

***Bahilah* in the Banjar Islamic Community's Death Ritual**

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Abstract: This research wants to prove that the tradition of *Bahilah* in the Banjar Martapura community has a mixture of tradition and religion. This problem raises a different stigma among Islamic legal experts. This study finds that there is a relationship between the tradition of *bahilah* and the role of the Banjar Muslim scholars in terms of the *kaffarat* of prayers which is being abandoned. This study seeks to uncover the background of the Banjar community's habit of death rituals based on Islamic methodology studies. The aim of this research is to find the relationship between Islamic cultures and *fiqh* in the practice of the *Bahilah*. Furthermore, the study aims at finding a customary ritual of the Banjar people who did not pray in their youth, as well as the people's views on this activity. The method conducted in this study is Mix Method, which uses a combination of library research and field research. To examine this study the author rests on the primary source of the work of Alfani Daud in Islam and Banjar Culture, while the secondary source is the study of *Fiqh al-Islam wa Adillatuh* by Wahbah al-Zuhaili. The field research is used by the author to find out the implementation procedures and are connected in the local culture.

1 INTRODUCTION

Death is unavoidable or cannot be delayed. When death has come to a person the relationship with the world is interrupted. There is no longer a friend to talk, there is no longer the ability to enjoy the beauty of the world, and there is no chance to gather supplies in the next life. There are four obligations that must be performed by Muslim when one of them dies. The obligation is to bathe, to irritate, to bury and to bury. Implementation of the obligation is the law is *fardhu kifayah* and its implementation must be implemented as soon as possible. This is just as the hadith from Abu Hurairah, Rasulullah Saw, said: *take a moment to take care of the body; because if he is a righteous man, then you have hastened him to gain well; and if besides, then you have also removed the disadvantages of your shoulders* (Salim, 2006).

Synchronizing the execution of the funeral, the other thing that the expedited execution is to pay off the debt. This is as mentioned by the hadith narrated by Abu Hurairah, Rasulullah Saw said: *every soul of the believers depends on their debt until they are repaid*.

Another Hadith from Salamah bin Akwa, He said, *"A person's body was brought to the Prophet,*

then they both said, O Messenger of Allah, Bless it!" The Prophet asked, 'Does he have debt?' They replied, 'Yes'. Then the Prophet said, 'Does he have something left?' They replied, 'Yes'. Then the Messenger of Allah said, ' Bless your friends!' An Ansar commented (some say that commented is Abu Qatadah), "Bless him and his debt." So, the corpse was in prayer (Salim, 2006).

Based on the explanation above, it is known that paying off the debt of the *mayyit* is one of the important things. Because when a person dies and then leaves the debt then such things can cause him to depend on the meaning that he cannot keep quiet because his obligation to repay the debt has not been implemented yet. Even with reference to the second hadith above, a person who still has a debt of the prophet is reluctant to pay it until there is a guarantee that there is a legacy that can be paid to repay the debt. Payment of such debt becomes the liability of the beneficiary as they become the beneficiary. However, there is a problem when the owner's debt is related to the right of God, such as abandoning the prayer; there is still no fasting and so forth. So, such debt payments are also the obligations of heirs.

Facing problems of payments owed to Allah the Almighty God after the death of a person, and then the Islamic community of Banjar growing *Bahilah*

practices as one of the rituals performed to pay redemption (*fidyah*) obligations left by the *mayyit*. Bahilah implementation is done by imitation (*taqlid*) to the School of Hanafi which became a tradition in the Muslim community of Banjar.

Broadly speaking, practice Bahilah to pay fidyah implemented before the funeral procession by inviting a few people who understand the procedures of Bahilah and one acts as the procession leader of Bahilah. With the use of ungal as means of payment redemption, payment of fidyah been implemented by providing the recipient ungal, then the receiver of ungal will giving back to the giver of ungal payments and so on until reaching the amount to be paid. Once the bahilah process is completed, the lawmakers are given an envelope containing money as tired and transport costs (Abidin, 2012).

It comes to question to the author about Bahilah which developed in Banjar Islamic society for payment of fidyah prayers and fasting for those who have died is a matter (hilah) permitted by Islamic law or not. Departing from this, the authors are interested to discuss Bahilah in the death ritual practices of the Muslim community of Banjar.

2 METHOD

The method conducted in this study is Mix Method, which uses a combination of library research and field research. To examine this study the author rests on the primary source of the work of Alfani Daud in Islam and Banjar Culture, while the secondary source is the study of Fiqh al-Islam wa Adillatuh by Wahbah al-Zuhaili. The field research is used by the author to find out the implementation procedures and are connected in the local culture

3 FINDING AND DISCUSSION

3.1 Problem Case *Bahilah* as the Death Ritual of the Banjar Islamic Society

Death is something sacred so that when a person has been invited by the death rituals is then executed. The execution of the ritual of death in Islam is carried out through the execution of the body, which is bathed, drenched, prayed and buried. However, in addition to some rituals the other obligation is to pay the debt of the calf during his life which is the responsibility of heirs. The debt is meant not only to fellow human beings but also to Allah SWT. Debt to Allah can be in the form of negligence in the

implementation of prayer and fasting that can be paid by paying fidyah.

The tradition that flourished in the Muslim community there is a term in Banjarese called "Bahilah" in order to pay fidyah for those who have died. The existence of the bahilah which aims to ease the burden on beneficiaries with some hilah conducted in such a fidyah payment process. Usually this fidyah payment is executed before the mayyit is buried because it is more afdhal and aims to make the mayyit free and complete from all rights and obligations when met with Allah SWT (Syarbini, 1995).

Prepare the implementation of the section done with me inviting some people are usually numbered eleven people consisting of people who are considered alim or understand the implementation of the Bahilah . A beneficiary must also set up a number of valuables or jewelry such as gold or valuables called "ungkal". Ungkal serves as a substitute for the amount of rice to be paid. For a beneficiary does not have ungal, they can borrow or owe to others or to a party that is mandated by the beneficiaries to make hilah. The ungal as a loan is a receipt so it seems to belong to an al - marhum heir (Abidin, 2012).

After the preparations are done, then the Bahilah procession begins with the beneficiary asking or appointed master teacher or mu'allim (in the bahilah called priests) to represent the heirs and led the implementation of hilah. Then the imam calculates the amount of fidyah that must be paid. The calculation of the magnitude of this fidyah has been largely done by the master or mu'allim before the implementation of the hilah, which at the time the heirs of the asbah inquired about the quantities of ungal that the heirs should provide while also requesting his informal willingness to be a priest (Seff, 2016).

Not all invitations payment of fidyah is the poor then before payment fidyah circumvent-ed (hilah) to make himself as destitute by donated the entire property owned by the children or grandchildren in advance, so that they become destitute or poor. However, the property that has been granted is declared withdrawn after the completion of fidyah. The imam began the execution of the fidyah payment by handing the ungal to the first recipient as saying:

ملكتك هذه الاموال لاسقاط ما في ذمة فلان ابن فلان من الصلوات المفروضت سنة كاملة لله تعالى

Ungkal received by the first recipient, by saying:
قبلت هذه الاموال منك

After saying qabad (receiving) accompanied with thuma'ninah, the first recipient of ungal give back to the priest. Then the priest handed back the ungal to the next recipient until the amount of fidyah

required to be met was fulfilled. Once an entire frame finished the event closed with the reading of Surah Al-Fatihah, Al-Ikhlâs, Al-Falaq, Al-Nas and ends with prayer (Seff, 2016).

3.2 Hilah Concept According to the Hanafi School

Hilah is a legal response to the development of the already existing habits traditionally in the community, which was adopted by the Hanafi School as one of the law product. However, Imam Abu Hanifah is not too easy to use the concept of hilah. If hilah has cause prejudice against other people, then hilah is banned, even recommended not to use hilah that containing makruh acts. Imam Abu Hanifah also argues that the implementation of hilah with the intention of invalidating the law is openly then the law is forbidden, but if it does not mean then it is not forbidden (Abdul Aziz Dahlan, 1997).

Hilah etymologically means ingenuity, deception, tricks, tactics and excuses sought to escape from a burden/ responsibility (Abdul Aziz Dahlan, 1997). Hilah in the view of Hanafiyah formulated as follows: (1) Hilah is intended to avoid overload of law, to be diverted to a lighter, more effective legal burden; (2) Hilah is meant to give tolerance to the habits that take place in a place or a common phenomenon, that there are no provisions in the passage (nash) such as bay al-wafa (conditional sale) or bay ala bay'ain (alternative sale); (3) Hilah is engineering by way of closing someone's opportunity in exercising his rights. It also provides the opportunity for others to obtain covert rights (hilah) for certain reasons, such as the granting of a formally formal loan to legitimacy of the hidden sale and purchase transaction, which causes the fall of shuf'ah rights (Rosyadi, 2016).

Hilah draft submitted by the Hanafi, has offended by Maliki, Shafi'i and the Hanbali sect included also Taqiuddin ibn Taimiyah (w.728). Whereas hilah in the perspective of Imam Abu Hanifah is meant for the benefit of the people and not to destroy the building of shari'at because hilah contained the principles of Islamic teaching that is easy with not abolish the obligations of the other sharia law (Rosyadi, 2016).

This thinking paradigm of Hanafi School based on the prophecy of naqli, how the speech of Allah SWT in Surah Shad / 38 verse 44:

And take your hand with a bunch of grass, then strike with it and do not break the oath. Lo! We found him patient in patience. He is the best of my servants. Verily, He is obedient.

This verse scolds about the Ayyub Prophet who vows to hit his wife (because his wife neglected his

obligations) a hundred times, after he recovered from his illness. But when he recovered, he was not willing to hit his wife, as he had sworn at the time of illness. In Islamic law, oath should be executed, but Allah swt gives light to the Prophet Ayyub by replacing the shot a hundred times with a punch using a bunch grass, so the Prophet Ayyub has been released from his oath. Efforts to divert legal execution (hitting a hundred times) to lighter law enforcement (hitting with a bundle of grass) is a hilah. Based on the above argument, in applying for all the same cases of illat law, the Hanafi School using the qiyas method. With this argument, they also named their theory with al-makharij min al-maza'iq (way out of various difficulties). They did not mention his theory with hilah because hilah term has a negative connotation meaning (Rosyadi, 2016).

The Hanafi sect also uses the Surah Al-Thalaq / 65 verse 2 as the proposition, the reads: When they are approaching the end of the iddah, So recompense them well or release them well and witness with two fair witnesses between you and stand up for the testimony of Allah. Such is the teaching of those who believe in Allah and the Last Day. Whoever fears Allah, He will make for him a way out.

The words "makhraya" in verse above is understood by them as a way out of the difficulty faced. Two sentences at above implicitly affirming the meaning of the blame: (1) Hilah as a conscious act to apply law that is lighter than at heavier law, based on benefit considerations (not abolish the law); (2) Hilah is intended as an effort to find solutions to problems community. Therefore, when the scholar 'Hanafiyah wrote a masterpiece in relation to the hilah, they give the title of his work with the title of al-makharij fi al hiyal by Imam Muhammad bin al-Hasan (one of the leading figures in Iraq who died in 189 AH / 804 AD), then al-hiyal wa al the work of Ahmad ibn Amr Abu Bakar bin Muhair al Kashshaf al Shaibani (w.261 H) this book is written, sourced from Imam Abu Hanifah (Rosyadi, 2016). Based on the above, the Bahilah practices in Muslim community of Banjar is intended to avoid legal burden is too heavy, the payment of a fidyah of fasting and prayer for those who have died.

3.3 Payment of Fidyah Prayer and Fasting for the Dying Person

Praying and fasting are the pillars of Islam which in its implementation often occur neglect so leave obligation to perform prayer and fasting. When experiencing negligence in performing the prayer

and fasting, then there is a provision that is ordered to replace it.

The provisions for the replacement of shalat are due to forgotten in a Hadith of the Prophet.

عن انس بن مالك رضى الله عنه عن النبي صلى الله عليه وسلم قال: من نسي صلاة فليصل اذا ذكرها, لا كفارة لها الا ذلك: واقم الصلاة للذكرى. رواه البخارى

It was narrated from Anas bin Malik ra that the Prophet saw. He said: "Whoever forgets to perform the prayer, and then do it when recalled, without being affected by the land except by performing the prayer". Then the Messenger of Allah reading the verse (which means): "... and establish the prayer to remember Me." (QS Thaahaa verse 14).

While don't compiled with the obligation of fasting Ramadhan so fast they must replace the other day, as the Bahilah of Allah in Surah Al-Baqarah / 2, paragraph 185:

And whoever is ill or on the way (then he breaks), then (it is obligatory for him to fast), as much as the day he left, on other days.

The above verse contains the provision that for the sick and on the journey they are legally permitted to break or not fast but he must replace it on another day besides the month of Ramadan (Shihab, 2008). It becomes a problem when one dies first before paying for the debts he left behind, fulfilling the vow of prayer or qadha prayer which he forgot. In fact, when a person dies, then his practice is cut off, so the practice of praying and fasting for the deceased person is impossible. But a hadith from Aisha and Abdullah bin Abbas is the solution to this problem.

عن عائشة رضى الله عنها: ان رسول الله صلى الله عليه وسلم قال: من مات وعليه صيام عنه وليه. رواه البخارى

It was narrated from Aisha that the Messenger of Allah once said: "Whoever dies while he has a fast debt, then his guardian must fast on his behalf." HR Bukhari (Al-Zabidi, 2002).

عن ابن عباس رضى الله عنهما قال: جاء رجل الى النبي صلى الله عليه وسلم فقال: يا رسول الله ان امي ماتت وعليها صوم شهر, افاقضيه عنها? قال: نعم, فدين الله احق ان يقضى. رواه البخارى

Narrated by Abdullah bin Abbas, he said: A man came to the Prophet, and then asked, "O Messenger of Allah! My mother died when she had a one-month fast debt, can I fast on her name?" The Prophet replied, "Yes, it is possible, because the debt to God should be prioritized for its repayment." (HR Bukhari) (Al-Zabidi, 2002)

Based on the above hadith, it can be concluded that a person who has died but still has the obligation of fasting Ramadhan which has not been paid then the obligation can be executed by the wali, the heir. In addition to the obligation to making up (qadha), things done for paying settle a liability that is not implemented with a fidyah by feeding a poor

person with the food quality is the same as he used to eat (Shihab, 2008). This as stated in Surah Al-Baqarah / 2, paragraph 184: It is obligatory for those who are heavy to run it (if they do not fast) pay fidyah, i.e.: feed the poor.

Fidyah given is in the form of feeding the poor. However, the scholars differ in opinion about the form of fidyah to be submitted. The Shafi'i sect determines that fidyah one day of fasting is by giving food as much as one mud. What is meant by mud is food given in the form of staple food such as wheat (rice, corn, barley, and so on). One mud is equivalent to a long square dose each side of 2.9 cm with a weight of 600 grams (al-Bugha, 2017). While the payment of fidyah according to the Hanafi School, may be with any property that has the price, whether in the form of gold, silver and others (Syarbini, 1995).

There are several reasons that require fidyah, among others: (1) Not able to fast. All fuqaha agree that fidyah is obligatory for people who are in no way able to undergo fasting, i.e. old men or women rented; (2) All fuqaha agree that fidyah is also mandatory for sick people who have no hope of healing; (3) For women who are pregnant and breastfeeding when they are worried about their child, the obligation to pray still exists; (4) The person who is neglected in doing qadha for Ramadan fasting is delayed until the next month of Ramadan (az-Zuhaili, 2008).

According to the above explanation, the reason is because of the inability of a person for fidyah in making up (qadha) fasting because of her condition. Speaking of incompetence then what about someone who has died but still have a debt of fasting or no time to pray his prayer, whether he remains saddled with obligations to do qadha or paying fidyah.

According to Sheikh Hasan Ma'mun in his fatwa states that make up the majority of jurists thought possible after the death of a person prays to pay a fidyah, which produce half-sha' of wheat or a sha' (2.75 liters) of dates or barley for each obligatory prayer (optional) left. This opinion is not based on an argument that can be used as a foothold (Zahro, 2016).

As the provision of Surah al-Baqarah / 2 verse 184 states that the payment of fidyah is directed to the poor. The Hanafi School provides criteria about people who can accept fidyah, namely: 1) Recipients are poor or poor, people who do not have one nisab zakat property worth two hundred silver or twenty mitsqal of gold; 2) Baliqh and mindful or up to age and mindful, because people who have been up to age but impure are not legally fidyah recipients not enslave, believers, and understanding ijab and qabul, intend to give and receive in fact (Syarbini, 1995).

3.4 Analysis of Bahilah Practice for Payment of Fidyah Prayer and Fasting for Dying People

Basically, fidyah payment is done by feeding poor people. However, according to the Hanafi School, the way to pay fidyah can be given in the form of money or other valuable property. Fidyah is given to the poor of every prayer of fardhu half sha' and every fasting day of Ramadan is half sha'. In the calculation of the amount of fidyah shalat that must be paid when guided by the opinion of the Hanafi school then there are six shalat in a day because witir entered into the obligatory prayer so in a day of fidyah shalat as much as 3 sha', for a month as much as 90 sha', and for a year as 1080 sha' (Seff, 2016).

While the calculation of fidyah for fasting is $\frac{1}{2}$ sha' for every day of fasting left. So, for one time Ramadan in a year, ie $\frac{1}{2}$ sha' multiplied by 30, is as much as 15 sha'. In addition, the fidyah is fast making up no additional penalty for neglecting the so-called mud fawat payment of $\frac{1}{2}$ sa'. Thus, when neglecting the payment of one month of fasting in one year then the nurse's mud is $\frac{1}{2}$ sha' X 30 days = 15 sha'. If it is neglected for 2 years, then take care of $\frac{1}{2}$ sha' x (30 days x 2) = 30 sha' plus previous Ramadan fine up to 45 sha' and then this fine will continue to multiply. Thus, the payment of a fidyah of fasting for the dead over 5 years is 15 sha' x 5 years = 75 sha' plus mud fawat 150 sha', so that the total fidyah to be paid is 225 sha' (Seff, 2016). If fidyah paid is for men, the age should be reduced to the age of puberty that is 12 years old and if a female, then reduced to 9 years old, while the age unknown then estimated by dhan or thought best (Syarbini, 1995).

Example calculation of fidyah for prayer and fasting for a man who has neglected prayer and fasting then died aged 20 years. First of all the age is reduced by 20 years - 12 years = 8 years. Fidyah shalat for 8 years is 1080 sha' x 8 years = 8.640 sha'. Fidyah fasting for 8 years is 15 sha' x 8 years = 120 sha' and 120 sha' fawat of 540 plus mud sha' = 660 sha'. Thus, the number of fidyah prayers and fasting for five years is 9.300 sha'. If converted to the opinion of Abu Hanifah (az-Zuhaili, 2008) then the number is 9.300 sha' x 3.00 gram = 35.340.000 gram and in liter units equals to 35.340 liters.

Based on the above calculations, it is known that the amount of property paid is very high so it can be troublesome even the heirs are unable to prepare the food for that much amount. But the growing Muslim community in Banjar, according to the Hanafi school community by way of imitation play (taqlid) until payment of fidyah could be moderated by converting the amount of food equals to the amount

of money or valuable property such as gold and the implementation of payment by using the process Bahilah.

Implementation of the Bahilah to pay fidyah prayer and fasting for the people who had died were developed in Muslim societies Banjar has cause some problems, such as when the heirs will pay the fidyah do not have the enough wealth to pay a fidyah and mayyit, so he had to borrow a neighbor, or someone usually lend an ungal for the execution of the Bahilah. It can certainly be a burden for the heirs. In fact, Islam as an easy religion certainly will not burden its people with something that cannot be implemented, as the Bahilah of God:

God does not burden a person unless it is according to his ability.

Given the amount of rice that is too much and quite troublesome then usually the price of rice is valued with money, and then the amount of money is converted with gold. This gold made fidyah is known by the term ungal. To the extent of this problem has not occurred a hilah practice. Hilah then appears when gold possessed by the heirs is insufficient to pay the amount of fidyah to be issued. To overcome this gold or backing that has been handed over to the recipient, then given back to the announcer. After that, the undersign of ungal submits the ungal to the next beneficiary until the amount of fidyah payable is fulfilled as has been calculated by the priest (Seff, 2016).

If viewed at a glance, the granting of the fidyah does not provide benefits to the recipient, because the payment of fidyah is not utilized by the recipient, because it is returned to the fidyah giver. The benefits of the implementation of the Bahilah is only addressed to and paid the debt mayyit prayer and fasting, hoping to meet Allah SWT he is in a state of ignorance obligations to Allah SWT.

Other problems Bahilah procession in the Muslim community is the beneficiary of Banjar fidyah is the poor because the attendance at Bahilah procession is only people who really understand the procession of Bahilah state and not all poor. So, the way out of these conditions is by treating themselves as a poor, giving them all her property to their children and grandchildren that at that time he does not have any property then when the division process is completed then the property can be withdrawn.

Grants (hibah) in the jurisdiction of Islamic jurisprudence (fiqh muammalat) have several provisions, among others, the existence of a harmonization of grants consisting of grants, grantees, grants and the existence of ijab qabul (Al Aziz, 2014).

In practice of Bahilah, grant implemented did not meet some of the pillars of the grant that the absence

of grantees and the absence of *ijab* and *qabul* between the grantor and grantee, so it can be said that the grant carried in procession of Bahilah are not valid and aim to making poor of themselves did not resulted. As a result, *fidyah* payments that should be directed to poor people cannot be said to be legitimate because *fidyah* recipients do not meet the criteria. But in other cases when executing the procession of the Bahilah implemented with *fidyah* receiver which is really in poor condition, then the procession of Bahilah as part of the payment of *fidyah* prayers and fasting for those who have died can be legitima-te. This is because the criterion for receiving a *fidyah* has met those conditions.

4 CONCLUSIONS

Hilah is one way to lighten a legal burden. In the practice of *Bahilah* in the Muslim community of Banjar, *Bahilah* thriving reality there are some irregularities, such as making poor of themselves by granting his entire estate to his grandchildren. In fact, when viewed from the aspect of *muqalah* jurisprudence the *hibah* (grants) is not valid because there is no recipient and *ijab qabul* at the time of the invitation. Consequently, *fidyah* payments to non-poor people will make the payment of the *fidyah* invalid. Therefore, one should practice Bahilah affected by imitation (*taklid*) to the Hanafi School implemented as conditions and criteria that have been provided by the Hanafi School is up to the implementation of the *Bahilah* is not delivered to the act of vanity.

Bahilah execution can be carried out as *ikhtiyar* repayment obligations to Allah. It should be noted that its implementation is in line with the provisions of the Hanafi School and the community should not make the implementation of the *divine* as something sacred which results in the heirs performing various means by means of debt to be able to implement the *mudharat* and later will harm the heir itself.

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