THE DEVELOPMENT OF FATWAS BASED ON LOCAL WISDOM TO THE NATIONAL LEVEL: A Case Study of Panaik Money Fatwa

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ABSTRACT

The fatwa of the Indonesian Ulema Council of South Sulawesi Province regarding panaik money is debated and considered cynical by some people who feel disturbed. The cultural shift in panaik money that occurred initially was intended to pay tribute to the bride's family, become a means of prestige, and show off in the community. This study aimed to reveal the potential for developing local wisdom fatwas at the national level by looking at the phenomenon of panaik money cases in the Bugis-Makassar community. This study was a qualitative method with a sociological approach to Islamic law. The Fatwa Commission of the South Sulawesi Provincial Ulama Council located in Makassar issued Fatwa Number 2 of 2022 concerning Panaik Money. The results of the study showed that the fatwa regarding panaik money had a crucial goal in addressing social, economic, and cultural problems related to the practice of panaik money in marriage, especially in the context of Bugis-Makassar community in South Sulawesi. The fatwa on panaik money described perspectives and suggestions from regional-level social institutions regarding the practice of panaik money in marriage based on Sharia principles. Making a regional fatwa a national fatwa required several steps. This usually depended on the laws and regulations in force in that country. This aimed to ensure that the fatwa complied with state law and had sufficient meaning to be implemented nationally. However, the fatwa on panaik money provided a better understanding of panaik money.

Keywords: Fatwa; Panaik Money; Local Wisdom Fatwas; Majelis Ulama Indonesia;

ABSTRAK

Fatwa Majelis Ulama Indonesia Sulawesi Selatan tentang seputar uang panaik diperdebatkan dan dianggap sinis oleh sebagian masyarakat yang merasa terusik dan terganggu. Terjadinya pergeseran budaya uang panaik yang awalnya dimaksudkan untuk memberikan penghormatan kepada keluarga mempelai wanita, menjadi ajang prestise dan pamer di tengah-tengah masyarakat. Tujuan penelitian untuk mengungkap potensi pengembangan fatwa budaya lokal ke tingkat nasional dengan melihat fenomena kasus uang panaik yang ada pada masyarakat Bugis-Makassar. Penelitian ini adalah kualitatif

Kata Kunci: Fatwa; Uang Panaik; Fatwa Budaya Lokal; Majelis Ulama Indonesia;

Introduction

The phenomenon in Indonesia regarding fatwas is that the MUI produces fatwas to positively contribute to the regulation of the Indonesian legal system and provide enlightenment and understanding to the people.¹ The existence of MUI fatwas has become an important part of the national legal system within the framework of the Republic of Indonesia based on The Five Principles (Pancasila) at the first principle, namely "Belief in One Almighty God" and one of the living laws is Islamic law itself.² However, the authority of fatwas has not yet received its proper place and position in the life of the nation and state. In fact, the MUI fatwa is still debated and considered cynical.³

In early 2022, the MUI of South Sulawesi Province issued a phenomenal fatwa regarding panaik money.⁴ Giving panaik money has become a custom among the Bugis-Makassar community.⁵ Panaik money is a gift from the groom's side to the bride as a


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feeling of appreciation by giving *panaik* money for her wedding party.\(^6\)

Therefore, *panaik* money in the Bugis-Makassar tribe is used as wedding party money, or called shopping money, with the aim of feeling the respect of the groom for the bride. *Panaik* money is different from dowry. Even though it is both an obligation,\(^7\) *panaik* money in the Bugis-Makassar tribe is used for receptions with an amount determined based on several factors.\(^8\) Giving *panaik* money at a Bugis-Makassar traditional wedding is a customary requirement and obligation, not based on religion.\(^9\)

Several types of wedding gifts in the Bugis-Makassar tradition include *panaik* money, *leko*, *erang-erang* (offerings), *sompa* or *sunrang* (dowry), and *passio*.\(^10\) Several realities occur in the community regarding *panaik* money. There has been a shift in the culture of *panaik* money, which was originally intended to pay tribute to the bride's family to become a place of prestige and show off in the community. In fact, some people use girls as commodities to get as much money as possible. Making *panaik* money, which has a complementary level, is the most important thing in marriage compared to dowry, which has a complementary level. Making *panaik* money is a condition for whether a marriage will take place compared to the conditions determined by the Islamic religion.

The delay in the wedding procession due to *panaik* money triggers various forms of crime (usury, stealing, etc.) to fulfill the *panaik* money. Cases of adultery committed by young people were found due to their inability to marry as they had high money shortages.\(^11\) The elopements (*silariang*) and unregistered marriages occur between the

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bride and groom because the man is unable to afford the *panaik* money. Many old bachelors and maids are not getting married because of their inability to make money. The emergence of psychological impacts felt by men, such as stress and anxiety since high *panaik* money. The *panaik* money tradition continues to this day. It gives rise to several meanings, including the higher the *panaik* money, the higher the social status of a family. If there is no *panaik* money, then there is no marriage. This culture greatly influences people's behavior in deciding to marry. The existence of the *panaik* money tradition seems to have a negative influence on society. Some of them choose to continue their relationship by *silariang* (elopements) until they end their relationship by committing suicide because they are frustrated at being unable to meet the high demand for *panaik* money. The high amount of *panaik* money determination makes many wedding plans have to be canceled because the woman's parents or guardians insist on a certain amount. However, on the other hand, high *panaik* money has a positive influence, with lively wedding parties giving rise to a high work ethic in men to try and work harder to meet the demand for *panaik* money. The amount of *panaik* money is greatly influenced by social status, level of education, wealth, and popularity factors for both men and women attending the wedding.

The issue of *panaik* money has been widely studied, such as research on panic money by Ibrahim Kadir, Hajra, Rinaldi, and Juhasdi Susono who studied educational and cultural aspects. Some study it from the communication aspect, such as

Meanwhile, from the legal aspect, it was carried out by Nur Avita, Heny Almaida, Nur Fadhillah Mappaselleng, Aliyas, and Suhaily Sudarman. This study focused on efforts to develop regional fatwas at the national level, which was used as a case study, namely the fatwa of the MUI of South Sulawesi Province Number 2 of 2022 concerning the Panaik Money Fatwa. The significance of the study was to trace the factors behind the emergence of the panaik money fatwa and the potential for the panaik money fatwa to be upgraded to a national fatwa.

**Method**

This research was qualitative research conducted at the MUI of South Sulawesi Province, located in Makassar City. The approach in this research is legal sociology by looking at the more comprehensive phenomenon of Bugis-Makassar society around the panaik money phenomenon. The data source was obtained from the MUI Fatwa Commission and researchers conducted interviews with core administrators such as the general chairman, and secretary general, of South Sulawesi Province MUI fatwa commission. Research on various sources was also carried out, such as library materials, journals and several literatures related to fatwas. The collected data was then analyzed critically and comprehensively using content analysis techniques within the framework of the panic money fatwa phenomenon. Data analysis was carried out descriptively, systematically, analytically, and argumentatively to provide a comprehensive understanding of the results. The discussion will most likely explain the findings.

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interpretations, and arguments obtained from the analysis, as well as highlight the various factors that contributed to the success of the South Sulawesi Province MUI in producing the panaik money fatwa.

Findings and Discussion

Ijtihad Method of Fatwa Commission of the MUI of South Sulawesi Province

The term ijtihad comes from the word al-juhd, which means al-tāqah (strength, ability, power), or is a word that has its roots in the word al-jahd, which means al-masyaqqa (hardship and difficulty). Meanwhile, if the word ijtihad is seen based on its linguistic meaning, it means bażl al-wus' wa al-majhūd (an effort to mobilize ability and power or an effort carried out with all the power and ability in activities that are complicated to implement). According to the term, ijtihad is an effort or endeavor by devoting all one's abilities to gaining knowledge of Sharia laws obtained through detailed arguments based on special/certain methods in the effort to obtain them.

The word fatwa is a piece of advice, a wise person's advice, or a good lesson. In Arabic, the word fatwa is bayyana, which means to explain. Another form of fatwa is futya, which refers to tabyīn al-musykil min al-ahkām (explanation of difficult matters regarding the law). The origin of the word al-futya is al-fatā, which means adolescents, which reflects young people who have the strength to overcome difficult things. In addition, there is another layer of words, namely al-tafātī, which means al-takhāsum referring to the meaning of dispute. The meaning of a fatwa based on syara' is explaining the syara' on an issue, which functions as an answer to a question, either individually or collectively. Definitively, basically, there is no difference between a fatwa and a decision because both, in this context, are the result of the ijtihad of a religious institution.

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Iftā’ (an effort to give a fatwa) is a synonym for the word ijtihad, but the difference between the two is that the first word (ifta’) is more specific than the second (ijtihad). Ijtihad is an istinbat (formulation) of general legal rules, whether the case has occurred or not. Meanwhile, the fatwa concerns existing cases where the mufti provides legal provisions based on the mufti’s knowledge. According to Nasution, a fatwa is a response from Ulama to questions or situations that exist and arise, which are caused by changes that occur in society due to the revolution in human lifestyle patterns and styles or the development of the latest technology.26

Ijtihad method of Fatwa Commission of MUI of South Sulawesi Province, the method used by the Fatwa Commission of MUI in its efforts to determine fatwas, is based on 3 (three) approaches, namely the nas qaṭ‘ī, qaulī, and manhajī approaches. Nas qaṭ‘ī is an approach in efforts to determine fatwas that adhere to the Qur’an or Hadith if the problem clearly exists in the Qur’an and Hadith.

Nas qaṭ‘ī approach used by MUI is also called the bayānī (semantic) approach.27 However, the nas qaṭ‘ī approach used by the MUI fatwa institution is only limited to explaining the valid propositions of the Qur’an and Hadith without explaining the meaning (dilālah) of the problem being studied. In the author's opinion, the MUI, in using this approach, only looks at the text of the verse without conducting an in-depth study of the details (instructions) of the verse itself. In other words, this nas qaṭ‘ī approach is very different from the bayānī approach as used by scholars in studying a verse text contained in the Qur’an. Apart from the Fatwa Commission of MUI, the Muhammadiyah Tarjih Council also uses this approach to determine fatwas. The Muhammadiyah Tarjih Council prioritizes the Al-Qur’an and Hadith as primary (main) sources in its ijtihad. However, the Muhammadiyah Tarjih Council treats the text of the Qur’an and Hadith differently from the Fatwa Commission of MUI. The Muhammadiyah Tarjih Council studies the texts of the Al-Qur’an and Hadith using a bayānī approach, namely ijtihad to nas mujmal, either because the meaning is still unclear or in certain pronunciations, it means two/dual

(musytarak), mutasyābih (multi interpretation), etc. This is the difference between Muhammadiyah and MUI, which only focuses on interpreting the Al-Qur'an and Hadith.

Furthermore, if it is not found in the Qur'an or Hadith, the legal determination is through the manhajī and qaulī approach. Qaulī approach is an approach to determine a fatwa by adhering to the views of the school of thought imams found in leading fiqh books (al-kutub al-mu’tabarah), which is done if the answer is sufficient to resolve and answer the existing problem. However, if the qaulī is deemed unsuitable to be held because it is very difficult to carry out due to changes in illat, then a review is carried out.

Apart from the Fatwa Commission of MUI, the qaulī approach is also used by the Bahtsul Masail Institute of NU in carrying out ijtihad or issuing fatwas. However, in its application, there is a very striking difference between the qaulī approach used by the MUI and the Bahtsul Masail Institute of NU in determining a fatwa. These differences can be seen from the qaul (opinions) expressed by both of them. In issuing fatwas, the Fatwa Commission of MUI not only quotes the opinions of the four sects of imams, but the MUI sometimes also quotes opinions from outside the four sects of imams and their followers, such as the imamiyah and dzahiriyah madhhab. Sometimes, the MUI even expresses collective opinions. The books the MUI refers to are not limited to books written by the four madhhab imams and their followers.

Manhajī approach is a way of resolving legal issues based on the way of thinking and rules in establishing a law initiated by madhhab imams. This madhhab system is a way to pass on the teachings of the Qur'an and also Hadith to maintain the straightness and purity of religion. It is also because the content of the teachings of the Qur'an and

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al-Sunnah must be understood and interpreted using patterns of understanding and methods that can be verified for their truth.32

*Manhajī* approach is a pretty popular approach in Indonesia. In the process of determining a *fatwa*, it is not just the MUI that uses this approach; it is also used by the Muhammadiyah Tarjih Council and also used by the Bahtsul Masail Institute of NU, which also uses this approach in carrying out *ijtihad* or determining fatwas. In the Muhammadiyah Tarjih Council, the *manhajī* approach is used only if the *naṣ qaţī* and *qaulī* methods are unable to provide a satisfactory answer to the problem being studied or are not appropriate to the context and do not bring benefits. Likewise, in the Bahtsul Masail Institute of NU, the *manhajī* approach is used if no opinion (*qaulī*) has been found and it is impossible to do *ilhaq*. The *manhajī* approach used by the MUI is not much different from that used by the Muhammadiyah Tarjih Council and the Bahtsul Masail Institute of NU.

According to the guidelines for the procedures for determining a *fatwa*, every issue discussed at the Fatwa Commission must pay attention to the Qur’an, Sunnah, *Ijmā’*, and *Qiyās*. In addition, the Fatwa Commission must also pay attention to the opinions of previous madhhab imams and *fukaha* by researching on their propositions and the face of their *istidlāl*. If the term source of law is linked to the reality desired by the MUI, then the guidelines on the procedures for determining a fatwa call it "the basics of a fatwa."33

The guidelines explicitly state that the basics of the *fatwa* of the Indonesian Ulama Council (MUI) are the Qur’an, Sunnah, *Ijmā’*, and *Qiyās*. This means that four main basics must be adhered to and used as the main source of *ijtihad* or as a source of law in *Istidlāl*. Another term for referring to legal sources is legal propositions.34

Explicitly, the method adopted by the Fatwa Commission of MUI is not a new. In discussing a problem to determine the law, this institution does not use any new rules different from those established by previous mujtahids (One who exercises independent reasoning (*ijtihad*) in the interpretation of Islamic law). When discussing an issue, the

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MUI pays close attention to what manhaj is relevant for them to use in the process of discussing the problem they are facing. For this reason, it will be found that this institution sometimes uses istihsan, istislah, or other istinbat methods.

There are only four postulates agreed upon by the MUI as sources of law, namely the Al-Qur'an, Sunnah, ijma', and qiyas, which Abdul Wahhab Khalaf calls the four ad-dalā'il al-syar'iyyah al-ijmā'iyyah. Apart from the four agreed sources, there are also disputed sources where some scholars can accept them as sources of law while others deny them as sources of law. In addition, it is included in this last category, namely istihsān, mašlahah mursalah, istišāb, 'urf, mażhab şahābī, and syar' man qablanā.

Apart from the differences in terms used by experts to place the legal sources, the study is limited to how the MUI places and applies the legal sources in the field of fatwa commissions to produce a legal product. This study is also limited to legal sources they have used in issuing fatwas and will not mention legal sources they have never applied in issuing fatwas.

The Background to the Emergence of the MUI Fatwa of South Sulawesi Province Fatwa regarding Panaik Money

The panaik money fatwa was issued by the MUI of South Sulawesi Province in 2022. This fatwa concerns the practice of giving money or property as a condition for marriage. In this fatwa, the MUI stated that the practice of giving high or excessive amounts of money or property as a condition for marriage could place a heavy financial burden on the prospective groom and his family, which could be detrimental to them and violate the principles of justice in Islam.

This fatwa aims to reduce the financial pressure that the prospective groom and his family may experience in trying to hold a wedding. The MUI urges that the practice of giving money or property as a condition for marriage be adjusted to the economic capabilities of the prospective groom and his family and carried out under the values of justice in Islam. This fatwa is hoped to change the culture of marriage in Indonesian society and reduce the practice of exorbitant dowries. Even though this fatwa does not

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have binding legal force, it has a big influence in forming public awareness regarding this issue and encouraging changes in financially unequal marriage practices.

According to the Chairman of the Fatwa Commission of MUI of South Sulawesi Province, Prof. Rusydi Khaid stated that the consideration made by the Fatwa Commission regarding giving *panaik* money is a custom among the Bugis-Makassar community, including *Panaik* money is a gift of money and other materials from the groom's side to the bride's side as a sense of appreciation by giving a certain amount of money for the wedding procession. *Panaik* money in the Bugis-Makassar tribe is used as wedding party money, also known as shopping money, as a form of the man's seriousness about becoming the future head of the household.

*Panaik* money is different from dowry. Dowry is a religious obligation that is absolute during the marriage procession. Meanwhile, *panaik* money is a traditional demand for the Bugis-Makassar community as a fee provided by men for party and wedding processions. The amount varies according to the agreement between the man's family and the woman's family.

There are types of wedding gifts in the Bugis-Makassar tradition, including *panaik* money, *leko*, *erang-erang* (offerings), *sompa* or *sunrang* (dowry), and *passio* (binding).36 The realities that occur in society regarding *panaik* money include a shift in the culture of *panaik* money, which is originally intended to give appreciation to the bride's family to become a place of prestige and show-off, as well as public deception in society. A few people use girls as commodities to get the highest *panaik* money. Using *panaik* money as a complementary level (*tahsiniyāt*) becomes the most important thing (*darūriyāt*) in marriage compared to dowry, which is obligatory by law. Making *panaik* money as determinant of the realization of a marriage compared to the conditions determined by Islamic law. The occurrence of various forms of crime (usury, stealing, etc.) to fulfill *panaik* money. Young people commit cases of adultery due to their inability to marry because of the high amount of *panaik* money. The occurrence of elopements (*silariang*) and unregistered marriages carried out by the bride and groom because the men were unable to meet the *panaik* money. Many single men and women do not get married because they cannot afford *panaik* money. The emergence of psychological impacts felt by men and


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women, as well as their families, are stress and anxiety due to the high amount of panaik money. Meanwhile, Dr. Syamsul Bahri, as Secretary of the Fatwa Commission, confirmed this case that the MUI of South Sulawesi Province needs to issue a fatwa and provide recommendations regarding the panaik money phenomenon.

The Potential Fatwa from Regional to National Level

The fatwa, issued by the MUI of South Sulawesi Province regarding panaik money, provides the legal provisions. Panaik money is a custom whose law is permissible as long as it does not violate Sharia principles. The Sharia principles in panaik money are: making marriage easier and not burdensome for men; honoring women; honest and not done manipulatively; the amount is conditioned fair and under the agreement by both parties; forming commitment, responsibility, and sincerity of the prospective husband; as a form of mutual help (ta‘āwun) to continue a friendship.

Meanwhile, the recommendations are given by the fatwa.37 For the blessing of panaik money, we are encouraged to spend part of the infaq to eligible people through the official institutions. The panaik money should not be an obstacle to the wedding procession, agreed upon in a family manner, and avoid the characteristics of tabzir danisraf (waste) and hedonic style. Regional fatwas are issued by religious institutions or religious authorities at the regional or regional level and are usually related to issues specific to that region.38 The potential for turning a regional fatwa into a national fatwa is possible. Still, the process can vary in each country depending on the legal system and religious institutions in force.

According to Dr. KH. Ruslan Wahab, Head of the Fatwa Division, there are possible steps to elevate a regional fatwa into a national fatwa. First, Recognition and Approval. Regional fatwas must be recognized or approved by the national or central religious authorities. This authority usually has the power to review and approve fatwas from the regional level. Second, Consistency with National Law. The fatwa must be consistent with national law and the legal principles applicable in that country. Third,


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Discussion and Deliberation. Sometimes, regional *fatwas* can become material for discussion and deliberation at the national level. For example, discussion in the meetings of national ulama or ulama councils. Fourth, Alignment with Government Policy. The government can also be involved in this process, especially if the *fatwa* significantly impacts society and national law. And, Application throughout the country. Once recognized as a national *fatwa*, the *fatwa* can be applied throughout the country.

The *fatwa* on *panaik* money, issued by the MUI of South Sulawesi Province, provides legal provisions and recommendations following Sharia principles. The process of elevating a regional *fatwa* into a national *fatwa* may vary in different countries but usually involves recognition and approval by national religious authorities, consistency with national law, discussion and deliberation, alignment with government policy, and application throughout the country. It needs to understand the legal and religious context of a particular country to have a better understanding of how a regional *fatwa* can be elevated to a national *fatwa*.

This process may occur in the context of certain countries and religious institutions. This national process includes recognition and approval from the central religious authority, consistency with national law, discussions involving clerics, conformity with government policy, and the *fatwa* that are applicable throughout the country. However, not all local *fatwas* will be elevated into national *fatwas*. Only *fatwas* that are deemed to have sufficient relevance and significance will be approved as national *fatwas*.

**Conclusion**

The *fatwa* of MUI of South Sulawesi Province regarding *panaik* money seems to have an urgent purpose, namely to address several social, economic, and cultural problems related to the practice of *panaik* money in marriage, especially in the context of the Bugis-Makassar community in South Sulawesi. It shows that this *fatwa* aims to maintain welfare and justice in society. This *fatwa* appears to reflect the MUI of South Sulawesi Province’s efforts to balance traditional traditions with Islamic values and protect the rights and welfare of prospective brides and grooms. Although it does not have binding legal force, this *fatwa* can significantly influence public awareness and change financially unequal marriage practices. The *panaik money fatwa* describes the views and

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recommendations of regional level religious institutions regarding the practice of *panaik money* in marriage, considering Sharia principles and Islamic values. Elevating a regional fatwa into a national fatwa requires several steps, which generally depend on the applicable rules and procedures of a country. It aims to ensure that the *fatwa* follows national law and has sufficient relevance to be implemented throughout the country.

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