each pesantren traditionally hosted such forums to address local community issues, particularly those related to Islamic law. Historical records document the decisions made through Bahtsul Masail, which involved scholars from different pesantrens, a few months after NU's founding on August 31, 1926 (Asmar, 2020).

Dayah Ma'hadal 'Ulum Diniyah Islamiyah (MUDI MESRA) in Samalanga is the sole dayah in Aceh engaged in Bahtsul Masail activities. The Lajnah Bahtsul Masail Mudi team conducts these activities in two ways: first, routinely, to address community issues as they arise; and second, annually, during the commemoration of the anniversary (haul) of Abon (1958 AD to 1989 AD). Initially, Lajnah Bahtsul Masail involves bringing together competent alumni from *dayahs* across Aceh with strong scholarly backgrounds (*mubahatsah*). As a result, in 2005, the Lajnah Bahtsul Masail (LBM) Mudi Mesra was established as an official institution within MUDI (Luthfi, 2021).

LBM MUDI serves as a solution to the urgent need for legal answers to current issues, as evidenced by the dynamic issuance of fatwas that uphold local wisdom. The precise and appropriate method of Istimbath achieves these results by abstracting the thoughts of previous scholars and applying them proportionately and appropriately. On the other hand, various fatwa institutions have emerged, but they frequently produce results that are irrelevant and non-adaptive to the environment, highlighting the importance of Istimbath as the methodological framework for issuing fatwas.

Both approaches employ the methodological framework of Istimbath, yet they yield differing legal outcomes. This difference can make people question the validity and completeness of the reasoning used in the Istimbath method. On the one hand, some people stress the importance of rationalism and philosophy in judging benefits, while on the other hand, they say that scholarly studies are needed to get rid of simple justifications, foundational arguments, and the legal outcomes of the methods used.

Several compelling factors drive the author's interest in researching the Lajnah Bahtsul Masail (LBM) at Dayah Mudi Mesra in Samalanga. Existing research has primarily focused on LBM within the Nahdlatul Ulama (NU) context, leaving Dayah institutions, pivotal for scholarly development, largely unexplored in academic studies. Dayah Mudi Mesra stands alone in Aceh as the sole institution actively nurturing and developing LBM practices. As the largest dayah in Aceh with the highest student enrollment, its research outcomes hold significant relevance for scholars investigating LBM dynamics. The integration of educational methods between the dayah and campus environments facilitates the application of advanced technology

and academic knowledge, fostering comprehensive dayah growth. Furthermore, the fatwas issued by Bahtsul Masail Mudi Mesra serve as authoritative guides in legal matters affecting Acehese society, reflecting the dayah's profound impact.

LBM Mudi Mesra's approach to problem-solving significantly differs from other institutions' Bahtsul Masail methods, particularly in how it applies and results from the Istimbath method of deriving legal rulings. The decision-making dynamics within LBM Mudi are characterized by a specific Istimbath method, which warrants further study. Hence, the author proposes to explore these aspects through qualitative field research and library research using phenomenological and sociological approaches. These points underscore the research's significance, leading to the formulation of the title "Method of Istimbath Hukum in Lajnah Bahtsul Masail at Dayah Mudi Mesra, Samalanga, Aceh."

2. Research Method

This research employed phenomenological and sociological approaches. The phenomenological approach examined various legal phenomena related to social and religious contexts. It constituted qualitative Field Research and Library Research. Qualitative research describes and objectively presents findings on the characteristics of individuals or groups encountered in the field, analyzing phenomena, events, activities, social behaviors, attitudes, beliefs, perceptions, and thoughts (Marvasti, 2004). The study involved key figures such as the chairman and officials of Lajnah Bahtsul Masail (LBM), as well as scholars from Dayah Mudi Mesra Samalanga, Aceh. Data collection methods included in-depth interviews (Creswell, 2014), direct observation, and document analysis (Creswell & Creswell, 2018).

Data were qualitatively analyzed using a grounded theory approach. According to Miles and Huberman, qualitative data analysis involves three stages: (1) data reduction, (2) data display, and (3) conclusion drawing or verification, all interconnected in determining the final analysis outcomes. Data reduction entailed selecting and simplifying data to obtain clear information, enabling accountable conclusions. Data display organized reduced findings narratively. Conclusion drawing involves interpreting findings, seeking data meanings, and providing explanations, followed by verification to test data truthfulness, robustness, and matching data meanings (Miles & Huberman, 1994).

3. Results and Discussion

Implementation and the Results of the Istimbath Method at Lajnah Bahtsul Masail at Dayah Ma'ahadal Ulum Diniyah Islamiyah (MUDI) Mesjid Raya (Mesra) Samalanga

To achieve effective planning, processes, and outcomes, LBM MUDI Mesjid Raya has developed a systematic approach involving the analysis of issues, application of *istinbath* method, formulation of solutions, and determination of answers. LBM

MUDI Masjid Raya rigorously enforces these guidelines, particularly concerning societal aspects, where decisions aim to reconstruct or resolve community issues. The first stage involves analyzing the problem or examining its background from various perspectives, including economic, cultural, social, political, or other relevant angles. Subsequently, we assess the potential impacts of legal responses, determining whether they lead to positive or negative outcomes in social, political, cultural, or economic terms. To avoid controversies with positive law and ensure that the legal framework conforms to the teachings of Ahlu al-Sunnah wa al-Jama'ah, legal analysis follows. Finally, an analysis of actions, roles, and oversight aims to maximize the consequences of decisions while adhering to social responsibilities within the established order.

The above-mentioned stages delineate the Istimbath procedural flow for complex issues that Qauli methods alone cannot resolve. Issues manageable through qauli methods, however, require less intricate stages and procedures for resolution. The subsequent discussion focuses on the application and outcomes of Istimbath, specifically the Qauli method.

A distinctive feature of *Dayah* in general, and specifically of LBM MUDI Masjid Raya, is their reliance on the yellow books when addressing community inquiries. This practice has fostered a paradigm where legal experts educated in *Dayah* prioritize these texts as their primary reference for resolving legal issues—a model known as *fiqh qauli*. This method predominantly seeks legal rulings previously decreed by scholars, although there are cases that require strong reasoning to navigate through conflicting opinions among scholars.

The qauli method applies specific criteria: if one text can definitively resolve a problem without controversy, we directly derive the solution from that text. However, when a single text can answer issues that involve multiple controversial interpretations of reasoning strength, evidence, or conditions, we conduct thorough study and analysis to identify the most appropriate text-based response. We give preference to stronger opinions and considerations of *maslahah* (public interest) in determining the answer.

The hierarchy of strong opinions is structured as follows:

- a. Opinions agreed upon by al-Syaikhani (Imam al-Nawawi and Imam al-Rafi'i),
- b. Opinions held by Imam al-Nawawi alone,
- c. Opinions held by Imam al-Rafi'i alone,
- d. Opinions endorsed by most scholars,
- e. Opinions of the most knowledgeable scholars,
- f. Opinions of the most cautious scholars (*wara'*).

Regarding the hierarchy based on the authority of the text:

- a. Imam al-Nawawi's opinion in "Tahqiq",
- b. Imam al-Nawawi's opinion in "Al-Majmu'",
- c. Imam al-Nawawi's opinion in "Al-Tankih",
- d. Imam al-Nawawi's opinion in "Al-Raudlah",
- e. Imam al-Nawawi's opinion in "Minhaj" (LBM Team, 2014).

This structured approach serves as a guiding principle for LBM MUDI Mesjid Raya in making critical legal decisions. However, the institution remains flexible in incorporating alternative viewpoints, when necessary, especially for contemporary issues that the traditional text-based approach of the *qauli* method cannot resolve. In such cases, LBM employs the *ilhaq masail bi nadhairiha* method for resolution. In applying the *qauli* method, a strong commitment to its established principles is essential. The chairman of LBM MUDI Mesra asserts that contemporary scholars' methodologies and social philosophical perspectives often influence experts who analyze legal matters, whether through formal discourse or otherwise. This does not imply that contemporary scholars' perspectives are incorrect, but their arguments may not necessarily surpass the robust frameworks developed by earlier scholars. Indeed, theories proposed by contemporary scholars often prove less durable compared to those established by their predecessors, which have endured and adapted over time.

In practice, the *qauli* method involves two primary approaches: firstly, resolving issues by consulting several scholars' opinions without encountering contradictions; and secondly, resolving issues by determining the strongest opinion among conflicting viewpoints. The latter approach necessitates a thorough study and comparison of various opinions to identify the most robust or to allocate appropriate weight to differing opinions without favoring one over another. At LBM MUDI Mesra Samalanga, the process of determining legal answers entails two rounds of deliberation. The first round occurs at the member level, specifically conducted by LBM members specializing in deliberation, assisted by other relevant members. This stage entails searching for relevant textual sources from traditional books related to the specific case and formulating multiple identified answers based on these texts. All members of LBM MUDI Mesjid Raya Samalanga attend the second round at the leadership level. Here, the questioner receives the final decision. The outcomes of these leadership-level deliberations can vary, sometimes aligning with the conclusions from the initial round yet occasionally differing significantly from the initial findings.

The process begins with the initial deliberation, which focuses on the search and analysis of texts from traditional books by members with specific expertise. After identifying several potential answers, the leadership level conducts a second

deliberation in which all members of LBM participate to determine the final answer. The variations in outcomes between these two stages reflect the dynamic discussions and thorough assessments undertaken to arrive at the most appropriate response for the questioner. The second-level deliberation is executed in several critical steps. First, it ensures that all members and leaders of LBM MUDI Masjid Raya Samalanga are present. Second, we invite specialists to participate if the case under discussion necessitates their expertise. We derive the outcomes from a deep scrutiny of current cases through this two-tiered deliberation process, ensuring a balance between textual analysis and contextual relevance to uphold the principle of *maslahah* (public interest).

At the second level of deliberation, the first step is to ensure that all members and leaders of LBM MUDI Masjid Raya Samalanga are fully present. We need this collective presence to incorporate all perspectives and expertise into the discussion. All members' presence guarantees the inclusion of all crucial aspects in the decision-making process. Furthermore, we invite experts in specific fields to participate in the deliberations if the case requires their input. Their presence grounds decisions in a deep and comprehensive understanding of the issues at hand. With the two-tiered deliberation model, every answer produced undergoes thorough scrutiny of current cases. This process ensures that decisions are not solely based on the texts of traditional books, but also consider the current context. Such an approach maintains a balance between textual analysis and contextual considerations, preserving the *maslahah* principle in every decision made.

Here is the explanation from LBM MUDI Masjid Raya Samalanga regarding the issue of expediting zakat payments for crops using the first *qauli* method:

a. Problem Description:

Farmers typically harvest crops twice a year or more. Sometimes, the yield from the first harvest does not meet the *nisab* (minimum threshold for zakat), but there is a strong possibility that when combined with subsequent harvests, it will reach the *nisab*. One well-established rule regarding agricultural zakat requires combining the annual crop yields to determine whether the *nisab* has been met. Consequently, many farmers pay zakat based on the first harvest, even if it doesn't meet the *nisab* at that time, anticipating that it will meet the *nisab* when combined with subsequent harvests. This reality necessitates a legal response concerning the validity of zakat payments, determining whether they are valid or invalid.

b. Answer Formulation:

In the case of zakat *zuru* (agricultural produce like rice and similar crops), if there are two or more harvests within a year (12 months based on the Islamic calendar), their yields must be combined to determine whether the *nisab* has been reached. Imam al-Nawawi elaborates on this (al-Mahalli, 2010):

وزرعا العام يضمن

The meaning: "Two yields of *zuru'* (agricultural produce subject to zakat) within a year are combined.

According to a strong opinion, the calculation of a year is based on the interval between two harvests. If the interval between the two harvests does not exceed 12 months in the Islamic calendar, they are considered *zuru'* within a year, even if the planting period exceeds 12 months. However, if the interval between the two harvests exceeds 12 months, they are not considered *zuru'* within a year, even if their planting periods have not yet reached 12 months. This rule indicates that if it is not *zuru'* within a year, there is no obligation to combine the yields of the two harvests to reach the *nisab* (the minimum threshold for zakat)."

"In various classical literature, one of the methods of zakat payment known as *ta`jil* (expediting) involves paying zakat before its obligatory due time arrives. Here is a statement from scholars regarding the status of expediting zakat (Al-Malibary, 2010);

(و) جاز للمالك دون الولي (تعجيلها) أي الزكاة (قبل) تمام (حول) لا قبل تمام نصاب في غير التجارة

The meaning: "It is permissible for the owner of wealth, except for those in the region, to expedite zakat before its due time. It is not acceptable before reaching the obligatory zakat size unless it is a zakat *tijarah*.

The method of expediting zakat is not permissible absolutely; some conditions must be met to expedite the payment of zakat validly. One of these conditions is that the crops must have reached the *nisab* (minimum threshold for zakat). Therefore, even though the combined yield from the two harvests reaches the *nisab*, zakat is not obligatory if the yield from the first harvest does not reach the *nisab*. In contrast, zakat *tijarah* allows expedited zakat payment before the haul period, even if the merchandise has not reached the *nisab*. Regarding the expediting of zakat, it is mentioned in al-Syarqawi's book (Al-Syarqawi, 2011);

...ففي تعجيل زكاة الزروع والثمار تفصيل ان كان ذلك قبل وقت وجوب الإستقرار بأن كان قبل اشتداد الحب وبدو صلاح الثمر امتنع وان كان بعد ذلك وقبل وجوب الأداء بأن كان بعد الإشتداد وبدو الصلاح وقبل الجفاف والتصفية جاز فيخرج من القديم الذي عنده

The meaning: "A detailed explanation regarding expediting zakat on *zuru'* (crops) and fruits is as follows: If zakat is paid before it is certain that it is obligatory—before the seeds harden and the fruits ripen—it is not permissible to expedite zakat. However, if it is done

after this stage but before it becomes obligatory—after the seeds have hardened, the fruits have ripened, and before they are dried and cleaned—it is permissible. The grains or fruits used for zakat in this matter can be from previous harvests; they do not necessarily have to be from the most recent harvest.

Based on the possibility of reaching the *nisab* (minimum threshold for zakat) during the second harvest, some communities immediately pay zakat after the first harvest, even if the yield from the first harvest does not reach *the nisab*. We do this to anticipate the potential higher zakat amount that could arise if we paid the zakat from both harvests after the second harvest. However, this approach may pose issues in fiqh (Islamic jurisprudence) because zakat payments are subject to specific conditions and requirements, including the timing of payment. Essentially, one should pay zakat when it becomes obligatory. Once the seeds harden, agricultural produce becomes liable for zakat and requires payment after cleaning. Additionally, one of the conditions for zakat *zuru'* is that it reaches the *nisab*. Therefore, paying zakat when the harvest has not yet reached the *nisab* means paying zakat on wealth that is not yet liable for zakat (Al-Jawi, 2015)."

(و) جاز لمالك النصاب (تعجيلها) أي الزكاة في المال الحولي (قبل) تمام (حول) فيما انعقد حوله ووجد النصاب فيه لأنه صلى الله عليه وسلم أرخص في التعجيل للعباس رواه أبو داود والحاكم ولأنه وجب بسببين فجاز تقديمه على أحدهما كتقديم الكفارة على الحنث ومحل جواز التعجيل في غير الولي أما هو فلا يجوز له التعجيل عن موليه سواء الفطرة وغيرها

Artinya: "For owners of haul (annual zakat) wealth that has reached the zakat threshold, it is permissible to expedite the payment even before the zakat year has elapsed. This is based on the practice of the Prophet who granted Abbas leniency to expedite the payment of zakat, as narrated by Abu Dawood and Al-Hakim. The obligation to haul wealth for zakat is based on two reasons, hence it is permissible to expedite zakat when either of these reasons is fulfilled, similar to expiating an oath violation with *kaffarah*. The permissibility of expediting zakat applies only to non-guardians (non-wali), as guardians are not permitted to expedite zakat for their charges, whether it is zakat al-Fitr or other zakat.

The quote from the text above aims to emphasize that the procedure for expediting zakat applies specifically to zakat where one of its obligations is tied to a specific year. The permissibility of expediting is based on the principle that if something is obligatory due to two reasons, it is permissible to expedite it when one of those reasons is fulfilled.

Regarding the permissibility of using harvest yields, Imam Ibn Hajar states (Ahmad, 2015):"

(ويضم ثمر العام بعضه إلخ)، ولا فرق بين اتفاق واجب المضمومين واختلافه كأن سقى أحدهما

بمؤنة والآخر بدونها شرح بأفضل قول المتن (واختلاف إدراكه) وعليه فلو أدرك بعضه، ولم يبلغ نصاباً جاز له التصرف فيه ثم إذا أدرك باقيه وكمل به النصاب زكي الجميع سواء كان الأول باقياً أو تالفاً

The Meaning: Harvest yields are accumulated throughout the year, regardless of whether the first harvest meets the zakat requirements or not, similar to different agricultural irrigation processes involving either additional costs or none (varying methods of acquisition). The basis of this is that if someone obtains a harvest that does not reach the zakat threshold, they are permitted to utilize it. Subsequently, when they achieve a harvest that meets the threshold through accumulation, they are obligated to pay zakat on the entire harvest, whether the first yield remains or has been consumed.

The consequence of Imam Ibn Hajar's statement pertains to the obligation of zakat, which remains unaffected by differences in how zakat is applied to crops. Scholars also agree, based on Ibn Hajar's statement, on the permissibility of using harvest yields that initially do not meet the zakat threshold, with the condition that if the second harvest reaches the threshold, zakat must be paid.

c. Decision

After thorough deliberation and in-depth study, LBM MUDI Mesjid Raya has decided

After thorough deliberation and in-depth study, LBM MUDI Mesjid Raya has made the following decision:

1. Rice or crops given as zakat are not considered valid if the harvest yield does not meet the *nisab*.
2. b) You must accumulate the first harvest's yield with subsequent harvests, and you must pay zakat if the accumulated yield reaches the *nisab*.
3. c) You can use the first harvest yield even if you expect the second harvest yield to count toward zakat.

These decisions reflect the results of extensive research and deliberation on zakat matters relating to agricultural produce based on Sharia principles.

To resolve the aforementioned case, Islamic jurisprudence draws legal interpretations from various scholars and different texts, demonstrating a consensus among scholars on the issue. Additionally, this approach aims to support the intent of one legal text with another. For instance, the text from *Tuhfah* clarifies how to understand and apply the statement from al-Mahalli's book that crop yields in a year must accumulate.

The first decision, which references al-Syarqawi's opinion in his work, and the second and third decisions, which reference Ibn Hajar's views in *Tuhfah*, affirm the case's resolution based on the views of earlier scholars. The writer did a lot of research and couldn't find any decision by

LBM MUDI about the faster payment of agricultural zakat in the *Ahkamul Fuqaha*, which is a collection of Nahdlatul Ulama's legal discussions. Similarly, the Majelis Tarjih Muhammadiyah's Compilation of Decisions did not include any such decisions. This suggests that neither NU's deliberations on legal issues nor the Majelis Tarjih Muhammadiyah's decisions specifically address the case.

The second method, the *qauli* method, involves seeking legal rulings documented in the yellow books or referred to as seeking rulings previously decreed by respected scholars while acknowledging differing opinions among scholars regarding the relevant laws. Here is an example of applying the *qauli* method and its outcomes in addressing the status of illicit wealth:

a. Problem Description

One of the prevalent challenges today is the widespread existence of dubious or outright forbidden wealth within society. Many individuals accumulate riches through activities such as gambling, drug trafficking, corruption, and other illicit means. However, divine guidance can intervene at any time; occasionally, those who have amassed wealth through wrongful means experience a spiritual awakening and regret their actions, seeking repentance. During the fervor of repentance, individuals often face confusion about how to use (*thasharuf*) the wealth derived from illicit activities, leading some to repent by contributing this wealth to charitable causes.

b. Formulated Answer

In this context, illicit wealth refers to assets acquired through means contrary to religious principles, such as theft or prohibited trade practices. Therefore, ownership or possession of such wealth is not valid, meaning that ownership rights still belong to the previous owner. As social beings inherently interconnected with others, transactions or dealings (*muamalah*) like buying, selling, renting, endowments, charity, and others are part of everyday life. Based on the illegitimacy of owning illicit wealth, several legal consequences arise. The opinions of various scholars outline the legal implications of possessing or controlling illicit wealth ((Al- Din Yahya, 2015).

لأن ما حرم أخذه لحق الغير إذا أخذه وجب رده إلى مالكه كالمغصوب وإن هلك عنده وجب عليه الجزاء
لأنه مال حرام أخذه لحق الغير فضمنه بالبذل كمال الأدمى

The meaning: "Something that is forbidden, taken unjustly from others, must be returned to its rightful owner, like stolen goods. If the item is damaged, it must be replaced with something equivalent. Taking unlawfully obtained wealth, knowing it rightfully belongs to others, necessitates repayment or replacement as with any other human property."

Imam al-Nawawi explicitly states that unlawfully acquired wealth must be returned to its original owner and replaced if damaged or lost. This indicates that those who

gain wealth through forbidden means do not possess legitimate ownership rights and are not permitted to manage such wealth (*tasharuf*). Imam al-Ghazali, as quoted by Imam al-Nawawi in his book *al-Majmu'*, extensively discusses the consequences of unlawfully acquired wealth (Al-Din Yahya, 2015):

قال الغزالي إذا كان معه مال حرام وأراد التوبة والبراءة منه فإن كان له مالك معين وجب صرفه إليه أو إلى وكيله فإن كان ميتا وجب دفعه إلى وارثه وإن كان لملك لا يعرفه ويئس من معرفته فينبغي أن يصرفه في مصالح المسلمين العامة كالقناطر والربط والمساجد ومصالح طريق مكة ونحو ذلك مما يشترك المسلمون فيه ولا فيتصدق به علي فقير أو فقراء وينبغي أن يتولى ذلك القاضي إن كان عفيفا فإن لم يكن عفيفا لم يجز التسليم إليه فإن سلمه إليه صار المسلم ضامنا بل ينفى أن يحكم رجلا من أهل البلد دينا عالما فإن التحكم أولى من الانفراد فإن عجز عن ذلك تولاه بنفسه فإن المقصود هو الصرف إلى هذه الجهة وإذا دفعه إلى الفقير لا يكون حراما على الفقير بل يكون حلالا طيبا وله أن يتصدق به على نفسه وعياله إذا كان فقيرا لأن عياله إذا كانوا فقراء فالوصف موجود فيهم بل هم أولى من يتصدق عليه وله هو أن يأخذ منه قدر حاجته لأنه أيضا فقير وهذا الذي قاله الغزالي في هذا الفرع ذكره آخرون من الأصحاب وهو كما قالوه ونقله الغزالي أيضا عن معاوية بن أبي سفيان وغيره من السلف عن أحمد بن حنبل والحاتر المحاسبي وغيرهما من أهل الورع لأنه لا يجوز اتلاف هذا المال ورميه في البحر فلم يبق إلا صرفه في مصالح المسلمين

The meaning: Imam Ghazali said, if someone possesses unlawfully obtained wealth and wishes to repent and be absolved of sin, then if the rightful owner is known and identifiable, it is obligatory to return it to them or their representative. If the owner has passed away, it must be surrendered to their heirs. If the owner is unknown and it's impossible to determine who they are, the property may be used for the benefit of the Muslim community, such as constructing water channels, study halls, mosques, improving roads to Mecca, and other projects that benefit all Muslims. It is also permissible to donate such wealth to the needy. Ideally, it should be handed over to a trustworthy judge (Qadhi); if such a judge is not available, then it may be managed by a knowledgeable and trustworthy person. The essence is to utilize the wealth for recommended purposes. When given to the needy, this wealth becomes lawful and virtuous, hence it can be donated for oneself or one's family if they are needy. This permission is due to their status as needy individuals, and it is preferable to give charity to them or their families. By determining their status as needy, a preacher (dai) is allowed to take this wealth to meet their needs. Imam al-Ghazali's discussion on this matter is also attributed to companions like Mu'awiyah bin Abi Sufyan, and

other early scholars such as Ahmad bin Hanbal, Harith al-Muhasibi, and others known for their piety. They emphasize that one should not discard unlawfully obtained wealth but should use it for the benefit of the Muslim community.

Imam al-Ghazali agreed that the ownership of unlawfully obtained wealth is not recognized, and thus, he proposed several solutions for its use. He also agreed that such wealth should not be discarded or destroyed, which differs from the view of some scholars who advocate for the disposal or destruction of illicit wealth. Regarding the citation of Imam al-Ghazali's opinion, one of the participants explains that Imam al-Ghazali's position in the hierarchy of fiqh does not have as significant an influence as that of Imam al-Nawawi, especially given his expertise in Sufism. However, many of Imam al-Ghazali's opinions play a crucial role in elucidating the substantive meanings and wisdom in the views of Imam al-Nawawi.

The scholar who advocated for the destruction of unlawfully obtained wealth was Fudhail ibn 'Iyadh. Imam al-Ghazali narrated an incident about this as follows (Al-Ghazali, 2002):

وحكي عن الفضيل أنه وقع في يده درهمان فلما علم أنهما غير وجههما رماههما بين الحجارة وقال لا أتصدق إلا بالطيب ولأرضي لغير مالأرضاه لنفسه

The meaning: "It is narrated that *Fudhail* once had two dirhams, and when he realized that the money was obtained through unlawful means, he threw it onto the rocks, saying, "I only give charity with lawful wealth, and I am not willing for others to have what I dislike."

The act of *Fudhail ibn 'Iyadh* is discussed and analyzed in depth in the book *Ihya Ulum al-Din*. The conclusion from the discussion is that *Fudhail's* reasoning is valid only for himself or others who share his principles. For establishing legal rulings, case-specific aspects must be eliminated, and a universal nature should be introduced so that the law applies not just to a particular time, place, or person. This perspective is why *Fudhail's* act does not set a precedent for resolving unlawfully obtained wealth by discarding or destroying it.

Habib Abdurrahman ibn Muhammad, in his book *Bughyah al-Murtasyidin*, also provides the following argument (Al-Rahman, 2000):

(مسألة: ب ش) : وقعت في يده أموال حرام ومظالم وأراد التوبة منها ، فطريقه أن يرد جميع ذلك على أربابه على الفور ، فإن لم يعرف مالكة ولم يأس من معرفته وجب عليه أن يتعرفه ويجهده في ذلك ، ويعرفه ندباً ، ويقصد رده عليه مهما وجدته أو وارثه ، ولم يأنم بامساكه إذا لم يجد قاضياً أميناً كما هو الغالب في هذه الأزمنة اهـ. إذ القاضي غير الأمين من جملة ولادة الجور ، وإن أيس من معرفة مالكة بأن يبعد عادة وجوده صار من جملة أموال بيت المال ، كوديعة ومفصوب أيس

من معرفة أربابهما ، وتركه من لا يعرف له وارث ، وحينئذ يصرف الكل لمصالح المسلمين الأهم فالأهم ، كبناء مسجد حيث لم يكن أعم منه ، فإن كان من هو تحت يده فقيراً أخذ قدر حاجته لنفسه وعياله الفقراء كما في التحفة وغيرها ، زاد ش : نعم قال الغزالي إن أنفق على نفسه ضيق أو الفقراء وسع أو عياله توسط حيث جاز الصرف للكل ، ولا يطعم غنياً إلا إن كان ببرية ولم يجد شيئاً ، ولا يكتري منه مركوباً إلا إن خاف الانقطاع في سفره اهـ.

The meaning: If one possesses unlawfully obtained wealth or wealth obtained through oppression and plans to repent, the method is to immediately return the wealth to its rightful owner. If the owner is unknown but there is a possibility of identifying them, it is obligatory to make a sincere effort to determine who the owner is, and it is recommended to inform the owner. The intention should be to return the wealth as soon as the owner or their heirs are found. The individual is not sinful for keeping the wealth if a trustworthy Qadhi (judge) cannot be found, as often occurs in present times. This is because untrustworthy *Qadhis* are among the *fasiq* (immoral) authorities. However, if it is impossible to identify the owner, such as if the owner is in a place considered distant by common standards, the wealth is treated as the property of the Baitul Mal, like unclaimed deposits or spoils whose owners can no longer be identified, or inheritance with unknown heirs. In this situation, the wealth should be used for the most significant benefit of the Muslim community, such as building a mosque, unless a greater need is identified than building a mosque. If those under his responsibility are needy, he may take the amount necessary for himself and his needy family, as mentioned in the book *Tuhfah* and others. Shibra Amlasi adds that, according to Imam al-Ghazali, if one spends on oneself, the charity should be limited; if given to the needy, it should be broadened; but if given to one's family, it should be moderate. It should not be given to the wealthy unless in cases of dire necessity, where no other options are available, and one should not hire transportation from them unless fearing they cannot continue the journey otherwise.

The above explanation outlines three different conditions and procedures for someone who possesses unlawfully obtained wealth: (1) The Owner is Known, in this case, the holder of the wealth must return it to the rightful owner or their heirs, (2) the Owner is Possibly Known, in this phase, the holder must make an intensive and thorough effort to locate the owner. This includes making announcements to return the wealth if the owner appears. The unlawful wealth can be kept by the holder if the current judge is not just, and (3) the Owner is Unknown, in this phase, the status of the wealth changes from personal property to Baitul Mal property (public treasury), which will become part of state assets under the judge's authority.

The additional reference to opinions found in the book *Bughyat al-Murtasyidin* aims

to provide clarity regarding the government's role, specifically Baitul Mal, in managing and supervising unlawfully obtained wealth. Implicitly, it also aims to explain the type of government that can be trusted to manage and oversee such wealth. This explanation was conveyed by Abaya Muhammad Nasir, who noted that the *Bughyat* book has a low standing in the hierarchy of decision-making sources. Besides being a later work, it heavily cites opinions whose validity is quite relative.

Based on the above opinions, it can be concluded that several scholars, including Imam al-Nawawi, believe that the owner of unlawfully obtained wealth does not have the legitimate right to manage (*tasharuf*) it, as they do not have ownership status. Imam al-Ghazali opines that the management of unlawfully obtained wealth should be handed over to a judge or a representative. In urgent situations, it is permissible to manage it personally under the conditions previously explained. *Fudhail ibn 'Iyadh* indicated through his actions that unlawfully obtained wealth, besides being illegitimate for ownership, should not be given to others. *Fudhail's* solution is to discard or destroy such wealth, but this suggestion is not supported by Imam al-Ghazali, Imam al-Nawawi, and other scholars.

c. Decision

After a thorough review and analysis of the status of unlawfully obtained wealth, LBM MUDI Mesjid Raya Samalanga decided as follows:

a) Definition: Unlawfully obtained wealth refers to wealth acquired through means not following religious principles, such as theft, forbidden transactions, and the like.

b) Ownership: The ownership of unlawfully obtained wealth is not legitimate, and the rightful ownership remains with the previous owner. If the previous owner cannot be identified, the wealth is classified as lost property that has been recovered (*al-mal al-dhai'*).

c) Income from Illicit Capital: All earnings from capital derived from unlawful wealth, such as businesses funded by the sale of narcotics, are considered unlawful.

d) Legal Implications Regarding the Possession of Unlawfully Obtained Wealth:

- A person whose wealth is entirely unlawful is categorized as poor according to Islamic law (*syara'*).
- Such a person cannot use unlawful wealth to fulfill financial obligations like Hajj, providing sustenance, and other related duties.
- A wife may seek annulment (*fasakh*) if her husband cannot provide sustenance with lawful wealth.

e) Repentance from Unlawfully Obtained Wealth:

- If the Owner or Heirs are Known: The wealth must be returned to them.

- If the Owner is Unknown: The wealth must be handed over to a just judge (Baitul Maal) to be used for the general benefit of the Muslim community, such as building mosques or other community needs. If no general benefit is found, it should be given to the poor and needy. If a just judge is not available, the holder of the wealth may themselves allocate it to community benefits or the poor and needy.

Determining and responding to legal issues using the *qauli* method involves more than just finding and quoting previous scholars' opinions as references for immediate rulings. The *qauli* method requires treating classical Islamic texts (*kitab kuning*) as fundamental manifestations. Addressing issues with '*kitab kuning*' demands a thorough understanding, and mastery of scientific knowledge, humanities, and applied sciences. Especially when differences of opinion exist within a single issue, such as the use of unlawfully obtained wealth, a deep understanding is necessary to favor one opinion over another (*tarjih*).

The use of unlawfully obtained wealth or its proceeds has become a contentious and worrisome issue within society. Many people's sources of income are assuredly not lawful. The ensuing polemic arises when holders of unlawful wealth gain public sympathy through emotional and social approaches, leading to blind justifications driven by gratitude. Worse still, some groups attempt to justify their actions under the guise of religion. Therefore, the *qauli* method used to resolve the issue of unlawful wealth involves first quoting all scholarly opinions, listening to participants' viewpoints, and then making a ruling (*tarjih*) according to the principles outlined by LBM MUDI Mesjid Raya.

Based on the research conducted, the author did not find specific rulings regarding wealth obtained unlawfully in the book *Ahkamul Fuqaha* or the Compilation of Decisions of the Majlis Tarjih Muhammadiyah. However, the Majlis Tarjih Muhammadiyah is known for frequently discussing issues related to Islamic ethics and law, and the Lajnah Bahtsul Masail NU regularly addresses various fiqh problems, including financial and wealth issues. Therefore, while specific decisions may not be found in available sources, it is possible that such issues have been discussed in various forums and internal discussions not widely documented.

4. Conclusion

A systematic *istinbath* (jurisprudential reasoning) method and a *qauli* (text-based) method that emphasizes classical texts firmly ground the LBM MUDI Mesjid Raya's approach to addressing legal issues. This approach involves analyzing problems from various perspectives, considering the legal impact on different social, political, and economic aspects, and ensuring the law's conformity with the principles of *Ahlu al-Sunnah wa al-Jama'ah*. Furthermore, the two stages of deliberation, at both the member and leadership levels, guarantee the making of decisions through in-depth discussion and comprehensive consideration. This allows decisions to be based not only on traditional texts but also on the current context, maintaining the principle of *maslahah* (public interest) in every decision. LBM MUDI Mesjid Raya uses the *ilhaq masail bi nadhairiha*

method to derive solutions for issues that classical *qauli* methods cannot resolve. LBM's flexibility in accommodating alternative viewpoints, particularly for contemporary issues that traditional textual approaches may not cover, is evident in this approach. It reflects LBM's commitment to classical Islamic principles while remaining relevant to modern developments.

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