

Contextualizing Fatwas amid Social Change: A Maqasid-Based Comparative Framework of Legal Reasoning in MUI, Muhammadiyah, and Nahdlatul Ulama

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Abstract

This study examines how Indonesian fatwa institutions contextualize Islamic legal rulings in response to social change through a maqasid-based framework of legal reasoning. While previous studies have explored the institutional authority, legal methodology, and implementation of fatwas in Indonesia, limited attention has been given to the comparative mechanisms through which the Indonesian Ulema Council (MUI), Muhammadiyah, and Nahdlatul Ulama (NU) reconcile textual authority with evolving social realities. This research employs normative juridical and library research methods using a *usul al-fiqh* approach. Primary data consist of fatwas issued by MUI, Muhammadiyah, and NU, complemented by relevant classical and contemporary literature. The data were analyzed using qualitative content analysis and comparative legal analysis. The findings demonstrate that the three institutions employ distinct yet complementary models of legal reasoning in contextualizing fatwas. MUI emphasizes collective *ijtihad* and public policy considerations, Muhammadiyah adopts a maqasid-oriented rational approach through *bayani*, *qiyasi*, and *istislahi* reasoning, while NU integrates the authority of classical legal tradition with a gradual methodological shift toward *manhaji* reasoning. Despite their methodological differences, all three institutions consistently prioritize the objectives of Islamic law, particularly the protection of religion, life, intellect, and public welfare, when responding to contemporary legal

challenges. This study proposes a maqasid-based comparative framework that explains how different fatwa institutions maintain the authority of Islamic legal texts while adapting legal rulings to changing social contexts, thereby contributing to contemporary discussions on Islamic legal reasoning, fatwa studies, and maqasid al-shariah.

Keywords : Contextualizing Fatwa, Social Change, MUI, Muhammadiyah, and NU

Introduction

The discourse on fatwas is closely related to their three main functions. The first is as an explanation of the scriptural texts.¹ This is because not all the evidences found in the *nash* can be directly understood by the general Muslim community.² This difficulty may arise from the presence of ambiguous or multi-interpretable meanings, or because the texts are general in nature, such as verses that are allegorical or probabilistic, which require more detailed elaboration.

Second, a fatwa functions as a response to questions or issues that arise within society. As social changes continue to unfold, various new problems also continue to emerge and demand legal answers yet the *nash* has already been revealed and will not be revealed again.³ It is in this context that fatwas emerge as a solution or way out, helping to address and unravel these emerging problems and events.⁴

Third, a fatwa serves as a foundation (basis) for the government in formulating policies. In Indonesia, there is the Indonesian Ulema Council (MUI), which is entrusted with issuing fatwas through its Fatwa Commission. Although its establishment was initiated by the government, the MUI operates outside the formal legal and governmental system. Nevertheless, several fatwas issued by the

¹ Ibnu Elmi A.S. Pelu, "Kedudukan Fatwa Dalam Konstruksi Hukum Islam," *El-Mashlahah* 9, no. 2 (2019): 167–81, <https://doi.org/10.23971/maslahah.v9i2.1692>.

² Abdurrohman Kasdi et al., "Fatwa and Religious Authority: Islamic Law, Social Media Ethics and Digital Age," *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum* 11, no. 1 (2026): 56–66, DOI: <https://doi.org/10.22515/alahkam.v11i1.10755>.

³ Ansori, "Position of Fatwa in Islamic Law: The Effectiveness of MUI, NU, and Muhammadiyah Fatwas," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 22, no. 1 (2022): 53–71, <https://doi.org/10.18326/ijtihad.v22i1>.

⁴ Soleh Hasan Wahid, "Dinamika Fatwa Dari Klasik Ke Kontemporer," *YUDISIA Jurnal Pemikiran Hukum Dan Hukum Islam* 10 (October 22, 2019): 193–209, <https://doi.org/10.21043/yudisia.v10i2.5831>.

MUI often become sources of positive law in Indonesia,⁵ as certain laws explicitly refer to MUI fatwas as legal references that must be followed.⁶ However, fatwas are sometimes perceived as an extension of government policy, such as the fatwa requiring Muslims to maintain physical distancing (social distancing) during worship. In contrast, there was no similar prohibition or restriction regarding activities associated with the regional elections (Pilkada), despite the potential for comparable public gatherings.⁷

Besides the MUI, there is also the Muhammadiyah organization with its *Majlis Tarjih* (Council of Legal Reasoning), which frequently issues fatwas for members of the Muhammadiyah movement.⁸ The *Majlis Tarjih* is an institution within Muhammadiyah that focuses on religious matters, particularly Islamic jurisprudence (fiqh),⁹ including issues of scholarly disagreement, where the *Majlis Tarjih* determines which opinion is considered the strongest to be practiced by Muhammadiyah members. It also addresses contemporary religious issues.¹⁰

In addition to the MUI and Muhammadiyah, NU organization also has the *Lajnah Bahtsul Masail* (LBM), which holds the authority to issue fatwas within NU for its members. The LBM is an institution or forum tasked with making decisions on Islamic legal rulings, whether related to *masa'il fiqhiyyah* (issues of Islamic jurisprudence), issues of theology, or even matters of *tasanawuf*.¹¹ The

⁵ Nainunis M Nur Muhammad Shuhufi, Fatmawati, Muhammad Qadaruddin Abdullah, Jalaluddin Basyir, Muttaqien Muhammad Yunus, "Islamic Law and Social Media: Analyzing the Fatwa of Indonesian Ulama Council Regarding Interaction on Digital Platforms," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 823–43, <https://doi.org/DOI:10.22373/sjhk.v6i2.15011>.

⁶ Isa Ansori, "Kedudukan Fatwa Di Beberapa Negara Muslim (Malaysia, Brunei Darussalam Dan Mesir)," *Analisis: Jurnal Studi Keislaman* 17, no. 1 (2017): 137, <https://doi.org/10.24042/ajsk.v17i1.1790>.

⁷ Zainal Azwar & Farid Afif Rinaldi, "Consistency of the Indonesian Ulama Council in Using Istiṣlāḥ as a Method," *Al Istinbath: Jurnal Hukum Islam* 9, no. 1 (2024): 1–24, <https://doi.org/10.29240/jhi.v9i1.7680>.

⁸ And Kamsi Muhammad Wahdini, Hasse Jubba, "Ecological Legal Politics in Indonesia: The Critique within Muhammadiyah's Fiqh during the Reformation Era," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* Volume 9, no. 1 (n.d.): 2549–3167, <https://doi.org/DOI:10.22373/sjhk.v9i1.27609>.

⁹ Ahwan Fanani et al., "Muhammadiyah's Manhaj Tarjih: An Evolution of a Modernist Approach to Islamic Jurisprudence in Indonesia," *HTS Theologese Studies/Theological Studies* 77, no. 4 (2022): 1–7, <https://doi.org/10.4102/hts.v77i4.6942>.

¹⁰ Fathurrahman Djamil, *Metode Ijtihad Majlis Tarjih Muhammadiyah*, I (Jakarta: Logos Publishing House, 1995).

¹¹ Muallimin Mochamad Sahid Ismail Jalili, Fadilah Ulfa, "Nahdlatul Ulama's Ijtihad Method in Fatwa: Analysis of The Content of Legas Decisions And Their Validity Indonesia," *Justicia*

Bahtsul Masail Commission carries a very important role: in addition to researching, discussing, and selecting relevant opinions from among the established schools of Islamic law (*mazhab*), it also issues rulings on issues requiring legal judgments. These rulings serve as fatwas that guide NU members in practicing their religion in accordance with the *Ahlussunnah wal Jama'ah* tradition.¹²

Fatwas are indeed not the primary sources of law in Islamic jurisprudence, as the main sources are the Qur'an and the Sunnah. A fatwa is regarded as a form of *ijtihad*,¹³ as its formulation is based on the methodological principles prescribed by *uṣūl al-fiqh*. However, the position of fatwas among the general public is akin to the role of evidence (*dalil*) for the *mujtahid*. This is expressed in the saying: "*al-fatwa fī haqq al-‘ammi kal-adillah fī haqq al-mujtahid*", which means: "*the status of a fatwa for the common people is like that of legal evidence for a mujtahid*."¹⁴

The significant role of scholars' fatwas does not mean that scholars are free to issue fatwas arbitrarily. In addition to having to meet strict qualifications to become a *mufti* (a qualified jurist who can issue fatwas), the subject matter of a fatwa is also limited to issues not explicitly addressed in the primary texts (*nash*)—the Qur'an and the Sunnah. A fundamental principle in Islamic jurisprudence states: "There is no room for *ijtihad* in matters that have already been clearly determined by *nash*." This means scholars are not permitted to exercise independent reasoning in areas where the Qur'an and Sunnah have provided definitive rulings :

لا مساع للاجتهاد في مورد النص

"*Ijtihad* is not permitted when there is a definitive text (*nash*)."

This means that scholars do not have full authority to issue fatwas outside the established framework. However, this restriction does not diminish the significance of fatwas or render them rigid. In certain aspects, fatwas are actually quite flexible, reflecting the adaptability of Islamic law. A contextual and dialogical

Islamica: Jurnal Kajian Hukum Dan Sosial Vol 20, no. 2 (n.d.): 341–60, <https://doi.org/DOI:10.21154/justicia.v20i2.5971>.

¹² Nova Effenty Muhammad, "Fatwa Dalam Pemikiran Hukum Islam," *Jurnal Al-Mizan* Volume 12 Nomor 1 (Juni 2016):, 2016, 77–150.

¹³ Adelina Nasution & Nispul Khoiri, "MUI Legal Fatwa on Vaccine Halalness in COVID-19 Vaccination Socialization in Medan City, Indonesia," *Al-Manābij: Jurnal Kajian Hukum Islam* 16, no. 1 (2022): 15–28, <https://doi.org/10.24090/mnh.v16i1.5146>.

¹⁴ Pelu, "Kedudukan Fatwa Dalam Konstruksi Hukum Islam."

approach in the formulation of fatwas is necessary, as it contributes to harmony and enhances the lived experience of Muslims within Indonesia's diverse society. In practice, Indonesian scholars' fatwas tend not to be rigid in interpreting the position of Islam. Instead, they often show the capacity to adapt to social change especially when earlier fatwas are found to be no longer suitable for the current context.¹⁵ The fatwa permitting pilgrims to use a meningitis vaccine containing porcine-derived substances, for example, is clearly not in line with scriptural texts (*nash*) that prohibit pork. However, due to considerations of necessity (*darurah*) and the mandatory vaccination requirements imposed by the Saudi government, MU) granted a dispensation allowing its use. Similarly, during the COVID-19 pandemic, religious concessions were provided in the implementation of Islamic obligations to ensure the protection of life, the preservation of intellect, and the safeguarding of religion, all of which constitute core objectives of *maqāṣid al-sharī'ah*.

Fatwas issued by Islamic scholars sometimes generate social controversy or public questioning, such as the 2005 Fatwa on Pluralism, Secularism, and Liberalism, which stated that the concepts of religious pluralism, secularism, and liberalism are not in accordance with Islam; the fatwa permitting the slaughtering of Hajj sacrificial animals (*dam*) in the pilgrims' home country; and the fatwa on the determination of the beginning of the lunar months (Ramadan, Shawwal, and Dhu al-Hijjah), which uses the method of *rukyatul hilal bil fi'li* (direct visual sighting of the new moon) combined with *hisab* (astronomical calculation) as a supporting tool rather than the primary determinant.

There have been several studies on fatwas that examine them from various perspectives, including:

Fatwas occupy an important position within the broader construction of Islamic law. Ibnu Elmi A.S. Pelu argues that a fatwa constitutes an institution of Islamic law that provides answers and solutions to problems faced by Muslims while serving as a normative reference for their attitudes and conduct. The authority of a fatwa for ordinary Muslims is often described through the legal maxim *al-fatwā fi ḥaqq al-‘āmmi ka-al-adillah fi ḥaqq al-mujtahid*, meaning that the position of a fatwa for a layperson is analogous to that of legal evidence for a qualified jurist (*mujtahid*).¹⁶ This formulation indicates that, although a fatwa is not

¹⁵ Nadirsyah Hosen, "Nahdlatul Ulama And Collective Ijtihad," *New Zealand Journal Of Asian Studies* 6, No. 1 (2004): 5–26.

¹⁶ Pelu, "Kedudukan Fatwa Dalam Konstruksi Hukum Islam."

necessarily legally binding, it possesses considerable religious and normative authority within Muslim society.

In the Indonesian context, fatwas have contributed significantly to the development and implementation of Islamic law. Mulyati demonstrates that the Indonesian Ulema Council (MUI) has provided normative guidance and legal certainty for Muslims, including through the codification (*taqnīn*) of selected fatwas. Some MUI fatwas have subsequently influenced or been incorporated into legislation, Government Regulations (*Peraturan Pemerintah*), Presidential Instructions (*Instruksi Presiden*), and other regulatory instruments.¹⁷ Similarly, Imaro Sidqi and Doli Witro argue that fatwas may be accommodated within the national legal system, provided that their substance is consistent with the Constitution and the applicable legal framework.¹⁸ This institutionalization is particularly evident in fatwas issued by the National Sharia Council of the MUI (DSN-MUI). Ahmad Badrut Tamam explains that DSN-MUI fatwas acquire binding legal force when their provisions are adopted or incorporated into legislation and regulations issued by authorized state institutions. Consequently, actors operating in the Islamic economic and financial sectors may be legally required to comply with rules derived from these fatwas.¹⁹

Previous studies have also examined the methodologies employed by Indonesia's major Islamic organizations in formulating fatwas. Abdi Wijaya explains that Muhammadiyah's *Manhaj Tarjih* applies several complementary modes of legal reasoning. These include semantic and textual analysis through the *bayānī* approach, identification of the effective legal cause (*'illah*) through the *ta'li'lī* approach, and consideration of public welfare (*maṣlahah*) through the *istiṣlāḥī* approach. Fatwas are formulated through *ijtibād jamā'ī*, namely collective legal reasoning conducted by Muhammadiyah scholars who possess the relevant qualifications and expertise.²⁰ This collective approach enables Muhammadiyah

¹⁷ Mumung Mulyati, "Kontribusi MUI Dalam Pengembangan Dan Penerapan Hukum Islam Di Indonesia," *Mashlahab: Jurnal Hukum Islam Dan Pranata Sosial Islam* 9, no. 2 (2019): 84–100, <https://doi.org/10.30868/am.v7i01.547>.

¹⁸ Imaro Sidqi and Doli Witro, "Kedudukan Fatwa Majelis Ulama Indonesia (MUI) Dalam Perspektif Hukum Islam Dan Nasional: Studi Implikasi Fatwa Terhadap Masyarakat," *Nizham Journal of Islamic Studies* 8, no. 01 (2020): 62, <https://doi.org/10.32332/nizham.v8i01.2103>.

¹⁹ Ahmad Badrut Tamam, "Kedudukan Fatwa Majelis Ulama Indonesia (MUI) Dan Fatwa Dewan Syariah Nasional (DSN) Dalam Sistem Hukum Indonesia," *Al-Musthofa: Journal of Sharia Economics* 04, no. 01 (2021): 1–25, <https://ejournal.unuja.ac.id/index.php/hakam/article/view/1368/642>.

²⁰ Abdi Wijaya, "Manhaj Majelis Tarjih Muhammadiyah Dalam Transformasi Hukum Islam (Fatwa)," *Al-Risalah* 19, no. 1 (2019): 67–77.

to combine scriptural analysis, causal reasoning, and considerations of social benefit when addressing contemporary issues.

Nahdlatul Ulama employs a different but equally structured methodology through its Bahtsul Masail forum. Fathonah K. Daud and Mohammad Ridlwan Hambali explain that NU initially addresses legal issues through the *qauli* approach, collective selection among established opinions (*taqrīr jamā'i*), or the analogical extension of an existing juristic opinion to a new case (*ilhāq*). These methods prioritize legal opinions contained in the *ketub al-mu'tabarah*, namely authoritative classical Islamic legal texts. When no applicable ruling or sufficiently analogous precedent can be found in those sources, NU may employ the *manhaji* approach by applying the methodological principles of the recognized schools of Islamic law.²¹ NU's methodology therefore reflects continuity with the classical madhhab tradition while simultaneously providing a mechanism for addressing new legal questions.

The MUI, meanwhile, places considerable emphasis on the objectives of Islamic law and the hierarchy of human needs. A. Halil Thahir argues that, when addressing the relationship between religious norms and social problems, the MUI considers the benefits associated with religious protection, evaluates the issue according to the categories of necessities (*darūriyyāt*), needs (*hājiyyāt*), and complementary interests (*taḥsīniyyāt*), and applies the principle that public benefit should take precedence over individual benefit.²² This approach demonstrates the importance of *maqāṣid al-sharī'ah* in connecting textual norms with the social consequences of a fatwa.

These methodological developments also illustrate the flexibility of Islamic law in responding to social transformation. Arif Fikri argues that Islamic law must remain capable of adapting to changing social conditions without losing its normative coherence or generating contradictions across different contexts.²³ Collectively, these studies show that fatwas function not only as religious opinions but also as instruments of legal interpretation, social guidance, and, in certain

²¹ Fathonah K. Daud Mohammad Ridlwan Hambali, "The Methods of Istinbath Nahdlatul Ulama (NU): A Study on Fatwa Strategy in the Bahts Al-Masail Tradition in Indonesia," *Millennial: Jurnal Pendidikan Dan Studi Islam* 2, no. 1 (2022): 1–22.

²² A. Halil Thahir, "Methodology Of the Fatwa of The Indonesian Ulama Assembly: Reviewing the Fatwa in the Field of Worship, Social, and Culture with the Maqasid Al-Shari'ah Approach," *Jurnal Qanvanin* 4, no. 2 (2020): 250–71.

²³ Arif Fikri, "Fleksibilitas Hukum Islam Dalam Perubahan Sosial," *The ASAS Journal of Sharia Economic Law* 11, no. 2 (2019): 147–57, <https://doi.org/10.24042/asas.v11i2.5603>.

circumstances, regulatory development. Nevertheless, existing scholarship has generally examined the methodologies of MUI, Muhammadiyah, and NU separately. A comparative analysis is therefore needed to explain how these institutions employ textual reasoning, madhhab-based authority, collective ijtihad, and *maqāṣid al-sharī'ah* to contextualize Islamic legal rulings amid social change.

The distinctive feature of this study lies in its portrayal of the kontekstualizing fatwas by the MUI, Muhammadiyah, and NU in response to social and legal issues in Indonesia. This paper aims to offer practical contributions to the development of Islamic jurisprudence (*fiqh*) that is more adaptive to Indonesia's social changes, in the midst of definitive textual rulings of Islamic law. This research employs a juridical method with a normative approach. Data collection was carried out through secondary sources, namely fatwas issued by the MUI, Muhammadiyah, and NU, as well as books, journals, documents, and various other online references.

Discussion

Method of *Istinbath* (Deriving Rulings) in Fatwas: Fatwa Commission of the Indonesian Ulama Council (MUI)

In issuing fatwas, the Fatwa Commission of the Indonesian Ulama Council (MUI) adheres to four fundamental principles. First, every fatwa must be based on the Qur'an and authoritative hadith (*ḥadīth mu'tabar*) and must not conflict with the public interest (*maṣlaḥah*). Second, when no explicit ruling can be found in the Qur'an or hadith, the fatwa must remain consistent with scholarly consensus (*ijmā'*), authoritative analogical reasoning (*qiyās mu'tabar*), and other recognized methods of Islamic legal reasoning. These methods include juridical preference (*istiḥsān*),²⁴ unrestricted public interest (*maṣlaḥah mursalah*),²⁵ and blocking the means that may lead to harm (*sadd al-dharā'i'*).²⁶

Third, before finalizing a fatwa, the Commission conducts a comprehensive examination of the opinions of classical jurists from the recognized schools of Islamic law. This examination considers both the legal evidence underlying each opinion and the arguments advanced by jurists holding opposing views. Fourth, the Commission takes into account the knowledge,

²⁴ Abū al-Ḥasan 'Ubayd Allāh ibn al-Ḥusayn al-Karkhī, *Uṣūl Al-Karkhī, Dalam Rasā'il Al-Uṣūl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2004).

²⁵ Muḥammad ibn Abī Bakr Ibn al-Qayyim al-Jawziyyah, *I'lām Al-Munwaqqi'in 'an Rabb Al-'Alamin* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1991).

²⁶ Dirjen Bimas Islam dan Pesnyelenggaraan Haji Depag RI, *Himpunan Fatwa Majelis Ulama Indonesia* (Jakarta: Dirjen Bimas Islam dan Pesnyelenggaraan Haji Depag RI, n.d.).

findings, and professional opinions of experts in fields relevant to the issue under deliberation. This multidisciplinary approach is particularly important when formulating fatwas on contemporary developments in science, medicine, technology, and commerce, including human cloning, abortion, female circumcision, organ transplantation, and halal products. These principles demonstrate that MUI's fatwa methodology integrates authoritative scriptural sources, established methods of Islamic jurisprudence, classical juristic scholarship, considerations of public welfare, and relevant scientific or professional expertise.

The process of issuing an MUI fatwa is carried out through five stages. First, the Council reviews the opinions of the classical jurists (*imams of the legal schools*) concerning the issue in question, along with the evidences supporting their views. Most of the fiqh literature consulted consists of works by scholars of the Shafi'i school, such as *Minhaj al-Talibin* by al-Nawawī,²⁷ *Sharh Kanz al-Raghibin* by Qalyubi and Umayrah,²⁸ *Mughni al-Muhtaj* by al-Sharbini,²⁹ and other similar authoritative texts.³⁰ Secondly, for issues whose legal rulings are already clear and definitive (*al-ahkām al-qat'iyyāt*), the fatwa is delivered as it is. This reflects the application of a *naṣṣ qat'i* (definitive textual evidence) approach, alongside the *qauli* (textual opinion-based) and *manhaji* (methodological) approaches.

Third, in matters involving juristic disagreement (*khilafiyah*) among the legal schools, two approaches are employed: (a) seeking common ground among the differing opinions of the various schools through the method of *al-jam' wa al-tanfiq* (reconciliation and harmonization); and (b) if such reconciliation proves unsuccessful, the fatwa is determined through a process of *tarjih* (preference) based on the method of *muqaranat al-madhabib* (comparative analysis of legal schools), utilizing the principles of *usul al-fiqh al-muqaran* (comparative legal theory);

Fourth, with regard to issues for which no legal opinions can be found within the established schools of Islamic law, fatwas are determined on the basis of collective ijtihad (*ijtihad jamā'i*). Examples include fatwas on bank interest and electronic money (*e-money*) transactions. In such cases, various juristic methods may be employed, including: the bayānī method (textual interpretation), as applied in fatwas on the prohibition of pornography and pornoaction; the ta'līlī (qiyās-based) method, as used in fatwas declaring narcotics and other addictive

²⁷ Abū Zakariyyā Yahyā ibn Syaraf al-Nawawī, *Minhaj Al-Talibin Wa 'Umdat Al-Muftin* (Beirut: Dār al-Minhāj, 2005).

²⁸ Syihāb al-Dīn Aḥmad al-Qalyūbī dan Aḥmad al-Barlisī 'Umairah, *Ḥasyiyatā Qalyūbī Wa 'Umairah 'Alā Syarḥ Kanz Al-Raghibin* (Beirut: Dār al-Fikr, 1995).

²⁹ Muhammad Al-Khatib Al-Syarbini, *Mughnī Al-Muhtāj*, IV (Beirut: Dar al-Fikr, n.d.).

³⁰ Muhammad Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia* (Jakarta: INIS, 1993).

substances unlawful; the *istiḥsānī* method, as reflected in rulings on the use of Sharia-compliant electronic money (*e-money syariah*); the *ilhāqī* method, as employed in fatwas prohibiting smoking in public places; the *istiṣlāḥī* method, as applied in fatwas concerning the use of vaccines and organ transplantation; and the *sadd al-dharā'ī* method, as utilized in fatwas regulating religious practices during the COVID-19 pandemic.

Fifth, the issuance of fatwas must always take into account the *public interest* (*maṣāliḥ 'ammah*) and the *objectives of Islamic law* (*maqāṣid ash-sharī'ah*). At first glance, these steps appear to be taken by MUI in order to avoid being categorized as either *tafrīṭī* (neglectful and underestimating legal gaps) or *ifrāṭī* (excessive), which could easily result in issuing fatwas based merely on arguments of *li al-ḥājah* (necessity), *li al-maṣlahah* (public interest), or *li maqāṣid al-sharī'a* (to realize the objectives of Islamic law), without sufficiently considering established limits and legal parameters.³¹ However, MUI also appears to show a lack of methodological firmness in its fatwa approach when there is a conflict between definitive textual evidence (*naṣṣ qat'ī*) and *maqāṣid al-sharī'a*. The existing fatwa methodology does not fully account for fatwas that appear to depart from explicit textual provisions, such as those concerning the management of funerals during COVID-19 and the permissibility of using vaccines containing porcine elements.

The Council for Fatwa and Renewal of Muhammadiyah

The Majelis Tarjih dan Tajdid Muhammadiyah employs several frameworks in the issuance of fatwas: a) The Qur'an and the Sunnah serve as the primary sources of legal authority; b) A number of supplementary methods are employed when an issue cannot be clearly resolved through the primary sources, while maintaining the superior status of those sources; c) *Qiyās* (analogical reasoning), which extends a legal ruling from an original case (*aṣl*) to a new case on the basis of a shared effective cause (*'illah*); d) *Istiḥsān* (juristic preference), which allows the adoption of a legal ruling based on considerations of equity or public benefit; *Istiṣlāḥ* (*al-maṣlahah al-mursalah*), which is applied to matters outside the realm of doctrine and ritual worship that are not explicitly addressed in revelation; e) *Sadd al-Dharā'ī* (blocking the means), which seeks to prevent actions that may lead to wrongdoing or harm. This principle aims to avert potential harm (*mafsadah*), as reflected, for example, in the permissibility of organ transplantation.³²

³¹ Sholeh, *Metodologi Penetapan Fatwa* (Jakarta, n.d.).

³² MB Hooker, *Islam Mazhab Indonesia : Fatwa-Fatwa Dan Perubahan Sosial*, II (2002: Teraju, 2002).

The methodological principles of the Majlis Tarjih, as reflected in its decision-making practices, are founded primarily on the Qur'an and the authentic Sunnah (al-Sunnah al-Ṣaḥīḥah). Its rulings are formulated through collective deliberation (mushāwarah), without being formally bound to any particular school of Islamic law (madhhab). Nevertheless, the opinions of classical jurists and madhhab authorities may be considered when they contribute to the formulation of a more persuasive ruling. This approach is characterized by openness and tolerance, as the Majlis Tarjih does not claim that its decisions represent the sole or absolute truth. In matters of creed (ʿaqīdah or tawḥīd), however, it adopts a more restrictive evidentiary standard by relying only on mutawātir evidence. At the same time, the consensus of the Companions (ijmāʿ al-ṣaḥābah) may be accepted as a legitimate basis for legal determination.

When apparently conflicting evidence (taʿāruḍ al-adillah) is encountered, the Majlis Tarjih initially applies the method of reconciliation and harmonization (al-jamʿ wa al-tawfīq). If the evidence cannot be reconciled, tarjih is employed to determine which argument possesses greater authority. The council may also apply the principle of blocking the means to harm (sadd al-dharāʿi) to prevent social disorder (fitnah) and legal or social harm (mafsadah). Interpretive reasoning (taʿwīl) may be used to understand the Qur'an and Sunnah, provided that such interpretation remains consistent with the objectives of Islamic law (maqāṣid al-sharīʿah). More broadly, legal evidence must be examined comprehensively, holistically, and integratively rather than selectively or fragmentarily. Within this framework, general Qur'anic provisions may be specified (takhṣīṣ) by solitary reports (aḥād hadith), except in matters of creed.

The Majlis Tarjih also applies the principle of facilitation (al-taysīr) in the practice of Islam. In matters of worship (ʿibādah), whose rulings are primarily derived from the Qur'an and Sunnah, rational analysis may support textual interpretation when the context and underlying purposes of the ruling are identifiable. The role of reason is even more significant in worldly affairs (al-umūr al-dunyawiyyah) that do not fall within the Prophet's specific religious mission, particularly when rational inquiry is required to realize public welfare (maṣlaḥah). In interpreting ambiguous or polysemous texts (al-naṣṣ al-mushtarak), the understanding of the Companions may be accepted as an authoritative interpretive reference. In matters of creed, however, the apparent

meaning (ẓāhir) of a text is generally given priority over figurative or allegorical interpretation (ta'wīl).

In conducting ijtihād, the Majlis Tarjih employs three principal methods: bayānī, qiyāsī, and istiṣlāḥī reasoning. Ijtihād bayānī is concerned with interpreting texts whose meanings are unclear, general, ambiguous, polysemous (mushtarak), equivocal (mutashābih), or apparently contradictory. Ijtihād qiyāsī extends an established textual ruling to a new case for which no explicit ruling exists because the two cases share the same effective legal cause ('illah). By contrast, ijtihād istiṣlāḥī addresses new issues for which neither a specific textual ruling nor a directly analogous precedent can be identified. In such cases, legal reasoning is directed toward realizing public welfare and preventing harm. These three methods enable the Majlis Tarjih to combine fidelity to authoritative texts with the capacity to respond to emerging social circumstances.

The Majlis Tarjih has also established specific principles for assessing and using hadith as legal evidence. A mauqūf report, namely a narration attributed only to a Companion, cannot ordinarily serve as independent legal evidence. It may nevertheless be accepted when reliable indications (qarā'in) demonstrate that it should legally be treated as marfū' or attributed to the Prophet. A mursal report transmitted by a Companion may be accepted when sufficient indications establish the continuity of its chain of transmission. Conversely, a mursal report transmitted solely by a Successor (tābi'i) cannot be used as evidence unless corroborating indications establish that its chain reaches the Prophet.

A weak (ḍa'if) hadith cannot generally be used as an independent basis for a ruling. It may, however, be considered when it is supported by multiple chains of transmission and other corroborating evidence and does not contradict the Qur'an or authentic (ṣaḥīḥ) hadiths. In evaluating hadith transmitters, substantiated criticism (jarḥ) takes precedence over endorsement (ta'dīl), provided that the criticism is based on credible information and valid Islamic legal considerations. Furthermore, reports transmitted by individuals known to have practiced tadrīs may be accepted when sufficient evidence demonstrates that the chain is continuous (muttaṣil) and that the tadrīs does not undermine the transmitter's reliability. Taken together, these principles demonstrate that the Majlis Tarjih integrates textual authority, collective

deliberation, rational inquiry, and consideration of public welfare within a systematic and adaptive framework of Islamic legal reasoning.³³

Although Muhammadiyah asserts that it does not adhere to any particular madhhab (school of Islamic law), its fatwa methodology employs several approaches that resemble those used by the classical madhhab founders. For example, *ijtihad qiyāsī* closely resembles the method of *qiyās* developed by Imam al-Shāfi‘ī,³⁴ *ijtihad istiṣlāḥī* is similar to the concept of *maṣlaḥah mursalah* associated with Imam Mālik,³⁵ and *ijtihad bayānī* is an interpretive approach that is also commonly employed by MUI.

The fatwa methodology of the Tarjih and Tajdid Council of Muhammadiyah has not changed despite ongoing social developments. However, its readiness to adapt and remain open to change can be seen in the council's ruling regarding the postponement of the Fajr prayer time by eight minutes from the previous schedule. Based on the latest observations, if the prayer time were not delayed by eight minutes, the phenomenon that appears would not yet be the *true dawn* (*fajr ṣādiq*), which is the sign marking the beginning of the Fajr prayer time.³⁶

Another change is the permission for the sacrificial animals (*dam*) of Hajj pilgrims to be slaughtered in the pilgrims' home country. Muhammadiyah argues that the location of the *dam* slaughter is not an element of worship that is *ta‘abbudi* in nature (that is, absolutely fixed and not subject to change). This practice is based on considerations of the objectives of Islamic law (*maqāṣid al-sharī‘ah*), public welfare (*maṣlaḥah*), and the current circumstances of the Muslim community. Furthermore, by relocating the slaughter of the *dam* to the pilgrims' home country, the meat can be distributed directly to people in need in Indonesia, helping to reduce stunting rates and minimizing waste in the Holy

³³ Musthafa Kamal Pasha dan Ahmad Adaby Darban, *Muhammadiyah Sebagai Gerakan Islam*, I (Yogyakarta: Cira Karsa Mandiri, 2005).

³⁴ Muhammad ibn Idris Al-Syafi‘ī, *Al-Risalah*, *Tabḥiq Ahmad Muhammad Syakir* (Kairo: Maktabah al-Halabi, 1940).

³⁵ Malik ibn Anas., *Al-Muwatta‘a* (Beirut: Dar Ihya’ al-Turath al-‘Arabi., n.d.).

³⁶ PP Muhammadiyah, “Keputusan PP Muhammadiyah No. 734/KEP/I.0/B/2021 Tentang Tanfidz Keputusan Musyawarah Nasional XXXI Tarjih Muhammadiyah Tentang Kriteria Awal Waktu Subuh” (2021).

Land.³⁷ This fatwa has recently become the subject of controversy among Indonesian *ulama*.³⁸

The Nahdlatul Ulama Bahtsul Masail Committee

The legal decision-making process within NU's Bahtsul Masail begins with the identification and classification of the issues to be discussed, followed by their distribution to members of NU's Syuriah and leading scholars from NU-affiliated pesantren. The Syuriah scholars then examine the opinions of authoritative jurists from the established schools of Islamic law as recorded in classical Islamic legal texts. They may also conduct preliminary consultations with religious scholars and experts who possess relevant expertise in the issue under consideration. The forum subsequently deliberates on the issue and formulates an appropriate legal ruling by considering the views of participating scholars and experts, relevant classical legal doctrines, and the social circumstances surrounding the case.

In practice, Bahtsul Masail generally gives priority to the opinions of jurists within the Shafi'i school, which has historically been regarded as compatible with Indonesia's cultural, social, and geographical context. Consequently, contemporary issues arising in Indonesian society are initially examined through the authoritative doctrines of the Shafi'i school. When no applicable opinion can be found within that school, the forum may consider the opinions of the other three recognized Sunni schools, namely the Hanafi, Maliki, and Hanbali schools. Nevertheless, reliance on established juristic opinions does not mean that Bahtsul Masail disregards contemporary social realities. The actual conditions, needs, and welfare of the community remain important considerations throughout the deliberative process, allowing the forum to connect the classical Islamic legal tradition with the demands of changing social circumstances.³⁹

In response to advances in science and technology, as well as growing criticism of stagnation and rigidity in Islamic legal thought, NU gradually transformed the methodological framework of Bahtsul Masail. A significant milestone in this transformation was the National Conference of Islamic Scholars (Munas Alim Ulama), held in Bandar Lampung in January 1992. At this conference, NU formally established procedures for legal reasoning to guide Bahtsul Masail in addressing increasingly complex issues arising from

³⁷ MTT Muhammadiyah, "Fatwa Pengalihan Penyembelihan Dam KeTanah Air," Pub. L. No. Fatwa 04 2026, 1 (2026).

³⁸ Souad Ezzerouali Aswadi, M. Yusuf, Raudlotul Jannah, Tawwabuddin, "Reassessing the Expiatory Sacrifice for Hajj Tamattu' in Indonesia: A Qur'anic Exegesis and Socio-Legal Perspective on Contemporary Practices," *Jurnal: Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* IX, no. 1 (2026): 37, <https://doi.org/10.24090/volksgeist.v9i1.15220>.

³⁹ Jaih Mubarak, *Metodologi Ijtihad Hukum Islam* (Yogyakarta: UII Press, 2002).

scientific, technological, and social developments. This institutional reform marked an important shift in NU's approach to Islamic legal reasoning: from relying predominantly on the established opinions of madhhab authorities through the qauli approach to also adopting a manhaji approach, which applies the methodological principles and legal reasoning frameworks of the recognized schools of Islamic law. Thus, NU's commitment to the madhhab tradition is no longer limited to reproducing established legal opinions but also encompasses the systematic application of madhhab-based methodologies to contemporary issues.⁴⁰

Within the madhhab tradition, two principal approaches may be distinguished: the qauli and manhaji approaches. The qauli approach relies on established legal opinions formulated within a particular madhhab, whereas the manhaji approach applies the methods of reasoning and jurisprudential principles developed by that madhhab. In this context, a distinction is drawn between the legal opinions of the founding imam and those formulated by later jurists affiliated with the same school. Imam al-Shafi'i, for example, was the founder of the Shafi'i school, while Imam al-Ghazali was a prominent jurist affiliated with that school. A legal opinion attributed directly to the founding imam is generally referred to as a qaul, whereas an opinion developed by later jurists within the madhhab is known as a wajh.

When several qaul or wajh offer different rulings on the same issue, Bahtsul Masail may employ taqrir jama'i, a collective process for selecting the most appropriate opinion. The decision-making procedure depends on the availability and diversity of opinions found in authoritative classical legal texts (al-kutub al-mu'tabarah). If an issue is explicitly addressed in these texts and only one relevant qaul or wajh is identified, that opinion may be adopted as the forum's ruling. However, if several competing opinions are available, the participants conduct taqrir jama'i to determine which opinion should be preferred. This selection process considers the relative strength of each opinion and its capacity to realize public welfare (maṣlaḥah).

Where applicable, the selection follows an established hierarchy of authority within the Shafi'i school. Priority is given, respectively, to: opinions jointly agreed upon by al-Shaykhān, namely Imam al-Nawawi and Imam al-Rafi'i; opinions maintained by Imam al-Nawawi; opinions maintained by Imam al-Rafi'i; opinions supported by the majority of jurists; opinions advanced by the most knowledgeable jurists; and, finally, opinions associated with the most pious jurists. This hierarchy demonstrates that the qauli approach is not merely a mechanical reproduction of classical opinions. Rather, it involves a structured

⁴⁰ M. Iksanuddin, "Gerakan Pembaharuan Hukum Islam Di Indonesia : Studi Model Pembaharuan Metode Penemuan Hukum Di Muhammadiyah Dan NU," *Mukaddimah* 16, no. 2 (2010): 162.

and collective assessment of juristic authority, argumentative strength, and social benefit in determining the most appropriate ruling.⁴¹

The Munas Alim Ulama Bandar Lampung 1992, besides explaining the general provisions, also provides guidance on the procedure for decision-making.⁴² The decision-making procedure is as follows:

1. Procedure for Selecting Qaul/Wajh;

When several qaul/wajh (opinions) are found on the same issue, an effort is made to choose one of the opinions. The selection of one opinion is carried out according to the order above (starting from the opinions of Nawawi and Shaykhani up to the opinions of the most pious scholars). An example is the ruling on bank interest, which follows Imam al-Nawawi's opinion in *Al-Majmū'*,⁴³ which affirms the prohibition of usury (*riba*) in the form of any additional amount stipulated in a loan transaction.

2. Procedure of Ilhaq.

When an issue or case has not been resolved in the books, the case is settled by the procedure of ilhaq al-masa'il bi naza'iriha (equating the ruling of an unresolved case with a similar case that already has a ruling in the fiqh books) collectively (jama'i). Ilhaq is carried out by considering the mulhaq bih (the case with an existing ruling in the fiqh books), the mulhaq ilayh (the case for which the ruling is sought or to be equated), and the wajh al-ilhaq (the characteristic that connects the mulhaq bih and mulhaq ilayh), by expert muqlih (scholars specialized in legal deduction). An example is professional zakat, which is *ilhaq* (analogically linked) to *māl mustafād* (acquired wealth) or to agricultural produce/commercial earnings in the literature of Shafi'i jurisprudence

3. Procedure of Istinbat

When it is impossible to apply ilhaq due to the absence of both mulhaq bih and wajh al-ilhaq (the points of similarity), istinbat is carried out collectively (jama'i) by applying the principles of usul (qawa'id al-usuliyyah) and fiqh (qawa'id al-fiqhiyyah) by the experts. Thus, istinbat is the final step and alternative in Bahtsul Masail. This means istinbat is used

⁴¹ Muhammad, "Fatwa Dalam Pemikiran Hukum Islam," Jurnal Al-Mizan Volume 12 Nomor 1 (Juni 2016):"

⁴² Mohammed Saeed A. Alamri et al., "Text, Context and Natural Conservation: An Analysis of Muhammadiyah's and Nahdlatul Ulama's Islamic Legal Thought on Fiqh of Environmen," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 2 (2025): 650–715, <https://doi.org/10.19109/nurani.v25i2.31305>.

⁴³ Abū Zakariyyā Yahyā ibn Syaraf al-Nawawī, *Al-Majmū' Syarh Al-Muhadzdzab* (Beirut: Dār al-Fikr, n.d.).

when an issue or case has no answer in the recognized authoritative books (al-kutub al-mu'tabarah), so it is not possible to select a qaul or wajh, nor to perform ilhaq due to the absence of mulhaq bih and wajh ilhaq. Istinbat is conducted collectively by applying the principles of usul and fiqh by experts.⁴⁴ An example includes the use of vaccines, fintech, environmental pollution, and others.

These three Islamic organizations exhibit distinctive characteristics in their fatwa methodologies: MUI tends to be more responsive to state policies, Muhammadiyah adopts a more rational approach grounded in *maqāṣid*, while NU's approach is more strongly mediated by the Islamic scholarly tradition (*turāth*).

Ulama Fatwas In Social Changes In Indonesia

The continuously changing social developments require the presence of fatwas to serve as guidance after the Qur'an and Sunnah no longer come down. Within the scope of social change in Indonesia, there are at least four types of fatwas when compared with the Qur'an and Sunnah as the primary sources. First, fatwas that contradicts previous fatwas that have existed, even though they are not exactly the same as the existing texts (*nash*). An example of this is the fatwa related to the use of meningitis vaccines for Hajj pilgrims.

Meningitis is an infectious disease that attacks the membranes covering the brain and spinal cord. Meningitis is an infectious disease that attacks the membranes covering the brain and spinal cord. As an effort to prevent the transmission of meningitis, it is a mandatory requirement for all prospective Hajj and Umrah pilgrims to receive the meningococcal meningitis vaccine. This regulation was discussed in a diplomatic note from the Embassy of Saudi Arabia in Jakarta, numbered 211/94/71/577, dated June 1, 2006, which states that every visitor to Saudi Arabia, including Hajj and Umrah pilgrims, is required to undergo vaccination against quadrivalent meningococcal meningitis.⁴⁵

Because in the vaccine production process there is contact/interaction with media materials made from enzymes derived from pig pancreas and glycerol from pig fat, MUI has declared the use of this vaccine as haram (forbidden). The

⁴⁴ Ali Mutakin, "Fiqh Perkawinan Beda Agama Di Indonesia (Kajian Atas Fatwa-Fatwa NU, MUI Dan Muhammadiyah)," *Al-Ahwal* 14, no. 1 (2021).

⁴⁵ Aditya and Milkhatun, "Hubungan Pengetahuan Vaksinasi Meningitis Dan Dukungan Keluarga Terhadap Kepatuhan Vaksinasi Meningitis Jamaah Umrah Di Kantor Kesehatan Pelabuhan Kelas II Samarinda," *Borneo Student Research* 1, no. 3 (2020): 1625–1640.

meningitis vaccine used for Indonesian Hajj pilgrims so far is the Meningitis vaccine branded as Mencevax ACW135Y, produced by Glaxo Smith Kline Beecham Pharmaceutical Belgium, which in its manufacturing process uses media materials made from enzymes from pig pancreas and glycerol from pig fat. Until now, no other meningitis vaccine has been found that does not use these materials in its production process to replace this vaccine.⁴⁶

However, for Hajj pilgrims performing the obligatory Hajj, the vaccine is permitted (there is a concession) based on considerations of emergency (*darurah*). Additionally, the government has set meningitis vaccination as an administrative requirement to obtain a visa for everyone visiting Saudi Arabia for Hajj or Umrah. This can be aligned with the legal principle: “Matters that complete an obligatory matter are themselves obligatory.”⁴⁷ Thus, an action that was originally not obligatory becomes obligatory.

In subsequent developments, MUI issued a fatwa permitting the use of the vaccine following the discovery of alternative vaccines free from pig-derived ingredients. Currently, there are three types of vaccines available: the meningitis vaccine produced by GSK Belgium (hereinafter referred to as GSK), the vaccine produced by Novartis Italy (hereinafter referred to as Novartis), and Zhei-yiang Tianyuan China (hereinafter referred to as Tianyuan).⁴⁸ Of these three types of vaccines, MUI issued another fatwa permitting the use of the second and third types of vaccines. However, the first type of vaccine remains prohibited under any circumstances. Unlike the previous fatwa that allowed the use of the GSK Belgium vaccine due to emergency reasons, the later fatwa no longer includes the element of emergency because there are now alternative vaccines whose halal status is assured.⁴⁹ This second fatwa simultaneously annulled the previous fatwa that permitted the vaccine under emergency conditions.

This change in fatwa clearly demonstrates a remarkable shift by Indonesian scholars (in this case, MUI). Besides changing from the previous fatwa, what needs to be further examined is the grounding in social realities, where something originally considered haram still leaves room for permissibility due to

⁴⁶ MUI, “Fatwa Majelis Ulama Indonesia Nomor : 05 Tahun 2009 Tentang Penggunaan Vaksin Meningitis Bagi Jemaah Haji Dan Umrah” (2009).

⁴⁷ Jalaluddin Al-Suyuthi, *Al Asbab Waal Nadzair Fi Qavaid Wa Furu' Fiqh Al Syafi'iyah* (Dar al-Husain., 2012).

⁴⁸ Indah Fitriana Sari, “Penggunaan Vaksin Meningitis Antara Legalitas Dan Formalitas Perspektif Hukum Islam,” *Al-Bayan: Jurnal Hukum Dan Ekonomi Islam* 1, no. 1 (2021).

⁴⁹ Majelis Ulama Indonesia, “Fatwa Majelis Ulama Indonesia No 6 Tahun 2010 Tentang Penggunaan Vaksin Meningitis Bagi Jemaah Haji Dan Umrah” (2010).

certain social reasons. The MUI fatwa regarding the use of the meningitis vaccine is quite flexible and ready to adapt to continuously changing conditions. This is shown by the change in the substance of the fatwa from initially permitting the use of meningitis vaccines containing pig enzymes for Hajj and Umrah pilgrims due to urgent needs and the absence of other halal vaccines, to later prohibiting its use after the discovery of halal meningitis vaccines. As stated by Ibn Qayyim al-Jawziyya, *ijtihad* can develop in accordance with the progression of time, and the law in its era needs to be more relevant in addressing and resolving various situations that give rise to new and complex issues⁵⁰

Secondly, fatwa in the form of a legal breakthrough is made to address legal deadlocks in line with the continuously evolving social changes, such as the provision of wasiat wajibah (mandatory bequest) for adopted children. This provision is incorporated into the Compilation of Islamic Law (*Kompilasi Hukum Islam*/KHI), which serves as the primary legal reference for judges in Indonesia's Religious Courts when adjudicating inheritance disputes within their jurisdiction.⁵¹ The Compilation of Islamic Law itself is another form of fatwa resulting from the collective *ijtihad* (*ijtihad jamā'ī*) of Indonesian scholars, which was later codified.

Adopted children do not receive a share in inheritance (*faraidh*) because they are neither *nasabiyah* (biological descendants) nor *sababiyah* (causal relatives). However, in this KHI, it is emphasized that they can receive a portion of the inheritance from the adoptive parents' estate, up to a maximum of one-third of the estate, according to the provision of wasiat. Article 209 paragraphs (1) and (2) state that if adopted children or even adoptive parents do not receive a will related to the inheritance, they can be granted property through the provision of wasiat wajibah.⁵²

Thus, even if the adoptive parents do not leave a will (and vice versa), based on this article, an adopted child and also adoptive parents can receive a share of the deceased's estate, up to a maximum of one-third of the inheritance. This is certainly a legal breakthrough by Indonesian scholars when formulating it

⁵⁰ Asrul Hamid; Dedisyah Putra, "The Existence of New Direction in Islamic Law Reform Based on The Constrction of Ibnu Qayyim Al-Jauziyah's Thought," *JURIS (Jurnal Ilmiah Syariah)* Vol. 20, no. 2 (2021): 247–257, <https://doi.org/10.31958/juris.v20i2.3290>.

⁵¹ Siti Muniroh & Khoiruddin Nasution, "The Adoption of Found Child According to Islamic Law and Law No. 3 of 2006 on Religious Courts in the Perspective of Maqasid Al-Shari'ah," *Millah: Jurnal Studi Agama* 21, no. 1 (2021): 89–112, <https://doi.org/10.20885/millah.vol21.iss1.art4>.

⁵² Dirjen Pembinaan Badan Peradilan Agama, "Kompilasi Hukum Islam Di Indonesia," Pub. L. No. Inpres No 1/1991, 5 (1991).

in the Compilation of Islamic Law. Considering that there is no clear *nash* (textual evidence) explicitly affirming the inheritance status of adopted children or their right to a share of the estate. However, given the social and cultural conditions in Indonesia, where adopted children care for their adoptive parents, or conversely, adoptive parents have cared for, supported, and financed an adopted child until their success. It is entirely reasonable that they should receive a portion of the inheritance from those they have devoted themselves to.

Thirdly, a fatwa serves as a solution to the khilafiyah (disagreement) among scholars, as in the case of marriage between a Muslim man and a woman from the ahlul kitab (People of the Book). Some scholars permit marrying a woman from the People of the Book based on the specific provision in QS Al-Ma'idah verse 5. The definition of ahlul kitab here has several differing opinions among scholars. Imam Shafi'i stated that ahlul kitab refers to Jews and Christians, excluding Majusis (Zoroastrians). Also, it does not include Arabs who joined Judaism and Christianity because their original religion was misguided and involved idol worship; they only converted to the religion of the People of the Book not out of true faith in the Torah and Gospel, and their slaughtered animals are not considered halal. Likewise, those called 'azam' non-Arabs who converted to the religion of the People of the Book but whose ancestral religion was idol worship are also not included as ahlul kitab.⁵³

Meanwhile, Ibn Hazm in *al-Maballa* states that those included as *ahlul kitab* are Jews, Christians, and Majusis (Zoroastrians).⁵⁴ Imam Abu Hanifah defined *ahlul kitab* as all communities that believe in a prophet or a holy scripture revealed by Allah SWT. According to his understanding, *ahlul kitab* is not limited only to descendants of Jews and Christians. Therefore, if there is a community that believes in the scrolls (*subuḥ*) of Prophet Abraham or the Psalms (*Zabur*) revealed to Prophet David, they are considered *ahlul kitab*. According to Ibn Rushd, scholars agree that marrying a free woman from the *ahlul kitab* is permissible, provided that the woman is free (not a slave). However, scholars differ in their opinions regarding the ruling on marrying enslaved women from the *ahlul kitab* or women from the *ahlul kitab* who have the status of captives (*bi al-milk*).⁵⁵

⁵³ Abduraman Al-Jaziri, *Kitab Al-Fiqh Ala Al-Maḥabib Al Arba'ah* ((Beirut, Lebanon): Dar al-Kutub al-Ilmiyah, 1990).

⁵⁴ Harifuddin Cawidu, *Konsep Kufr Dalam Al-Qur'an* (Jakarta: Bulan Bintang, 1991).

⁵⁵ Ibn Rusyd, *Bidayat Al-Mujtahid Wa Nihayat Al-Muqtaṣid* (Lebanon: Dar al-Fikr, n.d.).h.33

Scholars who prohibit interfaith marriage between Muslim men and women from the *ahlul kitab* do so because of their perception that the *ahlul kitab* hold the same status as polytheist women. Whereas both Muslim men and women are forbidden to marry polytheists. According to this group, the *ahlul kitab* have the same status as polytheists because the People of the Book also worship their leaders, scholars, monks, and acknowledge that Uzair (Ezra) or Isa (Jesus) are sons of God.⁵⁶

Among the scholars who support this opinion is Ibn ‘Umar, who stated that Allah forbids polytheist women for Muslim men. “I do not know of any shirk (polytheism) greater than a woman who says that her God is Isa (Jesus).” Meanwhile, the majority of scholars hold the view that Muslim men are permitted to marry women from the *ahlul kitab*. According to them, the term *mushrikah* (polytheist woman) does not include the *ahlul kitab*. This difference of opinion was addressed by Indonesian scholars through the issuance of a fatwa. For example, MUI affirmed in its 1980 and 2005 fatwa that: 1) Marriage between a Muslim woman and a non-Muslim man is strictly forbidden; 2) A Muslim man is prohibited from marrying a non-Muslim woman. Regarding marriage between Muslim men and women from the *ahlul kitab*, there are differing opinions.⁵⁷ After weighing the benefits (*mashlahah*) and harms (*mafsadah*), it was concluded that the harms resulting from such marriages outweigh the benefits. Therefore, MUI decided that such marriages are forbidden (*haram*).⁵⁸

In general, the Majelis Tarjih has issued a ruling regarding marriage between people of different faiths. According to Muhammadiyah, marriage between a Muslim man and a polytheist woman, or vice versa a Muslim woman with a polytheist man is prohibited (*haram*), based on QS Al-Baqarah: 221. Likewise, marriage between a Muslim woman and a man from the *ahlul kitab* is also prohibited (*haram*), based on QS Al-Mumtahanah: 10.⁵⁹

As for marriage between a Muslim man and a woman from the *ahlul kitab*, Muhammadiyah initially tended to agree with the majority of scholars who permit it based on the specific provision in QS Al-Ma’idah. In general, Muhammadiyah

⁵⁶ Qurays Sihab, *Tafsir Al Mishbah* (Ciputat: Lentera Hati, 2021), h. 163

⁵⁷ MUI, “Keputusan Fatwa MUI Nomor: 4/MUNAS VII/MUI/8/2005 Tentang Perkawinan Beda Agama,” Pub. L. No. Nomor: 4/MUNAS VII/MUI/8/2005, 1 (2005).

⁵⁸ Muhammad Atho Mudzhar, *Fatwa-Fatwa Majelis Ulama Indonesia: Sebuah Studi Tentang Pemikiran Hukum Islam Di Indonesia* (Jakarta: INIS, 1993), h.99.

⁵⁹ Fathurrahman Djamil, *Metode Ijtihad Majelis Tarjih Muhammadiyah*, I (Jakarta: Logos Publishing House, 1995), h. 143-145.

still adheres to the majority opinion in Islamic jurisprudence, which prohibits a Muslim man from marrying a polytheist woman, and likewise, a Muslim woman is prohibited from marrying a polytheist man or a man from the *ablul kitab*. However, there are other considerations that later influenced Muhammadiyah's fatwa. One wisdom behind permitting a Muslim man to marry a woman from the *ablul kitab* is for the purpose of dawah (inviting to Islam), with the hope that she would follow her husband's religion (Islam). But if the opposite occurs where the husband is influenced and follows his wife's religion (non-Islam) then the ruling of permissibility (*mubah*) can change to prohibition (*haram*); 2) A similar fatwa was also issued by NU: 1) In the Decision of the First Grand Conference of the Syuriah Board of Nahdlatul Ulama held in Jakarta from 21-25 Shawwal 1379 H / 18-22 April 1960 AD. In this fatwa, NU was asked about the legal status of a Muslim man marrying a non-Muslim woman whether it is allowed or not. NU ruled that such marriage is not permitted (*haram*) and invalid if the non-Muslim woman is not a pure kafir kitabi (People of the Book) whose parents originally belonged to that religion before it was abrogated by the prophethood of Muhammad (peace be upon him). This includes apostate women, Majusis, wathani (people who follow indigenous or local religions), and kafir kitabi whose parents converted after the abrogation such as daughters of our Indonesian people;⁶⁰ The Decision of the 4th Congress of Jam'iyah Thariqah Mu'tabarah in Semarang, held on 4-7 Sha'ban 1388 H / 28-30 October 1968 AD.

In this fatwa, NU was asked about the legal status of a marriage contract conducted by a Muslim man with a Christian woman involving two marriage ceremonies: the first according to Islamic law in a mosque, and the second according to Christian rites in a church. The fatwa response was that the marriage contract is invalid. If the woman converted to Islam during the first marriage contract, she would be considered apostate by entering into the second marriage contract before consummation, thus invalidating the first marriage contract. Furthermore, it is also stipulated in Article 40 letter (c) in conjunction with Article 44 of the Compilation of Islamic Law that interfaith marriage is prohibited, including marriage with a woman *kitabiyah*.⁶¹ In practice, interfaith marriages remain relatively common in Indonesia, often by taking advantage of legal

⁶⁰ Ali Mutakin, *Ijtihad Nahdlatul Ulama Tentang Perkawinan Beda Agama : Suatu Kajian Tentang Penerapan Teori Maqashid Syari'ah* (Ciputat: Transwacana, 2015).

⁶¹ Cik Hasan Basri (Ed), *Inpres No.1 Tahun 1991 Tentang Kompilasi Hukum Islam* (Logos Wacana Ilmu, 1999). (Jakarta, 1999).

loopholes, such as getting married abroad first or temporarily converting to Islam solely to fulfill marriage requirements.⁶²

Fourthly, a fatwa that does not fully align with clear and definitive texts (*nash* that is *sharih* and *qat'i*) due to emergency factors or *sad al-zarā'i'ah* (blocking the means), such as the fatwa on the use of the AstraZeneca vaccine for COVID-19 prevention a few years ago, whose production process utilized trypsin derived from pigs. Although the final product of the medicine or vaccine contains no detectable traces of pork, MUI permitted the use of this vaccine based on the following considerations: a) There is an urgent need (*hajah shar'iyyah*) that constitutes a state of legal emergency (*darurah shar'iyyah*); b) There is testimony from competent and trustworthy experts about the fatal risk if COVID-19 vaccination is not immediately carried out; c) The availability of halal and pure COVID-19 vaccines is insufficient for the vaccination program aimed at achieving herd immunity; d) There is a guarantee of safety in its use by the government; e) The government has no freedom to choose the type of COVID-19 vaccine due to limited vaccine availability. These conditions cease to apply if the emergency reason disappears. The change in this fatwa permits the use of the AstraZeneca vaccine, even though its production process involves trypsin derived from pigs.⁶³ MUI also invoked the principle of necessity (*darurah*) to justify the use of the measles-rubella (MR) vaccine for the prevention of measles and rubella.⁶⁴

In line with the fatwa of the MUI Fatwa Commission above, the Lajnah Bahsul Masail (LBM) of Nahdlatul Ulama also issued a similar fatwa but with a different reasoning. LBM PBNU permits the use of the AstraZeneca vaccine as a COVID-19 vaccine for the community. "The AstraZeneca vaccine is *mubah* (permissible) to use, not only because it does not cause harm but also because it is pure (*suci*). Therefore, the AstraZeneca vaccine may be injected into the human body even under normal conditions, let alone in an emergency. It is explained that even if there is a possibility of impure (*najis*) elements in the growth media, the product remains pure. According to them, whether the growth media is pure or

⁶² dan M. Syahrur Ilda Hayati, Desfitranita Desfitranita, Busman Edyar, Budi Johan, "Reimagining the Legal Framework for Interfaith Marriage in Indonesia: A Path Toward Inclusive Matrimonial Recognition," *Nurani : Jurnal Kajian Syari'ah Dan Masyarakat* 25, no. 1 (2025): 307–22, <https://doi.org/doi.org/10.19109/nurani.v25i1.27016>.

⁶³ MUI, "Fatwa Majelis Ulama Indonesia Tentang Hukum Penggunaan Vaksin Covid-19 Produk Astrazeneca," Pub. L. No. 14 Tahun 2021, 1 (2021).

⁶⁴ Ria Agustiana Ahmad Sanusi, Ahmad Harisul Miftah, "The Application of Emergency Concept Within the MUI Fatwa on Measles Rubella Vaccine Immunization," *Al-'Adalah* 17, no. 2 (2020), <https://doi.org/10.24042/adalah.v17i2.6054>.

impure, the vaccine remains pure because the media does not come into direct contact with the vaccine (virus). This can be compared to manure and candy that do not touch each other. The AstraZeneca vaccine is made from non-animal ingredients. None of the stages in its production involve pork or derivatives of pork or other animals until the final product. The AstraZeneca vaccine uses protein in the form of the enzyme trypsin select derived from fungi. It can be concluded that the AstraZeneca vaccine is made from halal and pure ingredients and can be used for vaccination.”

In essence, this fatwa is not in line with the principles of *fiqh* (Islamic jurisprudence):

إذا اجتمع الحلال والحرام غلب الحرام

When matters of halal and haram come together, the haram takes precedence.

However, due to reasons of emergency or hardship (*masyaqaḥ*), MUI and NU issued fatwas permitting its use. In general, the fatwas issued MUI during the COVID-19 pandemic were formulated through a combination of Islamic legal texts (*dalil syar'i*), scientific evidence, the principle of public welfare (*maṣlaḥah*), and the objectives of Islamic law (*maqāṣid al-sharī'ah*), thereby producing a realistic model of legal reasoning (*istinbāṭ*) that is oriented toward the protection of human life.⁶⁵ Meanwhile, the fatwa of the Majelis Tarjih Muhammadiyah in this context was the conversion of *qurban* (sacrificial animal) into funds that are distributed through Lazismu to communities in need in underdeveloped, remote, and outermost regions, or processed into canned corned beef during the COVID-19 pandemic. This idea has faced resistance among the public, including from the MUI and NU

Conclusion

This study concludes that contextualizing fatwas provides a methodological mechanism for reconciling textual authority with changing social realities through *maqāṣid al-sharī'ah*. The analysis of MUI, Muhammadiyah, and NU reveals four forms of contextualization: revision of previous rulings, legal breakthroughs, resolution of *khilāfiyyah*, and rulings shaped by necessity and public welfare. Although their methodological orientations differ, all three institutions

⁶⁵ Ilyas Supena, “Konstruksi Epistemologi Fikih Pandemi: Analisis Fatwa-Fatwa MUI,” *Al-Manabij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021): 121–36, <https://doi.org/10.24090/mnh.v15i1.4203>.

demonstrate that Islamic legal reasoning can remain responsive to social change without abandoning its normative foundations. This study contributes to the discourse on contemporary Islamic legal reform by conceptualizing contextualization as a dynamic interaction between *nash*, social circumstances, and *maqāṣid al-shari'ah*. It shows that the text–context relationship should not be understood as a binary opposition, but as a process of methodological mediation that enables Islamic law to remain both normatively grounded and socially relevant. Future research should examine how contextualized fatwas are implemented and received by Muslim communities and how their interaction with state law influences the development of Islamic legal policy in Indonesia. Comparative studies involving other Muslim-majority societies would also help assess the broader applicability of this contextualization model.

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