



Fatwa Method of the Muhammadiyah Tarjih Council (Analysis of Al Maqashid Syariah Against Fatwa No. 26.B of 2003 and Fatwa No. 25 of 2004)

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Abstract

This research examines the methodology employed by Muhammadiyah's Tarjih Council in issuing fatwas on food-related cases, particularly concerning tape (fermented food containing alcohol), and analyzes these rulings through Jasser Auda's contemporary maqasid al-shariah perspective. Using a qualitative descriptive design, the study draws from textual sources including academic journals, books, and the Indonesian Ulema Council's Fatwa No. 26.B of 2003 and No. 25 of 2004. The findings reveal that while alcohol is fundamentally prohibited (haram) due to its harm to the human body, the Tarjih Council's fatwa on tape consumption remains ambiguous, permitting alcohol content below 5% without clear justification. Auda's maqasid framework highlights the need to balance religious principles with modern contexts, emphasizing the protection of religion (din), intellect ('aql), life (nafs), and lineage (nasl). This research underscores the importance of contextualizing Islamic legal rulings to address contemporary challenges. It calls for clearer fatwa formulations that integrate scientific evidence and maqasid-based reasoning, ensuring both religious compliance and public health safeguards. The findings contribute to ongoing discourse on Islamic jurisprudence reform and offer practical guidance for halal certification bodies in regulating fermented products.

Keywords: Food Tape Law, Tarjih and Tajdid Council of Muhammadiyah, Methodology, Perspective of Maqashid Syari'ah Jasser Auda

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INTRODUCTION

Since its establishment, the duties of the *Tarjih* and *Tajdid* Council of Muhammadiyah have undergone significant development and change. Initially, the *Tarjih* Council only addressed disputed issues by adopting opinions considered to have strong *dalil* (postulates) (Chabiba & Sa'diyah, 2021; Fauzi & Ayub, 2019; Makrus, 2018; Muthoifin et al., 2023; Nikmah, 2023). There are three main tasks of the *Tarjih* Council: first, to conduct studies of Islamic religious teachings to serve as guidelines for both members of the organization and the wider Muslim community. In this regard, the *Tarjih* Council has compiled several guidelines, such as *Fiqh Air* (Water Jurisprudence), *Fiqh Tata Kelola* (Governance Jurisprudence), *Fiqh Kebencanaan* (Disaster Jurisprudence), and others.

Second, the Council is responsible for developing cadres of scholars. The primary goal of Muhammadiyah is to create a truly Islamic society. Without the presence of *ulama*, it would be difficult for Muhammadiyah to achieve this objective (Al-Hamdi & Atmojo, 2022; Ali, 2016; Isnanto, 2018). The study of religious texts, responding to contemporary issues, and making organizational decisions all require the role of *ulama*. Although Prof. Mukti Ali stated that *ulama* cannot be manufactured administratively, the cadre process remains crucial, as it is

hoped that through this process, new *ulama* will emerge to continue Muhammadiyah's mission as an Islamic *da'wah* movement of *amar ma'ruf nahi munkar* (Badarussyamsi et al., 2021; Dinata et al., 2022; Syamsul Bahri & Abbas, 2020).

Third, the Council issues fatwas. Syamsul explained that a fatwa serves as a bridge between the ideals of *syariah* and the concrete realities of society. Therefore, a fatwa is not only a religious decision on a particular issue but also a source of social history, making careful documentation of fatwa collections essential. Currently, the *Tarjih* Council has published eight volumes of fatwas (Harimurti, 2022; Hidayat Ediz & Bus, 2020; Jamaa, 2017; Matsum, 2023; Syahnan & Ja'far, 2021).

The products produced by the *Tarjih* Council take the form of Decisions, Fatwas, and Discourses. To date, many of these decisions and fatwas are generally referred to as guidance for Muhammadiyah members and Muslims sympathetic to Muhammadiyah. A decision is organizationally binding from the central to the branch level, a fatwa reflects Muhammadiyah's religious stance on an issue, while a discourse is a *tarjih* product outside of decisions and fatwas, such as writings in the *Jurnal Tarjih*.

Indonesia is the country with the largest Muslim population in the world. According to a report by The Royal Islamic Strategic Studies Centre (*RISSC*) or *MABDA* entitled *The Muslim 500* (2022 edition), there are 231.06 million Muslims in Indonesia, equivalent to 86.7% of the total Indonesian population. This proportion also represents 11.92% of the world's Muslim population. Pakistan ranks second with 212.3 million Muslims (10.95%), followed by India with 200.02 million (10.32%), Bangladesh with 153.68 million (7.93%), Nigeria with 107 million (5.52%), Egypt with 87.4 million (4.51%), Iran and Turkey with 82.5 million (4.26%) and 74.42 million (3.84%) respectively, Algeria with 41.53 million (2.14%), and Sudan with 39.6 million (2.04%). The total global Muslim population is estimated at 1.93 billion, or about 22% of the estimated 8.94 billion world population. (See: As many as 86.88% of Indonesia's population is Muslim).

Given this data, it is clear that Indonesia is one of the countries with the largest Muslim populations globally, encompassing various Islamic schools of thought. As a Muslim-majority nation, it is unsurprising that Indonesians uphold Islamic concepts such as the guarantee of worship, including the assurance of *halal* in all products used. This right to worship is enshrined in Article 29, Paragraph 2 of the 1945 Constitution, which states: "The State guarantees the freedom of each resident to embrace their own religion and to worship according to that religion and belief." Reflecting on this, it is evident that Indonesia provides substantial guarantees for religious freedom, allowing adherents to determine their beliefs without coercion. The choice to use *halal* products is part of this guarantee, enabling Muslim consumers to use products safely, comfortably, and with peace of mind.

As a country with a Muslim majority, Indonesia places great emphasis on *halal* principles in food consumption, including traditional fermented products like *tape* (rice wine), which contains alcohol. The Muhammadiyah *Tarjih* Council's Fatwa No. 26.B of 2003 and No. 25 of 2004 regarding *tape* demonstrate ambiguity—while acknowledging the dangers of alcohol, they permit up to a 5% alcohol content without providing a definitive legal ruling. This study aims to address this scholarly gap by analyzing the *Tarjih* fatwa through the

contemporary lens of Jasser Auda's *maqasid al-shariah*, which integrates Islamic legal principles with modern needs.

The urgency of this research lies in its potential to provide legal certainty for the Muslim community while ensuring fatwas remain relevant to scientific developments and contemporary issues, particularly in safeguarding the five fundamental principles of *maqasid al-shariah*: religion (*din*), intellect (*'aql*), life (*nafs*), lineage (*nasl*), and property (*mal*). This approach is expected to offer comprehensive solutions that harmonize Islamic values with the challenges of modern society, bridging the gap between traditional jurisprudence and evolving societal contexts. The study's significance extends to both academic discourse and the practical implementation of Islamic law in Indonesia's dynamic social landscape.

METHOD

This research employs a descriptive qualitative method with a literature review approach to analyze Muhammadiyah's *Tarjih* Council Fatwa No. 26.B of 2003 and No. 25 of 2004 regarding the legal ruling on *tape* consumption, as well as its relevance to Jasser Auda's contemporary *maqasid al-shariah* concept. Data was collected from primary sources, including official fatwa documents and authoritative works on *maqasid al-shariah*, as well as secondary sources such as scholarly journal articles, books, and Islamic legal commentaries published between 2000 and 2024. The literature selection process was conducted systematically using keywords like "tape alcohol ruling," "Muhammadiyah fatwa methodology," and "contemporary maqasid al-shariah" across various academic databases.

The collected data was then verified through triangulation by referencing the original fatwa texts in Arabic and Indonesian and cross-checked with opinions from Islamic jurists and *usul al-fiqh* experts. Thematic analysis was applied to identify the *Tarjih* Council's reasoning patterns in formulating the fatwa, which were then compared with the principles of Jasser Auda's *maqasid al-shariah*. This study is limited in scope by focusing exclusively on Sunni jurisprudence perspectives and does not include non-academic viewpoints circulating in public discourse.

RESULT AND DISCUSSION

1. Methodology Used by the Tarjih and Tajdid Council of Muhammadiyah in Conducting Ijtihad on Cases Related to Food Law.

The Tarjih and Tajdid Muhammadiyah Council in *ijtihad* apply conventional methods and contemporary renewal methods at the same time. The conventional method is the *ijtihad* method with the approach of *ushul fiqh*, namely referring to the Qur'an, alSunnah, *ijma'*, *qiyās*, *mashlahah mursalah*, *istishāb*, *istihsān*, *shar'u man qablana*, 'urf or customs, *sad al-dzarf'ah*, and a set of methodologies applied by scholars while exploring Islamic law. Every case of food law that was asked to the Tarjih and Tajdid Council of Muhammadiyah was analyzed using a conventional method, namely a set of *ushul fiqh* methodologies that have been applied by scholars in exploring Islamic law. The next step is to see whether there are already state rules, both related laws or the Compilation of Islamic Law (KHI) and other rules that govern it, so

the Tarjih and Tajdid Councils refer to these rules as an effort to realize benefits. This step is in accordance with the matan.

Specifically regarding air tape, Fatwa of the Tarjih Council: Fatwa number. 26.B th 2003: water tape including liquor or not and Fatwa number. 25 Year 2004: halal haram air tape.

Fatwa number. 26.B th 2003: water tape including liquor or not This fatwa is contained in (SM No. 14/2003) answering the question from Chalida Ziaul Rahman: Is fermented water included in liquor, because its alcohol content is above 9%, higher than black beer? Answer to the question: Basically, food and alcoholic beverages can damage the human body a lot or a little, because alcohol can cause intoxication in our body (Dr. Kapti Rahayu Kuswanto, 2001), therefore avoiding alcoholic drinks or foods even if the content is small is better. However, some Muslim studies argue that although the danger of alcohol remains, it can be tolerated up to 5% while the alcohol content is 1-4% (Dr. Kapti Rahayu Kuswanto, 2001).

Fatwa number. 25 Year 2004: halal haram air tape. This fatwa answers a question from Brother Sardjito, NBM 687.578, sardjito@pertamina-up4.co.id. Sardjito, Kompas Gunung Simpang 162, Cilacap. With the question: Basically, alcoholic foods and drinks can damage the human body a lot or a little, because alcohol can cause intoxication in our body (Dr. Kapti Rahayu Kuswanto, 2001), therefore avoiding alcoholic drinks or foods even if the content is small is better. However, some Muslim researchers argue that although the danger of alcohol remains, it can be tolerated up to 5% while the alcohol content is 1-4% (Dr. Kapti Rahayu Kuswanto, 2001). The fatwa of the Tarjih Council on the ruling on drinking water tape above is not yet firm. First, it recommends avoiding drinking/eating water tape, but on the other hand, it also highlights the results of studies that tolerate alcohol content up to 5% (tape alcohol content is 1-4%). Why doesn't the Tarjih Council just determine the ruling on eating tape (Halal or Haram or Mubah or Makruh), so that it is stricter? If an alcohol content of only < 5% is still tolerated, how many (kg) of tape can humans consume at once (in the sense that it is still safe from drunkenness)? In my view, even though the alcohol content in the tape is low, if you consume a lot, the amount of alcohol that enters the body will also be large. That's my question, please answer. The answer to the question from Brother Sardjito, NBM 687.578 is:

The Muslims have agreed that drinking khamr is haram, based on the words of Allah swt:

يَسْأَلُونَكَ عَنِ الْخَمْرِ وَالْمَيْسِرِ قُلْ فِيهِمَا إِثْمٌ كَبِيرٌ وَمَنَافِعُ لِلنَّاسِ
وَإِثْمُهُمَا أَكْبَرُ مِنْ نَّفْعِهِمَا

Meaning: "They ask you about khamar and gambling. Say: "In both of them there is a great sin and some benefits for mankind, but the sin of both is greater than the benefit"..." [QS. al-Baqarah (2): 219]

يَتَأْتِيهَا الَّذِينَ ءَامَنُوا إِذَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجَسٌ مِّنْ
عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾ إِنَّمَا يُرِيدُ الشَّيْطَانُ
أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ
عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ ﴿٩١﴾

It means: "O you who believe, indeed (drinking) khamar, gambling, (sacrificing to) idols, casting lots with arrows, are abominable deeds including the deeds of the devil. So stay away from these deeds so that you may have good luck. Indeed, the devil intends to stir up enmity and hatred among you by (drinking) khamar and gambling, and hinder you from remembering Allah and praying; so, stop (from doing the work)." [QS. al-Maidah (5): 90-91]

In the above verse, there is the word al-khamr with an absolute meaning, with the meaning that there is no limit to the prohibition of drinking khamr. This means that it is forbidden to drink it in small or large amounts, whether it is intoxicating or not. In the above verse, it is also understood that the law of drinking khamr is the same as the law of sacrificing to idols (statues), which is a kind of shirk act. The act of shirk is included in the act of great sin. Among the consequences of drinking khamr is that the drinker can become drunk and damage the mind. Drunkenness and destroying the mind are forbidden by the teachings of Islam, according to the hadith:

عَنِ ابْنِ عُمَرَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ
مُسْكِرٍ حَرَامٌ. [رواه مسلم]

Meaning: "It was narrated from Ibn Umar ra, he said: The Messenger of Allah (peace and blessings of Allaah be upon him) said: Anything that gets drunk is khamr, and everything that gets drunk is haram." [HR. Muslim]

From the hadith, it can be understood that besides khamr, there are other foods or drinks that if eaten or drunk in a certain amount can intoxicate the drinker, but it is not absolutely haram like drinking khamr; such as marijuana, alcohol, various kinds of stimulants and energy enhancers. In the Qur'an it is stated:

وَمِنْ ثَمَرَاتِ النَّخِيلِ وَالْأَعْنَابِ تَتَّخِذُونَ مِنْهُ سَكَرًا وَرِزْقًا حَسَنًا إِنَّ فِي
ذَٰلِكَ لَآيَةً لِّقَوْمٍ يَعْقِلُونَ ﴿٦٧﴾

Meaning: "And from the fruit of the palm trees and the grapes, you make intoxicating drinks and good sustenance. Indeed, in such a thing there is a sign (of Allah's greatness) for the one who thinks." [QS. an-Nahl (16): 67] Food and drink that can be intoxicating when eaten or drunk in certain quantities other than khamr is probably what the Hanafiyah mean by the name nabidz. They distinguish between khamr and nabidz. Khamr is haram, while nabidz is not. The question is, how can the size or content of the food and beverage be determined so that it can be intoxicating? In the Qur'an Allah swt has said:

وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ إِلَّا رِجَالًا نُوْحِيْ اِلَيْهِمْ فَيَسْئَلُوْا اَهْلَ الدِّيَارِ
اِنْ كُنْتُمْ لَا تَعْلَمُوْنَ ﴿١٦﴾

Meaning: "... then ask the one who has knowledge if you do not know." [QS. an-Nahl (16): 43]

In connection with the command of Allah swt above, the Tarjih and Islamic Thought Development Council of the Central Executive of Muhammadiyah has asked experts in their respective fields, especially pharmacists and doctors. From the results of the discussion with them, it was concluded that food and drinks with an alcohol content of 5% and above can be intoxicating. From the discussion, it was also found that the alcohol content in the tape was 1-4%. Based on that, it can be determined that food and beverages that contain an alcohol content of 5% or above are haram to eat and drink it. So halal tape water is drunk because the alcohol content is less than 5%

2. Jasser Auda's Maqashid Shari'ah Perspective on Tape Food (Food Containing Alcohol)

Jasser Auda reviews the concept of maqashid shari'ah as a philosophy of Islamic law consisting of various disciplines (multidisciplinary) using a systems approach. This system approach sounds foreign to our ears, and it has not even been explained in classical Islamic law. With that, Jasser Auda thinks that there is a need for a follow-up or revitalization of the previous concept of sharia maqashid by adding several concepts, so that the shari'ah maqashid that we use as a reference can be relevant to the problems of the current ummah which of course the current situation is far different from the situation of previous scholars both in terms of social and cultural aspects.

The form of revitalization or remapping of the classical shari'ah maqashid set by Jasser Auda combines the study of classical maqashid by using scientific studies based on science (system theory), social science (human development) and also carries contemporary humanist issues such as human rights, gender, and tolerance between religions and so on.

The following is an explanation related to the implementation of tape food (food containing alcohol) determined by the Muhammadiyah Tarjih Council which will be reviewed in terms of maqashid syari 'ah in order to get an explicit explanation related to the benefits sought so that consumers can feel comfortable and safe in consuming tape food (food containing alcohol).

1) Safeguarding Religion (Hifz al-Din)

Safeguarding Religion (Hifz al-Din) according to Jasser Auda's view is to protect, protect, and respect freedom of religion/belief. The ijtihaad process carried out by the Muhammadiyah Tarjih Council and the experts who contributed if it is associated with the concept of restricting alcohol content that has been set by the Muhammadiyah Tarjih Council in its main purpose is set in such a way as to maintain religion (to protect and protect consumers). So that when consumers consume tape food (food containing alcohol) have no doubts and can worship calmly and comfortably. In addition, the determination process also takes a long time and the outpouring of the relevant knowledge.

2) Safeguarding Offspring (Hifz al-Nasl)

When viewed from the number of percentages of determination of alcohol content determined by the Muhammadiyah Tarjih Council, which is a maximum of 0.5% for consumption (drinking). The Muhammadiyah Tarjih Council, when setting this limit must have gone through a long *ijma'* process, including discussions with its experts. So that the use / consumption of tape is guaranteed to be safe.

Safeguarding Offspring (*Hifz al-Nasl*) developed by Jasser Auda has the characteristics of a theory that is more oriented towards the protection of the family as a whole, which is individualistic.

3) Keeping the Mind (*Hifz al-'Aql*)

Jasser Auda's concept of Maintaining Reason (*Hifz al-'Aql*) generally has the same basis as the previous concept of *maqashid shari'ah*, namely both maintaining reason in the form of maintaining insight/science and not underestimating the way the brain works. Nowadays there are so many forms of knowledge that can be associated with the concept of Islamic law. So it can be concluded that this theory teaches how to make Islamic law not stagnant but dynamic so that it can follow changes in the situation and conditions of the local community.

If the use of alcohol is considered haram to be consumed even though it has a maximum level of 0.5% or more for external use, then this can hinder the progress process of experts in the fields of beauty, pharmaceuticals, medicine, chemistry and medicine. And non-Muslim experts can be more advanced in this field. In addition, the prohibition of the use of alcohol in this field can be the only reason for harm, namely in the form of patients who are sick because of the length of their healing process or can further aggravate the disease and lead to death.

4) Safeguarding the Soul (*Hifz an-Nafs*)

Safeguarding the Soul (*Hifz an-Nafs*) from Jasser Auda's point of view is being able to maintain and protect human rights (HAM) values. As explained earlier, the determination of this level was not arbitrarily decided by the Tarjih Council unilaterally without looking at the opinions of other experts. This means that the Muhammadiyah Tarjih Council has done its utmost to maintain and protect the rights of consumers.

The fulfillment of halal guarantees for consumers is a mandatory basic right for every Muslim, this right is not only related as a religious right but also related to consumer rights in the fields of health, economy, security and worship needs. In order to create human rights related to consumer safety and comfort in the use of products, integrity between MUI and the manufacturer is needed. As explained earlier, the determination of this level was not arbitrarily decided by the Muhammadiyah Tarjih Council unilaterally without looking at the opinions of experts.

CONCLUSION

Maslahah and *mafsadah* are integral elements that perfect the concept of *maqasid al-shariah*, with the science of *fiqh* relying on foundational principles known as *qawa'id al-fiqhiyyah* (fiqh rules). These rules play a crucial role in the development of Islamic law by serving as primary references for scholars in determining legal rulings, facilitating the

classification of similar issues under unified principles, and providing interpretive tools for *nash nash qat'i*—especially for legal matters not explicitly detailed in the Qur'an or *hadith*. Furthermore, *fiqh* rules enable the resolution of analogous cases through consistent methodologies, with the main fiqh rules (*al-qawa'id al-asasiyyah*) acting as parent principles from which more specific rules are derived. For future research, it is suggested to explore how the application of *qawa'id al-fiqhiyyah* can be further contextualized in contemporary legal challenges, particularly in areas where new issues arise that are not directly addressed in classical sources.

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