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### **Ilhaq Al-Masail Bi Nadhairiha As A Method of Istinbath Legal LBM Mudi Mesjid Raya Samalanga**

**Zahrul Mubarrak**

Islamic Religion Institute (IAI) Al-Aziziyah Samalanga Bireuen Aceh

Email: [zahrulmubarrak@iaialaziziyah.ac.id](mailto:zahrulmubarrak@iaialaziziyah.ac.id)

#### **ABSTRACT**

This research wants to find out about fatwa procedures through the legal istinbath method used by LBM MUDI Mesjid Raya Samalanga. By using the literature review method, it was found that there were two istinbath methods used, namely qauli and ilhaq al-masail bi nadhairiha. The qauli method is a method that uses qaul or opinions of past scholars contained in fiqh books, especially within the scope of the four schools of thought and refers to the sound of the text. The ilhaq al-masail bi nadhairiha method is an effort to equalize and combine problems that do not yet have legal answers with problems that already have legal provisions. In the process of implementing the ilhaq al-masail bi nadhairiha method, there are three types of patterns carried out by LBM MUDI Mesjid Raya. Namely ilhaq with the mention of al-qawa'id al-fiqhiyah which covers the new case. Ilhaq by mentioning old cases where there are legal provisions, and the application of ilhaq by mentioning al-qawa'id al-fiqhiyah and old cases where there are legal provisions.

**Key Words:** Ilhaq, Istinbath Method, LBM MUDI Mesjid Raya.

#### **INTRODUCTION**

Changing along with symptoms and phenomena that mingle in society is part of sunnatullah in reflecting the meaning that nature has hadisah (change). This change of course also touches the very broad realm of fiqh, where various actual problems really demand elegant and dynamic legal answers that are capable of leading human beings to be virtuous towards Allah. Therefore, Islamic boarding schools which have produced various practitioners and legal experts are required to be able to take a role as originators of alternative solutions for the sake of upholding masalih al-ibad.

Pesantren as an educational institution characterized by tafaqquh fiddin develops its educational philosophy on religious aspects and also does not close itself off from other general aspects in accordance with the demands of socio-cultural transformation. The personality of an Islamic boarding school can be seen from the total authority in managing its education so that every aspect of educational reform offered must be considered by the administrators and the permission of the caregivers. The yellow book, which is the main reference for almost every subject, is also distinctive for Islamic boarding schools which have the

image of maintaining tradition and guarding innovation. This yellow book is believed to be able to maintain the originality of knowledge and preserve scientific genealogy or sanad (Djazuli, 2006). Until now, it has become a traditional standard that ulama are people who are able to understand the yellow book both textually and contextually and apply the knowledge they already have, therefore the more the ulama gain knowledge, the closer they are to the creator.

Through the scientific research and development institute, better known as Lajnah Bahtsul Masail (LBM), MUDI Mesjid Raya strives continuously to empower a council of legal experts and practitioners which will ultimately be able to produce ideal legal fatwas, of course maintaining the order of local wisdom, both cultural and environmental. . Until now, the expert council and implementing staff within the LBM MUDI Mesjid Raya are the best Islamic boarding school cadres whose abilities and attitudes in *tasamuh*, *tawasuth* (moderate), and *ta'adul* have been well tested and measured (LBM Team, 2015). With the aim of uniforming the method, implementation and point of view of *istinbath* and avoiding stereotypes in the future, LBM MUDI Mesjid Raya Samalanga formulated patterns and methods of *istinbath* that must be used when seeking legal answers to religious problems through *mubahanh*. The formulation of this method becomes the stages and flow of the *istinbath* process which is outlined in the *mubahanah* guide and automatically becomes the signs and regulations that must be obeyed by all members.

## RESEARCH METHODS

This study is a qualitative study with data collection techniques using library research, namely referring to references relevant to this topic. To prove this, all library data obtained was tested by being directly involved with the object of research study.

## RESULTS AND DISCUSSION

### LBM MUDI Mesjid Raya Samalanga Legal Istinbat Method

There are two types of *istinbath* methods used by the LBM MUDI Mesjid Raya Samalanga, the method of determining the law on new issues using the text of the book which already has legal provisions and establishing the law through the process of *ilhaq al-masail bi nadhairiha* (LBM Team). In terms of NU ulama, it is known as the *qauli* method and the *ilhaq* method. The *qauli* method is the first procedure carried out by the LBM expert council in searching for new problem laws (*istinbath*). This method is a method that uses *qaul* or the opinions of past scholars by studying the problems faced and then looking for answers in *fiqh* books, especially within the scope of the four schools of thought and referring and referring directly to the sound of the text. This method is more directed towards the method of searching for laws that have been decreed by previous ulama or known as deciding the law as decided by previous ulama.

The use of the *qauli* method by taking various opinions of schools of thought does not mean that they do not base their decisions on the Al-Qur'an and Hadith, but because it is impossible for the scholars of the school of thought to hold opinions based on their desires and not base them on the Al-Qur'an and hadith (Shaykh Ramadlan al -Buthi, 2005). So the law established by the LBM expert council based

on the opinion of school scholars also comes from texts from the Al-Qur'an and hadith which have been explored through their rules, even though the texts which are used as a basis are no longer included when writing conclusions as legal determinations. Before LBM MUDI LBM MUDI Mesjid Raya Samalanga was formed as an institution that had the authority to answer actual problems, the legal answers needed by the community were answered directly by the leadership or senior teachers of the institution. Of course, it is based on textual understanding as a very subjective guide and reasoning where consideration of the answers given is very individual. Therefore, LBM was built on the basis of a collective understanding of objective reasoning from the entire board of legal experts at LBM itself using the qauli method.

At first glance, the qauli method looks very easy, but in reality it is quite complicated, apart from requiring grammar and Arabic literature skills to understand the yellow book, this qauli method also requires an understanding of the background and philosophical value of a law as well as the position of the ulama who provide opinions. Hierarchy of opinion or more familiar with the term maratib al-khilaf is also a fundamental requirement in applying the qauli method. Thus, it would be too unreasonable to assume that this qauli method is simply looking for previous ulama's fatwas in the yellow book and translating them. The impacts that will arise as a result of applying the qauli method by using meaning only as a search are fatal errors starting from errors in presenting inappropriate data and wanting the meaning implied in the text of the yellow book to be in accordance with the goals and interests of the fatwa itself.

### **LBM MUDI Mesjid Raya Samalanga Legal Istinbat Method**

Apart from using the qauli method, LBM MUDI Mesjid Raya Samalanga also uses the ilhaq al-masail bi nadhairiha method in solving every new problem and there are no legal provisions in various thurats fiqh books. Ilhaq is an effort to synthesize (equalize and combine) between problems that do not yet have legal answers and problems that already have legal provisions (LBM Team, 2015). The ilhaq al-masail bi nadhairiha method exists to answer the need for dynamic and permanent law within the scope of masalah ammah based on the book of thurats. This method is also part of a revolution from previously legal experts at LBM MUDI Mesjid Raya Samalanga being too textual towards contextual patterns.

The ilhaq al-masail bi nadhairiha method used by LBM MUDI Mesjid Raya Samalanga is part of the manhaji method which is currently popular, even media framing in the realm of Islamic legal studies is a little more fanciful with this method. This method is a way of resolving religious problems which are discussed and studied in depth in bahtsul masail by following the way of thinking and rules of legal determination that have been prepared by the imams of the mahzab. The name of this method appeared in the decision of the Bahtsul Masail National Conference of NU Ulemas in 1992 in Bandar Lampung, while its implementation had already been carried out by various ulama groups, especially NU ulama circles. Basically, this manhaji method is still on the axis of maqasid al-syariyyah with three types of variants as formulated by al-Syatibi, these three types are dharuriyah

(religion, soul, descent, property and reason), hajiyah, and tahsiniyah (Ibrahim ibn Musa ibn Muhammad al-Syatibi, 2015).

The realm of the greatest role of reason in realizing the manhaji method is in hajiyah and tahsiniyah, both of which are presumptive entry points for fuqaha in the context of developing and expanding variants of hajiyah and tahsiniyah within the scope of dharuriyah. The fuqaha who base every legal study on maqasid al-syariyyah tend to strive for religious problems to be discussed and resolved by developing the theory of masalik al-illat. Meanwhile, the fuqaha which base each law study on the text of the Yellow Book regarding similar laws tend to strive for religious problems to be discussed and resolved by contextualizing the Yellow Book and the application of fiqhiyyah rules or known as fiqh qauli in the first stage and ilhaq al-masail bi nadhairiha in the next stage (KH MA Sahal Mahfudh, 2011).

The explanation above regarding the manhaji method which is based on the principles of the school of thought and the development of the concept of masalik al-ilah, it can be understood that the ilhaq al-masail bi nadhairiha carried out by LBM MUDI Mesjid Raya Samalanga is part of manhaji, where the concept of ilhaq is solving new legal problems using al-qawa'id al-fiqhiyah formulated by the imams of the madhhab or their students. In fact, it can be concluded that ilhaq al-masail bi nadhairiha is not just an effort to synthesize one furu'iyah issue with another furu'iyah issue, but what is more important is a synthesis between furu'iyah issues and al-qawa'id al-fiqhiyah. This conclusion becomes stronger by observing the following opinion of Imam Zakaria al-Ansary;

فتبقى عدة فوائد لدراسة تلك العلم وهي ما 1- تكوين الملكة تافهية-إى أن قال- 2- يقتمدها على الإلحاق ومعرفة أحكام المسائل التي ليست بمسطورة في الكتب المتداولة والوقائع التي لاتنقضي على ممر الأزمان والإلحاق هو حمل فرع لكونهما داخلين تحت قاعدة وتيان ذلك أن نص الإمام كنص الشارع بالنسبة للمقلد وذلك لأن الإمام قد حرر مذهبه من الكتاب والسنة وبينون الأصحاب القواعد والضوابط الفقهية التي تتكون من علل الأقيسة التي استخرجها الإمام ويتفرعون منها فجميع الفروع المنصوصة في الكتب كلها ترجع إليها ثم بما تلحق الوقائع الحادثة بطريق الإلحاق وهو إلحاق المسائل التي تنص بشرك اندراجها تحت ضابك ممهّد فالإلحاق من وظيفة الفقيه المقلد كما أن القياس من وظيفة المجتهد المستقل فألة الإلحاق هي القواعد والضوابط التي استخرجها الأصحاب من نصوص الإمام وأصوله (Zakari al-Anshari, 1997).

Meaning: The benefits of studying this knowledge (al-qawa'id al-fiqhiyah) are 1). Forming malakah fiqhiyyah (personal skills in mastering fiqh issues). 2). With this malakah, a person will be able to do ilhaq and find out the legal status of various (old) problems that are not yet contained in various books (fiqh) as well as new cases that are always developing, along with the times. What is meant by ilhaq is the process of synthesizing two problems, because they both fall within one rule. In this case, for the muqallid, the results of the ijtiha>d of the madhhab imam are positioned as in the text of al-syari'. Because the imam of the school of thought has formulated the fiqh of his school of thought based on the Al-Qur'a>n and al-Sunnah. Then, from the results of the qiyas of the school's imam, his students (al-ashab) formulated rules or al-dhawabit al-fikhiyah and developed them further (to answer new

problems). Almost all fiqh issues abstracted in various books can be based on these rules, and even new cases can be resolved by referring to these rules through ilhaq, that is, synthesizing various fiqh issues, because all of them are based on strong dhabit substance. Ilhaq activities are the task of the muqallid faqih just as qiyas is the task of the mustaqil mujtahid. The tools of ilhaq are al-qawa'id and al-dhawabit (al-fikhiyah) which were formulated by the students of the school of thought (ashab) from the texts and the main provisions (usal) which were formulated by the school of thought imams.

Imam Zakaria al-Ansari's statement emphasized that the media used by mujtahids and those who followed them were different, the different media as a formulation of reasoning certainly had an impact on the different results that would arise. Imam Zakaria al-Ansari's statement also became the direction of direction for LBM MUDI Mesjid Raya to determine the ilhaq method in resolving religious problems. Moreover, the above statement also became the principle of LBM MUDI in placing the position of al-qawa'id al-fiqhiyah with al-qawa'id al-ushuliyah which is the basic capital, does it have to use the ijthad method in solving problems or is it fulfilled using the ilhaq method (LBM Team, 2015).

To better understand the object of reasoning between muqallid and muqallad as the imam of the sect, it is necessary to clarify the issue between al-qawa'id al-fiqhiyah and al-qawa'id al-ushuliyah. The following are 4 (four) aspects that differentiate the two, namely;

1. The basic aspect of the discussion, al-qawa'id al-ushuliyah includes the study of kalam science, Arabic grammar, and legal formulation. while al-qawa'id al-fiqhiyah is based on syar'i propositions or furu'iyah issues which have the likeness of god.
2. Aspects of the object of study, al-qawa'id al-ushuliyah studied the procedures for exploring texts to produce fiqh law. Meanwhile, al-qawa'id al-fiqhiyah discusses the work of themukallaf who implement these laws.
3. The actor aspect, the ulama who are in charge of al-qawa'id al-ushuliyah can only be carried out by ulama who have the capacity of mujtahid. Meanwhile, al-qawa'id al-fiqhiyah can be carried out by anyone, especially faqih or Islamic law experts who study fiqh.
4. The aspect of interconnectedness and symbiotic relationship, al-qawa'id al-ushuliyah does not depend on the rules of fiqh so that ushul fiqh can stand alone. Meanwhile al-qawa'id al-fiqhiyah has no shape and form without the help of ushul fiqh (Abdul Haq et al., 2017).

The ilhaq provisions outlined in the LBM MUDI Mesjid Raya operational manual explain more about the position of al-qawa'id al-fiqhiyah, this is based on the attitude of administrators and advisors who position themselves as muqallid which of course uses al-qawa'id al-fiqhiyah as one one element of the ilhaq method in mubahanah. This difference is also the LBM's formulation in determining the minimum standard criteria for participants in the mubahanh (LBM Team, 2015).

Furthermore, Ali Ahmad al-Nadwi said that there are at least 3 forms of fundamental differences between al-qawa'id al-fiqhiyah and al-qawa'id al-ushuliyah. That is;

- a. When Al-Qawa'id al-Ushuliyah is connected to fiqh, it acts as a reference and benchmark for correct behavior. Al-Qawa'id al-Ushuliyah is the link between the law and its source. Therefore, the object of discussion is always the arguments and law. Meanwhile, al-qawa'id al-fiqhiyah, are universal rules that play a role in summarizing fiqh issues, so that the object of discussion always revolves around the actions of mukallaf.
- b. Al-Qawa'id al-ushuliyah is a tool used for practical legal istinbat, while al-qawa'id al-fiqhiyah is a collection of similar legal issues through the 'illah equation which functions to make it easier to understand fiqh issues. (al-masa'il al-fiqhiyah).
- c. Al-Qawa'id al-ushuliyah is a universal rule (kulliyah) so that it can be applied to all cases of fiqh. Meanwhile, al-qawa'id al-fiqhiyah is an aghlabiyah (majority) rule so that it can only be applied to the majority of fiqh cases, therefore in al-qawa'id al-fiqhiyah there are always exceptions (mustathnayath) (Al- Nadwi, 1994).

Responding to the polemic of ijtiḥad so far, LBM MUDI Mesjid Raya responded that people who are quick to conclude that currently there is a necessity for ijtiḥad actually do not understand the position of al-qawa'id al-fiqhiyah and al-qawa'id al-ushuliyah as explained by Al- Nadwi. The confusion of not understanding both causes them to mix things up in using the istinbath method, of course under various pretexts of humanitarian aspects which have actually been neatly and perfectly arranged by the Shari'a. This response actually wants to explain some of the controversy regarding the need for ijtiḥad, where the LBM does not deny the need for ijtiḥad but no one is yet in the capacity of a mujtahid, meaning that many want to give a fatwa in the capacity of a mujtahid, but still use the al-qawa'id al-ushuliyah from other mujtahids, in fact sometimes what is used is al-qawa'id al-fiqhiyah which in fact is used by muqallids not muqallad.

Paying attention to the four aspects of the differences between al-qawa'id al-fiqhiyah and al-qawa'id al-ushuliyah and the three forms of differences according to al-Nadwi, it can be concluded that there are fundamental values that limit the two, where one side has the status of muqallid and on the other hand, he has the status of muqallad (mujtahid). Some groups believe that the naming of the Manhaji method will have an effect on the mindset of Islamic scholars who basically use fiqhiyah rules in formulating laws on contemporary problems and will ultimately use ushul fiqh rules in formulating laws on these problems. Many NU scholars also do not agree with the existence of the manhaji method if the istinbath media uses the rules of ushul fiqh. This concern is based on the attitude of some groups who want to abstract and make plural the mindset of school imams in exploring the law and the mindset of school imam students. On the other hand, these circles accused NU ulama who were reluctant and uncomfortable with the manhaji method that these ulama considered the yellow book too sacred and did not dare to innovate with ijtiḥad.

Substantially, this manhaj method is almost the same as the method of some groups who call it contemporary manhaj. It is wrong for these contemporary circles to argue that it is the only solution to solving actual religious problems. The contemporary manhaj methodology that they use is only formulated in more

modern language even though its level does not exceed what was formulated by previous fuqaha. From this perspective, it is very clear how hard they are trying to close their eyes to see the objectivity of thurats fiqh. The reasoning of the propositions and divine logic used is not as sharp as what was done by previous scholars in their classical books, but they believe that exploring the law using contemporary manhaj is true ijihad.

Overall, the following are the factors behind the application of the qauli and ilhaq al-masail bi nadhairiha methods;

- a. The requirements for mujtahids are very strict.
- b. Actual problems continue to arise, some of which are implied and some of which are not mentioned in previous books of thurats.
- c. From textual to contextual patterns with interpretation and in-depth study to color a more dynamic fiqh.
- d. Formation of guidelines and signs to minimize differences in amaliyah of worship, muamalah, munakahah and jinayah in society (LBM Team, 2015).

These factors show that LBM MUDI Mesjid Raya is in a very safe position with great caution (ihtiyat) so that it does not go backwards, which is claimed by jumud, nor does it move forward, which is termed liberal and secular. The jumud mindset will form an attitude of blind fanaticism and be reluctant or even refuse to adapt, on the other hand, liberal and secular will form an attitude of taking religion for granted, this attitude will then become a parasite capable of killing the value of religion for its environment and killing the value of faith for itself.

LBM MUDI Mesjid Raya uses verses and various opinions of ulama regarding the necessity of practicing sects as basic arguments for the formulation and application of the qauli method and the ilhaq method. This consistency is also motivated by the preservation of knowledge from the right sources, through the right methods, capable of giving birth to the right thoughts and concepts and capable of being implemented correctly. This attitude is not only aimed at avoiding opening up opportunities for ijihad, but also aims to establish the principles and philosophy of the LBM MUDI Mesjid Raya which uses the yellow book as a reference in answering various actual problems both through the qauli method and the ilhaq method. The reluctance to use the ijihad method is actually caused by feeling that the method of referring to the yellow book is sufficient in solving problems without having to resort to the ijihad method. The reluctance is also caused by the anticipatory attitude of understanding al-maqasid al-syariyyah in accordance with personal or group interests which has the impact of confusing the existing kilafiyah. there is (Usman Muchlis, 2002).

The concept of ilhaq is related to al-qawaid al-fiqhiyyah and qiyas, where ilhaq is actually a process of finding answers to problems by applying al-qawaid al-fiqhiyyah, while the formulation of al-qawaid al-fiqhiyyah itself departs from observation and study of problems. furu' problems resulting from qiyas. These furu' problems are researched, their similarities are looked for, their substantive values are compiled and then formulated in the form of al-qawaid al-fiqhiyyah. Ilhaq also has the same procedural relationship as qiyas, the point of similarity is answering a new problem by copying the answer to an old problem that is already available with

the same value in both problems, even though the criteria for the basic aspects of qiyas are different from the criteria for the basic aspects of ilhaq.

### **Application of the Ilhaq al-Masail bi Nadhairiha Method**

From the results of investigations into the systematics of case resolution in general, there are at least three types of implementation patterns of ilhaq al-masail bi nadhairiha carried out by LBM MUDI Mesjid Raya. That is; Application of ilhaq by mentioning al-qawa'id al-fiqhiyah which covers new cases (mulhaq). Application of ilhaq by mentioning old cases whose laws are known in the book of fiqh (mulhaq bih), and. Application of ilhaq with the mention of al-qawa'id al-fiqhiyah and mulhaq bih (LBM Team, 2015).

This ilhaq model is stronger in terms of arguments and references, apart from finding similarities, this model seeks to find substances that can be used as benchmarks in the future, meaning that existing particulars are sought to be combined with the formulation of fiqh rules that have been developed. The following is a case of the sai worship using an escalator during the Hajj and Umrah, the study is traced from the existence of the escalator to the sai provisions with related supporting media. The flow of the LBM MUDI Mesjid Raya istinbath method in solving this case is as follows.

#### 1. Problem description

Sa'i or jogging between Mount Shafa and Hill Marwa is one of the obligations during the Hajj pilgrimage. Jogging often becomes a burden for those who are physically weak, especially as the number of congregants often overflows, making the sa'i prayer very tiring and risky of physical accidents. As a solution to make this worship easier, the Saudi Arabian government built an escalator between Shafa Hill and Marwa Hill. This action by the Saudi Arabian government gave rise to discourse among the jurists, the discourse was regarding whether the Saudi Arabian government's actions were justified in view of the Sharia' and the legal status of sa'i worship using escalators.

#### 2. Formulation of the answer

Leaders in the Islamic order have an urgent role in religious matters so that understanding of Islam and constitutional law is directly proportional. Therefore, religious bureaucracy is very much determined by the leader, determining the beginning and end of Ramadan, appointing zakat amil, and appointing mosque imams are forms of small tasks but are still under the leader. Policies and regulations related to society are of course based on benefits, in this case al-Sayuti said that;

(ومنها) ما ذكره الماوردي أنه لا يجوز لأحد من ولاية الأمور أن ينصب إماماً للصلاة فاسقاً وإن صححنا الصلاة خلفه لأنها مكروهة وولى الأمر مأموراً بمراعاة المصلحة ولا مصلحة في حمل الناس على فعل المكروه (Al-Sayuti, 2015).

This means: part of the application of the rules is the problem that has been discussed by al-Mawardi, namely that it is not permissible for a leader to appoint a wicked prayer leader even if it is considered valid for the congregational prayer behind him. The reason is that it is makruh to follow



wicked imams while leaders are required to maintain maslahah and there is no benefit in inviting people to do makhruh deeds.

The context above concerns appointing priests who do not meet the criteria so that it impacts the makhruh law for other people to follow them. At first glance, it is not that urgent, but religion still provides a measure for leaders to avoid conflicts that will arise from small problems. The context above also provides an understanding that maslahah is not only limited to social-human aspects but also touches on religious aspects where it bridges society to carry out makhruh actions, including things that do not contain elements of maslahah. The assertiveness of the maslahah aspect within the scope of a leader's decision is motivated by various factors, sometimes urgency or need, in this case al-sayuti added.

قال العلائي مدار هذه القاعدة على القاعدة المشهورة في أصول الفقه إن المصالح المعتبرة إما في محل الضرورات أو في محل الحاجات أو في محل التتمات وإما مستغنى عنها بالكلية إما لعدم اعتبارها أو لقيام غيرها مقامها (Al-Sayuti, 2015).

Meaning: al-'Ala'i is of the opinion that the scope of this rule in general in the order of ushul fiqh rules is in maslahah mu'tabarah, whether in the position of dharurah, urgent need, complement or not even needed in general because it is not in the iktibar or disposition other aspects.

Factors that cause maslahah to be prioritized include hajjah (urgent need). Al-Sayuti and other scholars also agree that maslahah played by leaders is also legal if the foundation is urgent need. With this it can be seen that in the context of the Saudi Arabian government making an escalator between Shafa and Marwah hills is an urgent need. The reality of the need can be seen in terms of the ratio of the number of pilgrims to sa'i places of worship, which is quite urgent, not to mention seeing that most of the Hajj or Umrah pilgrims are already elderly on average. These considerations are why the Saudi Arabian government's policy is very appropriate based on the concept of maslahah.

Regarding the sa'i worship which is not carried out as recommended, it is explained in detail by Ibnu Hajar al-Haitami in the book Tuhfah al-Muhtaj, here is an excerpt;

ويستحب أن يكون ماشيا وحافيا إن أمن تنجس رجليه وسهل عليه و متطهرا ومسطورا - إلى أن قال - ولا يكره الركوب إتفاقا على ما في المجموع لكن روى الترمذى عن الشافعى كراهته إلا لعذر ويؤيده أن جمعا مجتهدين قائلون بامتناعه لغير عذر إلا أن يجاب بأنهم خالفوا ما صح أنه صلى الله عليه وسلم ركب فيه إه- (Al-Haitami, 2015).

Meaning: circumcised sai while walking and barefoot if it is easy for him and avoids uncleanness, circumcised also while being pure and covered. In the book al-Majmu', it is agreed that it is not permissible to drive, but al-Turmuzi narrated from Imam Syafi'i that the status is mahruh except for motorbikes. This history is reinforced by the opinion of a group of mujtahids who said that it is not permissible to drive unless it is for motorbikes. The ijtehad of a

group of ulama can be answered that this history of turmuzi violates the actions of the prophet Muhammad who drove while performing sa'i.

The basic concept of the Sai worship is carried out by jogging between the hills of Shafa and Marwah 7 (seven) times and without using footwear. Then there is the problem of worrying about being stepped on by unclean things, thereby causing the value of the sunnah of going barefoot to be lost. Likewise, the problem of some people is that their age makes them unable to do sai as normal, this also causes a shift in sai management from walking to riding. This elasticity indicates religious teachings that are very elegant and dynamic, while the controversy that occurs regarding the law of riding a horse certainly also has its own basis.

Shafiyyah scholars allow Sai to use vehicles, but if they don't have a license, then they won't get priority in taking the journey. This is because walking reflects humility in worship, as explained by Imam an-Nawawi in al-Majmu':

الافضل أن لا يركب في سعيه الا لعذر كما سبق في الطواف لانه أشبه بالتواضع (Al-Nawawi, 2015)

Meaning: It is more important not to climb something in the performance of sai unless there is an age, just as in tawaf, not to climb something in order to be more tawadhu'.

The explanation of the ability to drive during sa'i worship is considered as an alternative, not a basic concept, he said that worship has a ritual value whose urgency is uncomfortable and not in accordance with one's desires. The more contrary it is to lust, the more value the worship has, that is where the meaning of self-servity to Allah SWT will be seen. Fiqh glasses usually offer solutions if a worship service cannot be carried out completely according to the basic concept, while Sufism glasses emphasize emotional and psychological aspects so that worship can still be carried out according to the concept even if it feels difficult. Istinbath is used here through the lens of fiqh, not Sufism, thus giving birth to an easier alternative.

The explanation regarding the ability of sa'i to drive refers to a strong proposition which is the bud for the growth of the elasticity of the law of jogging in the sa'i worship. Moreover, the statement of the hadith indicates a commitment to give a fatwa to anyone who questions the Prophet's actions. This condition would be very far from considering this hadith to be included in the category of dhaif. Indirectly, this hadith also supports the validity of the opinion of the Shafi'iyyah who allow Sa'i to use escalators.

### 3. Decision

After summarizing, studying and reviewing in depth the various opinions contained in various yellow books regarding the actions of the Saudi Arabian government in making escalators and the law for implementing sa'i using escalators, the LBM MUDI Mesjid Raya Samalangan decided;

- a. The Saudi Arabian government's actions are justified on the condition that it still provides free space that can be used for jogging as per the basic provisions based on the principle of 'tasharuf al-imam manuthun 'ala al-maslahah'.

- b. According to Abu Tsaur and Imam Abu Hanifah, there is a mistake in carrying out sa'i via an escalator without walking. According to Abu Tsaur and Imam Abu Hanifah, it is not permitted. According to Imam Mujahid, it is permissible if there are urgent matters (dharurat). Meanwhile, according to the Shafi'iyah, it is absolutely permissible, but if there is no excuse, this violates virtue (khilaf al-Aula).

Solving a case sometimes gives rise to new problems, to solve which a different istinbath method is also needed. Like the problem of sa'i with escalators which has been discussed above, for example, the provisions on whether or not it is permissible to build escalators are answered using the ilhaq method through rules, while the provisions on whether or not sa'i and escalators are legal are answered using the ilhaq method which looks for old problems that already have legal provisions. This illustrates the condition of being able to resolve problems and related aspects so that there is no controversy and multiple interpretations.

The application of the ilhaq method at LBM MUDI Mesjid Raya has been able to stimulate and strengthen the belief of Islamic boarding school residents that the yellow book is able to respond to actual problems by functionalizing al-qawaid al-fiqhiyyah. This functionalization will realize thinking from formalistic fiqh to substantive fiqh which is able to appreciate socio-cultural symptoms and phenomena in society, ultimately leading to an attitude of tolerance in the synergy of culture with basic religious values. Therefore, the ilhaq method implemented by LBM MUDI Mesjid Raya is able to give birth to laws that provide solutions to society and become the antithesis of liberalism and radicalism thinking..

## CONCLUSION

There are two types of istinbath methods used by LBM MUDI Mesjid Raya Samalanga, the qauli method and the ilhaq al-masail bi nadhairiha method. The qauli method is a method that uses qaul or the opinions of past scholars by studying the problems faced and then looking for answers in fiqh books, especially within the scope of the four schools of thought and referring and referring directly to the sound of the text. The ilhaq al-masail bi nadhairiha method is an effort to synthesize (equalize and combine) between problems that do not yet have legal answers and problems that already have legal provisions. This second method uses a fiqhiyyah qaidah approach and is sometimes also supported by ushuliyah qaidah in seeking legal answers. In the implementation process, there are three types of patterns carried out by LBM MUDI Mesjid Raya. Application of ilhaq by mentioning al-qawa'id al-fiqhiyah which covers new cases (*mulhaq*). Application of ilhaq by mentioning old cases whose laws are known in the book of fiqh (*mulhaq bih*) and Application of *ilhaq* by mentioning *al-qawa'id al-fiqhiyah* and *mulhaq bih*.

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