



## Epistemology of Islamic Law Determination in Bahsul Masail Nahdlatul Ulama

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### Abstract

Problems of Islamic law faced by Muslims in Indonesia are always growing and complex. Such conditions should encourage Islamic jurists and Islamic religious organizations in Indonesia to respond to them. The purpose of this research is to identify the construction of the *ijtihad* methodology of the Lembaga Bahsul Masail Nahdlatul Ulama. This research uses a qualitative method in the form of a literature study with this analytical approach. Data using various scientific literature that discusses the *ijtihad* method of the Nahdlatul Ulama Bahsul Masail Institute. The trilogy of Islamic epistemology (*bayani*, *burhani*, and *irfan*) becomes the basis of perspective in analyzing the subject matter. This study concludes that the epistemological basis in the construction of the Nahdlatul Ulama Bahsul Masail Institute methodology tends to use the *bayani* and *burhani* integration method. The integrative method can be seen from the methodological hierarchy of determining Islamic law through the stage of the *qauli* method (textual method), which refers to the opinions of the four *madhhab* *fiqh* books by referring directly to existing texts. Then, the *ilhami* method (analogy method), which is a method of finding similarities between new cases and old cases that already have a legal basis in the *fiqh* books to be applied to the new case. Furthermore, the *manhaji* method (methodological method), which is applying the framework of thinking and rules in determining the law that has been compiled by the Imam of the *madhhab*. This research confirms that the method of determining Islamic law in the Lembaga Bahsul Masail Nahdlatul Ulama uses a method that combines the footing of authoritative *fiqh* literature with the intellectual logic of *fiqh* contextually.

**Keywords:** Epistemology, Bahsul Masail, Nahdlatul Ulama

### Abstrak

Problematisasi hukum Islam yang dihadapi umat Islam di Indonesia senantiasa berkembang dan kompleks. Kondisi demikian sudah seyogyanya mendorong para ahli hukum Islam maupun ormas keagamaan Islam di Indonesia untuk meresponsnya. Tujuan penelitian ini untuk mengidentifikasi konstruksi metodologi *ijtihad* Lembaga Bahsul Masail Nahdlatul Ulama. Penelitian ini menggunakan metode kualitatif dalam bentuk studi pustaka dengan pendekatan analisis isi. Data menggunakan berbagai literatur ilmiah yang membahas metode *ijtihad* Lembaga Bahsul Masail Nahdlatul Ulama. Trilogi epistemologi Islam (*bayani*, *burhani*, dan *irfan*) menjadi landasan perspektif dalam analisa pokok bahasan. Penelitian ini menyimpulkan landasan epistemologis dalam konstruksi metodologi Lembaga Bahsul Masail Nahdlatul Ulama cenderung menggunakan metode integrasi *bayani* dan *burhani*. Metode integratif tersebut dapat dilihat dari hirarki metodologis penetapan hukum Islam melalui tahap metode *qauli* (metode tekstual), yakni mengacu pendapat dari kitab-kitab *fiqh* mazhab empat dengan merujuk langsung pada teks-teks yang ada. Kemudian,

metode *ilbaqi* (metode analogi), yakni metode pencarian persamaan kasus baru dengan kasus lama yang sudah memiliki landasan hukumnya dalam kitab-kitab fikih untuk diterapkan pada kasus baru tersebut. Selanjutnya, metode *manhaji* (metode metodologis), yakni menerapkan kerangka berfikir dan kaidah dalam penetapan hukum yang telah disusun oleh Imam mazhab. Penelitian ini menegaskan metode penetapan hukum Islam dalam Lembaga Bahsul Masail Nahdlatul Ulama menggunakan metode yang memadukan pijakan literatur fikih otoritatif dengan logika intelektual fikih secara kontekstual.

**Kata Kunci:** *Epsitemologi*, Bahsul Masail, Nahdlatul Ulama

## A. INTRODUCTION

The application of *Ushul al-Fiqh* as a methodological framework for *istinbath al-ahkam* (deriving legal rulings) allows Islamic law to remain dynamic and responsive to contemporary challenges. KH. Sahal Mahfudh (2014), through his concept of *social fiqh*, emphasized this adaptability—bridging classical Islamic principles with modern societal realities.<sup>1</sup> Nahdlatul Ulama with its *ilhaq al-masail bi nazhairiha* method in Lajnah Bahsul Masail, and the Indonesian Ulema Council with its Fatwa Commission.<sup>2</sup> Muhammad Arkoun, quoted by Amir Mu'allim, that the continuity of *ijtihad* is still open. It is never fixated and closed to one interpretation of meaning..<sup>3</sup>

There have been many studies that discuss bahtsul masail. There are several works that are worth mentioning. The first is a collection of writings by (alm) KH. MA. Sahal Mahfudh, *Rais Aam* PBNU for three periods, entitled *Nuansa Fiqih Sosial*. Several chapters of this book provide a review of the urgency of applying the *ijtihad* method in Nahdlatul Ulama's bahtsul masail, albeit in a limited way.<sup>4</sup> Furthermore, this discussion was continued by several young fiqh scholars within Nahdlatul Ulama. In a collection of writings edited by M. Imdadun Rahmat who tried to explore further forms to transform the paradigm of bahtsul masail Nahdlatul Ulama. Interestingly, KH. MA. Sahal Mahfudh also wrote his foreword.<sup>5</sup>

From academia, Ahmad Zahro's dissertation discusses bahtsul masail from 1926 to 1999 from the perspective of methods and analysis of some of the results. In addition, Imam Yahya tried to examine the results of the Nahdlatul Ulama bahtsul masail after the decision of the Lampung National Conference in 1992 to 1997 with the conclusion that most of the discussions still used the *qanly* method of bermazhab.<sup>6</sup> Furthermore, Ahmad Arifi writes about how the fiqh developed by Nahdlatul Ulama can respond to social change. He shows the emergence of polarization within Nahdlatul Ulama in the form of

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<sup>1</sup> Muhammad Faesyal Muzammil, *Menyegarkan Fiqh Sosial Kiai Sahal, dalam Metodologi Fiqh Sosial: Dari Qauli Menuju Manhaji*, hal. 211-213

<sup>2</sup> Pedoman Penyelenggaraan Organisasi Majelis Ulama Indonesia, (Jakarta: Majelis Ulama Indonesia, 2018), hlm. 269

<sup>3</sup> Amir Mu'allim dan Yusdani, *Ijtihad Suatu Kontroversi antara Teori dan Fungsi*, (Yogyakarta: Titian Ilahi Press, 1997), hal. 101

<sup>4</sup> MA. Sahal Mahfudh, *Nuansa Fiqih Sosial*, (Yogyakarta: LKiS, 1994)

<sup>5</sup> Rahmat, M. Imdadun (ed), *Kritik Nalar Fiqih NU: Transformasi Paradigma Bahtsul Masail*, (Jakarta: Lakpesdam, 2002)

<sup>6</sup> Imam Yahya, *Pergeseran Ijtihad dalam Bahtsul Masail NU*, (Semarang: Walisongo Press, 2009)

*taklid* and *tajdid*.<sup>7</sup> Abdul Mughits also wrote a thesis on pesantren fiqh which is the intellectual base of Nahdlatul Ulama. He devoted his discussion to three pesantren in East Java that he considered as producing muftis among Nahdlatul Ulama, namely Pesantren Lirboyo and Pesantren Ploso in Kediri, and Ma'had Aly in Situbondo. He concluded that both fiqh and *usul al-fiqh* are adequately studied in pesantren, although the dominance of fiqh is maintained, especially in Pesantren Lirboyo and Ploso. Meanwhile, Ma'had Ali at Salafiyah Syafi'iyah Pesantren shows the reverse phenomenon.<sup>8</sup>

Some other authors have also tried to examine Nahdlatul Ulama's *bahtsul masail* method, but as part of a broader discussion. For example, Rifal Ka'bah tries to compare the legal *istinbat* methods of Muhammadiyah and Nahdlatul Ulama.<sup>9</sup> MB. Hooker does the same. He tries to trace the role of Islamic legal fatwas in Indonesia in social change. In it, he discusses the fatwas of Muhammadiyah, Nahdlatul Ulama and the Indonesian Ulama Council by highlighting several fatwa products from each of them.<sup>10</sup> Terakhir, Pradana Boy Zulian mengulas fatwa Indonesia pasca reformasi terkait topik-topik pluralisme dan sektarisme.<sup>11</sup> Several scientific periodical articles also discuss the Nahdlatul Ulama *bahtsul masail* method, for example, one that specifically examines the dynamics of the application of the Nahdlatul Ulama *bahtsul masail* method in Jombang Regency.<sup>12</sup> In addition, Nadirsyah Hosen also highlighted the pattern of *ijtihad jama'i* carried out in *bahtsul masail* Nahdlatul Ulama.<sup>13</sup> Similarly, Vivian Baharu Sururi's article recounts the development of the *bahtsul masail* method from its inception in 1926 until the 1992 Lampung National Conference decision. He also recounts the dynamics after the Lampung National Conference where there was quite a strong discussion between conservative and liberal groups in understanding the *bahtsul masail* method.<sup>14</sup> Meanwhile, this paper aims to describe the epistemological construction of determining Islamic law in the Lembaga Bahtsul Masa'il Nahdlatul Ulama.

## B. RESEARCH METHODS

As for the method to answer the main problem of this research, this research uses *culaitative* research in the form of a literature study with a descriptive approach. The primary data of this research uses various scientific literature that explains the *ijtihad* methodology of the Nahdhotul Ulama Bahsul Masail Institute. Meanwhile, secondary data uses a variety of scientific literature that is correlative to the focus of research. The trilogy of Islamic epistemology (*bayani*, *burhani*, and *irfan*) becomes the basis of perspective in

<sup>7</sup> Ahmad Arifi, *Pergulatan Fiqih "tradisi" Pola Mazhab*, (Sleman: eLSAQ Press, 2010)

<sup>8</sup> Abdul Mughits, *Kritik Nalar Fikih Pesantren*, (Jakarta: Kencana, 2008)

<sup>9</sup> Rifal Ka'bah, *Hukum Islam di Indonesia: Perspektif Muhammadiyah dan NU*, (Jakarta: Universitas Yarsi, 1999)..

<sup>10</sup> MB. Hooker, *Indonesian Islam: Social Change through Contemporary Fatawa*, (Crows Nest: ASAA, 2003)

<sup>11</sup> Pradana Boy Zulian, *Fatwa in Indonesia: An Analysis of Dominant Legal Ideas and Mode of Thought of Fatwa-Making Agencies and Their Implications in the Post-New Order Period*, (Amsterdam: Amsterdam University Press, 2018)

<sup>12</sup> A. Kemal Riza, "Contemporary Fatawa of Nahdlatul Ulama: Between observing the Maddhhab and Adapting the Context," *Journal of Indonesia Islam*, Vol. 5, No. 1, (Juni 2011).

<sup>13</sup> Nadirsyah Hosen, 'Nahdlatul Ulama and Collective Ijtihad,' *New Zealand Journal of Asian Studies*, 6, 1 (June, 2004)

<sup>14</sup> Vivin Baharu Sururi, "Metode Istinbat Hukum di Lembaga Bahsul Masail NU," *Jurnal Bimas Islam*, Vol. 6, No. 3, (2013), 421-454

analyzing the subject matter. The research data collection method uses the documentation method. Then the analysis approach in this study uses the content analysis method, which analyzes library data that is descriptive or scientific analysis of a premium message. Furthermore, the data analysis technique uses the stages of data reduction, presentation, and verification.

This Islamic legal research can be classified as normative-philosophical Islamic legal research. This is because the data object studied is normative written text in the NU bahsul masail guide. Then there is a philosophical dimension because this research also focuses on the philosophical or epistemological aspects, namely the construction of ushul fikih that it uses.

## **C. RESULTS AND DISCUSSION**

### **The Trilogy of Islamic Epistemology**

The development of Islamic law at the historical level can be classified into four periods, namely the period of the Prophet, companions, the period of *ijtihad* and progress and the period of *taklid* and its decline. At the time of the Prophet, the settlement of legal cases was resolved by the Prophet through divine revelation. In other cases when the Prophet faced various problems of the people appeared, then when the Prophet did not get revelation while the problem had to be resolved, at that time, the Prophet resolved it through *ijtihad*. Then, the *ijtihad* that had been exemplified by the Prophet, was passed down to subsequent generations through the *sunnah* or tradition of the Prophet.

Furthermore, along with the development of science and as an effort to meet the needs and explain various laws in the lives of mankind, various methods of understanding them emerged. These methods are Bayani, Burhani and Irfani in understanding the concept of Islamic teachings. The combination of brilliant thinking combined with a clear heart, will make the Science and Technology that will be raised later remain directed without causing dehumanization that causes humans to be alienated from their environment. The aridity felt by modern humans today, because the science and technology they come up with only refers to the basis of rationality, and ignores their hearts or feelings. They deify science and technology over everything, while they ignore the potential of feelings (soul), so that they feel there is a lack of knowledge.

In Islamic studies, there is an epistemology to gain knowledge and the development and renewal of Islamic law, including bayani, burhani, and irfani epistemology. The bayani method is a method of thought that emphasizes the authority of the Arabic text directly or indirectly and is justified by linguistic reasoning that is explored through inference. Then, the burhani method is an argumentative rational approach that refers to the power of the ratio through logical arguments. Meanwhile, the irfani method is a method of understanding that is based on the instrument of inner experience, and intuition.<sup>15</sup>

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<sup>15</sup> Muhammad Syarif, "Pendekatan Bayani, Burhani dan Irfani dalam Pengembangan Hukum Islam," *JURNAL AL-MIZAN: JURNAL HUKUM ISLAM DAN EKONOMI SYARIAH*, vol. 9, no. 2 (2022):184-185.

The three epistemologies above are offered by Muhammad Abid Al-Jabiri, as a solution to the dullness or freezing in thinking that occurs in Muslims. This freeze occurs in almost all Muslims, so that what is called “taqdis al-afkar al-Diniyyah” appears, which in the end the study of Muslim thought in Islamic Studies (Dirasah Islamiyah) experiences a narrowing of reason.

In the context of this study, using these three epistemologies, this paper is elaborated deeply and philosophically, so as to produce comprehensive findings and analysis, especially in the field of determining Islamic law in Indonesia through fatwa institutions that already exist. Because it cannot be denied that fatwa institutions in Indonesia can provide maximum influence and impact in the process of implementing fatwa results, so that they can be used and implemented by Indonesian Muslims.

### **Ijtihad and The Qualification of Mujtahid**

Ijtihad is the diligence of Islamic legal scholars in exploring and deducing Sharia laws from their arguments. These arguments refer to the Quran and Hadith as sources of Islamic law. Ijtihad, according to some contemporary thinkers, such as Fazlur Rahman, is also a source of Islamic law, because truth does not only come from revelation, but also from the results of human rational reasoning.<sup>16</sup>

According to scholars, in classical literature, we will find various definitions of ijtihad. Zakariyā al-Anshārī states that ijtihad is: exerting one's abilities or enduring hardship. The terminology is mobilizing the abilities of a legal expert to produce Islamic legal opinions.<sup>17</sup> Abd al-Wahab Khalāf said that ijtihad, according to the scholars of Ushūl al-fiqh, is the activity of exerting effort to reach the stage of determining Sharia law from Sharia arguments..<sup>18</sup> Abu Zahrah states: Terminologically, ijtihad is the effort of Islamic legal scholars to do their best to arrive at a universal decision based on their detailed evidence. Some scholars define ijtihad in fundamentalist terminology as a strenuous effort and maximum exertion, both in deriving legal rules and in applying them.<sup>19</sup>

A religious scholar will perform ijtihad when encountering an issue that is not found in the Quran or Sunnah of the Prophet Muhammad. Otherwise, Islam would lose its existence as a religion that is always relevant to its place and time.<sup>20</sup> Therefore, in response to contemporary issues, Islam must be able to provide answers by conducting ijtihad, interpreting texts with new insights, in accordance with the demands of the times, conditions, situations, and places that surround them. Meanwhile, *maslahah* etymologically is the plural form of *al-masālih*, which means “bringing goodness.” When it is said that “there is benefit in an endeavor,” it means that the endeavor contains

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<sup>16</sup> Fazlur Rahman, *Islam* (London: Chicago Press, 2002), 68.

<sup>17</sup> ‘Abī Yahyā Zakariyā al-Anshārī, *Lubb al-Ushūl Syarh Ghāyah al-Wushūl*, (Surabaya: Al-Hidayah, t.th), hal. 147; Ahmad Maulidizen. The Concept of Qath’I Dalalah: Definition, laws and Perceived Conflict. *Khatulistiwa: Journal of Islamic Studies*. Vol 10, No 1 (2020): hal. 120

<sup>18</sup> Abd al-Wahab Khalāf, *Ilmu Ushul al-Fiqh*, (Surabaya: Al-Haramain, 2004), hlm. 217; Ahmad Maulidizen and Ashilah Raihanah. The Technique of Determining Ijtihad and Its Application in life: Analysis of *Istihsan*, *Maslahah*, *‘Urf* and *Syar’u Man Qablana*. *Al-Ahkam: Jurnal Ilmu Syariah*. Vol 4, No 1 (2019).

<sup>19</sup> Muḥammad ‘Abū Zahrah, *Ushul al-Fiqh*, (Damaskus, Dār al-Fikr al-‘Arabī, 1958), hlm. 379

<sup>20</sup> Haifaa Jawad, *Dalam Wanita yang Memeluk Islam: Gender dan Konversi di Barat* (New York: University of Texas Press, 2006), 151–71, <https://doi.org/10.7560/712737-009>.



benefits and goodness.<sup>21</sup> This word can also be interpreted as the antonym of damage. According to the Big Indonesian Dictionary, the word “maslahat” means something that brings goodness, benefit, and usefulness. Meanwhile, benefit means usefulness, goodness, advantage, and interest. Benefit can also be interpreted as the antonym of mudārat, which means loss, evil, or futility.

Based on the meaning contained in the word maslahah above, it can be formulated that maslahah is the antonym of mafsadah. The words maslahah and mafsadah are words with opposite meanings, just as manfa'ah is the antonym of darar, which means danger, or things that are destructive and harmful. The description of the objectives above shows that the essence of ijtihad includes: (1) Ijtihad is the sincere application of intellectual ability in exploring Islamic law; (2) Ijtihad is carried out by people who are knowledgeable about religion, often referred to as faqih; (3) The product of ijtihad is a strong presumption about Islamic law; and (4) Ijtihad is carried out based on the istinbāth procedure by following the applicable provisions. From these four facts, it can be understood that not everyone can perform ijtihad. A person who performs ijtihad must have adequate competence and follow the applicable provisions, as explained in the section on the requirements of a mujtahid.

According to Muhammad AbuZahrā, the requirements for a mujtahid include: (1) Mastery of Arabic and the supporting sciences related to it, which is essential. One cannot draw legal conclusions from these two sources of law without mastering the intricacies of Arabic usage, (2) knowledge of the sciences of the Qur'an and nāsikh wa Mansukh. Al-Shāfi (204 AH) said that this is an absolute requirement for a mujtahid who is proficient in Arabic. In addition, a person must be able to know asbab al-nuzul (the reasons for the revelation of the verses of the Qur'an); (3) The science of- the science of hadith such as ilm dirāyah wa riwāyah hadith (the science of the intricacies and narration of hadith), al-nāsikh wa mansukh, asbāb al- wurud (the reasons for the emergence of hadith), jarhu wa ta'dil, etc. (4) Knowledge of issues that have ijmā and matters that differentiate between scholars; (5) Knowledge of qiyas; the conditions of qiyas,<sup>22</sup> The wisdom contained in 'illat, how to find 'illat in a verse or hadith, and knowing the scientific content of a verse or hadith; (6) Knowing the purpose of the established law. This knowledge is important because in establishing a rule, one must consider the element of mashāliḥ lil 'ibād (the welfare of servants). Have a good and wise understanding. And finally, having justice, piety in intentions, behavior, and always being careful.

### **History of the Establishment of the Bahsul Masail Nahdlatul Ulama**

Historically, the tradition of Bahtsul Masail actually existed before NU became a formal organization. In this context, the culture of deliberation and religious discussion in

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<sup>21</sup> Muhaimin, “Keterkaitan Hukum Islam dengan Peraturan Daerah di Kabupaten Jember (Menelaah Nalar Berbasis Maqāṣ id Al-Shar'at dalam Istinbāṭ Al-Ahkām),” *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (30 Desember 2020): 299 – 330, <https://doi.org/10.15408/ajis.v20i2.18330>.

<sup>22</sup> Muhammad Abu Zahrah, *Ushul al-Fiqh*, hal. 218

Islamic boarding schools involved kyai and santri. The results of these discussions were then documented in the Nahdlatul Ulama's Lailatul Ijtima' bulletin. The results of these discussions became the kyai's fatwa and served as legal guidelines for the community. After NU was established, this tradition was accommodated, and the procedure was developed in NU's work program. In the next process, the law was then carried out collectively, so that it became a representation of NU, no longer the result of individual decisions by the kyai. The bahtsul masail tradition then developed into the Bahtsul Masail Institute since NU was established in 1926 until 2015, producing 536 decisions.

KH. Sahal Mahfudh stated that bahtsul masail is a dynamic, democratic, and "broad-minded" forum. It is dynamic because the issues discussed are responsive to legal developments in society. It is democratic because bahtsul masail participants have equal rights. There is no distinction between kyai and santri, nor between senior and junior kyai. Whichever argument is considered superior will be chosen. Meanwhile, bahtsul masail is considered "broad-minded" because in this forum, there is no domination of any particular school of thought, and diversity is accepted. For example, in the case of bank interest, the discussion never reached an agreement on its legal status. To this day, there are three legal statuses, namely halal, haram, or syubhāt (unclear legal status).

In terms of organization, the NU Bahtsul Masail Institute is the NU's fatwa institution. The majority of issues discussed therein are current issues raised by NU members. In the context of fatwas, NU members are positioned as the applicants for fatwas, while the kyai are the issuers of fatwas, and the answers to the issues become fatwas. Therefore, the decisions of the Bahtsul Masail Institute have the same status as fatwas. For this reason, according to KH. Sahal Mahfudh, the decisions of the Bahtsul Masail Institute are not organizationally binding on NU members, even though they will consciously comply with the decisions made. In relation to the system of legal exploration, bahtsul masail does not deviate from the madhhab framework that NU chose from the beginning. This is inseparable from the view that the process of knowledge transmission must not be interrupted from one generation to the next, and provides a guarantee of obtaining the purity of teachings from their original sources. In addition to madhhab, it also becomes an alternative for understanding religious issues if one does not yet have the ability to perform ijtihad. This attitude is followed up by referring to the fiqh books of the four madhhabs.<sup>23</sup>

### **Construction of Fiqh Epistemology in Bahtsul Masail Nahdlatul Ulama**

A religious jurist will perform ijtihad when he encounters a problem that is not found in the Quran or the Sunnah of the Prophet Muhammad Saw. Otherwise, Islam will lose its existence as a religion that is always in accordance with the place and time.<sup>24</sup> So to contemporary problems, Islam must be able to provide answers by conducting ijtihad, interpreting the texts with new studies, according to the demands of the times, conditions, situations, and places that surround it. Etymologically, masalah is the plural form of al-

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<sup>23</sup> Hilmy Pratomo, "TRANSFORMASI METODE BAHTSUL MASAIL NU DALAM BERINTERAKSI DENGAN AL-QUR'AN," *Jurnal Lektur Keagamaan*, Vol. 18, No. 1, 2020: 109 - 117-119.

<sup>24</sup> Haifaa Jawad, *Dalam Wanita yang Memeluk Islam: Gender dan Konversi di Barat* (New York: University of Texas Press, 2006), 151–71, <https://doi.org/10.7560/712737-009>.

masālih, which means “bringing good”. When it is said “there is benefit in business”, it means that the business contains benefits and goodness.<sup>25</sup> This word can also be interpreted as the opposite of damage. According to the Big Indonesian Dictionary, the word “maslahat” means something that brings goodness, benefit, and usefulness. Meanwhile, benefit means usefulness, goodness, benefit, and importance. Benefit can also be interpreted as an antonym of mudārat which means loss, badness, or futility.

The procedural provisions of this legal istinbath method are contained in the formulation of the decision of the 1992 Bandar Lampung Ulama Conference. The formulation is as follows.

Firstly, when addressing an issue for which the available texts in the *fiqh* reference books provide a sufficient basis, and the book presents only a single opinion—whether from the imam of the madhhab or from the scholars within that madhhab—then that opinion is adopted as the final answer. However, if the reference texts contain multiple opinions from the imams or scholars of the madhhab, a process known as *taqrir jamā’i* is undertaken. This is a collective deliberation aimed at selecting one opinion among several, ensuring that the chosen view best represents the madhhab’s principles and the needs of the contemporary context.

Secondly, in the application of the qawlī method, the selection of an opinion among differing views within the madhhab is carried out based on specific criteria. The preferred opinion is chosen according to the following order of consideration: (a) the opinion deemed more beneficial (*maslahah*) or stronger in evidence, (b) the opinion jointly agreed upon by al-Nawawī and al-Rāfi’ī, (c) the opinion upheld by al-Nawawī alone, (d) the opinion upheld by al-Rāfi’ī alone, (e) the opinion supported by the majority of scholars, (f) the opinion of the most intellectually capable scholar, and (g) the opinion of the scholar known for their piety (*warā’*) and integrity.

Furthermore, the *ilhāqī* method is applied when a particular problem or case is not explicitly addressed in the classical *fiqh* texts. In such situations, the issue is resolved through the *ilhāq al-masā’il bi nazar ihbā* procedure—that is, by drawing an analogy between a case that has no direct legal ruling and another similar case that does have a clear ruling in the *fiqh* literature. This process is conducted collectively (*jamā’i*) by scholars. In carrying out *ilhāq*, careful attention is given to two key elements: the *mulḥaq bib*, referring to the case that already has a legal ruling in the *fiqh* books, and the *mulḥaq ‘alayh*, referring to the case that requires a ruling or must be analogically equated. The scholar who performs this process is known as the *mulḥiq*. However, if *ilhāq* cannot be performed—due to the absence of a *mulḥaq bib* (a comparable case) or a *wajb al-ilhāq* (basis of analogy) in the classical texts—then the issue is addressed through collective *istinbāṭ*. This involves

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<sup>25</sup> Muhaimin, “Keterkaitan Hukum Islam dengan Peraturan Daerah di Kabupaten Jember (Menelaah Nalar Berbasis Maqāṣid Al-Sharī’at dalam Istimbāṭ Al-Ahkām),” *AHKAM: Jurnal Ilmu Syariah* 20, no. 2 (30 Desember 2020): 299 – 330, <https://doi.org/10.15408/ajis.v20i2.18330>.



deriving legal rulings by applying the *qawā'id uṣūliyyah* (principles of legal theory) and *qawā'id fiqhīyyah* (juridical maxims) collaboratively among qualified experts..<sup>26</sup>

More specifically, the methods used are as follows: First, the qawli method is applied by NU scholars during *Bahsul Masā'il* sessions. In this method, the issue under discussion is examined and then contextualized within the classical *fiqh* texts of the four madhhabs, with direct reference to the original sources. An example of the application of the qawli method can be found in the *Bahsul Masā'il* decision at the 32nd NU Congress in Makassar, which discussed the statement of *ṣighāt ta'liq ṭalāq*. The question raised was: (a) Does a *ṣighāt ta'liq ṭalāq* that is not verbally pronounced but only signed still take effect according to its contents, and does a violation of it incur any legal consequence? The answer given was that such a *ta'liq ṭalāq* does not take effect, and no sanctions are applied. (b) What is the ruling for those who do not recite or sign the *ṣighāt ta'liq*, as instructed by the *ulul amri* (those in authority)? The response stated that it is permissible either to omit it or to read the *ṣighāt ta'liq*. As for the *ilhāqī* method, one example involves the discussion on the legality of buying and selling firecrackers for festive occasions such as holidays or wedding celebrations. The conclusion reached was that it is permissible, as the activity is motivated by a good intention—namely, to express joy through the sound of the firecrackers..<sup>27</sup>

Finally, *manhājī*, an example of this method is the issue of Pilkada in an Islamic perspective..<sup>28</sup> The Bahsul Masail of Nahdlatul Ulama believes that the practice of direct democracy through Regional Head Elections has not yet delivered the positive outcomes many had hoped for. Instead, these elections have led to various drawbacks, such as weak political education marked by widespread money politics and the high financial burden on both the state and candidates. These factors, in turn, create conditions that can foster corruption. The LBM Nahdlatul Ulama recommends that the elections be reviewed based on these considerations. It could even be that elections through the House of Representatives should be reintroduced. This idea follows the fiqhīyyah rule: “*Preventing harm is more important than attracting salvation*” and “*If there are two conflicting harms, then the greater madhārat (harm) must be taken care of by carrying out the lighter of the two*.” If analyzed in depth in the perspective of Islamic epistemology, the explanation of the methodology of the NU LBM as described above is more dominant in use in its methodology is bayani. In other words, the method of determining Islamic law in the Nahdlatul Ulama Bahsul Masail Institute uses a method that combines the footing of authoritative fiqh literature with the intellectual logic of fiqh contextually.

#### D. Conclusion

This study concludes that the epistemological basis in the methodological construction of the Lembaga Bahtsul Masail Nahdlatul Ulama can be said to be more likely to use the *bayani* and *burhani* integration method. The integrative method can be seen from the methodological hierarchy in determining Islamic law at the Nahdlatul Ulama Bahtsul Masail Institute. First, the *qawli* method (textual method), which refers to opinions

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<sup>26</sup> Abdul Hak, dkk, *Formulasi Nalar Fiqh: Telaah Kaidah Fiqh Konseptual*, (Surabaya: Khalista, 2005), hal .10-11.

<sup>27</sup> Ahmad Zahra, *Lajnah Bahtsul Masail 1926-1999: Tradisi Intelektual NU*, hlm. 122-124

<sup>28</sup> LTN PBNU, *Hasil Keputusan Munas Alim Ulama dan Konbes NU*, (Jakarta: LTN PBNU, 2012), hal. 6

from the four madhhab fiqh books by referring directly to existing texts. Then, the *ilbahi* method (analogy method), which is a method of finding similarities between new cases and old cases that already have a legal basis in the fiqh books to be applied to the new case. Furthermore, the *manhaji* method (methodological method), which is applying the framework of thinking and rules in determining the law that has been compiled by the Imam of the madhhab.

This research confirms that the method of determining Islamic law in the Nahdlatul Ulama Bahsul Masail Institute uses a method that combines the footing of authoritative fiqh literature with the intellectual logic of fiqh contextually. However, this research has not identified the methodological development of determining Islamic law by the Lembaga Bahtsul Masail Nahdlatul Ulama. Therefore, it is important to be studied further.

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