

**LIMITS OF PARENTAL INTERFERENCE IN
CHILDREN'S HOUSEHOLD REVIEWED FROM
LAW NO. 1 OF 1974**

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ABSTRACT

The issue of smoking law is not a new problem, there are many opinions of scholars regarding smoking law, some are pro and some are against. One of the fatwas regarding smoking is the fatwa issued by the Aceh MPU number 18 of 2014 concerning Smoking According to Islamic Views. In the fatwa issued by the Aceh MPU on December 3 2014, there are the first five points; Cigarettes are objects made from tobacco that contain nicotine. Second; The use of nicotine for a certain period of time can damage health, thirdly; Smoking for people who is prohibited by medical experts is Haram, fourth; Smoking with behavior that does not respect other people is Haram, fifth; Caregivers and educators who allow children to smoke are guilty. This research attempts to examine the Aceh mpu fatwa from the perspective of its legal basis. In determining smoking laws, the Aceh MPU uses the basis of the Qur'an, hadith, ijma', qiyas, the opinions of ulama, fiqhiyyah rules and ushuliyyah rules, and what is the focus of the study in this research is the use of fiqhiyyah rules used by the Aceh MPU in determining smoking law.

Keywords: Smoking Law; Muhammadiyah; Figures Opinions; Aceh Tamiang.

ABSTRAK

Merokok adalah kegiatan yang telah menjadi bagian dari kebudayaan dan kebiasaan dari Masyarakat khususnya di Indonesia. Tidak ada yang tidak

mengenal rokok baik itu perokoknya ataupun mereka yang tidak merokok. Kalau demikian dalam sudut pandang Islam merokok merupakan suatu kajian baru karena merokok ataupun hukum rokok tidak ada dirumuskan secara pasti di dalam Nash pada masa Nabi Muhammad SAW. Sehingga hukum rokok merupakan suatu kajian baru dalam kajian hukum Islam. Di Indonesia khususnya terdapat beberapa hukum rokok dari yang mengharamkan hingga yang memakruhkan yang mana hukum rokok ini terbagi-bagi dalam beberapa fatwa baik yang dikeluarkan oleh Lembaga resmi negara maupun oleh lembaga atau organisasi-organisasi tertentu seperti Muhammadiyah. Menurut Muhammadiyah sendiri hukum rokok adalah haram Hal ini didasari oleh beberapa kaidah dan pemahaman terhadap Alquran dan hadis yang dikemukakan di dalam fatwa Muhammadiyah dan telah dikeluarkan pada tahun 2010. Ada beberapa cara yang digunakan oleh Muhammadiyah dalam memberikan fatwa terkait hukum rokok yang mana secara gambaran besar terbagi menjadi 3 model ijtihad yaitu Ijtihad Bayani, ijhtihad Qiyasi dan Ijtihad Ishtilahi. Selain menggunakan metode ijtihad, Muhammadiyah juga menggunakan pemahaman yang terkandung di dalam Maqashid Syariah atau tujuan daripada pencarian dengan menitikberatkan kepada terpeliharanya jiwa, harta, akal, jiwa dan raga. Namun terlepas dari hukum rokok, kita sebagai seorang insan tidak boleh menjadikan perkara hukum rokok menjadi perkara yang digunakan untuk memecah belah umat karena merokok merupakan hal yang sangat cabang dan bukan pembahasan hukum pokok seperti pembahasan sudut dalam jinayah.

Kata Kunci: Hukum Merokok; Muhammadiyah; Pendapat Tokoh; Aceh Tamiang.

A. INTRODUCTION

Smoking is an activity that has become part of human life in various parts of the world. There is no one who does not know cigarettes. However, cigarettes are something that can be said to be relatively new, because cigarettes were not known at the time of the Prophet. Because it is something new, it is not surprising that there is not a single verse that definitely explains the law of cigarettes in the Qur'an or the hadith. Therefore, it is not surprising that various different opinions have emerged in determining the law of cigarettes, both individual scholars and religious organizations that are often used as references for the general public (Shofuranisa & Hamdan, 2021).

Differences of opinion about the law on smoking in the eyes of Islamic law, until now is still a hot and controversial debate. The debate

that emerged, stemmed from the absence of textual provisions in the Qur'an or the Hadith regarding the issue of smoking. Thus, several opinions emerged that said that smoking was permissible. There were also those who argued that smoking was makruh. And there were also those who said that the law was haram (Al-Azmi, 2022).

The argument from those who say that smoking is permissible is that for matters that are not regulated in the text, it must return to the original rule, namely that it is permissible until there is a text that forbids it. While those who say that it is makruh, they argue that smoking is not specifically regulated in the text, but smoking is an act that brings several negative effects so that its law becomes makruh. Then those who say that smoking is forbidden because the elements that arise from the act of smoking are clearly elements that are detrimental to oneself and others which are prohibited by Allah SWT (Shofuranisa & Hamdan, 2021).

Then the community acknowledged that the cigarette industry has provided significant economic and social benefits. The cigarette industry has also provided significant income for the State. In fact, tobacco as a raw material for cigarettes has become an economic mainstay for some farmers. However, on the other hand, smoking can be harmful to health and cause waste (isyraf) and is an act of tabzir. Economically, the prevention of the dangers of smoking is also quite large. Cigarettes are the main cause of disease throughout the world which can actually be prevented and have a very significant impact on public health. Muhammadiyah understands very well that the implementation of this fatwa prohibiting smoking requires socialization, time and process for several parties (Uwardani et al., 2019).

So that smokers who are victims of this addictive and damaging substance can try to stop smoking by using the counseling facilities that will be provided by Muhammadiyah health services. In addition, tobacco farmers are also urged to slowly replace their tobacco income commodities with other crops that are more profitable and healthier. Several leading Muhammadiyah universities, in collaboration with the Muhammadiyah Community Empowerment Council (MPM), will conduct research on the lives of tobacco farmers, and gradually shift to other farming activities that are more beneficial for families and the community.

Smoking seems to be a culture. This is compounded by the intensity of cigarette advertisements that identify smokers with masculinity, freshness, and prowess. For men, the younger they are when they smoke, the more they feel proud. However, in fact, the general public also knows that behind the pleasure and prestige of smoking, there is death lurking. Not only for the smoker, but also for those around the smoker. Thus, cigarettes are indeed a double-edged sword. On the one hand, if they are allowed to circulate, they can pose a significant threat to human health, but on the other hand, if their circulation is prohibited, the consequences will be even greater. So with the fatwa on smoking being issued at the Muhammadiyah Tarjih and Tajdid Council, it has caused various reactions from the public. On the one hand, some agree, but on the other hand, many reject it. We are all equally aware that the common enemy is poverty and misery. Smoking can cause poverty and misery. However, banning smoking can also cause poverty and misery. Therefore, the author is interested in conducting this research.

B. RESULT AND DISCUSSION

Smoking Law from Muhammadiyah's Perspective

The meeting of the Tarjih and Tajdid Council of the Muhammadiyah Central Leadership held on Sunday, 27 Rabiul Awal 1431 H which coincided with March 7, 2010 M resulted in the Fatwa of the Tarjih and Tajdid Council of the Muhammadiyah Central Leadership NO. 6/SM/MTT/III/2010 regarding the law on smoking. In the fatwa, it is stated that the law on smoking according to the results of the meeting of the Tarjih and Tajdid Council of the Muhammadiyah Central Leadership is haram (Munif, 2020).

Cigarettes here are considered haram when viewed from worldly matters, anything that causes harm will automatically become haram on the basis of *maslahah* and *mafsadah* taken. As Allah SWT says in Surah Al-A'raf: 56.

The damage referred to here is not only to the environment, but also to oneself. Smoking is an act that can damage oneself, because the substances contained in cigarettes themselves are substances that are harmful to the body and health, therefore the law on smoking is haram. From this quote, it can be concluded that smoking is haram because there

are many factors that make smoking something that is harmful to the body and the environment (Ramadhan, 2022).

The emergence of the Muhammadiyah fatwa was motivated or caused by the context of participation in efforts to develop public health as much as possible and the creation of a healthy living environment which is the right of every person and to review the fatwa of the Tarjih and Tajdid Council of the Muhammadiyah Central Leadership issued in 2005 and 2007 regarding the law on smoking (Bagus et al., 2023).

The results of the Leadership Meeting of the Muhammadiyah Central Tarjih and Tajdid Council held on 21 Rabiul Awal 1431 H regarding the law on cigarettes stated that the law on cigarettes is Haram. The fatwa can be explained with the following arguments: (Ramadhan, 2022)

1. Sharia permits all that is good and forbids khabâits (all that is bad), this is found in the Qur'an Surah al-A'raf verse 157.
2. Sharia also prohibits deliberately throwing oneself into perdition, this is contained in the Koran, Surah al-Baqarah verse 195.
3. Sharia has strictly prohibited a Muslim from killing oneself or at least carrying out actions or habits that result in oneself being killed or killed, this is contained in Surah an-Nisa verse 29.
4. Sharia has prohibited a Muslim from committing wasteful acts (wasteful) this is contained in Surah al-Isra' verse 26 and verse 27.
5. Sharia also prohibits committing acts that cause harm or danger to oneself or others, this is explained in a famous hadith which reads:

عَنْ عِبَادَةَ بْنِ الصَّامِتِ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَضَى أَنْ لَا ضَرَرَ وَلَا ضِرَارَ

Meaning: There is no danger to oneself and to others. (HR. Ibn Majah)

6. The Sharia prohibits deliberately committing acts of intoxication and weakening, this is explained in the Hadith narrated by Abu Daud which reads:

عَنْ ابْنِ عُمَرَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ مُسْكِرٍ حَرَامٌ وَمَنْ مَاتَ وَهُوَ يَشْرِبُ الْخَمْرَ يُدْمِنُهَا لَمْ يَشْرُبْهَا فِي الْآخِرَةِ

Meaning: From Ibn Umar he said, "The Messenger of Allah said: "Everything that is intoxicating is khamr, and everything that is intoxicating is haram. Whoever dies while drinking wine and loves it, he will not drink it on the Hereafter (Ahaddyat, 2022).

7. Based on the series of propositions above, the ushul ulama also determined based on careful considerations regarding the principles and aims and objectives contained in a proposition, especially those that contain legal meaning, thus giving birth to a concept called *maqasid asy-syariah*, the values or objectives and principles that to be maintained and practiced are religious protection (*hifz ad-din*), protection of body and soul (*hifz an-nafs*), protection of the mind (*hifz al-aql*), family protection (*hifz an-nasl*), and protection of assets (*hifz al-mal*).

Therefore, based on the arguments used by Muhammadiyah in issuing the smoking law, it can be concluded that Muhammadiyah categorizes smoking as an act that is prohibited by the Qur'an, smoking contains elements of actions that plunge oneself into perdition, smoking can endanger oneself and others. , smoking is a wasteful act (Hidayat, 2017).

Analysis of Smoking Law According to Muhammadiyah Figures in Aceh Tamiang

In 2005, the Islamic mass organization PP. Muhammadiyah through its Majlis Tarjih and Tajdid issued a fatwa on the law of smoking, the essence of which was that smoking was permissible. However, the fatwa was later revised or considered no longer valid since the issuance of a fatwa resulting from the Agreement in the Halaqah Tarjih on Tobacco Control Fiqh held in March 2010 AD, the contents of which stated that the law of smoking was haram (Ispriyarso, 2018).

The Majlis Tarjih and Tajdid as a fatwa institution at the level of the central management of the PP. Muhammadiyah organization is a fatwa institution that is indeed tasked with answering various religious problems experienced by various groups of Muhammadiyah citizens and members. For that, the Majlis Tarjih and Tajdid PP. Muhammadiyah is fully responsible for the decisions and provisions that have been issued or fatwas issued (Permana & Sanusi, 2021).

Judging from the legal framework used by the Majlis Tarjih and Tajdid PP Muhammadiyah as attached and explained in the Draft Fatwa numbered 6/SM/MTT/III/2010 that in Istidlal, the main basis is the Qur'an and as-Sunnah as-Sahihah. Ijtihad and Istinbat based on 'illah against things that are not contained in the naş, can be done. As long as it does not concern the field of ta'abbudy, and is indeed something that is taught in fulfilling the needs of human life, the Majlis Tarjih in Ijtihad uses three forms of Ijtihad, namely: (Manihuruk et al., 2022)

1. Ijtihad Bayani: namely (explaining the text of the Qur'an and al-Hadith which are still mujmal (general), or have multiple meanings, or seem contradictory, or the like), then the Tarjih path is carried out.
2. Ijtihad Qiyasi: namely the use of the Qiyas method to determine legal provisions that are not explained by the text of the Qur'an or al-Hadith.
3. Ijtihad Istislahi: namely determining laws that do not have a specific text based on 'illat, for the benefit of society.

When deciding on a decision, it is done by deliberation. In determining Ijtihad issues, the jama'i Ijtihad system is used. Thus, the individual opinions of Majlis members are not considered strong. Then do not bind yourself to one school of thought, but the opinions of all schools of thought can be taken into consideration in determining the law as long as it is in accordance with the spirit of the Koran and Sunnah, or other grounds that are considered strong. Then it needs to be understood that it has open and tolerant principles and does not assume that only Majlis Tarjih is the most correct. Decisions are taken on the basis of the strongest arguments that were obtained when the decision was made. And corrections from anyone are welcome. As long as stronger arguments can be given. In this way, it is possible for the Majlis Tarjih to change decisions that have been made (Manihuruk et al., 2022).

Likewise, in istinbat determining the smoking law if seen from the perspective of the perpetrator using Ijtihad Jama'i, because in deciding the fatwa several experts from various scientific disciplines gathered. Meanwhile, if seen from the aspect of its implementation using the Ijtihad Bayani and Qiyasi methods, this can be seen when the Tarjih Council understands the letter al-A'raf verse 157, and the letter al-Isra' verses 26-27. In addition, the Tarjih Council also uses the Ijtihad istislah method

namely Ijtihad by digging, searching and deciding on sharia law by establishing the rules of kulliyah based on the spirit of sharia law with the aim of realizing the welfare of the people, both in bringing *maṣlahah* and preventing *maḥarāt* such as the use mentioned below. Then Islamic Law has a goal (*maqasid Syariah*) to realize human welfare. The realization of these goals is achieved through protection of religion (*hifz ad-din* protection of the soul/body (*hifz an-Nafs*), protection of the mind (*hifz al-Aql*), protection of the family (*hifz n-nasl*), and protection of property (*hifz al-Mal*). Protection of religion, carried out by increasing piety through fostering vertical relationships with Allah SWT and horizontal relationships with others and the natural environment by complying with various norms and instructions of the sharia on how to do good (*iḥṣān*) towards Allah, SWT, humans and the natural environment. Protection of the soul and body, is realized through efforts to maintain a healthy standard of living physically and spiritually and avoid all factors that can endanger and damage humans physically and psychologically, including avoiding actions that result in suicide even if slowly. and the act of throwing oneself to destruction which is forbidden in the Qur'an (Iswahyudi, 2020).

Protection of reason, is carried out through efforts including building intelligent humans including seeking the best education and avoiding anything that is contrary to efforts to educate humans. Protection of the family, is realized through efforts to create a harmonious family atmosphere and create a healthy life including and especially for children who are the shoots of the nation and people. Protection of property, is realized through the maintenance and development of material wealth that is important in order to support a prosperous economic life and therefore it is forbidden to waste and squander property on things that are useless and even destroy humans themselves. Islamic law develops in accordance with the emergence of new problems that arise from time to time, and is interpreted according to the diverse conditions of the people (Husnaini, 2018).

The process of independent thinking and interpretation of law is known as *ijtihād*. The process of *ijtihād* is not only limited to newly emerged problems, but *ijtihād* has other interests related to the treasury of Islamic law (Putri et al., 2022). Namely, it can also be done by reviewing factual issues based on current conditions and human needs to determine between strong and relevant opinions, with the aim of realizing sharia and for the benefit of humanity (John, 2021).

Seven years ago, the Majlis Tarjih and Tajdid of the Muhammadiyah Central Executive Board still issued a fatwa that smoking was permissible. However, in 2010, the fatwa was changed or revised to be haram. Controversy arose. On its website, the Majlis Tarjih and Tajdid has a reason why Muhammadiyah made a legal determination in 2010 that smoking was haram. In a question and answer session on the fatwa that smoking was haram, it was explained in 2005 that "at that time, the Majlis Tarjih and Tajdid did not have enough data and information that could be conveyed to the fatwa formulators. And after several studies were conducted again by inviting health experts, demographers and sociologists, the Majlis Tarjih and Tajdid changed the fatwa that smoking was permissible to be haram," explained the Majlis Tarjih and Tajdid (Iskandar et al., 2019).

With the issuance of this new fatwa, the previous fatwa on smoking being permissible is declared null and void. It is explained that the newly identified legal reason for smoking is that cigarettes are suspected of being a dangerous and addictive product and contain 4,000 chemical substances, 69 of which are carcinogenic (cancer-causing). Some of the dangerous substances in cigarettes include tar, cyanide, arsenic, formalin, carbon monoxide, and nitrosamines. It is also explained that smokers are more likely to develop serious diseases such as lung cancer than non-smokers. And there are no safe and permissible cigarettes. So it can be understood that basically the Majlis Tarjih and Tajdid of the Muhammadiyah Central Leadership by issuing a fatwa or prohibiting smoking, with the intent and purpose of the sharia, namely, it is obligatory to immediately strive to maintain and improve the highest level of public health and create a conducive environment for the realization of a healthy living condition which is the right of every person and is part of the purpose of the sharia and this is in line with the ideals of the Islamic religion to realize the welfare of humanity (Firmansyah, 2019).

C. CONCLUSIONS

Based on the presentation of the material and research results above, it can be concluded that the Majlis Tarjih and Tajdid Muhammadiyah uses several technical terms in *ijtihad*. The *ijtihad* method used by the Majlis Tarjih and Tajdid in determining the law of smoking is the *Ijtihad bayāni* method, *Ijtihad qiyāsi* and *Ijtihad jama'i*, this can be seen from the legal basis used by the Majlis Tarjih and Tajdid in deciding the

law of smoking which relies more on the Qur'an and al-Hadith. In ijtihad the legal status of smoking, the Majelis Tarjih and Tajdid uses several approaches. seen from its historical approach, the Majelis Tarjih and Tajdid went through several stages and revisions. Based on the available data, the fatwa on the prohibition of smoking is a revision of the previous smoking fatwa in 2005 which stated that the law of smoking was permissible. As for the basis for the leap or shift in the fatwa that moved from permissible to forbidden, the Majelis Tarjih Muhammadiyah conducted a re-study by bringing in several experts in their fields. As for the legal cause that causes it, namely cigarettes contain many muarat and are very dangerous, then with the discovery of this new cause, cigarettes or smoking can be categorized as an act that can cause danger that is very threatening to the safety of mankind, both for the smoker (active smoker) and for those who are exposed to cigarette smoke (passive smoker). So, smoking is an act that clearly contradicts the elements of the objectives of the sharia (*maqasid sharia*)

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