

THE METHODOLOGY OF FATWA *ISTINBAT* IN THE STATE OF KEDAH: ANALYSIS OF ZAKAT LAW ISSUES

Alias Azhar¹, Mohammad Azam Hussain²

^{1,2}School of Law, University Utara Malaysia

E-mail: ¹az.alias@uum.edu.my, ²hmazam@uum.edu.my

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Abstract

The establishment/formation/creation of law based on fatwa is dispensed after going through *istinbat* process before the form of its law is confirmed. The effort to *istinbat* the law has to be conducted/performed based on the strength of the *istinbat* that is based on evidences/proofs of canonical laws of Islam. Zakat, a religious obligation that is contained in the five pillars of Islam, is also affected and influenced by the society's social and socioeconomics change and development. Each fatwa concerning zakat that is produced is for the knowledge and action of the society. The clarity and accuracy of the fatwa greatly depend on the integrity of the source aspect *istinbat* method and law verifying method. This element is important because the absence of the right and clear method of *istinbat* regarding the source of law in giving fatwa will give rise to doubt in the Muslim society on the formation of a fatwa. This article focuses on law *istinbat* approach regarding zakat applied by *Jawatankuasa Fatwa Negeri Kedah* in verifying a law. The study conducted is based on two main forms undertaken together, which are qualitative and sampling. The study also works on the form of content analysis involving document to identify the content and meaning of the documents. Documents such as texts on zakat fatwa and fatwa enactment of the state of Kedah in written and online forms. Analysis of law argument contained in zakat fatwa issued by the fatwa committee was performed as well. The fatwas regarding zakat issued are in accordance with the provision of *Enakmen Mufti*, have the elements of *mazhab* openness and fulfil the requirement of *maslahah* and '*urf*', which have become vital guides in establishing a fatwa in Islam. An *istinbat* method that has clear argument and law source as well as a systematic *istinbat* procedure is a catalyst for an effective fatwa establishment.

Keywords-- Zakat, Istinbat process, Maslahah, 'Urf, Kedah fatwa

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INTRODUCTION

On 18th November 2007, *Enakmen Mufti dan Fatwa* (Mufti and Fatwa Enactment) (Kedah Darul Aman) 2008 was passed in *Dewan Undangan Negeri* (State of Assembly of) Kedah Darul Aman after receiving the royal assent from the Sultan of Kedah and it has been enforced on the 1st of April 2008. The main function of this department is to coordinate and develop an established fatwa based on Al-Qur'an and *As-Sunnah, Ijma'* and *Qiyas* that are consistent with *Aqidah Ahlus Sunnah Wal Jamaah*. Apart from that, the agency also plays a role in solving religious confusion appeared in the society especially in the state of Kedah as well as other jobs, such as the determination of *kiblah* and the issuing of Kedah's Islamic Teaching Credential Certificate (mufti.kedah.gov.my, 2020).

Mufti is an administrator of *Jabatan Mufti Negeri* and the main authority in Islamic religious affairs. Its status / position is recognised by the Islamic administration law as embodied in Enactment no. 6 year 2008 (*Enakmen Mufti dan Fatwa*, 2008). Moreover, a mufti is responsible to issue fatwa as stated in article 8(1) and aided by deputy mufti as stated in Article 5(1) (*Enakmen Mufti dan Fatwa*, 2008). During issuing a fatwa, mufti is assisted by a fatwa committee (Section 8(2) Mufti Enactment, 2008).

The role and power of mufti in executing his task. Apart from issuing fatwas, mufti also is directly responsible to the Sultan in assisting and advising regarding matters related to *Syara'* law (Article 7(1), *Enakmen Mufti*, 2008). The provision of the law also stated the procedure that becomes the guideline for mufti and Kedah Fatwa Committee in conducting its job as law reference source. The provision states that any matter must be solved based on Syafi'e school of thought (*Enakmen Mufti* no. 6, Section 26(1), 2008).

Generally, Syafi'e school of thought is made the main reference in determining fatwa to avoid difference of opinion and confusion among the society. However, the benefit factor is considered as well as the main point in determining fatwa especially concerning society issue (Section 26(2), *Enakmen Mufti*, 2008). Furthermore, each question asked need to be solved/answered. If no *qawl muktamad* found or existed in the four schools of thought, the fatwa can be issued according to the opinion of the Fatwa Committee itself (Section 26(3), *Enakmen Mufti*, 2008).

There exists a clear openness in choosing an opinion from any school of thought, the Fatwa Committee can apply any opinion / view from any Sunni school of thought. Even from any opinion and view from outside the four schools of thought until reaching a wider *ijtihad*. This article examines the method of fatwa *istinbat* applied by Kedah Fatwa Committee on seven (7) zakat fatwas using sampling method. The author performs general analysis on *istinbat* method and zakat fatwa argument issued by Kedah Fatwa Committee. Subsequently, scheduled discussion was conducted on the aspects of restriction or limitation and openness to the school of thought as well as the aspects of *maslahah* (benefit) and '*urf*' as considerations of the *istinbat* of Kedah zakat fatwas.

ANALYSIS OF ZAKAT RELATED FATWA IN THE STATE OF KEDAH

Law of Income Zakat Paid to Zakat Department of Kedah

Fatwa regarding income zakat has been issued by Kedah Fatwa Committee on 30/4/2007. Kedah Fatwa Committee had discussed the issue concerning salary and income zakat and arrived on the decision as follows:

"Agrees unanimously regarding the payment of income zakat to Kedah Zakat Department and recommends the Zakat Department

to present to the Sultan for his assent / consent regarding the payment of income zakat by the citizen of Kedah to Kedah Zakat Department.”

This decision is presented as a response to the request by Kedah Zakat Department concerning the determination of zakat for salary and income.

In the fatwa discussion pertaining income zakat, the decision by the Kedah Fatwa Committee is correct when it decided to support the income zakat payment to Kedah Zakat Department. Nevertheless, the researcher did not find any argument and evidence except the application of ‘urf that can be named literature review in making *istinbat* for the law in this fatwa. The committee recommends the Zakat Department to notify the Sultan for his consent regarding the instruction for Kedah citizen to make the income zakat payment to Kedah Zakat Department. The authority of His Majesty the Sultan is the highest in determining a fatwa.

Therefore, the Kedah Fatwa Committee has applied the legal approach pertaining the decree by His Majesty. The usage of this law can be deemed as satisfying the local ‘urf. The categorisation is based on the aspect that for each law issued by the authority for the importance and benefits of the public, it can be grouped in an ‘urf, if the law has been a customary (common practice) among a society in a particular place.

Income is defined by the *fuqaha* as *māl al-muṣṭafād* (Wahbah Zuhayli, 2007) because it is a new income that profits the receiver through the form of acceptance, which is commanded by Allah SWT. The discussion regarding zakat has been explained clearly by Yūsuf al-Qaradāwī (2007) as a form of *māl al-muṣṭafād* that is compulsory to be paid as zakat due to *al-nama*’ characteristics contained in the salary and income. The fatwa is seen as rational decision but the fatwa needs to be reevaluated so the justification of fatwa can be demonstrated accurately.

In conclusion, a salary has the potential to become an asset that is categorised in wealth zakat. The *fuqaha* had presented several fundamentals in determining wealth zakat. Accordingly, it can be interpreted as a method in ascertaining the obligation of zakat on salary and income.

In this matter, fatwa research based on *Uṣūl al-Fiqh* application need to be emphasised seriously because the failure to understand the application will cause inaccuracy in fatwa issuing and delivering process.

The Fatwa Regarding Using Zakat Money for The Purpose of Building Students Hostel for Maktab Mahmud Alor Setar

This fatwa has been discussed and decided by the Kedah Fatwa Committee on 2008. Maktab Mahmud Alor Setar, a religious school in Kedah, has applied zakat assistance for the purpose of building hostel to accommodate the students. The Fatwa Committee has decided that:

“The Kedah Fatwa Committee supports the application of Maktab Mahmud Board to acquire zakat assistance for the purpose of building students hostel of Maktab Mahmud Alor Setar.”

The decision given by the Fatwa Committee clearly allows the awarding of the zakat to Maktab Mahmud Alor Setar. The research on the fatwa did not reveal the group that is eligible to receive the zakat assistance. It also did not state clearly the reason of the support for the application. Furthermore, no opinion from any schools of thought was given as reference for the Fatwa Committee in issuing the fatwa.

Although it is not stated clearly, the aspect of *maslahah* (benefits) can be a factor in the decision because, originally Maktab Mahmud

was not one of the groups that is eligible to receive zakat. However, the expanding of opinion concerning the status of *fi sabillillah* group enables those who study to receive zakat (Hailani Muji Tahir, 2009). As the reason to build the hostels is to accommodate students, the decision to give zakat was made.

Kedah Fatwa Committee did not exhibit a binding or restricting tendency with a school of thought in issuing fatwa in the issue. Kedah Fatwa Committee has fulfilled the aspect of *maslahah* in determining the fatwa even though it is not stated explicitly. No discussion pertaining ‘urf in issuing the fatwa.

The Fatwa Regarding The Payment of Paddy Zakat by Taking into Account The Costs of Debt of Plough Rent, Pesticide and Others

The fatwa has been discussed and issued by The Kedah Fatwa Committee on 2008. The decision is as follows:

“According to *Syafi’i school of thought*, zakat calculation must be calculated from the overall revenue obtained including the subsidy given by the government without subtracting the costs of plough, pesticide and others.”

The fatwa decision is clear regarding the calculation method applied by the farmers in calculating the zakat on paddy production. The Fatwa Committee has asserted that zakat calculation follows the opinion of *Syafi’i school of thought*. This clearly shows a binding tendency with *Syafi’i school of thought* without taking into account the other schools of thought. Nonetheless, the source of reference applied by the *Syafi’i school of thought* is not indicated thoroughly.

The aspect of *maslahah* and ‘urf was not discussed in the fatwa decision. All the government subsidy needs to be counted without subtracting the costs of plough, pesticide and others. This shows that the costs are not a *maslahah* that can be exempted in the process of zakat calculation.

Kedah Fatwa Committee exhibits a binding tendency with a school of thought in issuing fatwa pertaining the production practice in this matter. Kedah Fatwa Committee has followed the aspect of *maslahah* in determining the fatwa. No discussion pertaining ‘urf in issuing the fatwa.

The Fatwa Concerning Fitrah Zakat

The fatwa was discussed and decided in 2001. The fatwa discusses the law of paying zakat directly to those who are eligible (*mustahaq*) without going through His Majesty (Kedah Zakat Department). This issue occurred because Kedah Zakat Department is the governing body that is assigned to collect zakat in Kedah.

Fitrah zakat is one of spiritual wealth zakat. The scholars agree that the task of collecting and distributing physical wealth zakat to mustahaq is given to the Sultan (Kedah Zakat Department). Furthermore, the scholars also agree for the spiritual wealth zakat, the Sultan has to collect and distribute to the mustahaq; however, is it compulsory for the Sultan to perform it?

Following is the opinion of several schools of thought:

i. *Hanafi school of thought*

Spiritual wealth zakat is given to the owners. Originally, it was given to the Sultan. However, during the era of Saidina Uthman bin Affan, fitrah zakat was given to the owners (the publics). Thus, the owner of wealth / asset resembles a representative of the Sultan; although it does not dissolve the right of the Sultan to collect zakat. However, if the Sultan discovers some of the publics in the state does not pay spiritual wealth zakat, it is obligatory for His Majesty to instruct them to pay it. Nonetheless, if the Sultan does not realise the publics do not pay spiritual wealth zakat, it is not compulsory because it is against the agreement of scholars.

ii. *Maliki school of thought*

According to *Maliki school of thought* *fitrah zakat* is given to a just Sultan. Imam *Qurtubi* opined, "When a Sultan is just in collecting and distributing *zakat*, the owners of wealth / asset should not distribute *fitrah zakat* by themselves. (Syarah kitab *Al-Kubrā*, Volume 1 pp 503-504)

iii. *Syafi'i school of thought*

According to scholars of *Syafi'i school of thought*, owner of asset / wealth is allowed to distribute *fitrah zakat* (spiritual *zakat*) by themselves.

Imam *Mawardi* said in kitab *ar-Raudhah*, "There is no authority for the Sultan on *fitrah zakat* and the owner is more entitled to it." When they submit spiritual wealth *zakat* (*fitrah zakat*) to the Sultan as an act of obedience, the Sultan has to accept it. However, if the Sultan discovers someone does not pay his *zakat*, His Majesty can order the person to distribute his *fitrah zakat* by himself (directly) or give the *fitrah zakat* to the Sultan for distribution.

iv. *Hanbali school of thought*

According to scholars of *Hanbali school of thought*, it is not compulsory to give spiritual *zakat* to the Sultan, but His Majesty is permitted / allowed to take it. Furthermore, there is no difference of opinion in the school of thought as presented / stated in kitab *Mughnī al-Muhtāj* that giving *zakat* to the Sultan is permissible either the Sultan is just or unjust and either the wealth is physical or spiritual. By giving the *zakat* to the Sultan it means the payer has fulfil his obligation to pay *zakat* regardless if the *zakat* is corrupted by the hand of Sultan or not; either the Sultan has distributed the *zakat* to the *mustahaq* or not.

In addition, there is no difference of opinion in the school of thought that the owner of wealth / asset can distribute the *zakat* directly by himself. The difference in the school of thought is only in determining which is better or which is more prominent. Does the owner of wealth / asset distribute the wealth *zakat* directly when the Sultan does not ask for it or he gives it to a just Sultan so the Sultan can distribute the *zakat* accurately / appropriately / properly to the recipients.

Ibn Qudamah said in kitab *Mughnī*:

It is recommended for a person to distribute the *zakat* directly by himself so he is more convinced / assured that his *zakat* is received to the eligible recipient either the wealth is physical wealth or spiritual wealth."

Imam *Ahmad* said, "The one I most pleased with is the owner of the wealth distribute his *zakat* himself; however, if he gives it to the Sultan it is permissible."

Hasan / Sa'id bin Jabar Maimun bin Muharram said that the owner of the wealth / asset should distribute his wealth *zakat* accurately to the recipient (*mustahaq*).

The Decision of Fatwa Committee:

Based on the four schools of thought, *Kedah Fatwa Committee* has decided that the distribution of *fitrah zakat* directly by the payer is legitimate / valid even if the *zakat* is requested by His Majesty (*Kedah Zakat Department*). However, the distribution of *fitrah zakat* to the Sultan is better (*afdal*).

The reference on the opinions of *Syāfi'i*, *Ḥanafī*, *Mālikī*, and *Hanbalī* schools of thought inserted in the minutes of the meeting proved that the committee has discussed the matter beyond the scope of *Syāfi'i* school of thought. The *Fatwa Committee* has stated clearly the opinion of the four schools of thought and decided based on the four schools of thought. This showed that the *Fatwa Committee* is not bounded / constrained / restrained with the opinion of *Syāfi'i* school of thought in arriving on the decision.

The final decision given by the *Fatwa Committee* is the direct distribution of *fitrah zakat* by the payer is legitimate, even if it is asked or requested by His Majesty (*Kedah Zakat Department*). However, the distribution of *fitrah zakat* to the Sultan is better (*afdal*). Although it was not stated clearly, the aspects of

maṣlaḥah and '*urf*' had influenced the final decision. In the aspect of *maṣlaḥah*, it is easier to a *zakat* payer because the *Zakat Department* will manage matters concerning *zakat* distribution to the eligible *asnaf*. It might also be assumed as '*urf*' because the payment of *zakat* through the *Zakat Department* has been a common practice among Muslim community in Malaysia.

The *Kedah Fatwa Committee* has not shown a binding or restrained tendency with *Syāfi'i* school of thought in this *zakat* payment matter but still decided based on the accepted four schools of thought. Although it was not stated by *Kedah Fatwa Committee*, the researcher found that the *Fatwa Committee* has adhered to the aspect of *maṣlaḥah* as well as the aspect of '*urf*' in determining the fatwa.

The Fatwa Regarding the Payment of Zakat by a Father to His Son Who Is In Debt

The fatwa was discussed and decided by the *Fatwa Committee* in 2007. The fatwa has discussed the matter about the law when a father gives *zakat* directly to his son who is in debt without going through *Kedah Zakat Department*.

The decision of *Fatwa Committee*:

It is not permissible for a father to give *zakat* to his poor son. Nonetheless, if his son is in debt and cannot pay the debt, it is permissible for the father to give *zakat* because of the debt and the *zakat* must only be used to pay the debt.

The *Fatwa Committee* has clearly stated the law on giving of *zakat* by a father to his son is not legitimate. Even though the son is poor or hardcore poor. No discussion regarding the four schools of thought in this matter was stated. The matter regarding *maṣlaḥah* or '*urf*' also was not stated in the minutes of the meeting.

Nevertheless, the *Fatwa Committee* has stated it is permissible for a father to give *zakat* to his son if his son is in debt and not capable to pay his debt. No discussion on the four schools of thought was stated. However, there might be some discussion on the aspect of *maṣlaḥah* in deciding the matter. This is because the permission and option is given due to the debt and can be assumed as giving problem to the son that is in debt and not capable of paying it. Furthermore, the *zakat* money can only be used to settle the debt.

The *Kedah Fatwa Committee* has not shown a binding tendency with school of thought in this *zakat* payment matter. However, the *Kedah Fatwa Committee* has adhered to *maṣlaḥah* aspect in deciding the fatwa. No discussion regarding '*urf*' in deciding the fatwa.

The Fatwa Regarding Giving Paddy Zakat Money to School

The fatwa regarding selling and buying material that is subjected to tax has been discussed in 2008 by the *Kedah Fatwa Committee*. The matter discussed is regarding the law of giving paddy *zakat* money to *Sekolah Menengah Ihyā' Ulum ad-Diniah*, which is a religious school in *Kedah*.

The decision of the *Fatwa Committee*:

The meaning of *fi sabilillah* is going to war for Allah by using weapon. In accordance with the change of time, a contemporary scholar, *Dr. Yūsuf Al-Qaraḍāwī* has broadened / widened the meaning of *fi sabilillah* to other than using weapon including students; while school as a knowledge dissemination centre and other.

In *Kedah Darul Aman*, the *zakat* (physical wealth) has to be paid through *Kedah Zakat Department*. Thus, the *Fatwa Committee* maintains that paddy *zakat* is physical wealth / asset and has to be paid to *Kedah Zakat Department* because the department is under His Majesty the Sultan.

The Fatwa Committee in deciding this matter did not cite any opinion from the schools of thought regarding paddy zakat and the eligible *asnaf*. Instead, the Fatwa Committee has broadened the view and status of *asnaf zakat fi sabilillah*. The view is from the Dr. *Yūsuf Al-Qaraḏāwī*, a contemporary scholar. This shows that the Fatwa Committee is not bound to the opinion of scholars from the four schools of thought either *Syāfi'ī* or the others.

The Fatwa Committee has stated that the status of Sekolah Menengah Agama Ihya' Ulum ad-Diniah as an *asnaf* in the category of *fi sabilillah*. This is based on the broadening of view that includes students. It was not revealed clearly either this selection was based on *maṣlahah* or not.

Nonetheless, finally the Fatwa Committee still maintained that paddy zakat must not be paid directly to the school. Instead, the paddy zakat money should be paid to the Kedah Zakat Department, an institution that is responsible to collect zakat in Kedah. Possibly *'urf* factor has influenced the decision, even though it was not stated clearly by Kedah Fatwa Committee. This is because it is customary for the community in Kedah, in fact in Malaysia, to make payment through each state zakat department. The payment of zakat through the Zakat Department could also be influenced by the factor of *maṣlahah*, because it is easier for the payers; they do not need to seek the eligible *asnaf*. Instead, the Zakat Department can manage it.

Kedah Fatwa Committee did not show any binding tendency with schools of thought in issuing fatwa on this matter. Kedah Fatwa Committee has adhered to the aspects of *maṣlahah* and *'urf* in issuing the fatwa.

The Fatwa Regarding Zakat Surplus

Fatwa regarding zakat surplus has been discussed and decided by Kedah Fatwa Committee in 2001. The Fatwa Committee that commenced on 2nd Zulkaedah, 1421 or 27th January 2001, has studied the issue raised about zakat surplus, which amounts to 1,988,710.85 from 1982 to 1999 based on Seksyen 7 Enakmen Zakat 1374 (1995):

(Thus, it is permissible for the Committee with the consent of His Majesty the Sultan to create provident fund from the zakat collection and sale of asset, and can use the fund / money at any time for any purpose that adhere to Islamic law.)

The Decision of Fatwa Committee:

1. *The scholars differ about the surplus money from the portion (asnaf) that can be spent for any purpose that adhere to Islamic law (al-Maṣāliḥ). Some scholars opine that it is specifically for the surplus of fi sabilillah portion only. Other scholars posit that it is applied generally to surplus of all asnaf portion. Thus, from the opinion that it can be applied generally to surplus of all asnaf portion, the collected money can be spent on any purpose (al-Maṣāliḥ) that is permissible by the Islamic law especially for purposes that can give return for the poor and hardcore poor.*

Nas reference:

ونقل في حواشي الأزهار عن البحر : إن الصرف في المصالح ليس خاصا بما فضل في سبيل الله بل يصرف ما فضل من سهام الثمانية في المصالح كما يصرف للفقير من أموال المصالح

(Please refer to Fiqh az-zakāh, chapter / juz 2 page 647, written by Syeikh Doctor Yūsuf Al-Qaraḏāwī),

1. *The scholars agree that zakat must be distributed entirely to the existing asnaf by distributing it immediately. Additionally, for the purpose of fulfilling Seksyen 7 Enakmen Zakat 1374 (1995): that is to create / form a provident fund, it can be taken from fi sabilillah portion to be used for any purpose that adhere to Islamic law.*

In deciding the fatwa, the Fatwa Committee has stated there is difference of opinion among *fuqaha* regarding the surplus money

from the portion (*asnaf*) that can be spent. Nevertheless, it is not mentioned who or *fuqaha* from which school of thought who differed in their opinion. The Fatwa Committee only asserted there are those who indicated it is specifically for the surplus portion of *fi sabilillah* and some *fuqaha* stated it is applied to surplus of all *asnaf*. Thus, it could not be identified the opinion of schools of thought in this matter. Either the differing opinion is between the *fuqaha* of the four schools of thought or beyond it, is not mentioned.

Finally, the Fatwa Committee has chosen to take the opinion that allows the use of the zakat surplus. The opinion selected is from the *fuqaha* that permits to take the surplus of zakat from the portion of *fi sabilillah asnaf*. The surplus money can only be spent for any purpose (*al-Maṣāliḥ*) that is allowed by Islamic law especially for the purpose that could give return to the poor and hardcore poor. This demonstrates that the aspect of *maṣlahah* became a factor in influencing the fatwa decision. There was no discussion about *'urf* in this matter by the Kedah Fatwa Committee.

The Kedah Fatwa Committee did not exhibit obvious binding tendency with the schools of thought in issuing fatwa in this matter. This is because the committee did not state which opinion of the school of thought that was applied. Therefore, both possibilities exist, either inclines to binding or not. However, the Kedah Fatwa Committee has adhered to the aspect of *maṣlahah* in issuing the fatwa. No discussion regarding *'urf* in issuing the fatwa.

DISCUSSION

Referring to discussion on seven (7) fatwas regarding zakat, generally, Kedah Fatwa Committee has referred to various opinions from scholars. There were times that they were inclined to be bounded by schools of thought in issuing fatwa and other times they were not. The table below show the tendency of the Fatwa Committee either to be bounded by *Syāfi'ī* school of thought or not.

Table 1.1 . Showing the Binding Tendency to Schools of Thought

No	Year	Fatwa List	Binding
1	2007	The law of income zakat paid to Kedah Zakat Department.	No tendency
2	2008	Fatwa regarding using money from zakat assistance for the purpose of building hostel of Maktab Mahmud Alor Setar.	No tendency
3	2008	Fatwa concerning paddy zakat calculation by taking into account debt of plough rent cost, pesticide and others before zakat is given.	Tend to bind
4	2001	Fatwa regarding <i>fitrah</i> zakat.	No tendency
5	2007	Fatwa pertaining law of father giving zakat to his son who is in debt.	No tendency
6	2008	Fatwa concerning the law of giving paddy zakat money to school.	No tendency

7	2001	Fatwa regarding surplus money of zakat.	No tendency
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Based on the table above, six fatwas decided did not have the tendency to *Mazhab Syāfi'i* from the overall seven fatwas regarding zakat. However, most of the fatwas were still decided within the boundary of the four *muktabar mazhab* /schools of thought. Only one fatwa, which was stated clearly to bind to *Mazhab Syāfi'i* in all situations. This is because there are several aspects that cause the Fatwa Committee not to be bound to *Mazhab Syāfi'i*.

The following table shows the aspects of *maṣlaḥah* and 'urf that influence the decision of the Fatwa Committee either to be bound to *Mazhab Syāfi'i* or not.

Table 2. Showing the Aspects of *maṣlaḥah* and 'urf

No	Year	Fatwa Lists	<i>Maṣlaḥah</i> / 'Urf
1	2007	Income zakat paid to Kedah Zakat Department.	'Urf
2	2008	Fatwa regarding using money from zakat assistance for the purpose of building hostel of Maktab Mahmud Alor Setar.	<i>Maṣlaḥah</i> compliant / no discussion
3	2008	Fatwa concerning paddy zakat calculation by taking into account debt of plough rent cost, pesticide and others before zakat is given.	<i>Mazhab Syāfi'i</i> reference
4	2001	Fatwa regarding <i>fitrah</i> zakat.	<i>Maṣlaḥah</i> compliant / 'urf compliant
5	2007	Fatwa pertaining law of zakat payment of father to his son who is in debt.	<i>Maṣlaḥah</i> compliant / no discussion
6	2008	Fatwa concerning the law of giving paddy zakat money to school.	<i>Maṣlaḥah</i> compliant / 'urf compliant
7	2001	Fatwa regarding surplus of zakat money.	<i>Maṣlaḥah</i> compliant / no discussion

Based on the table above, the majority even almost all the fatwas issued has adhered to the aspects of *maṣlaḥah* and 'urf and been discussed by the Fatwa Committee in deciding the fatwas. There are fatwas that did not include any discussion because there was no need for discussion regarding the aspects *maṣlaḥah* as well as 'urf.

CLOSURE

In conclusion, based on the results from random analysis on seven (7) fatwas regarding zakat, the issuing practice of fatwa in Kedah by the Kedah Fatwa Committee still maintained the persistence in using *istinbat* method according to *istinbat* method in Islamic law. Whereas, in the aspects of *mazhab* binding, the Kedah Fatwa Committee is less inclined to only be bound to *Mazhab Syāfi'i*. Even the opinions of *mazhab Ḥanafī*, *Mālikī* and *Ḥanbalī* are applied in line with the requirement of law applied in the practice of issuing fatwa.

However, if the opinions applied is not from *Mazhab Syāfi'i*, the Fatwa Committee has stated clearly the scholars as well as the books, which become the reference without mentioning the schools of thought (*mazhab*) followed by the scholars. The author opines that it is better if the school of thought (*mazhab*) followed by the scholars is disclosed clearly in the practice of issuing fatwa, as well as the books referred by the scholars. Referring to the aspects of *maṣlaḥah* and 'urf, the Kedah Fatwa Committee has adhered both aspects in the practice of zakat issuing if the aspects of *maṣlaḥah* and 'urf are required.

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