The Power of Fatwâ in Indonesia: An Analysis of MUI’s Controversial Fatwâs

ABSTRACT

This study aims to investigate socio-political factors that make certain legal opinions (fatwâs) in a Muslim context enforceable and powerful. Although these legal opinions are not binding in principle, their supporting agents engender a degree of efficacy and enforceability. They are followed and abided when external factors, either the state or society, politically or voluntarily support the implementation of those fatwâs. These external factors of fatwâ are largely understudied, especially in the light of how fatwâ gains its enforceability and power to attract people following and complying with fatwâ rulings. By studying controversial fatwâs of MUI (Council of Indonesian Ulama), namely on the banning of Ahmadiyyah and the prohibition of secularism, pluralism, and liberalism in religion of Islam, this article sheds a light more comprehensively on the relationship between fatwâ and external factors that make this non-legal binding opinion powerful and enforceable.

Keywords: Controversial, Enforceability, Fatwa, MUI, Muhammadiyah, NU

MOHAMMAD SYIFA AMIN WIDIGDO¹, HOMAIDI HAMID²
Universitas Muhammadiyah Yogyakarta¹,²
syifamin@umy.ac.id¹ maidihamid@yahoo.com²
fatwâ tersebut. Dengan meneliti dan membahas tentang fatwâ-fatwâ kontroversial MUI, yakni tentang pelarangan Ahmadiyyah dan sekularisme-pluralisme-liberalisme, kami berharap dapat menjelaskan hubungan antara fatwâ dan faktor-faktor externalnya utuk mendapatkan gambaran dan jawaban tentang bagaimana sebuah fatwâ memperoleh kekuatan dan otoritas sehingga dapat diterapkan.

Keywords: Controversial, Enforceability, Fatwa, MUI, Muhammadiyah, NU

Although fatwâ (plural: fatâwâ or fatwâs) as opinions of law are not legally binding in Islamic legal tradition, but their influence on the heart of Muslim society is still paramount. They are an important source of guidance for many devout Muslims. The fatwâs which provided either by a person or an institution influence not only a man who ask the fatwâ, but also give impact on a wider audience. In the early stage, the fatwâs were issued by major jurist-consults (muftîs). The impact of them might be limited to a person who asks the question to them (mustaftî). According to Hallaq (1993), nearly all fatwâs revolve around a person or persons in highly particular circumstances.\(^1\) But, the efficacy of fatwâs becomes much more compelling when jurist-consults provide collectively their opinions of law. Furthermore, there are many legal apparatus that support the implementation of those fatwâs.

This is what happens in Indonesia. Although some clerics still provide fatwâs sporadically in some regions, the most influential is the fatwâs issued by national organizations such as MUI (The Council of Indonesian Ulama), NU (Nahdatul Ulama), Muhammadiyah, or Persis (Persatuan Islam). Studies on fatwâ issued by these organizations have been conducted by scholars. Atho Mudzhar wrote about fatwâs of MUI in 1993,\(^2\) and M.B. Hooker described a large number of fatwâs from various organization according to general themes.\(^3\) Meanwhile, Moch. Nur Ichwan discussed the changing position of MUI during the reformation era. While MUI was considered supportive and even legitimating policies during President Habibi’s presidency, in the time of President Abdurrahman Wahid, MUI was deemed oppositional to government’s political positions and policies.\(^4\) In addition, Mun‘im Sirry examined MUI’s controversial fatwas and found out that they were not only stimulating a degree of violence as some scholars suggest, but also fruitful for a public debate and discussion among Islamic groups in Indonesia.\(^5\)

Although these previous studies dealt with MUI fatwâs, their main concern was not to study how the fatwâs are enforced and what factors
and strategies used to make them abided and applied in society. The enforceability of fatwâs in public life is still understudied, which leaves us wondering why some fatwâs are enforced and have practical impacts on society and some others are not. This ignorance about the efficacy of the fatwâs stimulates a question of how the fatwas, which actually have no legal binding, becomes powerful (having an appeal for enforcement through certain apparatus) to deal with social and religious issues in Indonesia. This article, in fact, aims to address this important question.

In this regard, this study uses a socio-political approach to show the operation of the fatwâs and its “apparatuses” by which their status becomes powerful. Inspired by Michel Foucault’s notion of “relations of power”,⁶ the term “power” in this study is not only understood as intrinsic authoritative force within fatwâ that engenders obedience of its petitioners (mustaftis) and audiences but rather as a network of authoritative and attractive forces, including external forces stemming from apparatuses of the fatwas, that makes such fatwâ embodied in a personal, political, or social life. When fatwâ is powerful or efficacious, it means that that fatwâ has necessary apparatuses and forces to make it enforceable, obeyed, and implemented by its targeted audiences.

In this regard, first, we will provide a brief account of fatwâs in Indonesian context, then focus the discussion on fatwâs of MUI, especially which dealt with some controversial issues, second, identify social and political factors that make fatwâs efficacious, and finally draw a conclusion of the grounds of the efficacy of fatwâs.

**FATWÂS IN INDONESIAN CONTEXT**

Fatwâ, to follow Nico J.G. Kaptein’s term, in its traditional definition refers to an opinion of a particular topic from the point of view of Islamic law, given by an acknowledged expert, known as muftî. The practice of issuing fatwâ called iftâ’. Fatwâ is normally given at the request of someone, called mustaftî (fatwâ practitioner).⁷ The conditions required by the classical doctrine for the exercise of the profession, or even for the delivery of fatwâ, are: Islam, integrity or ð adâla, legal knowledge (ijtihâd), or the ability to reach, by personal reasoning, the solution of a problem.⁸

The important collection of the personal fatwâ emerged in Indonesia was issued by Shafi’ite muftî in Mecca, Ahmad Dahan (d.1886), based on questions coming from Malay-Indonesian Archipelago. The name of
the collection is Muhimmât al-nafâ’is fî bayân as’ilat al-hadîth (The precious gems treating the explanation of questions about current topics). It contains a wide range of topics ranging from Islamic rituals, inheritance, to the relationship with the non-Muslim Dutch government. In fact, this fatwâs collection mainly relied on Shafi’ite sources in sixteenth century, namely Ibn Hajar Haitami’s Tu%fa (the Gift) and al-Jamal al-Ramli’s the Nihâya (The Ultimate Goal). In other words, the Muhimmât represented the fatwâs which were issued by using taqlîd rather than ijtihâd as the main methodology.

Another example of personal fatwâs comes from modernist scholar, namely Ahmad Hassan (1887-1958). He regularly provided religious consultation in a journal called Pembela Islam (The defender of Islam) in between 1929-1935. Instead of harnessing certain jurisconsults school of thought, he confidently referred directly to Qur’an and Hadith to derive certain legal opinions. This attitude was actually a result from the influence of Islamic reformists’ thought, such as Muhammad Abduh and Rashid Rida. They advocate the importance of ijtihâd instead of taqlîd especially in terms of deriving fatwâs. Even though Ahmad Hassan’s religious opinions based on ijtihâd, not the taqlîd, his fatwâ’s type was still traditional in a sense that it went around individuals.

Nowadays fatwâ in its traditional meaning which issued by individual muftîs still exist in Indonesia, but their influence seem to be decreasing compared to the fatwâs which produced by group of ulama (religious experts) of certain religious institutions. In this regard, the character of the fatwâs is more collective in terms of muftî and the audience. The committee of ulama (religious clerics) usually holds certain discussion forum (shûra) in the aims of issuing fatwâs for Islamic community. Then, those modern fatwâs are communicated to their petitioners (mustaftis) not only in an immediate way and in person, as the case with classical fatwâs, but also utilizing the available media, with the result that fatwâs now reach a wider spectrum of community members.

The largest organization which has been formulating the fatwâs through process of consultation, discussion, and collective reasoning (shûra) is NU. The name of the forum in which the collective reasoning session held is Bahsul Masail (The Discussion of Issues). Soon after its inception in 1926, NU held such session in Surabaya to give a proper opinion on problems and issues at the time. The Bahsul Masail (Ar. Baithul
Masa’il) of NU continues to be held on a regular basis ever since and the result of the session is published for its member and for Indonesian society at large. At the beginning NU preferred to use certain kind of taqlîd (following previous opinions of Islamic legal scholars) in issuing fatwâs. In this regard, the method initially was to take the consensus of Nawawi and al-Rafi’i, respectively the Minhaj and the Muharrar. If this failed to answer the Minhaj had preference, but on failure then al-Rafi’i. In the case of further failure, then the majority of Shafi’i ulama; the reference here is to al-Mahalli’s Kanz al-Raghibin, Ibnu Hajar’s Tuhfah al-Muhtaj, Sharbini’s Mughni al-Muhtaj and al-Ramli’s Nihayat al-Muhtaj. Finally, the view of the most knowledgeable (¿alim) might be consulted, and now it was question of taqlîd, not ijtihâd. Nevertheless, since 1992 Muktamar (National Conference) held in Lampung, NU has been transcending the purely traditionalist methodology by accepting and adopting a kind of collective ijtihâd (independent reasoning) and is considered to be valid in deriving religious opinions.

Another Islamic organization that gives fatwâs by means of collective reasoning is Muhammadiyah. Syamsul Anwar records that Muhammadiyah has issued fatwâs since 1927 after the formation of its Majelis Tarjih (The Council for Finding Stronger Legal Proofs or Opinions). This council body of Muhammadiyah was directed to the examination of Islamic teachings; providing in matters of belief, ethics, ritual observances and social relations; issuing fatwâs either on request or in its own initiative; constructively directing controversies on religious matters; improving the general quality of religious leadership; and handling other matters determined by the board of Muhammadiyah. Due to this organization represents reformist’ attitude towards Islam, its fatwâs and decisions of course reflects the Islamic reformation character, which relies oijtihâd from Qur’an and Hadith of the Prophet. Formally speaking, The Majelis Tarjih’s decisions are binding on Muhammadiyah as an institution as well as on its individual members. In practice, however, members exercise their right not to be bound absolutely to a certain decision if they have reached a different opinion as a result of ijthihad on the same issue.

Persis (Persatuan Islam, Islamic Union) is another organization that has a collective way of reasoning to formulate a fatwâ. This organization was established on September 12, 1923 and have a council designed to discuss legal-religious issues and problems called “Dewan Hisbah (Oversee-
ing Council).” The Dewan Hisbah is given a responsibility to reason based on the proofs derived from the Qur’an and Hadith and provide a conclusion in the forms of fatwâ as a solution to a given legal and religious problem.20

Above all, the most influential Islamic organization in terms of the scope of audiences, subjects and authority of fatwâs might be MUI (Majelis Ulama Indonesia/ The Council of Indonesian Ulama). This is a national government-sponsored organization which was founded in May 1975.21 The members of MUI consist of representatives from acknowledged Islamic society organizations such as NU, Muhammadiyah, Jam'ah Al-Washliyah, Mathla’ul Anwar and also some experts in certain fields.22 Although the establishment of this organization is initiated by the government in the need of bettering communication between Muslim community and government23, the status of this organization is to be private.24 In addition, the function of the organization is to provide fatwâs and to advise to the government and the muslim community on specific issues relating to religion and general problems facing the nation, ideally kind of “watchdog” to ensure that are contradictory to the teachings of Islam.25

For the purpose of issuing fatwâs, MUI has special fatwâ committee. The committee has regularly issued fatwâs since its foundation by using certain method which mainly in accordance to the Shafi’ite methodology. The fatwâ committee of MUI employs the Qur’an, Hadith of the Prophet, as the main reference and accompanied in some by a reference to fiqh texts. The texts are primarily taken from the Shafi’i school of thought.26 These include the following sources. First, the classic books of fiqh: Sharh al-Muhadhdhab by al-Nawawi, al-Umm by al-Shafi’i, al-Muhalla by Ibn Hazm, Rahmat al-Ummah fi ikhtilaf al-Aimma, I’nat al-Talibin by Abu Bakar Syatta, Bidayat al-Mujahid, Nihayat al-Zayn, and Bujayrimi’s Fath al-Wahhab. Second, commentaries on the Qur’an: Tafsir al-Manar, Tafsir al-ahkam by Muhammad Ali al-Sabuni, and Tafsir Adwa’ al-Bayan. Third, books of hadith: Nayl al-awtar and Subul al-Salam. Forth, Moderns book of fiqh and fatwâ like Fatawa Shaltut, Majma’ al-Buhuth Al-Islamiyya, Fiqh Sunnah by Sayyid Sabiq, al-Fiqh al-Islami wa ‘adillatuhu by Wahbah Zuhayli, and al-Fiqh `ala al-Madhahib al-‘Arba`ah.27

Due to the importance and the significant influence of MUI’s fatwâs,
the following part of the paper endeavors to investigate; why it is necessary to issue the fatwâs, how those are issued, what factors are affecting the degree of their influence, and to what extents the impacts of them in society.

THE FATWÂS OF MUI

Some modern scholars involves in the debate whether fatwâs only the result of a speculative attempt by pious scholar\(^28\) or actually incorporated on regular basis of real life.\(^29\) Interestingly in the case of MUI’s Islamic legal opinions, there is a combination between both speculative attitude which seem to be separated from the real problem and incorporative character which corresponds with the real life of people. It can be seen from the fact that sometimes MUI provides fatwâs based on the analysis of current situations or issues in regular meeting, and sometimes this council issues those fatwâs on the basis of questions and demands of either government or elements of society. In other words, the fatwâs are issued in the form of decrees either as a response to growing concerns in society or to questions posed by government, individuals, or institutions.\(^30\)

In the case of fatwâ issuance, MUI has a special commission called Komisi Fatwa dan Hukum (Legal and Fatwâ Commission). The responsibility of this commission is to receive and discuss legal, doctrinal, and religious questions or problems presented to MUI, undergo a legal-religious line of reasoning, and formulate a legal-religious opinion (fatwâ) on such problem. This legal-religious opinion is called fatwâ, resulted from collective intellectual discretion (ijtihâd) by members of The MUI Fatwâ Commission.\(^31\)

The exemplary fatwâ which issued as a response to the current situation was the fatwâ on March 7, 1981 stating that Muslim attendance at Christmas celebrations was %aram (forbidden). This was provided by virtue of the growing concern about the attendance of Muslims in formal celebration at Christmas held by Christian. The context of this fatwâ was a trend of Muslims’ attendance in Christmas celebrations. While many Muslims received invitations of Christmas celebrations were reluctant to decline, precisely due to the fear of being accused of intolerance, for Christians, the attendance of Muslims could be good excuse for exposing them to Christianity. The ulama thought it constituted a direct threat of Christianization.\(^32\)

Another example of fatwâ which is issued on the demands of other
parties is fatwâ on Porkas (lottery) and contraception in the context of family planning. In this light, the government asked the MUI to lend religious opinions (as justification) to certain activities, such as the fatwâ of permissibility of “Porkas” (forecasting, functioning as lottery) for sponsoring sport events in 1986. It was regarded as a kind of justification of government’s policy which in turn gave a rise an outcry and protest from committed Muslims since it was regarded as a form of gambling which is forbidden in Islam. On the other occasions, even though the establishment of this council is sponsored by the government, MUI does not automatically adopt the same opinion as the government. For example; fatwâs which forbade vasectomy, tubectomy, and all forms of abortion in 1983 really ran counter to the family planning politics of the government.

In general, it could be said that the fatwâs of MUI are necessarily issued because of the needs of and the responses to certain socio-cultural and socio-political settings. To issue such fatwâs, there are many ways employed by MUI. The council could use annual meeting and weekly meeting, hold an immediate fatwâ committee meeting, or take benefit from the use of mass media, especially internet, to answer questions posted by people. Apart from the fatwâs as products, such meetings also result in fatwâs-like such as taushiyah (advise), tazkirah (admonition), pernyataan sikap (position statement), or himbauan (appeal). Nevertheless, the most noticeable and influence result is the fatwâs.

The fatwâs of MUI have been addressing a number of subjects ranging from marriage, business, holiday celebrations, inheritance, prayer, contraception, food certification, medical affairs, to certain political, social, and economic issues. Among those fatwâs, there are some fatwâs that trigger a serious debate in public spheres which will be discussed here.

THE CONTROVERSIAL FATWÂS: CONTENT, APPARATUS AND EFFICACY

During its Seventh National Conference on July 26-27, 2005, MUI issued several fatwâs. Those fatwâs dealt with Intellectual Property Right, woman leading the prayer, inter-religious marriage, inter-religious inheritance, inter-religious praying, Ahmadiyah sect, pluralism-liberalism-secularism of religion, death penalty for a specific crime, shamanism and horo-
scope, criterion of maslahat, and taking personal properties for public interest. For the sake of focusing discussion, however, only selected fatwâs that have caused controversies would be cited in this discussion; first, prohibition of secularism, liberalism, and pluralism of religion; second, a judgment of Ahmadiyah as a deviant sect. Those fatwâs in fact bring about a huge reaction from the people.

1. Contents

a). Pluralism, Liberalism, and Secularism.\textsuperscript{36}

The letter of fatwâs consists of three parts; consideration, reference, and decision or decree. In the first part of the official letter which is organized like governmental administration letters, MUI depicts three considerations; (a) Recently there has been a growth of religious pluralism, liberalism and secularism which has been understood in a variety of ways in the community; (b) This growth of religious pluralism, liberalism and religious secularism within the society has created an uneasiness and a concern to the extent that part of the community has asked the MUI to give some clarification by means of a fatwâ in relation to this problem; (c) Therefore, the MUI feel that it is necessary to formulate a fatwâ about the understanding of pluralism, liberalism and religious secularism in order for it to provide guidance to the Islamic community.\textsuperscript{37}

Second part of the letter embraces a list of references to the Qur’an and Hadith of the Prophet. The Qur’anic quotation cites Surah Ali Imran: (3): 85, Surah Ali Imran (3): 19, Surah Al-Kafirun (109): 6, Surah Al-Ahzab (33): 36, Surah Al-Mumtahinah (60): 8-9, Surah al-Qashash (28): 77, Surah al-An’am (6): 116, and Surah al-M u’minun (23): 71. While the references of the Hadith of the Prophet are taken; first, from hadith narrated by Muslim; second, narrated by Ibn Sa’d in Thabaqat al-Kubra and narrated by al-Bukhari and Muslim.

The third part of the letter determines the status of this issue. It is divided into two sections; first, the general definition of the concepts, second, the legal status of the subject. It defines religious pluralism as an understanding that all religions are the same and because of this (truth), that every religion is relative. Because of that, every follower of religion cannot claim that only their religion is true and correct whilst other religions are wrong. Pluralism also stipulates that all followers of religion will enter and live side by side in heaven. Then liberalism means liberal inter-
pretation and secularism refers to separating worldly affairs with religious affairs.

In the end, MUI issues a religious opinion saying that pluralism, liberalism, and secularism are opposed to the Islamic teaching. Islamic community is prohibited to follow such ideological thoughts. In terms of faith and religious rituals, Islamic community must be exclusive. It means that faith and rituals are not to be blended with other religious faith and rituals. For those Muslims who live in other religious community, they should behave inclusively in social affairs which are not related to the faith and rituals. Social interaction could be maintained as long as not bothering each other. 

b). The Deviant Sect of Islam: Ahmadiyah.

The latter of Ahmadiyah prohibition has four sections; consideration, reference, precedence, and decision. The first section states that; a). There is a concerted effort of Ahmadiyah to spread their teachings in Indonesia albeit MUI has been issuing the fatwâ of its prohibition; b). Such effort of preaching Ahmadiyah has created uneasiness and concern in the society; c). Part of the community has asked the MUI to give some re-clarification by means of fatwâ about Ahmadiyah status because it has been viewed and reacted variously in the community; d). In a response to the request of people and in the aim of maintaining the purity of Islamic faith, MUI feels that it is important to restate the fatwâ regarding Ahmadiyah sect.

The second section is a quotation from Qur’an and Hadith. The Qur’anic part refers to the following verses of Qur’an: Surah al-Ahzab (33): 40, Surah Al-An’am (6): 153, Surah al-Ma’îdah (5): 105. Then there are two hadiths cited here; first, “There is no Prophet after me (Narrated by Bukhari); second “The apostolate and prophecy are closed, there is no apostle and prophet after me (Narrated by Tirmidzi).

Since there are some previous opinions in this case, MUI invokes some previous religious opinions as a fatwâ’s precedence. They are; first, the decision of Majma’ al-Fiqh al-Islami (The Council of Islamic Jurisprudence) of Organization of Islamic Conference (OIC) on December 28, 1985 stated that Ahmadiyah sect that believes in the prophecy of Mirza Ghulam Ahmad and his acceptance of revelation after the Prophet Muhammad is converted from Islam; second, the decision of Majma’ Fiqh Rabitah al-Islami; third, The decision of Majma’ Buhuth; fourth, the MUI’s fatwâ in the Sec-
ond National Conference of MUI (1980) regarding Ahmadiyah Qadiyaniyah; fifth, the opinions of “C” Commission in the Seventh National Conference in 2005.

Based on the above reasoning, then MUI issues the following decrees: a). Restating the fatwâ of MUI in Second National Conference (1980) that the Ahmadiyah sect is out of Islam, it is deviant and misleading, and Muslims who follow it considered as apostate (murtad); b). Those who currently follow Ahmadiyah teachings are supposed to be back to the right Islamic teaching which based on Qur’an and Hadith; c). The government obliges to prohibit the missionary of the Ahmadiyah in Indonesia, close all of their worshipping and ritual places.

2. Apparatus

In many cases, MUI’s fatwâs have been backed up by the state’s apparatus. They are backed up primarily in two ways. On the one hand, because the role of the fatwâ was a kind of justification of government policy, the state endorsed the fatwâ by implementing the fatwâ through its bureaucracies. It happened when MUI became legitimating body of ruler’s policies, such as family planning program in Soeharto’s era. Although there was a strong opposition from religious communities before the fatwâ enacted, gradually it was decreasing after the fatwâ issued. As a result, the program ran well without any significant objections from religious point of view.

On the other hand, with the downfall of Soeharto, the position of MUI gradually became autonomous. Following the emergence of the radical Islamic groups, MUI’s role has become increasingly significant. Now something counter to the Soeharto era is taking place: MUI seems to be controlling the state, and not the other way around. Susilo Bambang Yudhoyono’s administration seems to be reluctant, as always, to review the role of MUI. In fact, according to the former president Abdurrahman Wahid, the position of the president is inferior to MUI. Whereas, MUI is not state’s body but surprisingly its influence resembles to the Supreme Court. The endorsement of the government towards the fatwâ of the prohibition of religious pluralism, liberalism, and secularism and also the Ahmadiyah sect should be put in this context. The Ministry of Religious Affairs that accepts and supports publicly the fatwâ can be viewed as inferiority even support to MUI’s fatwâ. In turn, those fatwâ becomes
more powerful, especially as a tool for Islamist and radical groups to attack liberal interpretation of Islam and religious minorities.

Besides the government, the apparatus of the MUI’s fatwâs is a number of Islamist groups who voluntarily becomes the safe guards of the fatwâs. Organizations and political party that demonstrates their material and morale boosters of the fatwâs are; IKADI (Association of Indonesian Islamic Preachers), PKS (Prosperity and Justice Party), KISDI (Indonesian Committee for Islamic World), DDII (The Council of Indonesian Islamic Missionary), HTI (Indonesian Hizbut Tahrir), and FUI (Islamic Brotherhood Forum).

3. Enforceability

Theoretically speaking, there are no formal statements from MUI to indicate whether or not it is obligatory to abide its fatwâs. Ibrahim Hosen, the former chairman of fatwâ committee, believes that there is no obligation to follow a particular school of Islamic law, nor fatwâs from any individual alim or group of ulama. However, in a practical context, it is a mistake to assume that fatwâ has no social and political implications. It is widely known that the fatwâ is not an ordinary statement from a layperson but a ruling by learned and respected scholars with religious authority. As a result, implications and efficacies of the fatwâs become prevalent in terms of affecting polemics in society and even some violence acts within Islamic community.

The charisma and religious authority may play a role in acceptance of the fatwâ, and whether or not a particular petitioner is prepared to accept the authority of certain muftî of institution. It can be seen from the statement of ICMI (The Council of Indonesian Muslim Intellectuals) when they accept the MUI fatwâ, “ICMI support the MUI and the MUI fatwâ as they are a competent religious institution. If we do not believe in MUI, whom else are we going to we have to believe in? We call upon those are not Islamic, don’t get involved...”

Furthermore, the reasons for defending MUI fatwâs might also on the ground of defending Islam itself. It is peculiar to the attitude of groups of Islamist movement. The spokesman of Indonesian Islamic Brotherhood Movement (GPMI), Ahmad Sumargono, states very clear his defense of MUI fatwâs: “We are ready to support the MUI fatwâ, by any means. We can support it by law. If they (the contras) use the method outside the
law, then we will use the same methods. There is no backing off from the defense of Islam.”

The influential Islamic organization like Muhammadiyah seems to be ambiguous whether accepts or rejects those fatwâs because its (former) chairman, M. Din Syamsuddin, at the same time become General Secretary of MUI. On the one hand, M. Din Syamsuddin defends the MUI’s fatwâs and especially definition of pluralism, liberalism, and secularism. On the other hand, he also offers himself to become a mediator between those who backing the fatwâ and those who against it.

The clearer critiques of the fatwâs come from NU (Nahdlatul Ulama) as the biggest Islamic organization. NU criticizes the way MUI defines secularism, liberalism, and liberalism. The definition according to NU is misleading and could lead to the conflict. Instead of making inaccurate definition of the term and applying a formalist reading of fiqh texts, the board of NU suggests MUI to use “substantive value” rather than a mere legal formalism. They say, “Because we are in a plural society with diversity both within the Islamic umma, let alone within the context of other religions, communities, cultures and customary laws. It would be more effective if a reason-based approach were used incorporating advice, dialogue, and argumentation. This approach would avoid conflict within our unitary state of Indonesia.”

The strongest response and rejections stem from several religious leaders grouped under the Alliance Toward a Civil Society (ATCS) and those who considered as Liberal Muslim groups. The members of the Alliance have expressed their deep concern over the MUI’s recent fatwâ. The alliance regards the fatwâ as undermining the conditions of religious tolerance in the country. Representatives of the alliance, including Djohan Effendi (International Center for Religious Pluralism), Ulil Absar Abdalla (Islamic Liberal Network), Anan Khrisna (Anand Ashram), Jati Kusumah (Sunda Wiwitan), Weinata Sairin (the Protestant Church), Father Edi (Catholic Church), YH Lamardi (Ahmadiyah), Syafi’i Anwar (International Center for Islam and Pluralism ICIP), Dawam Rahardjo (LSAF) and several representative of the Confucians, met with former president Abdurrahman Wahid (Gus Dur). Then Gus Dur told the group, “I strongly reject the fatwâ. Indonesia is not a religious state. It is a secular state. Those that govern the country are not doing so under religious law but the Constitution,” He criticized President Susilo Bambang Yudhoyono who, during the national
conference of MUI, promised to only listen to MUI when dealing with religious affairs. “It was a very big mistake. He (the President) as the formal leader of this country should follow the decision of the Supreme Court when handling religious affairs and not the MUI fatwâ,” Gus Dur said. 56 Others liberal groups such as Islam Liberal Network (JIL) and Young Muhammadiyah Intellectual Network (JIMM) have echoed the same voice condemning the fatwâs of MUI.

Above all, some fatwâs also have engendered worst unintended consequences. Shortly after the fatwâ of Ahmadiyah was issued, for example, several Ahmadiyah mosques were attacked by hard line orthodox groups. 57 Just two months after MUI released the fatwâ, the mob attacked on Ahmadiyah compounds in Bogor and Cianjur. The headquarter of Ahmadiyah was destroyed and their centers of activities were closed by some Islamic groups. A spate of violence against Ahmadiyah members still happen up to now in all over Indonesia. In July 2007, there was an agreement among district mayor, police, and attorney administration to stop Ahmadiyah activities in Tasikmalaya, West Java. Moreover, The Front of Islamic Defense (FPI) has been threatening and fighting against Ahmadiyah based on MUI’s fatwâ argument.

To sum up, the contemporary fatwâs in Indonesia demonstrates mainly a collective attitude in the light of formulation, dissemination, and acceptance or rejection. It can be seen from numbers of Islamic organization which establish a special meeting or committee to formulate fatwâs regularly. The most powerful organization in issuing fatwâs in fact is MUI (The Council of Indonesian Ulama). A huge reaction from the public either in negative or positive way usually follows the fatwâs of MUI. The reactions either those who agree with or opposed to the fatwâs prove that the fatwâs in reality have influential power in society.

After examining the power of the fatwâs through the controversial parts of them, we could say that the more apparatus boosting the fatwâs and the stronger opposition they have, the more influential and powerful the fatwâs will be. The supporters of the fatwâs come from the state administration (in the case of MUI’s fatwâ on Ahmadiyah and pluralism-liberalism-secularism is Ministry of Religious Affair) and Islamic society organizations. They are devoted themselves as apparatus of the fatwâs. The expression of the support could be a silent agreement, an explicit endorsement, a public statement, and also an act of violence. The gov-
ernment tends to boost MUI’s fatwâs by keeping silent or reluctance to review them although they contradict with the reality of Indonesia which is plural and not Islamic state. The Islamic organizations have been supporting MUI’s fatwâs through various ways; public statements, sermons, and also attacks against those who are considered as liberals and Ahmadiyah group.

The oppositions towards the fatwâs represented by Islamic leaders and intellectuals, Islamic liberal organizations, and also religious minority groups in Indonesia. Unfortunately, they have no enough apparatus to enforce their disagreement except giving a press conference in public media. As a result, although they have certain degrees of power in public opinion, in reality their influence can not prevent Ahmadiyah from being attacked by some radical groups.

The other factors of the acceptance or rejection of the fatwâs are MUI’s authority and the fatwâ of MUI’s suitability with public conscience. If the fatwâ regarding Ahmadiyah is accepted or refused based on the MUI’s competence, fatwâ’s content and the side effect of fatwâ, the other fatwâ is different. Those who criticize MUI’s fatwâ on the prohibition of religious pluralism, liberalism, and secularism also include the lack of MUI’s competence and authority as a reason for rejection. The inaccurate definition of the term is a proof of the weakness of the fatwâ. This reality explains why there are many actions taken either by government and groups of society in Ahmadiyah case, but there is no concrete execution regarding the implementation of the fatwâ of religious pluralism, liberalism, and secularism.

In short, the power of the fatwâs relies on their relation with the sources of power such as inner-competency and authority of the fatwâ’s giver, the fatwâ apparatus from either state or society, and also the oppositions of the fatwâ. Although the fatwâs of MUI actually have no legal binding, their impacts are still significant and powerful because of those above factors in shaping how people should behave and how government should act.

ENDNOTES

1 Wael B. Hallaq, From Fatwas to Furu’: Growth and Change in Islamic Substantive Law, Islamic Law and Society, 1, 1 (2004): 32.
2 M. Atho Mudzhar, Fatwâs and Social Interactions in Modern Indonesia, Jusûr, Vol.
M.B. Hooker, Indonesian Islam: social change through contemporary fatâwâ, (Honolulu: Allen & Unwin and University of Hawai’i Press, Crows Nest p. 310, 2003).

Moch. Nur Ichwan, “A’lamâ’, State, and Politics: Majelis Ulama Indonesia after Suharto,” Islamic Law and Society 12, no. 1 (2005).

Mun’im Sirry, “Fatwas and Their Controversies: The Case of the Council of Indonesian Ulama (MUI),” Journal of Southeast Asian Studies 44, no. 1 (2013).

Michel Foucault writes, “Power must be analysed as something which circulates, or rather as something which only functions in the form of a chain. It is never localised here or there, never in anybody’s hands, never appropriated as a commodity or piece of wealth. Power is employed and exercised through a net-like organisation. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not only its inert or consenting target; they are always also the elements of its articulation. In other words, individuals are the vehicles of power, not its points of application.” See Michel Foucault, Power/Knowledge: Selected Interviews and Other Writings 1972-1977, ed. Colin Gordon (New York: Pantheon Books, 1980), 98.

Nico J.G Kaptein, Introduction, Theme Issue: Fatwas in Indonesia, Islamic Law and Society, 12, 1 (2005): 2.

Michel Laffan, The Fatwa Debated? Shura in One Indonesian Context, Islamic Law and Society, 12, 1 (2005): 94.

M.B. Hooker, Indonesian Islam: social change through contemporary fatâwâ, (Honolulu: Allen & Unwin and University of Hawai’i Press, 2003), 56.

M. Martin Van Bruinessen, (1994: 220-234) quoted by Nico J.G Kaptein, 120.

Syamsul Anwar, Fatwâ, purification and Dynamization: a study of Tarjihò in Muhammadiyah, Islamic Law and Society, Vol. 12 Issue I, (2005): 27-44.

Syamsul Anwar, 34.

Syamsul Anwar, 34.

Solehudin and Widiana Rismawati, “Metode Dewan Hisbah Persis Dalam Ber-Istidlâl Dengan Hadis: Studi Fatwa Tentang Tambahan Raka‘at Makmum Yang Masbuq,” Diroyah: Jurnal Ilmu H adis 1, no. 2 (2017): 137.

See Ali Mufrodi, Peranan Ulama dalam Masa Orde Baru: Studi Tentang
Perkembangan Majelis Ulama, Jakarta: PhD diss, IAIN Syarif Hidayatullah Jakarta, 1994).

22 http://www.mui.or.id/mui_in/about.php, at December 8, 2007.

23 Martin Van Bruinessen, Indonesia’s Ulama and Politics: Caught Between Legitimizing the Status Quo and Searching for Alternatives, (Jakarta: Prisma-The Indonesian Indicator, No. 49, 1990): 52-69

24 M. Atho Mudzhar, Fatwâs and social interactions in modern Indonesia, Jusûr,, Vol. 8, (1992): 52.

25 M. Atho Mudzhar, 52.

26 M.B. Hooker, 62.

27 Nadirsyah Hosen, Behind the Scenes: fatwas of Majelis Ulama Indonesia (1975-1998), Journal of Islamic Studies, Vol. 15 Issue ii, (2004): 161.

28 See N.J. Coulson, The State and the Individual in Islamic Law, International and Comparative Law Quarterly, 6 (1957): 57, quoted by Wael B. Hallaq, 29.

29 Wael B. Hallaq, 57.

30 M. Atho Mudzhar, 52.

31 Ichwan, “‘ulamâ’, State, and Politics: Majelis Ulama Indonesia after Suharto,” 50-53.

32 M. Atho Mudzhar, 57-58.

33 Martin Van Bruinessen, 67-69.

34 Mohammad Atho Mudzhar, Fatwa-fatwa Majelis Ulama Indonesia: Sebuah studi tentang pemikiran hukum Islam di Indonesia 1975-1988, (Jakarta: INIS, 1993), 46-54. This is based on his PhD thesis at UCLA, 1990.

35 Mohammad Atho Mudzhar, 260.

36 Surat Keputusan Majelis Ulama Indonesia, Nomor: 7/ MUNAS VII/ MUI/ II/ 2005.

37 Translated by Piers Gillespie, Current Issues in Indonesian Islam: Analysing the 2005 Council of Indonesian Ulama Fatwa No. 7 Opposing Pluralism, Liberalism, and Secularism. Journal of Islamic Studies 18(2), (2007): 202-240.

38 Surat Keputusan Majelis Ulama Indonesia, Nomor: 7/ MUNAS VII/ MUI/ II/ 2005, most of the translation is mine.

39 Surat Keputusan Majelis Ulama Indonesia, Nomor: 11/ MUNAS VII/ MUI/ II/ 2005.

40 The translation is mine.

41 Luthfi As-Syaukani, Fatwa and Violence in Indonesia, http://www.assyaukanie.com/articles/fatwa-and-violence-in-indonesia, at December 9, 2007.

42 Yet, there is still opposition in the case of using contraception tools, see Martin Van Bruinessen, 60-69.

43 Luthfi As-Syaukani, http://www.assyaukanie.com/articles/fatwa-and-violence-in-indonesia, at December 9, 2007.

44 http://gusdur.net/indonesia/index.php?option=com_content&task=view&id=2757&Itemid=1, at December 9, 2007.

45 Depag Terima Fatwa MUI, http://www.detiknews.com/index.php/detik.read/tahun/ 2005/bulan/ 08/tgl/ 08/time/ 190449/idnews/ 418340/idkanal/ 10, at
December 10, 2007.

46 Forum Muslimin Indonesia Dukung Fatwa MUI, http://www.detiknews.com/index.php/detik.read/tahun/2005/bulan/08/tgl/03/time/161657/idnews/415388/idkanal/10, December 10, 2007.

47 Pendukung Fatwa MUI Gelar Tabligh Akbar, http://www.detiknews.com/index.php/detik.read/tahun/2005/bulan/08/tgl/05/time/094049/idnews/416487/idkanal/10, December 10, 2007.

48 Nadirsyah Hosen, 173-174.

49 Luthfi As-Syaukani, http://www.assyaukanie.com/articles/fatwa-and-violence-in-indonesia, at December 9, 2007.

50 Nico J.G Kaptein, 127-128.

51 Piers Gillespie, 231.

52 Piers Gillespie, 231.

53 Piers Gillespie, 229-230.

54 Piers Gillespie, 226-227.

55 Piers Gillespie, 226.

56 http://gusdur.net/english/index.php?id=732&option=com_content&task=view, at December 9, 2007.

57 Abdul Muqsith Ghazali, Oligarchy in the Interpretation of Religion, http://www.gusdur.net/english/index.php?option=com_content&task=view&id=733&Itemid=1, at December 9, 2007.

BLIBLIOGRAPHY

Anwar, Syamsul. Fatwâ, purification and dynamization: a study of Tarjîhò in Muhannadiyah By: Islamic Law and Society, Vol. 12 Issue i, (2005).

Bowen, John. Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning (Cambridge: Cambridge University Press, 2003).

Coulson, N.J. The State and the Individual in Islamic Law, International and Comparative Law Quarterly, 6 (1957).

Foucault, Michel. Power/Knowledge: Selected Interviews and Other Writings 1972-1977. edited by Colin Gondron New York: Pantheon Books, 1980.

Ghazali, Abdul Muqsith. Oligarchy in the Interpretation of Religion, http://www.gusdur.net/english/index.php?option=com_content&task=view&id=733&Itemid=1, at December 9, 2007.

Hallaq, Wael. A History of Islamic Legal Theories. New York: Cambridge University Press, 1997.

Hallaq, Wael B. From Fatwâs to Furu: Growth and Change In Islamic Substantive Law, Islamic Law and Society, Vol.1, No. 1. (2001): 29-65.

Hooker, M.B, Indonesian Islam: social change through contemporary fatâwâ, Honolulu: Allen & Unwin and University of Hawaii Press, Crow's Nest p. 310, 2003.

Hosen, Nadirsyah. Behind the scenes: Fatwâs of Majelis Ulama Indonesia (1975-1998), Journal of Islamic Studies, Vol. 15 Issue ii, (2004): 147-179.

Hosen, Nadirsyah. Fatwâ and politics in Indonesia in Shari’a and politics in mod-
Hosen, Nadirsyah. “Revelation in a Modern Nation State: Muhammadiyah and Islamic Legal Reasoning in Indonesia”, Australian Journal of Asian Law Vol. 4,3 December (2002).

Hosen, Nadirsyah. “Collective ijtihād and Nahdlatul Ulama”, New Zealand Journal of Asian Studies (the official journal of the New Zealand Asian Studies Society), Vol. 6, No. 1, June 2004.

Ichwan, Moch. Nur. “‘ulamâ’, State, and Politics: Majelis Ulama Indonesia after Suharto.” Islamic Law and Society 12, no. 1 (2005): 45-72.

Kaptein, Nico J.G. The Voice of the Ulama: Fatwâs and Religious Authority in Indonesia, Arch. De Sc. Soc. Des Rel, 2004, 125, (janvier-mars, 2004).

Kaptein, Nico J.G. (ed.) The Muhammad al-nafâ‘is: a bilingual M ecan fatwâ collection for Indonesian M uslims from the end of the nineteenth century. Introd. & presented by Nico Kaptein Jakarta: INIS, 1997.

Laffan, Michael T. The fatwâ debated? Shûrâ in one Indonesian context, Islamic Law and Society, Vol. 12 Issue i, (2005) 93-121.

Mudzhar, M. Atho. Fatwâs and social interactions in modern Indonesia, Jusûr, Vol. 8, (1992): 49-67

Mudzhar, Mohammad Atho Fatwâfatwâ Majelis Ulama Indonesia: Sebuah studi tentang pemikiran hukum Islam di Indonesia 1975-1988, (Seri INIS), (Unknown Binding - 1993).

Mufrodi, Ali. Peranan Ulama dalam Masa Orde Baru: Studi Tentang Perkembangan Majelis Ulama. Jakarta: PhD diss, IAIN Syarif Hidayatullah Jakarta, 1994.

Peacock, James L. M uslim Puritans: Reformist Psychology in Southeast Asian Islam. Berkeley-LosAngeles-London: The University of California Press, 1978.

Piers, Gillespie. Current Issues in Indonesian Islam: Analysing the 2005 Council of Indonesian Ulama Fatwâ No. 7 Opposing Pluralism, Liberalism, and Secularism. Journal of Islamic Studies 18, 2, (2007): 202-240.

Rismawati, Solehudin and Widiana. “Metode Dewan Hisbah Persis Dalam Ber-lsidilâl Dengan Hadis: Studi Fatwa Tentang Tambahan Raka‘at Makmum Yang M asbuq.” Diroyah: Jurnal Ilmu H adis 1, no. 2 (2017): 135-53.

Sirry, Mun‘im. “Fatwâs and Their Controversies: The Case of the Council of Indonesian Ulama (M ui).” Journal of Southeast Asian Studies 44, no. 1 (2013): 100-17.

Van Bruinessen, Martin. Indonesia’s Ulama and Politics: Caught Between Legitimizing the Status Quo and Searching For Alternatives, (Jakarta: Prisma-The Indonesian Indicator, Jakarta, No. 49, 1990): 52-69.

Van der Mei, D. and J. H. Meuleman, Islam in Indonesia: a survey of events and developments from 1988 to March 1993, (Jakarta: INIS, 1995).

Woodward, Mark R., Islam in Java: Normative Piety and Mysticism in the Sultanate of Yogyakarta. Tucson: The University of Arizona Press, 1989.

Surat Keputusan Majelis Ulama Indonesia, Nomor: 7/ M U N A S VII/ M U I/ II/ 2005.
Surat Keputusan Majelis Ulama Indonesia, Nomor: 11/ M U N A S V I I / M U I / I I / 2005
Depag Terima Fatwâ M U I,
http://www.detiknews.com/index.php/detik.read/tahun/2005/bulan/08/tgl/08/time/190449/idnews/418340/idkanal/10, at December 10, 2007.
