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Optimizing Banjar Community Fiqh: Bahilah Practice for the Deceased in South Kalimantan

Inawati Mohammad Jainie Jarajap¹, Mukhlis Anshari², Naimah³, Anwar Hafidzi*⁴, Lutfi⁵

^{1,2,3,4}Universitas Islam Negeri Antasari, Indonesia

⁵Canberra University, Australia

Corresponden E-mail: anwar.hafidzi@uin-antasari.ac.id

ABSTRACT

This study examines the optimization of societal fiqh understanding within the Banjar community, focusing on the *bahilah* practice related to the payment of fidyah for missed prayers and fasting by the deceased in the *Pahuluan* community, South Kalimantan. The purpose of this research is to analyze how *bahilah* – a local tradition for fulfilling religious obligations for the deceased – is conducted and to understand its legal implications within the framework of Islamic law. The research employs a qualitative approach, utilizing observation, in-depth interviews, and document analysis. Data was collected from the *Pahuluan* community to gather primary insights into the practice of *bahilah* and the challenges faced by heirs in fulfilling *fidyah* obligations. The findings indicate that the practice of *bahilah* often involves the use of the concept of *hilah* (legal stratagem) to ease the burden on the heirs. However, this practice also raises issues, such as the validity of fidyah payments when the recipients do not meet the criteria of being impoverished, and the execution of grants that do not always comply with the essential requirements of Islamic law. The implications of this study highlight the need for increased community understanding of the proper implementation of *bahilah* in accordance with Islamic legal principles, as well as the necessity for oversight and guidance from religious scholars or authorities to ensure that this tradition aligns with the applicable Sharia regulations.

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1. INTRODUCTION

The practice of paying *fidyah* (compensation) for missed prayers and fasting within the Banjar community is not directly addressed in the provided papers. However, the concept of *fidyah* in Islamic practice is discussed in several contexts (Hakim & Long, 2021). Explores the discourse on *fidyah* for prayers within the Acehese community, revealing differing opinions among Islamic scholars about its permissibility. Some scholars from the Hanafi and Shafi'iyah schools allow *fidyah* for prayers based on analogy with fasting, while others, including the Maliki and Hanbali schools, do not permit it due to the strict prohibition against missing prayers (Hakim & Long, 2021). (Muzana et al., 2016) touches on the use of inheritance for *fidyah* for prayers in Aceh, indicating that such practices can affect the distribution of inheritance and are not universally recognized in Islamic teachings. Contradictions arise when considering the strict theological stance against replacing missed prayers with *fidyah*, as prayers are commanded by definitive texts (Qur'an and Hadith) and cannot be substituted (Fata, 2016). This is juxtaposed with the ethnographic account of the private performance of prayers among women in Tehran, which emphasizes the personal and meaningful nature of prayer beyond public ritual (Haeri, 2013). In summary, while the papers do not specifically address the Banjar community's practices, they provide insights into the broader Islamic discourse on *fidyah* for prayers and fasting. The papers suggest a complex interplay between religious doctrine and local customs, with some communities incorporating *fidyah* into their practices despite theological objections (Hakim & Long, 2021; Muzana et al., 2016). The importance of prayer in Islamic worship is underscored, and the personal significance of prayer is highlighted (Haeri, 2013). Therefore, the practice of *fidyah* within the Banjar community would likely reflect a similar negotiation between Islamic law and local tradition, as seen in other Muslim societies

There are four obligations that you Muslims must fulfill when someone dies. These are bathing, covering, praying and burying. The performance of these obligations is *fardhu kifayah* and should be done as soon as possible (Abidin, 2012). This is as the Hadith from Abu Hurairah, the Prophet said:

اسرعوا بالجنازة فان تك سالحة فخير تقدمونها عليه وان نكن غير ذلك فشر تضعونه عن رقابكم

Hurry up in taking care of the dead, because if he was a righteous person, then you have hastened his attainment of good, and if he was anything else, then you have also taken the bad off your shoulders." (HR Al-Bukhari (1315) and Muslim (944))

Another thing that needs to be hastened is to pay off the debts of the deceased. This is as mentioned by the hadith narrated by Abu Hurairah, the Prophet said:

نفس المؤمن معلقة بدينه حتى يقضى عنه

Every believer's soul is dependent on his debt until it is repaid (Al-Bukhari (2291) and An-Nasa'i (1961)).

Another Hadith narrated from Salamah ibn Akwa' who said: "The dead body of a man was brought to the Prophet, and they both said: 'O Messenger of Allah, pray over him.' The Messenger of Allah asked: "Did he have any debts?" They said: "Yes." Then

the Messenger of Allah said: "Did he have anything to spend on? Then the Messenger of Allah said, 'Did he have anything to leave behind'. They replied, 'Yes'. So the Messenger of Allah said, 'Pray for your friend!' An Ansar commented (some say it was Abu Qatadah), "Pray for him and his debt." So, the corpse was prayed over.

Based on the explanation above, it can be seen that paying off the debts of the deceased is an important thing. This is because when a person dies and still leaves a debt, it can cause him to be dependent in the sense that he cannot rest peacefully because his responsibility to pay off the debt has not been carried out. In fact, with reference to the second Hadīth above, even someone who still has a debt the Prophet was reluctant to offer the funeral prayer until there is a guarantee that there is an inheritance that can be paid to pay off the debt.

The concept of *fidya*, a compensatory payment made when a Muslim is unable to perform certain religious duties such as daily prayers (*salat*) and fasting during Ramadan, is explored in the context of the Indramayu Muslim community (Mansoer et al., 2017a). *Fidya* is traditionally given in the form of rice or money to the poor and is seen as a means of fostering social harmony within the community. This practice is rooted in the Islamic principle of *iḥtiyāṭ*, which emphasizes caution in fulfilling religious obligations that were not performed by an individual before their death, particularly within the family. Interestingly, while the *fidya* tradition is well-established in Indramayu, the broader Islamic teachings on fasting during Ramadan do not explicitly mention *fidya* for non-performance due to non-health-related reasons. Fasting is obligatory for all healthy adult Muslims, with exemptions provided for specific groups such as children, the sick, travelers, pregnant and lactating women, and menstruating women (Nuzul & Abdulrahman, 2022; Sodiq, 2023; Zabidi, 2017).

These exemptions highlight the flexibility within Islamic jurisprudence to accommodate individual circumstances without necessarily invoking *fidya*. In summary, the payment of *fidya* in Indramayu is a localized interpretation of Islamic teachings, serving as a precautionary measure to honor the unfulfilled religious duties of the deceased. It is important to note that the broader Islamic framework provides clear guidelines on who is exempt from fasting, with *fidya* typically associated with the inability to fast due to health or other legitimate reasons, rather than non-performance of prayers and fasting for unspecified reasons (Mansoer et al., 2017b). Therefore, while *fidya* is a recognized concept in Islam, its application varies across different communities and must be understood within the specific cultural and religious contexts in which it is practiced.

Payment of these debts becomes the obligation of the heirs as recipients of the inheritance (Basri et al., 2022; Hafidzi, 2019). However, it becomes a problem when the debt owed by the deceased is related to the rights of Allah, such as failing to pray, there are still fasts that have not been made up and so on. Then the payment of such debts is also an obligation of the heirs (Hayati & Khitam, 2018).

Faced with the problem of paying debts to Allah Swt. after the death of a person, the Banjar Islamic community developed the practice of *bahilah* as one of the rituals performed to pay *fidyah* for various obligations left by the deceased. The practice of *bahilah* is done *in* accordance with the Hanafi school of thought and has become a tradition in the Banjar Islamic community (Hafidzi et al., 2018).

Broadly speaking, the practice of *bahilah* to pay *fidyah* is carried out before the burial procession by inviting several people who understand the procedures for implementing the *hilah* and one of them acts as the leader of the *bahilah* procession. By using *ungkal* as a means of paying *fidyah*, the *fidyah* payment is carried out by giving *ungkal* to the recipient of the *fidyah*, then the recipient of the *fidyah* gives the *ungkal* back to the *fidyah* giver, and so on until the *fidyah* payment reaches the amount that must be paid. After the *bahilah* process is complete, the invitees are given an envelope containing money as fatigue money and transportation costs (Abidin, 2012).

Despite its widespread acceptance, questions arise regarding whether the *bahilah* practice conforms to Islamic legal principles, particularly when it employs *hilah* to ease *fidyah* obligations. This study aims to explore the legal and religious implications of the *bahilah* practice within the Banjar community, seeking to determine whether it is a justified application of Islamic law.

2. METHODS

This study employs a qualitative approach, focusing on a sociological analysis of the *bahilah jenazah* practice in the *Pahuluan* community of Hulu Sungai Utara, South Kalimantan. The research aims to explore how variations in scholarly understanding and shifts in *mazhab* (Islamic jurisprudential schools) influence the implementation of the *bahilah* tradition within the community. The study began with participatory observation of *bahilah* processions in several villages in Hulu Sungai Utara. The researcher directly observed the *bahilah* practice in its local context, noting interactions among the tradition's practitioners, religious scholars, and the general public (Miles & Huberman, 1984).

Primary data was collected through open-ended interviews with three key informants directly involved in the *bahilah* procession. These informants were selected based on their significant roles in the implementation of this tradition, namely as procession leaders, heirs and local clerics. The interviews were conducted using a semi-structured approach, allowing informants to provide their views in depth related to the understanding and implementation of *bahilah*. In addition, the researcher also used the snowball sampling technique to find additional relevant informants, thus obtaining a more comprehensive view (Atikah, 2022).

Data analysis was conducted descriptively using a legal sociology approach (Adiyanta, 2019). Data obtained from interviews and observations were analyzed to identify patterns, themes and deviations in the practice of *bahilah*. The researcher then compared these findings with the *fiqh* views of the Hanafi school of thought followed by some of the *Pahuluan* community (Hafidzi, 2020a). In this way, this research can reveal how local traditions interact with *fiqh* norms and how changing religious understandings affect the practice of *bahilah* in Banjar society.

3. RESULTS AND DISCUSSION

The Concept of Hilah According to the Hanafi School

Hilah, as conceptualized within Islamic jurisprudence, represents a strategic response to evolving customs and practices within communities. Specifically, the

Hanafi Mazhab adopts *hilah* as a legal mechanism to navigate complex situations (Nugroho, 2018; Wardani, 2022). However, it is important to note that Imam Abu Hanifah, the founding scholar of this Mazhab, exercised caution in employing *hilah*. He maintained that *hilah* should not be used to circumvent legal obligations if it results in harm or unjust prejudice to others. Instead, it should be used carefully and ethically to alleviate burdens without compromising the essence of sharia law (Hafidzi, 2020b).

Etymologically, *hilah* translates to ingenuity or trickery employed to escape from a legal burden or responsibility. Within Hanafi jurisprudence, *hilah* is defined with several key objectives:

1. Mitigating Heavy Burdens: *Hilah* can be used to shift a legal burden from something excessively onerous to a more manageable form.
2. Accommodating Local Customs: It serves to harmonize legal practices with prevalent customs that lack explicit provisions in legal texts, such as conditional sales (*bay al-wafa*) or alternate sales (*bay' ala bay'ain*).
3. Facilitating Rights and Responsibilities: *Hilah* can create opportunities for individuals to exercise their rights indirectly, often in ways that might otherwise be restricted (Hakim & Long, 2021).

In contrast, the concept of *hilah* faces opposition from other schools of Islamic thought, including the Maliki, Shafi'i, and Hanbali schools, as well as from scholars like Taqiyuddin ibn Taimiyah (Fadli, 2016). The Hanafi perspective, however, posits that *hilah* is intended for societal benefit and aims to ease rather than disrupt the framework of sharia. It is designed to adhere to Islamic principles of convenience without nullifying established obligations. The Hanafi interpretation of *hilah* is supported by scriptural references. For instance, Surah Sad (38:44) describes Prophet Ayyub's situation, where Allah permitted a lighter form of fulfilling an oath (striking with a bundle of grass) to replace a more burdensome one (a hundred strikes). This illustrates *hilah* as a legitimate means of alleviating hardship while upholding legal commitments (Hidayat, 2022).

Additionally, Surah al-Talaq (65:2) underscores the concept of finding a way out of difficulties (*makhraja*), which aligns with the Hanafi view of *hilah* as a method of resolving legal challenges through alternative, less burdensome means. The Hanafi scholars articulated their approach to *hilah* as a form of legal finesse to navigate societal issues, often documented in works such as *al-Makharij min al-Maza'iq* and *al-Hiyal wa al-Makharij* (Atqia, 2009).

In the context of the Banjar Islamic community, *hilah* is employed to address the considerable burden of paying fidyah for the prayers and fasting obligations of deceased individuals (Budiono et al., 2023). This application reflects *hilah's* role in alleviating the substantial legal responsibilities that would otherwise be impractical for the heirs to fulfill. Through this practice, the Banjar community demonstrates how *hilah* can be adapted to local customs while striving to adhere to sharia principles, ensuring that the process remains feasible and aligned with Islamic values.

Fidyah for prayer and fasting for the deceased

Praying and fasting are pillars of Islam, the implementation of which often occurs negligence so as to leave the obligation to pray and fast (Dahli et al., 2024). When there

is negligence in performing prayers and fasting, then there are provisions that order to make up for it. The provision for making up prayers due to forgetfulness is mentioned in a Prophetic tradition.

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

It was narrated from Anas bin Malik r.a. that the Prophet. Once said: "Whoever forgets to perform a prayer, then perform it when he remembers, without making expiation for the forgetfulness except by performing the prayer". Then the Messenger of Allah. Recited the verse (which means): "... and pray in remembrance of Me." (Q.S. Thaahaa verse 14)

While not fulfilling the obligation of fasting Ramadan then the fast must be replaced on another day, as Allah says in Surah Al-Baqarah/2 verse 185 :

And whoever is sick or on a journey (and breaks his fast), then (he must fast) the number of days he missed on other days.

The above verse contains a provision that for people who are sick or traveling, they are legally allowed to break or not fast but they must replace it on another day other than Ramadan. It becomes a problem when a person dies before he can repay the fasts he has missed, fulfill the vows he has made to pray or make up the prayers he has forgotten. In fact, when a person dies, his deeds are cut off, so that the performance of prayers and fasts for the deceased is impossible. However, a hadith from Aisha and Abdullah ibn Abbas is the solution to this problem.

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

It was narrated from Aisha r.a. that the Messenger of Allah said: "Whoever dies and owes a fast, his guardian should fast on his behalf." (H.R. Bukhari)

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

It was narrated from Abdullah bin Abbas r.a. who said: A man came to the Prophet and asked: "O Messenger of Allah, my mother died and she owed me one month of fasting, can I fast on her behalf?" The Prophet replied: "Yes, you can, because debts to Allah should be paid first." The Prophet replied, "Yes, you may, because debts to Allah should be prioritized for repayment." (H.R. Bukhari)

Based on the above Hadith, it can be seen that someone who has died but still has an obligation to fast Ramadan that has not been paid, then the obligation can be carried out by the guardian, namely his heirs. In addition to the obligation to make up the fasts, the thing that is done to pay for the obligations of fasting that are not carried out by paying *fidyah*, which is by feeding a poor person with food of the same quality that he used to eat. This is as stated in Surah Al-Baqarah/2 verse 184:

And it is obligatory for those who find it difficult to observe it (if they do not fast) to pay the fidyah, (which is) to feed a poor person.

The *fidyah* given is in the form of feeding a poor person. However, the scholars differed on the form of the *fidyah* to be given. The Shafi'i school of thought determines

that the *fidyah* for one day of fasting is to give one *mud* of food. What is meant by *mud* is that the food given is in the form of local staple foods such as wheat (rice, corn, barley, and so on). One *mud* is equivalent to a square measure that is 2.9 cm long on each side with an approximate weight of 600 grams (Al-Bugha, 2017). According to the Hanafi school of thought, the *fidyah* may be paid with any wealth that has a price, whether it is gold, silver or other things (Mansoer et al., 2017a).

There are several reasons why *fidyah* is obligatory, including:

1. Unable to fast. All fuqaha are agreed that the *fidyah* is obligatory on the person who is completely unable to fast, i.e. an old man or woman.
2. All fuqaha are agreed that the *fidyah* is also obligatory for the sick person who has no hope of recovery.
3. For women who are pregnant and breastfeeding if they fear for their children, the obligation to make *up* the fasts remains.
4. One who is negligent in making *up* the fasts of Ramadan until they are delayed until the next Ramadan comes (Az-Zuhaili, 2011).

According to the explanation above, the reason for the existence of *fidyah* is due to a person's inability to make *up* fasts because of the conditions he experiences. Talking about inability, what about someone who has passed away but still has a fasting debt or does not have the opportunity to make *up* his prayers, whether he is still burdened with the obligation to *make up* or pay *fidyah*.

As stipulated in Surah al-Baqarah/2 verse 184, the *fidyah* payment is intended for the poor. The Hanafi school gives criteria about people who can receive *fidyah* (Sahabuddin et al., 2023), namely:

1. The recipient is poor or needy, someone who does not have one nisab of zakaah, which is two hundred dirhams of silver or twenty *mithqals* of gold.
2. A person who has reached the age of puberty and is of sound mind is not a *fidyah* recipient, because a person who has reached the age of puberty but is not of sound mind is not a *fidyah* recipient.
3. Not a slave
4. People who believe
5. Understand *ijab* and *qabul*, intending to give and receive in truth.

An Analysis of the Practice of Bahilah for the Payment of Fidyah for Prayer and Fasting for a Deceased Person

Basically, *fidyah* is paid by feeding the poor. But according to the Hanafi Mazhab, the way to pay *fidyah* can be given in the form of money or other valuable assets. The *fidyah* given to the poor for each fard prayer is half a *saa'* and each day of fasting in Ramadan is half a *saa'*. In calculating the amount of *fidyah* prayers that must be paid when guided by the opinion of the Hanafi school, there are six prayers a day because Witr is included in the obligatory prayers so that in a day the *fidyah* prayer is 3 *sha'*, for a month as much as 90 *sha'*, and for a year as much as 1080 *sha'*.

Meanwhile, the calculation of *fidyah* for fasting is $\frac{1}{2}$ *saa'* for each day of fasting that is missed. So, for one Ramadan in a year, that is $\frac{1}{2}$ *sha'* times 30, is 15 *sha'*. In addition, in paying this *fidyah* for fasting, there is an additional fine for failing to pay which is

called *mud fawat* as much as $\frac{1}{2}$ *sha'*. Thus, if a month of fasting is missed in one year, the *mud fawat* is $\frac{1}{2}$ *sha'* X 30 days = 15 *sha'*. If it is neglected for 2 years, then the *mud fawat* is $\frac{1}{2}$ *sha'* x (30 days x 2) = 30 *sha'* plus the previous Ramadan fine to total 45 *sha'* and so on this fine will continue to double. So, the *fidyah* for fasting for a dead person for 5 years is 15 *saa'* x 5 years = 75 *saa'* plus the *mud fawat* of 150 *saa'*, so the total amount of *fidyah* to be paid is 225 *saa'* (Seff, 2016, p. hlm. 115-116). If the person for whom the *fidyah* is to be paid is a male, then his age must be reduced by the age of puberty, which is 12 years, and if it is a female, then it is reduced by 9 years, while for those whose age is unknown, it is estimated by *dhan* or the best guess (Syarbini, 1995).

An example of calculating the *fidyah* for prayer and fasting is for a man who neglected prayer and fasting and died aged 20. First the age minus the period before puberty is 20 years - 12 years = 8 years. The *fidyah* for 8 years of prayer is 1080 *saa'* x 8 years = 8,640 *saa'*. *Fidyah* of fasting for 8 years is 15 *sha'* x 8 years = 120 *sha'*, then 120 *sha'* plus *mud fawat* of 540 *sha'* = 660 *sha'*. Thus, the total *fidyah* for prayer and fasting for five years is 9,300 *saa'*. If converted to Abu Hanifah's opinion then the amount is 9,300 *sha'* x 3,800 grams = 35,340,000 grams and in liters it becomes 35,340 liters (Az-Zuhaili, 2011).

Fidyah is traditionally paid by providing food to the poor. However, according to the Hanafi Mazhab, *fidyah* can also be paid in the form of money or other valuable assets. The calculation for *fidyah* involves different criteria for prayers and fasting.

Calculation of Fidyah for Prayers and Fasting

1. Fidyah for Prayers:

- a. Each obligatory prayer, including Witr, is accounted for.
- b. Daily Fidyah for Prayers: 3 *saa'* (since there are 6 prayers including Witr)
- c. Monthly Fidyah for Prayers: 3 *saa'* x 30 days = 90 *saa'*
- d. Annual Fidyah for Prayers: 90 *saa'* x 12 months = 1080 *saa'*

2. Fidyah for Fasting:

- a. Daily Fidyah for Fasting: $\frac{1}{2}$ *saa'* per missed fasting day
- b. Fidyah for One Ramadan: $\frac{1}{2}$ *saa'* x 30 days = 15 *saa'*
- c. Mud Fawat (fine for delay): $\frac{1}{2}$ *saa'* per day missed
 - 1) For one year: $\frac{1}{2}$ *saa'* x 30 days = 15 *saa'*
 - 2) For two years: 15 *saa'* + 15 *saa'* = 30 *saa'*
 - 3) For five years: 15 *saa'* x 5 years = 75 *saa'*
 - 4) Total Mud Fawat: 30 *saa'* (for two years) + 75 *saa'* (for five years) = 105 *saa'*

Total Fidyah for Fasting:

- i. For five years: 75 *saa'* (principal) + 105 *saa'* (mud fawat) = 180 *saa'*

Example Calculation for a Man Aged 20,

1. Calculate Fidyah for Prayers:

a. Age minus puberty (12 years) = 20 years - 12 years = 8 years

b. Fidyah for Prayers: 1080 saa' × 8 years = 8640 saa'

2. Calculate Fidyah for Fasting:

a. Annual Fidyah for Fasting: 15 saa'

b. For 8 Years: 15 saa' × 8 years = 120 saa'

c. Mud Fawat for 8 Years: 15 saa' (one year) + 15 saa' (mud fawat) × 7 years = 120 saa' + 540 saa' = 660 saa'

Total Fidyah (Prayer + Fasting):

i. Prayer: 8640 saa'

ii. Fasting: 660 saa'

iii. Total Fidyah: 8640 saa' + 660 saa' = 9300 saa'

Conversion to Weight and Volume:

i. Weight: 9300 saa' × 3800 grams = 35,340,000 grams

ii. Volume: 35,340 liters

Summary Table

Item	Daily Amount	Monthly Amount	Annual Amount	For 8 Years	For 5 Years	5 Total Fidyah
Fidyah Prayers	for 3 saa'	90 saa'	1080 saa'	8640 saa'	-	8640 saa'
Fidyah Fasting	for ½ saa'	15 saa'	180 saa'	120 saa'	180 saa'	660 saa'
Mud Fawat	½ saa'	15 saa'	105 saa'	540 saa'	-	105 saa'
Total	-	-	-	9300 saa'	225 saa'	9300 saa'
Conversion to Weight	-	-	-	35,340,000 grams	-	-
Conversion to Volume	-	-	-	35,340 liters	-	-

Based on the above calculation, it can be seen that the amount of money paid is so much that it can be troublesome and even the heirs are not able to prepare that much food. However, in the Banjar Islamic community, people follow the Hanafi school of thought by doing *taclid* so that *fidyah* payments can be made simply by converting the

amount of foodstuffs to the amount of money or valuable assets such as gold and implementing payments using the *bahilah* process.

The practice of *bahilah* to pay the *fidyah* for prayers and fasting for a deceased person that has developed in the Banjar Islamic community raises several problems, including when the heir who will pay the *fidyah* does not have enough money to pay the *fidyah* for the deceased, so he has to borrow from a neighbor or someone who usually lends *ungkal* for *bahilah*. This can certainly be a burden for the heirs. Islam, as an easy religion, will certainly not burden its people with something that is not possible to implement, as Allah says :

Allah does not burden a person but according to his ability.

Considering the amount of rice is too much and quite troublesome, usually the price of rice is valued in money, then the amount of money is converted into gold. The gold used as *fidyah* is known as *ungkal*. Limited to this issue there is still no practice of *hilah*. *Hilah* then arises when the gold owned by the heirs is not enough to pay the amount of *fidyah* that must be issued. To overcome this, the gold or *ungkal* that has been handed over to the recipient is then given back to the giver of *ungkal*. After that, the giver of *ungkal* gives the *ungkal* back to the next recipient until the amount of *fidyah* that must be paid is fulfilled as calculated by the priest (Seff et al., 2014).

At first glance, the *fidyah* does not benefit the recipient, because the *fidyah* payment is not utilized by the recipient, because it is returned to the *fidyah* giver. The benefit of the implementation of this *bahilah* is only intended for the *deceased* who has paid his prayer and fasting debts, with the hope that when he meets Allah SWT. he is in a state of having no obligations to Allah SWT.

Another problem that occurs in the *bahilah* procession in the Banjar Islamic community is that the recipients of the *fidyah* are poor because those who attend the *bahilah* are only people who really understand the *bahilah* procession and not all of them are poor (Hulaify et al., 2017). The way out of this situation is to make themselves poor, by giving all their assets to their children and grandchildren so that at that time they do not have any assets, then when the *bahilah* procession is over, the assets can be withdrawn (Fadli, 2016).

Grants in the concept of muamalah fiqh have several provisions including the existence of grant pillars consisting of grantors, grantees, granted assets and *ijab qabul*. In the practice of *bahilah*, the grants carried out do not fulfill some of the pillars of the grant, namely the absence of the grantee and the absence of *ijab qabul* between the grantor and grantee, so it can be said that the grants carried out in the *bahilah* procession are invalid and the aim of *fidyah* is not achieved. As a result, the *fidyah* payment that should be addressed to the poor cannot be said to be valid because the recipient of the *fidyah* does not meet the criteria. But it is different when the *bahilah* procession is carried out with *fidyah* recipients who are really in a poor condition, then the *bahilah* procession for payment of *fidyah* for prayer and fasting for people who have died can be said to be valid. This is because the criteria for *fidyah* recipients have met these provisions.

A Legal Overview of Bahilah in Tradition and Islamic Law

A tradition that developed in the Banjar Islamic community is the term *bahilah* in order to pay *fidyah* for people who have died. The existence of *bahilah* aims to ease the burden on the heirs with several *hilahs* carried out in the process of paying the *fidyah*. Usually the *fidyah* payment is made before the *deceased* is buried because it is more *afdhal* and so that the *deceased* is free and free from all rights and responsibilities when he meets Allah (Syarbini, 1995).

Preparations for the implementation of *bahilah* are carried out by inviting several people; usually, the number is eleven people, consisting of people who are considered pious or understand the implementation of *bahilah*. The heirs must also prepare a number of valuable items or jewelry such as gold or any valuable item called *ungkal*. *Ungkal* serves as a substitute for the amount of rice that must be paid. For heirs who do not have *ungkal*, they can borrow or owe to other people or to parties entrusted by the heirs to carry out *hilah*. The loaned *Ungkal* has a handover so that it seems to belong to the heirs of the deceased (Abidin, 2012).

After the preparations have been made, the *bahilah* procession begins with the heirs asking or appointing the master teacher or *mu'allim* (in *bahilah* called the imam) to represent the heirs and lead the implementation of *hilah*. Then the imam calculates the amount of *fidyah* that must be paid. The calculation of the amount of *fidyah* has mostly been done by the *tuan guru* or *mu'allim* before the implementation of *hilah*, namely when the heirs of *asbah* ask about the amount of *ungkal* that must be provided by the heirs as well as informally asking for his willingness to become an imam (Seff et al., 2014).

Considering that not all of those invited to pay the *fidyah* are poor, before the *fidyah* is paid, it is possible to make oneself poor by donating all of one's wealth to one's children or grandchildren, so that they become poor (Ikhsan, 2024). However, the property that has been donated is declared to be withdrawn after the *fidyah* is completed. The Imam starts the *fidyah* payment by handing over the *ungkal* to the first recipient while saying:

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

The *Ungkal* was then received by the first recipient, saying:

الاموال منك هذه قبلت

After *qabad* (receiving) with *thuma'ninah*, the first recipient gives the *ungkal* back to the imam. Then the imam gives the *ungkal* back to the next recipient until the amount of *fidyah* that must be given is fulfilled. After the whole series is completed, the event is closed with the recitation of Surah al-Fatihah, Surah al-Ikhlās, surah al-Falaq, surah al-Nas and ends with prayer (Seff et al., 2014).

The *bahilah* procession carried out by the Banjar community in general has its own procedures and provisions that have been rooted in the ulama. The *bahilah* is a last resort to save the deceased from the torment of the grave and the torment of the hereafter, which is usually performed before the corpse is prayed. This is based on the Hadith of the Prophet Muhammad who refused to pray for a corpse that was still in debt, unless all the good deeds and debts of the deceased had been paid off or there

was someone who was willing to guarantee the repayment (Hidayat, 2022). However, if it is not possible to do so before the corpse is prayed for, the Tuan Guru in the Banjar community allow the *bahilah* to be done right after the burial, or even a few days afterwards as it is not strictly obligatory to do so.

The *Bahilah* itself from the heirs contacts the Tuan Guru, Mu'allim, or pious people around the village area to ask for their willingness to attend the event. The parties attending the *bahilah* procession are at least 10 recipients and one person who represents the heirs so that the total is 11 people. *Bahilah* recipients have criteria as determined by the scholars so that there is no misunderstanding. One way to get around this so that all recipients of the *bahilah* are included as the poor and needy who are entitled to receive fidyah is to donate or grant all of their property to their children or grandchildren first and then give it to those present at the *Bahilah* procession, after being handed over and then return to declare the withdrawal of property after the event is over. However, in Banjar society the *bahilah* usually consists of Tuan Guru, Mu'allim or pious people who understand the procedures of *bahilah* without having to look for special people who are poor and needy. This is considered valid, because among these scholars there are certainly those who are poor or needy, and of course they are people who fight fi sabilillah. The heirs themselves recited the intention of taqlid to Imam Hanafi to pay fidyah using gold.

Bahilah is still practiced today because of the tradition that exists in the community because there is a rationale with the belief that living relatives can free or at least relieve the dead from the demands of the afterlife. During his lifetime, a human being must have done good and bad deeds, whether he realized it or not, whose rewards and sins must be borne alone. In the Banjar community in South Kalimantan, especially the traditionalist community. Its sacredness can be seen in the many religious rituals that must be performed in order to release the deceased to their final resting place in the grave. One part of the ritual procession that is often carried out is the *Bahilah* tradition in the context of death, which is intended to relieve the dead person of their responsibilities and has been passed down from generation to generation.

The practice of *Bahilah* has indeed become half obligatory in the Banjar Community because it has been implemented since ancient times and has become a customary law in the Banjar community, therefore it is still being implemented and taught by teachers, Ustadz, and Alim ulama in South Kalimantan in particular while still paying attention to the process of this *bahilah* not deviating from the teachings of Islam and not giving Mudharat to the people.

The origin of the emergence of the *bahilah* procession cannot be traced, but it is estimated that it has been carried out by the community for almost a century. But from the results of several previous studies that the practice of *Bahilah* relies on the scholars in South Kalimantan, one of which is from the treatise of guidance in the implementation of the *bahilah*, such as the treatise compiled by KH. Mu'az Hamid (Pasayangan), namely the Treatise "alwahbah al ilahiyah fi bayan isqat ma ala al mayyit min alhuquq wa assiyam wa alshalat" and KH. Masdar (Sungai Tuan). The oldest of these treatises is the one written by KH Muhammad Khalid of Amuntai. The

treatise is written in Arabic-Malay writing and is named "al-Fatdhah al-Ilahyah for Isqath ash-Shalah".

Bahilah is popular in the Hulu Sungai Region, but not in other regions. Young, urban and modernist people in other areas mostly consider bahilah to be an activity that is detrimental to the heirs left behind, as it is considered to be very costly. Just imagine if the heirs have to spend the estate of the deceased to pay fidyah for 35 years of tens of tons of rice or the equivalent of hundreds of millions to billions of rupiah as previously calculated (Hayati & Khitam, 2018; Maimanah et al., 2024).

In practice, the rice is replaced with gold, which is more practical. The gold does not have to belong to the deceased or his heirs, but may be borrowed from someone else. In fact, in practice the Tuan Guru present at the event often agreed to lend it. The gold is not then given away for free to the attendees, but can be considered only as a means of paying the fidyah at that time, which is eventually returned to the heirs or the owner of the gold. Basically, bahilah does not cost anything at all, except for the consumption of the attendees or their transportation costs. In fact, bahilah is often held in a neighbor's house so that it does not disturb the grieving family and does not slow down the process of taking care of the body (Hayati & Khitam, 2018).

Therefore, Bahilah is a form of prudence (Ihtiyat) which has become a customary law or tradition carried out for centuries in the community and cannot be changed or prohibited according to the perspectives of various madhabs because this is a form of devotion of children to their deceased parents or other families (Mansoer et al., 2017a).

As for the opinion of one of the people I interviewed Ustadz, his name is Ustadz Luthfi Imron, he teaches at an Islamic boarding school in the Tapin Regency area and he also often carries out this *Bahilah* procession in the community, his opinion regarding this *Bahilah* is;

"It can be carried out because this is a form of ihtiyat from a servant towards his worship and the family's last form of devotion to the deceased and its implementation is in accordance with the Sharia."

The conclusion is that this *Bahilah* tradition may be carried out as long as it does not harm and violate Islamic law and is also a form of caution or Ihtiyat for our own acts of worship.

However, in the community *bahilah* has also shifted in practice. *Bahilah*, which was originally *lillahi ta'ala* and to help reduce the sins of the deceased, the gold fidyah payer who is sufficiently borrowed, accompanied by the provision of modest consumption accompanied by sufficient money, has now become a business field for young people. The more acts of worship for which the fidyah is paid, the richer the deceased and his relatives, the higher the rate.

The higher the fare. A standard boat can cost up to Rp.1,000,000 per person, so the minimum total to be paid is around Rp.10,000,000 to Rp.12,000,000. Indeed, this phenomenon does not happen much. There are still very many Tuan Guru who carry out *bahilah* sincerely without the lure of wealth.

Indeed, this phenomenon does not happen much. There are still very many Tuan Guru who carry out *bahilah* sincerely without the lure of wealth. But in a way, it will burden people who do not really understand the concept of *bahilah*, so they hesitate to carry it out even though it feels odd in their hearts if they don't do it.

The ruling of Illat in Islam is that it is permissible to carry out this *Bahilah* but with a note that it must be in accordance with the provisions of Islamic sayriat. And it's okay if you don't do this *Bahilah* procession, it's replaced with prayer only.

Not a few Indonesian customs seem to intersect with religious law, just as many customary laws intersect with modern state laws that are in fact from the West and thoughts about *Bahilah* in Understanding the cultural values that underlie the birth of behavior patterns will provide an understanding of what is the basis for individuals and community groups to do or not do something. Because culture is an ideology and a means to improve the degree of man and his humanity, the concept of culture must be understood in the perspective of its function for human life.

Every society consists of large and small elements that are part of a totality that is a unity. *Bahilah* is often considered incompatible with what has been regulated in Islamic law. However, the community continues to implement it. Regardless of the pros and cons in it, the implementation of *bahilah* is actually based on the desire to help reduce the burden of the dead person's sin. *Bahilah* is a form of solidarity between the heirs and their deceased relatives. Even if it is not carried out, the family must feel something is wrong, disturbed, stuck in the heart. In terms of the gap that occurs between the practice of *bahilah* in the field and the Islamic theory of fidyah, it turns out that this is not unusual.

4. CONCLUSION

In essence, fidyah is intended to be given to the poor, but according to the Hanafi school of thought, it can also be paid in the form of money or other valuable assets. The fidyah for each obligatory prayer is calculated as half a sha', and for each day of missed fasting during Ramadan, it is also half a sha'. According to the Hanafi school, the total fidyah for a year amounts to 1,080 sha' for daily prayers and 15 sha' for fasting during Ramadan. If fidyah is neglected over multiple years, the penalties or additional amounts (mud fawat) significantly increase, potentially leading to an exorbitant total.

The practice of *bahilah*, often used to simplify fidyah payments, involves converting the required food amount into money or valuable assets such as gold. In the Banjar community, the *bahilah* process is typically simplified to avoid undue burden on the heirs. However, this practice raises several concerns, including instances where heirs lack sufficient funds to pay fidyah, leading them to borrow from others. The procedure involves a temporary transfer of gold to fulfill the fidyah requirement, which is then returned to the original owner, raising questions about whether it truly benefits the poor as intended.

This misalignment with Islamic principles of zakat and charity undermines the intended purpose of *bahilah*. It is crucial that the practice adheres to Islamic requirements and does not deviate from the prescribed methods of fulfilling religious

obligations. Despite its deep-rooted tradition, the practice of *bahilah* should be scrutinized to ensure it aligns with Islamic teachings and effectively addresses the needs of the deceased without causing unnecessary hardship to the living heirs. Paying *fidyah* to someone who is not poor invalidates the *fidyah* payment, thus the practice of *bahilah*, even if conducted in accordance with the Hanafi mazhab, must strictly follow the provisions and criteria set by the Hanafi school to prevent it from becoming a futile act.

In conclusion, specific recommendations for further research include exploring alternative practices for fulfilling religious obligations, as well as conducting comparative studies with other Muslim communities to better understand the variations in *fidyah* practices. Additionally, this study contributes to the broader fields of Islamic jurisprudence and societal *fiqh* by deepening our understanding of cultural practices within Islamic law, emphasizing the need for alignment between traditional practices and Islamic legal principles.

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