



Reconstruction of regulations for the early determination of the month of qamariyah in Indonesia based on the value of justice

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Abstract

Differences in concepts among the existing religious schools are a reality, which cannot be denied by anyone. Differences and even clashes of concepts occur in almost several aspects of religious life, both in the field of monotheism and the concept of regulating life in the field of muamalah. This, in practice, often triggers very sharp conflicts between Muslims of different sects. From this fact, a breakthrough is needed to try to provide alternative ideas and solutions for the implementation of the *Isbath* session which has always been carried out after sunset at the beginning of the month of *Ramadan*, *Shawwal*, and *Dzulhijjah*. This study aims 1. To uncover the background or factors that influence as well as to examine and analyze the regulation on the determination of the beginning of the month of Qamariyah 2. To be able to understand the weaknesses of the regulation technique to determine the beginning of the month of Qamariyah 3. To reconstruct the technique of regulation of the determination of the beginning of the month of Qamariyah. This study uses a juridical-sociological approach. The research specification is descriptive analysis. The results of the research and discussion show that Article 52A of Law no. 3 of 2006 concerning the *isbath* trial, reads "The religious court shall provide *istbat* testimony of the *rukyat* hilal in determining the beginning of the month in the Hijri year. Weaknesses of Article 52A of Law no. 3 of 2006 concerning Religious Courts, this article gives a mandate to religious courts which then the mandate is not followed up with several rules that create togetherness and conducive atmosphere for the determination, namely by combining several differences that occur, and giving birth to the minister of religion to be absolute in making decisions. Determination of the beginning of the Qamariyah month. Reconstruction of regulations for determining the beginning of the qamariyah month in Indonesia based on the value of justice, an effort to review Article 52A of Law no. 3 of 2006 concerning the Religious Courts which need to be refined with Article 52 B, Article 52 C, and Article 52 D. This is to anticipate some of the weaknesses of the article to be able to accommodate all the interests of the community and components of the Indonesian nation which are based on the values of justice.

Keywords: determination of the beginning of the qamariyah month, reconstruction, regulation, and justice's value

Introduction

The plurality of this nation can be a potential wealth as well as turn into a weakness for Indonesia itself. The positive impact of this nation is the dynamics of the development of this nation's thinking, will always experience development (Mul Khan, 2002) ^[1]. It is proven by the development of varied and appreciative Islamic legal thought that can become a treasure trove of Islamic scholarship in the Islamic world. Such as examples of Islamic legal thought *Nahdlatul Ulama* (NU), *Muhammadiyah*, *Muhammadiyah*, *Persis* and *Hizbut Tarir* Indonesia.

The Islamic Legal Thoughts of *Nahdlatul Ulama* (NU) will have different styles of legal thought and have different methodologies and have different emphases. So that in theory there is a difference between one stream and another (*theoretical gap*) (Feillard, 1999). Differences in concepts among the existing religious schools are a reality, which cannot be denied by anyone. Differences and even clashes of concepts occur in almost several aspects of religious life, both in the field of monotheism and the concept of regulating life in the field of muamalah. This, in practice, often triggers very sharp conflicts between Muslims of different sects.

The Muslims are commanded by *Allah* SWT to follow and imitate the Messenger of *Allah* (*Sallallahu' alaihi wa sallam*) in all his *Shari'a*. The same applies to the determination of worship with a specified time, such as fasting in *Ramadan*, *Eid al-Fitr*, and *Hajj*. Therefore, the Messenger of *Allah* (PBUH) strictly taught how to determine it with the *rukyat* hilal (seeing the new moon) with the eyes and if it is obstructed by the month of *Sha'ban*, 30 days for *Ramadan* or 30 days of *Ramadan* for *Shawwal*.

The problem of differences that occur in determining the beginning of the months of *Ramadan* and *Shawwal* cannot be separated from the two methods used in determining the beginning of the month, namely *Hisab* and *Rukyat* which are a manifestation of the implications of various interpretations of the Prophet's *Hadith* which are

mu'tabaroh which reads: *the new moon and break your fast because you see the new moon. If it is covered from you by clouds, then complete the number of the month of Sha'ban 30 days (Narrated by Bukhari Muslim from Abu Hurairah).*

The problem of reckoning rukyat is a Muslim ubudiyah issue that is closely related to the science of astronomy. Hisab is a mathematical and astronomical calculation to determine the position of the moon in determining the beginning of the month on the Hijri calendar. It is used to estimate the position of the sun and moon concerning the earth. Meanwhile, rukyat is an activity to observe the visibility of the new moon after the occurrence of *ijtima'* (conjunction) either by direct eye or with the help of visual aids. Where in determining the beginning of the month of Qomariah, the criterion of reckoning rukyat is the result of excavation between the reckoning and rukyat methods to obtain an astronomical interpretation of the fiqh arguments used. This criterion of rukyat reckoning is a matter of *ijtihadiah*, not a question of *naqli* or *postulate* arguments, but has for so long made the two opinions seem incompatible because they are in the area of interpretable *ijtihadiah* (Lukito, 1999).

In this case, the Government is trying to minimize the differences that occur, so that *ukhuwah Islamiyyah* is maintained properly, even though polemics are impossible to destroy. Through the Ministry of Religion, in this case, the Directorate General of Islamic Guidance, which one of its duties is to foster reckoning rukyat, of course, is very interested in playing a role in bridging two opinions that have different footings, even though the basic footing is the same. Then what are the Government's policies in tackling *Ikhtilaf* related to Hisab rukyat that occurred in this country? For this reason, the government takes steps every time before *Ramadan*, *Shawwal*, and *Dzulhijjah*, the government holds an *istbath* session to determine the beginning of the month of *qamariyah* to unite and ensure the determination of that day. Where it is almost certain that all Muslims are waiting anxiously whether this year the three big days will be held simultaneously or not. Even though the three major days have been written on the calendars installed in homes because they are directly related to the worship procession, namely fasting, *zakat fitrah*, *Arafah* fasting, and the pilgrimage, the people are still waiting for certainty when the worship will begin.

The concern of this community is that if the worship procession is not carried out on time, then the law will become useless or even become haram because one of the conditions for valid worship is entering the time or being carried out at the specified times. Worship contained in the pillars of Islam is always associated with time. The obligatory prayers, for example, must be performed at predetermined times as *Allah* has confirmed in His word. If not at that time, then the status of *zakat* will change to ordinary alms.

A lot of effort has been made to unite the *hijriyah* or *qamariyah* calendar, but until now it has not produced results. This is because the problem of rukyat and hisab as the basis for determining the beginning of the month is very complex, both the problem of the number of people who witnessed seeing the new moon, who the person was, when he witnessed it, need the support of hisab or not, which hisab can be used as support, hisab *urfi*, *taqribi* and *tahkiki*. What criteria are used as guidelines for the turn of the month, *ijtima'* before sunset, *ijtima'* before midnight, *ijtima'* before daybreak, embodied *hilar*, *imkan rukyat*, and *matla'*. In other words, the problem faced is not only the person but the theory and method used (Marpaung and Nurhayati, 2019).

The determination of the beginning of the *qamariyah* month in Indonesia has been regulated in the regulatory formulation, but there is still a determination of the beginning of the month. This has been the case for the past few years. As in 2011, the official Indonesian calendar stated that the beginning of *Shawwal* was August 30, 2011. Meanwhile, Muhammadiyah continued with its reckoning results, celebrating the beginning of *Shawwal* on August 30, 2011.

In 2011, where the community has prepared for Eid al-Fitr celebrations, it will start on August 30, 2011. However, the decision of the Minister of Religion as the representative of the state authority set the beginning of *Shawwal* to be on August 31, 2011. As a result, the people of Indonesia still have to fast one more day during preparations for welcoming *Shawwal* which is ripe. Although the decision of the Minister of Religion should be complied with and implemented by all Indonesians, in reality, some Indonesians prefer to keep celebrating the beginning of *Shawwal* or Eid al-Fitr on August 30, 2011, according to the results of the reckoning of the organizations that overshadow them. So, in 2011 there was a dualism in the celebration of Eid al-Fitr, namely on August 30 and 31, 2011. Of course, this caused problems among the community because the implementation of worship was not uniform. This causes Muslims to be unable to unite their religious moments, especially with family, neighbors, friends, and others (Andriana, 2019) ^[5].

To determine the beginning of the month of *Qamariyah*, especially those related to the worship procession, namely *Ramadan*, *Shawwal*, and *Dzulhijjah*, in Indonesia it is divided into four schools, namely the *ru'yah bi al-f'li* school, the reckoning school of *al-hilar*, the *imkan al-f'li* school. *ru'yah*, and the global *rukayah* school. The four schools of thought all developed in Indonesia.

Then if it happens in other than the three months, it doesn't resonate too much because the months other than the three are not related to major worship for Muslims so that the public doesn't talk about it. The cause of the difference is that the three schools of thought have different systems whose differences will lead to unequal conclusions. The majority of the causes of the differences are, first, determined by the time of *ijtima'*, that is, *ijtima'* must occur before sunset. *Ijtimak* or conjunctions or new moons are events that initiate a date change in the Hijri calendar, namely when the sun, moon, and earth are on the same astronomical longitude. This position sometimes also causes a solar eclipse. *Ijtimak* or Second Conjunction is determined by the position of the new moon which must be above the horizon.

In terms of determining the beginning of the Qamariyah month, astronomy is one of the fields of science that is recommended to be studied to determine the worship of Muslims such as fasting, Eid al-Fitr, Eid al-Adha, and others (Mulyana, Yel, and Syahreza, 2012) ^[6].

Meanwhile, the fourth school of thought did not consider these two things because of this school following the determination of the Government of Saudi Arabia, especially for determining the first day of the month of *Dzulhijjah*. Likewise the Ru'yah bi al-Fi'li school. The first date is set when on the night of the 29th of the month in which the rukyah is performed successfully sees the new moon, then that night and the next day are set as the first day. Meanwhile, if it doesn't work, then that night and the next day will still be counted as the date of the current month, which is fulfilled to be 30 days (istikmal).

The Nahdlatul Ulama organization is a representation of this ru'yah bi al-f'li school. The implementation of ru'yah al-hilal on the final night of the 29th of the current month or the 30th night is based on the Hadith narrated by Ibn 'Umar Ra. that the Prophet said, "One month is only twenty-nine, so do not fast before seeing the new moon and do not break the fast before seeing it. Therefore, if it is covered by clouds, expect it." Imam al-Ramli in *Nihayah al-Muhtaj* stated "it is obligatory to fast only because of the istikmal month of the Critical Point for Determining the Beginning of the 30-day Shaban Fast or ru'yah al-hilal on the 30th night. - her.

Therefore, rukyah or observing the new moon has worship value, especially to determine the beginning of *Ramadan*, *Shawwal*, and *Dzulhijjah*. The implementation of the road to unity is wide open. Meanwhile, the reasons for the differences made by small groups are basically due to a lack of understanding of the technical aspects of reckoning rukyat. The determination of the beginning of the month of qamariyah is the basis for starting the fasting (saum) of *Ramadan* and ending it with Eid al-Fitr and in determining the day of Eid al-Adha. The method can be rukyat (observation) and can also be reckoning (calculation). Hisab is not enough just to produce numbers for the position of the moon and sun and other data, but it is necessary to have criteria (limitations) to determine whether or not to enter the beginning of the month. That criterion is the interpretation of astronomical science on the proposition of syar'i (religious law).

The istbath session, which has been leading Indonesian Muslims for a long time in mediating the division of Indonesian Muslims, needs to be perfected in its implementation. This is our country is in three times agreed by the government and subject to the government, namely West Indonesia Time (WIB), Central Indonesia Time (WITA), and East Indonesia Time (WIT). And this poses its problems in waiting for information from the government's istbath session in wanting to carry out tarawih worship and other worship, causing its problems during the Indonesian Muslim community who want to carry out a series of fasting worship.

From this fact, we writers will try to provide ideas and solutions for the implementation of the isbath session which has always been carried out after sunrise at the beginning of the month of *Ramadan*, *Shawwal*, and *Dzulhijjah* and was carried out in the capital city of Jakarta which is in the WIB category. Where in the scientific perspective there is a gap point to review again about the implementation of the isbath trial, it must be at that time or at other times which can provide services to the Muslim community throughout the archipelago, which is more comfortable, conducive, and can avoid the division of Indonesian Muslims. Meanwhile, Law No. 3 of 2006 Article 52 A regarding the Isbath trial reads "The religious court shall provide testimony for the rukyat hilal in determining the beginning of the month in the Hijri year. "In his explanation "So far the religious court has been asked by the Minister of Religion to give a determination (itsbat) on the testimony of people who have seen or witnessed the new moon at every entering the month of *Ramadan* and the beginning of the month of *Shawwal* in the Hijri year in the context of the Minister of Religion issuing a national determination for the determination of 1 (one) *Ramadan* and 1 (one) *Shawwal*.

In this study, it will be critically examined the decision of the itsbat trial in determining the beginning of the months of *Ramadan*, *Shawwal*, and *Dzulhijjah* from the perspective of useful fiqh. With this critical study, it is expected to be able to find out the causes of differences that often occur, the role of itsbat court decisions in unifying the determination of the beginning of the month of Qamariyah, and examine the decisions of the itsbat trial at the beginning of the month of Qamariyah in the perspective of ushul fiqh. Therefore, Based on this background, this research consists of 3 (three) problem formulations, namely:

How is the initial determination of qamariyah in Indonesia?

What are the weaknesses and implementation of the initial determination of qamariyah in Indonesia?

How is the reconstruction of regulations in determining the beginning of the qamariyah month in the context of the isbath session in Indonesia?

Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge (Faisal, 2010). Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research type used in writing this paper is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach method used in this research is *Empirical-Juridica* (Ibrahim, 2005), which is based on the norms of law and the theory of the existing legal enforceability of a law viewpoint as interpretation.

As for the source of research used in this study are:

Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.

Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, the author use data collection techniques, namely literature study, interviews and documentation where the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data (Moleong, 2002). Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

Research Result and Discussion

Regulations for Determining the Beginning of Qamariyah in Indonesia

The determination of the beginning of the month of Qamariyah is in the hands of the Government through a deliberation known as the Itsbat Session. In this itsbat session, the government represented by the Minister of Religion will decide when to start and end fasting. Even though this itsbat session has been going on for a long time, differences still exist. Some groups do not follow the decision of the government's itsbat trial. Some participants take part in the itsbat trial not to follow the court's decision but to permit Eid before carrying out Eid. If this continues to happen, the purpose of the itsbat session to uniform worship times will never be realized (Qulub, 2015) ^[20].

The difference in determining the beginning of the month of Qamariyah invites polemics that have implications for the disharmony of the beginning of Qamariyah, especially *Ramadan*, *Shawwal*, and *Dzulhijjah* which cannot be avoided. Some Muslims believe that to determine the beginning of the month, it is necessary to observe the new moon directly. Others argue that it is enough to determine the beginning of the month by doing "reckoning" (mathematical/astronomical calculations), without having to observe the new moon. Both claim to have a strong basis (Muslifah, 2020) ^[11].

The Indonesian state has set a policy regarding the determination of the beginning of the months of *Ramadan*, *Shawwal*, and *Dzulhijjah*. This is contained in several basic legal arrangements including:

Law No. 7 of 1989 concerning the Religious Courts. Based on Article 52 paragraphs (1 and 2) of Law no. 7 of 1989 concerning Religious Courts, namely:

Courts may provide information, considerations, and advice on Islamic law to Government agencies in their jurisdictions if requested;

In addition to the duties and authorities as referred to in Article 49 and Article 51. Courts may be assigned other tasks and authorities by or based on law.

Article 52A of Law no. 3 of 2006 concerning Amendments to Law No. 7 of 1989 concerning the Religious Courts stated that "The Religious Courts provide istbat testimony of the rukyat hilal in determining the beginning of the month in the Hijri year". The explanation of the article is, "So far, the religious court has been asked by the Minister of Religion to give a determination (istbat) on the testimony of people who have seen or witnessed the new moon every entering the month of *Ramadan* at the beginning of the month of *Shawwal* in the Hijriyah year in the context of the Minister of Religion issuing a national determination for the determination of 1 (one) *Ramadan* and 1 (one) *Shawwal*. The Religious Courts can provide information or advice regarding the differences in determining the direction of Qibla and determining prayer times."

Stipulation Number: Kma1095/X/2006 which states that firstly: granting permission for the istbat trial of the rukyat hilal testimony with a single judge to the Syari'iyah Court throughout the jurisdiction of the Province of Nanggroe Aceh Darussalam (NAD) and the Religious Courts throughout Indonesia.

The procedure for implementing Istbat Rukyat Hilal

Hisab and Rukyat is a combination of calculation and observation of the new moon and is one of the methods or methods for determining the beginning of the month. Furthermore, the Petitioner/Reporter for Itsbat Rukyat Hilal Session is an official/officer appointed by the Office of the Ministry of Religion. Then the martyr/perukyat is the person who reports seeing the new moon and the judge takes an oath., the witness is the person who knows and witnessed the process of carrying out the itsbat trial and the appointment of the martyr's oath/perukyat.

The judge in question is the sole judge of the Religious Court/Syar'iyah Court which holds the itsbat trial for the rukyat hilal testimony. Itsbat judge is the determination of the judge of the Religious Court/Mahkamah Sya.r'iyah on the report perukyat testimony of the new moon rukyat at the beginning of *Ramadan*, *Shawwal*, and *Dzulhijjah*.

The determination (itsbat) of the rukyat hilal is evidence and material for consideration in the itsbat session of the Minister of Religion in determining the beginning of the months of *Ramadan*, *Shawwal* and *Dzulhijjah*. Minister of Religion, and the stipulation applies in general. Determination (itsbat) at the beginning of *Ramadan* and *Shawwal* is the authority of the Minister of Religion and not the authority of the Religious Court/Syar'iyah Court. That is because. the determination of the rukyat hilal testimony is needed by the Minister of Religion to determine the 1 (one) date of *Ramadan*, *Shawwal*, and *Dzulhijjah* nationally, it is necessary to hold a trial for *itsbat rukyat hilal* testimony quickly and simply. Whereas the application for itsbat rukyat hilal testimony is a

voluntary case and in it, there are no opponents and disputes, then the determination is final and final, i.e. there is no legal remedy, either appeal or cassation.

Procedures for the Implementation and Recording of the Iybat Rukyat Hilal. Session The itsbat rukyat hilal session is held at the place where the rukyat hilal (trial on the spot) is held, is carried out quickly, simply, and adapts to local conditions. The Petitioner and the Reporting Party (Office of the Ministry of Religion) apply to itsbat rukyat hilal testimony to the Religious Court/Syar'iyah Court in charge of the area where the rukyat hilal is performed. The clerk or officer appointed by the Religious Court/Syar'iyah Court shall record the application in the Application Register for the Itsbat Rukyatul Hilal Session. The head of the Religious Courts/Syar'iyah Court appoints a single judge to hear the petition.

The Registrar of the Religious Court/Mahkamah Sya'iyah assigns the court clerk to accompany the judge and record the trial in the minutes. The appointment of a single judge and the assignment of court clerks are carried out after the Ministry of Religion applies, or before the implementation of the rukyat hilal testimony trial. The time of rukyat hilal must be following the data published by the Hisab Rukyat Agency.

Ministry of Religion. After the judge examines the martyr/perukyat and if he believes that the martyr and his testimony meet the formal and material requirements, the judge orders the martyr/perukyat to pronounce the oath and pronounce the following words: "*Ashadu an laa ilaaha illa Allah wa ashhadu anna Muhammadar Rasulullah, by Allah, I swear that I have seen the new moon at the beginning of this month.*" Appointment of the oaths of the martyrs/perukyats accompanied by 2 (two) witnesses. Minutes of the trial by the court clerk. The determination/itsbat of the rukyat hilal testimony is submitted to the person in charge of the rukyat hilal (Office of the Local Religious Affairs Department). Furthermore, officials from the Ministry of Religion reported the determination to the committee for the National Itsbat session of the Ministry of Religion of the Republic of Indonesia in Jakarta.

For the smooth implementation of the trial for itsbat rukyat hilal testimony, the Religious Courts / Syar'iyah Courts must coordinate with the local Ministry of Religion office and the clerk or appointed officer to prepare all that is needed in conducting the trial, such as application forms, minutes, determinations, al qu'ran , toga judges and other needs related to these activities.

Data on Hisab and Rukyat of Applicable Schools.

Data on the calculation of reckoning and rukyat used are sourced from astronomical data, including the Nautika Almanac, Ephemeris Hisab Rukyat, and Ephemeris Al Falakiyah, or data collected from the Hisab Rukyat Agency of the Ministry of Religion.

Weaknesses of Determining the Beginning of the Qamariyah Month in Indonesia

The beginning of the time of worship is not only marked by the sound of a drum, but they always take into account in determining the calculation of astronomy. The dynamics of determining the beginning of fasting at the beginning of *Shawwal* and the beginning of *Dzulhijjah* have been born since the colonial era, even before the colonial era, this difference has long occurred, which has not been completed, for that the Dutch colonialists gave this freedom. That Islam has given its people the freedom to choose between the two ways. After all, he continued, "the differences in understanding have been going on for centuries." Knowing that there are two major currents in determining the end of the fast, the colonial government tried to accommodate both.

During the colonial period, when he learned about Eid, Snouck Hurgonje, advisor for the Affairs of Eastern Languages and Islamic Law in the Dutch East Indies in 1897, suggested two ways for Muslims to determine the end of *Ramadan* and the beginning of the month of *Shawwal* (Eid). "The first, apart from the calculation of the calendar, is also based on the senses of seeing the new moon.

And this method according to the moderately educated Mohammadan (Muslims, ed.) in the archipelago is the only correct one," wrote Snouck in C. Snouck Hurgonje's Advice During His Service to the Dutch East Indies Government 1889-1936 Method the second is a pure reckoning. "The calculations are carried out according to the methods contained in every Almanac. The Dutch East Indies government has the task of determining the Eid day which is left in the hands of the headmaster through the meeting to determine Islamic holidays. Unlike people today understand, the penghulu in colonial times had a wider spectrum of duties than just marrying people.

The determination of the beginning of the month of qamariyah in the post-independence period, especially when *Ramadan* came, began to emerge differences of opinion starting from how to determine the beginning of *Ramadan Shawwal* and Dhul Hijjah which has always been a debate among Muslims in Indonesia. However, after this independence, the government began to pay attention to making media efforts to unify the beginning of the qamariyah month. The two methods used, reckoning and rukyatul hilal have their respective 'supporters'. Based on its meaning, the reckoning is a calculation.

Problems arise when there is a discrepancy in the initial determination of the month. This difference gives rise to different Indonesian Muslim holidays. No doubt, several times there was a "funny" when one group celebrated the day of victory after a month of fasting, while the other group was still hungry and thirsty on that day because they had to "postpone" their victory the next day. This creates anxiety for the community. Many people say that differences are beautiful. But the difference in the determination earlier this month cannot be considered as one of beauty because it has the potential to cause division.

Broadly speaking, the difference occurs because there is a difference in understanding the meaning of *rukayah* in the hadith of the Prophet regarding the determination of the beginning of the month above. The first group

argues that the rukyah in the hadith is *ta'abbudi-ghaira al-ma'qul ma'na*, meaning that it cannot be rationalized. So the determination of the beginning of the Hijri month inevitably has to use the rukyatul hilal. The reckoning is used as an assistant so that rukyah can be carried out on target. The second group is sufficient to determine the beginning of the month by simply using reckoning. Even though they use the same hadith, they think that the hadith regarding the determination of the beginning of the month is *ta'aqquli/ma'qul al-ma'na* and interprets the pronunciation of "*rukyatihu*" from seeing with the eyes to seeing with the heart or with knowledge. This is as stated by Rasyid Rihda and Hasby Ash-Siddiqy. They argue, at the time of the Prophet science has not developed as it is now. Currently, the science of the lunar cycle has been so advanced because of hundreds of years of research. So the calculation to find out the beginning of the month using advanced science is the main guide in determining the beginning of the month.

In Indonesia, these two differences are represented by two Islamic organizations, Nahdlatul Ulama (NU) and Muhammadiyah. Almost every Islamic organization in Indonesia has a reckoning body. But basically, they can be included in NU and Muhammadiyah based on their thinking. Such as al-Wasilah and Perti which can be included in the NU group and Persis which can be said to be "more inclined" to Muhammadiyah. NU is said to be the first group or adherents of the Rukyah School, while Muhammadiyah is the second group, namely the Hisab School. In the NU rukyah study, if in the reckoning the age of the month is 30 days, but when doing rukyah which is always done on the 29th it turns out that the moon can be seen, then what is determined is the result of rukyah, not reckoning. Vice versa. If the determination in the results of the calculation of the age of the moon is 29 days, but when doing rukyah the moon is not visible, then you must do istikmal.

For Muhammadiyah, the method used is the *reckoning of the form of the hilal*. Regarding the concept of the form of the new moon, it is based on the boundary line that connects the places where the sun and moonset. The beginning of the month can be determined if based on reckoning, the new moon is already above the horizon, even though the distance is zero comma so many degrees. If someone does rukyah and the moon is not visible, Muhammadiyah does not do istikmal because basically, the moon has already existed, it's just that it is not visible for some reason. This fundamental difference regarding the method of determining the beginning of the month in Indonesia has caused Indonesian people to differ several times in carrying out Hari Raya.

In Indonesia, the main instruments for making calendars are astronomical reckoning and empirical rukyat. This is marked by the existence and establishment of the Hisab Rukyat Agency (BHR) of the Ministry of Religion which functions to schedule time and schedule worship in Indonesia and the Indonesian context as well. In reality, reckoning and rukyat in Indonesia exist and are placed in a multi-context: sharia, science, socio-politics, culture, ijtihad, and authority. The consequence of this multi-complexity context is that the scheduling of worship moments in Indonesia is often not uniform. For the fasting worship of *Ramadan* 1434 H this time, for example, there are three versions of the schedule, starting from July 8, July 9, and July 10. The need for reconstruction of the Law on Determining the Beginning of the Qamariyah Month At this time there is a need for regulations regarding the determination of the beginning of the month, which is a form of government effort in minimizing differences which will eventually lead to conflicts and divisions, especially *Ramadan*, Eid al-Fitr, and Eid al-Adha. This regulation was made as a preventive measure against the fundamental weakness in our country, namely in *law enforcement* (law enforcement), while in *making law* (lawmaking) tends to experience overproduction. Not to mention if we look at historical and sociological factors that our country is different from Malaysia, Brunei, and the like, where religious organizations were born earlier than the Republic of Indonesia.

It is also deemed necessary to make regulations in the form of legal unification in the form of laws that regulate the beginning of the month of *Ramadan*, *Shawwal*, and *Dzulhijjah*. This idea was less attractive at the time. However, this idea reappeared in the istbat meeting to determine the beginning of *Ramadan* 1434 H. Some Islamic organizations also wanted several things concerning the unification of the determination of the beginning of the month of qamariyyah where they assumed and proposed to the Minister of Religion to form a law that regulates the istbat rukyatul hilal as a solution in resolving the current crisis. However, what was conveyed by Ustadz has not received a response from academia, the government, and the House of Representatives.

Reconstruction of Regulations for Determining the Beginning of the Month of Qamariyah in Indonesia based on the Value of Justice

Reconstruction of Law Number 3 2006 Article 52 A Regarding Rukyatul Hilal Or Determination of the Beginning of the Qamariyah Month Adding Paragraph 52 B "Regarding the determination of the beginning of the Hijriyah month as referred to in Article 52 A then if according to the science of reckoning it occurs imkanurrukyah with the criteria of 2 degrees hilal above the horizon distance the sun is three degrees and there has been ijtimak for 8 hours, then the istbath rukyatul hilal can be determined using rukyah bil ilmi with the provision that the istbath session does not have to wait for the 29th at the end of the hijriyyah month. However, if it does not meet these criteria, then Istbath Rukyatul hilal is still waiting for time as required by scientific reckoning rukyah."

Following is the table of Reconstruction of Determination of the Beginning of the Qamariyah Month based on Law Number 3 of 2006 Article 52 a Regarding Rukyatul Hilal or Determination of the Beginning of the Month of Qamariyah:

Table 1: Reconstruction of Law no. 3 of 2006

No.	Concerning	Description
1.	Basis for Reconstruction	Integrating between streams of determining the beginning of the month of qamariyah, community components that often conflict according to the 1st principle, 2nd precept, 3rd precept, 4th and 5th precepts of Pancasila and regarding legal justice, the government stands and provides protection for the community. law enforcement of justice in Indonesia
2.	Objectives of Reconstruction	Strengthening the values of justice and minimizing conflict and synchronizing conflicts that occur in society regarding the determination of the beginning of the month of qamariyah
3.	Concept of Reconstruction	<p style="text-align: center;">Article 52 A</p> <p style="text-align: center;">of Law no. 3 of 2006 concerning the determination of the beginning of the month of Ramadhan <i>Shawwal</i> and <i>Dzulhijjah</i>:</p> <p style="text-align: center;">Article 52 A</p> <p style="text-align: center;">The religious court provides testimony of the rukyat hilal in determining the beginning of the month in the Hijri year"</p> <p style="text-align: center;">Addition of Article 52B</p> <p>- "Regarding the determination of the beginning of the Hijri month as referred to in Article 52 A, if according to the science of reckoning, it happened imkanurrukyah with the criteria of 2 degrees hilal above the horizon the distance of the sun was three degrees and there had been ijtimak for 8 hours then the istbath rukyatul hilal could be determined using rukyah bil ilmi provided that the isbath session did not have to wait for the 29th at the end of the hijriyyah month. However, if it does not meet these criteria, then Istbath Rukyatul hilal is still waiting for time as required by scientific reckoning rukyah."</p> <p style="text-align: center;">- Addition of article 52 C</p> <p>- "What is meant by determining the beginning of the hijriyyah month is a determination based on scientific counting techniques that are astronomically recognized by the scientific world, namely determination using the bittahkik essential system, as well as contemporary astronomy as developed in the world of astronomy. "</p> <p style="text-align: center;">- Addition of article 52 D</p> <p>"If the imkanurrukyah criteria have occurred as stated in the paragraph above, the isbath trial at the beginning of the qamariyah month can be carried out earlier without waiting for the end of the hijriyyah month."</p>
4.	Objectives of Reconstruction	Strengthening the values of justice and minimizing conflicts and synchronizing conflicts that occur in the community regarding the determination of the beginning of the month of qamariyah
5.	Concept of Reconstruction	<p style="text-align: center;">Article 52 A</p> <p style="text-align: center;">of Law no. 3 of 2006 concerning the determination of the beginning of the month of Ramadhan <i>Shawwal</i> and <i>Dzulhijjah</i>:</p> <p style="text-align: center;">Article 52 A</p> <p style="text-align: center;">The religious court provides testimony of the rukyat hilal in determining the beginning of the month in the Hijri year"</p> <p style="text-align: center;">Addition of Article 52B</p> <p>- "Regarding the determination of the beginning of the Hijri month as referred to in Article 52 A, if according to the science of reckoning, it happened imkanurrukyah with the criteria of 2 degrees hilal above the horizon the distance of the sun was three degrees and there had been ijtimak for 8 hours then the istbath rukyatul hilal could be determined using rukyah bil ilmi provided that the isbath session did not have to wait for the 29th at the end of the hijriyyah month. However, if it does not meet these criteria, then Istbath Rukyatul hilal is still waiting for time as required by scientific reckoning rukyah."</p> <p style="text-align: center;">- Addition of article 52 C</p> <p>- "What is meant by determining the beginning of the hijriyyah month is a determination based on scientific counting techniques that are astronomically recognized by the scientific world, namely determination using the bittahkik essential system, as well as contemporary astronomy as developed in the world of astronomy. "</p> <p style="text-align: center;">- Addition of article 52 D</p> <p>"If the imkanurrukyah criteria have occurred as stated in the paragraph above, the isbath trial at the beginning of the qamariyah month can be carried out earlier without waiting for the end of the hijriyyah month."</p>

Completion of articles 52 B, 52 C and 52 D is an effort to limit the implementation of the isbath session which is very easy to bring to the political realm or to a realm that is so that there is consistency in determining the beginning of the month of qamariyah which will give birth to the benefit of the unity of legal justice in order to maintain the unity and integrity of the State. Republic of Indonesia

Conclusion

Based on the discussion described above, it can be concluded as follows

1. Regulations for determining the initial determination of qamariyah in Indonesia as regulated in Evaluating and designing the Draft Law Article 52 A of Law No. 3 of 2006 and Criticism of the Implementation of the Istbat Session of the Ministry of Religion need to be careful which is in Article 52 A of Law Number 3 of 2006. The rukyatul hilal is handed over to the person in charge of the rukyatul hilal (ministry of religion). This is according to the assumption of the author of Article 52 A of Law Number 3 of 2006 which leaves serious problems with the authority of the Rukyatul hilal Istbath Session which has the authority. appears during the determination of the beginning of the Qamariyah month.
2. Weaknesses and weaknesses that appear on the public surface as a phenomenon that occurs every year are the occurrences of the determination of the beginning of the month of qamariyah which is not compact, which in turn can threaten the unity and integrity of the State of Indonesia. Where this is due to several aspects including the existence of differences in the criteria used in determining the beginning of the month of qamariyah where the criteria they have each have different characteristics. Then the difference regarding ulil amri, in this case, who is considered ulil amri who must determine the beginning of the month of qamariyah so that it gives birth to the assumption of differences in ulil amri which consequently disobeys the decision of the isbath session. Furthermore, differences in observations were when the government conducts observations of the rukyatul hilal at various points they have different results so that in this perspective they contradict one another and of course, this is quite a serious problem. The next is the difference between Islamic organizations, in this case, each mass organization has a different attitude technique in responding to the determination of the beginning of the month of qamariyah. And the last is the difference regarding the authenticity of the isbat assembly where the Muslim community responds to the authenticity of this isbath session with various glasses which some of them have seen from a political point of view which is already out of the realm of scientific objectivity in determining the beginning of the month of qamariyah
3. Reconstruction of regulations regarding the determination of the beginning of the qamariyah month, namely by reconstructing Article 52 a of Law Number 3 of 2006. By adding paragraphs 52B, 52C, 52D which reads Completion of article 52 paragraph B "*Regarding the determination of the beginning of the hijriyah month as referred to in article 52A, if according to science, reckoning occurs imkanurrukyah with the criteria of 2 degrees hilal above the horizon, the distance between the sun and the moon is three degrees and ijtimak has occurred for 8 hours, then the istbath rukyatul hilal can be determined using rukyah bil ilmi provided that the istbath session does not have to wait for the 29th at the end of the hijriyyah month. However, if it does not meet these criteria, then Istbath Rukyatul hilal is still waiting for time as required by scientific reckoning rukyah.*" The next improvement is verse 52C which reads "*In article 52 B what is meant by determining the beginning of the hijriyyah month is a determination based on scientific counting techniques that are astronomically recognized by the scientific world, namely determination using the bittahkik essential system, as well as contemporary astronomy as it develops. in the world of astronomy.*" The next improvement is verse 52 D "*If the imkanurrukyah criteria have occurred as mentioned in the paragraph above, the isbath trial can be held earlier without waiting for the end of the hijriyah month.*"

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