



RE-ACTUALIZATION OF THE INSTITUTIONALIZATION OF MUI FATWAS IN THE INFORMATION TECHNOLOGY (IT) ERA

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Abstract

Social dynamic development along with the rapid change of science and technology has aroused varied social religious problems that cannot be accommodated by sharia rule contained in Al-Qur'an and Hadith. Thus, ijtihad of Islamic Scholars is the solution to these matters. In Indonesia, a legal institution as a place for Islamic scholars' doing ijtihad to overcome such problems is known as Majelis Ulama Indonesia (MUI). It was founded on 26 July 1975 in Jakarta, and has made many fatwas which must be previously addressed in fatwa commission meeting. In other words, the fatwas must be discussed with all members of MUI. In line with the modernity of information technology, the institution may formulate fatwas through online media in which the members of MUI need not gather in particular place to determine fatwas as what they did since 1975 up to now. Therefore, this research aims to propose the usage of internet applications that may be employed by MUI in formulating fatwas as solution to present social problems.

Keywords: MUI, Institutionalization of Fatwa, IT

A. INTRODUCTION

Not all Muslims are clerics, whether at the time of the Prophet Muhammad Saw, companions, tabi'in, imams of the school, until today. Therefore, Allah Swt commands muslims (humans) who do not know or ignorant to ask people who know or 'alim about the laws of Allah. As stated in the Qur'an surah an-Nahl verse 43 *"Then ask the one who has knowledge, if you do not know"*.

At the time of the Prophet, the place to ask the companions when facing legal problems was to the Prophet Saw as the only holder of authority in establishing the law. In the time of friends, friends were the givers of explanations for every legal problem faced by Muslims at that time, continuing during the tabi'in, imam of the school, until the present. It can be said that every time, there are competent scholars and experts who become references in solving the problems of Muslims in their time. Such is the continuous legal fatwa until it is codified in the form of the legal fatwa of the scholars of each time.

In Indonesia, the most competent religious institution that answers and solves every legal and socio-religious problem is the MUI (Indonesian Ulema Council). This institution, as a forum for deliberation of Muslim scholars and scholars and as a devotee for Muslims in Indonesia. In addition, the MUI is also known as an institution that solves many religious problems by issuing fatwas. Since the establishment of the MUI in July 1975, this institution has issued a number of fatwas with four categories of fatwas, namely: First; about creeds and religious traditions. Second; about worship. Third; about social and cultural. Fourth; about food, medicine, and cosmetics (POM), as well as science and technology (science and technology).

The method of determining the fatwa was carried out through deliberations between Indonesian scholars gathered in the fatwa commission meeting. This means that the fatwa commission and all its members as well as participants who are deemed necessary to discuss legal issues that will be



facilitated to hold meetings or deliberations in solving problems faced by Indonesian Muslims.

The method adopted by the MUI, did not change as it was pursued by the companions of the Prophet Saw. Friends of Abu Bakr ra and Umar bin Khattab ra for example, when carrying out the ijmak, were none other than the results of the consultancy carried out by those who were seen as being able to represent the people on the basis of the orders of the head of state.¹ This tradition of legal determination methodology, continued by the tabi'in, and until now the determination of fatwas through deliberative channels is also carried out by the MUI.

Along with the advancement of science and technology that brings various conveniences, it is possible that the mui fatwa determination model which is classical (traditional) through direct deliberation, can be transferred to a more modern model through IT (Information Technology) media. This means that the fatwa commission, members, and scholars and scholars who will be involved in deciding a problem of Muslims can conduct deliberations through IT media, so that people's problems can be answered immediately without waiting for the holding of MUI meetings or deliberations. Referring to the description above, an in-depth study of the actualization of MUI fatwa institutionalization in the IT era is needed.

B. Methods

This research is designed in the form of qualitative research which is descriptive analysis with the aim of parsing MUI fatwa updates in the IT era. Qualitative research is a research procedure that produces written or oral data from the observed object. The data sources used in this research come from primary data sources obtained from MUI fatwa guidelines and a number of fatwas produced online, while secondary data sources are obtained from literature or library materials related to this research. Furthermore, data analysis follows the Miles and Huberman analysis pattern with several stages, namely: data reduction by summarizing, selecting key

¹Muhammad Hasbi Ash-Shiddieqi, Pengantar Hukum Islam, (Semarang: Pustaka Rizki Putra, 2001), h.57.

points, focusing on important things, looking for themes and patterns and discarding things that are not important. The purpose of data reduction in this research is so that the data and information obtained are more focused on the objectives to be achieved. Furthermore, display or presentation of data which will later become narrative text in describing the substance of this research. Then verification or conclusion drawing as the final stage of this study.

C. Finding and Discussion

1. The existence of ijmak and fatwa in the construction of Islamic law

Ijmak and fatwa are Islamic legal terms that have similarities and differences. Ijmak according to language is azam and agreement. It says *ajma'a fulanun 'ala hadza* means fulan berazam or determined to do so, including in the sense of the word of God; *fa ajmi'u amrakum*, then round up your statutes.² Another meaning is the conformity of opinions (words of agreement) of scholars regarding a thing or event.³ While fatwa comes from the word *ifta* which means *ifta fi al-masalah* meaning to give fatwa.⁴ Another meaning is the opinion given by the mufti on an issue.⁵ From these two definitions of lughawi, it appears that the similarities and differences between the two terms. The similarity between the two is the presentation of opinions from scholars about a legal event. The difference is that ijmak is the opinion of a number of scholars or scholars, while a fatwa is an opinion delivered by a scholar or several scholars against a legal event, so it can be one or several scholars.

To better understand in detail about the two terms above, here are the opinions of Islamic jurists (jurists) about ijmak and fatwas. Khallaf stated that ijmak according to ushul fiqh experts is the agreement of the mujtahid imams

²Sa'di, Abu Habieb, *Mausu'atul ijma'*, Ensiklopedi Ijmak, penerjemah: K.H.M. Ahmad Sahal Machfudz dan K.H.A. Mustofa Bisri, (Jakarta: Pustaka Firdaus, 2006).

³Alwi, Hasan, dkk, *Kamus Besar Bahasa Indonesia*, (Jakarta: Balai Pustaka, 2007), h.418.

⁴Munawwir, AW. *Kamus Arab Indonesia*, (Surabaya: Pustaka Progressif, 1997), h. 1033.

⁵Op.cit., h.314.



of Muslims on a law at a time after the Prophet died.⁶ Hasaballah defines ijmak as the agreement of the mujtahids of the people of Prophet Muhammad Saw on the law of syara' at a certain time after the death of Prophet Saw.⁷ Al-Amidi gave a different definition of ijmak, he explained that ijmak is an agreement of ahlul halli wal 'aqd (competent experts in caring for the people) of the people of the Prophet Muhammad at one time about a legal case that occurred.⁸

Some of the definitions above indicate that ijmak is the agreement of the mujtahids on the law of the shari'a after the death of the Messenger of Allah Saw. Although al-Amidi mentioned the term ahlul halli wal 'aqd in his statement, the term still means mujtahid or cleric who is competent to answer a legal case faced to him.

Furthermore, fatwa in ushul fiqh science is interpreted by trying to provide an explanation of the law of syara' by the expert to people who do not know the law of syara'.⁹ Meanwhile, Qaradawi defines fatwa as the mufti's explanation of the law of syara' to legal events asked by fatwa requesters both individually and collectively.¹⁰

According to Abdul Aziz in an Islamic state, the mufti and the institution of fatwas are very important matters. Its role cannot be hypothesized in establishing Islamic law. Especially along with the development of the world which has resulted in the emergence of various new problems faced by Muslims.¹¹

Based on the above explanation, it is necessary to elaborate further on ijmak and fatwa as a postulate for the establishment of Islamic law. Jumhur scholars have agreed that ijmak occupies one of the sources or legal

6 Khallaf, Abdul Wahab, Ilmu Ushul al-Fiqh, (Mesir: Maktabah Da'wah al-Islamiy, t.th.), h. 45.

7 Hasaballah, Ali, Ushul al-Tasyri' al-Islami, (Mesir: Dar al-Ma'arif, 1971), h.109.

8 Al-Amidi, al-Ihkam fi Ushul al-Ahkam, juz 1, (Beirut-Libanon: Dar al-Kutub al-Ilmiyah, t.th), h.271-282).

9 Syarifuddin, Amir, Ushul Fiqh, jilid 2, (Jakarta: Logos Wacana Ilmu, 2001), h. 429.

10 Qaradawi, Yusuf, Fiqh Prioritas, (T.Tp: Mansyurat Kuliah Da'wah Islamiyah, 1990), h. 203.

11 Abdul Aziz, Awang, Perkembangan dan Peranan Institusi Fatwa di Negara Brunei Darussalam dalam Abdul Monir Yacob dan Wan Roslili Abd. Majid, Mufti dan Fatwa di Negara-Negara Asean (Kuala Lumpur: Institu Kefahaman Islam Malaysia, 1998), h.157.

postulates after the Qur'an and hadith. This means that the results of the ijmak have the force of law that binds Muslims. If the ijmak pillar (the existence of mujtahid, the existence of an agreement, the agreement is accompanied by the clear opinion of each scholar, and the agreement is embodied in a law) is met, the agreed law becomes qanun syar'i (syara') law that Muslims must obey or should not reject.¹²

In line with Khallaf's opinion above, Abu Zahrah stated that if there has been an ijmak (agreement) on the law of a problem, then the law established under the ijmak has the same force as a qath'i law, even though the sanad on which the ijmak is based is zhanni.¹³

Furthermore, it relates to fatwas whose material is the law of syara' obtained through ijtihad. Thus, delivering fatwas occupied the function of amar ma'ruf nahi munkar, because the mufti conveyed religious messages that were allowed and forbidden to Muslims. On this basis, the origin of the law is fardhu kifayah. If there was only one mufti in one region who had to answer the problem at the time, the law of benefit became fardhu'ain. However, if there are other mujtahids of the same or better quality, or if the problem in question is not urgent, then the law becomes fardhu kifayah.¹⁴

When ijmak and fatwa are correlated, the legal provisions issued on the basis of both refer to the law of syara, which is sourced from the Qur'an, hadith, ijmak, qiyas, and other mu'tabar sources. so that Muslims are required to obey the results of both legal products. The Quranic recitation in Surah an-Nisa verse 115 reinforces this: "And whoever opposes the Apostle after the truth is clear to him and follows the path that is not the way of the believers, we let him rule over the misguidance he has mastered, and we put him into the jahannam, and the jahannam is as bad as a place of return."

According to Abu Zahrah, Qs. an-Nisa verse 115 explains that following a path that is not the way of believers is haram. Because the one who does this is against Allah and His Messenger, that person is threatened with hell.

12 Khallaf, Abdul Wahab, Ilmu Ushul al-Fiqh, (Mesir: Maktabah Da'wah al-Islamiy, t.th.), h. 46.

13 Abu Zahrah, Muhammad, Ushul Fiqh, (Mesir: Dar al-Fikr al-'Arabiyy, t.th), h.204.

14 Syarifuddin, Amir, Ushul Fiqh, jilid 2, (Jakarta: Logos Wacana Ilmu, 2001), h.434.



That is, if it is forbidden to follow a path that is not the way of the believer, then it is obliged to follow the path of the believer. If the believer says this is halal, and someone disobeys it and says it is haram, it means that he is not following the agreement of the believer.¹⁵

The path of believers can be understood as the agreement of believers on various things, including agreements that produce legal provisions in the form of ijmak and fatwa results. Because ijmak and fatwa are legal products set by scholars and experts who are competent in dealing with the affairs of Muslims, In addition, there is a ban on divorce for Muslims (QS. ali-Imran v. 103). On this basis, the MUI fatwa becomes a legal provision that must be obeyed by Indonesian Muslims so that unity is always established between Muslims in Indonesia and as proof of Muslims' obedience to the provisions of believers or clerics.

2. Procedure and Determination of MUI Fatwas

Referring to the guidelines and procedures for the establishment of MUI fatwas, in Chapter II, it is formulated as follows: 1. Fatwas are issued based on the Qur'an, hadith, ijmak, and qiyas, as well as other postulates that mu'tabar. 2. The activity of determining fatwas is carried out collectively by an institution called a fatwa commission.

The above formulation shows that if any problem concerns the lives of Muslims and requires legal certainty, the MUI will immediately issue its fatwa. MUI fatwas are based on clear sources of Islamic law and fall into the category of agreed sources of law (the Qur'an, hadith, ijmak, and qiyas) and other sources known to Muslims, such as sadd ad-dzari'ah, mashlahah al-mursalah, al-'urf, and so on. An example of MUI Fatwa Number 43 of 2012 concerning the misuse of formalin and other hazardous substances in the handling and processing of fish is determined based on the Qur'an, hadith, and ijmak ulama. By referring to these sources, the MUI stipulates an illegitimate fatwa on the use of formalin and other hazardous materials in the handling and processing of fish that endanger health and life.

15 Abu Zahrah, Muhammad, *Ushul Fiqh*, (Mesir: Dar al-Fikr al-'Arabiyy, t.th), h.203.

MUI fatwas are also carried out collectively through the fatwa commission. That is, whenever there is a legal problem or a problem involving Muslims that must be solved by this institution, the scholars and all members of the fatwa commission have direct deliberations that are carried out proactively. Thus, the presence of every cleric and all members in one majlis should be carried out to establish a fatwa.

Furthermore, the following is the method of determining fatwas, as specified in Chapter III of the guidelines and procedures for determining MUI fatwas:

1. Before the fatwa is set, it should first review the opinions of the imams of the school and the mu'tabar clerics on the matter to be addressed, carefully following the arguments.
2. Issues that have been clearly defined in law should be presented as they are.
3. In the matter of the khilafiyah among the schools, then: (a) the determination of fatwas is based on the results of efforts to find common ground in the atanra of the opinions of the scholars of the school through the method of al-jam'u wa al-taufiq. (b). If the attempt to find common ground is not successful, the determination of the fatwa is based on the results of the tarjih through the method of deliberation using the rules of ushul fiqh muqaran.
4. In a matter for which no legal opinion is found among the schools, the determination of fatwas is based on the results of ijtiihad jama'i (collective) through the methods of bayani, ta'lili (qiyasi, istihsani, ilhaqi), istishlahi, and sadd al-Dzari'ah.
5. The establishment of fatwas must always pay attention to the general benefit (mashalih 'ammah) and maqashid al-shari'ah.

Then in the case of the meeting procedure, as set out in chapter IV, as follows:

1. The meeting must be attended by members of the commission whose numbers are deemed sufficient by the meeting leadership.



2. In certain cases, the meeting can bring in experts who relate to the issue to be discussed.
3. Meetings are held if there are: a).requests or questions from the community that the Governing Council deems necessary to discuss and give a fatwa. b).requests or questions from the government, social institutions/organizations, or the MUI itself. c).development and findings of religious problems arising from changes in society and advances in science, technology, and art.
4. Meetings are chaired by the chairman or deputy chairman of the commission with the approval of the chairman of the commission, accompanied by the secretary and/or deputy secretary of the commission.
5. If the chairman and deputy chairperson of the commission are unable to attend, the meeting is chaired by an approved one.
6. During the meeting process, the secretary and/or deputy secretary of the commission records the proposals, suggestions, and opinions of the members of the commission to be used as minutes of the meeting and materials of the commission's fatwa.
7. After conducting in-depth and comprehensive discussions and paying attention to evolving opinions and views, the meeting established a fatwa.
8. The commission's decision is immediately reported to the governing council to be announced to the public or the parties concerned.

Based on the description above, it can be understood that to establish a fatwa must go through a number of procedures as stipulated in chapter IV of the guidelines and procedures for determining the MUI fatwa. In this case, too, the presence of the fatwa commission determines whether the meeting (deliberation) will be held. However, in the formulation of point 1 above, there is no mention of the minimum number of fatwa commission members who must be present at the meeting. If the presence of members is deemed sufficient by the chairman of the meeting, then deliberations can proceed.

On the other hand, if according to the meeting leaders, the presence of members is not sufficient, then the MUI meeting is not held.

3. Information Technology (IT) as a forum for institutionalizing MUI fatwas

If you look at the history of the friend's time, for example the method taken by the caliphs Abu Bakr as-Shiddiq ra and Umar bin Khattab ra in answering the problems of the Muslims at that time, both decided based on the main sources of the Qur'an and hadith, if no legal solution was found, then both gathered friends, leaders and community leaders to consult and deliberate, the result of the deliberations became a joint legal decision.¹⁶

In line with the description above, Khallaf stated, if Abu Bakr ra decides a matter, if it is not contained in the Qur'an and hadith, then prominent figures in society are gathered for deliberation. They are busy solving a problem. This tradition was continued by Umar ra. In this regard, there is no doubt that the public figures chosen by Abu Bakr ra are Muslims.¹⁷

The methodology pursued above is still possible because the Muslim area is not so large. However, when Islamic territory has spread to various corners of the Arabian peninsula to several countries and friends and fukaha have also spread to various Islamic regions, it is difficult to discuss various problems of Muslims at that time. This difficulty is not only related to the expansion of Islamic territory, but also related to the absence of communication and transportation media.

When the Zahiriyah scholars stated that it was impossible for ijmak to occur, because of the difficulty of collecting mujtahids (scholars), the arguments built by the Zahiriyah scholars were in accordance with their time, so that they could be used as a handle. However, in today's era, with the rapid and modern development of IT, making it easier for scholars to communicate through various media, such as internet media and cellphones, the opinions of Zahiriyah scholars can be refuted.

¹⁶ Bik, Hudhari, *Tarikh at-Tasyri' al-Islamiy*, penerjemah Mohammad Zuhri, Indonesia: Darul Ihya, t.th.), h.257.

¹⁷ Khallaf, Abdul Wahab, *Ilmu Ushul al-Fiqh*, (Mesir: Maktabah Da'wah al-Islamiy, t.th.), h.50.



With the expansion of Islamic territory and the changing times, it has implications for the development of information and technology that is increasingly modern. The encroachment of IT has almost entered every aspect of human life, including religious aspects. IT is intended here is technology that utilizes computers and other communication tools as the main tool for communicating and deliberating between scholars and experts in their fields so that the results of deliberations become ulama fatwas.

Purwanto described time effectiveness as one of the advantages of information technology. Because the sophistication of IT has succeeded in erasing geographical space in human life and has become a vital necessity for the life of contemporary society. This situation, became an opportunity for scholars to spread proselytizing information across countries. The acceleration of information technology does not always have a negative meaning, it is an opportunity to do a comprehensive proselytizing.¹⁸

The above statement synergizes with efforts to institutionalize MUI fatwas. That is, with the advancement of IT at a very pace, which knows no boundaries of time and space, it is very possible to institutionalize fatwas. In other words, even though the mujtahids or ulama are scattered in various regions, cities, and even countries, it is quite easy to bring these scholars together through IT media. In addition, the maslahat value of the institutionalization of fatwas will be directly felt by Muslims, especially in Indonesia. Scholars can take advantage of the ease of access to deliberation (*berijtihad*) through IT media, not necessarily attending meeting assemblies as has been the academic tradition that has been done so far.

Information technology at the current pace is internet technology. Hartono explained that the internet (interconnected network) is a computer network consisting of thousands of independent computer networks connected to one another. This computer network may consist of educational institutions, government, military, business organizations, and other organizations. The Internet or its short name Net is the largest computer

¹⁸Purwanto, Yedi, dkk, Peran Teknologi Informasi dalam Perkembangan Dakwah Mahasiswa, *Jurnal Sositologi*, Volume 16 Nomor 1 April 2017.

network in the world. To date, the internet has connected more than 100,000 computer networks with users of more than 100 million people.¹⁹

Furthermore, Hartono explained that the internet network provides several applications that can be used by internet users, namely:

1. E-mail or electronic mail is an internet facility that allows a person to send and receive mail that is transmitted electronically. Mail sent by e-mail will be sent with a relatively faster time process, no shipping costs, and letters sent by e-mail will not be lost.
2. Mailing list is a development of e-mail. A person who already has an e-mail can subscribe to news or other information from a particular topic. In this case, the recipient of the e-mail must register with the person or organization that will spread the news so that his e-mail address is recorded on the list to which the news will be sent.
3. News group is an internet application in the form of an electronic bulletin board, which is a discussion group via the internet.
4. File Transfer Protocol (FTP), this application allows internet users to download (retrieve) files from the internet.
5. Gopher, this application provides options in the form of menus that make it easier for users to find information.
6. Telnet, a Telnet facility allows one to connect and use a computer remotely. By connecting to another computer that is far away through the Telnet facility, it will make the PC like a terminal that accesses the computer directly.
7. Talk, Chat, and Iphone (internet phone), allow internet users to communicate directly, both ways interactively. Talk and Chat are used for communication in writing. Talk is used to communicate between two parties, while Chat involves many parties. The Iphone is communication with voice and video. For voice communication, then the PC needs speakers and a microphone. While video communication such as teleconference communication, PCs need a

¹⁹ Hartono, Jogiyanto, *Pengenalan Komputer*, (Yogyakarta: Andi, 2004), h. 341-342.

monitor screen to display the received video and require a camera to record the video to be sent. Iphone can replace communication by phone. Iphone communication only requires local credit to the internet service provider. The advantage of the Iphone is that the video of the facial expressions of the interlocutor can be displayed simultaneously.

8. *The World Wide Web is also known as the Web or WWW or W3. The advantages are: -information on the WWW can be displayed in the form of multimedia in the form of graphics, sound, video, and text writing. -information displayed on the WWW can link to information or documents (home page) or other internet addresses via hypertext. Hypertext is text displayed in a different font (e.g. in italics, lighter, and underlined). Documents that contain hypertext are created by using Hyper Text Markup Language (HTML).*²⁰

The following is an example of a picture of communication through a teleconference application or online between administrators and MUI members in different places.

Image: Online communication between MUI members



A number of applications that have been mentioned above, can be used by users (users) including scholars and experts in their fields. Because of the existence of IT to facilitate communication, efficiency and streamline work. That is, the various applications above, as a solution to the problems

²⁰ Op.cit., h. 344-347.

faced by Muslims in modern times. For example, if Muslims face problems in the field of civil law that require ulama fatwas quickly, then there is no need to wait for the scholars to gather in one place, especially if the scholars live in different cities, different activities, but it is enough to make an agreement on hours, days, or dates to deliberate on solving people's problems by functioning a number of applications above, such as teleconferences or Iphone (internet phones) that can display voices and videos from scholars and experts, so that the problems of Muslims in the economic field can be decided quickly. This is also done to facilitate and shorten meeting times which usually require long schedules, costs, and planning from administrators MUI.

A number of MUI fatwas produced through online media, including: Number 14/2020 concerning the implementation of worship in the situation of a Covid-19 outbreak, number 17/2020 concerning guidelines for prayer kaifiat for health workers who wear personal protective equipment when treating and handling Covid-19 patients, number 18/2020 concerning guidelines for handling the remains of Muslims infected with Covid-19, number 23/2020 concerning the use of zakat assets, infaq, and shadaqah for the response to the Covid-19 outbreak and its impact, as well as other fatwas.

D. Conclusion

Along with the development of IT that is increasingly rapid and modern, the effort to institutionalize MUI fatwas is a necessity needed by Muslims. Of course, this effort needs to be done because it looks at the values of



expediency or maslahat for Indonesian Muslims. The benefits that can be taken directly from the institutionalization of MUI fatwas through IT will facilitate the communication process without waiting for a long time. The problem of Muslims submitted to this institution, will soon be answered quickly through the IT media. That is, if since 1975 MUI has conducted deliberations or meetings directly, then in the current IT era, the meeting can be done indirectly (online) by functioning IT media in the form of the internet with various applications, such as phone, teleconference, dan telnet.

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