

Contemporary *Fiqh* in Indonesia: The Dynamics of *Istinbāt al-Ahkām* at Ma'had Aly Salafiyah Shafi'iyah Sukorejo Situbondo

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Abstract

Fatwas have so far been issued by religious institutions in Indonesia. Not many Islamic educational institutions based in pesantren perform *istinbath al-ahkam* in response to contemporary issues. Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo in East Java (Ma'had Aly Situbondo) is one of the Islamic educational institutions within the pesantren environment contributing to the formulation of fatwas. This research examines the *istinbāt al-ahkām* conducted by Ma'had Aly Situbondo using a field research method involving interviews with students and lecturers of Ma'had Aly Situbondo, as well as studying documents from the *Tanwirul Afkar* bulletin from 2020-2021. The bulletin contains a collection of findings from the *Istinbāt al-Ahkām* Ma'had Aly Situbondo addressing contemporary legal issues. The research findings explain that *istinbāt al-ahkām* at Ma'had Aly Situbondo uses *qauli* and *manhaji* approaches. The *qauli* approach combines texts from *fiqh* books with texts from the Qur'an and Hadith. In contrast, the *manhaji* approach involves exploring the principles of *fiqh* and *usul al-fiqh* (manhajiy school) based on public interest considerations.

Abstrak

Fatwa selama ini disusun oleh lembaga keagamaan di Indonesia. Tidak banyak lembaga pendidikan Islam yang berbasis pada pesantren melakukan *istinbāt al-ahkām* dalam merespons persoalan-persoalan kontemporer. Ma'had Aly Salafiyah Syafi'iyah Sukorejo Situbondo Jawa Timur (Ma'had Aly Situbondo) merupakan salah satu lembaga pendidikan Islam di lingkungan pesantren yang berkontribusi pada penyusunan fatwa. Penelitian ini mengkaji *istinbāt al-ahkām* yang dilakukan Ma'had Aly Situbondo dengan menggunakan metode *field research* yang digali dari wawancara kepada mahasiswa dan dosen Ma'had Aly Situbondo serta studi dokumen yang bersumber dari buletin *Tanwirul Afkar* tahun 2020-2021. Buletin tersebut berisi kumpulan hasil *istinbāt al-ahkām* Ma'had Aly Situbondo dalam merespons problematika hukum kontemporer. Temuan penelitian menjelaskan bahwa *istinbāt al-ahkām* Ma'had Aly Situbondo dilakukan dengan pendekatan *qawli* dan pendekatan *manhajī*. Pendekatan *qawli* dilakukan dengan memadukan antara teks yang terdapat dalam kitab-kitab fikih dengan teks al-Qur'an dan hadis, sedangkan pendekatan *manhajī* dilakukan dengan menelusuri kaidah fikih dan *ushul fikih* yang berbasis pada kemaslahatan.

Keyword:

Fiqh; *Istinbāt al-ahkām*; Ma'had Aly Situbondo; *Tanwirul Afkar* Bulletin

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Introduction

The character of Islam is flexible (Drury, 2012), which does not demand that Muslims adhere to a particular school of thought (*madhhab*) or bind themselves to one specific madhhab (*al-iltizām bi maẓhabin mu'ayyanin*). Insisting on following a particular madhhab can lead to religious difficulties and narrow-mindedness (Al Malikiy, 2007). This is certainly not in line with the purpose of the emergence of multiple schools, which are a blessing and mercy for Muslims in practicing Islamic law. All schools and the opinions of scholars hold equal positions, potentially correct or incorrect (Mahfudin, 2014).

The Islamic jurisprudence (*fiqh*) produced by *madhhab* scholars results from the thinking of *mujtahids*, reflecting the dynamics of societal realities (Motzki, 2002). Applying *ijtihad* outcomes, shaped by a particular social community and cultural realities in a 'black-and-white' manner, is impractical in other social communities with different cultural backgrounds (Hallaq, 1999). Similarly, imposing specific legal products from the past on contemporary issues tends to be inappropriate (Aibak, 2017). If left unaddressed, *fiqh*, symbolizing progressiveness in Islam, could become rigid and fossilized (Arkoun, 1995). *Fiqh* has always been constructed as an evolving and renewable product, not static and rigid (Van Niekerk & Verkuyten, 2018). The dynamic and flexible nature of *fiqh* ensures its acceptance in every place and time (Hofmann, 1999) because *fiqh* is a product of both text and reality, constantly adapting to local cultures (Fauzi, 2019).

Ma'had Aly Situbondo recognizes the progressiveness of *fiqh* in addressing contemporary issues Muslims face. As a center for Islamic studies, Ma'had Aly Situbondo aims to produce experts in *fiqh* and *uṣūl al-fiqh* capable of responding to social dynamics, including contemporary legal issues, with a balance of ritual and social activities (Abu & Wawan, 2016). Ma'had Aly Situbondo is an educational institution that utilizes *uṣūl al-fiqh*, *al-qawā'id al-fiqhiyyah*, and *al-qawā'id al-maqāṣidiyyah* as tools to address contemporary Islamic legal issues (Musahadi, 2013).

Scholars have extensively conducted studies on *istinbāt al-aḥkām* at Ma'had Aly Situbondo. One such study by Purnomo et al. focuses on the development of *fiqh* at Ma'had Aly Situbondo. As a higher education institution within the pesantren system, Ma'had Aly Situbondo has distinct characteristics compared to other pesantren. In this pesantren, *uṣūl al-fiqh* is placed in the most central position in Islamic law study, adopting a *manhajī* approach. This is intended to provide concrete responses to various issues frequently occurring in society (Purnomo et al., 2024).

Yağın et al. (2022) further clarify this study by stating that Ma'had Aly Situbondo takes a moderate stance in implementing Islamic law by integrating texts (*nash*) with social, economic, political, and cultural contexts, as well as *maqāṣid al-sharī'ah*. Ma'had Aly Situbondo takes a middle path between conservatives, who refer strictly to the apparent text (*ẓahir al-nuṣūṣ*), and liberals, who tend to liberate reasoning and disregard the text. Ma'had Aly Situbondo believes that every text of sharia contains the objectives of sharia (*maqāṣid al-sharī'ah*) (Hanafi, et. al., 2022). This inclination of Ma'had Aly Situbondo is reinforced by other studies that assert that the freedom of thought at Ma'had Aly Situbondo is not limited to one school but includes all four schools. Moreover, the teaching of *fiqh* is combined with other sciences, such as philosophy, sociology, and anthropology (Gazali & Malik, 2009). However, Musahadi suggests that the study of Islamic law at Ma'had Aly Situbondo is strongly influenced by liberal elements, both at the epistemological and practical levels, influenced by liberal thinkers, both classical and modern, local and global (Musahadi, 2013).

In methodically developing Islamic jurisprudence (*fiqh*) studies in Indonesia, Ma'had Aly (1) conducts methodological revitalization by using a new and pure reading model of old epistemological issues (*uṣūl al-fiqh*) from various *fiqh* schools but with forms, methods, and

patterns that are constantly updated, (2) presents counter-texts (text diversification), and (3) expands interpretation and reconstructs adherence to a school without fanaticism toward any particular *fiqh* school but rather adopts the opinions of schools that best suit the issues at hand. These methods are developed to enrich the understanding of Indonesian Islamic jurisprudence's development and future perspectives (Bashori, 2017).

This study focuses on the *istinbāt al-aḥkām* methods of Ma'had Aly Situbondo in responding to contemporary issues. Specifically, this study looks at the collective nature and methods of *istinbāt al-aḥkām* at Ma'had Aly Situbondo. Its position is clear: Ma'had Aly employs both the *qawli* and *manhajī* approaches in performing *istinbāt al-aḥkām* amidst diverse *ijtihad* developments. Additionally, as an Islamic educational institution based in a pesantren, Ma'had Aly Situbondo prepares scholars capable of performing collective *istinbāt al-aḥkām* based on its main fields of knowledge: *fiqh*, *uṣūl al-fiqh*, *al-qawa'id al-fiqhiyyah*, and the necessary social sciences.

Method

This research is a field study based on interviews with lecturers, mentors, and students of Ma'had Aly Situbondo. Other data sources include the *Tanwirul Afkar* bulletin from 2020-2021, which contains the works of *istinbāt al-aḥkām* by Ma'had Aly Situbondo in response to contemporary issues. This study focuses on the development of *istinbāt al-aḥkām* at Ma'had Aly Sukorejo Situbondo by describing the dynamics of changes that occur in initiating new legal rulings that did not previously exist. The study compares the Islamic legal decisions produced by Ma'had Aly Situbondo, published in the *Tanwirul Afkar* bulletin, with Islamic legal sources and the opinions of scholars, using the approaches of *al-qawa'id al-fiqhiyyah* and *uṣūl al-fiqh*.

From Classical to Contemporary *Fiqh*

Istinbāt al-aḥkām implies the uncovering of implicit or hidden meanings from the sources of sharia texts (al-Wahbi, 2007). This involves reasoning based on a methodology to understand the meanings of the Quran and Hadith (al-Jurjanī, 1405) through *ijtihad* (Aḥmad bin Muḥammad bin' Ali al-Fayūmi, n.d.). Using *ijtihad* indicates that *istinbāt al-aḥkām* is based on *uṣūliyyah* principles as guidelines for understanding sharia texts from an Islamic legal perspective (Ar-Ruki, 1994).

Scholars of *uṣūliyyah* have formulated several methods of *istinbāt al-aḥkām* (Abū Zahrah, 2004). Generally, the methods of *istinbāt al-aḥkām* are divided into two: the linguistic approach (*turuq al-lafziyyah*) and the semantic approach (*turuq al-ma'nawiyah*) or *maqāṣid al-sharī'ah* (Nur et al., 2020). *Uṣūl al-fiqh* concentrates on understanding the content of texts (al-Alwani, 1990). This approach involves the study of words (*lafz*) and the structure of texts. *Istinbāt al-aḥkām* from textual sources cannot be achieved without a deep understanding of the text content (al-Ghazālī, 1997). Through this method, the meaning of a text established by sharia and its legal content can be understood (Wahbah, 2005).

Meanwhile, the *maqāṣid al-sharī'ah* approach focuses on the objectives of sharia (Auda, 2022) as the primary purpose of divine law for humanity (Jackson, 2006) to achieve the well-being of Allah's servants both in this world and the hereafter (al-Shāthibī, 2004; al-Raisuni, 1995). *Maqāṣid al-sharī'ah*, as every purpose and wisdom reflected in divine decrees, is perceived universally across various domains of law (Ibnu Asyur, 2001) as every objective and secret behind legal provisions (al-Fāsī, 1993).

Regarding the above *istinbāt al-aḥkām* approaches, Islamic jurisprudence from classical to present times has experienced dynamics. Classical jurisprudence vividly depicts legal practices in Muslim societies over centuries (Coulson, 2011). Classical jurisprudence, as a legal jurisprudence in the early period of Islamic development, is viewed as divine instruction that neglects the social context of the society where the law is applied. The controlling authority of law held by classical jurisprudence was very dominant. Contextual elements, which have more control than textual elements in jurisprudence, were powerless and separate from the rule-making and binding law process. Additionally, historical considerations were often ignored when establishing regulations. This resulted in rigid and stagnant legal products irrelevant to social facts and needs (Ramadan, 2006).

Contemporary *fiqh* (Wahib, 2021) studies the current development of *fiqh* thought (Coulson, 2017), emphasizing Islam's contribution to solutions to contemporary issues. Contemporary *fiqh* is inseparable from the understanding of *masā'il al-fiqhiyyah* (Nilfatri, 2021), which occurs in society and requires legal answers (Hasan, 2012). It can also be interpreted as *fiqh* issues the community faces where legal answers are needed to align their daily activities and behavior with Islamic teachings (Philips, 2006, Dahlan, 1997).

In recent years, the study of contemporary *fiqh* has garnered significant attention from both Muslim scholars and Western academics. From the perspective of Western scholars, the study of contemporary *fiqh* can provide insights into the challenges of applying traditional Islamic law in a rapidly changing world (Emon et al., 2012). One of the main concerns of contemporary *fiqh* is the application of Islamic law within modern legal systems. Islamic law, known as shariah, is often perceived as incompatible with Western legal systems. Western scholars have argued that implementing shariah law would violate human rights and the separation of religion and state (Laskowska, 2016). Additionally, the application of sharia law in modern societies has been criticized for being overly conservative and not in line with contemporary social norms (Damayanti, 2023).

Despite these criticisms, many Muslim scholars argue that Islamic law is flexible enough to adapt to modern contexts (Suhartini et al., 2017). They point out that Islamic law has a long tradition of reinterpretation and adaptation, which can continue today. For example, in recent years, there has been a growing movement among Muslim scholars to reinterpret Islamic law in ways more aligned with contemporary understandings of gender equality (Ramli et al., 2013).

One area of concern in contemporary *fiqh* is the application of Islamic family law. This law deals with marriage, divorce, custody, inheritance, and other related matters. One of the main challenges in applying Islamic family law in modern times is the tension between traditional Islamic legal norms and contemporary social realities (Khan, 2011). For example, conventional Islamic family law often grants more rights to men than to women, such as in matters of divorce and child custody. However, in many modern societies, there is increasing recognition of women's rights and gender equality, leading to calls for reforming Islamic family law to make it more equitable.

In many modern societies, a complex legal system involves secular and religious laws. This can lead to conflicts between Islamic and secular family law, which are difficult to reconcile (Baderin, 2003). For instance, in some countries, Islamic family law allows polygamy, while secular family law prohibits it. This can create difficulties for families trying to navigate both legal systems.

The study of contemporary *fiqh* offers essential insights into the challenges of applying traditional Islamic law in a modern context. Although Western scholars have different views on the compatibility of Islamic law with modern legal and economic systems, there is no doubt that

the study of Contemporary Islamic Jurisprudence is an essential area of research in Islamic studies. As the world continues to change, Muslim scholars and Western academics need to work together to explore the possibilities and limitations of contemporary Islamic jurisprudence (Fauzan et al., 2023).

Competence in *Istinbāt al-Aḥkām* at Ma'had Aly Situbondo

In developing competence in *istinbāt al-aḥkām* at Ma'had Aly Situbondo, several educational methodologies are employed (Habsis, 2021). The education at Ma'had Aly is designed through a combination of three models: higher education, Islamic boarding school (pondok pesantren), and traditional Islamic education. The study of *fiqh* (jurisprudence) and *uṣūl al-fiqh* (principles of jurisprudence) at Ma'had Aly involves a comparative method between classical and contemporary schools of thought.

In order to enhance qualifications in *istinbāt al-aḥkām* (derivation of Islamic rulings), Ma'had Aly employs several types of instructional materials. First, Basic Materials (*al-mawād al-asāsiyyah*), which include *al-qawā'id al-fiqhiyyah* (principles of Islamic jurisprudence), *āyāt al-aḥkām* (verses of rulings), *aḥādīth al-aḥkām* (*ḥadīths* of rulings), *'aqīdah* (creed), and sufism. Second, specialized materials (*al-mawād al-uṣūliyyah*), specifically *fiqh* (Islamic jurisprudence) and *uṣūl al-fiqh* (principles of Islamic jurisprudence). Third, supporting materials (*al-mawād al-musā'idah*), which include philosophy of Islamic jurisprudence, Quranic studies, Hadith studies, *Sīrah Nabawiyah* (prophetic biography), *'āthār al-ḥadīth fī ikhtilāf al-fuqahā'* (effects of Hadith on jurists' disagreements), and research methodology. These supporting courses aid in the delivery of education in *fiqh* and *uṣūl al-fiqh* as part of *istinbāt al-aḥkām*. Fourth, complementary materials include social analysis, advocacy techniques, scientific writing techniques, Islamic boarding schools, and community service (Yazid, n.d., 2010).

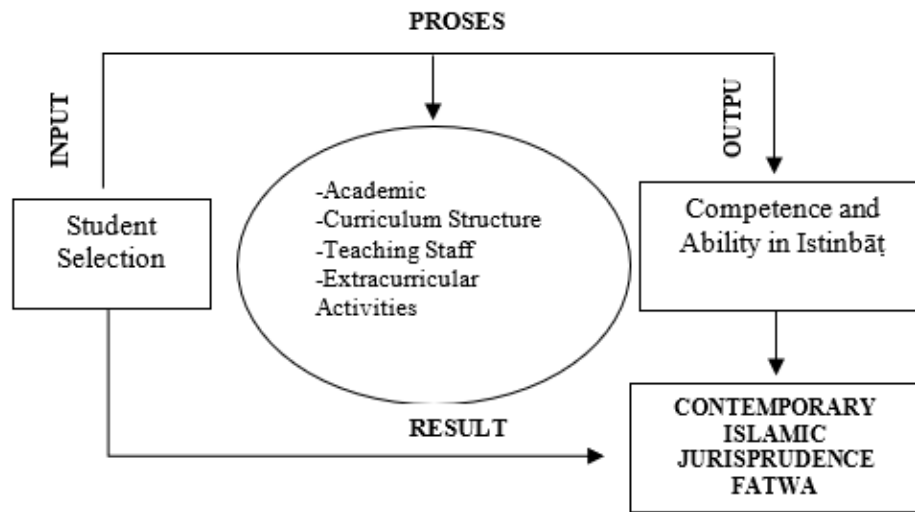
From this model, Ma'had Aly Situbondo students are trained in various scientific disciplines to sharpen their academic intellectual reasoning. The *fiqh* course is hoped to help students understand the school of *qawl al-ulamā'* and thought in the yellow book as products of the *ijtihād*. With *uṣūl al-fiqh* material, Ma'had Aly Situbondo students began to expand their understanding of the *ṭuruq istinbāt al-aḥkām* of school imams so that they could discover and create laws. With the *al-qawā'id al-fiqhiyyah* course, students can understand all the issues of jurisprudence (Madid, 2021).

The materials on the methods of *istinbāt al-aḥkām* encompass various subjects, including theories of law (*al-aḥkām al-shar'iyyah*), theories of legal sources (*maṣādir al-aḥkām*), theories of language (*al-qawā'id al-uṣūliyyah al-lughawiyyah*), and theories of *maqāṣid al-shar'īah* (*al-qawā'id al-uṣūliyyah al-tashrī'iyyah*). These courses are designed to provide students with an understanding of the methodologies employed by the scholars of different *madhhabs* (schools of thought) in deriving rulings, enabling them to apply and practice these methods to address contemporary issues in human life, taking into account the relevant conditions and circumstances (Yazid, 2010).

In developing *istinbāt al-aḥkām*, Ma'had Aly Situbondo implements various processes to enhance the competence of its students in this field. This is evident from four key aspects. The first is the academic design aspect, which includes the organization of education, teaching and learning activities, and teaching methods. Second, the curriculum structure aspect, which consists of primary materials (*al-mawād al-asāsiyyah*), concentration materials (*al-mawād al-uṣūliyyah*), supporting materials (*al-mawād al-musā'idah*), and supplementary materials. Third, the aspect of

teaching staff and students, where the staff comprises competent experts, and the students are selected through a rigorous admission process.

Figure 1.
The Process of Competence in *Istinbāt al-Aḥkām*



Source: Based on Primary Data

The Tanwirul Afkar Bulletin as a Contribution to Islamic Law

The legal scholars at Ma'had Aly emphasize their attention to a concept that has long been the driving force of change in Islamic law (Fadli, 2020), namely the method of *istinbāt al-aḥkām*. The development of the *istinbāt al-aḥkām* method at Ma'had Aly can be classified into two periods in the development of *Tanwirul Afkar* Bulletin as a product of its evolution: the Early Period of the emergence of *Tanwirul Afkar* Bulletin and the enhancement period of *Tanwirul Afkar*.

In early August 1997, Ma'had Aly marked a historic moment by initiating an Islamic bulletin named *Tanwirul Afkar*, published every Friday. The mission of this bulletin was to address contemporary *fiqh* issues comprehensively and responsibly. Its idealism aimed to produce *fiqh* that remains connected to social realities, capable of engaging with societal needs while remaining rooted in tradition yet relevant to the present (Tim Buletin *Tanwirul Afkar*, 2015).

The *Tanwirul Afkar* team was uneasy due to the responses provided by the *Bahtsul Masail* forum of *Nahdlatul Ulama* (NU), which did not fully grasp the cases to be judged (*maḥkūm fih*) and deferred (*mauqūf*) when *qawli* responses from the classical texts were not found. Besides holding strong Salafi traditions, Ma'had Aly, an institution born from the ranks of Islamic boarding school teachers (*kyai*), aimed to demonstrate that the legacy of past scholars could still be used to address current issues. Every week, the *Tanwirul Afkar* bulletin team discussed current issues affecting society. Each issue was approached holistically, comprehensively, humanely, and moderately. Elaboration on textual and contextual aspects was the foundation for addressing every contemporary problem (Tim Redaksi *Tanwirul Afkar*, 2000).

The academic community at Ma'had Aly has a dual ambition. Firstly, they aim to find ways to comprehensively and responsibly address contemporary issues. Cases are approached not unilaterally but comprehensively. Secondly, the *fiqh* responses are based on clear arguments and can be academically justified (Tim Buletin *Tanwirul Afkar*, 2015). The period of the bulletin's inception was initially confirmed by establishing the basic characteristics possessed and not possessed by the methods and theories of other *ijtihād* institutions. *Ijtihād* at Ma'had Aly

genuinely considers societal needs, where emerging issues are addressed. In other words, the *fiqh* produced through *istinbāt al-ahkām* at Ma'had Aly is societal.

The subsequent period marks the enhancement and development phase of the *Tanwirul Afkar* Bulletin. The strong foundation established initially continued to be improved through database updates and the expertise of human resources, which became the hallmark of this era. Over time, the *Tanwirul Ahkam* Bulletin required mujtahids to update their resources continually. The results of *ijtihad* from the *Tanwirul Afkar* Bulletin have reached over 500 titles. The *Tanwirul Afkar* Bulletin was subsequently used as material for five book titles: "People's *Fiqh*: The Connection of *Fiqh* with Authority" (Redaksi *Tanwirul Afkar*, 2000), "Realistic Islamic Jurisprudence Response of Ma'had Aly to Contemporary Islamic Legal Discourse" (Redaksi *Tanwirul Afkar*, 2000) "Contextual *Fiqh*, Islamic Jurisprudence today, and Progressive *Fiqh*" (Redaksi *Tanwirul Afkar*, 2005). Discussions in these books were included in several sub-chapters grouped by themes.

By the end of 2012, starting from the 501st edition, the *Tanwirul Afkar* Bulletin no longer appeared in weekly leaflets. It was instead published monthly with additional interesting columns and in-depth discussions. The changes in the *Tanwirul Afkar* Bulletin are part of the maximum efforts of Ma'had Aly's students, who are prepared as cadres of *fiqh* experts expected to contribute to addressing the evolving religious issues in society today.

Steps and Methods of *Istinbāt al-Ahkām* **Steps of *Istinbāt al-Ahkām***

In its formulation process, Ma'had Aly Situbondo follows several steps in *istinbāt al-ahkām* as published in the *Tanwirul Ahkam*. These steps include the topic selection phase, academic session phase, data validity phase, writing phase, re-correction phase, editing phase, consultation phase with an expert team, and final publication phase (Madid, 2023).

The first phase involves selecting discussion topics, where the entire team, especially the editors and executive editors, searches and selects issues. Suitable sources for examination and discussion typically stem from religious questions or consultations raised by the community. From these sources, the *Tanwirul Afkar* team accumulates numerous issues related to jurisprudence. To determine a topic for the academic session, the entire squad convenes and agrees on a subject meeting *Tanwirul Afkar*'s discussion criteria, namely relevance, interest, uniqueness, urgency for immediate response, relevance to the public, among others (Direktorat Pendidikan Diniyah dan Pondok Pesantren Direktorat Jenderal Pendidikan Islam Kementerian Agama RI with Ma'had Aly PP. Salafiyah Syafiiyah Sukorejo Situbondo Jawa Timur, 2009).

The subsequent phase involves the academic session, where detailed discussions on the selected issues occur. Those who have experienced the issue or represent Ma'had Aly Situbondo students present their findings. Following the presentation, participants are invited to ask questions to clarify any ambiguities until the problem is fully understood according to the perception of Ma'had Aly Situbondo students.

After that, participants of the academic session are dispersed to find answers to the issues arising from the problem descriptions presented earlier. These participants are divided into several groups, with some students seeking answers in the books of the Shāfi'ī, Ḥanafī, Mālikī, and Ḥanbalī schools of thought, Hadith collections and commentaries, Tafsir books, and contemporary literature. If the discussion touches on sufism, some are tasked with finding answers in Sufi and ethics literature. To facilitate reference tracking, the *Tanwirul Afkar* academic sessions, whether physical or digital, never occur outside the library. Once they feel prepared, they return to the discussion room to collectively discuss their findings.

Here occurs the exchange of ideas among the groups. This exchange of ideas among the students of Ma'had Aly Situbondo is referred to as “the transaction of thought”. Suppose there are no disagreements among the four schools of jurisprudence and the various interpretations of Hadith and Tafsir. In that case, the students of Ma'had Aly Situbondo seek to strengthen their argument with the foundation of *uṣūl al-fiqh* or legal maxims, thereby making the jurisprudential framework published by Ma'had Aly Situbondo more philosophical and argumentative. Conversely, when opinions from different schools and groups vary, *uṣūl al-fiqh* and legal maxims become essential in selecting which opinion is more argumentative and beneficial to the community.

After the discussion in the academic session, the students will crosscheck the data for further study. This is done because misunderstandings of the referenced texts sometimes occur. The crosschecking of data is solely conducted by the executive editor team, who select the necessary references and discard forced ones, ensuring that only relevant data remains in their possession. While validating the data, the executive editors translate the Arabic references into communicative Indonesian. However, the executive editors sometimes summarize each relevant reference and then elaborate on it in communicative Indonesian.

A comprehensive final writing phase begins after the executive editors submit all relevant data. The Editors standardize various data to align with the *Tanwirul Afkar* language style. Additionally, they systematize the incoming writings from the executive editors to make them orderly and easily understandable. Once translated into the *Tanwirul Afkar* language, the next step is to have the executive editors make a final round of corrections. For this re-correction phase, all executive editors gather to read through the edited writings and rectify any identified errors.

The editors will have less extensive tasks once all these stages are completed. Their role mainly involves editing the structure, coherence from beginning to end, analytical sharpness, and data validity. Occasionally, editors are tasked with restructuring, supplementing references, adding analysis, or making minor changes to wording. Consultation with the expert team rarely occurs unless there is a deadlock at the level of the editors. The expert team is not involved once sufficient corrections are made at the editing stage.

Method of *Istinbāt al-Aḥkām*

Ma'had Aly Salafiyah Situbondo employs a collective method (*istinbāt jamā'ī*) in conducting *istinbāt al-aḥkām*, or deriving legal rulings in Islamic jurisprudence. Each cohort of Ma'had Aly Situbondo forms an administration tasked with roles and functions in formulating and analyzing legal issues.

Ma'had Aly Situbondo collectively engages in understanding and studying classical and contemporary texts, employing task division in referencing various disciplines. Specific responsibilities include studying exegesis, Hadith, texts authored by legal school scholars and their followers, and commentaries per predefined roles. The method of formulating Islamic law is divided into several groups, each with distinct tasks in fields such as exegesis, Hadith, legal schools, contemporary issues, principles of jurisprudence, and, if necessary, sufism.

The school of jurisprudence is divided into four groups tasked with tracing the texts of the Shāfi'ī, Ḥanafī, Maliki, and Ḥanbalī schools. They are responsible for researching and evaluating jurists' opinions, the evidence used, and their logical arguments. The exegesis group collects and correlates verses relevant to the issue at hand, investigates the occasions of revelation (*asbab al-nuzūl*) of those verses, identifies Makki and Madani verses, distinguishes abrogating (*nāsikh*) and abrogated (*mansūkh*) verses, and understands the interpretations of the exegetes. The Hadith group is obligated to trace, collect, and link the relevant Hadiths, detect the circumstances of their occurrence (*asbab al-wurūd*), study the verification of Hadith chains (*takhrīj*), distinguish the quality of Hadiths, and so forth.

Next, the contemporary issues group (*mu'āṣirah*) is tasked with tracing and studying contemporary texts, fatwas from contemporary scholars, and their logical arguments. The principles of jurisprudence (*uṣūl al-fiqh*) and legal maxims group is obliged to search for and delve into theories, principles of jurisprudence, and legal maxims relevant to the issues under discussion. They present their findings in a discussion forum after researching and analyzing classical and contemporary texts. Subsequently, they collectively analyze and prioritize their research findings using theories, principles of jurisprudence, legal maxims, and classical and contemporary objectives of sharia (*maqāṣid al-sharī'ah*). They then formulate Islamic law on the specific cases or problems, selecting opinions appropriate to the situation, conditions, and benefits (Azizi, 2003).

In the next stage, Ma'had Aly Situbondo applies the method of foundational deduction (*istinbāt uṣūli, istinbāt manhajī*) to understand the texts of Islamic law and their meanings in deciding Islamic rules. In this stage, approaches include linguistic analysis principles, foundations of sharia, objectives of sharia, context of texts (such as reasons for revelation or circumstances of occurrence), and linking one text with another.

In the book "*Fiqh Rakyat*," it is mentioned that Ma'had Aly Situbondo applies a framework with three methods of *istinbāt*, namely revitalization of principles of jurisprudence, diversification of texts, and extension of interpretive domains (Editorial Team *Tanwirul Afkar Ma'had Aly PP. Salafiyah Syafi'iyah*, 2011). Revitalization of principles of jurisprudence can be understood as optimizing the use of the foundational tenets (*al-qawā'id al-uṣūliyyah*), which in the method of *istinbāt* of Nahdlatul Ulama (NU) is considered one of the tools of the method of *manhajī*. Meanwhile, the *manhajī* method itself, regarded as one of the methods of *istinbāt*, optimizes the use of foundational principles (*al-qawā'id al-uṣūliyyah*), which in the tradition of forming Islamic law in NU is also regarded as one of the tools of the *manhajī* method (Asrori, 2011).

Regarding the mention of the method of *istinbāt* termed diversification of texts, and extension of the scope of interpretation (*ta'wīl*), these are considered part of the *Manhajīy* method as they fall within the realm of *uṣūl al-fiqh*. Diversification of texts involves presenting alternative texts based on considerations of *maṣlahah* (public interest). If a text promotes public welfare, regardless of its status, it can still be utilized as a legal source with full authority to specify (*takhsīs*) or abrogate (*nasakh*), among other rights, as governed by *uṣūl al-fiqh*. If theoretical precedent is necessary, the operational method can employ the maxim: "Using two pieces of evidence simultaneously is better than rejecting one" (Tim Redaksi *Tanwirul Afkar*, 2000).

This approach necessitates decision-making and legal rulings based on *maṣlahah* as the foundation of law (Khatib, 2021). Ma'had Aly does not prioritize the source of an opinion—whether it originates from a particular scholar or which book it comes from (whether reputable or not, classical or contemporary). Instead, the criterion is which opinion is more capable of realizing benefit amidst society. Diversification of texts is not a novel concept in the history of *istinbāt*; classical texts mention that texts of any quality—according to some scholars—can still serve as a basis of argument. Therefore, utilizing evidence or texts that better reflect the community's welfare is emphasized (al-Sha'ranī, 1979).

Extension of the scope of interpretation involves broadening the application of *ta'wīl* (interpreting a word from its literal meaning to a more distant meaning due to a strengthened reason) (Jabbār, 1965). In this regard, Ma'had Aly Situbondo's principle is that if a text's literal meaning does not support public welfare, then *ta'wīl* is pursued. Essentially, *ta'wīl* involves adopting a more distant meaning within the confines of the text. The risk associated with *ta'wīl* is not to discard the text but to postpone its immediate meaning. The operational method of *ta'wīl* is akin to Imam Hanāfi's theory of *istihsan*, where *istihsan* involves abandoning clear analogy (*qiyās jalī*) in favor of concealed analogy (*qiyās khafī*) due to considerations of public interest (Tim Redaksi *Tanwirul Afkar*, 2000).

A text potentially carries more than one meaning. Hence, there is a need to extend the scope of *ta'wîl* or broaden the interpretation's domain. The intended extension involves opening up the possibilities of interpretation when (1) a text in its literal meaning does not reflect public welfare or inadequately promotes peace among humanity, and (2) there is a contradiction (*ta'arud*) between two texts.

Istinbāt al-Aḥkām of Ma'had Aly Situbondo

Forced Marriage

The outcome of *istinbāt al-aḥkām* (derivation of legal rulings) by Ma'had Aly Situbondo regarding forced marriage is approached through several perspectives, particularly in response to the issues raised in the Bill of the Elimination of Sexual Violence (RUU PKS).

In the RUU PKS, forced marriage is classified as a form of sexual violence (Article 11 paragraph 2 letter f). Forced marriage is understood as the misuse of power through physical violence, threats of violence, deception, a series of lies, or other psychological pressures that prevent a person from giving genuine consent to marriage (Article 17). The question arises whether forced marriage falls under the category of forced marriage as stipulated in the RUU PKS. In responding to this issue, Ma'had Aly examines it through several approaches, including obedience to the government, opinions of scholars regarding the concept of *ijbār* (compulsion), and the legal foundations or sources used, as well as distinguishing between *ijbār* and *ikrāh* (coercion). Firstly, concerning obedience to the government, in Islamic jurisprudence, all laws and regulations of the state are binding, meaning all citizens are obligated to obey them as long as they are not believed to contradict shariah.

Regarding sharia rules, the state is positioned to reinforce rules established in shariah, whether they involve obligations or prohibitions. Additionally, the state may mandate something that, in shariah is only permissible. However, a guiding principle must be adhered to: legislation must not contradict sharia or fail to benefit the community (al-Mazrū', 2012).

Secondly, *ijbar* refers to a marriage conducted by a father or grandfather on behalf of their adult daughter without seeking her prior consent. Scholars have varying opinions on *ijbār*—some permit it, while others do not (al-Zuhaylī, 1989). Each group relies on the same Hadith: "The widow is more entitled to herself than her guardian, and the virgin's consent is sought, and her consent is her silence." (al-Naysaburī, 2006).

Scholars who do not permit *ijbār* argue based on the latter part of the Hadith, whereas those who allow it base their stance on the implied meaning derived from the earlier part of the Hadith. The logic follows that if a widow has more rights over herself than her guardian, then a virgin has more rights over her guardian than herself. Among the Shafi'i scholars who permit *ijbār*, they establish certain conditions. These include the validity of the marriage contract and the conditions necessary for the guardian to exercise *ijbār* (al-Bājurī, 1992)

From the understanding above, Ma'had Aly Situbondo distinguishes between *ijbār* (compulsion by the guardian in marriage) and *ikrāh* (coercion generally involving threat). One of the signs of *ikrāh* is the presence of a threat. Therefore, a marriage involving coercion (*ikrah*) falls under the category of forced marriage as outlined in the Bill of the Elimination of Sexual Violence (RUU PKS). Meanwhile, a marriage involving *ijbār* that meets the specified conditions does not fall under the category of forced marriage as intended by the RUU PKS.

Zakat to Community Leaders

Another result of *istinbat* by Ma'had Aly Situbondo is regarding *zakāt al-fīṭr* given to community leaders. During the holy month of Ramadan, Muslims give *zakāt al-fīṭr* to community leaders they regard as role models, such as kiai (Islamic scholars), Quranic teachers, ustadz (religious teachers), and others. In their study, Ma'had Aly examines primary sources, including the Quran and Hadith, as well as the opinions of scholars and the evidential aspects. This comprehensive analysis concludes the eligibility criteria for receiving *zakāt al-fīṭr*. The eligibility is based on several factors, notably the interpretation of *fī sabīlillāh* (in the way of Allah). According to most Islamic jurists and experts in Quranic exegesis, "fī sabīlillah" in Surah at-Tawbah: 60 refers to those who engage in warfare to uphold the name of Islam. Those who participate in jihad (struggle) in the path of Allah are entitled to receive zakat funds to prepare for the necessities of war (Shihab, 2002).

In contrast, according to the renowned philosopher Imām Fakhrudīn al-Rāzī, author of the exegesis "*Mafātīh al-Ghayb*" the meaning of *fī sabīlillāh* extends beyond combatants in the path of Allah (*al-ghazwah fī sabīlillāh*) to encompass all forms of goodness. He cites Imām al-Qaffāl and some Hanafī scholars who argue that zakat funds can be distributed for any charitable purpose that promotes goodness, such as burial expenses, fortification, and mosque construction, as the term *fī sabīlillāh* in the verse includes all dimensions of beneficial actions (al-Rāzī, 1981)

Therefore, in the view of Ma'had Aly Situbondo, it is permissible for community leaders, including kiai, Quranic teachers, ustadz, and their students, to receive *zakāt al-fīṭr*. This conclusion is derived from the *istinbāt al-aḥkām* system, which combines various juristic schools' opinions with a thorough study of Quranic texts, Hadith, and principles of Islamic jurisprudence (*uṣūl al-fiqh*). This approach involves *tarjih* (weighing and prioritizing) based on relevance and appropriateness according to prevailing conditions.

However, Ma'had Aly Situbondo emphasizes that the wisdom behind legitimizing the obligation of paying *zakāt al-fīṭr* is to eliminate social stratification between the affluent and those whose livelihoods are less prosperous on 'īd al-fīṭr. The poor can also share joy with the less fortunate by equally receiving blessings on 'īd al-fīṭr. Therefore, community leaders are entitled to receive zakat al-fīṭr, such as kiai, Quranic teachers, ustadz, and their students, because they are considered *fī sabīlillah*" especially those who do not receive government salaries and are in need, as long as they do not neglect the poor and needy in their vicinity.

Menstruating Women Attending Study Sessions in the Mosque

Ma'had Aly Situbondo has examined the issue of menstruating women attending religious studies (*pengajian*) inside mosques. Through *istinbāt al-aḥkām*, they have concluded that a menstruating woman may attend religious gatherings in the mosque if she can ensure that her menstrual blood does not soil the mosque area. This conclusion is reached after analyzing and comparing (*muqāranah al-madhhāhib*) the opinions of various Islamic scholars and their respective reasons (*illāt*) regarding the permissibility of menstruating women being in mosques. This is based on a Hadith narrated by Umm Salamah, where the Prophet Muhammad (peace be upon him) declared loudly, "Indeed, the mosque is not lawful for menstruating women or for those in a state of *janābah* (sexual impurity)" (al-Quzwaynī, 2012).

According to Imam Baihaqī, this Hadith is authentic and explicitly prohibits menstruating women from entering the mosque under any circumstances. However, this explanation is contested by Ibn Ḥazm, who argues that the Hadith is not reliable due to an unknown narrator, Abū al-Khaṭṭāb al-Ḥajar. Secondly, the Shāfi'ī and Hanbalī schools permit menstruating and

postpartum women to pass through the mosque (not stay) if there is no risk of menstrual blood soiling the mosque. The Ḥanbalī scholars even allow a menstruating woman whose bleeding has stopped to stay inside the mosque if she performs ablution (wudu), as the reason for prohibiting entry (fear of defilement) no longer applies (al-Qurṭubī, 2005). The evidence used by the second group is qiyas, which involves equating the prohibition for menstruating women to enter places of prayer (mosques) with those who are in a state of major ritual impurity (*junūb*), as menstruation is considered more restrictive than ritual impurity, as Allah SWT explained in QS. al-Nisā' verse 43.

Thirdly, the opinions of Imām Dawūd and al-Muzannī allow menstruating women to enter mosques unconditionally. They cite a Hadith from Sayyidah Aisha, where a freed black slave woman accepted Islam and was allowed to stay in her tent within the mosque. However, some scholars consider this evidence weak, suggesting that the woman might not have been menstruating or would leave during her menstruation period (al-Zuhaiyī, 1989). In conclusion, Ma'had Aly finds that Islamic jurists have diverse opinions. Some strictly prohibit it, others specify conditions, and some allow it without conditions. Nevertheless, based on the underlying reasons (*illāt*) used as the basis of justification, all scholars agree that the prohibition of menstruating women from entering mosques is contingent upon the concern of defilement and disrespecting the sanctity of the mosque.

Conclusion

As an educational institution aimed at training future scholars in the fields of *fiqh* and *uṣūl al-fiqh*, Ma'had Aly Situbondo places significant emphasis on the development of *istinbāt al-aḥkām*. The development begins by ensuring students possess scholarly competence in understanding texts and contexts, which are fundamental components of *istinbat al-ahkam*. This commitment to excellence is evident in the *istinbāt al-aḥkām* process at Ma'had Aly Situbondo. The method of *istinbāt al-aḥkām* developed at Ma'had Aly Situbondo involves integrating texts found in *fiqh* literature representing the opinions of the various legal schools (*madhhab qawlī*) with texts from the Quran and Hadith through the approach of *fiqh* principles and principles of jurisprudence (*madhhab manhajī*). Subsequently, prioritization (*tarjih*) is conducted based on public interest considerations and appropriateness for current circumstances. This approach ensures a comprehensive and rigorous methodology for deriving legal rulings grounded in classical Islamic jurisprudence and contemporary relevance.

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