



## Istinbat Law of Ru'yah al-Hilāl of The PBNU Falakiyah Institute (Study on The Cancellation of Istikmal In The Month Of Jumadil Awal 1438 H/2017 M)

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**Abstract:** *Determination of the beginning of the month of Jumadil Akhir 1438 H, the position of the hilal based on hisab at an altitude of 7°08' - 8°51'in Indonesia no one managed to see the hilal. Therefore, the beginning of Jumadil Akhir 1438 H was decided on March 1, 2017 on the basis of ikmal / istikmal. On Tuesday, March 28, 2017, there was a rukyat report in Pelabuhan Ratu of the hilal at 3°27' and in Condrodipo Gresik, at 3°17' there was a person who saw the hilal and his report was accepted, resulting in the istikmal of the month of Jumadil Awal being canceled. The purpose of this study is to reveal the legal istinbāt of the cancellation of ikmal / istikmal in the month of Jumadil Awal 1438 AH / 2017 AD. This research uses a library research method which is included in the qualitative type with an evaluative descriptive approach, which means that the author seeks to reveal and understand the implementation of ru'yah al-hilal in the perspective of the PBNU LF in the case of a Study on the Cancellation of Istikmal in the Month of Jumadil Awal 1438 H / 2017 AD). The conclusion of the legal istinbāt used and referred to by the PBNU LF is through the results of the NU XXXIV Congress in Lampung. Contradictions between material and formal provisions in the Hijri calendar can also occur. In order to unravel the problem of contradictions in the lunar calendar, the LF PBNU uses the al-Tarjih method as a solution.*

**Abstrak:** Penetapan awal bulan Jumadil Akhir 1438 H, posisi hilal berdasarkan hisab pada ketinggian 7°08' - 8°51'di Indonesia tidak ada seorang pun yang berhasil melihat hilal. Oleh karena itu awal Jumadil Akhir 1438 H diputuskan 1 Maret 2017 atas dasar ikmal/ istikmal. Selasa, 28 Maret 2017 terdapat laporan rukyat di Pelabuhan Ratu hilal pada ketinggian 3°27' dan di Condrodipo Gresik, berada pada ketinggian 3°17' terdapat seseorang yang melihat hilal dan laporannya diterima yang mengakibatkan istikmal bulan Jumadil Awal dibatalkan. Tujuan dari penelitian ini untuk mengungkap istinbāt hukum dari pembatalan ikmal/ istikmal bulan Jumadil Awal 1438 H/ 2017 M. Penelitian ini menggunakan metode kepustakaan (library research) yang termasuk dalam jenis kualitatif dengan pendekatan deskriptif evaluatif yang artinya penulis berupaya untuk mengungkap dan memahami implementasi ru'yah al-hilal dalam perspektif LF PBNU dalam hal Studi atas Pembatalan Istikmal Bulan Jumadil Awal 1438 H/ 2017 M). Kesimpulan dari istinbāt hukum yang digunakan dan menjadi rujukan LF PBNU adalah melalui hasil Mukhtar NU XXXIV di Lampung. Kontradiksi ketentuan material dan ketentuan formal dalam kalender hijriah juga dapat terjadi. Guna mengurai permasalahan kontradiksi dalam kalender kamariah, LF PBNU menggunakan metode al-Tarjih sebagai solusinya.

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## A. Introduction

The determination of the beginning of the lunar month continues to be debated every year. This debate was born because of the differences in views related to the verses of the Qur'an, the Prophet's traditions, and due to the advancement of science and the times that are relevant to the determination of the beginning of the lunar month. Approaching the beginning and end of the lunar month has always been an interesting discussion among the public. Regarding the issue of hisab rukyat the beginning of the lunar month is basically sourced rukyat traditions. Where based on the *zahir* of these traditions, scholars differ in their understanding. Some argue that the determination of the beginning of the lunar month must be based on rukyat or seeing the hilal which is done on the 29th.<sup>1</sup>

Hisab is a mathematical and astronomical calculation to determine the position of the Moon in determining the beginning of the month in the lunar calendar. According to the hisab school of thought, hilal is the Moon that has passed conjunction with the condition that conjunction occurs before *ghurūb* and the Moon is above the horizon at *Maghrib* time. The science of hishab in Indonesia continues to develop along with the advancement of science. The various hisab methods include hisab *urfī*, hisab *iṣṭilāhi*, hisab *taqribi*, hisab *haqīqī*, and hisab *haqīqī bit tahqiq*.<sup>2</sup>

Rukyat itself means observing or seeing the new moon at sunset at the beginning of the lunar month with the naked eye or using optical equipment.<sup>3</sup> If rukyat is not successful, either because the hilal cannot be seen or because it is cloudy (weather disturbance), then the determination of the beginning of the lunar month must be based on *istikmal* (completed 30 days).<sup>4</sup> The criterion of hilal sighting or *ru'yah al-hilāl* in the hijri calendar is the basis of differences in determining the beginning of the month.<sup>5</sup> Along with the times and science, there are new criteria in determining the beginning of the lunar month, namely *imkān al-*

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<sup>1</sup> Ahmad Izzuddin, *Practical Falak Science: Hisab-Rukyat Methods and Solutions to Problems*, (Semarang: PT Pustaka Rizki Putra, 2012), p.91.

<sup>2</sup> Syarifuddin Yusmar, "Bugis-Makassar Dating in Determining the Beginning of the Kamariah Month According to Sharia and Science," *Hunafa*, Vol. 5, No.3, 2008, p.281.

<sup>3</sup> Susiknan Azhari, *Encyclopedia of Hisab Rukyat*, (Yogyakarta: Pustaka Pelajar, 2008), p.183.

<sup>4</sup> Ahmad Izzuddin, *Practical Falak Science: Hisab-Rukyat Methods and Solutions to Problems*, p.92.

<sup>5</sup> Hendro Setyanto, *Reading the Sky*, (Jakarta: Al-Ghuraba, 2008), p.2.

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*ru'yah*.<sup>6</sup> According to astronomy, this term is often referred to as hilal visibility, which is the phenomenon of hilal at a certain height which according to experience in the field hilal can be seen.<sup>7</sup>

As a result of the ta'abbudiy principle, NU continues to carry out *ru'yah al-hilāl bil fi'li* in the field, even though according to *hisab* the hilal is still below the horizon or above the horizon but it is impossible to be observed, which based on experience, the hilal will not be seen. This is done so that the decision to complete the new month (*istikmal*) is still based on the *rukyat* system in the field that does not succeed in seeing the hilal, not on the basis of *hisab*.

As for the *imkān al-ru'yah* criterion, it is only used as a reference to reject the report of *ru'yah al-hilāl*, but the *hisab* experts have agreed that the hilal is still below the horizon or above the horizon but it is impossible to be observed. So the *imkān al-ru'yah* criterion is not used to determine the beginning of the lunar month. This means that when according to *hisab* the moon has shown *imkān al-ru'yah*, but the reality on the ground is that the moon cannot be sighted, then the determination of the beginning of the lunar month, especially the beginning of Ramadan, Shawwal, and Zulhijah is decided on the basis of *ikmal / istikmal*.

The decision of the NU XXXIV Congress in the *baḥṣul masā'il ad-diniyah al-waqi'iyah* commission session held at Darussa'adah Islamic Boarding School, Central Lampung, determining the height of the hilal for determining the beginning of the lunar month is different from previous decisions. The NU XXXIV Congress decided that *imkān al-ru'yah* is a condition for accepting *rukyat* testimony as an initial premise for determining the beginning of the lunar month.<sup>8</sup>

The session of the *baḥṣul masā'il ad-diniyah al-waqi'iyah* committee of the NU XXXIV Congress stipulated that if according to the five *qaṭ'i falak* methods, it is determined that the new moon cannot be seen, then this determination is the basis for rejecting *rukyat* testimony. However, when the hilal according to *falak* science is above the horizon and can certainly be seen, but no one has managed to see the hilal and when the current month is completed (*istikmal*) will cause the next month to be only 28 days old, then *falak* science can be a

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<sup>6</sup> *Imkan al-ru'yah* means the calculation of the possibility of the hilal being seen, in English it is usually termed the visibility of the hilal. Read more in Susiknan Azhari, *Encyclopedia of Hisab Rukyat*, 79. *Imkan al-rukyat* comes from two words, *imkan* and *al-ru'yah*. The word *imkan* comes from the word *amkana* which means possibility, while the word *al-ru'yah* comes from *ra'a* which means seeing with the eyes (physical form). Louis Ma'luf, *al-Munjid fii al-Lughah wa al-A'lam*, (Beirut-Lebanon: Dar al-Masyriq, 1975), p.122.

<sup>7</sup> Muhyiddin Khazin, *Dictionary of Falak Science*, (Yogyakarta: Buana Pustaka, 2005), p.35.

<sup>8</sup> Decree of the LF PBNU No. 001 / SK / LF-PBNU / III / 2022 Regarding the Criteria for *Imkān al-rukyat* Nahdlatul Ulama.

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reference for rejecting ikmal / istikmal.

Determination of the beginning of the month of Jumadil Akhir 1438 H / 2017 M, the position of the hilal according to hisab is at an altitude of 7°08' - 8°51'. However, no one in Indonesia managed to see the hilal. Therefore, the beginning of Jumadil Akhir 1438 AH was decided on March 1, 2017 on the basis of istikmal. Furthermore, on Tuesday, March 28, 2017, there were reports of rukyat in Pelabuhan Ratu at an altitude of 3°27' and in Condrodipo, Gresik at an altitude of 3°17'. The report was accepted which resulted in the cancellation of istikmal for the month of Jumadil Awal 1438 AH/ 2017 CE.

Based on the description above, it shows that the results of the baḥṣul masā'il ad-diniyah al-waqi'iyah Commission Session of the NU XXXIV Mukhtar held at Darussa'adah Islamic Boarding School, Central Lampung have three points, namely first, imkān al-ru'yah can be a condition for accepting rukyat testimony when five different qat'i falak methods determine that the new moon is visible. Secondly, if according to phalacology the hilal is still below the horizon, then the ruling of ru'yah al-hilāl is no longer farḍu kifayah or sunnah. Thirdly, when based on hisab istikmal causes the next month to be only 28 months old, then phalacology can be a reference to cancel or deny ikmal/ istikmal.<sup>9</sup>

## B. Research Method

The research method used by the author in the study has five aspects, namely regarding the type and approach of research, data sources, research focus, data collection, and data analysis techniques. The following is the explanation:

### 1. Type and Research Approach

The type of research used by the author is library research, including qualitative type.<sup>10</sup> The type of library research is research conducted by examining library materials, both in the form of encyclopedic books, journals, magazines, and other sources relevant to the research.<sup>11</sup> The research approach used with the descriptive evaluative method is that the author tries to reveal the legal istinbāt of the istikmal cancellation.

### 2. Data Sources

According to its source, research data can be classified into two, namely primary data and

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<sup>9</sup> Rukyah Instruction for Ramadan 1443 AH, No. 012 / LF-PBNU / III / 2022, 11.

<sup>10</sup> Qualitative research is a methodology that provides tools in understanding the meaning in depth relating to complex phenomena and their processes in social life practices. Shane Brady R., "Utilizing and Adapting the Delphi Method for Use in Qualitative Research," *International Journal of Qualitative Methods*, 2015, p.1.

<sup>11</sup> Soejono Abdurrahman, *Research Methods; A Thought and Application*, (Jakarta: PT. Rineka Cipta, 2003), p.56.

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secondary data,<sup>12</sup> namely:

a. Primary Data

Primary data is data obtained directly from the results of interviews, observations and questionnaires distributed to a number of sample respondents in accordance with the target target.<sup>13</sup> The primary data used in this study are the results of interviews with sources, in this case KH. Ma'rufin Sudibyo as the LF PBNU administrator regarding the PBNU LF's view of istikmal cancellation and how its legal istinbāt.

b. Secondary Data

Secondary data sources used in this study are by examining library materials.<sup>14</sup> Secondary data in this case is in the form of books and supporting books that are used to assist in providing data on research, such as the book Guidelines for Rukyat and Hisāb Nahdlatul Ulama compiled by Lajnah Falakiyah PBNU (2006), Results of the 34th NU Congress in Lampung or other works such as journals, articles, and papers from NU figures and astrologers who explain the issue of the beginning of the kamariah month, including those entitled Determination of the Beginning of the Qamariah Month in NU Perspective by A. Ghazalie Masroeri, Results of the XXVII NU Congress in Situbondo by PBNU (1985), Collection of National Education and Training Materials for Rukyat Implementers of Nahdlatul Ulama by LFNU (2006).

c. Research Focus

The focus of research in this paper is to explain the legal istinbāt on the cancellation of istikmal in the month of Jumadil Awal 1438 H / 2017 AD.

d. Data Collection Technique

The data collection methods that the author uses are as follows:

a. Documentation

Documentation is obtained from pre-existing data in the form of writings, books, research results, journals, magazines, scientific, newspapers, articles, sources from the internet, and other data that are scientific and linked to research

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<sup>12</sup> M. Iqbal Hasan, *Principles of Research Methodology and Its Applications*, (Bogor: Ghalia Indonesia, 2002), p.11.

<sup>13</sup> Sugiyono, *Quantitative, Qualitative, and R&D Research Methods*, (Bandung: Alfabeta, 2017), p.137.

<sup>14</sup> Soedjono and Abdurrahman, *Research Methods; A Thought and Application*, p.56.

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problems.<sup>15</sup> Documentation used in the study in the form of Rukyat and Hisab Guidelines Nahdlatul Ulama prepared by Lajnah Falakiyah PBNU (2006), Results of NU XXXIV Mukhtamar in Lampung, Determination of the Beginning of the Month Qamariah NU Perspective by A. Ghazalie Masroeri, Determination of the Beginning of the Month Qamariah NU Perspective. Ghazalie Masroeri, Results of the XXVII NU Congress in Situbondo by PBNU (1985), Collection of Materials for National Education and Training for Rukyat Implementers of Nahdlatul Ulama by LFNU (2006) or other works such as journals, articles, and related papers as well as interviews with sources in this case related PBNU scholars such as KH. Ma'rufin Sudibyo as LF PBNU administrator.

b. Interview

Interview is a question and answer activity with face to face between the interviewer (interview) about the problem under study.<sup>16</sup> The author conducts interviews with relevant sources in this case KH. Ma'rufin Sudibyo as the LF PBNU management which aims to dig deeper into the PBNU LF opinion and in terms of legal *istinbāt* on the cancellation of *istikmal Jumadil Awal 1438H / 2017 AD*.

c. Data Analysis

Data analysis is one of the most critical stages in a research, because analysis is an interpretation of existing data. This research uses an evaluative descriptive method. The author tries to understand the opinion of LF PBNU as well as in terms of legal *istinbāt* on the cancellation of *istikmal Jumadil Awal 1438 H / 2017 AD*.

### C. Discussion

*Istinbāt* in terms of etymology comes from the word *nabaṭa - yanbuṭu - nabṭun* which means "the water that first appears when someone digs a well". The verb is then made into a transitive form, so that it becomes *anbaṭa* and *istinbaṭa*, which means taking water out of a well (a source where water is hidden). Al-Jurjani gives the meaning of the word *istinbāt* as bringing out water from a spring (in the ground).<sup>17</sup> The word *istinbāt* originally means taking water out of the source and then used as a fiqhi term which means taking the law out of the source, namely taking the content of the law from the texts with the sharpness of reason and optimal thinking ability. As revealed by Muhammad bin 'Ali al-Fayyuni as quoted by Satria Efendi, defines *istinbāt* as an effort to

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<sup>15</sup> Suharsimi Arikunto, *Research Procedures A Practical Approach*, (Jakarta: PT Renika Cipta, 2006), p.231.

<sup>16</sup> Soedjono and Abdurrahman, *Research Methods; An Thought and Application*, p.56.

<sup>17</sup> Al-Sharif 'Ali ibn Muhammad al-Jurjani, *Kitab al-Ta'rifat*, (Beirut: Dar alKutub al- 'Ilmiyyah, 1988), p.22.

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draw the law from the Qur'an and sunnah by means of *ijtihad*.<sup>18</sup>

The word *istinbāt* is found in Allah's word Q.S An-Nisa/4: 83 in the form of *fi'il mudari'* as follows:

وَإِذَا جَاءَهُمْ أَمْرٌ مِّنَ الْأَمْرِ أَن أَوْ الْخَوْفِ أَذَاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولِي الْأَمْرِ مِنْهُمْ لَعُتِمَ الَّذِينَ يُسْتَبِطُونَ مِنْهُ ۖ وَلَوْلَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ لَفَاسَدَ السَّيِّئَاتُ مِنَّا وَلَكِن لَّا يَلِيَّا

"And when news of security or fear comes to them, they (immediately) broadcast it. But if they had submitted it to the Messenger and the people in authority among them, those who wanted to know the truth would have been able to find it out from them (the Messenger and people in authority).

Were it not for the grace and mercy of Allah upon you, you would have followed the devil, except for a few (among you)". (Q.S. an-Nisa/ 4: 38).<sup>63</sup>

The above information serves as a reference that *istinbāt* is an effort to extract *shara'* law from original sources through the exertion of all reasoning abilities. This definition is identical to the definition of *ijtihad* known by *ushul fiqhi* scholars. However, *istinbāt* according to al-Syaukani is considered the operationalization of *ijtihad*, because *ijtihad* is carried out using the rules of *istinbāt*.<sup>19</sup> Muhammad Fawzi Faydh divides *ijtihad* into two, namely absolute *ijtihad* and *juz'iy* (partial) *ijtihad*. Absolute *ijtihad* is *ijtihad* carried out by scholars who have successfully compiled legal *istinbāt* methods and rules, while *juz'iy* *ijtihad* is *ijtihad* carried out by scholars who do not compile their own legal *istinbāt* methods, they follow the legal *istinbāt* methods that have been compiled by previous scholars.<sup>20</sup>

Scholars have devised a set of methodologies for interpreting verses and traditions in an effort to bring them closer to the intentions of the law on the one hand and to bring the results of their reasoning closer to the realities of society on the other. The method of reasoning can be divided into three patterns:

1. Linguistic (*Istinbāt Bayani*).

The linguistic method of understanding is clearly seen in the basic sources of Islamic law, namely the Qur'an and hadith. The Qur'an and hadith are written in Arabic, so to explore and understand the content of the Qur'an and hadith requires a set of prescribed rules. The legal verses in the Qur'an, according to *ushul fiqh* scholars, show the understanding of various forms, characteristics, and various meanings.

What concerns *ushul fiqhi* scholars in linguistic *istinbāt* is the meaning of *al-lafz* (*lafaz* or word) in relation to the position of the *lafaz* in the sentence. The scholars discussed it in depth and even divided it into several groups such as Wahbah al-Zuhaili, 'Abd al Wahhab Khallaf and others tried to group it into several categories, namely:

- a. *lafaz* seen from the scope of its meaning,
- b. *lafaz* seen in terms of its use of a meaning and
- c. *lafaz* in terms of its clues in terms of clarity and ambiguity, as well as

<sup>18</sup> Satria Efendi, *Ushul Fiqhi*, (1st Cet; Jakarta: Kencana, 2005), p.177.

<sup>19</sup> Muhammad Ibn 'Ali Ibn Muhammad al-Syaukani, *Irsyad al-Fukhul ila tahqiq al-Haqq min 'Ilm al-Ushul*, (Surabaya: Ahmad Ibn Sa'd Ibn Nabhan, t.th), p.71.

<sup>20</sup> Muhammad Fawzi Faydh Allah, *Al-Ijtihad fi al-Syari'at al-Islamiyyat*, (Kuwayt: Maktabah Dar al-Turats, 1984), p.21. See also Jaih Mubarak, *Islamic Law Ijtihad Methodology*, Cet. 1, (Yogyakarta: UII Press, 2002), p.9.

- d. The word in terms of the way it is expressed in relation to the meaning it contains.<sup>21</sup>

2. In terms of *Maqāṣid ash-Shari'ah*

The scholars of ushul fiqh are of the view that the method of istinbāt is not only linguistically based, but also based on the spirit of *tashri'* or *maqāṣid ash-shari'ah*. Through this method, legal verses and hadiths, which are quantitatively very limited in number, can be developed to answer problems that are not linguistically accommodated by the Qur'an and Sunnah.

Understanding the *maqāṣid ash-shari'ah* is very important, as Abd Wahhab Khallaf emphasized, because it can be used as a tool to understand the wording of the Qur'an and hadith, and to resolve conflicting arguments.<sup>22</sup>

*Maqāṣid ash-shari'ah*, in language, means the intent or purpose of Islamic law. In other words, it means the purpose of Allah and His Messenger in formulating Islamic laws. This purpose can be traced in the verses of the Qur'an and the sunnah of the Prophet as a logical reason for the formulation of a law that is oriented towards the benefit of mankind.

The method of determining the law through *maqāṣid ash-shari'ah* in practice, in addition to using the Qur'an and hadith as sources, also uses methods such as *qiyas*, *istihsān*, *istislah (maslahah mursalah)*, *istishāb*, *sadd al-zari'ah* and *'urf* (custom). In addition to being called a method of determining the law through *maqāṣid asysyari'ah*, some scholars of ushul fiqh refer to it as supporting evidence. Ruling through *maqāṣid ash-shari'ah* can be done through the method of istinbāt ta'lili and the method of istinbāt istilāhi.<sup>23</sup>

3. Aspects of *Ta'arūḍ and Tarjih*

The word *ta'arūḍ* means contradiction between two things. In other words, it means that one of the two propositions requires a ruling that is different from the ruling required by the other. Imam al-Shayukani defines it as one proposition prescribes a certain ruling on a matter while another proposition prescribes a different ruling.<sup>24</sup> This definition shows that one proposition contains a ruling that contradicts another proposition that is still one degree. What is meant by one degree is between verse and verse or between sunnah and sunnah. For example, the contradiction between QS. al-Baqarah (2): 234 regarding the 'iddah of a woman whose husband dies after four months and ten days, whether she is pregnant or not, with QS. al-Thalāq (65): 4, about a pregnant woman waiting until she gives birth.

The mujtahid's view is that when there is a conflict between two propositions, it is necessary to find a solution. According to the scholars of ushul, the steps to be taken in the event of *ta'arūḍ* are: 1) As far as possible, both arguments can be used at the same time, so that no argument is excluded. 2) If in any way the two arguments cannot be used at the same time, then at least one of them should be applied while the other one is abandoned. 3) As a last resort, abrogate both arguments (not practicing both).<sup>25</sup>

<sup>21</sup> Amir Syarifuddin, *Ushul Fiqhi*, Volume I, (Jakarta: Kencana, 2008), p.83.

<sup>22</sup> Abd al-wahhab Khallaf, *Ilmu Ushul al-Fiqh*, 15th cet, (Kuwait: Dar alQalam, 1984), p.205.

<sup>23</sup> Abd al-wahhab Khallaf, *Science of Ushul al-Fiqh*, p.215.

<sup>24</sup> Muhammad Ibn 'Ali Ibn Muhammad al-Syawkani, *Irsyad al-Fukhul*, p.242.

<sup>25</sup> Amir Syarifuddin, *Ushul Fiqh*, p.208.



According to Wahbah al-Zuhaili, the contradiction between the two propositions or laws is only in the view of the mujtahid, according to his ability to understand, analyze, and the power of logic, not an actual contradiction, because it is impossible for Allah or His Messenger to send down rules that are contradictory. According to him, contradictions cannot arise from propositions that are *fi'liyah* (actions). Therefore, Imam al-Syathibi, the contradiction is pseudo, can occur in *qat'i* propositions and *ẓannī* propositions as long as the two propositions are in one degree.<sup>26</sup>

While *tarjih* according to language means strengthening or making something tend or defeat. In terminology, the definition of the Hanafiyyah scholars is:

إِظْهَارُ زِيَادَةِ لِحْجَةِ الْمُتَمَاتِلَيْنِ عَلَى الْخَرِّ بِمَا لِيَ سَوَقُلُّ

*"Proving that there is additional weight to one of two concurrent proofs, where the additional proof does not stand alone."*

The majority of scholars limit *tarjih* to arguments that are *ẓannī* (relative) because the problem of *tarjih* is not included in issues that are *qat'i* and not also between the *ẓannī* and the *qat'i*. The *tarjih* activities carried out by *ahlu al-tarjih* during the Islamic revival were different from *tarjih* activities during the decline of Islamic law. During the decline of Islamic law, *tarjih* was defined as an activity whose main task was to select the opinions of *fiqh* experts within a particular *madhhab*. Meanwhile, during the revival of Islamic law, its scope was much broader than the previous *tarjih*. *Tarjih* in this period selects various opinions, from whatever school they come from, then takes the *rajih* opinion, the strongest based on predetermined criteria.<sup>27</sup>

## Conclusion

Determination of the beginning of the lunar month cannot be separated from the provisions of the law, to understand the provisions of the law there are material provisions (substantial) and formal provisions (procedural). In the lunar calendar, the material provisions are the number of months in a lunar calendar year and the number of days in a lunar calendar month. Contradictions between the material and formal provisions in the Hijri calendar can also occur, namely when the condition of the hilal according to the results of *hakiki-tadqiqi-'ashri* calculations shows a very high position that falls into the category of *al-qat'u bi wujūdihi wa ru'yatihi*, but in reality not a single *perukyat* spread throughout the country managed to observe the hilal. According to the formal provisions of the current lunar month, it must be normalized or completed to 30 days. The problem arises when this is applied and it turns out that for the beginning of the next lunar month it is known that on the night of the 29th the position of the hilal has reached *imkān al-ru'yah* and there are reports of the sighting of the hilal from the observers that can be accounted for. The solution that is considered more appropriate is through the *al-tarjih* method. The implementation of *ru'yah al-hilāl* which does not produce results at a very high position of the hilal is not used as a reason to take *istikmal* steps. However, it is still issued with the consideration of prioritizing material provisions, namely so that the age of the next hijri month does not result in less than the minimum limit, so that the potential age of the hijri month is less than 28 days can be prevented.

<sup>26</sup> Wahbah al-Zuhaili, *Ushul al-Fiqh al-Islami*, 1174.

<sup>27</sup> Faturahman Djamil, *Philosophy of Islamic Law*, p.167.

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