

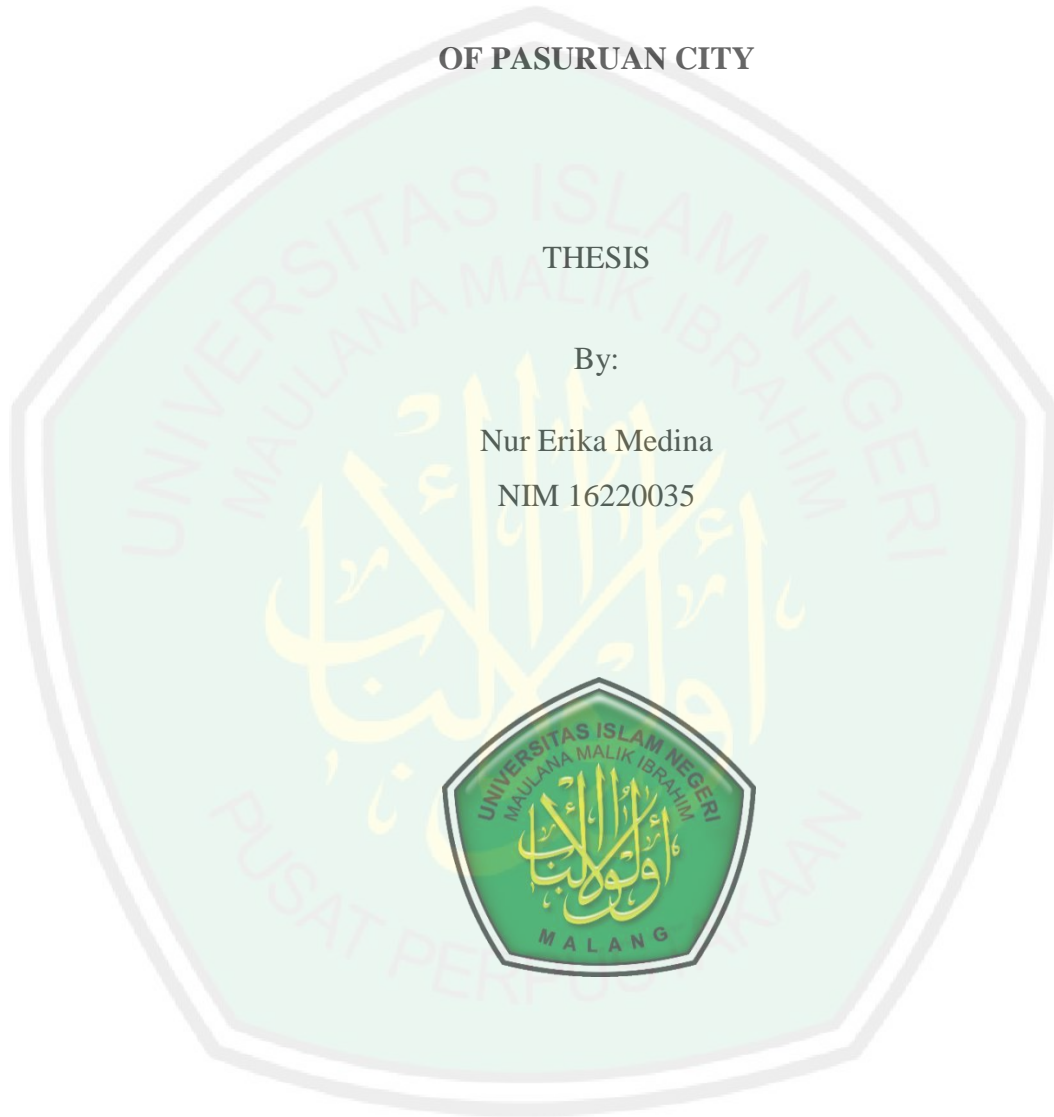
**ALMS AGREEMENT LAW BY LEGISLATIVE CANDIDATES
ACCORDING TO NAHDLATUL ULAMA AND MUHAMMADIYAH
SCHOLARS
OF PASURUAN CITY**

THESIS

By:

Nur Erika Medina

NIM 16220035



**SHARIA ECONOMIC LAW
SHARIA FACULTY
MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY OF
MALANG**

2020

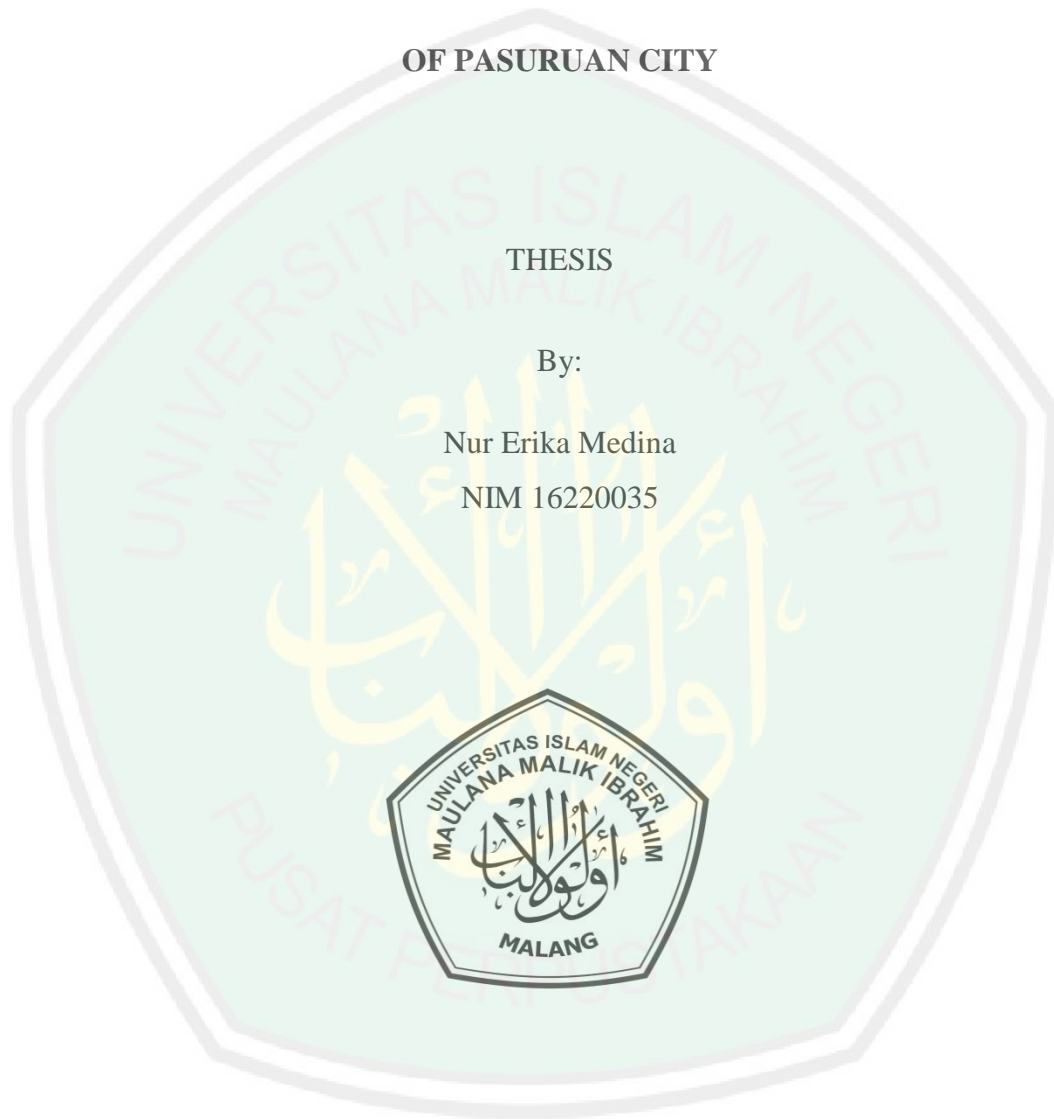
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2020

STATEMENT OF THE AUTHENTICITY

I state that the thesis entitled “ALMS AGREEMENT LAW BY LEGISLATIVE CANDIDATES ACCORDING TO NAHDLATUL ULAMA AND MUHAMMADIYAH SCHOLARS OF PASURUAN CITY” is my original work. I do not include previously written or published by another person. If it is proven to be another person’s work, duplication, plagiarism, this thesis and my degree as the result of this action will be deemed legally invalid.

Malang, 2nd Maret 2020

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APPROVAL SHEET

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“ALMS AGREEMENT LAW BY LEGISLATIVE CANDIDATES

ACCORDING TO NAHDLATUL ULAMA AND MUHAMMADIYAH SCHOLARS

OF PASURUAN CITY”

The supervisor states that this thesis has met the scientific requirement to be proposed and to be tested by the Thesis Board of Examiners.

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Malang, 29th May 2020
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MOTTO

لا راحة في الدنيا

There is no rest word in the world....!!



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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Alhamdulillah bini'matihi tatimmu shalihat, with all of His grace, mercy and guidance the thesis entitled “**Alms Agreement Law By Legislative Candidates According To Nahdlatul Ulama And Muhammadiyah Scholars Of Pasuruan City**”. Can be done very well. *Wasshalatu was salam 'ala Rasulillah*, for his teachings that taught us to live in the world, led our way from the darkness to the light in this life. May we are become one of those who will has his *syafaat* in the Judgment day.

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The author say many thanks and hope that Allah SWT repays all kindness and facilitates all your affairs. And the authors hope that what has been obtained during a lecture at the Sharia Economic Law Study Program of the Sharia Faculty of the State Islamic University of Maulana Malik Ibrahim Malang can be useful for readers and writers are looking forward to criticism and suggestions from all parties for the perfection of this thesis.

Malang, 2nd March 2020

Author,

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NIM 16220035

TRANSLITERATION GUIDANCE

A. General

The transliteration guide which is used by the Sharia Faculty of State Islamic University, Maulana Malik Ibrahim Malang, is the EYD plus. This usage is based on the Consensus Directive (SKB) from the Religious Ministry, Education Ministry and Culture Ministry of the Republic of Indonesia, dated January 22, 1998, No.158/1987 and 0543.b/U/1987, which is also found in the Arabic Transliteration Guide book, INIS Fellow 1992.

B. Consonants

Arab	Latin	Arab	Latin
ا	A	ط	Th
ب	B	ظ	Zh
ت	T	ع	‘
ث	Ts	غ	Gh
ج	J	ف	F
ح	H	ق	Q
خ	Kh	ك	K
د	D	ل	L
ذ	Dz	م	M
ر	R	ن	N
ز	Z	و	W
س	S	هـ	H
ش	Sy	ء	‘
ص	Sh	ي	Y
ض	Dl		

The hamzah (ء) which is usually represented by and alif, when it is at the beginning of a word, henceforth it is transliterated following its vocal pronouncing and not represented in writing. However, when it is in the middle or end of a word, it is represented by a comma facing upwards (´), as oppose to a comma (,) which replaces the “ع”.

C. Vocal, Long-pronounce, and Diftong

In every written Arabic text in the latin form, its vowels fathah is written with “a”, kasrah with “i”, and dlommah with “u, whereas elongated vowels are written such as:

Elongated (a) vowel = â	for example قال	beomes qâla
Elongated (i) vowel = î	for example قيل	becomes qîla
Elongated (u) vowel = û	for example دون	becomes dûna

Specially for the pronouncing of *ya' nisbat* (in association), it cannot represented by "i", unless it is written as "iy" so as to represent the *ya' nisbat* at the end. The same goes for sound of a diftong, *wawu* and *ya'* after fathah it is written as "aw" da "ay". Study the following examples:

Diftong (aw) = و	for example قول	becomes qawlun
Diftong (ay) = ي	for example خير	becomes khayrun

D. Ta' Marbûthah (ة)

Ta' marbûthah is transliterated as “t” if it is in the middle of word, but if it is *Ta' marbûthah* at the end of word, then it is transliterated as “h”. For example الرسالة للمدرسة will be *al-risalat li al-mudarrisah*, or if it happens to be in the middle of a phrase which constitutes *mudlaf and mudlaf ilayh*, then the transliteration will be using “t” which is enjoined with the previous word for example فى رحمة الله becomes *fi rahmatillah*.

E. Auxiliary Verb and Lafadh Al-Jalâlah

Auxiliary verb “al” (ﻻ) written with lowercase form, except if it located at the beginning of word, while “al” in lafadh jalâlah which located in the middle of two words or being or become *idhafah*, it removes from writing. Study the following:

1. Al-Imâm al-Bukhâriy said ...
2. Al-Bukhâriy explains, in the prologue of his book ...
3. MasyâAllâhkânawamâ lam yasya” lam yakun.
4. Billâhi,, azzawajalla



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ABSTRAK

Erika, Nur Medina, 16220035, 2020. **Akad Sedekah oleh Calon Legislatif Menurut Ulama Nahdlatul Ulama dan Muhammadiyah Kota Pasuruan**. Skripsi. Jurusan Hukum Ekonomi Syariah. Fakultas Syariah. Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing: Dra. Jundiani, S.H., M.Hum.

Kata Kunci: Akad Sedekah, Politik Uang, Ulama Nahdlatul Ulama, Ulama Muhammadiyah

Sedekah merupakan kegiatan mengeluarkan harta dengan tujuan mendekatkan diri kepada Allah (*Taqarrub Ilallah*). Oleh karena itu sedekah merupakan sesuatu yang baik dan perbuatan yang tepuji. Namun, permasalahannya apabila pelaksanaan sedekah dilakukan oleh calon legislatif pada saat momen pemilihan yang seolah mengganti akad Politik Uang bergeser menjadi akad sedekah. Tujuan penelitian ini dilakukan adalah untuk mengkaji dan menganalisa bagaimana pendapat ulama Nahdlatul Ulama dan Muhammadiyah Kota Pasuruan terhadap akad sedekah oleh calon legislatif pada saat momen pemilihan.

Jenis penelitian yang digunakan adalah penelitian lapangan atau bisa juga disebut sebagai penelitian empiris yaitu pengumpulan data-data informasi dari Nahdlatul Ulama dan Muhammadiyah Kota Pasuruan secara langsung, dengan menggunakan pendekatan penelitian yuridis sosiologis.

Hasil penelitian ini dapat disimpulkan secara garis besar terdapat perbedaan pendapat menurut Ulama Nahdlatul Ulama dan Muhammadiyah Kota Pasuruan dalam menyikapi fenomena Politik Uang dan penggunaan akad sedekah yang dilakukan oleh calon legislatif. Menurut ulama Nahdlatul Ulama hukum asal Politik Uang adalah haram namun karena terjadi perubahan zaman maka hal tersebut bisa disebut sebagai membeli kebenaran, sedangkan apabila calon legislatif menggunakan akad sedekah maka akad sedekahnya tetap sah hanya saja pahalanya yang gugur. Sedangkan Muhammadiyah menghukumi politik uang sebagai perkara yang haram dan tergolong *risywah*. Sedangkan apabila calon legislatif menggunakan akad sedekah maka akad sedekahnya menjadi bathil karena terdapat unsur pamer dalam sedekah tersebut.

Adanya perbedaan pendapat menurut Nahdlatul Ulama dan Muhammadiyah Kota Pasuruan mengenai hukum politik uang dan penggunaan akad sedekah yang digunakan oleh calon legislatif adalah hal yang wajar dan sering terjadi dalam lingkup fikih.

ABSTRACT

Erika, Nur Medina, 16220035, 2020. **Alms Agreement by Legislative Candidates According to Ulama Nahdlatul Ulama and Muhammadiyah of Pasuruan City**. Thesis. Sharia Business Law Department. Sharia Faculty. Maulana Malik Ibrahim State Islamic University of Malang. Mentor: Dra. Jundiani, S.H., M.Hum.

Keywords: Alms Agreement, Money Politics, Muhammadiyah's Scholar, Nahdlatul Ulama's Scholar

Alms is an activity to spend wealth with the aim of getting closer to Allah (*Taqarrub Ilallah*). Therefore alms is something good. However, the problem is if the implementation of alms is carried out by legislative candidates at the time of the election which seems to change the Money Politics contract to become an alms agreement. The purpose of this study was to find out and analyze what the opinion of Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan City towards giving alms by legislative candidates at the time of the election.

This type of research is field research or can also be referred to as empirical research that is collecting information data from Nahdlatul Ulama and Muhammadiyah Kota Pasuruan City directly, using a sociological juridical research approach.

The results of this study can be concluded in broad outline that there are differences of opinion according to the Nahdlatul Ulama and Muhammadiyah Kota Pasuruan City in addressing the phenomenon of Money Politics and the use of alms contracts scholars conducted by candidates for the Legislative. According to Nahdlatul Ulama, the original law of Money Politics are forbidden, but due to the changing times, this can be referred to as buying the truth, whereas if the legislative candidate uses the alms agreement, the alms contract remains valid, only the reward is dropped. Whereas Muhammadiyah punishes money politics as a case that is unlawful and is classified as risywah. Whereas if the legislative candidate uses the alms contract, the alms contract becomes false because there is an exhibition element in the alms.

The difference opinion according to Nahdlatul Ulama and Muhammadiyah of Pasuruan City regarding money politics law and the use of alms contracts used by legislative candidates is a natural thing and often occurs in the scope of fiqh.

ملخص البحث

الحق, محمد الإلهام عزيز, 16220035, 2020. اتفاق الصدقات من المرشحين التشريعية وفقا للعلماء نَهضة العلماء و المحمدية بمدينة باسوروان . بحث الجامعي . قسم حكم . كلية الشريعة . جامعة مولانا مالك إبراهيم الإسلامية الحكومية مالانج . المشرفة: جنديان الماجستير .

الكلمات المفتاحية: اتفاقية الصدقات، المحمدية العلماء, سياسة المال، نَهضة العلماء العلماء.

الصدقة هي نشاط لقضاء الثروة بهدف الاقتراب من الله (تقارب الى الله). لذلك الصدقات شيء جيد. ومع ذلك ، فإن المشكلة هي إذا تم تنفيذ تطبيق الصدقات من قبل المرشحين التشريعيين في وقت الانتخابات والذي يبدو أنه يغير عقد السياسة النقدية ليصبح اتفاقاً صدقياً. كان الغرض من هذه الدراسة هو دراسة وتحليل آراء علماء نَهضة العلماء والمحمدية في مدينة باسوروان تجاه اتفاق الزكاة بين المرشحين التشريعيين وقت الانتخابات.

هذا النوع من الأبحاث هو البحث الميداني أو يمكن الإشارة إليه أيضاً على أنه بحث تجريبي يقوم بجمع بيانات المعلومات من نَهضة العلماء ومدينة المحمدية باسوروان مباشرةً ، وذلك باستخدام منهج بحث قانوني اجتماعي.

يمكن استنتاج نتائج هذه الدراسة في مخطط عريض أن هناك اختلافات في الرأي وفقاً للعلماء نَهضة العلماء و المحمدية بمدينة باسوروان في معالجة ظاهرة سياسة المال واستخدام عقود الزكاة التي أجراها المرشحون للجائزة. وفقاً لنهضة العلماء ، يُحظر على علماء القانون من السياسة النقدية, ولكن بسبب الظروف المتغيرة ، يمكن تسمية ذلك بشراء الحقيقة ، بينما إذا كان المرشح التشريعي يستخدم اتفاقية الزكاة ، يظل اتفاق الصدقة ساري المفعول ، ويتم إسقاط المكافأة فقط. بينما تعاقب المحمدية السياسة النقدية على أنها حرام وتصنف على أنها ريزية. بينما إذا استخدم المرشح التشريعي عقد الزكاة ، يصبح عقد الزكاة خاطئاً لأن هناك عنصر عرض في الزكاة.

الاختلاف في الرأي وفقاً لنهضة العلماء والمحمدية في مدينة باسوروان فيما يتعلق بقانون السياسة النقدية واستخدام عقود الزكاة التي يستخدمها المرشحون التشريعيون أمر طبيعي ويحدث غالباً في نطاق الفقه.



CHAPTER I INTRODUCTION

A. Background of Research

Pasuruan is one of the cities on Java island, located in the province of East Java. Indonesia well-known as the State of the majority of people embraced Islam with a percentage of 87.2 % are Muslims and 12.8% are a mix of other than Islam.¹ Because of this, many Muslim intellectuals developed in Indonesia including in Pasuruan to develop their scholarship. The role of Muslim intellectuals in Indonesia is not only about religiosity, but also various things, such as in politics, economics, etc. For example, the vice president of Indonesia (KH Ma'ruf Amin) background as well as a Muslim intellectual or regent of Pasuruan and his assigns (Gus Irsyad and Gus Mujib Imran) which also come from the “gus”

¹ <https://www.indonesia.go.id/profil/agama> , accessed on 15 September 2019.

community. This can prove that the role of the Muslim intellectual in Indonesia is not only limited to the religious field, but also in the political field.

We already know that Indonesia is one of the countries that implement Pancasila democracy in the form of government, namely from people, by people, and for people. This can be known through the holding of regional head elections (pilkada) or legislative elections (pileg) in which the people have the freedom to choose the regional heads or representatives of the people they want. The election system implemented in Indonesia is a form of state effort to provide opportunities for the people to determine who deserves to be a leader. However, the implementation of the stem is considered to still have shortcomings and a lot of practices that do not apply democratic values themselves, one of which is the occurrence of money politics practices. Money politics is an illegal practice which is one of the prohibitions in the general election rules. According to Tjahjjo Kumolo, Money Politics is the provision of material (to the people) with the aim of influencing them so that they use their voting rights to elect certain candidates.² In the sense of money politics, it can also be said as buying and selling in voting. The explanations that have been discussed can create a conclusion that money politics is a business that is done by way of the provision of money or goods and other material forms with the intention to have the sympathy of the people. This practice is clearly a prohibited

² Tjahjo Kumolo, *Politik Hukum Pilkada Serentak*, (Bandung: PT Mizan Publika, 2015), p. 155.

practice in Indonesia. This can be known through the rules contained in several laws that explain the prohibition of the practice of money politics. For example, contained in Law Number, 7 the Year 2017 concerning General Election precisely in article 523 paragraph 3. The article explains about sanctions if there is a violation of money politics.

Leo Agustino explained that the existence of the practice of money politics has become a tradition and even has deep roots in the mindset of the community, Leo also explained that the existence of money politics practices have occurred since the days of colonialism. The colonizers had a habit of bribing native officials for their personal interests. That habit then became an example and continues to be done today.³

Besides being prohibited by the State, the practice of political money is also prohibited by Islam because the practice of political money is a practice of *risywah* (bribery). As the hadith of the Prophet Muhammad PBUH:

عن عبد الله بن عمرو قال قال رسول الله صلى الله عليه وسلم لعنة الله على الراشي

والمرتشي

From Abdullah bin Amr he said: Allah's Apostle said "Allah's curse on the bribe giver and receiver of the bribe". (Narrated by Ahmad, no. 6984;

³ Leo Agustino, *Pilkada dan Dinamika Politik Lokal* (Yogyakarta: Pustaka Pelajar, 2009), p. 43.

Ibn Majah, no. 2313. Shaykh al-Albani and Shaykh Syu'aib al-Arnauth consider that the hadith is a valid hadith.⁴

In this hadith, it can be understood and known that Allah strictly prohibits the act of bribery, not only those who bribe are cursed but the recipient of bribes will also be cursed by Allah SWT.

If we look at the facts of the field, the tradition of money politics has indeed continued to this day and has become a tradition as Leo Agustino explained. That happened in Pasuruan even common knowledge of the existence of a dawn raid given by the legislative candidates to the public as a form of vote-buying. In fact, there are a lot of Muslim scholars from Pasuruan who are involved in politics and understand religion. Lots of candidates for legislative members in Pasuruan are from pesantren circles (a santri or even a descendant of the founder of pesantren). They tried to nominate themselves as candidates for legislative members both in the city, provincial and central levels.

When referring to Agus Leo's explanation (money politics has become a tradition) which we already know because it is a "public secret" and refers to the law that money politics is a bribe, then Muslim scholars or scholars who play a role in political development in Indonesia directly can be said to have carried out bribery activities that have been banned in Islam because we already know that money politics has become a tradition in the general public. In fact, it seems that people are reluctant to vote for

⁴ Sulayman Ibn al-Ash'ath al-Sajastaniy, *Sunan Abi Dawud* (Beirut: Dar al Fikr, 2007), p. 324.

the candidate if they do not get money or anything else that is considered valuable. Many of the people of Indonesia consider that the practice of money politics is reasonable and that practice is not a problem.⁵

However, if Muslim intellectuals who nominate themselves as legislative candidates allow this and do not have the means to be able to compete with other legislative candidates, it is certain that the seats of legislative members will be filled with people who are dzolim who practice money politics. To anticipate the occurrence of money politics, they replaced the vote-buying and selling agreement with an alms agreement. Meanwhile, what we know that alms is a good thing even recommended in Islam. According to Fahrur Mu'is alms is an activity of issuing wealth with the aim of getting closer to Allah (*Taqarrub Ilallah*) and at the same time being a way to protect themselves from being affected by reinforcements and evil.⁶ Therefore alms is good. However, the problem is if the implementation of alms is carried out by legislative candidates. At the moment of the election, which seems to change the political contract, money shifts to an alms agreement.

Many literacy writers found said that Islam views money politics as an act of bribery (*risywah*) but what if the contract is replaced with an alms agreement by legislative candidates as happened in Pasuruan and carried out during the legislative election by them? On the basis of these problems, the

⁵ Jonasmer Simatupang dan Muhammad Subekhan, "Pengaruh Budaya Politik Uang dalam Pemilu Terhadap Keberlanjutan Demokrasi Indonesia", Seminar Nasional Hukum Universitas Negeri Semarang, 4 (2018), p. 23

⁶ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, (Solo: Taqiya Publishing, 2016), p. 27.

researchers would like to acknowledge and examine how the opinion of Islam through clerics of two largest Muslim organization in Indonesia, Nahdlatul Ulama and Muhammadiyah scholars in the Alms agreement When the moment of the Legislative elections under the title "Alms Agreement Law by Legislative Candidates According to Nahdlatul Ulama and Muhammadiyah Scholars of Pasuruan City"

B. Formulation of Problem

Based on the background of the researcher that has been conveyed above, the main issues that become attention in writing this research are as follows:

1. What is the opinion of the Nahdlatul Ulama Pasuruan scholars on the alms agreement by legislative candidates at the election time?
2. What is the opinion of the Muhammadiyah scholars of Pasuruan City towards the alms agreement by legislative candidates at the moment of the election?

C. Purpose of Research

Based on the above problem formulation, the aims and objectives of this study are :

1. To reviewing and analyzing the opinion of Nahdlatul Ulama's Scholars of Pasuruan City on the alms agreement by legislative candidates at the election time.

2. To reviewing and analyzing the opinion of Muhammadiyah's scholars of Pasuruan city on the alms agreement by legislative candidates at the election time.

D. Benefits of Research

1. Theoretical Benefits:

- a. To give the theory of knowledge relating to the contract or agreement, especially that relating to the pronouncement of the contract alms when the moment of election.
- b. As a basis for further research in more detail about the pronouncement of alms contracts during the election.

2. Practical benefits

The researcher hopes that the results of the research can provide a contribution in the form of the usefulness and benefits to various parties, including:

a. For Researchers

As a sharia business law student who is also studying sharia-based agreements or contracts to be able to explore and understand the law that arises as a result of the contract.

b. For the Community

In order for the community (community Muslim particular) can understand very well how the laws that arise when pronouncement money politics be replaced with contract alms according to

Nahdlatul Ulama and Muhammadiyah Scholars. So it is expected to minimize the problem of differences in perception.

c. For Scientific Studies

It can reinforce knowledge about the contract and add insight into the law arising from differences in pronunciation of the contract so that it can provide the right understanding.

E. Operational Definition

Some affirmations regarding the understanding in this thesis proposal, among others:

1. Alms Agreement

The contract is an agreement on the consent granted which does not oppose the Shari'a which stipulates willingness between the two parties.⁷

While alms giving valuable value given by Muslims to others both Islam and non-Islam suddenly and sincerely without being bound by a certain time and amount.⁸

2. Money Politics

Money Politics is an effort carried out by prospective leaders of the country during the campaign period by giving money or goods and other forms of material with a view to getting sympathy from the people.⁹

3. Legislative Candidates

⁷ Abdul Rahman Ghazaly, *Fiqh Muamalat*, (Jakarta: Kencana,2010), p. 51.

⁸ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 27.

⁹ Tjahjo Kumolo, *Politik Hukum Pilkada Serentak*, p. 155.

Legislative Candidate is someone who nominates himself to advance as a Legislative member

4. Legislative Elections

Legislative Election is a general election process carried out by the people against legislative candidates; Regional Representative Council (DPD), DPR (DPR), and Regional DPR (DPRD)

5. Scholars

Scholars is someone who has a depth of knowledge, especially in the field of Islam or has competent knowledge about the religion of Islam, such as the science of interpretation, the science of hadith, fiqh, nerves, nahwu, and so forth.¹⁰

6. Nahdlatul Ulama

Nahdlatul Ulama is an Islamic organization in Indonesia that was founded in 1926 AD which was founded by K.H Hasyim Asyari and has the Ahlus Sunnah wal Jamaah ideology.¹¹

7. Muhammadiyah

Muhammadiyah is an Islamic organization located in Indonesia and was founded by K.H Ahmad Dahlan in 1912 AD. The aim of the founder of this organization was to correct the wrong practices of Islam at that time.¹²

¹⁰ Muhtarom, *Reproduksi Ulama di Era Globalisasi*, (Yogyakarta: Pustaka Pelajar, 2005), p. 12

¹¹ H.M. Asad Thoha, *Pendidikan Aswaja Ke-NU-an*, (Sidoarjo: Al- Maktabah- Maarif NU Jatim, 2012), p. 3

¹² Tim Penyusun, *Kemuhammadiyah*, (Yogyakarta: Madrasah Mu'alimin Muhammadiyah Yogyakarta, 2008), p. 17



CHAPTER II

LITERATURE REVIEW

A. Previous Research

Previous research serves to determine the authenticity of the research. The previous studies that researchers used in this study are:

1. Research by Mat Supriyansyah

Mat Supriyansyah, Faculty of Sharia Raden Intan State Islamic University, 2009, with the title of the thesis "Money politics in elections According to Islamic Law Opinions and Laws", this study discusses how the law or view of Islamic law and the Law works towards money politics. This research is library research (library research) that is research that makes library materials as the main source (data). The main data are taken from the literature, regulations, and norms related to the theme. This study uses a comparative nature and uses a normative juridical approach.¹³

¹³ Mat Supriyansyah, *Politik uang dalam PEMILU Menurut Pandangan Hukum Islam dan Undang-Undang*, (Lampung: Universitas Islam Negeri Raden Intan, 2009)

In the research conducted by Mat Supriyansah and my research, there are some differences in the form of the object taken is money politics in general. Besides this thesis type method written by Mat Supriyansah is library research. Whereas the research I took was the alms contract used by prospective legislative members. At the moment of the campaign and this research was taken from the opinions of the Nahdlatul Ulama and Muhammadiyah Scholars City of Pasuruan.

2. Research by Moh. Mahfudh

Moh. Mahfudh, Sunan Kalijaga State Islamic University, 2012, with the thesis title "Money politics (Perspective of Islamic Law and Positive Law)", this research is library research, which is research that makes library materials as the main source (data). Like, Abdullah bin Abd. Muhsin and Law No. 10 of 2008 concerning ELECTIONS. The nature of this research is descriptive, analysis and comparative.¹⁴

In Moh Mahfudh's research and the research that I did there were some differences namely the object taken was money politics in general, besides the thesis type method written by Moh. Mahfudh is library research. Whereas the research I took was the alms contract used by prospective legislative members. At the moment of the campaign and this research was taken from the opinions of the Nahdlatul Ulama and Muhammadiyahscholars in Pasuruan city.

¹⁴ ¹⁴ Moh. Mahfudh, *Politik uang (Perspektif Hukum Islam dan Hukum Positif)*, (Yogyakarta: Universitas Islam Negeri Sunan Kalijaga, 2012)

3. Research by Syamsul Hadi

Syamsul Hadi, Sunan Kalijaga State Islamic University, Yogyakarta, 2012, with the title of the thesis "Criteria for money politics in the Election of Islamic Law Perspectives" this type of research is library research and the nature of this study is descriptive-analytic. In this previous study, the researcher explained how Islamic law explained the criteria for money politics in elections. The conclusion of this study explains that money politics is classified as *risywah muharramah*.¹⁵ The difference in this research lies in the research method, besides this research is more focused on how the law on the implementation of alms agreement by legislative candidates At the moment of the campaign in the opinion of Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan City.

4. Research by Zusiana Elly and Masnun.

Zusiana Elly and Masnun, Use of Charitable Alms (Zakat) by Incumbent Candidates in Regional Elections in Indonesia (Two Case Studies), this study is an empirical study because it makes observations in Kulon Progo and Magelang. The difference between this previous research and this research is the location of the contract used in the previous research is zakat while this research is alms,

¹⁵ Syamsul Hadi, *Kriteria Politik uang dalam PEMILU Perspektif Hukum Islam*, (Yogyakarta: Universitas Islam Negeri Sunan Kalijaga, 2012)

besides that, the location of the previous research was in Progo and Magelang culinary while this research was in Pasuruan.¹⁶

5. Research by Mia Fitriana

Mia Fitriana, student of the Islamic Faculty of Muhammadiyah University of Purwokerto, with a thesis entitled "The Views of Nahdlatul Ulama and Muhammadiyah Ulama on Sharia Bank Products in Purbalingga", this research is field research with the informants being Muhammadiyah Ulama and Nahdlatul Ulama in Purbalingga. The difference between this research and the research that the researcher did is that the location of the problem in previous research is about Islamic bank products while the research that the researcher did was funding alms agreements by legislative candidates. While our research subjects are Nahdlatul Ulama and Muhammadiyah scholars, previous research was conducted in Purbalingga while this research was conducted in Pasuruan.¹⁷

Table 2.1: Similarities and Differences in Previous Research

No	Identity	Similarities	Differences
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¹⁶ Zusiana Elly dan Masnun, Use of Charitable Alms (Zakat) by Incumbent Candidates in Regional Election in Indonesia (Two Case Studies), PCD Journal, VI, (2018).

¹⁷ Mia Fitriana, *Pandangan Ulama Muhammadiyah dan Nahdlatul Ulama terhadap Produk Bank Syariah di Purbalingga*, (Purwokerto: Universitas Muhammadiyah Purokwerto, 2016)

1.	Mat Supriansyah, Politik uang dalam PEMILU Menurut Pandangan Hukum Islam dan Undang-Undang, Universitas Islam Negeri Raden Intan	Research about how money politics in Islamic law	The researcher first examined how the law of political money in general, but the researcher examined how the law of alms contract carried out by legislative candidates during the campaign moment in the opinion of Nahdlatul Ulama and Muhammadiyah scholars. In addition, previous researchers were library research and researchers used field research.
2.	Moh. Mahfudh, Politik uang (Perspektif Hukum Islam dan Hukum Positif), Universitas Islam Negeri Sunan Kalijaga	Examining how money politics in view of Islamic law	The researcher first examined how the law of political money in general, but the researcher examined how the law of alms contract carried out by legislative candidates during the campaign moment in the opinion of Nahdlatul Ulama and Muhammadiyah scholars. In addition, previous researchers were library research and researchers used field research.
3.	Syamsul Hadi, Kriteria Politik uang dalam PEMILU Perspektif Hukum Islam, Universitas Islam Negeri Sunan Kalijaga Yogyakarta	Equally researching Islamic opinions about money politics	Previous researchers examined Islam's view of money politics in general while the researchers focused on the opinions of

			Nahdlatul Ulama and Muhammadiyah scholars, besides that the focus of the researcher was on the alms contract law used
4.	Zusiana Elly dan Masnun, Use of Charitable Alms (Zakat) by Incumbent Candidates in Regional Election in Indonesia (Two Case Studies)	Examining how the law of the pronouncement of a good contract (zakat, alms, gifts, etc.) carried out by people who run for election	The contract used was zakat while this research was alms, besides that, the location of the previous research was in Kulon Progo and Magelang while this research was in Pasuruan. In this study also used the interview method with the informants were Nahdlatul Ulama and Muhammadiyah Scholars of Pasuruan City
5.	Mia Fitriana, Pandangan Ulama Muhammadiyah dan Nahdlatul Ulama terhadap Produk Bank Syariah di Purbalingga	The location of the previous research equation and the research that the researcher is doing is the subject of this study, namely the opinion of the Nahdlatul Ulama and Muhammadiyah scholars	The object under study is different because the object of previous research is Islamic bank products.

From the comparison with the previous research that the researcher mentioned above, it can be concluded that there are some differences that exist between previous studies that have been done and research that researchers have done both in terms of objects, types, and nature of research

so as to prove that the research that researchers do is new research and not from the results of other research plagiarism.

A. Library Framework

1. Alms Agreement

a. The Definition of Alms Agreement

The contract is an agreement of consent granted that does not oppose the Shari'a which establishes the willingness of the two parties.¹⁸ While alms is a valuable gift given by Muslims to others, both Islam and non-Islam, suddenly and sincerely without being bound by a certain amount of time and amount.¹⁹

The contract has the meaning of the agreement. The meaning of the contract is derived from Arabic. Meanwhile, the meaning of the contract according to Fiqh is consent and granted. Consent means to offer and Kabul means acceptance. The contract must not contravene the Shari'a rules and be deemed invalid if the contract is against the Shariah.²⁰ The point is that the contract must be in line with Sharia rules. The alms contract is not allowed to oppose the shariah'.

b. The Pillars of Alms

The Pillars of Alms according to scholars agreement:²¹

¹⁸ Abdul Rahman Ghazaly, *Fiqh Muamalat*, (Jakarta: Kencana,2010), p. 51.

¹⁹ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 27.

²⁰ Abdul Rahman Ghazaly, *Fiqh Muamalat*, (Jakarta : Kencana, 2010), p. 51.

²¹ Qamarul Huda, *Fiqh Muamalah*, (Yogyakarta: Teras, 2011), p. 25.

1) *Aqid*

Aqid is a person who makes a contract. *Aqid* can consist of two or more.

2) *Ma'qud Alaih*

Ma'qud Alaih (object) is an object which is the object of the contract object. *Maudhu' al Aqd* is the intent and purpose of the contract itself. For example the purpose of transferring ownership from the seller to the buyer in the sale and purchase agreement.

3) *Shigat*

Shigat is consent and granted. Consent means an offer while granted is the acceptance.

c. The Terms of Alms Agreement.

Terms are anything that can be a valid determinant or not of a contract.²² The main conditions that must be met in the occurrence of a contract are:²³

1) The contract is not allowed to oppose Sharia law.

The contract becomes damaged or invalid if the contract is not in line with the existing Islamic law.

2) The parties that are conducting the contract must be mutual pleasure.

²² Mardani, *Fiqih Ekonomi Syariah*, (Jakarta: Kencana, 2012), p. 71.

²³ Chairuman Pasaribu, *Hukum Perjanjian dalam Islam*, (Jakarta: Sinar Grafika, 1994), p. 2.

The contract must be based on the satisfaction of each party. If the contracting party has agreed, the contract is valid.

3) The contract must be clear

The contract must not contain elements that make doubts (vague). This is to avoid cheating and things that cause harm to one of the parties involved.

Meanwhile, those who want to make an alms agreement (in Islam) must fulfill several conditions:²⁴

- 1) People who do alms must be Muslim.
- 2) People who do alms are adults and capable of law.
- 3) People who do alms must be based on their own will and without any element of coercion.
- 4) The person who does alms must be the owner of the thing that is being donated.

d. The Kinds of Agreement

The classification of the contract, when viewed from the point of view of its validity, is divided into two kinds, that are:²⁵

1) *Sahih* Agreement

Sahih agreement is a true contract, the intention is that this contract meets the terms and conditions of the contract. This valid contract

²⁴ Doni Adi Supriyo, "Hukum Sedekah dalam Konteks Peradilan Agama", Purwokerto, Universitas Wijayakusuma, 15 No. 41, (2013), p. 4

²⁵ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat*, (Yogyakarta: UII Pres, 1982), p. 65

makes the parties making the contract bound by the contract in accordance with the principle *pacta sunt servanda*.

2) Not *Sahih* Agreement

Not *sahih* agreement is the opposite of a valid contract, which is a broken contract that has a deficiency in the terms or harmony of the contract. This invalid contract cannot bind all parties to the contract as a valid contract.

2. Alms

a. The Definition of Alms

Understanding alms in Language is a word that comes from Arabic namely *Sadaqatun*, which has the meaning of a valuable gift given by Muslims to other people both Islam and non-Islam suddenly and sincerely without being limited by time and a certain amount.²⁶ According to Fahrur Mu'is alms is an activity to spend wealth which has the purpose of getting closer to Allah (Taqarrub Ilallah) and at the same time being a way to protect yourself from being affected by reinforcements and badness.²⁷ From this understanding, it can be concluded that the activity of charity is nothing but to get pleasure from Allah and reward.

²⁶ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 13.

²⁷ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 27.

Every Muslim gets direction from the Prophet (PBUH) to give alms. The Prophet (PBUH) even suggested giving charity every day as Ahmad's hadith narrated:²⁸

كُلُّ سُلَامَى مِنَ النَّاسِ عَلَيْهِ صَدَقَةٌ

“Every soul should give charity”

According to ijma' scholars, the alms is Sunnah case which if done then gets the reward and if it does not get anything (not getting the sin). Through alms, Muslims can instill good values.²⁹ It can also be said that alms is recommended in Islam because alms have several benefits. According to Samarqandi written in the book Fahrur Mu'is alms has 10 benefits, namely five benefits for world cases, and five benefits for the afterlife.³⁰

The five benefits for the case of the world are:

- 1) Clean the treasure
- 2) Cleanse the body of sin
- 3) Refuse reinforcements'
- 4) Giving happiness to people in need
- 5) Get the blessing of wealth and ease of fortune

Whereas the five benefits for the afterlife are:

- 1) Be a protector for those who give alms

²⁸ Achmad Sunarto, *Indahnya Sedekah*, (Surabaya: Menara Suci, 2015), p. 23.

²⁹ Hadi Mulyo, *Falsafah dan Hikmah Hukum Islam*, (Semarang: CV As- Syifa, 1992) p. 152

³⁰ Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 20

- 2) Relieve reckoning in the afterlife
- 3) Make the scale of goodness increase
- 4) Easily cross the Sirath bridge
- 5) And elevate the degree when in Heaven

Above is *fadilah* or the benefit of charity, but in this era, goodness as alms is used by humans as a facility for pride (showing off) so that it causes the meaning of almsgiving itself which initially was something good to become a problem because of personal interests owned by humans. An example is the interests of candidates for members of Parliament who are prohibited from practicing money politics so they replace it with alms agreement. What is the opinion of the Nahdlatul Ulama and Muhammadiyah scholars regarding the enunciation. Researchers want to examine the opinions of the Nahdlatul Ulama and Muhammadiyah Ulama of Pasuruan about these actions classified as *risywah* or even become something halal.

b. The Kinds of Alms

Sadaqah has two kinds namely secretly alms (*sir*) and alms openly (*jahr*). Secretly alms has five meanings, that are:³¹

- a) That alms done clandestinely can maintain self-esteem.
- b) Alms in secret can also save from negative human thoughts, for example, save from the human mind that is jealous of alms giving.

³¹ Imam al Ghazali, *Ihya' Ulumuddin Jilid II*, terj. Muhammad Zuhri, (Semarang: As Syifa, 1990), p. 69-71.

- c) In addition, alms done in sir can hide the identity of those who do alms.
- d) Conceal the identity of the recipient of alms with the aim that the recipient does not feel insulted or humiliated because actually revealing the recipient of alms can make the recipient low or despicable.
- e) Keep yourself away from doubtful and shirk

According to Ibn Abbas, alms done in secret are more important than alms done openly.³² And we can know that the implementation of alms At the moment of election is a type of alms openly (*Jahr*).

3. Money Politics

a. The Understanding And History of Money Politic

Money politics is an illegal practice which is one of the prohibitions in the general election rules. According to Tjahjo Kumolo, Money Politics is the provision of material (to the people) with the intention of influencing their minds so that they use their right to vote to elect certain candidates.³³ From this understanding, it can be understood that money politics can be said to be a practice of bribery or bribery carried out by potential state leaders to the people.

³² Muhammad Nasib Ar- Rifa'I, *Ringkasan Tafsir Ibnu Katsir*, (Jakarta: Gema Insani), p. 446.

³³ Tjahjo Kumolo, *Politik Hukum Pilkada Serentak*, p. 155.

Indonesia itself has regulated the issue of money politics, which means that anyone who deliberately gives money or materials in exchange for influencing voters can be subject to criminal sanctions. This is in line with the sound of article 523 of Law No. 7 of 2017 concerning General Elections containing:

- a) Every implementer, participant, and / or Election Campaign team who deliberately promises or gives money or other material as compensation to election participants directly or indirectly as referred to in Article 280 paragraph (1) letter shall be liable to a maximum imprisonment 2 (two) years and a maximum fine of Rp.24,000,000 (twenty four million rupiah).
- b) Every implementer, participant, and / or Election Campaign team who deliberately during the Quiet Period promises or provides monetary or other material compensation to voters directly or indirectly as referred to in Article 278 paragraph (2) shall be liable to a maximum imprisonment of 4 (four) years and a maximum fine of Rp.48,000,000.00 (forty eight million rupiah).
- c) Any person who deliberately on the voting day promises or gives money or other material to the Voters for not exercising their voting rights or electing certain Election Contestants shall be sentenced to a maximum imprisonment of 3 (three) years and a maximum fine of Rp.36,000,000.00 (thirty six million rupiahs).

The existence or practice of money politics itself has existed since the days of our ancestors when the colonizers bribed Indonesian officials solely for wanting something, in other words bribing Indonesian officials to get what they wanted. Along with the development of the era, the practice of money politics continues to be implemented and began to bloom at the time of the new order. At that time, the party of the golongan karya (golkar) was the actor in the practice of money politics. They use state money which is then distributed to the public in order to get the highest voting results in the election.³⁴

b. The Elements of Money Politics

The elements of money politics are:³⁵

1) People who do money politics

Perpetrators or subjects of money politics are candidates or candidates who provide material in the form of cash or objects that have uses with the aim of getting sympathy.

2) Material Recipient

The recipient of the material in this case, is the people (can be individuals or a certain institution), the material obtained can be

³⁴ Ahmad Khoirul Umam, *Kiai dan Budaya Korupsi di Indonesia*, (Semarang: RASAIL, 2006), p. 7

³⁵ Ath-Thariqi dan Abdullah bin Abdul Muhsin, *Jariimaturrasyati Fi Syariatil Islamiyah*, terj. Muchotob Hamzah dan Subakir Saerozi, terjemahan Jariimaturrasyati Fi Syariatil Islamiyah, (Jakarta: Gema Insani, 2011), p. 11

in the form of money or other objects that have value. In this case, the main target of money politicians is the people.

3) Money Politic Material

The purpose of money politics material is the object of the activity of money politics itself. This material can be in the form of money or other material that is considered to have beneficial value for the recipient of the material. In the facts of the field, the material that is recognized to be the most effective technique is money because money is judged to be able to influence one's personnel, with money also political strategies can be controlled. Money is considered effective because the target is people who have a low economic level.³⁶ Besides money, other forms of material can be in the form of food, public facilities such as mosques, prayer rooms, and others.

4. *Risywah*

a. The Understanding of *Risywah*

Risywah is giving something to a certain party to justify a case that is actually not true.³⁷ Another understanding of *risywah* is to give something so that a law can be decided as he wants in an unfair way

³⁶ Heru Nugroho, *Uang, Renternir, dan Hutang*, (Yogyakarta: Pustaka Pelajar, 2001), p.95

³⁷ Fuad Tohari, *Hadis Ahkam: Kajian Hadis-Hadis Hukum Pidana Islam*, (Yogyakarta: Deepublish, 2016), p. 280

and obstruct the actual decision.³⁸ From this understanding, it can be understood that what is called *risywah* is an effort made by someone by giving something to change a law desired by him. The purpose of this understanding is a bribery attempt by a person to produce a decision as he wishes.

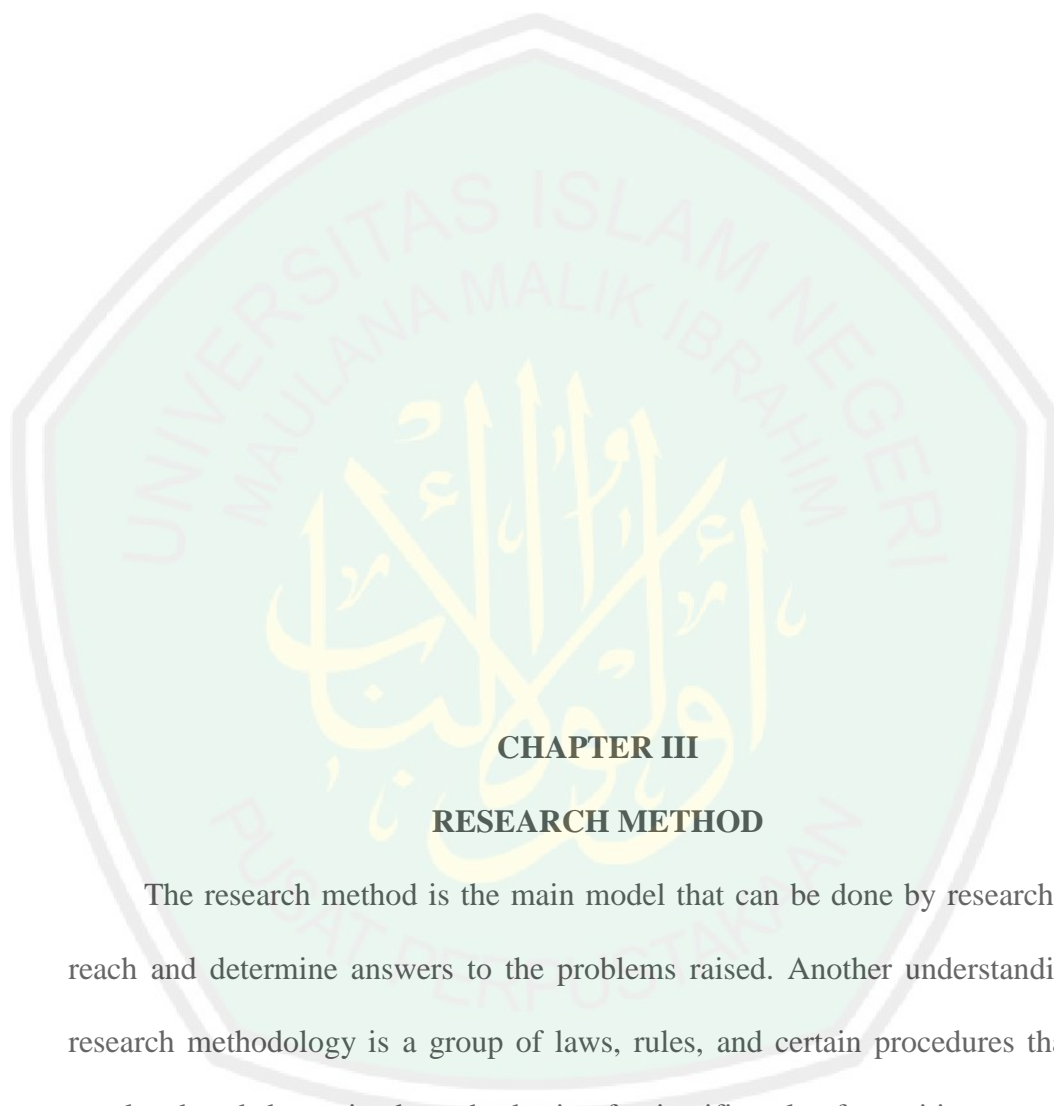
b. The Elements of *Risywah*

If observed, the elements of *risywah* are the same as the elements of money politics, that are:³⁹

- 1) The recipient of a *risywah* is the person who gets the material from the practice of *risywah*.
- 2) Givers of *risywah* are people who take *risywah* (people who give a material or bribe in order to change a decision or law).
- 3) Material of *risywah*, is material provided by the *risywah* giver.

³⁸ Sayid Abu Bakar, *I'natuth Thalibin*, (Semarang: Toha Putra, 2000), p. 261

³⁹ Abdullah bin Abd. Muhsin, *Suap dalam Pandangan Islam*, (Jakarta: Gema Insani Press, 2011), p. 11



CHAPTER III

RESEARCH METHOD

The research method is the main model that can be done by researchers to reach and determine answers to the problems raised. Another understanding of research methodology is a group of laws, rules, and certain procedures that are regulated and determined on the basis of scientific rules for writing a study of certain scholarship so that the final results obtained can be justified.

As for this study researchers used several research methods including:

A. Type of Research

If viewed from the substantial in this study, the type of research used is empirical research because researchers collect information data directly to the field. Empirical research is field research using data obtained from field facts.⁴⁰ That way, it can be concluded that in this study the researchers conducted a study that is going down directly to the field to obtain data.

The title in this study is the alms agreement when the legislative election procession in the opinion of the Nahdlatul Ulama and Muhammadiyah scholars so that this study is descriptive because the author wants to explain accurately and accurately how the opinion of Nahdlatul Ulama and Muhammadiyah scholars regarding the use of alms in the legislative election. Descriptive research aims to produce data as carefully as possible about everything related to humans, circumstances, or other symptoms to be able to reinforce existing hypotheses in order to strengthen old theories or in making the framework of new theories.⁴¹

B. Research Approach

This research is the opinion of the Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan city about the alms agreement by legislative candidates during the election process as happened in Pasuruan so that when viewed from the point of discussion, the research approach that researchers used in this study is sociological juridical. The sociological juridical research approach is a method of research approach that starts from

⁴⁰ Sujono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI Press, 1986), p. 10.

⁴¹ Sujono Soekanto, *Pengantar Penelitian Hukum*, p. 10.

the things that happen to the community, both at the level of government policy, socioeconomic inequalities where these aspects occur in society.⁴² Meanwhile, when viewed from the point of use of the method, this study uses a qualitative approach. By using a qualitative approach, this research has the final results of descriptive data. Namely the respondent's statement verbally and non-verbally, and real behavior.⁴³

C. Location of Research.

A research location is a place where a study is conducted. This research was conducted in Pasuruan where the location was the office of the Pasuruan Nahdlatul Ulama Branch office (PCNU) and Pasuruan Regional Muhammadiyah office (PDM). This research was conducted in both places with the aim of obtaining information from Nahdlatul Ulama and Muhammadiyah scholars regarding the law of alms agreement by legislative candidates at the moment of the election. In addition, researchers are interested in conducting research on the title in Pasuruan because Pasuruan Muslim intellectuals have relatively much political involvement.

D. Type and Data Source

Data sources used in empirical research are data sources whose data come from observations in the field.⁴⁴ In other words, researchers directly retrieve data from the field. In this study, researchers used 3 types of data sources, that are:

⁴² Sujono Soekanto, *Pengantar Penelitian Hukum*, p. 53

⁴³ Sujono Soekanto, *Pengantar Penelitian Hukum*, p. 32

⁴⁴ Sujono Soekanto, *Pengantar Penelitian Hukum*, p. 12

1. Primary Data

Data taken through the main data source in the field.⁴⁵ This data was obtained through interviews with informants who have competence related to this research, namely the Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan City. In this study, the informant or resource person from the Nahdlatul Ulama ulama was Abdul Khalim, as Rais Syuriah of PCNU Pasuruan City and M Mundzir Thuhri AM as Katib PCNU of Pasuruan City. While the Muhammadiyah scholars are Abu Nasir as Chairman of Pasuruan City PDM and Ali Fauzi as Chairperson of LP2M PPDM of Pasuruan City

2. Secondary Data

Data obtained, collected and processed from secondary data sources or secondary sources.⁴⁶ Secondary data is not the first data source, but the data used to support the first data source. Secondary data that researchers use to be a reference in this study is in the form of journals, article writing and so forth.

3. Tertiary Data

Supporting data on primary and secondary materials.⁴⁷ Tertiary data that researchers will use to support in research are dictionaries, encyclopedias, and also other data that can support primary or secondary data.

⁴⁵ Bambang Sunggono, *Metodologi Penelitian Hukum*, (Jakarta: PT. Rineka Cipta, 2004), p. 23

⁴⁶ Bambang Sunggono, *Metodologi Penelitian Hukum*, p. 23

⁴⁷ Bambang Sunggono, *Metodologi Penelitian Hukum*, p. 24

E. Data Collection Technique

1. Interview

Interview is a condition where researchers and informants meet each other face to face question and answer session and obtain answers that are relevant to the research theme.⁴⁸ In this study, researchers used a semi-structured interview method. In conducting interviews it seems more flexible and tends not to be rigid like structured interviews.⁴⁹ In the interview data collection process, all information that has been explained by the informant must be recorded or recorded properly so that the data obtained can be accessed properly.⁵⁰ In this study, the informant or resource person from the Nahdlatul Ulama ulama was Abdul Khalim, as Rais Syuriah of PCNU Pasuruan City and M Mundzir Thuhri AM as Katib PCNU of Pasuruan City. While the Muhammadiyah scholars are Abu Nasir as Chairman of Pasuruan City PDM and Ali Fauzi as Chairperson of LP2M PPDM of Pasuruan City

In this research, the researcher asked the informants about the things related to the object of research, namely the opinion of the Nahdlatul Ulama and Muhammadiyah scholars about the alms contract during the campaign moment.

⁴⁸ Amiruddin, *Pengantar Metode Penelitian Hukum*, (Jakarta: Raja GrafindpPersada, 2006), p. 82

⁴⁹ Amiruddin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum*, (Jakarta: Rajawali Press, 2014) p. 34

⁵⁰ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, (Bandung: CV. Mandar Maju, 2008), 167

2. Documentation

Documentation is a way to obtain shadows about data and related information in the form of books, documents, pictures, and others by using media or documents that support the research theme. This data collection technique is aimed at research subjects.⁵¹

F. Data Processing Method

The data processing method that the researchers used for this study was data checking, if the data had been examined then the data analysis technique was then performed. The data analysis techniques that researchers use are classification, verification, analysis, and conclusions.⁵²

1. Editing

Editing is a process of sorting, checking or re-selecting data that has been obtained in the previous process. In this process, researchers must double-check whether the data is complete or not and ensure that the data obtained from respondents is accurate or not. So at this stage, the researcher must have ascertained the completeness of the data regarding the formulation of this research problem and ensure that the data obtained from the Nahdlatul Ulama Ulama and Muhammadiyah are accurate and can be used as writing material for this research.

2. Classifying

⁵¹ Sukandarumidi, *Metode Penelitian; Petunjuk, Praktis Untuk Pemula*, (Yogyakarta: UGM Press, 2006), p. 100

⁵² Fakultas Syari'ah UIN Maulana Malik Ibrahim Malang, *Pedoman Penulisan Karya Ilmiah* (Malang: UIN Press, 2012), p. 48.

This process is a grouping of all data that has been obtained. This process has the aim of ensuring that the data obtained by researchers is appropriate to their needs. So in this study, the classification of data is the opinion of Nahdlatul Ulama and Muhammadiyah scholars on the alms law when the election moment.

3. Verifying

Verifying is a series of activities in examining data and information that have been obtained in the field so that its validity can be recognized and used as a source of research data.⁵³ In this process, the researchers met with Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan city to clarify whether the data written in this study was in accordance with what was provided by the informant.

4. Analyzing

It is a process in research with the aim of systematically searching and compiling data that has been obtained from informants, field notes, and documentation. According to Saifullah, there are several alternative data analysis found in the research, namely: descriptive qualitative, comparative descriptive, qualitative or non-hypothetical, inductive deductive, inductive qualitative, content study, quantitative, and statistical tests.⁵⁴ In this case, this study uses a

⁵³ Nana Saudjana dan Ahwal Kusuma, *Proposal Penelitian di Perguruan Tinggi*, (Bandung: Sinar Baru Argasindo, 2002), p. 84.

⁵⁴ Saifullah, *Buku Pedoman Metodologi Penelitian*, (Malang: Fakultas Syariah UIN, 2006), p. 59.

qualitative descriptive alternative, namely analysis by describing the phenomena to be classified to be a conclusion.

5. Concluding

It is the final stage in a series of data processing. It is from this conclusion stage that it will produce data related to the research theme. Concluding this is the conclusion of the four previous stages namely: editing, classifying, verifying, and analyzing.⁵⁵

G. Discussion Structure

This research consists of 5 chapters which then from each chapter contains several sub-chapters. The systematic discussion contained in this research is:

Chapter I, is a prelude to this study, the researcher provides an overview and direction of the research conducted. Starting from the background, problem formulation, research objectives, research benefits, operational definitions, previous research, theoretical studies, and systematic discussion.

Furthermore, in Chapter II the researcher filled out the literature review namely prior research and theoretical framework. Previous research contains prior research related to the author's research theme and a theoretical framework containing theories related to the research theme.

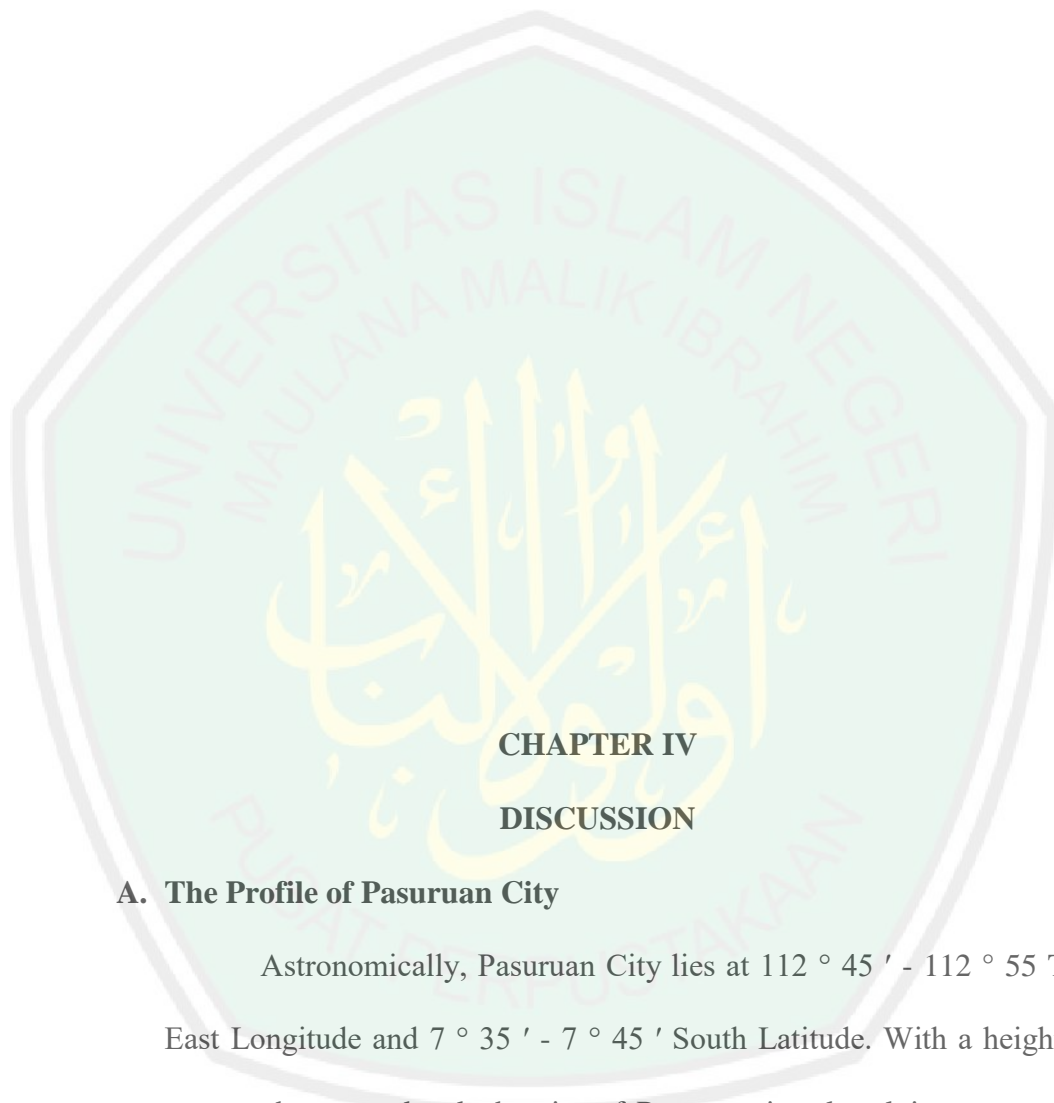
In Chapter III, researchers explain in detail about the research methods used. As for consisting of several points, including types of

⁵⁵ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, p. 174

research, research approaches, types and sources of data, data collection methods and data processing methods.

Chapter IV, the researcher analyzes the opinions of Nahdlatul Ulama and Muhammadiyah scholars about the alms or lafaz agreement by legislative candidates during the campaign moment. In this study, researchers will draw conclusions from informants and analyze the information.

And Chapter V is the conclusion of this study which contains conclusions and suggestions. Conclusion as an abstract of the formulation of the existing problem and as a summary of all the results of research conducted. While the suggestions contain expectations and input from the author to the parties involved in this research theme in order to develop this material going forward.



CHAPTER IV DISCUSSION

A. The Profile of Pasuruan City

Astronomically, Pasuruan City lies at $112^{\circ} 45' - 112^{\circ} 55'$ Timur East Longitude and $7^{\circ} 35' - 7^{\circ} 45'$ South Latitude. With a height of 4 meters above sea level, the city of Pasuruan is a low-lying area and the topography is sloped with a slope of 0-1% from south to north. So it is not surprising that the city is often hit by floods in the rainy season.

Pasuruan City Government oversees the administrative area covering four districts, namely Purworejo, Bugul Kidul, Gadingrejo, and

Panggungrejo. Regional Regulation No. 10/2002 changed the status of villages in Pasuruan City to become a village. So that the total number of villages in Pasuruan City is 34 villages.

Initially, before in 2012, Pasuruan City only supervised the administration of three sub-districts. With the issuance of regional regulations governing regional expansion, the input is the District of Panggungrejo, which originates from the division of the districts of Purworejo, Gadingrejo, and Bugul Kidul. Although the area expansion did not affect the total area of Pasuruan City.

Overall, Pasuruan City has an area of 35.29 km². Where Bugulkidul District is the widest district with an area of 11.11 km² while for the smallest area of the district is Panggungrejo District with only an area of 7.83 km².⁵⁶

B. The Profile of Nahdlatul Ulama dan Muhammadiyah of Pasuruan City

1. The Profile of Nahdlatul Ulama⁵⁷

The name of the Nahdlatul Ulama organization in Pasuruan is the Nahdlatul Ulama Branch Pimp of Pasuruan City, which was established in 1952 and now the Syuriah rais is H. Abdul Khalim while the rais in the tanfidziyah branch is H. Nailur Rochman S, IP. The office address is located on Jl. Untung Suropati No. 16, Kebonagung, Kec. Purworejo, Pasuruan City, East Java 67116.

⁵⁶ <https://pasuruankota.go.id/geografi/>, accessed on 24 Februari 2020

⁵⁷ Nu Admin, <http://www.pcukotapasuruan.or.id/2020/02/susunan-pcnu-kota-pasuruan-masa-khidmat.html>, accessed on 24 Februari 2020

The vision and mission of Nahdlatul Ulama are based on the decision of the 32nd Congress in Makassar, South Sulawesi, the vision of the Nahdlatul Ulama organization is the realization of a just, democratic and prosperous society based on Islamic teachings of the Ahlus Sunnah Wal Jama'ah. Such a vision implements that an important contribution that Nahdlatul Ulama can make in the realization of the social order in all aspects of life, from its establishment until whenever.

Based on this vision, Congress emphasized that the Nahdlatul Ulama carried out the legislation and influenced policy to ensure the achievement of a life order in a just and democratic society. On the other hand, Nahdlatul Ulama is demanded to be able to empower the community.

At the local level in Pasuruan City, after analyzing the strengths, weaknesses, opportunities and obstacles, the vision and mission of the Nahdlatul Ulama above were translated into the General Program Policy Direction of Pasuruan City PCNU which included three things:

First, organizational revitalization or re-placement of the organization as an ordered force. This is realized as a necessity, considering the Nahdlatul Ulama community building which has been an important force in the life of the nation and state turned out to be less balanced with a well-organized organizational building. Certainly, the Nahdlatul Ulama organizational structure must seriously consider the character - special characters that have taken root in the body of the

Nahdlatul Ulama in addition to the values that are so highly valued in the Nahdlatul Ulama community itself. Thus Nahdlatul Ulama needs to immediately improve the organizational system, internal and inter-organizational communication systems, cadre education system and maximum fund management.

Second, regional momentum in regional development. An appropriate response must be shown by Nahdlatul Ulama so that the presence and role of Nahdlatul Ulama in the framework of regional autonomy is not actually counter-productive for strengthening community participation. the prosperity of the people of Pasuruan City which is increasingly equitable in an order of life in a democratic and just area. This effort is certainly as far as the Nahdlatul Ulama can be as a religious and community organization has long been shown by the historical role of the Nahdlatul Ulama. On the other side, the momentum of regional autonomy must be monitored continuously in order to remain in favor of the whole community.

Third, the revitalization of the Nahdlatul Ulama organization in the atmosphere of regional autonomy above fully leads to efforts to empower people in all fields. The presence of a strong organization together with the opportunity for the community in the regions to regulate themselves is the main capital for the independence and empowerment of the community.

2. The Profile of Muhammadiyah⁵⁸

The Regional Leadership of Muhammadiyah is the structural level of Muhammadiyah at the district level. The Regional Leadership of Muhammadiyah has the function of being coordinative for all Muhammadiyah Leaders of the region. In addition, Muhammadiyah Region can carry out da'wah in all districts by various means, such as educational, religious, health, social welfare activities.

In mobilizing proselytizing, the Regional Leadership of Muhammadiyah formed a board or assemblies that were expected to become a motor of change and participated in implementing Muhammadiyah programs at the regional and central levels. Occurs in branches and branches. An intensive cadre screening process is carried out to produce competent cadres through autonomous organizations in Muhammadiyah.

In making a decision the Regional Leader of Muhammadiyah is carried out in a democratic manner and a form of deliberation. The highest deliberation in the Muhammadiyah Regional Conference with the aim of the organization to elect the management in the Muhammadiyah Regional Leadership, a strategy and program of Muhammadiyah preaching to be carried out in the specified regency areas, can evaluate the preaching movements carried out in the previous

⁵⁸ <http://pasuruan-kota.muhammadiyah.or.id/content-2-sdet-profil.html>, accessed on 19 Februari 2020

period and everything that is important can be decided in the deliberation. . The Muhammadiyah Regional Conference required all Muhammadiyah Branch and Branch Managers to be involved in the district area.

In carrying out activities related to the mission of Muhammadiyah Regional Leaders, they collaborate with various organizations in the community.

The Regional Leadership of Muhammadiyah in the city of Pasuruan is called the Regional Leadership of the Muhammadiyah City of Pasuruan, which was founded in 1927 and was first chaired by Yosodirono. The chairman in this period (2015-2020) was Drs. Abu Nasir, M. Ag. The address of the Muhammadiyah Regional Leadership office in Pasuruan is located on Jl. JH Wachid Hasyim 202 Pasuruan city.

The Regional Leadership of Muhammadiyah Pasuruan city has a vision that is the realization of the true Islamic community in the City of Pasuruan and the Regional Leadership of Muhammadiyah has 3 missions, namely Upholding pure monotheism based on the Koran and Sunnah, Disseminating and advancing the Islamic religion which is based on the Qur'an and As Sunnah that is saheeh / maqbulah, and realize Islam in personal, family, and community life.

C. Discussion Analysis

1. Opinions of Nahdlatul Ulama of Pasuruan City towards Alms Agreements at the Legislative Election Moment

a. Opinion of Nahdlatul Ulama of Pasuruan City on Money Politics

In this research, informants or resource persons from the Nahdlatul Ulama ulama were H. Abdul Khalim, S. Ag, and H. M Mundzir Thuhri AM, all of whom were the branch managers of the Nahdlatul Ulama branch in Pasuruan City.

The rise of money politics practices continues to occur in Indonesia, including in Pasuruan. The practice of money politics has indeed been considered a tradition and people do not consider it a problem but rather contribute and do not feel guilty and sinful after doing so. In this study, researchers wanted to explore the opinions of Nahdlatul Ulama scholars about what exactly money politics is because, besides Muhammadiyah, Nahdlatul Ulama is one of the organizations that has a role and existence in the political world. According to Abdul Khalim, the understanding of money politics is the activity of providing financial assistance carried out by certain candidates with the aim of influencing the mindset of the people to vote in elections. This is in accordance with what he said

*“politik uang itu upaya mengambil hati oleh caleg atau calon calon yang lain agar dipilih oleh rakyat dengan cara memberikan bantuan atau sumbangan”*⁵⁹

⁵⁹ Abdul Khalim, *Interview* (Pasuruann, 15 Mei 2020)

In this case, the assistance provided by legislative candidates, regents, mayors, and others has the aim of taking public sympathy and creating a positive mindset for the candidate. The assistance provided can be in the form of fresh money given to the people (dawn attack), road improvement, construction of schools or madrassas and mosques. If we observe at a glance the activity is positive and has an element of benefit.

The rise of the practice of money politics makes the public think that it is a natural thing and is not a prohibition. The tradition of money politics that has become ingrained in the mindset of the community makes it difficult to avoid when elections take place. Not to mention the stigma that arises that there is no money then it will not be chosen. In addition, the factor that makes money politics difficult to avoid is the assumption of the public that the assistance provided by the candidate is a form of fortune in which the fortune should not be denied.⁶⁰

On the basis of this phenomenon, the original law of money politics which was forbidden and categorized as risywah and has an unlawful law becomes a bit ambiguous and ambiguous. Keep in mind that fiqh is not something that is rigid but develops. The

⁶⁰ Amarru Muftie Holish, Rohmat, Iqbal Syarifudin, "Politik uang dalam Praktik Demokrasi Indonesia", *Seminar Hukum Universitas Negeri Semarang*, 2, (2018), p. 234

existence of changes from time to time makes the problem develops as well and becomes increasingly complex.⁶¹

According to Abdul Khalim, basically money politics is *risywah* (bribery) which has an unlawful law. According to him the *risywah* will get sin and threats from Allah as the hadith of the Prophet Muhammad (PBUH):

عن عبد الله بن عمرو قال لعن رسول الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الرَّاشِيَّ وَالْمُرْتَشِيَّ

“From Abdullah bin Amr, he said that Rasulullah SAW cursed those who committed bribery and who accepted bribes,”

He added it was not only the perpetrators of *risywah* who received threats from God but also the recipients of bribes. This is in accordance with the explanation

“sebelum zaman berkembang, politik uang itu ya risywah mbak, lha risywah suap itu hukumnya haram. Arrosyi wal murtasyi nya mendapat ancaman laknat dari Allah, bukan Cuma pemberinya lho, tapi disebutkan juga murtasyinya disana”⁶²

According to his explanation, before the rise of the practice of money politics like this, the original law of money politics itself was haram because it was included in the category of *risywah*.

However, times have evolved and problems have also developed, including issues regarding money politics. Before

⁶¹ Anas Maudi, “Eksistensi Fikih: Tantangan Zaman dan Jawaban”, <https://nulibya.wordpress.com/2008/09/06/eksistensi-tantangan-zaman-dan-jawaban/>, accessed on 17 February 2020.

⁶² Abdul Khalim, *interview* (Pasuruan, 15 Februari 2020)

money politics became a tradition, money politics was only carried out by people who wanted to buy people's votes in other words taking the rights of others (other candidates). But according to Abdul Khalim, the story is different from the current situation. According to him, the context of money politics is different now from the past and the current field conditions have assumed that money politics is included in a tradition. Then, he quoted Gus Baha's explanation that considered that money politics was not a bribe category but, as an attempt by someone to get his rights. He explained

“Iha tapi zamane sekarang wes bedo, semua pada berlomba-lomba mendapat suara yang paling banyak, mendapatkan jabatan. kalau hal itu dibiarkan ya otomatis kursi-kursi DPR diisi dengan orang-orang yang melakukan politik uang. Maka dari itu sesuai ceramah Gus Baha politik uang dimaknai dengan membeli kebenaran”⁶³

Then, he also gave an example of a case of giving bribes on the basis of buying the truth

Pernah guru saya dapat bantuan untuk anak yatim, tapi tidak bisa cair kecuali dia memberi sesuatu kepada orang dalam kantor, kalau beliau tidak memberi maka haknya tidak bisa sampai. Kalau mengambil hak dia tidak termasuk yang di ancam oleh Rasulullah. Tapi orang yang menerima yang mendapat ancaman.

Examples like what happened above that can be said as buying the truth are fighting for their rights, not necessarily bribing in order

⁶³ Abdul Khalim, *interview* (Pasuruan, 15 February 2020)

to justify a false case, but the original purpose of bribing is as fighting for their rights. Fighting for rights which if not by bribery then those rights will not reach him.

The context of buying the truth here is not merely defined as the goal of money politics as a whole. However, there are certain conditions that can make the practice of money politics can be considered as "fighting for the truth". An example that can make money politics referred to as buying the truth is if another candidate member (candidate A) is believed to be worse or no better than candidate B. For example what happened is, for example, Junayd is a person who is *dzolim* and Bari is someone who is soluble and pious. Both of them are nominating themselves as candidates for legislative members. In the example of the case, Junayd is believed to be doing money politics. For that, if Bari conducts money politics, then his actions are not considered *risywah* as Junayd, but as buying the truth or *badzrul mall* because, if Junayd will win the seat and defeat Bari then the fear will happen because of decay Junayd is actually a person who is false. In *al-mausuah al fiqhiyah* it is also explained that it is permissible to make bribes to fight for the truth.⁶⁴

The opinion of the Nahdlatul Ulama of the City of Pasuruan in viewing the case of bribery or *risywah* is something that is forbidden

⁶⁴ Kementrian Wakaf dan Urusan Islam Kuwait, *Al-Mausu'ah Al-Fiqhiyah Al- Kuwaitiyah*, (Kuwait: Kementrian Wakaf dan Urusan Islam Kuwait , 1427 H) p. 222

or haram (the original law is haram) which if the practice is carried out it will get a sin.⁶⁵ In the case of bribery, Nahdlatul Ulama provides the argument or legal basis regarding the prohibition of bribery or risywah, namely the hadith of the Prophet (PBUH) which reads:

عن عبد الله بن عمرو قال لعن رسول الله صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ الرَّاشِيَّ وَالْمُرْتَشِيَّ

“From Abdullah bin Amr, he said that Rasulullah SAW cursed those who committed bribery and who accepted bribes”

From there, we clearly know that the opinion of Nahdlatul Ulama in responding to the practice of bribery is not to allow, but then they explain that there is a condition that seems to force the occurrence of bribery. They then explained that basically, a bribe is something that has an unlawful law except to uphold the truth so that the conditions that allow the practice of bribery.⁶⁶ The definition of risywah is to legalize something that should not be because there is a struggle for rights in it. That is, actually people who do not have the opportunity will have the opportunity because of the risk he is doing. The context is different from the attempt to buy the truth in the exactity of money politics because if the power is handed over to

⁶⁵ <https://islam.nu.or.id/post/read/86126/hukum-praktik-suap-untuk-penerimaan-cpns>, accessed on 29 November 2019

⁶⁶ <https://islam.nu.or.id/post/read/86126/hukum-praktik-suap-untuk-penerimaan-cpns>, accessed on 29 November 2019

the person who is worthy then it will trigger mudharatan thing. So, the person who seizes or saves the condition, is called buying the truth and he is not considered an *arrosyi* but, the person who accepts bribes will get sin and is called *musrtasyi* who is threatened by Allah SWT and Rasul SAW. It is also in line with Abdul Khalim's explanation of the law of money politics as he explained

“Kalau mengambil hak, dia tidak termasuk yang di ancam oleh Rasulullah. Tapi orang yang menerima yang mendapat ancaman. Al musrtasyi nya yang di ancam. Sebab kenapa musti di suap dulu?”⁶⁷

However, he further explained that the problem regarding money politics law in Indonesia is something that is still polemic and ambiguous because actually the rules of money politics already have a good goal that is as a way for clean politics to run, but the implementation and lack of human resources (HR) which obstructs the implementation of the intended political atmosphere.

“masalah politik uang ini repot kan hehe saat kita membenarkan politik uang itu berbahaya, kalo di legalkan secara agama juga bahaya, karena ya memang keadaannya seperti itu.”⁶⁸

⁶⁷ Abdul Khalim, *Interview* (Pasuruan, 15 Februari 2020)

⁶⁸ Abdul Khalim, *Interview* (Pasuruan, 15 Februari 2020)

From this explanation can be drawn a picture of the opinion of Nahdlatul Ulama in addressing the phenomenon of bribery which is a tradition, including in the city of Pasuruan. The law of origin of money politics which was previously an unlawful case and is prohibited because it is included in the category of *risywah* can be called as buying the truth seeing the political conditions that occur in Indonesia. However, the problem is not limited to money politics law but there are cases or incidences of alms giving by legislative candidates. Later in the discussion, the researcher will explain the legal acts of alms in the practice of money politics according to the opinion of Nahdlatul Ulama, Pasuruan City.

b. Opinions of Nahdlatul Ulama of Pasuruan City towards Alms Agreements by Legislative Candidates

1) Alms Agreement According to Nahdlatul Ulama of the City of Pasuruan

In alms agreements, ownership of property becomes transferred from the person who gives to the person who receives it. As for alms or *sodaqoh* has the meaning of growing, holy, and blessing. Alms can be done anytime and for anyone because the Qur'an and the Hadith do not bind rules regarding charity. Alms is a sunnah case according to Ijma' of scholars because Islam is a religion that encourages people to always do good.⁶⁹

⁶⁹ Ali Ahmad al- Jurjawi, *Falsafah dan Hikmah Hukum Islam*, p. 152

The form of alms is not solely related to material or money. But also all the good that one does is assessed by alms. This can be known through the Hadith of the Prophet when the Companions asked him if a person has no wealth or is not able to give alms with wealth then how he will do alms and he explained that every case that is familiar and refrains from bad actions will be judged as a form of alms.⁷⁰

According to Mundzir Tuhri, an alms is a form of one's efforts to hope for Allah's pleasure and gain merit. Alms are basically sunnah matters and are recommended. However, alms is also likely to be haram or become obligatory. An example of alms being unclean is when a person's alms form is used for disobedience and an example of alms being obligatory is if there is a person who promised (vows) will do alms when he has obtained something.

“Sedekah itu kan aslinya ditujukan untuk mendapatkan pahala dan rido Allah. Kalau begitu maka menjadi perkara yang Sunnah. Kalau sedekahnya untuk maksiat ya jadi haram, kalau untuk melunasi nadzar ya jadi wajib.”⁷¹

From this explanation, it can be seen that the law of alms can change according to the conditions and conditions at the time

⁷⁰ Abi Abdillah Muhammad, *Shahih Bukhari jilid 2 no. 1376*, (Beirut: Dar al Fikr, 2000), p. 524

⁷¹ Mundzir Tuhri, *Interview* (Pasuruan: 14 Februari 2020)

of charity. The law of charity (alms giving) is divided into three, that are:⁷²

a) Sunnah

The legal origin of charity itself is Sunnah.

b) Obligatory

Alms law will become mandatory if in condition there are people who really need alms. For example, there are people who are very hungry and need alms. So the person who knows that and that person is able to give alms, then it is obligatory for the capable person to give alms to the person who needs it.

c) Haram

The law of alms which originated is the Sunnah will be haram if in the condition the giver believes that the person who will receive alms will use it for things that violate the Shari'a of Allah (used for immorality).

According to Tuhri, people who want to do alms must clearly pledge their alms agreement to avoid conflicts in the future.

“Seseorang yang bersedekah harus jelas mengapa ia memberi kepada mushtadaq alaihnya, untuk apa, supaya nantinya enak”

⁷² Abdul Aziz Muhammad Azzam, *Fiqih Ibadah*, (Jakarta: Amzah, 2010), p. 426.

In the theme of this study, a legislative candidate who wants to do alms at the election moment should have a clear contract both verbally or in writing so that the contract can be clear and avoid cheating committed by legislative candidates.

2) Legal Alms by Legislative Candidates According to the Nahdlatul Ulama of Pasuruan City

The contract is defined by Hasbi As Sidqy as an agreement of consent and granted that does not violate *syara'* and is based on the concept of *antaradin* (both parties are *rida*).⁷³ The contract has an important role in *muamalah* activities because the contract can affect a legal product created by the contract. The clearer the *sighat* spoken in the contract, the more clearly the rights and obligations that will bind the contracting party.

This is in line with Abdul Khalim's explanation of the concept of the contract in *muamalah*. According to Abdul Khalim, in the case of *muamalah*, the contract could influence the law created as he said:

*“Urusan akad artinya begini, pemindahan hak itu bisa menjadi haram karena akadnya, pemindahan hak itu bisa menjadi halal karena akadnya iya toh. Orang hutang, yang menghutang nadzarr, yaa kalau saya punya hasil sampeyan saya beri sekian, itu kan menjadi tidak papa karena akadnya tadi, menjadi qardun hasanan berbeda dengan kalau saya yang ngomong engkok presentase ne dadi sakmene loo yo. Padahal kan prakteknya sama. Berarti memang urusan muamalah tergantung pada akadnya.”*⁷⁴

⁷³ Hasbi As Sieddieqy, *Pengantar Fiqh Muamalah*, (Jakarta: Bulan Bintang, 1984), p. 21

⁷⁴ Abdul Khalim, *Interview* (Pasuruan: 15 Februari 2020)

According to his explanation, the use of the contract will affect the law that will be created, he took an example when there are people who do debt (capital loans) and the debtor gives results to people who are debt then it becomes a halal activity and becomes *qardun hasanan*. Another case when the lender will determine how much interest will be set in the loan capital.

Regarding banking, we are familiar with two types of banks, namely conventional based banks and Islamic based banks. Between the two has a system and a product given to its customers. In the implementation, the products and systems found in the two types of banks are not much different, but what makes the products both different because of differences in *sighat* or contract used.⁷⁵ For this, it can be understood that the contract has a significant role and influences the created law although basically the practice is almost the same, but due to the contract used the law may change (not the same).

If we look closely, the implementation of the political system of money and charity has something in common, namely giving together. But the difference is the contract that is used. As with the term profit-sharing, the nature of the two is equally beneficial to the creditor, only the use of a different contract.

⁷⁵ Adhytia Andra, *Pelaksanaan Akad Mudharabah pada Produk di Bank Nagari Syriah Cabang Padang Panjang*, (Padang: Universitas Andalas, 2010), p. 6

Then, regarding the alms agreement used by legislative candidates according to Abdul Khalim, the contract was considered legitimate and there was no element that damaged the occurrence of the contract but the problem was about the reward that would be obtained. He explained it as follows:

*“kalau akadnya ya sah la wong di beri, artinya gini sodaqoh supaya di lem, sodaqoh untuk pencitraan, itu ya sodaqohnya sah, hanya saja pahalanya yang gugur”*⁷⁶

If observed based on the terms of agreement and terms of the contract, the contract used by the legislative candidates is indeed no problem. The terms of the agreement are as follows:⁷⁷

a) *Aqid*

Aqid is a person who makes a contract. *Aqid* can consist of two or more. In this case, the *aqid* is the legislative candidate who wants to give alms and the recipient community of alms.

b) *Ma'qud Alaih*

Ma'qud Alaih is an object which becomes the object of the contract. In this case, the material provided by the legislative candidates.

⁷⁶ Abdul Khalim, *Interview* (Pasuruan, 15 Februari 2020)

⁷⁷ Qamarul Huda, *Fiqh Muamalah*, (Yogyakarta: Teras, 2011), p. 25.

c) *Maudhu' al Aqd*

Maudhu' al Aqd is the intent and purpose of the contract itself. The contract used by legislative candidates in this case is giving alms. Then their goal is to give alms.

d) *Shigat* (Alms Agreement)

Shigat is consent and granted. Consent means an offer while granted is the acceptance.

Then, the conditions that must be met in the occurrence of a contract is:⁷⁸

- a) The contract is not allowed to oppose Sharia law
The contract becomes damaged or invalid if the contract is not in line with the existing Islamic law. The use of alms contracts conducted by legislative candidates is alms contracts where alms is recommended and does not oppose applicable sharia law.
- b) The parties that are conducting the contract must be mutual pleasure

The contract must be based on the satisfaction of each party. If the contracting party has agreed, the contract is valid. When the candidates for the legislature who want

⁷⁸ Chairuman Pasaribu, *Hukum Perjanjian dalam Islam*, (Jakarta: Sinar Grafika, 1994), p. 2.

to do alms are happy to give alms, and the recipient is also happy then that is what is called *antaradin*.

c) The contract must be clear

The contract must not contain elements that make doubts (vague). This is to avoid cheating and things that cause harm to one of the parties involved. For example, legislative candidates use alms agreements. Then the main purpose of alms is solely to get pleasure from Allah and do not expect anything for alms, including not caring about the person he gave alms vote in the election or not. And then what must be fulfilled in the terms of the alms agreement is:⁷⁹

- a) People who do alms must be Muslim.
- b) People who do alms are adults and capable of law.
- c) People who do alms must be based on their own will and without any element of coercion.
- d) The person who does alms must be the owner of the thing that is being donated.

Based on the explanation, it can be seen that the alms contract conducted by the legislative candidate has no case that damages the pillars and conditions. However, what needs to be considered is that alms should be done solely because of Allah and has a

⁷⁹ Doni Adi Supriyo, "Hukum Sedekah dalam Konteks Peradilan Agama", p. 4

purpose to draw closer to Allah (*taqarrub ilallah*). Even though alms basically have virtues and *fadilah-fadilah*, it should only be used as motivation to be more happy to do alms. In giving alms, it should not be followed by showing off, *riya'*, or taking pride in what has been given because these things can damage the quality of charity, these traits can wipe out the reward that will be gained from charity and make alms worth it.⁸⁰

The alms agreement undertaken by a legislative candidate will be valid and fine as long as the nomination of the legislative candidate's contract does not require anything to the people who accept, for example he gives alms but provides conditions to be elected, then it should not be. According to Abdul Khalim, if the legislative candidate who commits alms has an intention to be elected by the people or to replace the term money politics with an alms agreement, even though the alms agreement used is of legal value and there is no problem, he insists that the use of the word alms is considered unethical and less moral.

“jangan ada justifikasi ketidakbenaran dengan Bahasa agar barang yang bathil menjadi benar karena peralihan istilah”⁸¹

⁸⁰ Abdullah Lam bin Ibrahim, *Fiqh Finansial*, (Solo: Era Intermedia, 2005), p. 133

⁸¹ Abdul Khalim, *Interview* (Pasuruan: 15 Februari 2020)

That is, he asserted that although the use of alms agreements by legislative candidates was judged to be still valid, then alms should be done with sincerity as understanding alms itself, namely, a valuable gift given by Muslims to other people both Islamic and non-Muslim suddenly sincere and sincere without being limited by time and a certain amount.⁸² In the understanding of alms, there is the word sincere which is solely intended to get merit and pleasure from God, then the legislative candidates who have to do alms must be based on sincere intentions so that their goals do not change and will still get the reward as a benefit of giving alms.

2. Opinion of Muhammadiyah Scholar of Pasuruan City on Alms Agreement at the Legislative Election Moment

a. Muhammadiyah Pasuruan City Opinion on Money Politics

The occurrence of the practice of money politics in Indonesia is a phenomenon that is understood by some people to even become a tradition. This also happened in the City of Pasuruan, in this study, researchers wanted to find out the meaning and law of money politics according to the Muhammadiyah Ulama of the City of Pasuruan, and the informants in this study were: Drs. Abu Nasir, M. Ag, M. Pd, and Ali Fauzi, S.Hi, M.H, all of whom

⁸² Fahrur Mu'is, *Dikejar Rezeki dari Sedekah*, p. 13.

were figures or scholars who were actively taking care of Muhammadiyah organizations in Pasuruan City or could be called the regional leaders of Muhammadiyah Pasuruan City.

In this research, the speakers explain the meaning or definition of money politics. According to Abu Nasir, money politics is a form of money politics, which is a method used by certain candidates such as legislative candidates or mayors to influence people to use their rights to choose certain candidates. This method has a variety of variations, ranging from giving money, giving groceries, or facilitating public places such as mosques, schools, diniyah, and so forth. This can be known through Abu Nasir's explanation of the notion of money politics.

“Politik uang itu adalah cara yang mereka pakai supaya rakyat mau memilih mereka. Caranya seperti apa? Ya membagikan uang atau apa yang bisa menarik simpati rakyat.”⁸³

Furthermore, Abu Nasir defined money politics as an attempt to gain a certain position and use bribes to the people as he explained

“tujuan DPR melakukan politik uang itu ya supaya mereka menang toh, agar orang yang dikasih uang memilihnya dan

⁸³ Abu Nasir, *Interview* (Pasuruan, 2 Februari 2020)

*akhirnya mereka memperoleh kursi, ya itu namanya nyogok.*⁸⁴

From the explanation of the Muhammadiyah scholars it can be understood and concluded that they categorize money politics as something that is not commendable because money politics is risywah or bribery where the law of risywah is haram. As the hadith of the Prophet PBUH:

عَنْ عَبْدِ اللَّهِ بْنِ عَمْرٍو قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لَعْنَةُ اللَّهِ عَلَى

الرَّاشِي وَالْمُرْتَشِي

*From Abdullah bin Amr he said: Allah's Apostle said "Allah's curse on the bribe giver and receiver of the bribe". (Narrated by Ahmad, no. 6984; Ibn Majah, no. 2313).*⁸⁵

More clearly, Ali Fauzi explained that there was a misery that resulted from the practice of money politics as he said

*“tujuan menjadi DPR itu kan harusnya mulia, sebagai wakil rakyat tapi kalau caranya saja salah, bathil, rela membuang-buang uang, kalo orang yang notabnya religius Bahasa islaminya sedekah jor-joran atau sedekah politik, padahal ya sama saja itu suap. Haram hukumnya. Logikanya saja kalau sudah jadi apa gak mau balik modal? Ya itu cikal bakal adanya korupsi”.*⁸⁶

⁸⁴ Abu Nasir, *Interview* (Pasuruan, 2 Februari 2020)

⁸⁵ Sulayman Ibn al-Ash’ath al-Sajastaniy, *Sunan Abi Dawud*, p. 324.

⁸⁶ Ali Fauzi, *Interview* (Pasuruan, 2 Februari 2020)

Sadaqah Political money that occurs in the midst of Muslim scholars can be called a political alms. They are in the name of money politics as if it is something positive, namely alms. In fact, the real meaning of money politics is bribery or the practice of buying and selling votes in which there is no justification to do so that it has an unlawful law. The existence of money politics practices can also cause mudharat thing because the costs incurred by certain candidates are very large and can exceed income if he is elected. This raises the possibility of acts of corruption occurring and corruption is a false act in which both the giver and the recipient will get sin as the hadith of the prophet explains the threat of God against those who give bribes and those who accept bribes.

The practice of money politics itself is an act that is far from praiseworthy because money politics is a category of risywah, risywah, which is an attempt to eat someone else's property in a false manner (justifying something that is unclean). Besides being prohibited by religion, Ali Fauzi also explained that the practice of money politics is also an activity that is prohibited by the State. He explained

“Bukan hanya agama saja yang melarang, di Indonesia praktik politik uang itu sudah kategori pidana iya kan.

*Undang-undang pemilu itu, kalau ayatnya wa laa ta'kulu amwalakum baynakum bil bathil surat al baqarah 188.*⁸⁷

This can be known through verses, hadith or legislation that prohibits the practice of bribery by certain candidates to the people. The basis for the prohibition of money politics activities according to the law is contained in Law No. 7 of 2017 concerning Elections while the verse that prohibits the practice is Surat al Baqarah verse 188 which reads:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ
النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

And let not one of you eat the treasure of another part of you by way of the way and (do not) you bring (the affairs) of that treasure to the judge, so that you can eat a portion of the property of others with (the way to sin), even though you knowing.

The opinion of Muhammadiyah scholars regarding money politics is unlawful and strongly and firmly rejects the practice of money politics. It can be known through the official website of Muhammadiyah, Tarjih Council and Tajdid PP Muhammadiyah clearly and expressly rejects the practice of money politics. This can be known through Din Syamsuddin's opinion, he stated that actually transactions in politics are gray because they can be negative and positive. It depends on the transaction about what

⁸⁷ Ali Fauzi, *Interview* (Pasuruan, 2 Februari 2020)

happened between the candidate and the citizen. However, he stressed that in the context of Indonesia, transactional politics is another designation of money politics or trade politics so that such acts are prohibited from being practiced. According to Din, the practice had the effect of reducing the quality and responsibility of candidates who were elected from bribery.⁸⁸ The statement was confirmed by Ali Fauzi, he explained:

“Terlepas anggapan politik uang dianggap sebagai suatu yang positif. Kita ini warga Indonesia dan harus tau bahwa Indonesia adalah Negara yang melarang keras adanya praktik politik uang. Adanya aturan itu kan untuk dipatuhi, bukan di langgar yakan.”⁸⁹

From this statement, the researcher can understand that Muhammadiyah mass organizations reject the practice of money politics because it is a practice of bribery that can trigger the harm and the lack of responsibility towards elected leaders using money politics. However, the problem is the use of alms agreement in the practice of money politics which the author will discuss in the research discussion.

b. Opinion of Muhammadiyah Scholar of Pasuruan City towards Alms Agreement by legislative candidates

1) Understanding Alms Agreement according to Muhammadiyah scholars

⁸⁸ <http://www.suaramuhammadiyah.id/2018/01/24/din-syamsuddin-say-no-to-money-politic/>, accessed on 3 Desember 2019

⁸⁹ Ali Fauzi, *interview* (Pasuruan, 2 Februari 2020)

Alms agreement is a contract that is used when giving alms. The alms agreement consists of two words namely the covenant and alms. A contract means an agreement or an agreement. While alms is a good thing and is recommended by Islam. Almsgiving is defined as infaq, grants, but in essence is the same, alms. As for the meaning of alms according to etymology which is derived from the Arabic "*shadaqatun*" which has the meaning of giving made by one person to another spontaneously and sincerely without any limitation of time and a certain amount.⁹⁰ This is something that is familiar and familiar to humans, be it Islamic or not and lay or expert. Alms have been known as something good and is a commendable act. This opinion was also justified by Ali Fauzi who explained that alms are a good thing and a form of worship. Which the perpetrators will get the reward if doing so according to his explanation

“Sedekah itu merupakan bentuk dari ibadah. Jadi gini ya mbak ya, sodaqoh itu kan termasuk perintah ya. Ya walaupun namanya macem-macem tapi pada intinya sama itu. Kadang disebut infaq, kadang disebut sodaqoh”⁹¹

However, the uniqueness that occurs in Indonesia in general and Pasuruan in particular is that they try to change the

⁹⁰ Ahmad Azhar Basyir, *Asas-Asas Hukum Muamalat*, p. 65

⁹¹ Ali Fauzi, *Interview* (Pasuruan, 3 Februari 2020)

negative meaning of money politics with a meaning that tends to be positive, namely alms. In the literature that researchers read, money politics is a category of *risywah* or bribery. This happens when the covenant that is used still uses the money politics contract. However, what happens in Pasuruan is the use of *sadaqah* (alms sighthat) which raises the question of how a legal product is created if the covenant used is an alms agreement. The contract is important in an agreement, and the intention is important in the agreement because in an agreement the intention is one of the important things in fiqh.

“apabila terdapat orang yang akan melakukan sesuatu yangmana mereka memiliki niat tidak benar dan tidak baik maka otomatis perbuatan orang itu akan menjadi bathil atau dinilai bathil”⁹²

Based on Abu Nasir's explanation, it can be understood that the actual action depends on his intention. Someone who has good intentions, will get the reward for his actions and vice versa as the hadith of the Prophet PBUH:

إِنَّمَا الْأَعْمَالُ بِالنِّيَّاتِ وَإِنَّمَا لِكُلِّ امْرِئٍ مَا نَوَى

“Actually every practice depends on the intention. And in fact someone only gets what he intends.”⁹³

⁹² Abu Nasir, *interview* (Pasuruan, 3 Februari 2020)

⁹³ Muhammad bin Ismail Al-Bukhori, *Shohih Al-Bukhori*, (Beirut: Dar An-Najah, 1422.H) p.140

It is also in accordance with the rules that explain that action depends on its purpose. So, if someone has an incorrect intention for his actions, the automatic legal product created is in accordance with what he means. An example of this case is if there is someone who hires women (in this case to commit immorality). Then someone makes an excuse so that the woman gets a job and seems to help the woman, even though the goal is immoral. So, the legal product created is haram.

2) Legal of Alms Agreement by Legislative Candidates According to Muhammadiyah Scholar

In accordance with some explanations about the meaning of alms, it can be understood that alms is a good and commendable act. According to Ali Fauzi alms is a form of worship and is a commandment. According to him, the order must be done sincerely in accordance with the paragraph:

وَمَا أُمِرُوا إِلَّا لِيَعْبُدُوا اللَّهَ مُخْلِصِينَ لَهُ الدِّينَ حُنَفَاءَ وَيُقِيمُوا الصَّلَاةَ وَيُؤْتُوا الزَّكَاةَ
وَذَلِكَ دِينُ الْقَيِّمَةِ

*Though they are not told except to worship Allah by purifying obedience to Him in (practicing) righteous religion, and so that they establish prayers and perform alms; and that is the true religion.*⁹⁴

⁹⁴ QS. Al-Bayyinah (98): 5

Ali Fauzi uses the verse as a basis or foundation for why giving alms must be based on sincerity. This can be understood by researchers through explanation:

*“Namanya perintah itu kan berarti kewajiban. Semua perintah itu harus di laksanakan dengan ibadah. Wa maa umiru illa liya’budullah. Namanya ibadah harus mukhlisin. Harus ikhlas. Kalo ikhlas kan semata-mata kan harus karena Allah, tidak ada embel-embel”*⁹⁵

Furthermore, what happens in the facts of the field, many of the legislative candidates who do alms are aimed at getting sympathy from the people. This is a question mark whether they belong to the category of "mukhlisin" as stated in the letter Al Bayyinah. An example of a case that occurred in Maluku. A Legislative Member named Ahmad Hatari said he was disappointed at the vote he got in the Tidore area, North Maluku. He claimed to be disappointed because the noise he got in the area did not meet his expectations and then he brought up his gift in the form of a carpet and a large sitting clock that was offered to a mosque.⁹⁶

The case is one illustration that many of the candidates for legislative members who do "alms" with the intent and purpose of getting sympathy from the people and tend to contain *riya* 'in their giving, especially with the case where legislative

⁹⁵ Ali Fauzi, *Interview* (Pasuruan, 4 Februari 2020)

⁹⁶ <https://regional.kompas.com/read/2019/04/19/21182021/tersinggung-soal-perolehan-suara-warga-kembalikan-karpet-dari-caleg?page=all>, accessed on 14 Februari 2020

candidate candidates bring up his gift, whereas in Surat al Baqarah verse 188 explains that the practice of alms should not be carried out on the basis of riya '(showing off) and bringing up the gifts he has given. The editor of the verse is as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تُبْطِلُوا صَدَقَاتِكُمْ بِالْمَنِّ وَالْأَذَى كَالَّذِي يُنْفِقُ مَالَهُ رِئَاءَ
النَّاسِ وَلَا يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۖ فَمَثَلُهُ كَمَثَلِ صَفْوَانٍ عَلَيْهِ تُرَابٌ فَأَصَابَهُ
وَابِلٌ فَتَرَكَهُ صَلْدًا ۖ لَا يَقْدِرُونَ عَلَى شَيْءٍ ۖ مِمَّا كَسَبُوا ۗ وَاللَّهُ لَا يَهْدِي الْقَوْمَ
الْكَافِرِينَ

O you who believe, do not deprive your alms by mentioning it and hurting (the recipient's feelings), as one who spends his wealth because of riya to man and he does not believe in Allah and the day after. Then the parable of the man is like a slippery stone which has earth on it, and then the stone is poured down by heavy rain, and he will be clean (without land). They do not control anything that they try; and Allah does not guide the disbelievers.⁹⁷

Ali Fauzi considers that the context of alms should be carried out with sincerity, while the property or material that they share during the campaign or election moment cannot be called alms because there are elements in it that they tend to show off their gifts in order to attract sympathy from the people, while riya ' or showing off is one thing that can cancel alms. There are three things that can cancel alms, namely *Al Maan* (arousing), *Al Aza* (hurting), and *Riya'*. Even if they continue to pronounce the contract with worship (sadaqah) he considered

⁹⁷ QS. Al-Baqarah (2): 188

the contract would be futile or useless because it refers to Surah al-Baqarah verse 188 which prohibits the display of the alms.

This is as he explained

“tidak ada kaitan dengan agama, dengan ibadah. Walaupun mereka ngomongnya itu sodaqoh, wong nyatanya di ungkit, apalagi ada kasus yang diminta kembali tambah ilang kabeh wes gaonok apa-apane sodaqohe”⁹⁸

In addition, there are forbidden times to give alms, one of which is giving alms with the aim of getting something that is not his right. An example of a time that is prohibited from giving alms is when a person gives a judge to be released from a case.⁹⁹ This is similar to the goal of legislative candidates who give bribes to the people so that he is elected and obtain a seat in the DPR. Except for alms carried out by legislative candidates carried out sir (quietly). So it is possible that the alms they do are not to show off because in fact there are virtues in alms sir that are:¹⁰⁰

a) That alms done clandestinely can maintain self-esteem.

⁹⁸ Ali Fauzi, *Interview* (Pasuruan, 4 Februari 2020)

⁹⁹ Samsul Anwar, *Korupsi dalam Perspektif Hukum Islam*, p. 23

¹⁰⁰ Imam Al-Ghazali, *Terjemahan Ihya' Ulumuddin Jilid II*, p. 69-71.

- b) Alms in secret can also save from negative human thoughts, for example, save from the human mind that is jealous of alms giving.
- c) In addition, alms done in secret can hide the identity of those who do alms.
- d) Conceal the identity of the recipient of alms with the aim that the recipient does not feel insulted or humiliated because actually revealing the recipient of alms can make the recipient low or despicable.
- e) Keep yourself away from doubtful and shirk

Based on the data and analysis above, it can be concluded that there are differences of opinion regarding the legal use of the alms agreement by legislative candidates according to the perspective of Nahdlatul Ulama and Muhammadiyah scholars of Pasuruan City. Fatwas issued by Nahdlatul Ulama and Muhammadiyah do not have binding characteristics and must be followed. In this issue, the two community organizations have their own views, thoughts, and legal basis. The existence of differences of opinion in the context of jurisprudence is not a problem, the existence of differences of opinion in the context of jurisprudence is a natural and it will even be difficult to

believe if all scholars have the same opinion both in the case of *furu'* and *siyasah*.¹⁰¹

Dissent (*ikhtilaf*) is a condition where there are differences of opinion or differences in opinion of Ulama in understanding and addressing a problem.¹⁰² The difference of opinion that lies in this research is regarding the law of money politics, and the law on the use of alms contracts conducted by legislative candidates. So that these differences are clearly conveyed the researchers will explain in the form of a table as follows:

Table 4.1 Differences opinion of Nahdlatul Ulama and Muhammadiyah of Pasuruan City

No.	Organization	Law	Opinion
1.	Nahdlatul Ulama	Money Politic	The original law of money politics is haram, but if you look at the condition of the rise of money politics, then money politics can be categorized as buying the truth with the record of its opponents believed to be no better.

¹⁰¹ M. Yusuf Amin Nugroho, *Fiqh Al Ikhtilaf NU Muhammadiyah*, (Wonosobo: PDF, 2012), p. 8

¹⁰² Mohammad Hanief Sirajulhuda, "Konsep Fikih Ikhtilaf Yusuf al-Qardawi", *Jurnal Tsaqafah*, 13 (2017), p. 258

2.	Muhammadiyah	Money Politic	Money politics is included in the category of <i>risywah</i> and the law is haram.
3.	Nahdlatul Ulama	Use of alms agreement by legislative candidates	The alms agreement used by legislative candidates remains valid only if it is based on showing off or <i>riya</i> 'then the reward is canceled.
4.	Muhammadiyah	Use of alms agreement by legislative candidates	The Alms Agreement conducted by the legislative candidate is likely to be based on showing off, the term is only to replace money politics. Alms accompanied by showing off are false alms.

CHAPTER V

CLOSING

A. Conclusion

1. The Opinion of Nahdlatul Ulama Scholar of Pasuruan City About Alms Agreement by Legislative Candidates At Election Moment

According to the Nahdlatul Ulama of the City of Pasuruan Politics of money is the activity of providing financial assistance carried out by certain candidates with the aim of influencing the mindset of the people to vote in the election. The assistance provided by legislative candidates, regents, mayors, and others has the objective to gain the sympathy of the community and create a positive mindset for the candidate. The assistance provided can be in the form of fresh money given to the people (dawn attack), road improvement, construction of schools or madrassas and mosques. In Indonesia, money politics has become ingrained in the mindset of the people, making money politics difficult to avoid. This

makes the law of money politics origin which was previously an unlawful case to be done on the basis of fighting for the truth (*badzrul mal*). The use of alms agreements by legislative candidates according to the Nahdlatul Ulama of Pasuruan City is considered legitimate because there are no pillars and flawed conditions, only with a note that alms must be based on sincerity in them. If the legislative candidate who does alms is not sincere in giving alms, then alms is still legitimate as alms but the reward is disqualified.

2. The opinion of Muhammadiyah Scholar of Pasuruan City About Alms Agreement by Legislative Candidates At Election Moment

The Muhammadiyah City of Pasuruan explains that Money politics is a form of political money, which is a method used by a particular candidate or mayor eg legislative candidates to influence people to use their right to choose certain candidates. The way it has variations that range from giving money, giving food, or facilitate public places such as mosques, schools, diniyah, and, so on. They categorize the money politics as something that is not commendable because of the politics of money is *risywah* or bribes. Regarding the use of various contracts by legislative candidates, they have the opinion that alms are a form of worship and worship must be done sincerely and solely because of God. They also argue that the element of sincerity that is done by legislative candidates who give alms is a doubt because they did it at the moment of the election. In fact, alms should be done sincerely and not

show off as the word of Allah SWT in Surah Al Baqarah verse 188 which explains the prohibition of Allah to show off the alms that have been done.

B. Suggestion

1. The Nahdlatul Ulama of Pasuruan City should understand the differences opinion regarding money politics law and the use of alms contracts used by legislative candidates because it is natural and should not be blamed for each other because of the differences that occur as the proverb "fii kulli ro'sin ro'yun" because these differences are not differences on the subject of superstition but only matters that are *ijtihadi*.
2. We recommend that in the practice of money politics candidates for the legislative candidates have an honest, responsible nature and nominate themselves because of the noble goals as their title is people's representatives, and avoid to have the purpose of gaining position, enriching themselves, and others as suggested by Muhammadiyah Pasuruan City.

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