

## Acehnese Dayah Ulama's Response to the Use of 'Urf in Istinbath of Fiqh Law from Islam Nusantara

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### Abstract

This study aims to find the reaction or response of Acehnese dayah scholars (ulama) to the use of 'urf in *istinbath* of Fiqh Law from Islam Nusantara. This study departs from the fact that Islam is a religion of *rahmatan lil'alam* as a universal religion, and the development of society in Indonesia has a growing variety of cultures, thus requiring a special fiqh methodology in adapting culture to religion. This research is a field research with a descriptive qualitative research type. Data collection techniques using documentation, observation and interview techniques. The interviewees came from several dayah clerics who are members of several Islamic organizations such as the NU organization, the MPU organization, the HUDA organization, and the Tastaifi Aceh organization. The results of the study show that the response of Islamic religious scholars in Aceh to the use of 'urf in *istinbath* fiqh law of Islam Nusantara, some accepted and some refused. Those who refused reasoned that the use of 'urf *fashid* is not in accordance with the Shari'a and leads to shirk as is customary of *peulheub alen*, *rabu abeh* in Acehnese society. While the use of 'urf *shabih*, Islamic religious scholars in Aceh accept it because it does not conflict with the Shari'a like *kbanduri blang* because it is included in the generality of the argument for charity. Thus, it can be concluded that the *istinbath* method of Islam Nusantara fiqh law can be accepted and has its legality according to Acehnese Islamic scholars when using 'urf *shabih*. The findings of this study contribute to the fact that

customary practices need to be preserved if they do not conflict with Shari'a.

**Kata Kunci:** Acehese Cleric; *Urf*; Istinbath Method; Islam Nusantara

## Introduction

One of the upheavals in the dynamics of contemporary Islam in Indonesia is the Islam Nusantara Idea. Islam Nusantara is a discourse that is in the spotlight of Indonesian Muslims, even stealing the attention of Muslims in the world, both among academics and scholars and religious leaders, even Universitas Nahdlatul Ulama Blitar has made Islam Nusantara as one of its courses.<sup>1</sup> This idea is increasingly recognized in Indonesia after it was formally formulated and popularized starting from the 33rd congress of Nahdlatul Ulama which was held in Jombang, East Java from 1 to 5 August 2015, with the theme "Strengthening Nusantara Islam for Peace in Indonesia and the World". Even though this theme emerged from among the largest organizations in Indonesia which incidentally consisted of ulemas, it still left pros and cons, from outside NU as well as from within NU. For example, those who reject Islam Nusantara are Faisal Ismail and Hamid Fahmi Zarkasyi. Within NU itself, resistance arose from the groups and followers of Kyai Hasyim Muzadi, who on average were students and alumni of the Sidogiri Islamic boarding school, East Java. They became critics of the idea of Nusantara Islam.<sup>2</sup>

Differences in views on the above issues can be seen clearly, where some scholars still question the truth and in practice they still have no respect for following it. If examined more deeply, the differences in perspectives that give rise to different opinions are due to the different legal istinbath methodologies used. Acehese dayah scholars<sup>3</sup> Acehese dayah scholars who belong to the Shafi'i school of thought emphasize that under any circumstances when giving a fatwa on an issue, the method used is to refer directly to the texts of the books of scholars belonging to the Shafi'i school of thought with the *qawl* method, namely by searching for and studying texts. -the text of the book which deals with the problem being studied, is then issued a fatwa directly. According to them, using the books of classical scholars in giving fatwa is considered final, without having to go directly to the original source, even in answering current (*waqi'iyah*) problems. So for the Acehese dayah scholars, using legal sources

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<sup>1</sup> MS Kasanah, SU. Ansori, "Development of Islamic Nusantara Course Module at Universitas Nahdlatul Ulama Blitar," *Journal of Development Research* 3, no. 3 (2019): 69–74.

<sup>2</sup> Sahal Mahfudh, *Nuansa Fiqih Sosial* (Yogyakarta: LKiS, 2000), h. 3.

<sup>3</sup> A. Y. Zulfikar, *Transformasi Sosial Dan Perubahan Dayah Di Aceh*. (Pidie: Yayasan Penerbit Muhammad Zaini, 2022).

such as *al-'adab*, *al-'urf*<sup>4</sup>, *ijma*<sup>5</sup>, *maslahah mursalah*, or *istinbath* in answering various problems of the people, does not become an approach in giving a fatwa.

A study on the responsiveness of scholars<sup>6</sup> to the *istinbath* method of Islam Nusantara fiqh law is urgently needed, because with this study the legality of the results of *istinbath* will be known and also the reaction of the ulama in addressing customary practices.<sup>7</sup> There are many books that talk about Nusantara Islam because it relates to laws based on customs<sup>8</sup> even from their own point of view. However, these books have not yet touched on the discussion relating to the response of Islamic boarding school scholars. This argument is based on a review of several articles as literature studies that are relevant to this study of Islam Nusantara, as written by Alma'arif in his article on empirical and critical studies of Islam Nusantara.<sup>9</sup> A critical study of Islam Nusantara as an Indonesian politics was also carried out by Rizki Dian Nursita.<sup>10</sup> Apart from that, there is also an article written by Mujamil Qomar about alternative ideas offered by Islam Nusantara, but the focus of the study in this article is on the model of Islamic thought, understanding, and practice, and does not discuss the response of Islamic scholars.<sup>11</sup> In addition, because this study discusses the issue of *istinbath*, this study also has some relevance to the study of Imam Al-Nawawi's *tarjih* method, such as Helmi Imran's study on his study related to the *istinbath* method in the Shafi'i school.<sup>12</sup> Based on the description and review of the literature above, a study is really needed to find out the legality of law and the response of scholars to the *istinbath* method of Islam Nusantara

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<sup>4</sup> Salma Salma and Burhanuddin Burhanuddin, "Kajian 'Urf Pada Tradisi Rompak Paga Di Luhak Lima Puluh Kota Sumatera Barat," *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 12, no. 2 (2018): 315, <https://doi.org/10.19105/al-ihkam.v12i2.1458>.

<sup>5</sup> Musfira, *Ijma' Dalam Kajian Ushul Fiqh*, ed. Karimuddin Abdullah Lawang (Yogyakarta: Yayasan Sahabat Alam Rafflesia, 2022).

<sup>6</sup> Fatahuddin Aziz Siregar et al., "Staying at Home: The Perspectives of Minangkabau Ulemas Concerning Husbands' Provision of Sustenance in Covid-19 Impacted Households," *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 133–42, <https://doi.org/10.31958/juris.v21i2.6551>.

<sup>7</sup> Valentina Shanty, Adwani Adwani, and Azhari Yahya, "Indigenous Sanction of Expulsion in Central Aceh District (Human Rights Perspective)," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 254, <https://doi.org/10.19105/al-ihkam.v13i2.1828>.

<sup>8</sup> Karimuddin Abdullah Lawang et al., "MARRIAGE PROCESSES OF KHALWAT PERPETRATORSIN CUSTOMARY LAW IN ACEH" XI, no. 3 (2023): 542–49.

<sup>9</sup> Al Ma'arif, "Islam Nusantara: Studi Epistemologis Dan Kritis," *ANALISIS: Jurnal Studi Keislaman* 15, no. 2 (2015): 265–92.

<sup>10</sup> Rizki Dian Nursita, "Critical Discourse Analysis on Islam Nusantara in Indonesia's Foreign Policy," *Hasanuddin Journal of International Affairs* 3, no. 1 (2023): 44–54, <https://journal.unhas.ac.id/index.php/hujia/article/view/25611>.

<sup>11</sup> Mujamil Qomar, "Islam Nusantara Sebagai Subject Dalam Islamic Studies: Lintas Diskursus Dan Metodologis," *Islam Nusantara: Sebuah Alternatif Model Pemikiran, Pemahaman, Dan Pengamalan Islam* 17, no. 2 (2015): 198–217.

<sup>12</sup> K. A. Imran, H., & Lawang, "Development of the Shafi'iyah Fiqh Thought Pattern and the Role of Al-Nawawi as a Unifier," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022): 141-160., <https://doi.org/10.29240/jhi.v7i1.4233>.

law, especially in the use of *'urf*. Thus this study is very important because by finding the response of the Acehnese Islamic scholars to this matter, it can be seen the validity and relevance of the *istinbath* method of Islamic law scholars.

This study uses the empirical legal research method, which is a legal research method that functions to see real law and examine how law works in society. This type of research is qualitative,<sup>13</sup> descriptive in nature, namely describing real conditions and actual situations obtained from the observed behavior. The data taken in this research is in the form of field data and data library. The research approach used in this research is normative-empirical research. Data collection techniques were carried out by means of documentation, observation and interviews. Sources of information for the interviews were collected from informants who were considered to represent the Acehnese dayah clerics. Sources of information include scholars who are members of the Aceh Dayah Ulama Association (HUDA) such as Tgk. H. Muhammad Yusuf A. Wahab (Chairman of HUDA Aceh), the NU organization Tgk. H. Faisal Ali (Muhtasyar NU Aceh) and Tgk. Zulfadli (NU head of North Aceh district), Tgk. Rasyidin Ahmad (Member of Pidie District MPU) and Tgk. Ibrahim A. Gani (Aceh MPU member), TASTAFI organization (Tasawuf Tauhid and Jurisprudence) Tgk. H. Tu Bulqaini (Tastafi City of Banda Aceh), H. M. Jafar (Head of Tastafi South Aceh district). After all the data has been collected, the data will be analyzed using content analysis techniques with an emphasis on the stability of the results of the communications or interviews that have been conducted.

The study of the reaction or response of the Acehnese dayah scholars to the use of the *istinbath* method, especially the use of the *'urf* method in *istinbath* of Islam Nusantara fiqh law, aims to find out how the Acehnese dayah scholars respond to this, so that in this way the validity of the *istinbath* method used by Islam Nusantara jurisprudence will be found, and it can also be seen the relevance of the *istinbath* method with the *istinbath* method of the school of fiqh scholars.

## Discussion

### Islam Nusantara Discourse

The term Islam Nusantara consists of two words, namely Islam and Nusantara. Islam in the Qur'an has 2 formats which are religious and social spirituality. Qur'an clarified by the Sunnah of the Prophet contains complete rules that regulate how every human being should behave as a servant and caliph

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<sup>13</sup> Hadari Nawawi dan Nini Martini, *Penelitian Terapan* (Yogyakarta: Gadjah Mada, 2006), h. 174.

of Allah SWT.<sup>14</sup> This is where the prominent characteristic position of Islam as the perfect religion is seen. In addition, it also needs to be emphasized, if religious expressions (*al-din*) are mentioned, then the person who expresses them only aims to make it easier to communicate between people. However, if the word Islam is used, the connotation is meant as a religion originating from revelation, namely the Qur'an and Hadith.<sup>15</sup>

Islam Nusantara is a set of rules for the activities of people in Nusantara in accordance with Islamic teachings that are clear, which are not just in the procedures for worshiping Allah, but all daily social activities that are based on benefit. Islam actually really appreciates local wisdom and changing times as long as it is useful for the benefit and does not conflict with basic Islamic principles.<sup>16</sup> It is on this basis that Islam Nusantara is understood as a set of procedures for the activities of every Muslim in Nusantara, especially Indonesia, which adheres to harmony and benefit in the state. Islam Nusantara is a complex understanding of Islam that is realized in daily practice based on customs that do not conflict with basic Islamic principles. This has been practiced since the era of the Wali Songo.<sup>17</sup> Islam Nusantara is a typical Indonesian version of Islam, which is a blend of theological Islamic values with the values of local customs, habits and customs in the country.<sup>18</sup>

Islam Nusantara is an invitation methodology to understand and practice the universality (*syumuliyah*)<sup>19</sup> of Islamic thought according to the principles of Ahlussunnah waljama'ah<sup>20</sup>, in the form of practice that has undergone a process of contact with positive customs (*'urf shabih*). Islam Nusantara referred to here is a form of view, description, and application of Islamic teachings that are packaged through *resam* or customs that have developed in Nusantara region, especially Indonesia. Aspects of its Islamic

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<sup>14</sup> Muhammad Tahir Azhari, *Negara Hukum, Suatu Studi Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam, Implementasinya Pada Periode Negara Madinah Dan Masa Kini* (Jakarta: Bulan Bintang, 1992), h. 21-22.

<sup>15</sup> Rasjidi, *Koreksi Terhadap Dr. Harun Nasution Tentang "Islam Ditinjau Dari Berbagai Aspeknya"* (Jakarta: Bulan Bintang, 1977), h. 15.

<sup>16</sup> Ahmad Sahal, *Islam Nusantara Dari Ushul Fiqh Hingga Pabam Kebangsaan* (Bandung: Mizan, 2016), h. 14.

<sup>17</sup> Halimatusa'diah Syamsurijal, Jati Wasisto Raharjo, "Religious Moderation Within Islam Of The Archipelago," *Masyarakat Dan Budaya* 24, no. 3 (2022), <https://doi.org/https://doi.org/10.14203/jmb.v24i3.1804>.

<sup>18</sup> Akhmad Sahal dan Munawir Aziz, *Islam Nusantara Dari Ushul Fiqh Hingga Pabam Kebangsaan* (Bandung: Mizan, 2015), h. 239.

<sup>19</sup> Amin Mudzakkir, "Traditional Islam and Global Religious Connectivity: Nahdlatul Ulama in The Netherlands," *Journal for Study of Islamic History and Culture* 1, no. 1 (2020): 145–62, <https://doi.org/https://doi.org/10.47776/islamnusantara.v1i1.48>.

<sup>20</sup> Saidina Usman et al., "Internationalization of Ahlussunnah Wal-Jama'Ah in Southeast Asia: Analysis of the Da'Wah Movement Kh Ali Tungkal," *Akademika: Jurnal Pemikiran Islam* 27, no. 2 (2022): 231, <https://doi.org/10.32332/akademika.v27i2.5455>.

elements “Orthodoxy of Islam Nusantara is the Asy'arian *kalam* (dogma), Shafi'i fiqh, and al Ghazali's Sufism”. Besides these 3 sections, 3 more sections can be added to strengthen the design of Islam Nusantara, namely politics, learning, and customs. So that the subject of study of Islam Nusantara includes 6 sections, namely the science of *kalam* (dogma), fiqh, tasawuf, politics, education, and customs.

Since Islam began to spread in Nusantara, Indonesian scholars have played an important role in strengthening Islamic teachings by teaching Islam through the languages of the people, namely the Nusantara language (*Malay*). So that the Malay language at that time became a means of communication and unifying the nation and ethnicity in Nusantara.<sup>21</sup> The scholars composed books or works of thought using the Malay language (Arabic Jawi).<sup>22</sup> Islam continued to spread by using the Nusantara language by embracing the community in every activity that had existed before Islam, and that was the beginning of Islam Nusantara.

Evidence that Islam Nusantara follows or respects local wisdom and the condition of society is the existence of a fiqh book called *Sirat Al-Mustakim* written by Shaikh Nuruddin Ar-Raniry, in which the discussion of the fiqh book prioritizes the benefit of the people at that time who were not yet fully interested in Islam. So that the fiqh book does not discuss the chapter on jihad or advocating war with infidels. Rather, the fiqh book discusses the issue of worship with Allah such as purification, prayer, fasting and others. In addition, the book also discusses socializing issues with fellow human beings and ethics such as paying zakat, making sacrifices and others.<sup>23</sup> Understandings of Islamic law were not only developed by Shaykh Nuruddin Ar-Raniry, but also further developed by Daud al-Fatani. He is one of those who are very pious and successful in trying to reconcile sharia views with mystical views. One of his works is *Bughyat al-Thullah* which discusses the fiqh of worship and discusses rules and guidelines in people's daily lives.

### **The Existence of the Aceh Dayah Scholars (Ulama)**

Geographically Aceh is part of Nusantara which makes the development of Islam in Aceh not much different from other regions in Nusantara. The role of Dayah scholars in Aceh in totality is to guide the community in giving the correct understanding of Islam to the community both in the form of practice

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<sup>21</sup> Denys Lombard, *Nusa Jawa Silang Budaya: Batas-Batas Pembaratan, Kajian Sejarah Terpadu (Bagian 1: Batas-Batas Pembaratan)*, Terj. Winarsih Partaningrat Arifin, Dkk (Jakarta: Gramedia Pustaka, 2005), h. 56.

<sup>22</sup> Syed Muhammad Naquib Al-Attas, *Islam Dalam Sejarah Dan Kebudayaan Melayu* (Bandung: Mizan, 1984), h. 45.

<sup>23</sup> Azyumardi Azra, *Islam Nusantara: Jaringan Global Dan Lokal* (Bandung: Mizan, 2002), h. 23.

and in the form of ideology. Apart from that, Dayah scholars also acts as an example for the community in Islamic social procedures and oversees local wisdom in the form of Islamic values for the people of Aceh.

The position of the pious person as a dayah graduate or madrasa teacher greatly determines the progress of the Acehese people. It is to these Islamic boarding schools that Acehese youth seek knowledge and also to Islamic boarding schools which are a solution for young people who do not have a definite place in society. *Mondok* to dayah who are usually outside their own hamlet or village, to seek knowledge is called *meudagang*. Nowsday the word is also used as a business to seek profit outside the area. Dayah with *teungku* on the one hand is a center for the development of Islamic knowledge and learning as well as social communication customs, and on the other hand is potentially a customary oversight to concretize *uleebalang* authority.<sup>24</sup>

This is not surprising, because since the 17th century the clergy have also carried out activities that are moving in the social and religious fields. So that when the clerics feel that the community has begun to move away from religious teachings, then these clerics will carry out a reform aimed at returning the community to religion as a foothold in all people's daily activities. This reform is merely guarding and maintaining society so that it always exists in the real world of religion, not reforms to control society or power. This is where the important role of the Islamic clerics in Aceh is as a shield to stem things that mislead or drag people away from the true principles of Islamic teachings.

In this case, the cleric plays a role in providing religious views related to reconciliation for disputing parties. In the formulation of the reconciliation model carried out by the KKR-Aceh (Aceh Truth and Reconciliation Commission), it involved the clergy so that the reparation model which was later adopted by the current government has an Islamic spirit such as *diyat*, *islah* and others. Likewise with regional government regulations in the form of qanuns, the preparation of which must involve the clergy. This was also confirmed by several ulemas in Aceh who were involved in the formulation of the *KKR Islah* in Aceh which was held in Meureudu.<sup>25</sup>

Not only that, through the Ulama Consultative Assembly (MPU), Acehese clerics can take part through their fatwas. As the result of question and answer with Mr. H. Faisal Ali as chairman of MPU. He explained that Islamic religious scholars in Aceh have contributed a lot in providing counseling to the community, this is not only in the area of worship, but also complements all aspects of social life. When talking politics, for example, the Acehese clerics are present in the politics to promote a political system that is in accordance with Islamic law. In the formation of the Qanun, for example, the Acehese

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<sup>24</sup> Waled Nuruzzahri, "Hasil Wawancara" (pada tanggal 23 Desember, 2021).

<sup>25</sup> Nuruzzahri.

ulema were also involved, so that the ratification of the Qanun could not be carried out if the Qanun was regulated without the approval of the Acehese ulema.<sup>26</sup>

Based on the results of the interview above, it appears that the role of the ulama in Aceh is very important, not only as community leaders but also involved in the government. The ulama network in Aceh is not only in one organization or institution such as the Ulema Consultative Council (MPU), but the ulama in Aceh are spread across various organizations and government institutions. Such a network of clerics really supports the creation of a system that strengthens Islamic clerics in Aceh so that the actions and actions of these clerics in spreading Islamic teachings receive real attention from the community.

Basically, social networks are created because there is a mutual sense of knowing, informing each other, affirming each other, and helping each other in doing or overcoming something. The clerical network is created by the existence of a bond due to the similarity of beliefs and harmonized norms. Belief in similar norms is also inseparable from understanding the appropriate teachings. In reality, this network can exist because it comes from institutions with the same background, fellow teachers, and the same principles that are located in areas that are extreme to their schools of thought.

With some of these reasons, a certain network is created which in turn becomes an influential figure and actor in society. Under current conditions, in Aceh there are various kinds of educational institutions, ranging from modern institutions to conventional institutions. All these learning institutions have their own influence in society. The Dayah Agency as a conventional educational institution has a very important position and role for the people of Aceh. Dayah leaders who are called *teungku* also influence the people of Aceh. Dayah in Aceh is divided into various types and categories. An exclusive agency entitled to regulate the dayahs in Aceh has also been established with the nickname the Aceh Dayah Agency (*Badan Dayah Aceh*).

The dayah agency has a program to improve dayah facilities and infrastructure. The target of this program is intended to improve and improve the equipment and infrastructure of Islamic boarding schools in Aceh so that conducive Islamic boarding schools can be created that support students' learning activities comfortably. Another program is to increase the quality of Islamic education. The target to be achieved from this program is to improve the quality of teaching staff through increasing the competency of Islamic boarding school teachers. Likewise, the empowerment program for Islamic boarding school students is intended to share expertise with Islamic boarding school students.<sup>27</sup>

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<sup>26</sup> Tgk. H. Faisal Ali, "Hasil Wawancara" (pada tanggal 24 Januari, 2022).

<sup>27</sup> Tgk. H. Tu Bulqaini, "Hasil Wawancara" (pada tanggal 13 Januari, 2022).



With the existence of a dayah institution, it is hoped that in the future the dayah will continue to improve in all aspects, not just the religious aspect. It's true that not all Islamic boarding schools receive an education budget from the state, because many Islamic boarding schools still manage them from their own funds. Whether or not there is support from the state, the dayahs in Aceh are always increasing and giving birth to the figure of a very influential Islamic scholar in society.

Islamic religious scholars in Aceh have great influence in Acehese society. This also happens in the difference in the 1st Ramadan calendar. Following are the results of the interview with Tgk. H. Muhammad Yusuf A. Wahab as chairman of HUDA Aceh:

For the implementation of fasting in 2021, there is a difference in the beginning of Ramadan between the government and what Abu Tumin ordered. This means that it is one day late from the announcement of the Minister of Religion, but the people around the dayah follow the opinion based on Abu Tumin's fatwa.<sup>28</sup>

Based on the results of the interviews above, it can be seen that the community has a high level of trust in the clergy compared to the government. Every positive reaction or response from the community, of course, begins with the attitude of the community directly or indirectly towards the reaction to fulfill their needs or desires in life. Related to the responsiveness of scholars to the issues of Islam Nusantara, of course it cannot be separated from the understanding of some people who define Islam Nusantara itself.

On the other hand, in a position contrary to views that deny Islam Nusantara, there are Acehese clerics who accept that there is only one Islam at the level of the Quran and hadith. Furthermore, the results of debriefing with Dr. Tgk. Imran Abu Bakar as a member of the Sabang City MPU:

The Qur'an and hadith require detailed formulations, so the verses need to be interpreted and their meaning explained. The result is in the form of the presence of different interpretations and understandings, after which it becomes a madhhab or sect.<sup>29</sup>

According to the author, this is a reality that we face and we must be aware of it. There is only one Islam in the roots of its teachings, but its outward appearance is very diverse. Likewise, Muhammad Qatada explained: *al-din wahid wa al-syari' ah mukhtalifah* (there is only one religion, on the other hand, the shari'a are different). Because of this, Islam Nusantara emerged in the

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<sup>28</sup> Tgk Muhammad Yusuf A. Wahab, "Hasil Wawancara" (pada tanggal 23 Desember, 2021).

<sup>29</sup> Dr. Tgk. Imran Abu Bakar, "Hasil Wawancara" (pada tanggal 2 Januari, 2022).

Indonesian context even though it came from a principle source, namely the Koran and hadith.

The religion referred to here is Islam. Until the push for an Islam Nusantara identity continues to be strong from some Indonesian Islamic thinkers such as Fanani explaining that the religious events of the ummah today are experiencing very diverse pendulums. Thus, Islam is no longer looked at singly, but in various ways. Islam is one, but in studying it there are two faces which are generally expressed by various statements. For Islamic thinkers who support this Islam Nusantara identity, it seems that they see that the roots of Islam are indeed one, but its expression is very diverse. When they justify the existence of the Islam Nusantara identity, they only look at the Islamic identity from the study of its expressions. When this expression of Islam Nusantara manifests similar phenomena continuously from generation to generation, it will in turn manifest specific characteristics that can be identified, known and understood so as to make it easier for others to understand Islam Nusantara.

Islam Nusantara in Aceh, as already explained, is found in the daily practices of the people of Aceh related to practices in the form of customary practices, such as the ritual custom of descending from the land of a newborn child<sup>30</sup>, customary *kbalwat* perpetrators are married off<sup>31</sup>, the custom of celebrating the day of the dead, the custom of the bride's plain flour during the wedding reception procession and there are many other customs practiced by the people of Aceh. All of these customary practices are part of the Islamic Fiqh of Nusantara which is permissible because they do not conflict with *syara'* arguments, but these practices can still be connected with general arguments that allow such practices.

### **Responses to the Istinbath Method of Law of Islam Nusantara**

The istinbath fiqh law activity that has been developed by the scholars of the school of thought is essentially only an attempt to understand the intent of the Qur'an and hadith in order to maintain and practice what is contained in them and to improve the practice that has taken place if it is not in accordance with this understanding. From the shift in management of traditions to becoming a practice in some areas, it is necessary to look for criteria for this tradition to fulfill adat which can be used as a basis for law or the istinbath method in practicing a tradition.

The *istinbath* methodology of Islam Nusantara fiqh law dominates the use of *'urf*. *'Urf* is one of the *isbtislahiyya* reasonings which is acknowledged to be

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<sup>30</sup> Karimuddin Abdullah, "Pendampingan Masyarakat Dalam Prosesi Tradisi Menginjak Tanah Pertama Bagi Bayi," *Pengmasku* 2, No. 1 (2022): 43–47.

<sup>31</sup> Karimuddin, "Legality of Forced Marriage Performers of Khalwat According to the View of Syafi'iyah Fiqh," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 3 (2021): 7192–7202.

blasphemy by Islamic school scholars in instituting fiqh law. However, there are two kinds of *'urf*, namely *'urf shahib* and *'urf fashid*, where *'urf shahib* can be used as a method of *istinbath* of fiqh law and *'urf fashid* cannot. Therefore, the Nusantara fiqh law *istinbath* methodology generally uses *'urf shahib*. This is different from Islam Nusantara which was declared by the NU organization in 2015 which makes *'urf fashid* as a method of *istinbath* fiqh law as in two approaches, namely the minimization approach and the amputation approach.<sup>32</sup>

The application of *'urf* in *istinbath* of Islam Nusantara fiqh law has existed since the development of Islam in Nusantara, as in Aceh it is known as *reusam* or *adat*. Therefore, the declaration of Islam Nusantara by the NU organization in 2015 proved that the NU organization was not the originator of Islam Nusantara. The implementation of Nusantara Islamic values already existed and was carried out by previous Islamic scholars, then it became a culture in Indonesia. The application of culture in Aceh is known as *reusam*, such as *kbanduri blang* (a feast when entering the planting season) for the people of Aceh which is a must before the planting season. So with regard to Islam Nusantara, there are Islamic religious scholars in Aceh who reject it, *firstly* because the labeling of Islam as Nusantara makes Islam belong to a certain group or there has been a shift in meaning in society. *Secondly*, because of concerns about going too far in interpreting *'urf* against the customs of the community, so it is feared that negative things will also be considered *'urf* so that they can be done.<sup>33</sup>

The application of the *istinbath* method of Islam Nusantara law, especially in the use of the *'urf* method, is accepted by some and some are rejected. They generally reject *'urf fashid* because it is not in accordance with the Shari'a, which sometimes leads to shirk such as the custom of *Peulbeuh Alen* (to throw food into the river or sea with the assumption that it will avoid the devil's interference), *Rabu Abeh* (bathing in the sea on the last Wednesday of the month of Safar who think it can be forgiven sins) in Acehese society, and accept *'urf shahib* like *kbanduri blang*.<sup>34</sup>

The various responses of Acehese dayah scholars to the *istinbath* fiqh methodology of Islam Nusantara by using *'urf*, there are also those who tolerate *'urf fashid* on the grounds that it is impossible to spontaneously eliminate customs or traditions if they have taken root in society because the effect is that ordinary people will stay away from the ulama when the practice has become widespread root is prohibited.<sup>35</sup>

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<sup>32</sup> Ali, "Hasil Wawancara."

<sup>33</sup> Nuruzzahri, "Hasil Wawancara."

<sup>34</sup> Wahab, "Hasil Wawancara."

<sup>35</sup> Bakar, "Hasil Wawancara."

However, the Islamic religious scholars in Aceh also use *'urf* as a method of *istinbath* fiqh. It's just that in practice the Islamic religious scholars in Aceh use *'urf shahib* which does not conflict with the Quran or hadith. In reality, not all customs that have developed in Aceh in particular are in accordance with fiqh law which is based on *'urf*, because there are also customary practices which are based on *'urf fashid*. So in this case the custom/*'urf* so that it can be used as the *istinbath* method of fiqh law is *'urf shahib* which of course fits or meets the criteria, namely the *urf* applies universally; the *urf* has become popular in society when the issue to be stipulated by law arises; the *urf* does not conflict with what is clearly disclosed in a transaction; The *urf* does not conflict with the *qath'i* texts in syara'.<sup>36</sup>

Based on the results of the interviews as described above, it can be understood that Islam Nusantara is not a passive subject that can accept all things without considering the positives and negatives of these things. Thus, the active and passive role of the clergy certainly has urgency, significance and relevance in various legal studies or problems that occur in society. In fact, Islam Nusantara is not a sudden and recent idea, but has long been a reflection of thought in Indonesia, but does not use the term Islam Nusantara. Islam Nusantara is the same as Islamic law that has been legislated such as the KHI (Compilation of Islamic Law) and the Law on Marriage which is the basis for religious courts. These laws and regulations both originate from the ideas of NU, Muhammadiyah, and Islamic figures in other organizations in Indonesia, which symbolize the uniqueness of Nusantara, to various Islamic practices that have taken place and developed in Nusantara since Islam first arrived in Nusantara, which is different from Islamic practice in other areas. This is what is called Islam Nusantara viewed from a historical perspective of Islam in Indonesia, which is inseparable from what habits have been practiced by Indonesian people.

## Conclusion

Based on the discussion and analysis that has been described, it can be concluded that in responding to the use of *'urf* as a method of *istinbath* in Islam Nusantara fiqh law, there were pros and cons of Islamic scholars in the sense that there were those who accepted it and there were those who rejected it. Those who refused reasoned that in the *istinbath* of Islamic fiqh law in Nusantara, *'urf fashid*' is used which is not in accordance with the Shari'a and leads to polytheism such as the custom of *Penlbeuh Alen* (washing food into the river or sea), the custom of *Rabu Abeh* (bathing in the sea on the last Wednesday of the month of Safar) in Acehese society. While those who accept the reason *'urf shahib* are justified in Islam because they are included in the generality of the

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<sup>36</sup> Bulqaini, "Hasil Wawancara."

arguments for both verses and hadiths such as *Khanduri Blang* (festival when about to enter the planting season) which is included in the general proposition for giving charity which does not specify the method of giving charity, so that they can give charity by giving directly food and can also invite them to eat somewhere. The methodology of *istinbath* fiqh law in Nusantara using *'urf shabih* is one of the methodologies of *istinbath* fiqh law from *ishtislahiyyah* reasoning which was acknowledged to be blasphemy by four priests of the school of thought. Thus the use of *'urf shabih* in *istinbath* Islamic fiqh law of Nusantara has existed since the development of Islamic law itself, namely during the time of the madhhab scholars.

## References

- Abdullah, Karimuddin. "Pendampingan Masyarakat Dalam Prosesi Tradisi Menginjak Tanah Pertama Bagi Bayi." *PENGMASKU* 2, no. 1 (2022): 43–47.
- Al-Attas, Syed Muhammad Naquib. *Islam Dalam Sejarah Dan Kebudayaan Melayu*. Bandung: Mizan, 1984.
- Ali, Tgk. H. Faisal. "Hasil Wawancara." pada tanggal 24 Januari, 2022.
- Azhari, Muhammad Tahir. *Negara Hukum, Suatu Studi Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam, Implementasinya Pada Periode Negara Madinah Dan Masa Kini*. Jakarta: Bulan Bintang, 1992.
- Aziz, Akhmad Sahal dan Munawir. *Islam Nusantara Dari Ushul Fiqh Hingga Paham Kebangsaan*. Bandung: Mizan, 2015.
- Azra, Azyumardi. *Islam Nusantara: Jaringan Global Dan Lokal*. Bandung: Mizan, 2002.
- Bakar, Dr. Tgk. Imran Abu. "Hasil Wawancara." pada tanggal 2 Januari, 2022.
- Bulqaini, Tgk. H. Tu. "Hasil Wawancara." pada tanggal 13 Januari, 2022.
- Imran, H., & Lawang, K. A. "Development of the Shafi'iyah Fiqh Thought Pattern and the Role of Al-Nawawī as a Unifier." *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (2022): 141-160. <https://doi.org/10.29240/jhi.v7i1.4233>.
- Karimuddin. "Legality of Forced Marriage Performers of Khalwat According to the View of Syafi'iyah Fiqh." *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 3 (2021): 7192–7202.
- Kasanah, SU. Ansori, MS. "Development of Islamic Nusantara Course Module at Universitas Nahdlatul Ulama Blitar." *Journal of Development Research* 3, no. 3 (2019): 69–74.
- Lawang, Karimuddin Abdullah, U Kamilah Mukhtar Ghaffar, Fika Andriana, Safrizal Mukhtar, M Jafar, and Syamsul Bahri. "Marriage Processes Of

- Khalwat Perpetratorsin Customary Law In Aceh” XI, no. 3 (2023): 542–49.
- Lombard, Denys. *Nusa Jawa Silang Budaya: Batas-Batas Pembaratan, Kajian Sejarah Terpadu (Bagian 1: Batas-Batas Pembaratan)*, Terj. Winarsih Partaningrat Arifin, Dkk. Jakarta: Gramedia Pustaka, 2005.
- Ma’arif, Al. “Islam Nusantara: Studi Epistemologis Dan Kritis.” *ANALISIS: Jurnal Studi Keislaman* 15, no. 2 (2015): 265–92.
- Mahfudh, Sahal. *Nuansa Fiqih Sosial*. Yogyakarta: LKiS, 2000.
- Martini, Hadari Nawawi dan Nini. *Penelitian Terapan*. Yogyakarta: Gadjah Mada, 2006.
- Mudzakkir, Amin. “Traditional Islam and Global Religious Connectivity: Nahdlatul Ulama in The Netherlands.” *Journal for Study of Islamic History and Culture* 1, no. 1 (2020): 145–62. <https://doi.org/https://doi.org/10.47776/islamnusantara.v1i1.48>.
- Musfira. *Ijma’ Dalam Kajian Ushul Fiqh*. Edited by Karimuddin Abdullah Lawang. Yogyakarta: Yayasan Sahabat Alam Rafflesia, 2022.
- Nursita, Rizki Dian. “Critical Discourse Analysis on Islam Nusantara in Indonesia ’ s Foreign Policy.” *Hasanuddin Journal of International Affairs* 3, no. 1 (2023): 44–54. <https://journal.unhas.ac.id/index.php/hujia/article/view/25611>.
- Nuruzzahri, Waled. “Hasil Wawancara.” pada tanggal 23 Desember, 2021.
- Qomar, Mujamil. “Islam Nusantara Sebagai Subject Dalam Islamic Studies: Lintas Diskursus Dan Metodologis.” *Islam Nusantara: Sebuah Alternatif Model Pemikiran, Pemahaman, Dan Pengamalan Islam* 17, no. 2 (2015): 198–217.
- Rasjidi. *Koreksi Terhadap Dr. Harun Nasution Tentang “Islam Ditinjau Dari Berbagai Aspeknya*. Jakarta: Bulan Bintang, 1977.
- Sahal, Ahmad. *Islam Nusantara Dari Ushul Fiqh Hingga Pabam Kebangsaan*. Bandung: Mizan, 2016.
- Salma, Salma, and Burhanuddin Burhanuddin. “Kajian ‘Urf Pada Tradisi Rompak Paga Di Luhak Lima Puluh Kota Sumatera Barat.” *Al-Ihkam: Jurnal Hukum & Pranata Sosial* 12, no. 2 (2018): 315. <https://doi.org/10.19105/al-ihkam.v12i2.1458>.
- Shanty, Valentina, Adwani Adwani, and Azhari Yahya. “Indigenous Sanction of Expulsion in Central Aceh District (Human Rights Perspective).” *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (2018): 254. <https://doi.org/10.19105/al-ihkam.v13i2.1828>.
- Siregar, Fatahuddin Aziz, Azhari Akmal Tarigan, Nofialdi, Febri Yulika, Iswandi Syahputra, Nurhayati, and Benny Ridwan. “Staying at Home: The

- Perspectives of Minangkabau Ulemas Concerning Husbands' Provision of Sustenance in Covid-19 Impacted Households." *Juris: Jurnal Ilmiah Syariah* 21, no. 2 (2022): 133–42. <https://doi.org/10.31958/juris.v21i2.6551>.
- Syamsurijal, Jati Wasisto Raharjo, Halimatusa'diah. "Religious Moderation Within Islam Of The Archipelago." *Masyarakat Dan Budaya* 24, no. 3 (2022). <https://doi.org/https://doi.org/10.14203/jmb.v24i3.1804>.
- Usman, Saidina, Ris'an Rusli, Masyhur Masyhur, and Makmur Harun. "Internationalization of Ahlussunnah Wal-Jama'Ah in Southeast Asia: Analysis of the Da'Wah Movement Kh Ali Tungkal." *Akademika: Jurnal Pemikiran Islam* 27, no. 2 (2022): 231. <https://doi.org/10.32332/akademika.v27i2.5455>.
- Wahab, Tgk Muhammad Yusuf A. "Hasil Wawancara." pada tanggal 23 Desember, 2021.
- Zulfikar, A. Y. *Transformasi Sosial Dan Perubahan Dayah Di Aceh*. Pidie: Yayasan Penerbit Muhammad Zaini, 2022.

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