

The Dynamic Facts of the MUI'S *Fatwas*

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Abstract: This article is aimed at revealing the dynamic facts of *fatwas* issued by the Indonesian *Ulama* Council (MUI) as the *fatwas* often raise contestation. The article is based on a qualitative study with applied research is its design. It employs interview, questionnaire, and document analysis. The interview transcription and document collection are interpreted by using content analysis. The study also uses a Guidance Book and procedure of how deciding the MUI's *fatwas* as complementary data. From data analysis, the findings show that MUI has produced various types of *fatwas* from 1975 to now. *Fatwas* are produced by the commission of Fatwa, but since the Reformation period the MUI has also built another special committee of *fatwas*: Council of National Islamic Law (DSN). The different types of *fatwas* and commissions clearly show that the issuing *fatwas* are not only based on religious reasoning, but also social, political, economic backgrounds. All those *fatwas* should ideally prove the existence of dynamic facts and provide learning on the ideal inter-relations between the MUI and Indonesian Muslim society as well as the MUI and the Governments.

1 INTRODUCTION

Fatwa primarily refers to an opinion in an Arabic word. In religious views, it can be understood as an Islamic Legal Opinion accumulated from the perspectives of Islamic Law. It is an answer on a particular issue, given by an Islamic scholar either individually (*alim*) or collectively (*ulama*) in responding a religious question of a petitioner (Kaptein 2005, p.1). The *fatwa* is often used and referred to by the state and Indonesian society concerning Islamic related issues, such as Islamic law, theology, ethics, morality, and others). Due to its significance, the Indonesian executive and legislative bodies should also consider the MUI *fatwas* to be considered as an important sources for drafting the Indonesian laws (Hasyim, 2015, p.488).

Recently, however, the MUI *fatwas* have often been considered to become stronger its influence in the past ten years or so, as the ban of pluralism would create controversy to the national motto: *Bhinneka Tunggal Ika* (unity in diversity) (Hasyim 2015, p.488). Indonesian *ulama*, like other *ulama* in other parts of the world, are guided by the Holy Book al-Qur 'an and / or Prophet Tradition (*Sunnah*) when they convey their Islamic teachings or advices to a Muslim community. If there is no solution, they can

take *Ijtihad* which mean to undertake a hard effort and endeavour in attaining objective/s; it is a spiritual decision taken by the companions, followers and the following scholars who then regulates the issues explicitly. Thus, when Indonesian *ulama* issue *fatwas*, they cannot neglect the importance of *Ijtihad*, also often called Islamic Legal Reasoning. In this case, *fatwas* become an excellent source that reflect the social, political reality of a Muslim society knowing that there are various matters of Indonesian Muslim society that should be responded by Indonesian *ulama* in different Islamic legal opinions in the contemporary world.

This article, therefore, explores the variety of *fatwas* issued by the MUI during 1975-2015 to reveal that a *fatwa* is not issued by only considering a specific aspect to respond a certain matter, instead it is in favour of others, as a matter of fact, it would lead to find dynamic factors surrounding the issuance of the *fatwas* which finally reflect the diversity of religious reasoning and social political, economic situations of the country.

2 METHODOLOGY

This is a qualitative study with applied research used at its design. It focuses on how knowledge is used and applied on practical and immediate things in order to reduce problems among society at large or specific public or private research scales (Brodsky and Welsh, 2008). This research engages with people, an organization, and *fatwas* aiming to solve a social community problem and apply scientific development for human services. To be specific, this study focuses on MUI *fatwas* issued from 1975-2015. Year 1975 is an indication of the MUI's establishment inaugurated by HM Soeharto, the 2nd President of Indonesia. Meanwhile, the year 2015 marks last *fatwas* studied by this research. During Post-Soeharto from 1998 to 2015, many different types of *fatwas* include social, political, economic backgrounds have been issued. To be noted, the year 1998 remarks the end of the President's Authority which also indicates the beginning of the Reformation Era. Finally, the article explores the MUI different responses and reasons of various topics questioned by Muslim/s that are not found in the primary resources of Islamic teachings (al-Qur'an and Prophet Tradition).

To implement the applied research, this study employs interview by interviewing MUI leadership, MUI administrative leadership, and MUI Fatwa Commission. Further, it also provides questionnaires given to those leaderships in order to complement data collection. Documentary study is also applied in regard with a bunch of related *fatwas* documents given by MUI respondents. Finally, observation is carried out by observing a discussion process of solving problems to be decided by MUI. To get deeper understanding, this study employs content analysis on the interview transcription and different types of *fatwas*, together with the use of *Pedoman dan Prosedur Penetapan Fatwa* (Guidance Book and Procedure of Deciding Fatwas) stipulated by Keputusan Komisi Fatwa MUI (Decision of MUI Fatwas Committee No. Istimewa/VII/2012 dated on June 1, 2012). Using the Guidance Book, various reasons surrounding the issuing *fatwas* can be revealed, and distinctiveness of the religious, social, political backgrounds on the issuing *fatwas* can be unfolded.

The use of qualitative content analysis is to focus on the subject and its context and to emphasize on its variation. By choosing the inductive approach of the content analysis method (Graneheim et al. 2017), it is then to find the level of abstraction and degree of interpretation of different parts of *fatwas*, such as the findings of construction of categories/areas of *fatwas*,

as the findings followed by its description on themes, and the meanings of items. In the end, results of the research would be interpreted by its data as well as the related literature resources. In the meantime, the population includes all *fatwas* of different areas, and the choice of sample seems to be set randomly at 30% - 40% or selected to each prominent subject.

3 RESULTS AND DISCUSSION

3.1 Categories of *Fatwas*

Areas of covering *fatwas* generally involve with all Islamic teachings about all aspects of human life that have not been yet grasped by *mustafti* (Muslims who search for an *ulama* legal opinion / *Fatwa*), whether or not included in both Islamic law of human externals (*Shari'ah* and *Fiqh*), or Islamic values included in Muslims' inner belief (*Aqeedah*) and morality. However, the area is limited to legal issues concerning human internals (*Shari'ah / Fiqh*), even some Islamic scholars limit the *fatwas* into the laws of external *Ijtihad* (Ibn al-Sa'ati 1984, p.679). In Indonesia, the *fatwas* become so colourful as Hooker (2003, p.45) saying that the internal Islamic jurisprudence provides a big opportunity for Muslims to accommodate local customs as well other foreign influences into religion, but coming along with the existence of defensiveness in Islamic Law and dogma.

Thus, the first finding shows the existing various *fatwas* issued by the MUI's Fatwas Committee as shown by Table 1 below. *Fatwas'* number for the period 1975-2015 has been 162 (one hundred and sixty-two) issues: consisting four different categories: *Aqeedah* (beliefs, theology), *Ibadat* (worship, performance), Social Culture and Science and Technology, and POM (Supervision on Drugs/medicine and Food). Those *fatwas* can be figured out as follows:

Table 1: Categories of *fatwas* issued by the committee of *fatwa* period 1975-2015.

No.	Fatwa Categories	Number
1.	<i>Aqeedah</i>	14
2.	<i>Ibadat</i>	40
3.	Social culture and Sciences and Technology	58
4.	POM	50
Total number		162

Source: Himpunan Fatwa MUI (2015)

The four categories of *fatwas* in table 1 consistently issued during two different Governments: the New Order (1975-1998) and the Reformation Era (1998-2015). Importantly, related religious *fatwas* (consisting of *Aqeedah*:14 and *Ibadat*:40) are counted lesser number compared to both social cultural Areas and Sciences and Technology (58) and POM (50). The 3rd and 4th categories of *fatwas* are complementary one to another as both Islamic legal opinions to respond Muslims' living demands, an indication that the MUI mainly concerns on the actual-contemporary issues.

Unfortunately, the smallest number of *fatwas*, i.e. *Aqeedah* issues, is considered very urgent to those who issue as well those who inquire the *fatwas* to get Indonesian *ulama* responses. Among several *fatwas* which raise controversy is that Fatwa on *Ahmadiyyah* Sect No. 11 MUNAS VII/MUI/15/2005 issued at the National Conference XI on 28 July 2005. In fact the *fatwa* has been stipulated to strengthen the earlier MUI's *fatwa* on *Ahmadiyya Qadiyan* released at the Report of National Conference II held 26 May-1 June 1980. Another similar conflicting *fatwa* resulted from the National Conference XI in 2005 is about Pluralism, Liberalism and Secularism (Gillespie 2007), (Burhani 2014), and (Hasyim, 2015).

In this case, the examples on the *fatwa* of *Ahmadiyyah* Sect and other considered deviant thoughts, such as pluralism, liberalism, and secularism movements can be taken back and relied on the Indonesian *ulama* themselves who become a decisive factor. It is Indonesian religious thought; Islamic comprehension, as well as piety has made direction to generating the *fatwas*.

On the other hand, the *fatwas* that respond to questions of *Ibadat* (Islamic Jurisprudence), such as the *fatwa* on Friday prayer on the ship for Muslim travellers, on anti-menstrual pill during Hajj pilgrimage, on deciding first day of Ramadhan fasting, they are often prone to not bring conflict, either horizontal (*khilafiyah*, different perspectives on the issues of worship performance), and vertical (different stances between the *ulama* and the Government or Regime in power) (Zanah and Haryanti 2016). These four varieties of *fatwas* have shown the dynamics fact of MUI's *fatwas*.

Since the beginning, the MUI has laid its foundation for its programs for analyzing the background of issuing *fatwas*. Importantly, it is the existence of Indonesian *ulama* which is considered the significant position as the heir of the prophets, having responsibilities of spreading Islamic teachings, calling to do lawful deeds and forbidding the unlawful ones. The MUI plays its role as guardian

of the Muslim people (*ummah*) in order to keep and improve their obedience towards God the Almighty. Thus, the emerging questions raised by the *ummah* would be answered by the *ulama* very carefully. This stance should show its active cooperation with the Government and the State. Strong collaboration between *ulama* and the Government is necessary and need to improve; among other things, through supports to succeed National development; i.e. strengthening National Security (as stated at its National Conferences from National Conference I in 1975, National Conference II, in 1980, to National Conference IX, 2015).

3.2 The Establishment of DSN Fatwas Committee

Since the beginning of the 1998 reformation up to now, the MUI has undergone some fairly basic and significant changes, as shown by the document of the results of its National Conference in 2015. MUI's vision, for example, has been written as follows: the creation of nationally excellent condition of community life, obtaining the bless and forgiveness of Allah the Almighty, realizing good quality of the *ummahh* in order to achieve the glory of Islam and Muslim people (*izzul Islam wal muslimin*) within the boundary of the Unity State of the Republic of Indonesia as manifested by the blessing of Allah the Almighty to the whole world (*rahmatan lil 'alamin*).

In the document it also mentions the roles of MUI to issue *fatwas*. The MUI has responsibilities for the guidance and religious service of the *ummahh*, for a pioneer of the improvement and renewal (*ijtihad*) movement, and for becoming the leader of the *ummah*. These stronger roles of the MUI have indicated that the *ulama* are having the increased responsibilities in many more aspects of life of the *ummah*. In this case the *ulama* can do many things for the *ummah*, for example, during the Soeharto Administration, POM as an area of *fatwas* has been extended to be LPPOM (a Research Council of POM) established on 6 January 1989. This is to protect Muslims from Islamic unlawful drugs and food, as well as to provide a halal certificate for the Islamic lawful goods. Another dynamics fact which shows the way the MUI has stronger roles in Muslim community it has been the establishment of a *fatwa* committee called DSN (National Islamic Law Council) in 1999. This committee develops fast in responding questions raised by the *ummah* on related Islamic financial issues. The types of economic *fatwas* are in table 2:

Table 2: Themes of *fatwas* issued by the committee of DSN period 1999-2015.

No.	Themes	Number
1.	Sharia - Islamic Law Banking	58
2.	Islamic Law Insurance	6
3.	Islamic Law Capital Market	13
4.	Islamic Law Pawnshop	2
5.	Islamic Law Financing	1
6.	Islamic Law Assurance	1
7.	Islamic Law Accountancy	3
8.	Islamic Law MLM	2
9.	Islamic Law Commodity	1
Total		87

Source: Himpunan Fatwa Keuangan Syariah Dewan Syariah Nasional MUI (2014)

The second finding of the research as shown above in the case of DSN fatwa committee has shown another movement of deciding *fatwas*. As the basic consideration, the issuance of *fatwas* definitely relies on al-Qur'an and the *Sunnah* through the process of independent reasoning (*Ijtihad*) carried out by qualified *ulama*. However, in the overall process of formulating *fatwas* it should also be based on the purpose of Allah and His Messenger oriented to achieve *mashlahah* (wisdom) for the betterness and prosperity of the *ummah* both in the world and hereafter (Al-Qardlawi 2006, p.4).

The MUI's various responses to demands of Indonesian Muslims on Islamic financial products, such mentioned by the table above, have been developing fast. In one hand, Muslims have a choice of having Islamic financial products that indicate them as pious Muslims so that they have internalized the proper Islamic guidelines expressed into their behaviours in various aspects of their daily life. On the other hand, the rise of Islamic banking is also an example that Muslims' claiming' or maintaining' their identity. Furthermore, the growth of Muslims' choice on Islamic financial products can be a response to particular class characters (as mentioned here reference to the middle to upper classes) to broader social, economic, and political changes. This Muslim choice is regarded by themselves as enlightening and its consistency with the view of modernization and globalization (Pepinsky 2013, p.157).

3.3 Religious, Social and Political, Political Backgrounds

In the aftermath Reformation began in 1998, there has been provided many opportunities for people to articulate freedom of speech and to launch public opinions; the MUI has a chance to show its role and

redefine it for the future (Ichwan 2005). Similar to other parts of the world, *Ulama* in many contemporary Muslim societies have also been perceived successful in broadening their influences through their significant contributions to public discourses (Bush and Fealy 2014). The MUI's roles before and after the Reformation Era have been much shifted. To be specific areas of the *fatwas* are getting varied, and the intensification of the *fatwas* is also increased.

Fatwas obviously are products of mind activities of *ulama*, either they are *mujtahid* or *non-mujtahid* (Islamic reformers or non-Islamic reformers). To be *mujtahid*, *ulama* should meet series of requirements. They should have a good moral conduct as Muslims and achieving *taqwa* (Islamic piety). Professionally, they have to master Arabic, Islamic Logics, Qur'anic verses, the Prophet's Tradition (*Hadith Ijma'* (*ulama* consensus), and logical reasoning (*Qiyas*). However, recent phenomena shows that in deciding *fatwas*, *ulama* should place al-Qur'an and *Sunnah* as guidance of human being, furthermore, it should be understood on *Maqashid Syari'ah* (MS), higher purposes and intents that should be achieved by Islamic Law. MS can be explained how wisdoms entail to rulings; such as wisdoms behind charity are to enhance social cohesion. Therefore, MS should have prioritized things in a high order and comprehension on Muslim society with things entail to contemporary life demands become necessary.

Furthermore, the *fatwas* are also influenced by social political backgrounds. The shift on political landscape has significantly changed the MUI as an institution, and *ulama* get more influence among the *ummah*. On the other hand, the *ummah* also can improve their appreciation towards the *ulama*, as they have more freedom to request advice and respond positively to the *ulama's fatwas*. Thus, understanding *fatwas* also display religious background in recognizing *Fiqh*. It is a branch of Islamic Studies discussing Muslims' understanding on the *Shari'a* (Islamic Law) resulted from interpretation (*ijtihad*) to produce *fatwas*. Therefore, *Shari'a* is believed by Muslims to represent a Divine Law revealed in the Qur'an and the *Sunnah*.

It is significantly noted that the MUI *fatwa* does not always consistently follow the methodology patterns in determining *fatwas* as found in *Fiqh*. The *fatwas* sometimes directly refer to the Qur'anic verses before applying the *Sunnah*. However, *fatwas* references are often based on classical *Fiqh* texts written by Syafi'i school (Atho 1993). Additionally, the legal status of *fatwas* differs to *qadla'* (decision of Judge of the Court); meaning that the *fatwas* have a

general sense, non-binding law; meanwhile *qadla'* is particular and a binding law to certain Muslims who concern. Again, this is the fact that *fatwas* have a dynamic non-binding aspect.

4 CONCLUSIONS

This article has shown that the fatwas issued by the MUI (1975-2015) in reality consisting of diverse explanations which lead to understanding that the MUI and its *fatwas* include various dynamic facts. As an institution the MUI can transform its organization and the programs. Similarly, the *fatwas* also can develop due to the change of social political landscape, in term of the areas of *fatwas* as well as the intensifying influence on Muslim people. As the *fatwas* should have got stronger impact to Muslim people generally and change the relation between the Muslims among themselves and other non-Muslims, between Muslims and the whole Indonesian *ulama*, as well as between the MUI and the Government, Indonesian Muslims should generally have been ready to challenge future of *fatwas* to be always meet with their time demands.

The research shows that the Muslims should have been likely to become more familiar with the MUI *fatwas* in order that their daily practical lives are still enlightened by religious values and treated the MUI as no longer an institution of the other. The Muslims should maintain a unity of all the people, to use a general guidance in responding various problems, and to become wiser in confronting differences.

Thus, further research is encouraged to identify and analyse more dynamic factors of MUI's *fatwas*. It should prove and develop the richness of Indonesian distinctiveness of types, problem solutions, and procedures of issuing *fatwas*. Importantly, the dynamic relations between the MUI, Government, Indonesian Muslims and non-Muslims should also be built in more mutual understanding and toleration when issuing further *fatwas*.

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