

LEGAL DYNAMICS OF BANK INTEREST FROM LAJNAH BAHTSUL MASĀIL NAHDLATUL ULAMA (NU) PERSPECTIVE

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Abstract:

The debate on bank interest law has become an interesting topic for various parties to discuss. Among Nahdlatul Ulama Islamic scholars, bank interest law has been reviewed and debated in various Islamic boarding houses (pesantren). If the Islamic scholars have agreed on the prohibition of usury, but there is no agreement that ensures the bank interest law. Various differences continue with various arguments using the typical rules of the pesantren, called *istinbath hukum*. Nahdlatul Ulama, as one of the religious and social community organizations that has a majority of followers in Indonesia, has a concern on discussing and determining the law. In meeting economic needs, Muslims also intersect with interest-based banking, even more broadly the activities of the Hajj and Umrah pilgrimage which are also using bank services. Nahdlatul Ulama has a method for determining a specific law based on the pesantren tradition which has been agreed as a standard method in the Lajnah Bahtsul Masail. This paper aims to explain the *istinbath Hukum* used to determine bank interest law, and the bank interest law stipulation in Nahdlatul Ulama.

Keywords: usury, interest, Lajnah Bahtsul Masail Nahdlatul Ulama, *Istinbath Hukum*

Abstrak:

*Perdebatan hukum bunga bank menjadi topik yang menarik berbagai pihak untuk mendiskusikannya. Di kalangan ulama Nahdlatul Ulama, hukum bunga bank telah dikaji dan diperdebatan di pesantren-pesantren. Jika ulama telah menyepakati keharaman riba, namun belum ada satu kesepakatan yang memastikan satu hukum bunga bank. Berbagai perbedaan terus berlangsung dengan berbagai argumentasi dengan menggunakan kaidah-kaidah khas pesantren yaitu *istinbath hukum*. Nahdlatul Ulama, sebagai salah satu organisasi masyarakat keagamaan dan sosial yang memiliki mayoritas pengikut di Indonesia sangat berkepentingan untuk membahas dan menentukan hukumnya. Umat Islam dalam memenuhi kebutuhan ekonomi juga bersinggungan dengan perbankan berbasis bunga, bahkan lebih luas lagi kegiatan peribadatan ibadah haji dan umroh terlepas juga menggunakan jasa bank. Nahdlatul Ulama memiliki metode untuk menentukan hukum yang khas berdasarkan tradisi pesantren yang telah disepakati sebagai metode baku dalam Lajnah Bahtsul Masāil. Tulisan ini bertujuan untuk mengurai *istinbath hukum* yang digunakan untuk menentukan hukum bunga bank, dan ketetapan hukum bunga bank di Nahdlatul Ulama.*

Kata Kunci: Riba, bunga bank, LBM-NU, *Istinbath hukum*

INTRODUCTION

The modern economic system relies on the financial sector. Banks as the main component of the financial sector have established a strong financial system, which means that the economic system will not work without banks. The important role of banks in the financial system is because banks have a function as an intermediary institution, namely an institution that provides meeting services between fund owners, both individuals or institutions that have excess funds with people or institutions that lack or need funds. As an intermediary institution, conventional banks receive deposits from customers and lend them to other customers (economic units) who need funds. On the customer's savings, the bank provides a reward in the form of interest, and vice versa for customers who borrow, interest is charged.

Bank interest is the price that must be paid by banks to customers (who have deposits) and prices that must be paid by customers to banks (customers who obtain loans).¹ From this definition, bank interest can be categorized into two types. First, deposit interest, which is the interest given by the bank as an attraction or service fee for customers who save or save money in the bank, such as current accounts, savings interest, deposit interest and so on. Meanwhile, for the bank, deposit interest is

the purchase price for funds obtained from customers. Second, loan interest, which is the interest charged to borrowing customers or the price that creditors must pay to banks, such as credit interest, and others. So that for the bank, the loan interest is the selling price.² Fahrudin said that the selling price will be the basis for calculating the bank's profit which is taken from the interest difference paid by borrowing customers. So that interest is a problem that cannot be separated from conventional bank companies.³

This phenomenon is very interesting, because it is known that the majority of Indonesia's population is Muslim. The majority of the Muslim population is affiliated with the Nahdlatul Ulama (NU) community organization, both as an organization and in the practice of worship. NU has an opinion that usury is an prohibited act for Muslims. Reciting the words of Allah Subhannallah Wata'ala which were written in the Minhajul Muslim book, by Al Jazairi

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

“however Allah has made trading lawful and forbidden usury” (Al Baqarah [2]: 275).

²

Haq, Husnul. <https://islam.nu.or.id/post/read/92420/ragam-pendapat-ulama-tentang-hukum-bunga-bank>, 2016.

³ Abdul Salam. Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah) Jurnal Ekonomi Syariah Indonesia. Jurnal Ekonomi Syariah Indonesia, 3, 2013, 78.

¹ Kasmir. *Bank dan Lembaga Keuangan Syariah*. (Jakarta: PT. Raja Grafindo, 2012), 114)

The verse is very clear and clearly states that the usury is forbidden (haram), but Allah justifies commerce. The prohibition of usury was reiterated by Allah (Surah Ali Imron [3]: 130) in QS: Ali Imron, as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا
أَضْعَافًا مُضَاعَفَةً

“O you who have believed, do not consume usury, doubled and multiplied” (QS Ali Imron [3]: 130).

The prohibition of usury does not necessarily imply a common view of the scholars in giving law to bank interest. There has been a lot of debate, what is interest in usury? It is well known that the current existence of banks is very important for the economy in Indonesia, almost all lines of human life are currently connected to banks, including in religious activities. Payment of Hajj fees through conventional banks prior to the establishment of Islamic banks. Bank institutions with activities like these (providing loans for business activities) is a new phenomenon that has never been seen at the time of the Prophet. In order not to confuse the people in dealing with banking, then do bahtsul Matsil to get the law. In determining the law of bank interest, has there been one legal agreement? What is the method of establishing the law? To answer the problems that have been described, this paper takes the theme of the Legal Dynamics of Bank Interest from the

Perspective of Lajnah Bahtsul Masāil Nahdlatul Ulama.

LITERATURE REVIEW

Interest is translated from the word interest. In terms as quoted from the dictionary “interest is a charge for a financial loan, usually a percentage of the amount loaned”. Interest is the dependence on borrowed money, which is usually expressed as a percentage of the money lent. Another opinion states that interest is an amount of money that is paid or calculated based on its function which is used as capital. The amount is, for example, expressed by one level or percentage, the capital associated with it which is now often known as the capital interest rate.⁴

According to cashmere, bank interest is defined as remuneration provided by the bank.⁵ Remuneration is provided to customers who buy or sell their products. Interest can also be interpreted as a price that must be paid to customers (who have deposits) and must be paid by customers to the bank (customers who receive loans). From these two opinions, it can be concluded that interest is remuneration provided by the borrower (customer/bank) and remuneration received by the lender (customer/bank). Customers receive interest,

⁴ Abdul Salam. Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah) Jurnal Ekonomi Syariah Indonesia. Jurnal Ekonomi Syariah Indonesia, 3, 2013, 88.

⁵ Kasmir. *Bank dan Lembaga Keuangan Syariah*. (Jakarta: PT. Raja Grafindo, 2012), 114

if they provide loans (savings and deposits) to the bank. Customers will pay interest to the bank, when they borrow money from the bank.

In banking, there is the term interest rate which is defined as the price of the use of loan funds. Interest rate is also defined as an instrument used as an indicator in making decisions whether someone will invest or save. According to Judisseno, the interest rate is the income earned by people or institutions that provide excess money or surplus expenditure units for temporary use by people or institutions who need and use that money to cover their shortages or deficit spending units. Meanwhile, according to Muhsin, the interest rate is the cost of the loan or the price paid for loaned funds (usually expressed as a percentage per year).⁶ So, from these various definitions, the interest rate is defined as the price level recognized as income by the unit of surplus expenditure (lender) for temporary use by the person or institution that needs it (the borrower) to cover their shortfall or the unit of deficit expenditure which is expressed as a percentage per year.

The concept of interest and interest rates is an interesting discussion for scholars and Muslim experts, some experts distinguish between *riba* and rent (interest), one of which is the Vice President I of the

Republic of Indonesia, Mr. Mohammad Hatta, quoted by Masjfuk Zuhdi, explaining that usury is for a loan that is consumptive, while rent is for productive loans, as well as the terms usury and interest, that usury is a very high and burdensome loan interest, so that it exceeds the interest rate allowed by law. Meanwhile, interest is a loan interest that is relatively low and affordable. However, in reality, Ali stated that it is difficult to dissect between usury and interest, because in essence both are burdensome for borrowers, while for the interest value given large or small is very relative, if we are pressed the need for interest is not the main consideration, but more consider the ability to access the loan.⁷ Therefore, if we draw a lesson from the history of Western society, it is clear that the "interest" and "usury" that are known today are essentially the same, both of which are additional money on the principal of the loan on the basis of the percentage agreed in advance. The term usury emerged because the financial market was not yet established at that time, so the authorities had to set an interest rate that was considered reasonable. However, after the establishment of financial institutions and markets, the two terms became lost because there is only one interest rate in the

⁶ Muhsin. (2019). *Istinbath Hukum Nahdlatul Ulama*.
<https://www.researchgate.net/publication/333430273>

⁷ Abdul Salam. *Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah)* *Jurnal Ekonomi Syariah Indonesia*. *Jurnal Ekonomi Syariah Indonesia*, 3, 2013.

market which corresponds to the law of supply and demand.⁸

According to language, riba means additional (al ziyadah), growing (al numuw), increasing (al tirfa'), and enlarging (al'uluw).⁹ Meanwhile, according to Ibn Al Arabi Al Maliki usury is any addition taken without a substitute or balancing transaction. Referred to as replacement or offset transactions are business or commercial transactions that can justify the existence of such additions.

According to Nasution, riba etymologically means "additional" (az-Ziyadah) it is an additional payment of the principal amount of the loan. There is another opinion that says that usury is a one-sided excess carried out by one of the transacting people.¹⁰

Allah Himself has discussed usury in the Qur'an, His word

وَمَا آتَيْتُمْ مِنْ رَبًّا لِيَرْبُوَ فِي أَمْوَالِ النَّاسِ
فَلَا يَرْبُو عِنْدَ اللَّهِ

“And whatsoever ye give in gift in order that it may increase among the substance of men increaseth not with Allah...” (Ar-Ruum [30]: 39)

⁸ Muhammad. *Lembaga-lembaga Keuangan Umat Kontemporer, cet. I* (Yogyakarta, 2000)

⁹ Heri Sudarsono. *Bank dan Lembaga Keuangan Syari'ah (Deskripsi dan Ilustrasi)*. (Yogyakarta: Ekonisia, 2012), 11

¹⁰ Abdul Salam. *Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah)* *Jurnal Ekonomi Syariah Indonesia*. *Jurnal Ekonomi Syariah Indonesia*, 3, 2013, 82.

Riba is haram both in the Qur'an, as-Sunnah and in ijma'. Allah Ta'ala said,

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ

“O you who have faith! Be wary of Allah and abandon [all claims to] what remains of usury, should you be faithful.” (Al Baqarah [2]: 278).

Allah Ta'ala also said:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

“however Allah has made trading lawful and forbidden usury” (Al Baqarah [2]: 275).

In another verse, Allah Ta'ala said:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا الرِّبَا

“O Ye who believe! devour not multiplied manifold; and fear usury” (Ali 'Imran [3]: 130).

Sudarsono stated that he did not stop at al Qur'an, the prohibition of usury was also found in the hadith of the Prophet as a safety in the shahih Imam Muslim rahimahullah narrated from Jabir Radhiyallahu anhu, he said:¹¹

لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ آكِلَ الرِّبَا وَمُؤَكِّلَهُ وَكَاتِبَهُ وَشَاهِدِيهِ. وَقَالَ: هُمْ سَوَاءٌ.

¹¹ Heri Sudarsono. *Bank dan Lembaga Keuangan Syari'ah (Deskripsi dan Ilustrasi)*. (Yogyakarta: Ekonisia, 2012), 12-13.

“Rasulullah Sallallahu 'alaihi wa sallam has cursed the eater of usury, who gave usury, the author and the two witnesses, "and he said," they are all the same.”

Another hadith narrated by Abu Hurairah Radhiyallahu anhu, he said that the Prophet sallallahu 'alaihi wa sallam said:

إِجْتَنِبُوا السَّبْعَ الْمُؤْبَقَاتِ وَذَكَرَ مِنْهُنَّ :
أَكْلَ الرِّبَا .

“Stay away from the seven things that bring destruction, "and he said among them," Eating usury.”

From several verses and hadiths that have been mentioned, it is very clear that riba is completely prohibited in Islam. Then a question arises, is the bank interest included in the category of usury as referred to in the above verses and hadiths? This problem needs to be discussed clearly in order to determine the legal answers used by Muslims to engage with banks, because it is clearly, absolutely, and does not contain a debate that usury is haram.

Types of Riba and their Impact

Islamic jurists (fuqaha') Broadly speaking, riba is grouped into two. Respectively, accounts payable and buying and selling usury.¹² Accounts payable usury and buying and selling usury. Accounts receivable usury consists of qard usury and

¹² Heri Sudarsono. *Bank dan Lembaga Keuangan Syari'ah (Deskripsi dan Ilustrasi)*. (Yogyakarta: Ekonisia, 2012), 15-16.

jahiliyah usury, while buying and selling usury consists of fadhl usury and nasiah usury.

According to the Rasjid riba qard is a debt on condition that there is an advantage for the one who gives the debt. Jahiliyah usury is debt paid more than the principal because the borrower is unable to pay his debt at the specified time.¹³ According to Al Anshary Riba Fadl is pity that occurs as a result of buying and selling transactions which are accompanied by an excess in one of the two items to be exchanged. Nasiah usury is usury that occurs as a result of buying and selling in period.¹⁴

Ibn a-Qayyim al-Jauziyyah, divides usury into two, namely usury jalli (clear) and riba khafi (cryptic). Riba jalli is usury which is very well known among the Arab Jahiliyyah community which is very condescending to their lives and is strictly prohibited by the al-Qur'an, which in other terms is referred to as riba nasiah. Riba nasi'ah is usury in which the payment or exchange is double due to the delay. Meanwhile, riba khafi is usury that is less well known and its existence is doubtful among the Arab Jahiliyyah community, which in other terms is called riba al-fadl. Riba fadhl is selling something using a

¹³ Abdul Salam. (2013). Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah)Jurnal Ekonomi Syariah Indonesia. Jurnal Ekonomi Syariah Indonesia, 3, 90.

¹⁴ [https://islam.nu.or.id/post/read/95074/mengenal-macam-macam-barang-ribawi-](https://islam.nu.or.id/post/read/95074/mengenal-macam-macam-barang-ribawi)

similar medium of exchange with the addition of one of them without a grace period, such as selling one kilogram of wheat with two kilograms of wheat.¹⁵

According to Marwini, riba has a negative impact on the world economy. First, the Ribawi system has caused many economic crises in the world throughout history, because the Ribawi system has opened up opportunities for speculators to speculate which can lead to economic fatalities in many countries. The ribawi economic system is the main cause of fluctuations in the value of money (currency) of a country. Because money will always follow the interest rate, the higher the interest rate, the money will be here. Countries that provide high interest rates, then in that country will receive a large flow of funds. Owners of capital tend to move their money from countries with low real interest rates to countries with higher real interest rates. Such a situation is because speculators want to get big profits. The real interest rate here means the interest rate minus the inflation rate. Second, interest rates are very influential on the real sector. The higher the rate, the more likely people will save money in the bank and are not interested in investing. Low investment results in low production, and low employment growth. Without investment

¹⁵ Marwini. (2017). *Kontroversi Riba Dalam Perbankan Konvensional Dan Dampaknya Terhadap Perekonomian*. Az Zarqo', 9, 2017, 5.

what happens is the creation of unemployment and poverty. Third, in macroeconomic theory it has been formulated that when interest rates increase significantly, it will cause inflation. Inflation caused by interest is a factor that is deliberately created. With high inflation it will reduce people's purchasing power. Low purchasing power will reduce the production sector. In the end, it will cause poverty because the community is based on *ceteris paribus* assumptions.¹⁶

RESULTS AND DISCUSSION

1. History of Lajnah *Bahtsul Masāil*

Etymologically, *Bahtsul Masāil* is defined as a forum for discussing current religious issues. *Bahtsul Masāil* functions as a forum used to decide a law in NU. Meanwhile, literally *Bahtsul Masāil* means the discussion of *almasa'il ad-diniyah* (religious issues), especially with regard to *al-zaman'il al-fiqhiyah* (fiqh issues).¹⁷ From this perspective, *al-Masa'il al-fiqhiyah* are considered issues that are *khilafiah* (controversial) because the answers may differ.

Bahtsul Masāil is an activity that has existed before NU was founded, a tradition of discussion among *pesantren*

¹⁶ Marwini. (2017). *Kontroversi Riba Dalam Perbankan Konvensional Dan Dampaknya Terhadap Perekonomian*. Az Zarqo', 2017, 5.

¹⁷ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). *Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail)*. 7, 184.

involving kyai and students whose results are published in the LINO bulletin (Lailatul Ijtima 'Nahdlatul Ulama).¹⁸ Bahtsul Masāil is a medium for long-distance interactive discussion among pesantren scholars. A kyai writes about problems that are problems of the people. The issues are discussed by referring to the books of the 4 schools of thought (Hanafi, Maliki, Syafi'i, Hanbali).¹⁹ Pembahasan oleh kyai itu lalu ditanggapi oleh kyai lain dengan memberikan peng Other kyai responded to the discussion by providing reinforcement or support and even criticizing this opinion for having different views. The activity of exchanging opinions between other kyai continues, which in turn has become a tradition of scientific discussion among scholars.²⁰

The tradition of scientific discussion of the kyai, began to be officially used by NU in deciding various religious issues at the First Congress,²¹ which was held on the 13th Rabi'ul Tsani 1345 H. / 21 October 1926 AD in Surabaya.²² At the first Congress, Bahtsul Masāil had not been

institutionalized or included in the NU organizational structure. The new Lajnah Bahtsul Masāil institution was held at the XXVIII Congress in Yogyakarta in 1989, at that time Commission I (Bahtsul Masāil) recommended the Nahdlatul Ulama (PBNU) Executive Board to form the "Lajnah Bahtsul Masāil Diniyah" (an institution for studying religious permanent which specifically deals with religious issues. This was supported by the halaqah (sarasehan) Denanyar which was held on 26 - 28 January 1990 at the Mamba'ul Ma'arif Denanyar Jombang Islamic Boarding School which also recommended the formation of "Lajnah Bahtsul Masāil Diniyah", (Dardiri, 2). Four months later, in 1990, the PBNU officially formed Lajnah Bahtsul Masail Diniyah, with PBNU Decree number 30 / A.I.05 / 5/1990, the status of the lajnah was considered to still contain an ad hoc / non-permanent organ committee.²³

In 2004, after the NU XXXI Congress, the Donohudan Congress, Surakarta, Central Java, which took place on 28 November - 2 December 2004, the status of Bahtsul Masāil was upgraded from lajnah to institution. The status of lajnah made Bahtsul Masāil's position only ad hoc, by being upgraded to an institution, the status of Bahtsul Masāil became a permanent unit under the name Bahtsul Masāil Nahdlatul

¹⁸ Dardiri, Masyhudan. Metode Ijtihad Ulama' dalam Bahtsul Masa'il Nahdlatul Ulama', 1

¹⁹ Fadeli, H. Soeleimin. (2008). *Antologi NU: Sejarah Istilah Amaliah Uswah Cet.kedua*. Surabaya: Khalista

²⁰ Zuhroni. Studi Komparasi Metodologi Penetapan Hukum Islam Lembaga-Lembaga Fatwa Di Indonesia. ADIL : Jurnal Hukum, 3, 46 -72.

²¹ Zuhroni. Studi Komparasi Metodologi Penetapan Hukum Islam Lembaga-Lembaga Fatwa Di Indonesia. ADIL : Jurnal Hukum, 3, 48.

²² Sidaq. (2019). <https://www.laduni.id/post/read/63044/keputusan-muktamar-nahdlatul-ulama-ke-1-surabaya-21-oktober-1926-m>

²³ Rohmatulloh, M. Hubab Nafi' Nu'man. (2020). <https://www.lbmubanten.or.id/struktur-kepengurusan-lbm-pwnu-banten-2018-2023>

Ulama Institute (LBM-NU). The management of LBM-NU follows the NU PB stewardship period.

LBM-NU is tasked with gathering, discussing and solving problems that require legal certainty. According to ART NU, the duties of LBM-NU are to collect, discuss, and solve problems that are mauqūf and waq'iah which must immediately receive legal certainty. The waq'iyyat (actual) problem is a problem that is happening in society which was submitted to Syuriah. The problems that are mauqūf are unanswered problems which are then re-discussed at a higher level and finally to the national level.²⁴

LBM-NU is a very important institution in the NU organization, as a discussion forum for religious scholars (Syuriah) in determining the law of a problem whose decision is a fatwa and functions as guidance for NU residents in practicing religion in accordance with the understanding of ahlusunnah wal jamaah as its basis. This refers to the development of problems facing Muslims who are increasingly complex, problems that intersect with NU residents, both ubudiyah and muamalah problems, giving rise to the dynamics of intellectual thought within NU, making the discussion forum in Bahtsul Masāil divided into two, Bahtsul Masāil.

²⁴ Zuhroni. Studi Komparasi Metodologi Penetapan Hukum Islam Lembaga-Lembaga Fatwa Di Indonesia. ADIL : Jurnal Hukum, 3, 46.

Diniyyah Waq'iyyah and Bahtsul Masāil Diniyyah Maudlu'iyyah.

Bahtsul Masāil Diniyyah Waq'iyyah is a continuation of the Bahtsul Masāil since NU was founded, with the characteristics of the answer pattern given briefly, firmly, accompanied by textual arguments from the book.²⁵ Bahtsul Masāil Diniyyah Maudlu'iyyah is in charge of responding to the actual problems faced by the nation and the Muslims as a whole, discussing the problem conceptually. The answer pattern is given in more detail and looks very liberal.²⁶ The Bahtsul Masāil Diniyyah Maudlu'iyyah Forum is coordinated by the NU Syuriah (legislative) institution. Usually, membership comes from Syuriah and NU ulama who are outside the organizational structure, including the pesantren caretakers.

2. The construction of ijtihad thinking in NU

NU as Jam'iyah Diniyah Islamiyah has Islamic values according to Ahlu as-Sunnah Wa al-Jama'ah and follows the ideology of one of the four schools: Hanafi, Maliki, Syafi'i and Hambali. The attitude of this madzhab refers to one or more of the four imams of the four schools of thought;

²⁵ Masyhuri, A. Aziz. (2004). *Masalah Keagamaan, Jilid 2*. Jakarta: PPRMI dan Qultum Media

²⁶ Zuhroni. Studi Komparasi Metodologi Penetapan Hukum Islam Lembaga-Lembaga Fatwa Di Indonesia. ADIL : Jurnal Hukum, 3, 46 -72.

Hanafi, Maliki, Syafi'i, Hanbali.²⁷ This was also stated by KH. Hasyim Asy'ari in the *Risalah fi taakkudi alakhdzi bimadzhabi al-arba'ah* that madzhab to one of the four priests is very useful. On the other hand, failing to teach them is very fatal. Furthermore, he also added the Prophet's commandment to follow the majority of Muslims (*al-sawad al-a'dzam*).²⁸ On the other hand, KH. Hasyim As'yari in *Abshor*, stated:²⁹

“O scholars and friends who fear Allah from the group of sunnah waljamaah experts from the fourth class of Imam mazhab, you are people who demand religious knowledge from the people living before you and so on without being careless in choosing a teacher where you seek knowledge from him. By studying in this way, you actually hold the key and even become the door to the knowledge of Islam. Therefore, if you enter a house not through the door you are said to be a thief.”

²⁷ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). *Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail)*. 7, 192

²⁸ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). *Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail)*. 7, 193.

²⁹ Abshor, Muhammad Ulil. (2016). *Dinamika Ijtihad Nahdlatul Ulama (Analisis Pergeseran Paradigma dalam Lembaga Bahtsul Masail NU)*. *Millatī, Journal of Islamic Studies and Humanities*, 1, 230.

The existence of a madzhab attitude as above has a logical consequence on the existence of the concept of polar mu'tabarah, which means books that are oriented towards the four schools of thought. The Shafi'iyyah books that are used as references, first are *I'anatu al-Thalibin* by al-Bakri bin Muhammad Syata al-Dimyati, *Bughyah al-Mustarsyidin* by Abdurrahman bin Muhammad bin Husain bin Umar Ba'alawi, *Hasyiyah al-Bajury ala Fathi al-Qarib* written by Ibrahim al-Bajuri, *Hasyiyah al-Syarwani* in the style of *Tuhfah al-Muhtaj* by Abdul Hamid al-Syarwani, *Tuhfah al-Muhtaj* by Ibn Hajar al-Haitami. From malikiyyah, are *Syamsu al-Isyaq* by Muhammad al-Maliki and *Bidayatu al-Mujtahid wa Nihayatu al-Muqtashid* by al-Walid Ibn Rushd.³⁰

But in practice the Kyai is strong adherents of the Syafi'i, inner Shodik school.³¹ The inclination of only one madzab imam out of four madzab imams is based on the perspective that understands that in the Islamic tradition, scientific transmission must not be interrupted. To ensure the validity of the knowledge that is owned, the scientific chain (*sanad*) must continue and end in the Prophet

³⁰ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). *Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail)*. 7, 116.

³¹ Salam, Abdul. (2013). *Bunga Bank Dalam Perspektif Islam (Studi Pendapat Nahdlatul Ulama Dan Muhammadiyah)* *Jurnal Ekonomi Syariah Indonesia. Jurnal Ekonomi Syariah Indonesia*, 3, 97.

Muhammad. This goal will not be achieved properly when leaving the attitude of madzhab. Menurut Masyhuri, Bahtsul Masail is committed to following the pattern of 'ala ahl al-Sunnat wa al-Jamā'at, even the first issue stipulated in Congress I (1926 AD) emphasized that it is obligatory for Muslims to follow one of the four schools.³²

The facts show, genealogically, KH. Hasyim Asy'ari inherited a paradigm of religious thinking from the Haramain scholars in the middle ages who tended to, more or less, be influenced by taqlid and fanatical attitudes towards the school of Nawawi al-Bantani, Sheikh Ahmad Khatib al-Minangkabawi, and others who subsequently arrived to KH. Hasyim Asy'ari and finally passed down again until now as seen in the NU tradition.³³

In addition, NU is an inseparable part of society and the nation that has an attitude and position in and participates in development. The attitude and stance of the Nahdlatul Ulama then became one of the guidelines and references for NU residents in their religious, social and state life. The attitude of NU in the social sector is inspired and based on the attitudes and religious beliefs that have been adopted. NU's social attitude is characterized by the following

³² Zuhroni. Studi Komparasi Metodologi Penetapan Hukum Islam Lembaga-Lembaga Fatwa Di Indonesia. ADIL : Jurnal Hukum, 3, 51.

³³ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail). 7, 116.

characteristics: tawasut and i'tidal, tasamuh, tawazun and amar ma'ruf nahi munkar.³⁴

3. The Method of Istinbath Law

Lajnah Bahtsul Masail's position from NU's 'ijtihad model' in solving a problem prefers to use the term istinbat al-hukmi (legal determination), (Absor). The method of legal determination or legal istinbath is the most important part and influences the resulting law. In terms of terms, it is issuing fiqh laws from the Al-Qur'an and As-sunnah through the theoretical framework used by ulama 'ushul fiqh.³⁵ According to Sahal Mahfudz, the meaning of istinbath al-Ahkam (law) among NU does not take the law directly from the original source, including the Al-Qur'an and Sunnah (hadith). However, legal exploration was carried out by dynamically by tathsbiq the fuqaha texts (texts).³⁶ Istinbath directly from the original, namely Al-Qur'an and Hadith which tends to the meaning of ijtihad, for Nahdlatul Ulama Ulama is still very difficult to do because of limited knowledge, especially in the fields of supporting and complementary sciences that must be mastered by mujtahids.³⁷

There are 3 methods of legal istinbath used by the Bahtsul Masail

³⁴ Amin, Masyhur, M., (1996), NU dan Ijtihad Politik Kenegaraannya, Cet. I Yogyakarta: Al-Amin Press.

³⁵ Munawwir, Ahmad Warson. *Kamus al-Munawwir*. Yogyakarta: PP. Al-Munawwir

³⁶ Mahfudz, Sahal. (2003). *Nuansa Fiqih Sosial.cet II*. Yogyakarta: LKIS, 24.

³⁷ Mahfudz, Sahal. (2003). *Nuansa Fiqih Sosial.cet II*. Yogyakarta: LKIS, 45.

Nahdlatul Ulama Institute. First, the Qouly method is a method of legal istinbath based on fiqh books from the fourth school of thought, by referring to and directly referring to the sound of the text. Or in other words, immediately follow the opinions that have been made within the scope of certain schools of thought. This method is used because the answer is sufficient for the book's statement and there is only one opinion.³⁸ The qouly method is used in cases where the answer is found in like a book and only one qaul (opinion), then that qaul is taken. This concept is evidenced by the fact that in almost all decisions produced by the Lajnah, one must include the opinion of a madzhab imam. Ahmad Zahro noted that of all the Bahtsul Masail Decrees from 1926 to 1999, there were only 4 Lajnahs that contained the arguments from the Koran directly.³⁹

Second, the Taqrir Jama'i method. In the case when the answer has been fulfilled by the statement of the book and there is more than one opinion, then taqrir jama'i (voting) is carried out to determine one statement. Third, the Ilhaqi (analogy) method is to analogize the law of certain problems that have no legal basis with

similar cases that already exist in a reference book,⁴⁰ or equate the law of a case / problem that has not been answered by the book (there is no legal provision) with the case / problem. similar which has been answered by the book (there is a statute of law).⁴¹ Fourth, the Manhajiy method is a way of solving religious problems pursued by the Bahtsul Masāil Institute by following the line of thought and rules of establishing law that have been compiled by the madzhab priest.⁴²

4. The view of bank interest according to LBM-NU

The issue of banks and their interest in the view of Nahdlatul Ulama (NU) has become a significant problem, so it needs to get considerable attention from NU scholars. In connection with the issue of bank interest, NU through its Bahsul Masāil study forum there was a dynamic, at Congress II number 28 (9 October 1927 AD in Surabaya. There were dynamics in determining bank law and bank interest, the reality is that banks are currently unknown in the era of the Prophet, so that raises the question whether in fact bank interest today is the same as the practice of usury known during the time of

³⁸ Abshor, Muhammad Ulil. (2016). *Dinamika Ijtihad Nahdlatul Ulama (Analisis Pergeseran Paradigma dalam Lembaga Bahtsul Masail NU)*. Millatī, Journal of Islamic Studies and Humanities, 1, 239.

³⁹ Jamal, Mulyono dan Aziz, Muhammad Abdul. (2013). *Metodologi Istinbath Muhammadiyah Dan NU: (Kajian Perbandingan Majelis Tarjih Dan Lajnah Bahtsul Masail)*. 7, 194.

⁴⁰ Zahro, Ahmad. (2004). *Tradisi Intlektual NU: Lajnah Bahstul Masail 1926-1999*. Yogyakarta: LKIS, 143

⁴¹ Masyhuri, A. Aziz. (2004). *Masalah Keagamaan, Jilid 2*. Jakarta: PPRMI dan Qultum Media, 89.

⁴² Zahro, Ahmad. (2004). *Tradisi Intlektual NU: Lajnah Bahstul Masail 1926-1999*. Yogyakarta: LKIS, 122.

the Prophet Muhammad which was inhumane, exploitative, and for consumptive purposes, or like the current bank model which was generally used to finance productive endeavors. to people who borrow for the sake of fulfilling life, not for business purposes like the present era. Then to stipulate the law on bank interest is equated with the law of pawning. This NU fatwa focuses more on legal studies that have been expressed by scholars of the mazhab and conveyed in the pole al mu Tabarah are respected books that are used as lan dasan and considerations in issuing fatwas. The law stipulated on bank interest: first, it is haram because it includes goods for which benefits are collected (rent); secondly lawful, because there are no conditions determined at the time of the contract, this is based on the opinion of legal experts, that the 'urf in effect is not a condition; and the third is syubhat because (there is no clarity about the essence of halal-haram). Meanwhile, mu'tamar decided that what was more careful was the first mu'tamir's opinion, which is to make interest in the banking world a law. The attitude of NU as in this Salam is based on taking the hujjah from the mu'tabar book, namely:

واما القرض بشرط جرنفع لمقرضف فاسد

At the National Conference of Alim Ulama Nahdlatul Ulama in Lampung, 1992, there were differences in the deliberations regarding the law of conventional bank

interest, including: a). Bank and bank interest are the same as usury in absolute terms, so the law is haram; b). opinion that does not equate bank interest with usury, so that the law is permissible. c). an opinion that says the law is shubhat (not identical with haram).

Opinions on the prohibition of law on banks and bank interest have several variations of the law, including: a). Interest in all its types is the same as usury, so the law is haram. b. Interest is the same as usury and the law is haram. However, it may be levied while the Islamic banking system is not operating (without interest). c. Interest is soma with usury, the law is haram. However, it may be collected because of a strong need (hajah rojihah). Opinions on banks and bank interest may also have legal variations, including: a). Consumptive interest is the same as usury, the law is haram, and productive interest is not the same as usury, the law is lawful; b). Interest earned from current accounts is not the same as usury, the law is lawful; c). Interest received on deposits wagered in the bank is legal; d) Bank interest is not haram, if the bank sets the general interest rate in advance.

With the khilafiyah problem, the principles of mutual tolerance and mutual respect must be put forward. because, each group of ulama has devoted their energy to finding the law of the problem, and in the end their opinions remain different. For that,

a Muslim is given the freedom to choose an opinion according to the stability of his heart. If a Muslim Ainul believes that bank interest is permissible, then he can follow the opinion of the scholars who allow it. Meanwhile, if his heart is in doubt, he can follow the opinion of the scholars who forbid it. The Prophet sallallahu 'alaihi wasallam said:

الرِّبُّ مَا اطْمَأَنَّ إِلَيْهِ النَّفْسُ وَاطْمَأَنَّ إِلَيْهِ
الْقَلْبُ، وَالْإِثْمُ مَا حَاكَ فِي النَّفْسِ وَتَرَدَّدَ
فِي الصَّدْرِ وَإِنْ أَفْتَاكَ النَّاسُ وَأَفْتُوكَ

“Goodness is whatever calms your heart and soul. Whereas sin is what causes the heart to waver and worry even though many people say that it is good.” (HR. Ahmad).⁴³

CONCLUSION

Nahdlatul Ulama has not set bank interest in a legal decree, there was khilafiyah. There are three laws, the first is haram because it is equal to usury, the second is because bank interest is not the same as usury and the third is syubhat. The method used in making the law of istinbat al-hukmi (legal determination) of bank interest is the Ilhaqi (analogy) method, which analogizes the law of certain problems that have no legal basis with

similar cases that already exist in a reference book.

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⁴³ Haq, Husnul. <https://islam.nu.or.id/post/read/92420/ragam-pendapat-ulama-tentang-hukum-bunga-bank>, 2018.

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