

The Development of Modern Islamic Law In The Lembaga Bahtsul Masa'il Nahdlatul Ulama

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Abstract

Nahdlatul Ulama is a major Islamic organization in Indonesia. In deciding a law, Nahdlatul Ulama has a forum called the Lembaga Bahtsul Masa'il (LBM). This paper examines the developments in the determination of Islamic law by the Lembaga Bahtsul Masa'il. The method used is a qualitative research method with a normative approach. While the data sources used are secondary data sources with data processing and analysis in five stages, namely editing, grouping, verification, analysis, and drawing conclusions. The results obtained are that the Lembaga Bahtsul Masa'il in establishing a law is always developing. As a forum for determining NU's Islamic law, the Lembaga Bahtsul Masa'il not only always discusses fiqh issues, but also discusses other issues outside of fiqh, namely modern issues regarding state policies and legislation that are in direct contact with the interests and welfare of the community, such as the issue of protection of religious communities through laws; Implementation of Religious Education in Schools (Improved PP No. 55 of 2007); Organizing cheap and quality regional head elections; Natural Resources (SDA) for the welfare of the people; Shortening the waiting period for prospective pilgrims and managing Hajj finances;

Protection of Indonesian Migrant Workers and Marriage Registration for Indonesian Muslim Migrant Workers abroad; and Improving the management of BPJS Kesehatan.

Keywords: *Islamic Law, Lembaga Bahtsul Masail, Nahdlatul Ulama.*

Abstrak

Nahdlatul Ulama adalah ormas besar Islam di Indonesia. Dalam memutuskan sebuah hukum, Nahdlatul Ulama mempunyai sebuah forum yang disebut dengan Lembaga Bahtsul Masa'il (LBM). Tulisan ini mengkaji tentang bagaimana perkembangan dalam penetapan hukum Islam oleh Lembaga Bahtsul Masa'il. Metode yang digunakan adalah metode penelitian kualitatif dengan pendekatan normatif. Sedangkan sumber data yang digunakan adalah sumber data sekunder dengan pengolahan dan analisis data dalam lima tahap, yaitu edit, pengelompokkan, verifikasi, analisis, dan penarikan kesimpulan. Adapun hasil yang didapatkan adalah Lembaga Bahtsul Masa'il dalam menetapkan sebuah hukum selalu mengalami perkembangan. Sebagai forum penetapan hukum Islam NU, Lembaga Bahtsul Masa'il tidak hanya selalu membahas persoalan fikih, tapi juga membahas masalah-masalah lain di luar fikih, yakni persoalan-persoalan modern tentang kebijakan dan perundang-undangan negara yang bersentuhan langsung dengan kepentingan dan kesejahteraan masyarakat, seperti masalah Perlindungan umat beragama melalui Undang-undang; Pelaksanaan Pendidikan Agama di Sekolah (Perbaikan PP No. 55 Tahun 2007); Penyelenggaraan pemilihan Kepala Daerah yang murah dan berkualitas; Sumber Daya Alam (SDA) untuk kesejahteraan rakyat; Memperpendek masa tunggu calon jama'ah haji dan pengelolaan keuangan haji; Perlindungan TKI dan Pencatatan nikah bagi TKI beragama Islam di luar negeri; dan Perbaikan pengelolaan BPJS Kesehatan.

Kata Kunci: *Hukum Islam, Lembaga Bahtsul Masail, Nahdlatul Ulama.*

INTRODUCTION

Nahdlatul Ulama (NU) etymologically means the Awakening of Ulama, or the Rise of the Ulama. Nahdlatul Ulama was founded on January 31, 1926. Nahdlatul Ulama has a long journey in the history of the Indonesian nation, from colonial times to modern times. As a major Islamic organization in Indonesia, which of course has a large mass, Nahdlatul Ulama also contributes to providing opinions related to problems that arise in Indonesia (Armita, 2017).

In deciding a law, Nahdlatul Ulama has a forum called the Lembaga Bahtsul Masa'il which is coordinated by the Syuriyyah institution (legislative) Nahdlatul Ulama (Darmawati, 2016). This forum is tasked with making decisions on Islamic laws both related to *masā'il fiqhiyah* (fiqh issues) as well as monotheism

issues and even *tasawuf* (*tarekat*) issues. This forum is usually attended by Syuriyyah and NU scholars who are outside the organizational structure, including pesantren caregivers and NU intellectuals (Darmawati, 2016).

From a historical and operational perspective, Bahtsul Masa'il Nahdlatul Ulama is a very dynamic, democratic and "broad-minded" forum. The issues (*masā'il*) discussed always follow the development (trend) of law in society. Democratic because in the forum there is no difference between *kiai*, *santri*, both young and old. The opinion of whoever is the strongest is taken. It is said to be "broad-minded" because in the *Bahtsul Masa'il* there is not domination of sects and they always agree in mistakes (Mumtahanah, 2016). One example to show the phenomenon of "agreeing in error" is regarding the legal status of bank interest. In deciding this crucial issue there was never an agreement. Some say it is *halal*, *haram* or doubtful. That happened until the 1971 NU Congress in Surabaya. The congress did not take a stand. The decision is still three opinions: *halal*, *haram* or doubtful. This is actually an anticipatory step for Nahdlatul Ulama in the future. Because it turned out that after that developed various modern banks and financial institutions that were managed professionally, the community in the end could not avoid bank problems (Pengurus Besar Nahdlatul Ulama, 2016).

Judging from the capacity of the *ulama* and Nahdlatul Ulama thinkers who took part in the implementation of the Legal *Istinbath* by the Lembaga Bahtsul Masa'il, of course the results of the decisions in the assembly can have a significant influence or impact on Islamic law in Indonesia regardless of the status of Nahdlatul Ulama. As one of the Islamic organizations with the largest mass base in Indonesia. Therefore, the author is interested in studying more deeply how the developments in the establishment of Islamic law by the Lembaga Bahtsul Masa'il, especially in the current situation of the modern development of Islamic law.

METHODS

The writing of this scientific paper uses qualitative research methods with a normative approach (Decuyper, 2020). Basically, the study carried out to solve the problem relies on a critical and in-depth study of relevant library materials, while interviews are only conducted when needed. In other words, qualitative research only describes reality correctly, formed by words based on relevant data obtained from natural situations (Satori & Komariah, 2009).

The data source used in this study is a secondary data source, because it only examines the literature or literature. Processing and data analysis in this study, namely there are five stages, *first*, editing, which is to find out how far the data

that has been obtained from various sources is good enough and can be immediately prepared for the next process. *Second*, classifying or grouping, where the data from the documentation is classified based on certain categories. *Third*, verifying, namely as a follow-up step the researcher re-examines the data obtained, for example with the adequacy of references, triangulation (checking through other sources), and peers. *Fourth*, analyzing, the analytical method that the researcher uses is comparative descriptive, namely collecting, sorting, classifying, synthesizing, and making an overview. *Fifth*, concluding, as the last step, namely drawing conclusions by analyzing the data comprehensively and connecting the meaning of the existing data in relation to the research problem (Sudjana & Kusuma, 2000).

DISCUSSION

The Religious History of Nahdlatul Ulama

Nahdlatul Ulama (NU) is an Islamic socio-religious organization that was founded in Surabaya on January 31, 1926 M coinciding with 16 Rajab 1344 H. The purpose of the establishment of this organization is to maintain, preserve, develop and practice Islamic teachings that are *ablus sunnah wa al-jama'ah* (Muzadi, 2007). Nahdlatul Ulama was born as the successor of the relay of what was fought for by Walisongo who became the propagator of Islam on the island of Java. The teachings carried by *walisongo* are to follow the rhythm of *ablus sunnah wa al-jama'ah* which is preserved from generation to generation, such as the traditions that exist in the Sunan Ampel Mosque and the Demak Mosque, as well as the practices of the large majority of Muslims in the archipelago, especially Java Island, which are mostly the Sunni sect with the fiqh mazhab follows the Imam Shafi'I and Abu Hasan al-Asy'ari in the field of theology, while in the field of Sufism it follows the mazhab of Imam al-Junaid al-Baghdadi and Abu Hamid al-Ghazali (Ulum, 2015).

The social backgrounds of the founders of NU are kyai, including KH. Hasyim Asy'ari (caretaker of the Tebuireng Jombang Islamic Boarding School), KH. Wahab Hasbullah (Surabaya), KH. Bisyr Syansuri (Jombang), KHR. Asnawi (Kudus), KH. Ma'shum (Lasem), KH. Ridlwan (Semarang), KH. Nawawi (Pasuruan), KH. Nahrowi (Malang), KH. Ridlwan (Surabaya), KH. Abdullah Ubaid (Surabaya), KH. Alwi Abdul Aziz (Malang), KH. Abdul Halim (Cirebon), KH. Muntaha (Madura), KH. Dahlan Abdul Qohar (Kertosono), and KH. Abdullah Faqih (Gresik) (Ulum, 2015).

This is what makes the ulama (kyai) so important in NU. There are at least two factors that make the kyai so dominant in NU. *First*, NU as a religious

organization chooses its central strength in figures who can be personally accounted for, both in terms of morals and religious intellectual capacity. Of course, the closest to this criterion are the ulama (kyai), as the hadith legitimizes as the heirs of the prophets. *Second*, a kyai has authority and influence over his students and followers. Likewise, the kyai's authority also influences the surrounding community, regional organizations and perhaps more broadly (Moesa, 2007).

Thus, the religious views held by the kyai were applied as the basis for NU's religious understanding. *First*, related to the source of teachings, NU follows the Qur'an, hadith, ijma' and qiyas (analogy). *Second*, in understanding and interpreting Islam from these sources, NU follows the notion *ablussunnah wa al-jamaah* and uses a school-based approach. The pattern of bermadzhab in NU applies in all aspects of Islamic teachings, aqidah, sharia (Islamic law) and morals (sufism). *Third*, related to aqidah, NU follows Imam Abu Hasan Al-Asy'ari and Imam Abu Mansur al-Maturidi. *Fourth*, in the field of fiqh (Islamic law), NU follows the madzhab approach, following the schools of Imam Hanafi, Imam Malik, Imam Shafi'i and Imam Hambali. *Fifth*, in the field of Sufism, following Imam al-Junaid al-Baghdadi and Imam al-Ghazali. NU is of the opinion that Islam is a religion that is fitri and perfects all the goodness that humans already have. The religious ideology adopted by NU is to perfect the good values that already exist and belong to and the characteristics of a human group such as ethnicity or nation, and does not aim to erase these values (Moesa, 2007).

Before this jam'iyyah was formed, there were several things that directly or indirectly became the background for the establishment of NU. For example, the reform movement in Egypt and other parts of the Middle East with the emergence of the idea of Pan-Islamism driven by Jamaluddin al-Afghani to unite the entire Islamic world. Meanwhile in Turkey, there was a rise of nationalism which later undermined the Khilafah Usmaniyyah and the emergence of the Wahhabi movement in Saudi Arabia which was grappling with the internal problems of the Muslims themselves, namely the reform of monotheism and conservation in the field of law which, according to them, had been damaged by superstition and polytheism that plagued Muslims (Saiin et al., 2021).

The Lembaga Bahtsul Masail (LBM) NU

The Lembaga Bahtsul Masail Nahdlatul Ulama (LBM NU), is an official institution under PBNU that is authorized to review legal decisions on various social issues. One form of application for NU's participation in solving religious

and national issues is the existence of the Lembaga Bahtsul Masail (LBM) (Asrizal, 2017). This institution functions as a legal review forum that discusses various religious issues that arise in the community which are carried out at various levels of the NU management, starting from the level of the Executive Board (*Pengurus Besar*) to the Management of Branch Children (*Pengurus Anak Ranting*) (Pengurus Besar Nahdlatul Ulama, 2016). Then, the decisions obtained will be stated in the Bahtsul Masail either through the Congress, the Grand Conference, the party council meeting or the National Deliberation.

Historically, at first the Lembaga Bahtsul Masail as an activity existed before NU was founded, a tradition of discussion among *pesantren* involving kyai and santri whose results were published in the LINO bulletin (*Lailatul Ijtima' Nahdlatul Oelama*). The LINO bulletin is also a place for long-distance interactive discussions between scholars, one kyai writes in response to other kyai, and so on (Rahmat, 2002). The task of the Lembaga Bahtsul Masail, based on ART NU, is to collect, discuss, and solve *mauquf* and *waqi'ah problems* that must immediately obtain legal certainty. This forum is tasked with responding to *waq'iiyyat* (actual) problems that are happening in the community that are submitted to Syurriah. Concerning problems that are *mauquf* (congestion, unanswered), re-discussion is carried out at a higher level and finally to the national level (Rahmat, 2002).

The establishment of the Lembaga Bahtsul Masail was motivated by the community's need for practical Islamic law in everyday life which encouraged NU intellectuals to find solutions by doing Bahtsul Masail (Anam, 2018). Bahtsul Masail was first held in 1926 a few months after the establishment of NU (Zaro, 2004). Then, the Bahtsul Masail institution was permanently inaugurated at the XXVIII congress in Yogyakarta in 1989. This was also supported by the halaqah held on 26-18 January 1990 at the Pesantren Mamba'ul Ma'arif in Jombang, which also recommended the formation of the Lembaga Bahtsul Masail hopes to gather NU scholars and intellectuals to carry out *istinbath jama'iy* (collective excavation and law enforcement). It was thanks to the urging of the congress and *halaqah* that in 1990 the Lembaga Bahtsul Masail was formed based on the PBNU decree number 30/A.1.05/1990 (Aziz & Nasikh, 1990).

Since its establishment in Surabaya in 1926, the Lembaga Bahtsul Masail has held many national-scale meetings in the form of congresses, Konbes, National Conferences, and Party Council meetings. The trial is always in tandem with the NU activities on a national scale. At least, based on data in the set of decisions of the Lembaga Bahtsul Masail, 437 religious issues have been discussed (Masyhuri, 2004). The existence of Lembaga Bahtsul Masail is important within

the NU body, at least for two reasons, *first*, at the theoretical level, the Lembaga Bahtsul Masail discusses and decides on issues that do not have legal certainty, *second*, at a practical level, the Indonesian Islamic community, especially *nahdliyin* citizens usually more obedient to the decisions of the parent organization, most of which are formulated in the Lembaga Bahtsul Masail (Anam, 2018).

Theoretically, Lembaga Bahtsul Masail will consistently answer every *waqi'iyat* (contemporary) problem by referring to the books of the four mazhab of thought, especially from the Mazhab Syafi'i. In terms of finding many opinions, Lembaga Bahtsul Masail chose the strongest opinion. The decisions are the agreement of the participants of the congress or the National Conference, sometimes the decision is not only one opinion, but is allowed to remain in differences, agreed in a mistake, as in the decision on the status of bank interest which in the decision of the NU Congress until 1971 in Surabaya took the legal stance as halal, haram, and subhat (Masyhuri, 2004). The decisions made by Bahtsul Masail can be classified into two groups; fiqh and non-fiqh legal decisions. Fiqh decisions are decisions related to practical legal issues or '*amaliyah*' consisting of ritual fiqh and social fiqh. While non-fiqh is a decision that has nothing to do with practical problems (Zaro, 2004).

The Lembaga Bahtsul Masail NU cannot be separated from the tradition of fiqh thought of the four mazhab of thought, namely Hanafi, Maliki, Syafi'i, and Hambali. It has been the consensus of scholars from the past that to solve religious problems related to fiqh law, NU uses the four mazhab of thought as a reference. In order to standardize the use of reference books, Bahtsul Masail established *al-Kutub al-Mu'tabarah*. This step is believed to avoid inconsistencies. Because, if there is no standard used, the criteria are not clear, in its application there will naturally be a shift, not following the pattern that has been outlined. However, in reality sometimes also quote the opinion of a number of magazines, books that are not certain schools of thought, and new books (Zaro, 2004).

In the organizational structure of NU, which has the task of carrying out Bahtsul Masail is the Syrian Institute (legislative). Meanwhile, the management of the Bahtsul Masail Institute is simply handled by the chairman (*rais*), secretary (*katib*), members (*a'dha* or *a'wan*), a formulation team consisting of the chairman, secretary, and several members. Meanwhile, the participants of Bahtsul Masail were NU scholars and scholars, both within the organizational structure, including kyai in pesantren (Mahfudh, 2013).

The role of this Syuriah institution is reflected in the period of KH. Hasyim Asy'ari. That the Syuriah has the authority to interpret the law, full

concentration on the activities of Bahtsul Masail, but because of the dynamics that occurred within NU, during the KH. Abdul Wahab Hasbullah, NU tends to be *politically oriented*. This period had a direct impact on this forum because the ulama, both in the *tanfidziyah* and *syurriyah* busy with practical politics, while legal demands were growing. This continued until 1984 NU returned to the 1926 *khittab* intensely (Rahmat, 2002); namely returning to the ideas, ideals, attitudes and activities that NU wanted to develop at the time of its founders (Bruinnessen, 1994).

Modern Development of Islamic Law Stipulation LBM NU

In this modern era of globalization, where technology and it is easier for intersections to occur between cultures from various groups and also give birth to various new problems which of course require an explanation of these problems, especially for Muslims themselves. Nahdlatul Ulama as one of the largest Islamic organizations in Indonesia of course also takes a stance in providing answers to the problems that arise, namely through the Lembaga Bahtsul Masail.

The Lembaga Bahtsul Masa'il (LBM) NU, as the name implies, functions as an institution that assists the Pengurus Besar NU in general, and the Syurriah Institute in particular, which is functionally and technically administratively tasked with managing Islamic studies that require in-depth and intensive discussion until a final word or decision is found. legal provisions. Initially, the scope of this institution's duties was general in the sense that it covered the entire field of religious studies. However, in its development, it seems that PBNU feels the need to differentiate so that it is more systematic, more focused and maximal in carrying out its duties (Muzadi, 2007).

At the operational level of establishing Islamic law, the Lembaga Bahtsul Masail NU is committed to maintaining the tradition of mazhab which has been NU's decision since its establishment. This decision was made at the 1st NU congress in Surabaya in 1926. At the congress it was determined that Muslims (NU members in particular) must be guided by one of the four schools that have been codified (Wasik, 2014).

Thus, the decision-making mechanism of Islamic law at the Lembaga Bahtsul Masail NU initially did not take the law directly from the Quran or hadith. In NU's view, extracting law directly from the Qur'an and hadith tends to the notion of *ijtihad mutlaq* (self-based ijtihad) which is still difficult to do because of various limitations (Mahfudh, 2013). The mechanism adopted is to explore

Islamic law within the scope of the school of thought that is considered more practical and can be carried out by the majority of NU scholars. Thus, the term *istinbath al-ahkam* (legal exploration) is not popular among NU. Instead, according to the view of KH. Sahal Mahfudh, the term *bahtsul masail* is used, which means discussing various problems by referring to books by scholars (Mahfudh, 2013).

However, the Lembaga Bahtsul Masail NU is not an institution that is unable to absorb new traditions of thought. This can be proven by the development *manhaji* since the Alim Ulama National Conference in Lampung in 1992. This model is pursued by following the way of thinking or the method of determining the law that has been determined by the Imam of the mazhab (Ansori, 2014). With this method it is possible to extract Islamic law directly from the Qur'an and hadith as well as the Imams of the mazhab. Thus, the application of the *manhaji* method is a new chapter in the pattern of interaction between the Lembaga Bahtsul Masail and the Qur'an which is important to explore to find the core of its thoughts and implications (Sahil, 2015).

From an organizational perspective, the Lembaga Bahtsul Masail NU is an NU fatwa institution. The typology of problems discussed in it are the majority of actual problems raised by NU residents. In the context of the fatwa, NU residents are positioned as fatwa applicants, while kiyai are fatwa givers, and the answer to problems becomes a fatwa (Mahfudh, 2013). Therefore, the decision of the Lembaga Bahtsul Masail has the same position as a fatwa. On the basis of that consideration, according to KH. Sahal Mahfudh, the decision of the Lembaga Bahtsul Masail is not organizationally binding on NU members, even though they will consciously comply with the decisions that have been made (Mahfudh, 2013).

With regard to the legal extracting system, Bahtsul Masail did not leave the school-based framework that was chosen by NU from the start. This is inseparable from the assumption that the process of transmitting knowledge should not be interrupted from one generation to the next, and provides a guarantee to obtain purity of teachings from the first source, besides being a school of thought, it is also an alternative to understanding religious issues if you do not have the ability to *ijtihad*. This attitude was followed up by referring to the *fiqh* books among the four mazhab, especially mazhab syafi'i (Abshor, 2016).

As an anticipatory measure against the dominance of reference books and the opinions of scholars from the Shafi'i mazhab, the first congress set out the criteria for opinions that could be used to give fatwas in a hierarchical manner. *First*, the opinion agreed upon by Imam Nawawi and Imam Rafi'i; *second*, the opinion agreed upon by Imam Nawawi; *third*, the opinion agreed upon by Imam

Rafi'i; *fourth*, the opinion supported by the majority of scholars; *fifth*, the opinion of the smartest scholars; *sixth*, the opinion of the most wara 'ulama (abstain from sin, disobedience, and something that still doubts the law) (Abshor, 2016).

The Development of the LBM NU Method in Establishing the Law

In the history of thought it is stated that there is no thought that was born without being influenced by certain conditions, space and time, up to today's modern developments. Broadly speaking, the development of the Lembaga Bahtsul Masail method can be categorized as follows (Ansori, 2014):

Textual Schooling Period (Qauli) 1926-1992

For the record, the *qauli* is still used in NU's Bahtsul Masail, especially in *bahtsul masail al-diniyah al-waqi'iyah*. This method is used to respond to problems whose answers are explicitly found in the books of scholars. This method can be interpreted as applying an opinion or a "finished" text. This textual tendency to mazhab is consequently followed up by returning various kinds of problems to references in the form of commentaries and fiqh books which are generally affiliated with schools of thought. The participants of Bahtsul Masail directed the taking of answers to the opinions of mujtahids, both mulaq and muntasib.

Among the founders of NU who had the strongest influence on the journey of NU in the early period and the affirmation of the pattern of reference in religious matters was KH. Hasyim Asy'ari. Kyai Hasyim's thoughts and his affirmation of the pattern of reference cannot be separated from the process of significant change at that time. The expansion of the Islamic renewal movement through religious organizations that were formally established in the early 1900s became the main driver of this change. At least two poles of religious patterns emerged that were in a position facing each other, namely between the pesantren and the supporters of the Islamic renewal movement. The first pole is a group that still maintains the pattern of mazhab life, while the second pole is those who consider mazhab as a form of articulation that has no reference in Islam (Zuhri, 2010).

So far, basically NU's religious discourse is influenced by the thoughts of KH. Hasyim Asy'ari is charged with defending religious patterns within the mazhab system. This can also be interpreted as a defensive attitude towards the religious thought of the Islamic renewal movement. Furthermore, the thoughts of KH. Hasyim Asy'ari has influence in the pesantren and NU circles. According to Abdurrahman Mas'ud, one indication of the strong influence of KH. Hasyim Asy'ari among traditional Muslims is that there has not been a single ulema from

the Islamic boarding school, especially those affiliated with NU who have received the cultural title *of Hadratu as-Shaykh* (Mas'ud, 2006).

KH. Hasyim Asy'ari regarding the madzhab system was then institutionalized in the NU organization. This affirmation is shown from the first subject of the first congress in Surabaya, October 21, 1926, which was about the law of sects. NU decided at the present time that it is obligatory for Muslims to follow one of the four popular madhhabs and its schools of thought have been codified (Mumtahanah, 2016).

Methodological Schooling Period (Manhaji) 1992-2015

As mentioned earlier, mazhab of *manhaji* is a way of solving religious problems pursued by Bahtsul Masail by following the line of thought or the rules of law established by the Imam of the mazhab (Masyhuri, 2004). The *manhaji* method was officially popularized in its use at the NU Alim Ulama National Conference in Lampung in 1992. There are at least two factors behind the inauguration of the *manhaji* method. *First*, the struggle of NU citizens with new discourses that encourage reform in all aspects of human life, including the legal aspect. *Second*, the emergence of a group of young kiyai who are dissatisfied with the fatwas which are dominated by senior kiyai's who are considered conservative (Rahmat, 2002).

The 1992 NU Alim Ulama National Conference in Lampung can be considered as an era of awareness of the need to redefine and reform the meaning of mazhab. According to Ahmad Zahro, this National Conference is the starting point to break the understanding of *jumud* (stagnation) in the form of orthodoxy of thought by fulfilling what has been formulated by previous scholars which has been codified in the books of the four madhhabs, especially mazhab. Or at least, the Lampung National Conference was the era of the beginning of the awareness movement of NU scholars and intellectuals, that the books of the four schools of thought were not enough and there needed to be a spirit of reform towards school thought that was flexible, broad and able to face the challenges of the times (Masyhuri, 2004).

Meanwhile, in terms of approach, there is a significant change in orientation. In the period 1992-2015, the contextual approach was more dominant than the textual approach. Of the 40 issues that refer to the Qur'an, the contextual approach is used 26 times, while the textual approach is used 14 times. This change in orientation is closely related to the policy of the XXXI Congress in Boyolali in 2004 above. This policy directly encourages bahtsul masail

participants to perform *ijtihād*, although it is still limited to looking for verses of the Qur'an as a source of law on the issues being discussed (Zaro, 2004).

An important note after the momentum for NU reform at the 1992 Lampung National Conference was that the discussion of the material in the *Bahtsul Masail* was expanded. Previously, it only studied *waq'iyyah* problems (actual events), then thematic problems were also developed (*bahtsul masail al-diniyyah al-maudhu'iyah*). *Bahtsul masail al-diniyyah al-maudhu'iyah* was first held at the XXIX Congress in Cipasung in 1994 (Zaro, 2004).

In *bahtsul masail al-diniyyah al-maudhu'iyah* the themes raised were actual-contemporary and conceptual issues. For example, NU's views and responsibilities towards national and state life, NU's view of the public interest in the context of national and state life, Islamic response to democracy, Islam and gender equality, globalization, universalism and human rights in NU's perspective. The themes above are actual-contemporary and conceptual themes that have not been widely discussed in the works of classical scholars. From here, in responding to this theme, NU tends to refer directly to the Qur'an and understand the verses of the Qur'an contextually (Mahfudh, 2013). References from books by scholars are still used, but in a very small percentage.

The development of Islamic Legal Products as a Result of The Bahtsul Masail

Nahdlatul Ulama in every decision making is always based on the deliberation of the scholars, including the Islamic legal decisions taken by Nahdlatul Ulama first being discussed in the *bahtsul masail* forum (discussion of various legal issues) (Said & Asrori, 2005). Meanwhile, to carry out the *bahtsul masail*, a procedure for its implementation is needed as regulated in the Islamic law-making system. This is intended as a guideline in fighting for the implementation of Islamic teachings that adhere to the understanding of *ablussunnah wa al-jamaah* according to one of the four mazhab of thought and to realize a democratic and just society order for the welfare of the people (Jackson, 2013).

The Lembaga Bahtsul Masail Nahdlatul Ulama (LBM NU), is an official institution under PBNU that is authorized to review legal decisions on various social issues. According to KH. Imam Ghazali Said, the dominant theme raised by LBM is social. There is also an environmental theme. The editor of the book *Abkam al-Fuqaha' fi Muqarrarat Mu'tamar Nahdlatil Ulama': Solutions to the Actual Problems of Islamic Law, Decisions at the Congress, National Conference, and the NU Konbes*

(1926-1999 M), suggested that LBM should consider the *istiqla'i* (field research), so that it is contextual with the times (Said & Asrori, 2005).

Discussions at the Lembaga Bahtsul Masail from time to time always develop, not only always reviewing fiqh issues, but also discussing various other issues that are considered important, especially regarding the public interest, benefit or welfare of the people (Mahfudh, 2013). As is known, NU divides the study of the Bahtsul Masail Institute into 3 (three) main areas, namely: a) *Bahtsul Masa'il Diniyyah al-Waqiyyah*, b) *Bahtsul Masa'il Diniyyah al-Maudhu'iyah*, c) *Bahtsul Masa'il Diniyyah al-Qanuniyyah*. For the *Bahtsul Masail Diniyah al-Waqi'iyah* discussed are the following issues: (1) The *Istinbath al-Abkâm method* in NU, (2) Khasais Ahlussunnah Wal Jama'ah an Nahdliyyah, (3) Death penalty and human rights, (4) market (*Free Trade*), and (5) Foreign debt (Pengurus Besar Nahdlatul Ulama, 2016).

For the *Bahtsul Masa'il Diniyyah al-Qanuniyyah* discussed are the following issues: (1) Protection of religious communities through the Law on the, (2) Implementation of Religious Education in Schools (Revision of PP No. 55 of 2007), (3) Implementation of cheap and high-quality Regional Head elections for, (4) Natural Resources (SDA) for the welfare of the people, (5) Shortening the period waiting for prospective hajj pilgrims and managing Hajj finances, (6) Protection of Indonesian migrant workers and registration of marriages for Indonesian Muslim migrant workers abroad, and (7) Improvement of BPJS Health management (Pengurus Besar Nahdlatul Ulama, 2016).

From the above discussion, it can be seen that the Lembaga Bahtsul Masa'il NU besides discussing fiqh issues, also discusses issues outside of fiqh, namely modern issues regarding state policies and legislation that are in direct contact with the interests and welfare of the community, such as the issue of protection of religious communities through laws; Implementation of Religious Education in Schools (Improved PP No. 55 of 2007); Organizing cheap and quality regional head elections; Natural Resources (Sumber Daya Alam) for the welfare of the people; Shortening the waiting period for prospective pilgrims and managing Hajj finances; Protection of Indonesian Migrant Workers and Marriage Registration for Indonesian Muslim Migrant Workers abroad; and Improving the management of BPJS Kesehatan.

Lembaga Bahtsul Masail NU is a colossal intellectual arena that is quite responsive and *problematic*. Responsive, because it is always responsive to *actual-factual*. *Problematic*, because they often use the *ilbaq al-masail binadhairiba method*; equating a problem with a case that is not in the book with an identical case

already in the book, or equating it with an opinion that has been made. This method is usually operated when no explicit textual answers are found in the books that are usually used as references. In order to answer these problems, the *ilbaq* has long been applied by NU scholars, although only implicitly because there has been no formal name given as the "*ilbaq method*" (Mumtahanah, 2016).

This method was later formulated in the Bandar Lampung National Conference which stated that in order to solve problems for which there was no *qaulat* all, *ilbaq* collective (*jama'i*) by the scholars. procedure *ilbaq* must be fulfilled by a *mulbiq* (perpetrator of *ilbaq*) is: a) *Mulbaq bib*: a problem to be equated that has not been determined in the book, b) *Mulbaq 'alaih*: a problem for which there has been a legal stipulation which, on this issue, other issues that have not yet been determined will be equated, c) *Wajb al-ilbaq*: the similarity between *mulbaq bib* and *mulbaq 'alaih* (Pengurus Besar Nahdlatul Ulama, 2016).

Some observers call this method the "*qiyas*", because in practice it uses a procedure similar to *qiyas*. However, there is a stark difference between *ushuliyin* version of *qiyas* and the NU version of *qiyas* (*ilbaq*) (Said & Asrori, 2005). At this time, with many experts in various disciplines, the implementation of *jama'i* seems more convincing, because several experts exchange ideas according to their respective fields of expertise to make joint decisions (Moosa & Mian, 2012). As for personal opinions, or individual *ijtihad*, we still have to examine the professionalism and integrity of the person concerned. Herein lies the urgency of the fatwa. Both are institutionalized such as the Lembaga Bahtsul Masail NU.

CONCLUSION

The development of science and technology, which is followed by the complexity of the problems of the people, demands a solution and a sincere effort for Muslims to answer them. Efforts to answer the problems faced by Muslims have been carried out, both individually and collectively or through an institution. One form of collectively solving the problems of the people is through fatwa institutions. One of the fatwa institutions in Indonesia is the Lembaga Bahtsul Masail.

The Lembaga Bahtsul Masail NU is not an institution that is unable to absorb new traditions of thought. This can be proven by the development of the *manhaji* (methodological) school method since the Alim Ulama National Conference in Lampung in 1992. This model is pursued by following the line of thought or the method of determining the law that has been determined by the Imam of the school. The Lembaga Bahtsul Masail is an NU fatwa institution. The

typology of problems discussed in it are the majority of actual problems raised by NU residents. In the context of the fatwa, NU residents are positioned as fatwa applicants, while kiyai are fatwa givers, and the answer to problems becomes a fatwa.

With regard to the legal extracting system, Bahtsul Masail did not leave the mazhab-based framework that was chosen by NU from the start. This is inseparable from the assumption that the process of transmitting knowledge should not be interrupted from one generation to the next, and provides a guarantee to obtain purity of teachings from the first source, besides being a school of thought, it is also an alternative to understanding religious issues if you do not have the ability to *ijtihad*. This attitude was followed up by referring to the *fiqh* books among the four mazhab, especially Syafi'i mazhab.

The themes raised by the Lembaga Bahtsul Masail are actual-contemporary and conceptual issues. For example, NU's views and responsibilities towards national and state life, NU's view of the public interest in the context of national and state life, Islamic response to democracy, Islam and gender equality, globalization, universalism and human rights in NU's perspective.

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