

AN EXPLORATION OF THE LAW OF SUICIDE BOMBING FROM THE PERSPECTIVE OF THE INDONESIAN ULEMA COUNCIL AND NAHDLATUL ULAMA

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ABSTRACT

This article aims to explore the law of suicide bombing from the perspective of the Indonesian Ulema Council (MUI) and Nahdlatul Ulama (NU). This research uses a qualitative method with an explorative analysis approach to examine the legal structure of suicide bombing according to MUI and NU. Data processing is done through library research, using secondary data sources such as MUI Fatwa No. 3 Year 2004 on Terrorism, MUI Fatwa No: 3 Year 2004 on Terrorism, Decision of Bahtsul Masa'il NU Year 2022, as well as various books and articles based on Open Journal System (OJS) regarding the law of suicide bombing. Data analysis was conducted using explorative descriptive techniques, including data reduction, data presentation, and verification. The research results show that: First, MUI uses three methods of legal istinbath, namely nash qath'i, qauli, and manhaj approach. In contrast, NU uses three methods of legal istinbath, namely qauli, ilhaqy, and manhaj. Second, both MUI and NU refer to the text of the Qur'an and Hadith. Third, MUI and NU agree to forbid suicide bombings that cause the death of civilians, but there are differences in the conditions and situations that allow it. MUI gives room for the permissibility of suicide bombing if the country is in a state of war and the action can make the enemy afraid, so it is considered as amaliyah al-istisyhad. Meanwhile, NU closes all permissibility in suicide bombing and prioritises peace efforts through consolidation.

KEYWORDS *Suicide bombing, MUI, NU*

INTRODUCTION

In the contemporary era with various developments in information technology, there are implications for changing the understanding of jihad. The view that still emerges is that jihad means war against infidels who are considered enemies to defend the religion of Allah. (Horowitz 2015). They consider that Islam allows a person to fight a war by determining the reasons for the purpose of the war, namely rejecting injustice, respecting places of worship, guaranteeing freedom of land, eliminating slander, and guaranteeing the freedom of everyone to embrace and practice religion (McCauley 2014). (McCauley 2014). When jihad is separated from the teachings of Islam, it will have a negative impact, become static, and unable to respond to all developments of the times. (Afdholy 2019).

The reality shows various cases of anarchism and terrorism carried out by some groups of Muslims who carry out attacks by sacrificing themselves into the

action. (Rivkind 2007). This is done in the name of religion (Islam) by justifying the action from the recommendation to do jihad (Ibrahim 2023). (Ibrahim 2023). In various literatures, Jihad is the height of Islam. If Islam is compared to a mountain then the top of the high mountain is jihad. (Abdullah 2023). However, jihad is actually the hardest and most difficult practice in front of the human soul, feelings and desires, but it must still be carried out, so the doctrine of the main goal of jihad is to achieve *shahaddah* (martyrdom). (Bustomi 2021). Where this *shahadah* is a high degree in the side of Allah SWT with the degree of the *shiddiqin*. Martyrdom is the perfect death towards the happiness of the afterlife. (Kumala 2021)

One of the methods towards martyrdom that has become a *trend* is suicide *bombing* (*human bombing*), noting that there have been 13 (thirteen) suicide bombing cases in Indonesia, namely Dofir (2021):

1. Bali Bombing I in 2002, or more precisely 12 October 2002. The incident then became a dark streak

for the first time the Indonesian nation faced brutal acts of terrorism in history.

2. JW Marriot bombing on 5 August 2003.
3. Australian Embassy Bombing Still in Jakarta, 9 September 2004.
4. Bali Bombing II on 1 October 2005.
5. Mega Kuningan bombing on 17 July 2009
6. Cirebon Bombing 2011 Az Dzikra Mosque, Cirebon Police Station complex, West Java, on 15 April 2011.
7. Sarinah bombing on 14 January 2016
8. Solo bombing on 5 July 2016
9. Kampung Melayu bombing on 24 May 2017
10. Surabaya Church Bombing on 13 May 2018 at 06.30 WIB. Santa Maria Catholic Church Less than an hour, or precisely at 07.15 WIB. Indonesian Christian Church (GKI) on Jalan Diponegoro Surabaya, 38 minutes later it was the turn of the Surabaya Central Pentecostal Church on Jalan Arjuna Sawahan.
11. Surabaya Police bombing on 14 May 2018
12. Medan Police Station Bombing on 13 November 2019
13. Makassar Cathedral Bombing on 28 March 2021

For MUI, the law of jihad is obligatory, when a leader orders it and it is forbidden to turn away or run from the battlefield. If the form of jihad is carried out by killing oneself by placing a bomb on the body, then it is strictly prohibited against such acts, as in the Fatwa of the Indonesian Ulema Council Number 3 of 2004 concerning Terrorism. (MUI (Indonesian Ulema Council) 2004):

"Suicide bombing is Haram because it is a form of decision (al-ya'su) and self-harm (ihlak an-nafs), whether it is done in a peaceful area (dar al-shulh/dar al-da'wah) or in a war zone (dar al-harb)" (Part Three, point 2).

MUI's fatwa argues that suicide bombing is not jihad, but rather suicide in vain, as it is a form of desperation and self-

harm. But in Part Three Point 3, MUI states the permissibility of suicide *"in war zones or in a state of war"* to seek martyrdom, namely:

"Amaliyah al-Istisyhad (the act of seeking martyrdom) is permissible because it is part of binnafsi jihad that is carried out in a war zone (dar al-harb) or in a state of war with the aim of causing fear (irhab) and greater harm on the part of the enemies of Islam, including taking actions that can result in killing oneself. 'Amaliyah al-Istisyhad is different from suicide"

In line with the above, Nahdatul Ulama (NU) through Bahtsul Masail NU in the National Conference of Alim Ulama in Pondok Gede in 2002 on the law of *intihar* (self-sacrifice). The decision states that suicide bombing (*intihar*) carried out by terrorists will not bring them to the level of martyrdom, because their motive is frustration (despair) in the face of life. NU permits suicide bombing or can be considered as shuhadah when (NU (Nahdhatul Ulama) 2012) :

".....Suicide in Islam is forbidden by religion and is a major sin, but the act of sacrificing one's life to the point of death in the fight against injustice, can be justified and can even be a shahadah, if; (i) The intention is really only to protect or fight for legitimate basic rights (al-dharuriyyat al-khams), not for the purpose of harming oneself (ahlak al-nafs); (ii) It is believed that there is no other way that is more effective and less risky; (iii) Taking the target of those who are believed to be the brains and perpetrators of injustice itself....."

Some studies that discuss suicide bombing such as the writing of Jerrold M. Post et al entitled "The Psychology of Suicide Terrorism", they conclude that the occurrence of suicide bombing is driven by the influence of deviant beliefs by sacrificing themselves to kill the community (Weine 2009). (Weine 2009). Naomi Janowitz's article titled "Framing the Intentions of Suicide Bombers", her findings explain that the factors of hatred and revenge make a person justify suicide bombing at the

expense of religion. (Janowitz 2022) An article by M. Iqbal et al entitled "Ulama and Radicalism in Contemporary Indonesia: Response of Al Washliyah's Ulama on Radicalism", they concluded that in general all Islamic groups that are still based on *ahlul assunah* prohibit people from carrying out suicide bombings that result in the death of civilians so that they condemn these actions, this does not represent the values of Islamic teachings. (Iqbal 2021).

Firmanda Taufiq and Ayu Maulida Alkholid's article entitled "Contextualisation of Hadith on Jihad and its Relevance in Middle Eastern Groups", they concluded that an understanding that is contextual and deviates from the true meaning of jihad makes terrorist groups justify suicide bombings that result in the death of civilians. (Alkholid 2021). Zakiyah et al's article entitled "They are Just the Same; Everyday Life of Terrorists' Families in East Java Indonesia", they concluded that suicide bombers quickly adapt to the surrounding environment and even participate in activities carried out by the community, this aims to make them physically recognised by the surrounding environment so that their main purpose is not known. (Wahab 2023)

Enver Arpa's article entitled "Contemporary historical analysis on the legitimacy of "suicide attacks" as a method of war" explains that Islam does not justify suicide bombings aimed at civilians as a strategy in war, which is contrary to Islamic values that maintain peace and justice. (Arpa 2019). Hari Harjanto Setiawan et al's article entitled "Children as Perpetrators of Terrorism in the Perspective of Social Ecology", found that not only adults carry out suicide bombings, terrorist groups also involve children to want to carry out these actions by inciting hatred for certain groups (Azikin 2020). (Azikin 2020). This research complements the existing dimensions related to the object of study of suicide bombing, namely examining how the law of suicide bombing from the perspective of Islamic mass organizations in Indonesia, especially MUI and NU. Thus, it appears that

the difference with previous research is that this research focuses more on the law of suicide bombing.

This research aims to elaborate on how Islamic organisations such as MUI and NU determine the law regarding suicide bombings that are rampant around the world. This action has caused scepticism towards Islam and triggered Islamophobia. By understanding the legal concepts built by MUI and NU, we can get a clear benchmark in understanding the laws related to suicide bombings.

METHODS

The research method used is qualitative research with an explorative analysis approach, which examines the law of suicide bombing by exploring the legal structure from the perspectives of MUI and NU on the law of suicide bombing. Data processing is done by processing *library materials (library research)*. The data sources used are secondary data sources, namely MUI's Fatwa No. 3/2004 on Terrorism and NU's perspective on the law of suicide bombing: 3 Year 2004 on Terrorism and Decision of Bahtsul Masa'il NU Year 2022 as well as various books and articles based on OJS (*Open Journal System*) about the law of suicide bombing. Techniques in analysing data are analysed with explorative descriptive analysis using reduction, display, and verification techniques.

RESULT/FINDINGS AND DISCUSSION

The Istinbath Method of MUI and NU in Determining the Law of Suicide Bombing

The method used by MUI Fatwa Commission in the process of fatwa determination is done through three approaches, namely *Nash Qath'i Approach*, *Qauli Approach* and *Manhaji Approach*. First, the *nash qoth'i* approach is done by adhering to the *nash* al-Qur'an or hadith for a problem if the problem determined is contained in the *nash* al-Qur'an or hadith clearly. Meanwhile, if it is not found in the text of the Qur'an or hadith, the answer is carried out

with the *qauli* and *manhaji* approaches. (Syamsuddin 2006).

Second, the *qauli* approach is an approach in the process of determining fatwas based on the opinions of the imams of the mazhab in the leading *fiqh* books (*al-kutub al-mu'tabarrah*). The *qauli* approach is carried out if the answer obtained is fulfilled by the opinion in the leading *fiqh* books (*al-kutub al-mu'tabarrah*), or there is only one opinion (*qauli*) but it is not relevant or difficult to implement (*ta'assur* or *ta'adzdzur al-'amal* or *shu'ubah al-'amal*), or because the legal reason (*illah*) changes. So in these conditions it is necessary to re-examine (*l'adatun nazhar*), as was done by previous scholars. Therefore, they are not fixated on the opinions of previous scholars that have existed when these opinions are no longer sufficient to be used as guidelines. (Suryani 2010).

Third, the *manhaji* approach is an approach in the process of determining fatwa by using the main rules (*al-qowaid al-ushuliyah*) and methodology developed by the imam madhab in formulating the law of a problem. The *manhaji* approach is carried out through collective *ijtihad* (*ijtihad jama'i*), using methods: bringing together different opinions (*al-Jam'u wat taufiq*), choosing the opinion that is more accurate in its evidence (*tarjihi*), analogising the problems that arise with problems that have been determined by the law in the books of *fiqh* (*ilhaqi*) and *istinbathi*.

In issues where there is *khilafiyah* among the imams of the madhhab, the determination of a fatwa is based on the results of efforts to find common ground between the opinions of the madhhab through the *al-Jam'u wa al-Taufiq* method (National Shari'ah Council MUI and Bank Indonesia). If the *al-Jam'u wa al-Taufiq* effort is unsuccessful, then the determination of the fatwa is carried out through the *tarjih method* (choosing the opinion of the ulama which is considered the strongest argument and argumentation), namely by using the method of comparing madhhabs (*muqaran al-madzahib*) and by using the methods of comparative *ushul fiqh* (Lukman Hakim, *The Qur'an Towards a Fair Monetary System*, p.

20). When a problem or a case there is no opinion (*qaul*) that explains exactly in the previous *fiqh* book (*al-kutub al-mu'tabarrah*) but there is an equivalent of the problem, then the answer is done through the *ilhaqi* method, namely equating a problem that occurs with the equivalent case in *al-kutub al-mu'tabarrah*.

As an activity that aims to discuss issues related to the determination of Islamic religious law, there is certainly an *istinbat al-ahkam* (law determination) mechanism used in *Bahtsul Masail*. The problem-solving mechanism adopted by *Lajnah Bahtsul Masail* (LBM) mostly directly refers to *mu'tabarrah* books from among the four madhhabs, especially Syafi'i. This is different from modernists who are more likely to refer to the books of the four madhhabs. This is different from the modernists who refer more directly to the Qur'an and as-Sunnah and to a certain extent allow rational reasoning. While the traditionalists (in this case NU Ulama) as long as it is still possible tend to refer to the *harfiyah* (textual) application of the *fiqh* laws set by the great scholars in the past as contained in the yellow book. (Zahro 2004)

The definition of *istinbath al-ahkam* law among NU is not taking the law directly from its original sources, namely the Qur'an and Sunnah, but in accordance with the basic attitude of *bermazhab-mentathibkan* (applying) dynamically *nash-nash fuqaha* in the context of the problem for which the law is sought. This is because *istinbat* by extracting the law directly from the Al-Quran and al-Hadith is considered an *ijtihad* which NU scholars find very difficult due to the limitations of the *mubahis* (*Bahtsul Masail* participants) who have not met the criteria as *mujtahid*. The process of taking *aqwal al-mujtahid* is still divided into three. If by chance a *qaul mansus* (opinion supported by the *text*) is found, then that *qaul* is used. If not found, then switch to *qaul mukharraj* (opinion *takhrij* results). If two equally strong opinions are found and there is a difference of scholarly opinion, then the strongest is taken in accordance with the judgement of *ahl al-tarjih*.

Meanwhile, *istinbath* in its second sense, besides being practical, can be done by all NU scholars who have been able to understand the fiqh books in accordance with their standard terminology. Therefore, the phrase *istinbath* in NU circles, especially in the work of *bahtsu masa'il* of the NU Syuriah, is not popular because the phrase has been popular among NU scholars with its first connotation of *ijtihad*, something that the Syuriah scholars do not do due to limited knowledge.

Systematically the method of law making carried out by the NU LBM is: *First: Qauli* method, *qauli* method is a method of determining the law by examining the problems that occur, then looking for answers in the books of fiqh by the imams of the mazhab or ulama mazhab by referring and referring to the original text. (Zahro 2005). The text that is used as a reference taken from the book of the imam of the mazhab is called *qaul*, while the text taken from the book of the ulama mazhab is called the *face*. In simple terms, this method follows the opinions that already exist within the scope of a particular school of thought. This method is more widely applied to the decision of the NU LBM, because this method is a method that has been agreed to be used in solving problems in the NU LBM. (Latif 2019)

Secondly: Ilhaqy method, which is when in the process of finding answers there are many *qaul / faces*, it is done by *taqdir jam'i* (making a choice of one of the many *qaul / faces* that best suits the problem discussed). And if no text is found that is in accordance with the problem, it is done by means of *ilhaqul masail hi mazha'iriha* (equating the law of a problem with a similar problem that already has legal provisions, equating existing opinions). (Yahya 2010)

Third: Munhaj method, *munhaj* method is a method used by NU LBM to solve problems if the *qauli method* is not found. This method practices the way of thinking and rules of determining the law that has been compiled by the imam mazhab. (Latif 2019). The key word used in this

method is *istinbat*. However, the word *istinbat* in the NU LBM has a different meaning from *istibat* which is found by ushul scholars. If in ushul fiqh the word *istinbat* is used for the process of extracting the law from the *Qur'an and As-sunnah*, but in LBM NU *istinbat* in question is to dynamically treat the texts of fuqoha in the core of the problem for which legal determination is sought. (Muzadi 2000).

During the journey of the NU LBM in solving problems almost never use the *munhaj* method, with the reason that all the problems that are developing now there are already legal provisions in the books of the imam mazhab or *mu'tabar* mazhab scholars. Although the method was established at the National Conference of Alim Ulama in Bandar Lampung in 1992.

Instead, the phrase *bahtsul masa'il* is used, which means discussing *waqi'ah* (occurring) problems through *maraji'* (references), namely *kutubul-fuqaha* (books by the fuqaha). (Yahya 2010). The fact that the Shafi'i Mazhab is too dominant does exist. The opinions of Shafi'i scholars are still quite dominant in the NU *bahtsul masa'il* forum. However, I need to explain that the dominance of Sayfi'i does not mean that NU scholars reject the opinions (*aqwal*) of scholars outside Sayfi'iyah. This was done because the NU scholars did not have other references outside the Shafi'i school of thought such as the book of *al-Mudawanah* (Imam Malik), *Kanzal al-Wushul* (Bazdawi al-Hanafi), *al-Ihkam fi Ushul al-Ahkam* (Ibn Hazm). (Muzadi 2000).

Istidlal MUI and NU on the Law of Suicide Bombing

Islam explains that doing damage that causes many people to be disturbed is prohibited, even the punishment obtained for the perpetrators of the riot is killed or crucified (QS.al-Maidah [5]: 33).

انَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِّنْ خَلْفٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ جِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ ٣٣

Verily, the recompense of those who fight against Allah and His Messenger

and cause mischief in the earth, is only that they should be killed or crucified, or their hands and feet should be cut off in equal measure, or they should be banished from their country. Such is (a) humiliation for them in the world, and in the Hereafter they shall have a great torment,

The word **يُخَارِبُونَ** means opposite and contradictory. (Katsir 1986). The meaning of this sentence can be shown in the sense of disbelief, roadblocks, as well as making damage to the earth, this has a lot of meaning and covers a variety of crimes. So many of the salaf scholars, including Sa'id ibn Musayyab, said that grasping the dirham and dinar is included in committing corruption on earth. (Katsir 1986)

Those who disrupt security and disturb the peace, obstruct the implementation of the law, justice and Shari'ah, damage public interests such as destroying livestock, destroying agriculture and others, they can be killed, crucified, cut off their hands and feet with a cross or exiled. According to the majority, the punishment of killing is carried out against security intruders accompanied by murder, the punishment of crucifixion until death is carried out against security intruders accompanied by murder and confiscation of property, the punishment of cutting hands for those who commit property confiscation with the punishment of security intruders accompanied by threats and frightening. (Al-Thabari 1954).

The act of holding someone's property without any clear reason is a matter of damage, of course the suicide bombing is one form of damage felt by many people carried out by a group of people on behalf of the movement that has been approved by Religion, even to the point of exploding the bomb in the middle of the crowd, will certainly cause great damage and chaos. In fact, such actions are not necessarily favourable to Islam by killing innocent people. (Al-Thabari 1954).

Islam forbids taking the life of a person, in the case of necessity killing a person if he has killed another person or has

made damage on earth that endangers mankind (QS. Al-Baqarah [2]: 195).

وَأَنْفِقُوا فِي سَبِيلِ اللَّهِ وَلَا تُلْقُوا بِأَيْدِيكُمْ إِلَى التَّهْلُكَةِ
وَأَحْسِنُوا إِنَّ اللَّهَ يُحِبُّ الْمُحْسِنِينَ ١٩٥

And spend (your wealth) in the way of Allah, and do not bring yourselves down to destruction, and do good, for surely Allah loves those who do good.

There are several opinions regarding the revelation of this verse, based on Imam Bukhari who said, narrated to us Ishaq, narrated to us An-Nadr, narrated to us Shu'bah, from Sulaiman, that he had heard Abu Wail say from Huzaifah in connection with His words: And spend (your wealth) in the way of Allah, and do not bring yourselves down to destruction (Al-Baqarah: 195). This verse was revealed with regard to the issue of giving maintenance. On the other hand, Ibn Abu Hatim, from Al-Hasan ibnu Muhammad ibnus Sabbah, from Abu Mu'awiyah, from Al-A'masy. Ibn Abu Hatim said that the same thing was narrated from Ibn Abbas, Mujahid, Ikrimah, Sa'id ibn Jubair, Ata, Ad-Dahhak, Al-Hasan, Qatadah, As-Saddi, and Muqatil Ibn Hayyan.

Islam forbids self-mutilation, even to the point of killing oneself by any means.

رواه أبو الزناد , عن الأعرج , عن أبي هريرة عن النبي صلى الله عليه و سلم : قال رسول الله علمه و سلم : من قتل نفسه بشئ (عذب به يوم القيامة (رواه المسلم

Abu Zinad narrated from al-'Araj from Abu Hurairah from the Prophet SAW, the Prophet SAW said: Whoever kills himself in any way will be tortured in the same way that he kills himself on the Day of Judgement (HR Muslim).

(NU) When his actions benefit the Muslim army, and he dies for the honour of Allaah's religion and to humiliate the disbelievers, then that is a noble position for which Allaah praises the believers, as He

says: (QS. Al-Taubah: 111)
الْمُؤْمِنِينَ أَنْفُسَهُمْ وَأَمْ وَلَهُمْ بِأَنْ لَهُمُ الْجَنَّةَ يُقْتَلُونَ فِي سَبِيلِ اللَّهِ فَيَقْتُلُونَ وَيُقْتَلُونَ وَعَدَّا عَلَيْهِ حَقًّا فِي التَّوْرَةِ وَالْإِنْجِيلِ وَالْفُرْآنِ وَمَنْ أَوْفَى بِعَهْدِهِ مِنَ اللَّهِ فَاسْتَبْشِرُوا بِنَيْعِكُمُ الَّذِي بَايَعْتُمْ بِهِ وَذَلِكَ هُوَ الْفَوْزُ الْعَظِيمُ ١١١

Verily, Allah has purchased from the believers their selves and their treasures by giving them Paradise. They fight in the cause of Allah; then they kill or are killed. (That has been) a true promise from Allah in the Torah, the Gospel and the Quran. And who is more faithful to his promise (than) Allah? So rejoice in the trade you have made, and that is a great victory.

When a person hopes to benefit the religion, then he sacrifices himself for it until he dies, then he is in the highest rank of the *martyrs*, as in his words: (QS.Lukman: 17)

يُنِّي أَمِّمِ الصَّلَاةَ وَأْمُرْ بِالْمَعْرُوفِ وَأَنْتَ عَنِ الْمُنْكَرِ
وَأَصْبِرْ عَلَى مَا أَصَابَكَ إِنَّ ذَلِكَ مِنْ عَزْمِ الْأُمُورِ ١٧

O my son, establish prayer and enjoin (people) to do good and prevent (them) from doing evil and be patient with what befalls you. Verily, such are among the things that are required (by Allah).

Islam permits war because the enemy has fought the Muslims or persecuted the Muslims or has expelled the Muslims from their homes without just cause, (QS. Al-Hajj [22]: 39-40).

أَذِنَ لِلَّذِينَ يُقْتَلُونَ بِأَنَّهُمْ ظَلِمُوا وَإِنَّ اللَّهَ عَلَىٰ نَصْرِهِمْ لَقَدِيرٌ ٣٩ الَّذِينَ أُخْرِجُوا مِنْ دِيَارِهِمْ بِغَيْرِ حَقٍّ إِلَّا أَنْ يَقُولُوا رَبُّنَا اللَّهُ وَلَوْلَا دَفْعُ اللَّهِ النَّاسَ بَعْضَهُمْ بِبَعْضٍ لَهَدَمَتِ صُومُعُ وَيَبْعُ وَصَلَوَاتُ وَمَسْجِدُ يُذَكَّرُ فِيهَا اسْمُ اللَّهِ كَثِيرًا وَلَيَنْصُرَنَّ اللَّهُ مَنْ يَنْصُرُهُ إِنَّ اللَّهَ لَقَوِيٌّ عَزِيزٌ ٤٠

(39) It is permissible for those who are at war, for indeed they have been wronged. And Allah is indeed mighty to help them. (40) (Those) who have been expelled from their homes without just cause, except that they said: "Our Lord is Allah". And if Allah had not repelled the violence of some men for the violence of others, the monasteries of the Christians, the churches, the synagogues of the Jews, and the mosques, in which the name of Allah was often mentioned, would have been demolished. Surely Allah will help those who help Him. Verily,

Allah is indeed the Strongest and the Mightiest,

Hadith that confronts a Muslim with a polytheist:

ثنا سليمان بن داود الهاشمي قال أنا أبو بكر عن أبي إسحاق قال قلت للبراء : الرجل يحمل على المشركين أهو ممن ألقى بيده إلى التهلكة قال لا لأن الله عز و جل بعث رسوله صلى الله عليه و سلم فقال { فقاتل في سبيل الله لا تكلف إلا نفسك } إنما ذاك في النفقة تعليق شعيب الأرنؤوط : سبب نزول الآية صحيح من حديث حذيفة وهذا إسناد مختلف في متنه على أبي اسحق (رواه أحمد)

Sulaiman ibn Daud as-Hashimy narrated to us, he said Abu Bakr narrated to us from Abu Isaac saying, I said to al-Baraq : When a man is brought to the polytheists, is he one of those who harm themselves? He replied: No, because Allah, *the Almighty*, sent His Messenger and said { فقاتل في سبيل الله لا تكلف إلا نفسك }

Verily such a thing (avoiding destruction) is in the matter of maintenance.

Critical Analysis of Suicide Bombing Law

MUI Fatwa No. 3 Year 2004 on the Law of Suicide Bombing, basically forbids Terrorism and Suicide Bombing, Chairman of the Indonesian Ulema Council (MUI) Kiai H.Miftachul Akhyar, reiterated that Terrorism and Suicide Bombing are haram acts and violate religious law. In the MUI fatwa in "Legal Provisions" number 2, it is stated that terrorism is an act that uses violence or threats of violence that creates an atmosphere of terror or fear on a mass scale, which can cause mass casualties and/or cause damage or destruction to strategic vital objects, the environment, public facilities, or international facilities with ideological, political, or security disturbance motives." This means, according to MUI, the original law of suicide bombing is haram. (Mawangi, 2021)

Then in "Legal Provisions" Number 5 it says, "Explosives are all materials that can explode, all types of gunpowder, bombs, incendiary bombs, mines, hand grenades, or

all explosives made of chemicals or other materials used to cause an explosion." This means that the original law of suicide bombing is haraam. For the MUI, the law of jihad is obligatory, when a leader orders it, and it is forbidden to turn away or run away from the battlefield.

If the form of jihad is carried out by killing oneself by placing a bomb on the body, then it is strictly prohibited against such acts, as in MUI Fatwa No. 3 of 2004 concerning Terrorism. (MUI Fatwa):

"... *Suicide bombing is Haram because it is a form of desperation (al-ya'su) and self-harm (ihlak an-nafs), whether it is carried out in areas of peace (dar al-shulh / dar al-da'wah) or in areas of war (dar al-harb).*

The MUI fatwa argues that suicide bombing is not jihad, but rather suicide in vain, because it is an act of desperation and self-harm. In addition, it also causes harm to others. So based on the arguments used by MUI and the method of *intinbat huk*, MUI determined the law of suicide bombing by dividing it into three groups, namely:

1. The person who commits suicide kills himself for his own personal interests, while the perpetrator of *'amaliyah al-istisyhad* offers himself as a sacrifice for the sake of religion and its people. The person who kills himself is a person who is pessimistic about himself and about the provisions of Allah, while the perpetrator of *'amaliyah al-istishhad* is a person whose entire aspiration is to seek the mercy and pleasure of Allah *subhanahu wa Ta'ala*.
2. Suicide bombing is haram because it is a form of desperation (*al-ya'su*) and self-harm (*ihlak an-nafs*), whether carried out in areas of peace (*dar al-shulh/dar al-salam/dar al-da'wah*) or in areas of war (*dar al-harb*).
3. *'Amaliyah al-istisyad* (the act of seeking martyrdom) is permissible because it is part of jihad bin-nafsi which is carried out in a war zone (*dar al-harb*) or

in a state of war with the aim of causing fear (*irhab*) and greater harm on the Islamic side, including taking actions that can result in killing oneself, *'Amaliyah al-istisyhad* is different from suicide.

Based on the fatwa above, MUI divides two categories for suicide bombing, the first is people who commit suicide bombing because of "pessimism about themselves and the provisions of Allah SWT", while the second is "*Amaliyah al-istisyad*" as a form of action to seek martyrdom. This second point is those who commit suicide bombings in defence of religion. If you look at this second difference at first glance, it is difficult to determine the motive for suicide bombing by a person or group of people. But for *Amaliyah al-istisyad* there are conditions determined by MUI, namely; because of jihad carried out in war zones or in a state of war. Is it with the intention of "causing fear or greater harm to the opponent".

The phenomenon of suicide bombings carried out in Indonesia is classified as the first suicide bombing, which is haram. Because suicide bombing is a form of pessimism towards oneself and the provisions of Allah SWT, not in the meaning of *Amaliyah al-istisyad*. Because the Indonesian government officially does not issue a statement or policy on war to defend religion or the state. The narratives built that circulate to legitimise suicide bombings are based on one-sided interpretations by stating that the state is *muduh* together (*toghut*) and must be fought. This narrative is clearly a form of subjectivity or motives of certain individuals or groups that depart from their religious beliefs.

MUI's fatwa at the same time legitimises a person to commit suicide bombing if the enemy is officially announced by the government, because in this context the presence of the state is as *ulil amri* that must be obeyed by all citizens. In fact, in that context, suicide bombing, if carried out, is the path to martyrdom in the view of religion. This means that as long as there is an official announcement from the state that

the situation is "at war", the law of suicide bombing in Indonesia is haram.

If we look at the method of legal *istinbat* used by MUI, it uses *qauli reasoning*, because it is related to defending the legitimate state, especially this fatwa on suicide bombing is placed in the fatwa on terrorism. The reason for stating that MUI uses *qauli reasoning* is at least based on two reasons, first; that many opinions of scholars or religious groups that determine the law of suicide bombing are not in the context of its prohibition, so that some religious groups consider that suicide bombing is permissible on the grounds that the legitimate government (Indonesia) is *toghut*. The second reason is that the fatwa on suicide bombing is included by MUI in the fatwa section on "terrorism", where it can be stated that this fatwa is paying attention to the development of religious understanding that occurs in society. This means that the fatwa on terrorism that includes the regulation on suicide bombing is a new phenomenon faced by Indonesia and requires an appropriate fatwa for it.

NU's fatwa on suicide bombing, if seen, there is no difference with MUI. It's just that the difference is in the method of determining the law. When discussing *bahtsul masail* NU in the National Conference of Alim Ulama in Pondok Gede in 2002 about the law of *intihar* (self-sacrifice). The decision clearly states that suicide in Islam is forbidden by religion and is a major sin, but the act of sacrificing one's life to death in fighting against injustice, then it can be justified even the act is classified as *jihad* with conditions:

1. The intention is really only to protect or fight for basic rights (*al-dharuriyat al-khams*) that are legitimate, not aimed at harming oneself (*akhlak al-nafs*).
2. Believed to have no other more effective and less risky means available
3. Targeting parties believed to be the brains of the perpetrators of injustice themselves

If we compare the fatwas of NU and MUI, there are differences, but the differences are not in determining the haram of suicide bombing because both of them stipulate that suicide bombing is haram. What is different is the standard of measurement of when suicide bombing is permissible. If we look at the MUI fatwa as described in the bag, it appears that the permissibility is done *amaliyah al-istisyad* "in time of war" with the condition that the action is to cause fear and to cause great losses on the side of the enemy of Islam. If you look at the NU fatwa in the bag, what is similar to *Amaliyah al-istisyad* is the first point which is to defend "basic rights". This can be explained because NU has a history of "Jihad Resolution" which was issued against the colonisers.

However, the NU fatwa above on "basic rights" is problematic, because it will be difficult to measure basic rights, especially living in a state where the state can limit the rights of citizens through legislation. The basic rights in question should be further explained or a classification of the basic rights in question should be formed, because there are many opinions about basic rights. So in this context, if compared, the MUI's fatwa is stronger which explicitly recognises the permissibility of self-bombing as a form of *Amaliyah al-istisyad* during war and with two purposes as mentioned above.

However, the NU and MUI fatwas have differences in points two and three, where NU argues in point two is "when there is no other choice" and point when is "directly to the brain of the perpetrator of injustice". This NU fatwa, if seen, calls for peace, not war conditions because there are other ways to improve the situation other than suicide bombing. Meanwhile, MUI's fatwa does not regulate or does not provide space related to this matter. Fatwa about it can be stated as a negotiation (*consensus deliberation*) on the issue at hand, if agreement is reached then a Muslim or Muslim group does not need to commit

suicide bombing. This means that suicide bombing is a last resort.

Furthermore, it also stipulates the permissibility of suicide bombing to directly target the actor who is the perpetrator of the injustice itself. Where the fatwa on this is an act that not only "frightens" the enemy, but causes great harm or immediate defeat to the enemy. If you look at it. This fatwa prevents the suicide bomber from "harming himself", but rather from inflicting a crushing defeat on the enemy. However, the fatwa makes it difficult for someone to commit suicide bombing, considering that the actor or the brain of the perpetrator of injustice is very difficult to find, especially in war conditions. In a war, it is not only about the interests of one country or group that is fighting against each other, it could be that the war is orchestrated by a third party for certain interests,

Based on NU fatwa point two and three, it can be seen that suicide bombing can be done by a Muslim or a Muslim group, it is very difficult to do that, considering the difficulty of the standards set by NU and prioritising peace efforts rather than suicide bombing. This right is also a reinforcement that MUI and NU's fatwa, even though they both punish as haram actions and in certain conditions allow it, but there are differences from the practice of "when suicide bombing is done".

As mentioned above, it can be seen that in this fatwa, NU prioritises qauli arguments, especially since NU does not directly refer to the text of the Quran because it is considered that there is no one within NU who is considered a mufassir. Interestingly, in this opinion, NU bases its opinion on the Imam Syafii school of thought. This is also a differentiator in MUI's method of determining the law, where MUI in determining the law, the main step taken; relying on nash-al-Quran, not qauli arguments such as the method found in NU.

So if seen from the two fatwas above (MUI and NU), the most powerful fatwa (*rajih*) is the NU fatwa. The reason is because NU's fatwa is more relevant to the development of the existing era, so what needs to be put forward is peaceful efforts,

because the choice of "war" is not only detrimental to the integrity of the nation, but those who directly affect it are the people. War will only lead to a prolonged crisis and cause the losing country to be controlled by the winning party. The impacts of war will indirectly "give" legitimacy to someone to commit suicide bombing, because in this context it is difficult to measure self-harm or despair. Meanwhile, the NU fatwa provides strict limitations on who suicide bombings are aimed at.

Even so, NU's fatwas need further explanation related to limitations and explanations, especially on the first point in the NU fatwa. Meanwhile, MUI fatwas must be updated so that they are more contextualised with the times by including fatwas that contain messages of peace.

The Indonesian Ulema Council (MUI) and Nahdlatul Ulama (NU) have different

CONCLUSION

methods of legal *istinbat*, which affect the way they determine the law. MUI uses three methods: *nash qath'i*, *qauli*, and *manhaj* approach. On the other hand, NU uses *qauli*, *ilhaqy*, and *manhaj* methods. The differences in these methods result in variations in the standards of measuring the permissibility of suicide bombing laws, even though they both categorise suicide bombing as haram.

In general, both organisations base their fatwas on the Qur'an and Hadith. However, they have different views in placing the *nash* as the highest legal basis. MUI directly refers to the Qur'an and Hadith in its *istinbat* method, while NU is more indirect because it believes that no one can be considered a *mufassir* among them. NU refers more to the Shafi'i school of thought and also considers the views of other schools of thought.

This difference in *istinbat* method has led to variations in their fatwas, especially in relation to the standard of measurement of the permissibility of suicide bombing. Although MUI and NU agree that suicide bombing is haram, they differ on the context and circumstances in which such actions can be considered. NU tends to be more peace-orientated, while MUI's fatwa regulates the

permissibility only in the context of war to cause fear and harm to the enemy.

As such, these differing views reflect fundamental differences in the approaches to istinbat methods used by MUI and NU. Although both use qauli propositions, the classifications and orientations they apply in their fatwas show how different interpretations can affect the ruling of the law in certain situations

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